

**MOORPARK CITY COUNCIL  
AGENDA REPORT**

**TO:** Honorable City Council

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

**DATE:** December 10, 2009 (CC Meeting of 12/16/09)

**SUBJECT:** Consider Resolution Amending Personnel Rules and Regulations for the Positions in the Competitive Service and Rescinding Resolution No. 2005-2353

**BACKGROUND**

The attached draft revised Personnel Rules show revisions through the use of legislative format. The City of Moorpark last amended its Personnel Rules in 2005. The current proposed update to the Personnel Rules primarily consists of language changes to provide consistency with current City policy, the Memorandum of Understanding (MOU) with SEIU Local 721 for competitive service employees effective July 1, 2009, through June 30, 2010, as well as other minor edits. The additional edits do not affect the terms or conditions of employment for competitive service employees and are made for clarification purposes or for consistency with legal requirements.

**DISCUSSION**

Revisions have been incorporated into the Personnel Rules (Exhibit A to attached draft resolution) as shown through the use of legislative format (legislative format will be removed from the final City Council resolution). The index page numbers (page 7 of the resolution) will be corrected after removal of the legislative format. The more substantive revisions are summarized below:

Pages 20-21, Section 2.19. Harassment, Discrimination, and Retaliation: This section was revised, including the title, to be consistent with the City's adopted policy on this subject and for consistency with legal requirements.

Pages 35-36, Sections 8.1. and 8.2. Regular Appointment Following Probationary Period (Section 8.1.) and Probation on Promotion, Reinstatement or Reclassification (Section 8.2.): These sections were revised to correct an inconsistency between the two sections on reclassification and language was added to provide further clarification.

Pages 36-37, Section 8.8. Regular Part-Time Employee Probationary Period: This section was revised, including the title, to refer to only regular part-time employees (since temporary part-time employees are not covered under the Personnel Rules), and also to correct leave references. For example, references to sick leave and vacation leave were

deleted, since regular part-time employees now receive annual leave in lieu of sick leave and vacation leave.

Page 42, Section 12.7. Suspension without Pay: This section was revised consistent with approved language in the current MOA.

Page 47, Section 12.9.u Causes for Disciplinary Actions: The word, theft, was added for clarification purposes.

Page 48, Section 13.3. Leave of Absence: This section was revised to clarify that an unpaid leave of absence for a period not to exceed a total of ninety (90) calendar days is in a twelve (12) month period. In addition, a sentence was added to recognize that the City Manager has the authority to adopt an administrative procedure to delegate to a department head the approval of a specified amount of leave without pay, in a pay period and/or in a twelve (12) month period, for an employee with no accumulated leave.

Pages 49-50, Section 13.3. Leave of Absence: The compensation and benefits language in this section was revised consistent with approved language in the current MOA.

Pages 50-51, Section 13.5. Annual Leave: Language was added on page 50 to clarify that the annual leave accrual rates may be revised through an approved Memorandum of Understanding between the City and an Exclusively Recognized Employee Organization as defined in City Resolution No. 87-380 (or successor resolution). The current MOU with Local 721 temporarily increased the annual leave accrual rates due to no cost of living raise. In addition, the maximum accumulated annual leave balance language was revised on page 51, consistent with approved language in the current MOA.

Page 53, Section 13.6.1. Vacation Leave: Language was added to clarify that the vacation leave accrual rate may be revised through an approved Memorandum of Understanding between the City and an Exclusively Recognized Employee Organization as defined in City Resolution No. 87-380 (or successor resolution). The current MOU with Local 721 temporarily increased the vacation leave accrual rate due to no cost of living raise. In addition, outdated accrual rates have been deleted in this section, since vacation leave is a grandfathered benefit for only one competitive service employee that currently receives the maximum vacation leave accrual rate. All other current and new competitive service employees receive annual leave.

Page 56, Section 13.6.2.B Sick Leave, General Provisions: The words, "and probationary" were deleted, since all new employees receive annual leave in lieu of vacation leave and sick leave.

Page 13.9. Bereavement Leave: This section was revised consistent with approved language in the current MOA.

Page 75, Section 15.1.b Matters Subject to Grievance Procedures: The word, "retaliation" was added consistent with City Council policy on harassment, discrimination and retaliation.

**STAFF RECOMMENDATION**

Adopt Resolution No. 2009-\_\_\_\_\_.

Attachment: Draft Resolution including Exhibit A (Revised Personnel Rules)

RESOLUTION NO. 2009-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, ESTABLISHING REVISED PERSONNEL SYSTEM RULES AND REGULATIONS FOR POSITIONS IN THE COMPETITIVE SERVICE AND RESCINDING RESOLUTION NO. 2005-2353

WHEREAS, the City Council is authorized and directed under the provisions of Chapter 2.56 of Title 2 of the Moorpark Municipal Code to adopt by resolution of the City Council rules for the administration of the personnel system created in said chapter; and

WHEREAS, the objectives of these rules are to facilitate efficient and economical services to the public and to provide for an equitable system of personnel management in the municipal government; and

WHEREAS, these rules set forth in detail those procedures which insure similar treatment for those who compete for original employment and promotion, and define many of the obligations, rights, privileges and prohibitions which are placed upon all employees in the competitive service of the City; and

WHEREAS, at the same time, within the limits of administrative feasibility, considerable latitude shall be given the City Manager and the Personnel Director in the interpretation of these rules; and

WHEREAS, Resolution No. 2005-2353 previously established personnel system rules and regulations for the City, that are now proposed to be updated and Resolution No. 2005-2353 rescinded.

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

SECTION 1. The City Council hereby adopts the Personnel System Rules and Regulations for Positions in the Competitive Service, attached hereto as Exhibit A and incorporated herein by reference.

SECTION 2. Resolution No. 2005-2353 is hereby rescinded in its entirety.

SECTION 3. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED AND ADOPTED this 16th day of December, 2009.

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Janice S. Parvin, Mayor

ATTEST:

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Deborah S. Traffenstedt, City Clerk

Exhibit A: City of Moorpark Personnel System Rules and Regulations for Positions in the Competitive Service

## EXHIBIT A

Resolution No. 2009-



### City of Moorpark

#### Personnel System Rules and Regulations for Positions in the Competitive Service

**INDEX**  
**OF PERSONNEL RULES FOR**  
**COMPETITIVE SERVICE EMPLOYEES**

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## **RULE 1. DEFINITION OF TERMS**

All words and terms used in this section and in an ordinance or resolution dealing with personnel policies or procedures shall be defined as they are normally and generally defined in the field of personnel administration, and shall have the meanings as defined herein below:

**Section 1.1.**        **"Advancement"**: A salary increase within the limits of a pay range established for a class.

**Section 1.2.**        **"Allocation"**: The assignment of a single position to its proper class in accordance with the duties performed, the authority and responsibilities exercised, and the educational, experience and other requirements; or the assignment of a class to a salary range or rate.

**Section 1.3.**        **"Anniversary Date" or "Salary Anniversary Date"**: The date on which a probationary or regular employee completes his/her probationary period, on the basis of at least satisfactory job performance. The initial date is one (1) year from the date of hiring and coincides with the end of the original probationary period. If the probationary period is extended pursuant to the applicable rules, then the "Anniversary Date" is the date on which such extended probationary period ends.

**Section 1.4.**        **"Appointing Authority"**: The City Manager and those employees of the City to whom the authority to make appointments has been delegated by the City Manager, unless otherwise designated by state law or municipal code.

**Section 1.5.**        **"Appointment"**: The employment of a person in a position.

**Section 1.6.**        **"Base Salary" or "Base Rate of Pay"**: The salary range and step established in a salary plan resolution adopted by the City Council, exclusive of any overtime, shift-differential, incentive or other type of premium pay an employee may receive.

**Section 1.7.**        **"Bilingual Pay"**: Compensation to be paid as an hourly amount to those regular employees with the demonstrated ability to effectively speak and understand Spanish, without any need to call upon another Spanish-speaking employee to assist with translation as determined by testing, and consistent with the compensation approved in a City Council salary plan resolution.

**Section 1.8.**        **"Call Back Duty"**: Occurs when an employee is unexpectedly ordered by his/her department to return to duty following the termination of his/her normal work shift or work week and departure from his/her location because of unanticipated work requirements, and shall not include prescheduled overtime work.

**Section 1.9.**        **"Calendar Day"**: The 24-hour day as denoted on the calendar.

**Section 1.10.**        **"Candidate"**: An applicant in the process of examination and selection.

**Section 1.11.**        **"Certification"**: Establishment of an Eligibility List by the Personnel Officer and the submission of the eligible names to the appointing authority.

**Section 1.12.**        **"City"**: Moorpark, California.

**Section 1.13.**        **"City Council" or Council"**: Moorpark City Council.

**Section 1.14.**        **"Class"**: All positions sufficiently similar in duties, authority, and responsibility to permit grouping under a common title in the application with equity of common standards of selection, transfer, demotion and compensation.

**Section 1.15.**        **"Classification Plan"**: The designation by resolution of the City Council of a title for each class, together with the specifications for each class.

**Section 1.16.**        **"Class Specifications"**: A written description of a class, setting forth the essential characteristics, knowledge, skills, abilities, and requirements of positions in the class.

**Section 1.17.**        **"Compensatory Time Off"**: Time taken off, with pay, from work in lieu of receiving payment for overtime previously accrued by an employee.

**Section 1.18.**        **"Competitive Service"**: All positions of employment in the service of the city, except those specifically excluded by resolution of the City Council.

**Section 1.19.**        **"Continuous Service"**: The employment, without break or interruption, of an employee having a probationary or regular appointment. A break or interruption in continuous service shall be construed as a severance of the employee from his/her employment initiated by either the City or the employee for periods of more than fifteen consecutive calendar days.

**Section 1.20.**        **"Demotion"**: The voluntary or involuntary movement of an employee from a position in one class to a position in another class having a lower maximum base salary.

**Section 1.21.**        **"Departmental Procedures"**: Procedures that departments may establish relating to their specific operational needs. These procedures must conform to related laws and must not conflict with the City's Personnel Rules or any rules, directives, or procedures that may be established by the City Manager.

**Section 1.22.**        **"Disciplinary Action"**: The dismissal, demotion, reduction in salary, suspension, required payment of restitution, issuance of a written reprimand or verbal admonishment of a regular or probationary employee for punitive reasons and not for any non-punitive reasons.

**Section 1.23.**        **"Dismissal"**: The involuntary separation of an employee from City employment.

**Section 1.24.**        **"Eligible"**: A person whose name is on an employment list for a position in the Competitive Service, who may be appointed to a vacant position, as provided by the Personnel Rules.

**Section 1.25.**        **"Employee"**: A person occupying a position in City employment.

**Section 1.26.**        **"Employment List"**:

- a.    **Open employment list**: A list of names of persons who have taken an open-competitive examination for a class, which is in the Competitive Service, and have qualified.
- b.    **Promotional examination**: An examination for a particular class, which is open to all employees meeting the qualifications for the class.

**Section 1.27.**        **"Examination"**:

- a.    **Open-competitive examination**: An examination for a particular class, which is open to all persons meeting the qualifications for the class.
- b.    **Promotional examination**: An examination for a particular class, which is open only to employees meeting the qualifications for the class.
- c.    **Continuous examination**: An open competitive examination which is administered periodically and as a result of which names are placed on an employment list, in order of final scores, for a period of not more than one year.

**Section 1.28.**        **"Full-Time Employee"**: An employee regularly scheduled to work and occupying a full-time position.

**Section 1.29.**        **"Full-Time Position"**: A position in the Competitive Service of the City, which requires at least forty (40) hours of work per week.

**Section 1.30.**        **"Interim Appointment"**: The appointment of a person to an interim position.

**Section 1.31.**        **"Interim Position"**: A temporary full-time or part-time position for a designated period of time which may extend beyond the one (1) year limit reserved for temporary positions. Interim positions accrue all fringe benefits and salary increases the same as full-time and part-time regular positions during the authorized period of employment.

**Section 1.32.**       **"Layoff"**: The separation of employees from the active work force due to lack of work or funds, or to the abolition of positions by the City Council for the reasons of economy and efficiency, or the above reasons, or due to organization changes or reductions or elimination of City services.

**Section 1.33.**       **"Longevity Pay"**: Compensation to be paid per pay period to a regular full-time or part-time employee in recognition of cumulative months of service to the City. Longevity pay shall be consistent with the compensation approved in a City Council salary plan resolution.

**Section 1.34.**       **"Out-of-Class Assignment"**: The temporary assignment of an employee to a position which has been officially allocated by the City to a higher class other than the one presently occupied by the employee. These provisions include those classifications whose specific duties and responsibilities require supervision in absence of an immediate supervisor.

**Section 1.35.**       **"Overtime"**: The time which an interim, probationary, or regular employee is required to work beyond the number of hours prescribed for a full-time employee in that classification in a work week.

**Section 1.36.**       **"Part-Time Position"**: A position having a work week of fewer hours than the work week established for full-time positions. A part-time position may be either interim, temporary, or regular. Part-time employees shall be paid the hourly equivalent of the monthly salary paid to a full-time employee in the classification to which they are assigned or the hourly wage set for the part-time position.

**Section 1.37.**       **"Personnel Director" or Personnel Officer"**: The Personnel Director shall be the City Manager. The Personnel Officer shall be designated by the City Manager.

**Section 1.38.**       **"Personnel Resolution and Personnel Rules"**: City Council Resolution No. 2004-2219 as adopted on July 21, 2004, and such subsequent resolution that may amend or supercede said Resolution No. 2004-2219.

**Section 1.39.**       **"Personnel Ordinance"**: Chapter 2.56 of the Moorpark Municipal Code, which creates a personnel system for the City.

**Section 1.40.**       **"Position"**: A group of duties and responsibilities assigned to one employee and performed in either a full-time or part-time basis.

**Section 1.41.**       **"Probationary Appointment"**: The probationary employment of a person. A "probationary appointment" is for a specified period, during which job performance is evaluated as a basis for a subsequent regular appointment, and the employee has no right to continued employment.

**Section 1.42.**        **"Probationary Employee"**: An employee who has a probationary appointment.

**Section 1.43.**        **"Probationary Period"**: A period to be considered an integral part of the examination, recruiting, testing and selection process during which an employee is required to demonstrate fitness for the position to which the employee is appointed by actual performance of the duties of the position.

**Section 1.44.**        **"Promotion"**: The movement of an employee from one class to another class having a higher maximum base salary.

**Section 1.45.**        **"Provisional Appointment"**: An appointment of a person who possesses the minimum qualifications established for a particular class and who has been appointed to a position in that class in the absence of available eligibles. In no instance shall a provisional appointment exceed six months.

**Section 1.46.**        **"Reclassification"**: The reassignment of a position from one class to a different class in accordance with a re-evaluation of the minimum qualifications, duties and responsibilities of the position.

**Section 1.47.**        **"Reduction"**: A salary decrease within the limits of the salary range established for a class.

**Section 1.48.**        **"Reemployment"**: The appointment of an employee who was laid off within the preceding twelve (12) months, to a position in the same classification as his/her former position.

**Section 1.49.**        **"Regular Employee"**: An employee in the Competitive Service who has successfully completed the probationary period and has been retained in either a regular full-time or regular part-time budgeted position, as hereafter provided in these rules.

**Section 1.50.**        **"Regular Part-Time Employee"**: An employee who has successfully completed the probationary period and who works at least 20 hours but less than 40 hours per work week on a regularly scheduled basis in a part-time position, designated as such in the current adopted budget for not less than 1,300 total hours per fiscal year. "Regularly scheduled" shall mean that the employee shall work the same number of hours per workweek, as specified in the budget for that position.

**Section 1.51.**        **"Regular Pay Rate"**: Hourly compensation rate used for calculation of overtime pay and is based on all payments given to an employee as remuneration for employment, less the exclusions permitted by the Fair Labor Standards Act, and divided by the total hours for which such remuneration was paid in a work week.

**Section 1.52.**        **"Regular Part-time Position"**: A position regularly scheduled to require the service of an employee to work at least twenty (20) hours, but less than forty

(40) hours, per work week and designated in the current adopted budget of the City to work no less than one thousand three hundred (1,300) hours per year.

**Section 1.53.**        **"Reinstatement"**: The restoration without examination of a former regular employee or probationary employee to a classification in which the employee formerly served as a regular non-probationary employee within twelve (12) months of the employee's voluntary separation, transfer or promotion from that classification. A reinstated employee shall serve a probationary period for the period specified for the classification to which the employee is reinstated.

**Section 1.54.**        **"Relief of Duty"**: The temporary assignment of an employee to a status of leave with pay.

**Section 1.55.**        **"Resignation"**: The voluntary separation of an employee from City employment.

**Section 1.56.**        **"Salary Anniversary Date" or "Anniversary Date"**: See Section 1.3. "Anniversary Date" or "Salary Anniversary Date".

**Section 1.57.**        **"Salary Increase"**: The increase of an employee's salary within the salary range established for the class of position he/she occupies as a result of satisfactory job performance in such position.

**Section 1.58.**        **"Salary Plan"**: The assignment by the City Council resolution of salary ranges and/or salary rates to each class.

**Section 1.59.**        **"Salary Range"**: The range of salary rates for a class.

**Section 1.60.**        **"Salary Rate"**: The dollar amount of each step in a salary range, or the flat dollar amount for a class not having a salary range.

**Section 1.61.**        **"Salary Step"**: The minimum through maximum salary increments of a salary range.

**Section 1.62.**        **"Standby Duty"**: Provides that an employee who is released from duty is required by his/her department to leave notice where he/she can be reached and that he/she be available to return to duty when required. "Standby duty" requires that an employee, (1) be ready to respond immediately, (2) be reachable by phone, (3) be able to report within a specified period of time, and (4) refrain from any activities, which might impair his/her ability to perform assigned duties. "Standby duty" does not apply when a City's Emergency Operations Center has been activated and an employee may be assigned to a work shift other than his/her regular shift.

**Section 1.63.**        **"Suspension"**: The temporary separation from service of an employee without pay for disciplinary purposes.

**Section 1.64.**        **"Temporary Appointment"**: An appointment to a temporary or regular position for a period of one (1) year or less.

**Section 1.65.**        **"Temporary Employee"**: A person who has been appointed to a temporary or a regular position for a limited period and is not a competitive service employee.

**Section 1.66.**        **"Temporary Position"**: A full-time or part-time position of limited duration.

**Section 1.67.**        **"Termination"**: The separation of an employee from the City service because of retirement, resignation, death or dismissal.

**Section 1.68.**        **"Title", "Class Title", "Title of Class"**: The official name applied to a class and to each position allocated to the class and to the incumbent of each position.

**Section 1.69.**        **"Transfer"**: A change of an employee from one position to another position in the same class or in a comparable class.

**Section 1.70.**        **"Veteran"**: This definition shall have the same meaning as in Section 18973 of the State Government Code, for the purposes of determination of veteran's preference in establishment of an employment list following a competitive examination (pursuant to Section 7.1 of these Rules).

**Section 1.71.**        **"Work Day"**: Day on which work is done, for an agreed or stipulated number of hours in return for a salary or wage, and based on the regular payroll work schedule for each employee as approved by the department head. The days of the week and hours may vary per employee.

**Section 1.72.**        **"Work Week"**: A 40-hour payroll work schedule; the days may vary per employee.

## **RULE 2. GENERAL PROVISIONS**

**Section 2.1.**        **Personnel Director/Officer**: The City Manager is the Personnel Director and shall interpret, apply and administer these Rules. The City Manager may delegate any of the powers and duties conferred upon him/her as Personnel Director to any other assigned employee he/she designates as Personnel Officer.

**Section 2.2.**        **Applicability of Rules**: All rules, actions, regulations, and policies herein shall apply only to employees in the Competitive Service of Moorpark. Employees not included in the competitive service under this section shall serve at the pleasure of their appointing authority. Certain classifications of positions in the competitive service shall be exempted from the payment of overtime and compensatory time as provided for in Section 4.12 of these Rules.

The Competitive Service shall consist of all positions in the City service except the following:

- a. All elective officers;
- b. All members of appointive boards, commissions and committees;
- c. The City Manager and any Assistant or Deputy City Manager;
- d. The City Attorney and any Assistant or Deputy City Attorney;
- e. The City Clerk;
- f. The City Treasurer and any Assistant or Deputy City Treasurer;
- g. All department heads and assistant department heads;
- h. All City Council appointed City officers;
- i. Persons engaged under contract to provide expert, professional, technical or any other service;
- j. Volunteer personnel;
- k. Temporary employees;
- l. Emergency employees who are hired to meet the immediate requirements of an emergency condition, such as extraordinary fire, flood, or earthquake, which threatens life or property;
- m. Employees, other than those listed elsewhere in this section, who are not employed in regular positions. "Employed in regular positions" means an employee hired for an indefinite term into a budgeted position, who is regularly scheduled to work no less than one thousand three hundred (1,300) hours per year, and at least twenty (20) hours per week, and has successfully completed the probationary period and been retained as provided in the personnel rules;
- n. Other management and management professional positions designated as Non-Competitive Service in the City Council adopted Salary Plan and designated as exempt in the City Council adopted Classification Plan.

**Section 2.3. Amendment of Rules:** Proposed amendments to these Rules shall be submitted to the City Manager for review and recommendation prior to submittal to the City Council. Advance notice for the purpose of meeting and conferring shall be given to

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

**Section 2.4.**        **Violation of Rules:** Violation of these Rules may be grounds for disciplinary action and subject to the applicable appeals procedure provided herein.

**Section 2.5.**        **Loyalty Oath:** All employees subject to these Rules shall, before they enter upon the duties of their employment, take and subscribe the oath prescribed in the California Constitution.

**Section 2.6.**        **Equal Employment Opportunity:** Federal and State laws prohibit employment decisions based solely on race, ancestry, color, sex, marital status, sexual orientation, physical or mental disability, political views, age, religion, creed, national origin, pregnancy, medical condition, veteran, and any other legally protected status. Decisions concerning employment and promotion shall always be on the basis of job-related standards of education, training, experience and personal qualifications.

**Section 2.7.**        **Validity of Rules:** If any section, subsection, sentence, clause, or phrase of these Rules is found to be illegal by a court of competent jurisdiction, such findings shall not affect the validity of the remaining portions of these Rules.

**Section 2.8.**        **Cooperation:** Every employee of the City of Moorpark shall cooperate with the City Manager in order to completely fulfill the objectives and purposes of these Rules.

**Section 2.9.**        **Employee Activities:** During the employee's work day, he/she is expected to devote his/her full time in the performance of his/her assigned duties as a City employee. An employee in the Competitive Service shall not engage in any employment, outside activity or enterprise which is inconsistent, incompatible, in conflict with, or interferes with his/her ability to perform the duties, functions or responsibilities of his/her position as a City employee, nor shall he/she engage in any outside activity which will directly or indirectly contribute to the lessening of his/her effectiveness as a City employee. No employee shall engage in any type of activity relating to an employee organization during such time an employee is on duty, except as expressly provided by the City Manager, state and federal laws, or Council resolution.

**Section 2.10.**       **Inconsistent Activities and Outside Employment:** In making a determination as to the consistency or inconsistency of outside employment, activity or compensation ("outside employment"), the Personnel Director shall consider, consistent

with the provisions of Government Code Section 1126 where applicable, whether the employment involves:

- a. The use for private gain or advantage of City time, facilities, equipment and supplies, or
- b. Receipt or acceptance by the employee of any money or other consideration from anyone other than the City for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course or hours of his/her employment with the city or as a part of his/her duties as a City employee, or
- c. The performance of an act in other than his/her capacity as a City employee which act may later subject directly or indirectly to the control, inspection, review, audit, or enforcement of any other officer or employee of the City, or
- d. Such time demand as would render performance of his/her duties as a City employee less efficient.

**Section 2.11. Outside Employment:** Employees shall not engage in regular outside employment, activity or enterprise of eight (8) hours or more per week for compensation ("outside employment") without the express written approval of the City. Employees will be allowed to engage in outside employment if such secondary employment meets the following standards as determined by the Personnel Director:

- a. The outside employment is not inconsistent with the employee's employment with the City;
- b. The outside employment will not be demanding on the employee or carry over into his/her regular duties;
- c. The outside employment is such that no problem will arise as to the City's responsibility for injury incurred on the outside job;
- d. The outside employment will never be allowed to interfere with the policy that the employee is always readily accessible in case of emergencies;
- e. Employee to notify the outside employer that he/she may need to return to his/her regular duties immediately upon call;
- f. The basis for approval by the Personnel Director is:
  1. The employee may refuse to work extra hours if another employee is available.

2. The employee is required to sign a waiver in regard to injuries occurring in outside employment. This waiver shall specifically waive any rights he/she would have against the City or any retirement system which the City might adopt as to disability which would be caused from, or arising out of, the outside employment for which the request is made. The employee shall also waive any rights to Worker's Compensation benefits or sick leave because of injury or sickness cause by, or arising out of, his/her outside employment.
  3. An employee whose sick leave record indicates the lack of strength to sustain both City employment and outside employment will not be allowed to continue outside employment.
- g. The Personnel Director shall notify the employee of a determination not to allow the requested outside employment and the grounds therefore. The decision of the Personnel Director shall be final.

**Section 2.12. Improper Use of City Equipment/Facilities Prohibited:** No City-owned equipment, autos, trucks, instruments, tools, supplies, machine, badge, identification cards, or other items which are the property of the City shall be used by an employee for other than City business, except upon prior written approval of the employee's department head with a copy provided to the City Manager. To avoid the appearance of improper use of public property, City vehicles shall not be used for lunch breaks or errands of a personal nature, except as allowed by administrative procedures approved by the City Manager.

No employee shall allow any person not employed by the City to rent, borrow or use any City property item, including the items mentioned above, unless upon prior written approval of the City Manager. Only employees, volunteers or supervisor approved individuals conducting or associated with City business may ride in any City vehicle.

**City Monitoring/Inspection Rights on City Property:** The City has a right to monitor and/or inspect employee use of City equipment and facilities, even when employees are permitted to use such equipment or facilities on their break or meal period time. All City equipment and facilities remain the sole property of the City and are subject to monitoring and inspection at any time and employees shall have no right of privacy when using City equipment and facilities. Such monitoring or inspection can occur with or without advance notice or consent and can be conducted by any supervisor, manager or City designee. Examples of City equipment for which employee use may be monitored or inspected includes telephones (including cellular phones and pagers) and computers (including e-mail and internet use). Employees should not place personal items within City equipment and facilities and expect any right to deny access. Examples of City equipment and facilities that may be inspected at any time include: desks, file cabinets, book shelves, vehicles (including glove compartments and trunks), closets, and office space. Prohibited materials such as weapons, explosives, alcohol, and illegal drugs may not be brought to the work site and may not be placed in any City equipment or facilities.

**Section 2.13. Solicitation of Funds:** Prior to any solicitation of funds for the sale of tickets for benefit shows or charitable causes by employees using the name of the "City of Moorpark" in connection with their activities, a written application to engage in such activities shall be submitted to the City Council. The application shall contain the following information:

- a. Purpose, plan and beneficiaries of solicitation or sale.
- b. Name of person, firm, corporation, or association managing or promoting said solicitation or sale, and if a manager or promoter other than a City employee, a brief statement as to background, experience, and qualifications, with the names and addresses of at least three references, preferably city managers or chief administrative officers of other municipal corporations located in Southern California.
- c. Signature of the chief presiding officer of the organization; or if there is no formal organization, the signatures of all employees involved in the activities.

The City Council may require the filing of a financial statement of receipts and disbursements or may attach any other conditions to the issuance of a permit as in its discretion may appear necessary or desirable. The action of the City Council in granting or denying the permit shall be final.

**Section 2.14. Employment of Family Members:** An applicant for a position, with a relative currently employed by the City, may not be denied the right to file an application for employment and compete in the examination process. Following the examination, if the applicant is successfully certified as eligible, employment may be prohibited by the City Manager where such employment:

- a. Places one relative under the supervision of the other relative, thus creating a potentially adverse impact on supervision, safety, security, morale or conflicts of interest.
- b. Places both relatives in the same department, division or facility, thus creating a potentially adverse impact on supervision, safety, security, morale or conflicts of interest.
- c. Would have one of the relatives in a position with access to information concerning confidential personnel matters, which may compromise such confidential information.

For the purposes of this Section, a "relative" shall be defined to include the following: mother, father, grandfather, grandmother, aunt, uncle, cousin, sister, brother, son, daughter, son-in-law, daughter-in-law, nephew, niece, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, spouse

as defined as a partner in marriage (California Civil Code Section 4100), and domestic partner as defined by California Family Code Section 297 and including the requirement for the filing of a Declaration of Domestic Partnership with the Secretary of State.

A relative, as herein defined, of a then current member of the City Council shall not be permitted to be appointed to a position in the Competitive Service of the City during that member's term of office as a Moorpark Councilmember.

The provisions of this Section shall not apply to appointments to commissions, committees and boards.

**Section 2.15. Concurrent Employment and Membership on City Council, Commissions or Boards:** An employee in the Competitive Service of the City that accepts a seat on the Moorpark City Council, Planning Commission, Parks and Recreation Commission, or any other Commission or Board appointed by the Mayor with consent of the City Council or appointed by the City Council, shall be deemed to have resigned his/her employment with the City.

**Section 2.16. Drug/Alcohol Testing:** Employees with a Class A or B license shall be subject to random drug/alcohol testing per rules established by the U.S. Department of Transportation and as established by City Manager approved administrative procedures. An employee may also be directed by their supervisor to submit to drug/alcohol testing, as set forth in City Manager approved administrative procedures, based on reasonable suspicion that an employee has a prohibited presence of controlled substance(s) in her or her system so that the employee's ability to perform the functions of the job is impaired, or so that the employee's ability to perform his or her job safely is reduced.

**Section 2.17. Employee Driving Record:** The City shall enroll all employees who operate City vehicles, and/or receive a vehicle allowance or mileage reimbursement to drive their private vehicle on City business, in the State Department of Motor Vehicle's Pull Notice Program. An employee who has an unsafe driving record may be considered uninsurable. The City Manager has the authority to make a determination regarding the driving insurability of any employee. Upon receipt of notice of a license restriction, suspension, and/or revocation, the City Manager shall take appropriate disciplinary action for an employee with a job classification requiring possession and maintenance of a valid California Driver's License and/or who is required to drive a vehicle for the City.

**Section 2.18. Medical Tests:** At its discretion, the City shall have the right to require an employee to undergo, at City expense, medical examinations and tests related to an employee's job performance or conduct.

**Section 2.19. Harassment, Discrimination, and Retaliation:** The City is committed to providing a work environment that is free of unlawful harassment, discrimination, and retaliation. In keeping with this commitment, the City maintains a strict

policy prohibiting all forms of unlawful ~~discriminatory harassment, discrimination and retaliation~~. Specific language prohibiting all forms of unlawful discriminatory harassment, discrimination, and retaliation shall be as set forth in a City Council resolution. Failure to follow the complaint procedure included in the City Council's Resolution may affect an employee's ability to pursue an unlawful harassment, discrimination and/or retaliation complaint against the City.

**Section 2.20.**      **Anti-Violence:** The City is committed to providing a violence-free workplace for its employees. Specific language prohibiting actual or threatened violence by employees against co-workers or other persons shall be set forth in City Manager approved administrative procedures and/or as established by City Council resolution.

**Section 2.21.**      **Emergency Responsibilities:** Per State law, all employees are subject to being assigned emergency responsibilities due to a disaster. During a major disaster, off-duty employees are under an obligation to contact their respective supervisor, department head, City Manager, Assistant City Manager, or City Emergency Operations Center for possible assignment. The City shall provide each employee with the telephone number to call for instructions regarding reporting to work during an emergency.

### **RULE 3. CLASSIFICATION**

**Section 3.1.**      **Preparation of Classification Plan:** The City Manager shall be responsible for preparing and recommending a position classification plan for adoption by the City Council. The Classification Plan shall consist of classes of positions in the Competitive Service defined by class specifications including a title, a description of typical duties and responsibilities of positions in each class, a statement of the training, experience and qualifications to be required for appointment. Class specifications are explanatory, but not restrictive. The listing of particular tasks shall not preclude the assignment of other related kinds of tasks or jobs requiring lesser skills. The Classification Plan shall be so prepared that all positions substantially similar with respect to duties, responsibilities, and other like characteristics of work are included within the same class and at the same salary range.

**Section 3.2.**      **Adoption or Amendment of Classification Plan:** Before the Classification Plan or any amendment thereof shall become effective, it shall be first adopted by a resolution of the City Council. Upon adoption by the Council, the provisions of the Classification Plan shall be observed in the handling of all personnel actions and activities. The Classification Plan shall be amended or revised as occasion requires in the same manner as originally established.

**Section 3.3.**      **Allocation of Positions:** Following the adoption of the Classification Plan, the City Manager shall allocate every position in the Competitive Service to one of the classes established by the Plan.

**Section 3.4.**        **New Positions:** When a new position is created, no person shall be appointed or employed to fill the position prior to the position's assignment to a class unless otherwise provided by these Rules. The City Manager may recommend an amendment to the Classification Plan to establish an appropriate class for the new position.

**Section 3.5.**        **Reclassification of Position:** When in the case that the duties, responsibilities and characteristics of a position have materially changed, a study of the position shall be made to determine its appropriate classification. The City Manager shall either make no change in the position's classification, allocate the position to an existing classification, or recommend the establishment of a new class to which the position would be allocated, whichever is the appropriate action. Reclassification shall not be used for the purpose of avoiding restrictions regarding demotions and promotions. No person shall be appointed or employed to fill a reclassified position unless the said reclassified position has been incorporated in the Classification Plan as provided by these Rules.

**Section 3.6.**        **Out-of-Class Assignment/Temporary Assignment:**

- a. The term "out-of-class assignment" is defined in Section 1.34.
- b. Acceptable reasons for out-of-class assignments are:
  1. Non-availability of properly classified employees to fill the vacancy.
  2. The temporary filling of a vacant position pending certification of an Eligible person.
- c. An out-of-class assignment may be made by a department head if, in his/her opinion, such action is necessary for the proper functioning of the department. However, after filling a vacancy by an out-of-class assignment, the department head is not required to fill the vacancy caused by such assignment.
- d. Out-of-class assignments shall not exceed thirty (30) consecutive calendar days without approval by the City Manager. Out-of-class assignments shall not be made for the purpose of avoiding the filling of a regular budgeted position by an appointment.
- e. As soon as the appointing department head becomes aware that a position may be vacant for more than sixty (60) calendar days, he/she shall inform the Personnel Director or City Manager so that certification of replacement personnel may be made or, if necessary, an examination may be scheduled.
- f. An eligible employee in an out-of-class assignment shall receive an increase of five percent (5%) or the first step of the higher range, whichever is greater. However, in no case shall such salary adjustment place the employee

beyond the salary range of the position to which he/she has been temporarily assigned.

- g. Notwithstanding Section 3.6.f., to be eligible for a higher rate of pay, an employee shall meet all of the following requirements for the first assignment to a class:
  1. Be a regular or probationary employee immediately preceding the temporary assignment.
  2. Be temporarily assigned for at least five (5) consecutive work days in an out of class assignment to a class having a higher maximum compensation than his/her own class. An employee working in a higher classification and who works in said higher classification for five (5) consecutive work days shall thereafter be paid according to the salary range of the class in which he/she has been working.
  3. Be on the current eligibility list. If no one is available from the current list or the most recent expired list, then any employee may be appointed and receive compensation if otherwise eligible under the provisions of this Section.

#### **RULE 4. COMPENSATION**

**Section 4.1. Preparation and Adoption of Salary Plan:** The City Manager shall be responsible for recommending a Salary Plan including wage rates and salary ranges covering all classes of positions in the Competitive Service of the City and any special compensation approved in a Memorandum of Agreement for Competitive Service employees. Before the Salary Plan shall become effective, it shall be first approved by the City Council. After the Salary Plan is adopted, no position shall be assigned a salary neither higher than the maximum nor lower than the minimum salary provided for that class of position unless the salary range for the class is amended in the same manner as herein provided for its adoption.

**Section 4.2. Salary Plan Structure:** The salary ranges and steps for all classifications shall be as established by a City Council adopted salary plan resolution.

**Section 4.3. Appropriate Salary Step:** Employees occupying a position in the Competitive Service shall be paid a salary or wage within the range established for that position's class under the adopted Salary Plan.

**Section 4.4. Newly Hired Employees' Salary Step:** Newly hired employees shall be appointed at Step A of the salary range to which their class is assigned. When economic conditions, minimum wage requirements, unusual employment conditions or exceptional qualifications of a candidate for employment indicate that a higher initial step

would be in the City's best interest, upon recommendation of the appointing authority, the City Manager may authorize hiring at a higher step in the salary range. In the case of an employee hired at any step above Step A, said employee may be advanced to the next higher step in his/her range upon completion of the probationary period. The employee would then be eligible for the next step one (1) year from his/her anniversary date, pursuant to Section 4.5.

**Section 4.5. Salary Advancement - Full-time Employees:** Full-time Employees may be considered for an increase in salary according to the following rules:

- a. Any salary increase or denial of salary increase shall require the specific recommendation of the employee's department head and/or immediate supervisor and the approval of the City Manager.
- b. Eligible employees receiving a performance evaluation rating of satisfactory or less than satisfactory shall not receive a merit increase. Those eligible employees rated commendable (one level above satisfactory), with a minimum score of 7 out of a total 10-point scale, or outstanding (two levels above satisfactory), with a minimum score of 8.6 out of a total 10-point scale, shall receive a five percent (5%) merit increase.
- c. An employee is eligible to receive a merit increase upon the successful completion of his/her probationary period, with at least a commendable performance evaluation rating, and thereafter is eligible one year from each preceding anniversary date, so long as it does not exceed the highest step of the applicable salary range and is consistent with the provisions of these rules. For a promoted employee with a six-month probationary period, the effective date of the promotion is the anniversary date for the purposes of determining merit raise eligibility and not the completion of the probationary period.
- d. Any salary increase granted pursuant to this Section shall be effective as of the first calendar day of the pay period in which the anniversary date occurs. Advancement shall not be automatic. When an employee is denied a salary increase, the employee may be reconsidered for such advancement at any subsequent time. If the employee receives a salary increase as a result of reconsideration, the employee shall not be eligible for the next and any subsequent salary increase in the same class for one year from the effective date of the salary increase granted as a result of said reconsideration; provided, that the employee's anniversary date for leave accrual and other benefits that are based upon length of service shall not be affected. As addressed in Rule 13, an unpaid leave of absence will result in a corresponding change to an anniversary date.

- e. Overlooked advancements shall be retroactive to the first calendar day of the pay period in which the employee's anniversary date occurs, upon approval by the City Manager.

**Section 4.6. Salary on Promotion:** All employees who are promoted to a position in a class with a higher salary range shall be placed on the Step A in the new higher range or placed at the step which is a minimum 5% salary increase for the employee, not to exceed the highest step of the new range.

When economic conditions, unusual employment conditions or exceptional qualifications of a candidate for promotion indicate that a higher step would be in the City's best interests, upon recommendation of the appointing authority, the City Manager may authorize hiring at a higher step in the salary range.

The effective date of the promotion shall become the new anniversary date for the purposes of determining merit raise eligibility. The promoted employee's anniversary date for leave accrual and other benefits that are based upon length of service shall continue to be date of hire for regular full-time and part-time employees promoted to a position in a class with a higher salary range, except as modified by a leave of absence without pay.

**Section 4.7. Salary on Demotion:** Any employee who is demoted through procedures in Rule 11 or 12 may be placed at a lower step, or may be placed at a step in a lower range or may be placed at Step "Y" which is equal to the employee's current salary step. The employee's anniversary date shall not change.

An employee receiving Step "Y" shall remain in the Step "Y" until such time as the position is assigned to a salary range in which the highest step of the range is equivalent to or higher than the Step "Y", at which time the employee shall be placed in the higher step, but not to exceed five percent (5%) more than the Step "Y". Such employee shall not receive further salary adjustments until such time as Step "Y" is equivalent or less than the highest step of the salary range of the employee's position consistent with other applicable sections of these Rules.

**Section 4.8. Salary on Reinstatement:** An employee who resigned in good standing may, within one year of such resignation and upon recommendation of the department head and approval of the City Manager, be reinstated in a position in the class in which the employee had previously served, subject to an available budgeted position. Upon such reinstatement, the employee shall not receive higher than the step in the salary range the employee previously received prior to the employee's separation. The employee shall be given a new anniversary date Upon reinstatement, the employee shall receive annual leave in accordance with Section 13.5, and no credit for former employment shall be granted in computing annual leave, or other benefits such as longevity pay, except on the specific recommendation of the appointing authority at the time of reinstatement, and upon the approval of the City Manager.

When economic conditions, unusual employment conditions or exceptional qualifications of a returning employee indicate that reinstatement to a higher salary step would be in the City's best interests, upon recommendation of the appointing authority, the City Manager may authorize hiring at a higher step in the salary range.

**Section 4.9.**      **Salary on Transfer:** Any employee who is transferred from one position to another position in the same class, or to another position in a class having the same salary range, shall be compensated at the same step in the salary range as the employee previously received. The employee's anniversary date shall not change.

**Section 4.10.**      **Salary on Position Reclassification:** When a position is reclassified to a lower classification, the employee shall retain his/her rate of pay and his/her anniversary date or shall be placed in the step of the lower salary range closest to the employee's salary rate. If the last step of the salary range of the lower job class is lower than the employee's salary rate, the current salary step shall be identified as Step "Y" of the lower salary range. An employee receiving a Step "Y" because of a downward reclassification, shall remain in the Step "Y" until such time as his/her job is assigned to a salary range in which one or more of the steps is equivalent to or higher than the Step "Y", at which time the employee shall be placed in a step closest to but not lower than Step "Y". Such employee shall not receive annual salary adjustments until such time as Step "Y" is equivalent or less than the next step of the salary range of the employee's reclassified position. When a position is reclassified to an equivalent classification, the employee shall retain his/her salary rate and anniversary date. When a position is reclassified to a higher classification the employee shall be placed on Step A in the new higher range or placed at the step which is a minimum five percent (5%) salary increase for the employee, not to exceed the highest step of the new range. The employee's anniversary date shall not change.

**Section 4.11.**      **Special Salary Adjustments:** A department head may recommend in writing to raise an employee's salary step prior to the eligibility times specified in Rule 4.5 and Rule 4.7, so as to recognize meritorious service, advanced educational achievements or other extraordinary attributes related to the employee's public service. Such increased compensation is subject to the approval of the City Manager and the City Council, and the availability of budgeted funds. The employee's anniversary date shall not change.

**Section 4.12.**      **Overtime and Compensatory Time:** When in the best interest of the City, the City Manager or a department head or his/her designee may require an employee to be employed beyond the employee's regular hours of employment. Overtime that can be anticipated or scheduled shall require the prior approval of the department head based on budget limits. No more than ten (10) hours of overtime may be worked in any one work week without prior written approval of the City Manager.

Credit for overtime shall not begin until an employee has worked forty (40) hours for that work week. All overtime shall be computed in increments of one quarter (1/4) hour and shall be credited at one and one-half (1 ½) times the overtime worked unless otherwise specified in these Rules or a Memorandum of Agreement. Calculation of overtime pay

shall be based on an employee's regular pay rate and shall not include any in-lieu insurance payment.

Compensation for authorized overtime shall be included in the paycheck for the pay period in which it is earned, except as provided below. The City and the employee can agree, in advance of the overtime being worked, to allow the employee to receive compensatory time in lieu of overtime pay. For purposes of calculating overtime, annual leave, vacation leave and observed holidays, but not sick leave or other time off, shall be credited as time worked during the workweek. An employee will not be permitted to accumulate more than forty (40) hours of compensatory time. Twice a year, during the last pay period in June and the last pay period in December, the City shall pay an employee for all accumulated compensatory time and reduce the compensatory time balance to zero. Upon termination, employees shall be compensated for accumulated compensatory time off.

Certain classifications in the Competitive Service shall be exempt from the provisions of overtime and Sections 4.12, 4.12.1, and 4.12.2. Such exempt classifications shall have the exemption stated on both the Salary Plan and the class specification in the job description in the City's Classification Plan. Standby duty, which does not constitute time worked, shall be compensated in a manner prescribed in writing by the City Manager.

**Section 4.12.1. Callback:** The minimum callback for employees covered by this Agreement shall be two (2) hours. The two-hour minimum shall only be applied once during any two-hour period. Actual hours worked during a callback shall be paid at the overtime rate established in Section 4.12. Call-back does not include pre-scheduled overtime, such as for attendance at an evening meeting, but such prescheduled overtime shall be paid at no less than one hour at the overtime rate established in Section 4.12.

**Section 4.12.2. Standby Premium Pay:** Should an employee be placed on standby duty, such an employee shall be compensated for actual time on call at one-quarter (1/4) of his/her hourly wage. Actual time worked as a result of a callback to duty shall be paid in accordance with Section 4.12.1. No employee shall be paid for callback and standby simultaneously. "Standby duty" does not apply when a City's Emergency Operations Center has been activated and an employee may be assigned to a work shift other than his/her regular shift.

**Section 4.13. Compensation for Layoff:** An employee, who is terminated from the Competitive Service of the City as a result of a layoff, shall be paid for accumulated annual leave, vacation leave, and accumulated overtime. If the employee is reemployed within one year, and upon the completion of one (1) year of additional continuous service, the employee will receive annual leave hours equal to a sixty percent (60%) conversion of unused accumulated sick leave at the time of layoff. Should an employee be reemployed in the formerly held position, the employee shall be placed at the same salary step as when the layoff occurred. No credit shall be received toward a step increase or seniority during the period of layoff. Employees who have attained regular status at the time of layoff and who are reemployed within a period of one (1) year shall retain their assigned anniversary date.

**Section 4.14. Compensation during Suspension:** An employee who is suspended with pay shall be paid that salary the employee was entitled to prior to the suspension. An employee who is suspended without pay under the disciplinary procedures shall not be paid for those specific work days of suspension. Additionally, an employee suspended without pay shall not accrue annual leave, sick leave, vacation, seniority and other benefits during a suspension of more than fifteen (15) work days. Employer-paid insurance contributions during any suspension of five (5) work days or less will be continued.

**Section 4.15. Salary on Voluntary Demotion:** At the discretion of the City Manager, any employee who elects to take a voluntary demotion may be placed at a lower step, or may be placed at a step in a lower range or may be placed at Step "Y" which is equal to the employee's current salary step. The employee's anniversary date shall not change.

An employee receiving Step "Y" shall remain in the Step "Y" until such time as the position is assigned to a salary range in which one or more of the steps is equivalent to or higher than the Step "Y" at which time the employee shall be placed in a step closest to but not lower than the step "Y". Such employee shall not receive salary adjustments until such time as Step "Y" is equivalent or less than the next step of the salary range of the employee's position.

**Section 4.16. Compensation for Temporary Assignment to Higher Classification:** An employee may receive adjusted compensation for working in an assignment in a higher classification consistent with the provisions of Section 3.16.

**Section 4.17. Compensation for Vehicle Use:** An employee shall be compensated for use of the employee's personal vehicle on City business under the rules set forth by a City Council resolution.

**Section 4.18. Restitution:** An employee may be required under the provisions of Rule 12, in a manner approved by the City Manager, to provide restitution to the City of Moorpark for willful, wanton or malicious destruction of City property.

**Section 4.19. Error in Determination of Correct Salary Rate or Any Other Compensation:** Should an employee be advanced to a higher step in the salary range for his/her class than for which he/she was recommended, be placed at a higher salary range, or receive any other incorrect amount of compensation, including but not limited to bilingual pay, longevity pay, insurance cash-back payment, deferred compensation payment, through error, such error shall be corrected immediately following its discovery. Reimbursement to the City by the employee for said error shall be made by one of the following methods or a combination thereof:

- a. Application of accumulated equivalent time off for overtime service;

- b. Application of equivalent time off for overtime service earned during the time immediately following the date of the discovery of said error;
- c. Application of the increase in the employee's salary following his/her next merit salary increase; or
- d. Application of a partial reduction in the employee's salary for a period of not less than three (3) nor more than six (6) months; or
- e. Any other method mutually agreed to.

Determination of which one or combination of the above methods of reimbursement should be used shall be made by the department head subject to the written approval of the City Manager. In order for the reimbursement to the City to be deferred, the employee shall be required to sign a reimbursement agreement, to permit the City to deduct any unpaid reimbursement from the employee's last paycheck, should the employee terminate before full reimbursement to the City has been made. If the employee declines to sign a reimbursement agreement, the full amount of the reimbursement will be deducted from the employee's next paycheck, or all subsequent paychecks until full reimbursement has been achieved. If the employee refuses to sign a reimbursement agreement and then terminates employment prior to reimbursement, the City will initiate appropriate legal and/or disciplinary action.

**Section 4.20. Compensation - Regular Part-Time Employees:** Regular part-time employees shall be paid the hourly equivalent of the monthly salary paid to a full-time employee in the classification to which they are assigned at the appropriate step. They shall move through the steps in their range when they have completed eighteen hundred (1,800) of actual hours worked (excludes any annual leave, sick leave, vacation leave, holiday, military leave of absence, compensatory time, bereavement leave, jury duty, or disability leave.)

**Section 4.21. Compensation - Temporary Employees:** Temporary employees shall be paid an hourly rate established by the City Manager as appropriate for the work to be performed and within the budgeted amounts in temporary employee salaries.

## **RULE 5. APPLICATIONS AND APPLICANTS**

**Section 5.1. Announcement:** All examinations for classes in the Competitive Service shall be publicized by such methods as the Personnel Director deems appropriate. Special recruiting shall be conducted, if necessary, to insure that all segments of the community are aware of the forthcoming examinations. The announcements shall specify the title and pay of the class for which the examination is announced; the nature of the work to be performed; preparation desirable for the performance of the work of the class; the manner of making application; and other pertinent information.

**Section 5.2. Application Forms:** Applications shall be made as prescribed on the examination announcement and on forms provided by the City. Application forms shall require information covering training, experience, and other pertinent information, and may include certificates of one or more examining physicians, references and fingerprinting. All applications must be signed by the person applying.

**Section 5.3. Rejection of Application:** The Personnel Director or his/her designee may reject any application, which indicates on its face that the applicant does not possess the minimum qualifications required for the position. Applications may be rejected if the application indicates facts that show that the applicant is addicted to the habitual excessive use of drugs; has made any false statement of any material fact; is not legally permitted to work within the United States; or practiced any deception or fraud in an application. Whenever an application is rejected, notice of such rejection shall be mailed to the applicant by the Personnel Director or his/her designee. Defective applications may be returned to the applicant with notice to amend the same, providing the time limit for receiving applications has not expired.

**Section 5.4. Criminal Conduct - Ineligibility for Employment:** A criminal conviction, including a plea of guilty or nolo contendere, shall be considered in determining the eligibility of an applicant for employment, but does not constitute an automatic bar to employment. In considering whether or not to reject the application, the appointing authority shall consider the provisions set forth in a resolution of the City Council pertaining to fingerprinting of new employees and volunteers and the following factors:

- a. The classification, including sensitivity, to which the person is applying or being certified and whether the classification is unrelated to the conviction.
- b. The nature and seriousness of the offense.
- c. The circumstances surrounding the conviction.
- d. The length of time elapsed since the conviction.
- e. The age of the person at the time of conviction.
- f. The presence or absence of rehabilitation or efforts at rehabilitation.
- g. Contributing social or environmental conditions.

**Section 5.5. Request for Reconsideration by Applicant:** An applicant whose application is rejected or who is otherwise disqualified for employment with the City may request reconsideration of such determination. Such request shall be in writing and filed with the City Manager within ten (10) calendar days of the date of the notice of the rejection or disqualification. The City Manager shall complete the reconsideration within ninety (90) calendar days after the request is filed. The determination of the City Manager shall be final.

## **RULE 6. EXAMINATIONS**

**Section 6.1. Examination Process:** The selection techniques used in the examination process shall be impartial and relate to those subjects which, in the opinion of the Personnel Director, fairly measure the relative capacities of the persons examined to execute the duties and responsibilities of the class to which they seek to be appointed. Examinations shall consist of selection techniques which will test fairly the qualifications of candidates such as, but not necessarily limited to, achievement and aptitude tests, other written tests, personal interview, performance tests, physical agility tests, evaluation of daily work performance, work samples, medical tests, psychological tests, background investigations, successful completion of prescribed training, or any combination of these or other tests. The probationary period shall be considered as a portion of the examination process. Examinations shall be designed to provide equal opportunity to all candidates by being based on an analysis of the essential requirements of the class, covering only factors related to such requirements. Certain elements of the examination process may be designated as qualifying tests only. Failure on one part of the examination may be grounds for declaring the candidate as failing the entire examination or disqualified for subsequent elements of the examination.

**Section 6.2. Promotional Examinations:** Promotional examinations may be conducted whenever, in the opinion of the Personnel Director, the needs of the service require. Promotional examinations may include any of the selection techniques mentioned in Section 6.1 of this Rule, or any combination of them. Only regular or probationary employees who meet the requirements set forth in the promotional examination announcements may compete in promotional examinations.

**Section 6.3. Continuous Examination:** Open-competitive examinations may be administered periodically for a single class as the needs of the service required. Names shall be placed on employment lists, and shall remain on such lists, as prescribed in these Rules.

**Section 6.4. Conduct of Examination:** The City may contract with any competent agency or individual for the preparing and/or administering of examinations. In the absence of such a contract, the Personnel Director shall see that such duties are performed. The Personnel Director shall arrange for the use of public buildings and equipment for the conduct of examinations.

**Section 6.5. Notification of Examination Results and Review of Papers:** Each candidate in an examination shall be given written notice of the results thereof, and if successful, of the final earned score and/or rank on the employment list. All candidates taking a written examination shall have the right to inspect their own test answer sheet within five (5) work days after the notifications of examination results. Any error in computation, if called to the attention of the Personnel Director within this period, shall be

corrected. Such corrections shall not, however, require invalidation of appointments previously made.

## **RULE 7. EMPLOYMENT LISTS AND APPOINTMENTS**

**Section 7.1.**        **Employment List:** An employment list shall be established following a competitive examination listing the names of those applicants who have achieved a final score meeting or exceeding a passing score established for the position. The names on the employment list shall be arranged in order of final scores from the highest to the lowest score. Such applicants shall be deemed as qualified for appointment, pending further review by the appointing authority and other qualifying procedures such as reference checks, medical examinations or background investigations. After completion of all qualifying procedures, except the medical examination, a veteran shall be given preference over an identically qualified applicant. If five or less names of applicants, willing and able to accept appointment, are available on a list, that list may be declared invalid by the City Manager and a new recruitment and examination announced.

Names of those not chosen from an eligibility list that is less than one year old may be merged in relative order with names on a newly established list for the same classification, but such names shall not remain on the new list for more than 18 months from the date of their original examination.

**Section 7.2.**        **Duration of Lists:** Lists other than promotion lists shall remain in effect until exhausted or abolished by the Personnel Director, but not extending longer than twelve (12) months.

**Section 7.3.**        **Reemployment Lists:** The names of regular full-time employees who have been laid off under the provisions of these Rules shall be placed on an appropriate reemployment list. Such names shall remain thereon for a period of one year, as provided for in Section 10.8. When a reemployment list is to be used to fill vacancies, the City Manager shall certify, from the top of such lists, the number of names equal to the number of vacancies to be filled and the City Manager shall appoint such persons to fill the vacancies, provided such persons possess the minimum qualifications established for the particular class at which they are to be appointed. The reemployment list shall have priority over employment lists, reinstatement list and promotion lists.

**Section 7.4.**        **Reinstatement List:** The names of former employees, as provided for in Section 11.5, shall appear on a reinstatement list for one year following the employee's termination in good standing. No examination is required; however, appointment from this list requires the approval of the City Manager. A reinstated employee must serve a probationary period.

**Section 7.5.**        **Promotion List:** A promotion list shall be established, with the approval of the City Manager, following a competitive examination. The names of those applicants who have achieved a final score meeting or exceeding a passing score

established for the position shall comprise the promotion list. The names on the promotion list shall be arranged in order of final score from the highest to the lowest score. Such applicants shall be deemed as qualified for appointment, pending further review by the appointing authority and other qualifying procedures, such as reference checks, medical examinations or background investigations. Promotion lists shall be valid and remain in effect for a period of six (6) months, unless sooner exhausted. A promotion list may be extended for up to an additional six (6) months by the City Manager, if extended prior to its expiration date.

**Section 7.6.**        **Transfer:** An employee may be transferred at any time from one position to another position in the same classification. The City Manager may order a transfer for the purposes of economy, efficiency or for reasons related to the best interests of the City. A request for transfer to a vacant position may be initiated by an employee or the employee's department head. The transfer of an employee from one department to another shall require the approval of the head of both departments, as well as the City Manager. A department head may consider requests for transfers concurrently with appropriate employment, reemployment, promotion or reinstatement lists. No examination is required of an employee requesting a transfer; however, the employee must possess the qualifications for the position.

**Section 7.7.**        **Removal of Names from Lists:** A person appearing on an employment, reemployment, reinstatement or promotion list shall be removed by the City Manager if the person: (1) requests in writing that he/she be removed; (2) fails to respond within five (5) work days to a written notice sent to the person's last known place of address;(3) leaves no forwarding address; or (4) is found to be unsuitable for the position by the appointing authority, consistent with applicable sections of these Rules.

**Section 7.8.**        **Certification of Persons Eligible for Appointment:** When an appointment is to be made from an employment list, reemployment list, promotion list or reinstatement list, the City Manager shall certify qualified persons from the appropriate list. The City Manager may certify persons from a list for a higher classification in order to fill a vacancy in a lower classification when job duties are of a similar nature. If it is not possible to fill a vacancy by reemployment, or if the City Manager does not consider it in the City's best interest to fill the vacancy by reemployment, reinstatement, promotion, transfer, or demotion, certification shall be made from an appropriate employment list, provided eligible persons are available.

When an appointing authority requests a vacancy be filled by appointment from a promotional employment list or from an open employment list, the Personnel Director should certify from the specified list the names of all individuals willing to accept appointment. Whenever there are fewer than three names of individuals willing to accept appointment on a promotional employment list or on an open employment list, the appointing power may make an appointment from among such eligibles or may request the Personnel Director to establish a new list. When so requested, the Personnel Director shall hold a new examination and establish a new employment list.

**Section 7.9. Physical and Mental Requirements:** The City may require that all applicants and employees be in such physical or mental condition to perform the duties of their job and may require a medical or physiological evaluation at any time at City expense. No employee shall hold any position in a classification in which he/she cannot physically or mentally perform all the duties of the job adequately or without hazard to himself/herself or others. Within the limitations indicated, the City's policy shall be to make such efforts as are consistent with the provisions of these rules, and Federal and State law, to place disabled employees in such positions which are available in the City service where their disabilities can be reasonably accommodated.

**Section 7.10. Appointment:** After the selection process, the department head or immediate supervisor shall make recommendations for appointment from among those individuals certified. The City Manager shall be immediately notified of any recommendations. The City Manager shall thereupon review the recommendations and make an appointment. If an applicant accepts appointment and presents himself/herself for duty within such period of time as the City Manager shall prescribe, he/she shall be deemed to be appointed; otherwise, he/she shall be deemed to have declined the appointment.

**Section 7.11. Types of Appointment:** All vacancies in the Competitive Service shall be filled by transfer, demotion, re-employment, reinstatement, or from eligible applicants certified by the Personnel Director from an appropriate employment list, if available. In the absence of persons eligible for appointment in these ways, provisional, interim and temporary appointments may be made in accordance with these Personnel Rules.

**Section 7.12. Notice to Personnel Director:** If a vacancy in the Competitive Service is to be filled, the appointing authority shall notify the City Manager in the manner prescribed. If there is no re-employment list available for the class, the City Manager shall have the right to decide whether to fill the vacancy by reinstatement, transfer, demotion, appointment from a promotional employment list, or appointment from an open employment list.

**Section 7.13. Provisional Appointment:** In the absence of there being names of individuals willing to accept appointment from appropriate employment lists, a provisional appointment may be made by the City Manager of a person meeting the minimum training and experience qualifications for the position. Such an appointment may be made during the period of suspension of an employee or pending final action on proceedings to review suspension, demotion or discharge of an employee, and such vacancy may be filled by the City Manager, subject to the provisions of the Personnel Rules. A provisional employee may be removed at any time without the right of appeal, formal grievance or hearing. No provisional appointment shall exceed six (6) months.

A provisional appointee shall accrue the same benefits as probationary employees. If a provisional appointee is selected for a full-time position with the City, the time served as a provisional appointee shall not be counted as time toward the fulfillment of the required probationary period.

No special credit shall be allowed in meeting any qualifications or in the giving of any test or the establishment of any open-competitive promotional lists, for service rendered under a provisional appointment.

**Section 7.14. Interim and Temporary Appointment:** When a position in the Competitive Service becomes vacant, the City Manager may appoint an existing employee or a new employee as the interim or temporary replacement in the affected position. Such employee appointed to an interim or temporary position may be removed at any time without rights to appeal, formal grievance or hearing and shall not attain regular or probationary status. Existing employees shall be returned to their former position.

**Section 7.15. Emergency Appointments:** To meet the immediate requirements of an emergency condition, such as extraordinary fire, flood or earthquake, which threatens public life or property, the City Manager or a department head may employ such persons as temporary employees as may be needed for the duration of the emergency without regard to the Personnel Rules affecting appointments. All such appointments shall be reported to the City Manager as soon as possible.

## **RULE 8. PROBATIONARY PERIOD**

**Section 8.1. Regular Appointment Following Probationary Period:** All original appointments shall be tentative and subject to a probationary period of one (1) year of actual service. If the service of the probationary employee has been satisfactory to the appointing authority, then the appointing authority shall file with the City Manager a statement in writing to such effect and stating that the retention of such employee in the service is desired. In the event a probationary employee's performance has not been satisfactory, the appointing authority shall notify the City Manager in writing prior to the scheduled end of the probationary period. If the service of the probationary employee has been satisfactory, the City Manager shall consider the recommendation and then notify the affected employee in writing of the appointment to regular status at the end of the employee's probationary period, ~~and the employee shall be advanced to regular status as of the first calendar day of the pay period in which the anniversary date occurs. Upon the satisfactory completion of the probationary period, the employee shall be assigned an Anniversary Date.~~

If a statement of satisfactory performance is not filed, the employee will be deemed to be unsatisfactory and his/her employment terminated at prior to the expiration of the probationary period. Notice of the termination shall be signed by the Personnel Director and served on the terminated employee by the Personnel Director or his/her designee ~~twenty four (24) hours prior to the dismissal except in the case of an emergency.~~

Regular Employees who are transferred, but retain the same classification, or whose positions are reclassified are not subject to a new probationary period as a result of thesesuch actions.

**Section 8.2. Probation on Promotion, Reinstatement or Reclassification:** On accepting a promotion, reinstatement or an appointment to a different classification (reclassification), a regular employee serves a new probationary period of six (6) months. ~~The employee affected by a P~~promotions, reinstatements or reclassification will~~shall~~ not ~~be~~achieve regular status in the new position until the successful completion of this probationary period.

**Section 8.3. Extension of Probationary Period:** The City Manager may extend the probationary period of an individual employee upon the request of the employee's department head. No probationary period may be extended for more than six (6) additional months. An employee must be notified in writing by the City Manager prior to the extension of the probationary period.

**Section 8.4. Objective of Probationary Period:** The probationary period shall be regarded as a part of the selection process and shall be utilized for closely observing the employee's work and for securing the most effective adjustment of a new employee to the position.

**Section 8.5. Rejection of Probationer:** During the probationary period, an employee may be rejected at any time by the appointing authority without cause and without the right of appeal or grievance. Notification of rejection by the appointing authority shall be served on the probationer by the Personnel Director or his/her designee.

**Section 8.6. Rejection Following Promotion:** Following a promotional appointment, any employee rejected during the probationary period, or at the conclusion of the probationary period, by the reason of failure of the appointing authority to file a statement that the employee's services have been satisfactory, shall be reinstated to the position from which he/she was promoted, unless charges are filed and the employee is dismissed in the manner provided in the Personnel Ordinance and these Rules, or unless there is no vacancy to allow reinstatement to the position from which he/she was promoted. If there is no vacancy in such position, the employee may request to be placed on a re-employment list.

If the promotional appointment was to a position outside of the Competitive Service and the employee is rejected during the first six (6) months of the appointment, the employee shall be dismissed from employment with the City, unless at the City's option the employee is reinstated to the position in the Competitive Service from which he/she was promoted. If there is no vacancy in such position, the employee may request to be placed on a re-employment list.

**Section 8.7. Probation Following Layoff:** Employees laid off while on probation must serve a new probationary period following re-employment, pursuant to Section 8.1.

**Section 8.8. Regular Part-Time Employees Probationary Period:** ~~Part-time employees, except those in a regular part-time position, as defined in these Rules, are not~~

subject to a probationary period. ~~A R~~regular part-time employees shall serve a probationary period of eighteen hundred (1,800) hours actually worked (excludes any annual leave, sick leave, vacation leave, holiday, military leave of absence, compensatory time, bereavement leave, jury duty, ~~or~~ disability leave, and unpaid leave).

## **RULE 9. EMPLOYEE PERFORMANCE EVALUATION**

**Section 9.1.**        **Objective of Employee Performance Evaluation:** Regular reports shall be made as to the efficiency, competency, conduct and merit of employees in the Competitive Service. To this end, it is the responsibility of the City Manager, department heads and their subordinate supervisors that these reports be made.

**Section 9.2.**        **Employee Performance Evaluation Report:** A report on the performance of a probationary employee shall be completed at the mid point of the probationary period. A report for regular employees shall be completed within two weeks prior to the employee's anniversary date each year. A copy of all reports shall be submitted to the City Manager or his/her designee, as set forth in performance evaluation procedures approved by the City Manager. In addition, a report may be prepared at any time at the discretion of the employee's supervisor. The reports shall be on forms approved by the City Manager.

**Section 9.3.**        **Review with Employees:** Each performance evaluation report shall be thoroughly discussed with the employee to point out areas of successful performance and areas that need improvement. The employee shall sign the performance report to acknowledge awareness of its contents and verify that it has been discussed with the evaluator. The employee's signature does not necessarily mean the employee fully agrees with the contents of the report. The employee shall be encouraged to comment regarding his/her performance, either in a written statement attached to the report or orally. Written responses to the performance evaluation report must be completed on the employee's own time and received by the employee's supervisor (and copied to the Personnel Director) within ten (10) calendar days of receiving the written evaluation.

## **RULE 10. EMPLOYEE LAYOFF POLICY AND PROCEDURES**

**Section 10.1.**        **Statement of Intent:** For reasons of economy, of efficiency, or in the interest or mandate of the public, reductions or curtailments of City services may be required. Whenever, in the judgment of the City Council, it becomes necessary, the City Council may abolish any position of employment and the employee holding such position or employment may be laid off or demoted without disciplinary action as described below.

**Section 10.2.**        **Notification:** Employees to be laid off shall be given, whenever possible, at least fourteen (14) calendar days prior notice.

**Section 10.3.**      **Vacancy and Demotion:** Except as otherwise provided, whenever there is a reduction in the work force, the appointing authority shall first demote to a vacancy, if any, in a lower class for which the employee who is the latest to be laid off in accordance with Section 10.6 is qualified. All persons so demoted shall have their names placed on the reemployment list.

**Section 10.4.**      **Voluntary Retreat Rights:** An employee designated to be laid off may elect to retreat to the top of the seniority list for the next lower classification within the same department, provided the employee has previously held regular status in such lesser departmental classification, or possesses the minimum skills to perform satisfactorily. The City Manager shall determine whether an employee has such minimum skills. Employees who retreat into a lesser classification retain re-employment rights to the original position within the same department as provided in Section 10.7. Retreat rights shall prevail only within a department and within an identifiable career ladder, as identified by the City Manager.

**Section 10.5.**      **Seniority:** In order to retreat to a former or lower class, an employee must have more seniority than at least one of the incumbents in the retreat class and request displacement action in writing to the Personnel Director within five (5) work days of receipt of notice of layoff.

Employees retreating to a lower or similar class shall be placed at the salary step representing the least loss of pay. In no case shall the salary be increased above that received in the class from which the employee was laid off.

Employees retreating to a lower or similar class shall serve a probationary period in the new class unless they have previously successfully completed a probationary period in the class or a class in the class series.

**Section 10.6.**      **Employment Status:** In each class, employees shall be laid off according to employment status in the following order: temporary, provisional, probationary and regular. Temporary, provisional and probationary employees shall be laid off according to the needs of the service as determined by the appointing authority.

In cases where there are two or more regular employees in the class from which the layoff is to be made, such employees shall be laid off on the basis of the last evaluation rating in the class, providing such rating has been on file at least thirty (30) calendar days and no more than twelve (12) months prior to layoff as follows:

First, all employees having ratings of "improvement needed;" Second, all employees having ratings of "satisfactory" or "competent"; Third, all employees having ratings of "commendable" or "outstanding."

Employees within each category of rating shall be laid off in inverse order of seniority in City service.

In the event of a layoff or demotion pursuant to Rule 10, the City shall consider a regular employee on an unpaid leave of absence pursuant to Section 13.3 of these Rules in the same manner as other regular employees when implementing the applicable provisions of Rule 10.

**Section 10.7.**        **Re-employment List:** The names of persons laid off or demoted in accordance with these rules shall be entered upon a re-employment list. Lists from different departments or at different times for the same class of position shall be combined into a single list. Such list shall be used by every appointing authority when a vacancy arises in the same or lower class of position before certification is made from any other list.

**Section 10.8.**        **Duration of Re-employment List:** Names of persons laid off shall be carried on a re-employment list for one year, except that persons appointed to regular positions of the same level as that which laid off, shall, upon such appointment, be dropped from the list. Persons who refuse re-employment shall be dropped from the list. Persons re-employed in the lower class, or on a temporary basis, shall be continued on the list for the higher position for the aforementioned one year period.

**Section 10.9.**        **Layoff Appeal:** A regular employee shall have the right to request an appeal hearing. Such request must be made in writing to the City Manager within five (5) work days after receipt of a layoff notice. The City Manager shall prepare and deliver a decision on the appeal within five (5) work days after receipt of the appeal.

The scope of the appeal shall not include such issues as the need for layoff, the reasons for layoff, the extent of layoff, the classifications selected for layoff, or the exercise of other City prerogatives involved in layoff. The issues of such appeal shall be limited only to whether or not there was substantial compliance with the procedures for layoffs and the established order of departmental layoff within a classification.

## **RULE 11. TRANSFER, DEMOTION, SUSPENSION AND REINSTATEMENT**

**Section 11.1.**        **Transfer:** No person shall be transferred to a position for which that person does not possess the minimum qualification. Upon notice to the City Manager, an employee may be transferred by the appointing power or designee at any time from one position to another position in a comparable class. For transfer purposes, a comparable class is one with the same maximum salary, involves the performance of similar duties and requires substantially the same basic qualifications.

If the transfer involves a change from one department to another, both department heads must consent thereto unless the City Manager orders the transfer. Transfer shall not be used to effectuate a promotion, demotion, advancement, or reduction, each of which may be accomplished only as provided in the Personnel Ordinance and these Rules.

**Section 11.2.**        **Demotion:** The appointing authority may demote an employee whose ability to perform the required duties falls below standard, or for disciplinary purposes.

Upon request of the employee, and with the consent of the appointing authority, demotion may be made to a vacant position. No employee shall be demoted to a position, if that employee does not possess the minimum qualifications for that position. Disciplinary demotion action shall be in accordance with the applicable provisions of these Rules.

**Section 11.3.**      **Suspension:** The appointing authority may suspend an employee from a position at any time for a disciplinary purpose. Suspension without pay shall not exceed thirty (30) calendar days, nor shall any employee be penalized by suspension for more than thirty (30) calendar days in any fiscal year. Department heads may suspend a subordinate employee for not more than twenty-seven (27) work hours at any one time, and not more than once in a thirty (30) calendar day period. Intended suspension action shall be reported immediately to the City Manager, and shall be taken in accordance with the applicable provisions of these Rules.

**Section 11.4.**      **Dismissal:** An employee in the Competitive Service may be dismissed at any time by the appointing power. Whenever it is the intention of the appointing authority to dismiss an employee in the Competitive Service, the Personnel Director shall be notified. Dismissal action shall be taken in accordance with the applicable provisions of these Rules.

**Section 11.5.**      **Reinstatement:** With the approval of the City Manager, a regular employee or probationary employee with a good employment record, who completed at least six months of probationary service and who resigned in good standing or separated involuntarily for any reason other than for cause, may be reinstated within one (1) year of the effective date of resignation or involuntary separation, to a vacant position in the same or comparable class. Upon reinstatement, the employee shall be subject to a probationary period of six (6) months. No credit for former employment shall be granted in computing salary, annual leave, vacation leave, sick leave or other benefits, except on the specific recommendation of the appointing authority at the time of reinstatement, and upon the approval of the City Manager. The employee shall be assigned a new Salary Anniversary Date one (1) year after reinstatement.

## **RULE 12. PRE-DISCIPLINE, DISCIPLINE AND APPEALS PROCEDURES**

**Section 12.1.**      **Standards of Conduct:** All employees are expected to adhere to standards of reasonable and prudent conduct. Each department may set standards required by departmental operations. Employees who violate standards should expect management and supervisors to take appropriate disciplinary actions.

**Section 12.2.**      **Applicability of Discipline:** Disciplinary action may be taken against any person employed by the City. Non-regular employees shall have no right to the notice and hearing requirements set forth within or to any other notice and hearing provision whatsoever.

**Section 12.3. Discretion in Disciplinary Action:** The City Manager, department management and supervisors may exercise their discretion in applying discipline appropriate to the employee's offense(s) and work record.

**Section 12.4. Permitted Disciplinary Action:** Any one or combination of disciplinary actions may be taken against an employee for offenses stated in Section 12.9 or for any other just cause:

Verbal Admonishment	Reduction in Salary
Written Reprimand	Demotion
Restitution	Dismissal
Suspension	

**Section 12.5. Verbal Admonishment:** When necessary, verbal admonishments shall be given in a private meeting between the supervisor and the employee. The employee may request the attendance of a representative of their choice, in which case a ~~Human Resources Division representative~~ the Personnel Director or his/her designee shall also attend. The supervisor shall include in the verbal admonishment a review of appropriate department standards and policies, employee performance expected in the future and consequences for failure to correct performance or behavior, and shall keep a record of the date, time, and nature of such admonishment. Any written report of a verbal admonishment placed in an employee's personnel file shall be removed two (2) years from the date of the written report, provided no additional report or further disciplinary action was taken on the same or similar offense during the intervening two- (2) year period. Within ten (10) calendar days after an employee receives a written report of a verbal admonishment, the employee may respond in writing to the admonishment and have such response placed in the employee's personnel file, which response shall have the same retention period as the supervisor's written report. The employee shall have no further right of response, appeal, or grievance.

**Section 12.6. Written Reprimand:** A written reprimand shall be prepared for the continued or more serious offense. The reprimand shall take the form of a memorandum including a full, accurate and factual statement of the reason for the reprimand. All written reprimands shall be reviewed by the ~~Human Resources Division~~ Personnel Director of his/her designee prior to being given to the employee. The written reprimand shall be discussed with and provided to the employee in a private meeting between the supervisor and the employee that may include a representative of the employee's choice and shall include a ~~Human Resources Division representative~~ the Personnel Director or his/her designee. The supervisor shall explain appropriate department standards and policies, employee performance expected in the future, and consequences for failure to correct performance or behavior. A copy of the memorandum shall be sent to the City Manager and a copy shall be provided for the employee's personnel file. A dated copy of the written reprimand shall be released to the employee. Within ten (10) calendar days after the employee receives such dated copy, the employee may respond in writing to the reprimand and have such response placed in the employee's personnel file. The employee shall have no further right of response, appeal, or grievance.

**Section 12.7. Suspension without Pay:** When in the opinion of the department head, circumstances warrant, a suspension of up to a maximum of twenty-seven (27) work hours or less may be imposed. Prior to the imposition of such discipline, the department head shall meet with the employee to explain appropriate department standards and policies, employee performance expected in the future, and consequences for failure to correct performance or behavior. The employee may request the attendance of a representative of their choice at the discipline meeting, in which case the Personnel Director or his/her designee shall also attend. A written record of the discipline, including a full, accurate, and factual statement of the reason therefore, shall be reviewed by the ~~Human Resources Division~~ Personnel Director of his/her designee prior to being given to the employee. A copy of the written record of suspension shall be sent to the City Manager and a copy shall be placed in the employee's personnel file. Within ten (10) calendar days after the date of the discipline meeting, the employee may respond in writing and have such response placed in the employee's personnel file. The employee shall have no further right of response, appeal, or grievance.

**Section 12.8. Pre-Disciplinary Procedures:** A regular employee being considered for suspension without pay in excess of twenty-seven (27) work hours, restitution, reduction in salary, demotion, or dismissal, shall be insured due process through these pre-disciplinary procedures.

**Section 12.8.1. Written Notice:** Written notice of a proposed disciplinary action shall be prepared by the supervisor and/or department head, reviewed by the Human Resources/Risk Management Division, and then given to the employee in a private meeting between the supervisor, department head, ~~Human Resources Division representative~~ Personnel Director or his/her designee, and the employee, that may also include a representative of the employee's choice. This written notice shall include the proposed disciplinary action, the charges on which the proposed action is based, and the reasons or grounds on which the charges are based. Copies of the materials on which the proposed disciplinary action is based shall also be provided to the employee.

The notice shall inform the employee of his/her or her right to respond orally or in writing to the notice of proposed discipline, of the right to respond in person or through a designated representative, of the time period during which a response may be made, and the name of the person to whom the response may be made. The notice shall state that failure to respond in the time specified shall constitute a waiver of the right to respond prior to final discipline being imposed. The notice shall be signed by the supervisor and/or department head initiating the proposed disciplinary action, with a copy to the City Manager.

**Section 12.8.2. Employee Response:** An employee is entitled to a reasonable time not to exceed ten (10) calendar days to answer a notice of proposed disciplinary action. An extension of time may be granted an employee within the aforementioned period if the employee can demonstrate the need for an extension to the department head. Should an employee respond, the department head shall consider the response in reaching a decision on disciplinary action. The employee is entitled to respond in writing or orally, through a designated representative or any combination thereof. If the employee requests

a meeting to present a response, the meeting shall not be conducted as an adversarial hearing. The employee may not cross-examine the department's witnesses nor present a formal case to support the response. The employee shall be given the opportunity to make any representations, which the employee believes might affect the decision for disciplinary action. Any time extensions shall be mutually agreed upon. The department has the right to conduct further investigations.

**Section 12.8.3. Department Head Answer:** The department head shall provide a written answer to an employee's response at the earliest practicable date, not to exceed ten (10) calendar days following the response of the employee. The department head shall deliver the notice of decision to the employee at or before the time when the action will be effective. The answer shall be dated and signed by the department head. The answer shall inform the employee which of the reasons and grounds in the notice of proposed disciplinary action have been sustained. The answer shall include a statement of the employee's right to appeal, as provided herein, if and only if such disciplinary action results in suspension without pay in excess of twenty-seven (27) work hours, restitution, reduction in salary, demotion or dismissal. Additionally, the time limit for an appeal and the specific discipline to be imposed, or the decision not to impose discipline, shall be detailed in the answer. The effective date of discipline shall be included in the answer. Any time extensions shall be mutually agreed upon.

A decision not to impose discipline shall be accompanied by a directive from the department head to delete all references to the pending action from the employee's personnel file. Failure by the department to make further investigations or to provide written answer shall not affect the ability of the City to impose disciplinary action.

**Section 12.8.4. Appeal of Disciplinary Actions:** Any employee may appeal a proposed suspension without pay in excess of twenty-seven (27) work hours, demotion, restitution, reduction in salary, or dismissal to the City Manager within ten (10) calendar days after the receipt by the employee of the department head's answer. An appeal within the described time frame would suspend the effective date of the discipline until a final decision is made.

**Section 12.8.5. Method of Appeal:** Appeals shall be in writing, signed by the appealing employee and delivered to the City Manager. A letter of appeal must outline the basis of the appeal and the action desired by the employee.

**Section 12.8.6. Appeal Hearing:** Upon the receipt of a timely letter of appeal, the City Manager shall set the matter for hearing. The hearing shall be held within thirty (30) calendar days after receipt of the letter of appeal, unless the City Manager grants a continuance in accordance with this Section. The City Manager shall give not less than five (5) calendar days written notice to the affected employee, department's representative and any such person requesting same, of the time and place of such hearing. The hearing shall be closed unless the appealing employee requests, in writing, that the hearing be open to the public. The appealing employee shall appear personally and may be represented by an attorney or by another representative of the appealing employee's

choosing. Failure of the appealing employee to appear at the hearing shall waive the appealing employee's right to a hearing on the disciplinary matter.

At the appointed time and place, the City Manager or a hearing officer shall commence the appeal hearing. The decision to hire a hearing officer shall be made by the City Manager at his/her sole discretion. If the City Manager does determine to hire a hearing officer, the selection shall be made by mutual agreement of the City Manager and employee or their designated representative. During the examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing, unless City Manager or hearing officer in his/her discretion, for good cause, otherwise directs. No still photographs (including digital) shall be taken, and no filming of moving pictures or television pictures (videotaping) shall be done in the hearing chamber during a hearing, unless videotaping is approved by the City Manager for the purposes of preparation of a written, verbatim record of the appeal proceedings. The City shall prepare a verbatim record of the appeal proceedings. The appealing employee shall have the right at his/her own expense to do the same.

The City Manager or hearing officer, prior to or during a hearing, may grant a continuance for any reason he/she believes to be important to his/her reaching a fair and proper decision.

The City Manager or hearing officer shall give all parties a reasonable opportunity to be heard on relevant issues. The City's representative shall first present an opening statement and oral and/or documentary evidence in support of the City's position. The appealing employee may cross-examine any witness called by the City. The appealing employee may make an opening statement on his/her behalf, and present oral and/or documentary evidence in support of his/her appeal. The City's representative may cross-examine any witness called by the appealing employee. Both the City and the affected appealing employee may then make a closing statement, followed by closing statement by the City.

The hearing need not be conducted according to technical rules relating to evidence and witnesses. However, the City Manager or hearing officer may observe the substance of such rules to the end that the matter before him/her can be fairly determined on reliable evidence.

**Section 12.8.7. City Manager's or Hearing Officer's Finding and Decisions:** The City Manager or hearing officer shall, within fifteen (15) calendar days after the conclusion of the hearing, cause findings and decisions to be prepared in writing and shall certify them. The City Manager or hearing officer shall determine whether the proposed action of the department's representative is supported by a preponderance of the evidence presented and is consistent with the provisions of the City's Personnel Rules, resolutions and ordinances. Should the City Manager or hearing officer find that none of the charges are supported by the evidence presented, the decision shall be that no disciplinary action be taken. Should the City Manager or hearing officer find that any or all of the charges are supported, the City Manager or hearing officer may affirm, over-rule, or modify, in whole or

in part, the department representative's proposed disciplinary action. The decision of the City Manager or hearing officer shall be final and conclusive in all cases. Any time extensions shall be mutually agreed upon.

**Section 12.8.8. Notice of Findings and Decisions:** The City Manager's or hearing officer's findings and decisions shall be filed in the appealing employee's personnel file. The City Manager shall deliver a copy of the findings and decisions to the affected employee and the department's representative. The decision shall indicate the effective date of any disciplinary action.

**Section 12.8.9. Employee Status during Pre-Disciplinary Period:** Except as otherwise provided, an employee against whom disciplinary action is proposed is entitled to be retained in an active status during the pre-disciplinary period. When circumstances are such that retention of the employee in active status may result in damage to City property or may be detrimental to the interests of the City or injurious to the employee, fellow employees or the public, the department head may temporarily assign the employee to duties in which these conditions do not exist or place the employee on paid suspension with the approval of the City Manager.

**Section 12.8.10. Requirement to Appoint Hearing Officer:** If the person who initiates the discipline under this Section is the City Manager, the appeal shall be heard by a hearing officer appointed by the City Council and jointly selected by the City Council or its designee and the employee or his/her designated representative. At the first meeting of the City Council held after the letter of appeal is received in accordance with Section 12.8.6, the City Manager shall inform the City Council of the need for such appointment. The City Council shall make the appointment within seven (7) calendar days prior to the date of the hearing. The City Council may extend the period within which the hearing must be held, as prescribed in Section 12.8.7. The extension shall be made within the original period and shall not exceed fifteen (15) calendar days. The same requirements for findings and decisions as specified in Section 12.8.7 shall apply.

**Section 12.9. Causes for Disciplinary Actions:** All employees are expected to conduct themselves in a reasonable and prudent manner within City and respective department standards. Employees who violate such standards should expect appropriate disciplinary actions. The following list of selected causes for disciplinary action is not a total and complete statement of causes of discipline. This list represents those offenses which are most common. Management and supervisors may discipline an employee for other good cause:

- a. Tardiness.
- b. Failure to observe precautions for personal safety, posted rules, signs, safety instructions, or to use protective clothing or equipment.
- c. Careless workmanship resulting in waste of materials.

- d. Unsatisfactory work performance.
- e. Misuse or abuse of sick leave privileges; i.e., failure to present adequate documentation of illness when required by the City Manager or respective department head, repeated absences before or after work days off, use for unauthorized purposes, and excessive unscheduled use of annual leave or vacation leave.
- f. Failure, refusal or delay in carrying out orders, work assignments, or instructions of superiors in a prompt competent and reasonable manner; insubordination; inattention to or dereliction of duty, including wasting time or working below expected level of output, inefficiency.
- g. Acceptance of gifts or gratuities from parties doing business with the City.
- h. Unauthorized sleeping while on duty.
- i. Disorderly conduct: fighting, threatening, attempting to inflict bodily injury on another; engaging in dangerous horseplay.
- j. Being on duty under the influence of any intoxicant or controlled substance or reporting for duty while intoxicated or under the influence of a controlled substance.
- k. Loss or destruction of City property or the property of others through carelessness.
- l. Engaging in political activities while on duty or on the premises of City Hall.
- m. Unexcused absence from duty.
- n. Reckless driving on City premises or reckless operation of City vehicle.
- o. Gambling or promotion of gambling on City premises or while on duty.
- p. Endangering the safety of or causing injury to any employee, including himself/herself.
- q. Unauthorized disclosure of confidential information as defined by law or by written directive of the City or respective department.
- r. Disrespectful conduct, use of insulting, abusive, or vulgar language to, or about other employees or the public.
- s. Discourteous treatment and/or failure to maintain satisfactory or harmonious working relations with the public or City employees.

- t. Unauthorized use of City vehicles, equipment or supplies.
- u. Theft or Careless, negligent or improper uses of City property, equipment or funds including unauthorized use for private purposes or use involving damage or unreasonable risk of damage to property.
- v. Covering up or attempting to conceal defective work; removing or destroying same without permission.
- w. Falsification, misstatement or concealment of material fact in connection with employment, promotion, any record, investigation, or other proper proceeding.
- x. Making false or unfounded statements, which are defamatory about other employees or City officials.
- y. Willful damage to City property or to the property of others.
- z. Official conduct unbecoming a City officer or employee which tends to discredit the City or the City service.
- aa. Any on-duty violation of federal, state or local laws or any off-duty violation of law which might bring discredit to the City.
- bb. Sexual harassment or any harassment, retaliation, or discrimination action related to protections listed in Section 2.6.
- cc. Participation in an unlawful strike, work stoppage, slowdown, or other unlawful job action against the City.
- dd. Misappropriation of City funds.
- ee. Conduct tending to interfere with the reasonable management and discipline of the City or any of its departments or activities.
- ff. Engaging in incompatible employment elsewhere and/or outside employment that has not been specifically authorized.
- gg. Willful or negligent violation of Personnel Rules and regulations and/or written City Manager or departmental procedures, regulations and policies.
- hh. Conviction of a felony.

### **RULE 13. ATTENDANCE AND LEAVES**

**Section 13.1.**      **Attendance at Work:** Employees shall be in attendance at their work in accordance with the rules regarding hours of work, holidays, and leaves. All departments shall keep daily attendance records of employees, which shall be reported to the City Manager in the form and on the dates as directed. Failure on the part of an employee, absent without leave, to return to duty within three (3) business days after a due notice to return to work has been deposited with the United States Postal Service shall be deemed to have resigned his/her employment with the City. A letter deposited with the United States Postal Service addressed to the employee's last known address shall be reasonable notice.

**Section 13.2.**      **Hours of Work:** Daily hours of work (or shifts) for employees within departments shall be assigned by department heads as required to meet the operational requirements of said department. Any foreseeable absence or deviation from regularly scheduled working hours desired by an employee shall, in advance, be cleared through the employee's department head, and such absences shall be noted on the employee's time sheet. City offices shall be kept open for regular business on all days of the year except Saturday, Sunday and holidays approved by the City Council. Employees for whom necessity requires a different regular work schedule than that generally applied, shall work according to a work schedule prepared by the employee's department head.

**Section 13.3.**      **Leave of Absence:** The City Manager, after consultation with the affected department head, may grant a regular full-time or part-time employee an unpaid leave of absence for a period not to exceed a total of ninety (90) calendar days in a twelve (12) month period. The City Manager may adopt an administrative procedure to delegate to a department head the approval of a specified amount of leave without pay, in a pay period and/or in a twelve (12) month period, for an employee with no accumulated leave. If an employee is eligible for Pregnancy Disability Leave (pursuant to Section 13.10), Family Medical Leave (pursuant to Section 13.11), and/or California Family Rights Act Leave (pursuant to Section 13.12), an unpaid leave of absence shall not be considered for approval until the completion of such leaves and use of all available paid time off for which he or she is eligible. No leave of absence shall be granted except upon written request of the employee setting forth the reason for the request. The leave of absence may be approved by the City Manager at his or her discretion. Personal leaves of absence are not guaranteed. Requests for such leaves of absence will be considered on the basis of a combination of factors, including the employee's length of service, performance, position, responsibility level, the reason for the request, whether other individuals are already out on leave, and the expected impact of the leave on the employer. If approved, such approval shall be in writing, and may consist of a completed Personnel Action Form approved by the department head and City Manager and an agreement letter signed by the City Manager and the employee.

Upon expiration of an approved leave of absence, the employee is entitled to the same or a comparable position with the same or similar duties and virtually identical pay, benefits, and other terms and conditions of employment, unless the same position and any

comparable positions have ceased to exist because of legitimate business reasons unrelated to the employee's leave of absence. An employee who fails to report to work at their regular work shift on the work day after the leave of absence expires will be considered to have voluntarily resigned from his or her position.

~~Any employee on an approved, unpaid leave of absence shall receive no compensation, no annual leave, vacation leave, and no sick leave upon the effective date of the approval of the leave. Employer paid insurance benefits will be continued through the balance of the premium period, not to exceed one (1) month. For an unpaid leave of absence, City contributions to retirement, health and medical plans shall be suspended until the employee returns to work (does not apply to an employee on approved Family Medical Leave, pursuant to Section 13.11, and/or California Family Rights Act Leave, pursuant to Section 13.12). An employee who is on unpaid leave of absence may choose to continue his/her insurance coverages during the leave of absence by paying the City the required premiums at the same time that the premiums would have been paid by the City and the employee, had the employee been in a paid status. The City shall not be required to make such payments on the employee's behalf if the employee fails to timely make the full amount of the payments to the City. An employee returning to work after a leave of absence shall receive the same step in the salary range the employee received when the leave of absence began. Time spent on unpaid leave shall not count towards service for increases within the salary range or benefit accruals. The employee's anniversary shall be set forward in time one half (½) month for each fifteen (15) consecutive calendar days taken as unpaid leave. The employee shall retain seniority related benefit qualification upon return from an approved leave of absence; however, annual leave, vacation leave, sick leave, and longevity pay eligibility shall not accrue to an employee during the period of unpaid leave of absence.~~

Any employee on an approved, unpaid leave of absence shall receive no compensation, no annual leave, no vacation leave, no holiday pay, and no sick leave upon the effective date of the approval of the leave. Employer-paid insurance benefits will be continued through the balance of the premium period, not to exceed one (1) month. For an unpaid leave of absence, City contributions to retirement, health and medical plans shall be suspended until the employee returns to work (does not apply to an employee on approved Family Medical Leave, pursuant to Section 13.11, and/or California Family Rights Act Leave, pursuant to Section 13.12). An employee who is on unpaid leave of absence may choose to continue his/her insurance coverages during the leave of absence by paying the City the required premiums at the same time that the premiums would have been paid by the City and the employee, had the employee been in a paid status. The City shall not be required to make such payments on the employee's behalf if the employee fails to timely make the full amount of the payments to the City.

An employee returning to work after a leave of absence shall receive the same step in the salary range the employee received when the leave of absence began. Time spent on unpaid leave shall not count towards service for increases within the salary range or benefit accruals, except as described herein. An unpaid leave of absence of less than one (1) work week, or less than forty (40) hours, shall not require an adjustment of the employee's anniversary date for merit raise; however, consecutive unpaid leave that exceeds forty (40)

hours, or cumulative unpaid leave in a calendar year that exceeds forty (40) hours, shall require an adjustment of an employee's anniversary date, which may include rounding of hours to equal a workday. The employee shall retain seniority-related benefit qualification upon return from an approved leave of absence, except as adjusted for the period of unpaid leave. Annual leave, vacation leave, sick leave, and longevity pay eligibility shall not accrue to an employee during the period of unpaid leave of absence.

**Section 13.4. Military Leave:** Military leave shall be granted, in accordance with the applicable provisions of state and federal law, to employees who are members of the state national guard or of the organized reserves of the Armed Forces of the United States. An employee entitled to military leave shall give his/her department head an opportunity, within the limits of military regulations, to determine when such leave shall be taken. Prior to taking military leave, an employee, when possible, shall present a copy of his/her military orders to the department head. Employees who are required to perform active military duty (does not include inactive duty such as scheduled reserve drill periods) will be paid their regular salary for such active duty, up to a maximum of 30 calendar days in each fiscal year.

**Section 13.5. Annual Leave:** All new competitive service employees will accrue annual leave and are not eligible for separate vacation and sick leave accruals. The annual leave accrual rates shall be as follows, unless the accrual rates are revised through an approved Memorandum of Understanding between the City and an Exclusively Recognized Employee Organization as defined in City Resolution No. 87-380 (or successor resolution):

0 to 60 Months – 6.1538 hours per pay period (equivalent to 20 eight-hour days per year);

61 to 72 Months – 6.4615 hours per pay period (equivalent to 21 eight-hour days per year);

73 to 84 Months – 6.7692 hours per pay period (equivalent to 22 eight-hour days per year);

85 to 96 Months – 7.0769 hours per pay period (equivalent to 23 eight-hour days per year);

97 to 108 Months – 7.3846 hours per pay period (equivalent to 24 eight-hour days per year);

109 to 120 Months – 7.6923 hours per pay period (equivalent to 25 eight-hour days per year);

121 to 132 Months – 8.0000 hours per pay period (equivalent to 26 eight-hour days per year);

133 to 144 Months – 8.3076 hours per pay period (equivalent to 27 eight-hour days per year); and

145 and above Months – 8.6153 hours per pay period (equivalent to 28 eight-hour days per year, the maximum accrual rate).

Annual leave time accrues from the date of hire consistent with the above schedule, and shall be accrued monthly on a pro-rata basis. Regular part-time employees shall accrue similar annual leave benefits at a ratio determined by the actual number of hours worked with two thousand eighty (2,080) hours equivalent to one (1) year of service and including probationary time. Annual leave may be taken as it accrues in increments of one-quarter hour, except that employees serving an original probationary period may not take such leave during the first three (3) months of the probationary period, except as may be pre-authorized by the department head with the concurrence of the City Manager.

~~For full-time employees converting to the new annual leave, the maximum accumulated annual leave balance will be four hundred twenty (420) hours through June 30, 2006, and will then become three hundred forty (340) hours maximum accumulated annual leave effective July 1, 2006. After July 1, 2006, when a full-time employee's accumulated annual leave balance reaches the maximum of 340 hours, accrual of annual leave shall cease. The employee shall not accrue further annual leave until such time as the employee's accumulated annual leave balance again falls below the maximum.~~

~~For regular part-time employees, the maximum accumulated annual leave balance will be transitioned to a prorated amount based on budgeted annual hours. A regular part-time employee will have a maximum accumulated annual leave balance of four hundred twenty (420) hours from the first pay period in July 2004 through June 30, 2005; will have a maximum accumulated annual leave balance of three hundred fifteen (315) hours from July 1, 2005, through June 30, 2006; and will have a maximum accumulated annual leave balance of two hundred fifty five (255) hours after July 1, 2006.~~

For full-time employees, the maximum accumulated annual leave balance will be three hundred and sixty (360) hours. When a full-time employee's accumulated annual leave balance reaches the maximum of 360 hours, accrual of annual leave shall cease. The employee shall not accrue further annual leave until such time as the employee's accumulated annual leave balance again falls below the maximum.

For regular part-time employees, the maximum accumulated annual leave balance will be two hundred and seventy (270) hours. When a regular part-time employee's accumulated annual leave balance reaches the maximum of 270 hours, accrual of annual leave shall cease. The employee shall not accrue further annual leave until such time as the employee's accumulated annual leave balance again falls below the maximum.

It is the employee's responsibility to monitor his/her annual leave balance and ensure that accrual will not cease, due to reaching the maximum accumulated annual leave balance. The loss of annual leave accrual shall not occur, if the use of annual leave has been delayed by the City due to unusual or emergency conditions as authorized by the City Manager. Under such conditions, the City Manager may, as authorized by the City Council, pay the employee the cash equivalent for all or part of the annual leave that would have been accumulated in excess of the maximum.

The dates for using annual leave may be selected by an employee, but shall be approved by the department head, who shall consider the wishes of the employee and the service needs of the City. Generally, use of annual leave shall require a minimum of one (1) pay period advance approval for use of annual leave, with the exception that two work days may be taken as annual leave in any fiscal year (July 1 through June 30) with only two work days advance approval. Employees would be allowed to use the equivalent of up to six work days of annual leave each fiscal year without the minimum notice specified in this paragraph, if such absence is a result of a medical or other emergency, such as an unexpected illness or injury for an employee or family member or an unanticipated child care problem. For any unscheduled annual leave that exceeds six (6) work days cumulative annual leave in any fiscal year, or three (3) consecutive work days or more, a department head may require a physician's written certificate, when in the judgment of the department head the employee's reasons for being absent, because of alleged sickness or emergency, are inadequate. Unscheduled annual leave that exceeds six (6) cumulative work days in any fiscal year may result in disciplinary action if a cause for disciplinary action is determined consistent with Section 12.9.

When annual leave has not been approved in advance, an employee shall at a minimum: 1) Provide their supervisor and/or department head with a telephone message prior to or within one-half hour after the time set for the employee's work shift to begin; and 2) the employee shall speak to their supervisor or department head, or if not available speak to the person designated by the department head to receive such verbal notice, prior to or within two hours after the time set for the employee's work shift to begin. When annual leave is used without pre-approval for the purposes of a medical emergency, the employee shall be expected to remain at home during the hours for which annual leave is to be charged, with the exception of the time an employee needs to leave their residence for the purposes of a medical appointment, medical treatment, and/or related activities, and for the purpose of providing transportation for their dependents (such as transportation to and from school or childcare). An employee may be required to use annual leave to take physical examinations at periodic intervals from a physician designated and paid for by the City.

In the event that one or more municipal holidays fall within an annual leave, such holiday equivalent to eight (8) hours shall not be charged as annual leave. Employees who terminate employment shall be paid for accumulated annual leave based upon their then current rate of pay. The estate of a deceased employee shall be paid the amount of that deceased employee's accumulated annual leave.

The City may establish an annual leave donation program, through adoption of either a City Manager approved administrative procedure or City Council approved policy, whereby all regular City employees may voluntarily participate in and benefit from a leave bank for regular employees incapacitated due to a serious illness or injury, and who have exhausted their paid leave. Such donation by an employee may not exceed forty (40) hours per employee receiving the donation and per calendar year.

Annual leave shall not be used for the purpose of organized disruption, such as in the case of a labor dispute.

**Section 13.6.      Vacation and Sick Leave:**

Only those employees that were determined eligible in July 2004 to maintain their current system of separate vacation and sick leave accruals, are subject to the following vacation and sick leave accrual provisions.

**Section 13.6.1.      Vacation Leave:**

For those regular full-time employees with over 145 months of service that are eligible to accrue vacation leave, the vacation leave with pay accrual rate shall be accrued as follows, unless the accrual rate is revised through an approved Memorandum of Understanding between the City and an Exclusively Recognized Employee Organization as defined in City Resolution No. 87-380 (or successor resolution):

- a. ~~The first month of employment through the 60<sup>th</sup> month of service, the vacation leave shall be 4.3077 hours per pay period (equivalent to 14 eight-hour days per year).~~
- b. ~~Commencing with the beginning of the 61st month of service (after completion of 60 months of service) with the City, the vacation leave shall be accrued as follows:~~
  - ~~61 to 72 Months — 4.6153 hours per pay period (equivalent to 15 eight-hour days per year);~~
  - ~~73 to 84 Months — 4.9230 hours per pay period (equivalent to 16 eight-hour days per year);~~
  - ~~85 to 96 Months — 5.2307 hours per pay period (equivalent to 17 eight-hour days per year);~~
  - ~~97 to 108 Months — 5.5384 hours per pay period (equivalent to 18 eight-hour days per year);~~
  - ~~109 to 120 Months — 5.8461 hours per pay period (equivalent to 19 eight-hour days per year);~~
  - ~~121 to 132 Months — 6.1538 hours per pay period (equivalent to 20 eight-hour days per year);~~
  - ~~133 to 144 Months — 6.4615 hours per pay period (equivalent to 21 eight-hour days per year);~~

145 and above Months - 6.7692 hours per pay period (equivalent to 22 eight-hour days per year, the maximum accrual rate).

For eligible employees, vacation time accrues from the date of hire consistent with the above schedule, and shall be accrued per pay period on a pro-rata basis, with the exception of any unpaid leave of absence time.

The dates for using vacation leave may be selected by an employee, but shall be approved by the department head, who shall consider the wishes of the employee and the service needs of the City. Generally, use of vacation leave shall require a minimum of one (1) pay period advance approval for use of vacation leave, with the exception that two work days may be taken as vacation leave in any fiscal year (July 1 through June 30) with only two work days advance approval.

In the event that one or more municipal holidays fall within a vacation leave, such holiday equivalent to eight hours shall not be charged as vacation leave. Employees who terminate shall be paid for accumulated vacation leave based upon their then current rate of pay. The estate of a deceased employee shall be paid the amount of that person's accumulated vacation leave.

A full-time employee may not accumulate more than two hundred ninety-six (296) hours of vacation at any time. When an employee's accumulated vacation balance reaches the maximum of two hundred ninety-six (296) hours, accrual of vacation shall cease. The employee shall not accrue further vacation until such time as the employee's accumulated vacation leave balance again falls below the maximum.

It is the employee's responsibility to monitor his/her vacation leave balance and ensure that accrual will not cease, due to reaching the maximum accumulated vacation leave balance. The loss of vacation leave accrual shall not occur, if the use of vacation leave has been delayed by the City due to unusual or emergency conditions as authorized by the City Manager. Under such conditions, the City Manager may, as authorized by the City Council, pay the employee for all or part of the vacation leave that would have been accumulated in excess of the maximum, based upon the employee's then current rate of pay.

Any vacation leave accumulated as a result of the conversion of sick leave or other leave to vacation leave as authorized by an agreement between the City and an Exclusively Recognized Employee Organization as defined in City Resolution No. 87-380 (or such successor resolution) or as may be otherwise authorized by the City Council, shall not be in addition to the maximum two hundred ninety-six (296) total hours of accumulated vacation leave for eligible full-time employees. Thus, no such conversion shall be permitted which would cause an employee's accumulated vacation balance to exceed the maximum. Such additional accrual shall not exceed forty (40) hours in any year. It is the responsibility of the employee to monitor his/her vacation balance and ensure that it does not exceed the maximum. The loss of vacation accrual shall not occur if the use of vacation leave has been delayed by the City due to unusual or emergency conditions as authorized by the City

Manager. Under such conditions, the City Manager may, as authorized by the City Council, pay the employee the cash equivalent for all or part of the vacation that would have been accumulated in excess of the maximum.

The City may establish a vacation leave donation program, through adoption of either a City Manager approved administrative procedure or City Council approved policy, whereby all regular City employees may voluntarily participate in and benefit from a leave bank for regular employees incapacitated due to a serious illness or injury who have exhausted their paid leave. Such donation by an employee may not exceed forty (40) hours per employee receiving the donation and per calendar year.

Vacation leave shall not be used for the purpose of organized disruption, such as in the case of a labor dispute.

**Section 13.6.2. Sick Leave:** For those employees eligible to accrue vacation leave and sick leave in accordance with the requirements stated in Section 13.6., the following definitions and provisions, including accrual rate, shall be applicable.

**A. Allowable Uses and Definition of “Immediate Family” For Purposes of Sick Leave Use**

Sick leave shall not be considered as a privilege, which an employee may use at his/her discretion, nor shall it be permitted to be used for organizational disruption during a labor dispute, but rather it shall be allowed only for the following reasons:

1. Illness and physical incapacity of the employee due to non-work related illness, injury or temporary disability.
2. Enforced quarantine of the employee in accordance with community health regulations.
3. Job-related injury or illness pursuant to the provisions of Rule 14.0.
4. Appointments for health care for the employee or immediate family as defined in items 5a.), 5b.), 5c.) and 5d.), to follow, provided that a note from the health care provider is provided to the City if requested and the supervisor is informed of the intention to use sick leave for a medical appointment as soon as the appointment is scheduled and in no event less than three (3) work days prior to the scheduled appointment date unless said appointment is a result of an emergency situation.
5. Care of immediate family if a person is a member of the household or a dependent as follows:
  - a) “Spouse” (Spouse means a legal spouse as defined by State law.)

- b) "Child" (Child means a biological, foster or adopted child, a stepchild, a legal ward, or a child of a person standing in loco parentis, to age 25, or currently enrolled under the City's health insurance program, whichever is longer.)
  - c) "Parent" (Parent means a biological, foster or adoptive parent, a stepparent, or a legal guardian.)
  - d) Other individual whose relationship to the employee is that of a dependent living in the same household as determined by the City Manager at his/her sole discretion. An employee must request a predetermination of such status and such information will be considered confidential to the extent permitted by law. The employee may make one request for such determination once per calendar year, but not within six months of the last request. The City Manager shall make his/her determination within thirty (30) calendar days after receiving the request in writing.
6. Care of non-dependent child or parent not living in same household and care of domestic partner or domestic partner's child as follows:

An employee may use in any calendar year the employee's accrued and available sick leave entitlement in an amount that would be accrued during six months at the employee's then current rate of entitlement to attend to an illness of a child, parent, spouse, domestic partner or child of a domestic partner of the employee. Under this section "domestic partner" means a legal domestic partner, as defined by State law (California Family Code Section 297), including the filing of a Declaration of Domestic Partnership with the Secretary of State.

## **B. General Provisions**

Each eligible full-time regular and ~~probationary~~ employee shall accrue sick leave at the rate of 3.0769 hours per pay period (equivalent to ten (10) eight (8)-hour days per year). Accumulated sick leave has no monetary value, except as authorized by a Memorandum of Agreement between the City and an Exclusively Recognized Employee Organization as defined in City Resolution No. 87-380 (or such successor resolution) or as may be otherwise authorized by the City Council.

In order to receive compensation while absent on sick leave, the employee shall notify his/her immediate supervisor or the department head of his/her illness and location. Such notice shall at a minimum require: 1) That the supervisor and/or department head are provided a telephone message prior to or within one-half hour after the time set for the employee's work shift to begin; and 2) That the employee speak to their supervisor or department head, or if not available speak to the person designated by the department head to receive such verbal notice, prior to or within two hours after the time set for the

employee's work shift to begin. The employee shall remain at home during the hours for which sick leave is to be charged, with the exception of the time an employee needs to leave their residence for the purposes of a medical appointment, medical treatment, and/or related activities. Employees using sick leave would also be permitted to leave their residence for the purpose of providing transportation for their dependents (such as transportation to and from school or childcare).

The department head may at his/her discretion require an employee to submit a physician's written certificate, when the employee has been absent on sick leave for more than three (3) consecutive regular work shifts. When in the judgment of the City Manager the employee's reasons for being absent because of alleged sickness are inadequate, a finding shall be made that the employee has abused sick leave privileges and the absence shall be counted as absence without leave.

An employee who becomes ill while on vacation, may have such period of illness charged to the employee's accumulated sick leave instead of vacation. The employee must immediately upon returning to work submit a written request to the department head for sick leave and a written statement from a physician stating the nature and cause and dates of the illness. Such request must be approved by the department head and the City Manager.

An employee shall have the equivalent number of hours deducted from his/her accumulated sick leave time for each regularly scheduled work day that the employee is on paid sick leave. In the event that an employee becomes ill during working hours and is placed on paid sick leave prior to the close of the work day, such paid sick leave shall be calculated to the nearest one-quarter hour.

An employee using sick leave during the workweek, who is subsequently required to work extra hours, shall have the option of being paid at the straight time rate or reduce their charge against their accumulated sick leave.

Observed holidays occurring during sick leave shall not be charged against an employee's accumulated sick leave. An employee who is absent from work the work day preceding or succeeding an observed holiday without prior written authorization from the City Manager shall not be allowed the use of accumulated sick leave for such absence. The City Manager may waive this provision if written documentation is provided, such as a physician's certification of illness or injury. The intent of this Rule is that it is the responsibility of the employee to seek the waiver.

An employee may be required to take physical examinations at periodic intervals while on sick leave from a physician designated and paid for by the City.

In the event that an employee uses all the sick leave he/she has accumulated, he/she shall then have vacation leave he/she has accumulated deducted for each work day he/she is absent due to illness. Vacation days shall continue to be deducted until the employee either returns to work or all of accumulated vacation leave is used. The employee may

apply to receive a leave of absence without pay, if the employee does not have any accumulated vacation or sick leave.

**C. Sick Leave Approval**

1. Any employee requesting to use his/her sick leave privilege, who has a balance of less than forty (40) hours of such leave at the beginning of the pay period in which the leave is requested or when his/her supervisor provides written notice to the employee that he/she reasonably believes that an abuse of sick leave privilege is occurring, may be required by his/her supervisor to provide a certificate from a physician that the absence from work due to illness or injury was medically justified. Non-compliance with the request for a medical certificate could result in a denial of the use of the sick leave privilege for that period of absence and may result in disciplinary action.
2. Once the medical certificate is required of an employee, the employer may require the employee to provide a certificate with each absence until the employee's accumulated sick leave balance has reached forty-eight (48) hours. This requirement shall be discontinued at such time the employee has sick leave balance of at least forty-eight (48) hours. This does not supersede the City's ability to require a medical certificate consistent with other applicable provisions of the Personnel Rules; and
3. An employee using more than his/her annual accrual of sick leave in less than 26 pay periods may be notified that a physician's certificate is to be provided to the supervisor with each absence due to illness or injury until his/her sick leave balance reaches forty (40) hours. This provision will not normally be invoked if the circumstances, which cause the employee's sick leave use, included extended illness or recovery from surgery.
4. Use of sick leave following notice of resignation shall in all cases require the employee to provide a medical certificate to verify need for the absence from work.

**D. Conversion of Sick Leave**

So long as an employee has at least 280 accumulated sick leave hours as of December 31 of any year, the employee may choose to convert up to forty (40) hours of the accumulated sick leave to vacation leave. The employee must submit his/her written declaration to convert up to forty (40) hours of accumulated sick leave to accumulated vacation to the City Manager between January 1 and January 31 following the qualifying annual conversion period ending December 31 of the prior year. Once the sick leave is converted to vacation, it shall be subject to the provisions of Section 13.6.1 of these Rules.

**Section 13.7.**      **City Established Holidays:** Holidays shall be observed during the calendar year according to the dates as established by City Council resolution. When a holiday falls on Saturday, the preceding Friday shall be observed, and when a holiday falls on a Sunday, the following Monday shall be observed, except as otherwise stated in a City Council resolution establishing City holidays. Regular part-time employees shall be paid for holidays based upon the ratio of the number of hours regularly scheduled for the work week and budgeted for the fiscal year, and based upon the full-time equivalent for that position. Holiday pay for full-time employees shall be equivalent to an eight-hour work day.

Notwithstanding the foregoing provisions of this section, the City Manager shall be authorized, by administrative regulation or otherwise, to direct that all or a portion of the public offices of the City shall remain open for business, on a full or reduced staff basis, on any holiday when he/she determines it to be necessary in the public interest to do so.

**Section 13.8.**      **Jury Duty:** In the event a regular full-time or regular part-time employee is required to serve as a trial juror, the employee shall be allowed to be absent from duties with the City during the period of such service. An employee is required to complete his/her regularly scheduled work week hours in combined service to the City and/or court unless otherwise excused by the City Manager. An employee who is released by the court from jury service on any regularly scheduled work day shall return to his/her duties with the City to complete any remaining portion of regularly scheduled work hours unless otherwise excused by the City Manager.

The employee shall receive regular compensation in an amount established by City Council resolution, for a maximum of thirty (30) work days in a calendar year, except mileage allowance, for any regularly scheduled work hours spent in the actual performance of jury service and actual travel time to and from the City and the court, provided the fees, except mileage and subsistence allowances, which the employee received as a juror are remitted to the City. Juror service time performed during calendar day(s) an employee is not regularly scheduled to work shall not be compensated by the City nor shall be considered hours of employment. The employee shall retain as compensation from the court all fees, mileage and subsistence allowances which the employee received for the juror service time performed during calendar day(s) an employee is not regularly scheduled to work.

Regular part-time employees shall be paid for jury duty based upon their regular work schedule, the ratio of the number of hours regularly scheduled for the work week and budgeted for the fiscal year, and based upon the full-time equivalent for that position.

The employee shall prepare and submit to the City Manager a weekly statement of actual jury service plus the actual travel time to and from the City and the court. The employee shall give the City prompt notice of the employee's required jury service.

This section does not include service on the Grand Jury of any County or any jury of inquest.

**Section 13.9. Bereavement Leave:** Any regular full-time or part-time employee may be allowed to be absent from duty for up to five (5) consecutive work days (not to exceed forty work hours) without loss of pay because of the death of a member of his/her immediate family. When travel to distant locations or other circumstances requires absence in excess of five consecutive work days, the appointing authority may allow the use of accumulated annual leave, vacation leave, administrative leave, compensatory time, or up to two (2) work days of accumulated sick leave to supplement the five (5) work days provided in this section. For the purpose of this section, "immediate family" shall mean the husband, wife, parent, brother, sister, child (including child beyond the first trimester of a pregnancy), step-child, grandchild, grandparent, father-in-law, mother-in-law, son-in-law, daughter-in-law, or step-parent of an employee. The City shall not be obligated to grant bereavement leave for the death of a divorced spouse or for the death of a parent of a divorced spouse. In addition, ~~the~~ City shall not be obligated to grant Bereavement Leave for an employee more than twice (2 times) per calendar year. The City Manager, in his/her sole discretion, may approve the use of Bereavement Leave for the death of other persons closely associated with an employee. The City Manager, in his/her sole discretion, may also approve non-consecutive work days for bereavement leave within the same pay period or two consecutive pay periods.

Regular part-time employees shall be paid for bereavement leave based upon their regular work schedule, the ratio of the number of hours regularly scheduled for the work week and budgeted for the fiscal year, and based upon the full-time equivalent for that position, consistent with the rules established in this section.

**Section 13.10. Pregnancy Disability Leave:** To be eligible for Pregnancy Disability Leave, a female employee must be disabled by pregnancy, childbirth, or related medical conditions. Adoptions do not qualify for Pregnancy Disability Leave. Pregnancy Disability Leave is only available during the actual period of disability due to pregnancy or related condition up to a maximum of four (4) months.

The Pregnancy Disability Leave includes any time taken for any of the following reasons:

- a. The employee is unable to work at all or is unable to perform any one or more of the essential functions of her job without undue risk to herself, the successful completion of her pregnancy, or to other persons because of pregnancy or childbirth or because of any medically recognized physical or mental condition that is related to pregnancy or child birth (including severe morning sickness); or
- b. The employee needs to take time off for prenatal care.

Pregnancy Disability Leave may be taken in one or more periods (intermittently) or on a reduced leave schedule when medically advisable, as determined by the employee's health care provider, but may not exceed four months total. "Four months" means that number of work days the employee would normally work within four calendar months.

Pregnancy Disability Leave shall run concurrently with any available Family and Medical Leave. Pregnancy Disability Leave shall not count against the leave available under the City's rule on California Family Rights Act Leave.

An employee on Pregnancy Disability Leave must use all accumulated paid sick leave, and may use accumulated paid annual leave, vacation leave, accumulated administrative leave, and earned compensatory time. The receipt of annual leave pay, vacation leave pay, administrative leave pay, compensatory time pay, sick leave pay, or disability insurance benefits will not extend the length of the Pregnancy Disability Leave. An employee may use paid accumulated annual, sick, vacation, and/or administrative leave to supplement payments received as disability insurance benefits, but the combination of paid leave and disability pay may not exceed the employee's regular salary.

An employee on Pregnancy Disability Leave without pay shall receive no compensation and shall not accrue annual leave, vacation leave, or sick leave. While an employee is on unpaid Pregnancy Disability Leave, the City's contributions to all benefit plans (e.g., retirement, medical, optical, dental, life insurance, disability etc.) will be suspended until the employee returns to work, unless such contributions are required by the Federal Family and Medical Leave Act. An employee who is on unpaid Pregnancy Disability Leave may choose to continue her insurance coverages during the leave of absence by paying the City the required premiums at the same time that the premiums would have been paid by the City and the employee, had the employee been in a paid status. The City shall not be required to make such payments on the employee's behalf if the employee fails to timely make the full amount of the payments to the City. An employee on unpaid Pregnancy Disability Leave shall retain the annual leave, vacation leave, administrative leave, compensation time, seniority ranking and other similar credits accumulated, but not used, prior to the commencement of the Pregnancy Disability Leave without pay.

An employee on unpaid Pregnancy Disability Leave remains an employee and the leave will not constitute a break in service. An employee who returns from Pregnancy Disability leave will receive the same step in the salary range she received when such leave began. The period of Pregnancy Disability Leave without pay shall not count towards service for increases within the salary range or benefit accruals. The anniversary of an employee on Pregnancy Disability Leave without pay will be set forward in time one-half month for each fifteen (15) consecutive calendar days of such leave.

An employee requesting Pregnancy Disability Leave must provide medical certification from her health care provider on a form supplied by the City. Failure to provide the required certification in a timely manner within fifteen (15) calendar days of the leave request may result in denial of the leave request until such certification is provided.

An employee should provide not less than five (5) work days' notice to her department head, or such shorter notice as is practicable, if the need for the leave is foreseeable. The request must also include a scheduled date of return. Failure to provide any such notice is grounds for denial of a leave request, except if the need for Pregnancy Disability Leave was an emergency or was otherwise unforeseeable. The Pregnancy Disability Leave may

extend for a maximum of four (4) calendar months. Where possible, employees must make a reasonable effort to schedule foreseeable planned medical treatments so as not to unduly disrupt the City's operations.

If an employee needs intermittent leave or leave on a reduced leave schedule and it is foreseeable based on planned medical treatment, the employee may be transferred temporarily to an available alternative position for which she is qualified that has equivalent pay and benefits and that better accommodates recurring periods of leave than her regular position.

Upon return to work at the expiration of the Pregnancy Disability Leave period, an employee is entitled to the same position unless the employee would not otherwise have been employed in the same position at the time reinstatement is requested for legitimate business reasons unrelated to the employee's Pregnancy Disability Leave or each means of preserving the job for the employee (such as leaving it unfilled or filling it with a temporary employee) would have substantially undermined the City's ability to operate safely and efficiently. If the employee is not reinstated to the same position, she must be reinstated to a comparable position unless there is no comparable position available or a comparable position is available, but filling that position with the returning employee would substantially undermine the City's ability to operate the business safely and efficiently. A "comparable position" is a position that involves the same or similar duties and responsibilities and is virtually identical to the employee's original position in terms of pay, benefits, and working conditions.

Before an employee will be permitted to return from a Pregnancy Disability Leave of three (3) work days or more, the employee must obtain a certification from her health care provider that she is able to resume work.

Failure on the part of an employee on leave to report promptly at its expiration shall be cause for dismissal.

If an employee takes additional leave for reason of the birth of her child at the expiration of her Pregnancy Disability Leave, her right to reinstatement is governed by the City's Family and Medical Leave policy or a determination of reasonable accommodation, not by this Pregnancy Disability Leave policy.

### **Section 13.11. Family and Medical Leave:**

#### **A. Eligibility and Uses**

To be eligible for Family and Medical Leave pursuant to the Federal Family and Medical Leave Act, the employee must have been employed by the City in a full-time or part-time position for at least twelve (12) months and must have worked at least 1,250 hours during the twelve- (12) month period immediately preceding start of the Family and Medical Leave.

The Family and Medical Leave can include any time taken (with or without pay) up to twelve (12) work weeks in any twelve- (12) month period, for any of the following reasons:

1. To care for the employee's newborn child or a child placed with the employee for adoption or foster care. Leaves for this purpose must conclude twelve (12) months after the birth, adoption, or placement. If both parents are employed by the City, they will be entitled to a combined total of twelve (12) weeks of leave for this purpose.
2. Because of the employee's own serious health condition (including a serious health condition resulting from an on-the-job illness or injury) that makes the employee unable to perform his or her job at all or unable to perform any one or more of the essential functions of his or her job, other than a disability caused by pregnancy, childbirth, or related medical conditions, which is covered by the City's separate rule on Pregnancy Disability Leave.
3. To care for a spouse, child, or parent with a serious health condition.

## **B. Definitions**

The following definitions apply for purposes of Section 13.11 only:

1. Child: a biological, adopted, or foster child; a stepchild; a legal ward; or a child of a person standing in loco parentis, who is either under age 18, or an adult dependent child (e.g., over age 18 and incapable of self-care because of a mental or physical disability).
2. Family and Medical Leave: Either unpaid or paid leave taken in accordance with this Rule.
3. Foster Care: Foster care means the twenty-four (24) hour care for children in substitution for, and away from, their parents or guardian which involves an agreement between a state and the foster family. Foster care may be with a child's relatives.
4. Health Care Provider:
  - a. An individual holding either a physician's osteopath's, or surgeon's certificate.
  - b. Any person duly licensed as a physician, surgeon, osteopathic physician in California or in another state or jurisdiction who directly treats or supervises the treatment of the serious health condition.
  - c. Any other person determined by the United States Secretary of Labor to be capable of providing health care services under applicable law.

- d. Other persons as defined by state and federal law.
5. Serious Health Condition is an illness, injury, impairment or physical or mental condition that involves either of the following:
  - a. In-patient care in a hospital, hospice, or residential health care facility, including any period of incapacity or any subsequent treatment in conjunction with such inpatient care (excluding voluntary or cosmetic treatments that are not medically necessary and do not require inpatient hospital care unless complications develop); or
  - b. Continuing treatment by a health care provider.
6. Spouse: Those people considered legally married by the State of California. A domestic partner is not considered a spouse for these purposes.
7. The twelve-(12) month period in which twelve (12) weeks of Family and Medical Leave may be taken is the twelve-(12) month period immediately following the start of any Family and Medical Leave.
8. Twelve (12) Workweeks means the equivalent of twelve (12) of the employee's normally scheduled workweeks.
9. Week(s): Week means five (5) work days for a full-time employee. For a part-time employee, a weekly average of the hours worked over the twelve (12) weeks prior to the beginning of the leave shall be used to calculate the employee's week.

### **C. Duration and Use of Accumulated Leave**

Family and Medical Leave can be taken in one or more periods, but may not exceed twelve (12) workweeks total for any purpose in any twelve- (12) month period for any one, or combination of the described situations. If the City learns at any time that an employee is taking paid or unpaid leave for a Family and Medical Leave qualifying reason, the City may retroactively count the employee's leave as a Family and Medical Leave starting from the date that the employee began his or her leave of absence.

An employee may use accumulated sick leave, annual leave, vacation leave and administrative leave, including use of such leave in combination with disability insurance payments, while on Family and Medical Leave.

Any employee on Family and Medical Leave because of his or her own serious health condition must use all accumulated paid sick leave, annual leave, vacation leave and administrative leave at the beginning of any otherwise unpaid Family and Medical Leave period.

An employee on Family and Medical Leave to care for a spouse, parent, or child with a serious health condition must use all accumulated annual leave, vacation leave and administrative leave at the beginning of any otherwise unpaid Family and Medical Leave period. Accumulated sick leave may be used during an otherwise unpaid Family and Medical Leave only to the extent permitted by Section 13.6.2 of these Rules.

An employee on Family and Medical Leave for childcare must use all accumulated paid annual leave, vacation leave and administrative leave at the beginning of any otherwise unpaid Family and Medical Leave.

All other eligible Family and Medical Leaves not addressed in this Subsection C are unpaid leaves.

The receipt of annual leave pay, vacation leave pay, sick leave pay, administrative leave pay, or disability insurance benefits does not extend the length of the Family and Medical Leave beyond the twelve (12) workweeks in any twelve- (12) month period as specified in this Section.

An employee using accumulated leave while on Family and Medical Leave shall continue to fully accrue annual, vacation, sick, and administrative leave benefits, and such Family and Medical Leave shall count as time worked for purposes of establishing seniority for layoff, recall, promotion, job assignment and seniority related benefits such as vacation.

An employee on Family and Medical Leave without pay shall receive no compensation and shall not accrue annual, vacation or administrative leave benefits or sick leave. Unpaid Family and Medical Leave shall not count as time worked for purposes of establishing seniority for layoff, recall, promotion, job assignment and seniority related benefits such as vacation. An employee on unpaid Family and Medical Leave shall retain seniority ranking. Employment benefits other than health benefits, defined below in Subsection D, shall be handled in the same manner as benefits for employees on a leave of absence without pay.

#### **D. Health Benefits Coverage and Premium Payments**

1. While an employee is on Family and Medical Leave, the City's contributions on behalf of the employee to the City's medical, dental, optical plans (health benefits) will be continued, including any City paid dependent coverage, in the same manner as when the employee is on paid status. Short and long-term disability and life insurance benefits for employee and City paid dependent coverage will also be continued. (Premium payments for short and/or long-term disability insurance would be discontinued when no longer required to be paid by the insurance provider, due to initiation of benefit payments.)
2. An employee who is on unpaid Family and Medical Leave may choose to continue optional insurance coverages by paying the City the required

premiums at the same time that the premiums would have been paid by the City and the employee, had the employee been in a paid status. The City shall not be required to make such payments on the employee's behalf if the employee fails to timely make the full amount of the payments to the City.

3. During unpaid Family and Medical leave, an employee may elect to discontinue health insurance coverage for a spouse and/or any dependent(s) as well as any other benefits offered or sponsored by the City to which the employee is required to make monthly contributions.
4. An employee shall continue to be responsible for making the payment of required contributions towards the cost of benefits not revoked under (3) above. If any premium amounts are increased or decreased as to other employees similarly situated, the employee shall be required to pay the new premium rates.
5. All contributions required to be made by the employee are due and payable to the City at the same time as they would be made through payroll deduction.
6. If any monthly contributions required under this Section are not received within thirty (30) calendar days of their due date, the City shall discontinue said benefit(s).
7. Employees included in a retirement plan may continue to make contributions in accordance with the terms of the plan during the Family and Medical Leave. However, the City shall not be required to make plan payments for employees during the unpaid Family and Medical Leave, and the unpaid Family and Medical Leave shall not be counted for purposes of time accrued under the plan.
8. The City shall recover the premium it paid for maintaining health benefits for an employee during unpaid Family and Medical Leave if the employee fails to return to work promptly upon the expiration of Family and Medical Leave for reasons other than the continuation, recurrence or onset of a serious health condition or other circumstances beyond the employee's control.

#### **E. Certification**

An employee requesting Family and Medical Leave because of his or her own serious health condition, or his or her spouse's, child's or parent's serious health condition must provide medical certification from the appropriate health care provider on a form supplied by the City. Failure to provide the required certification within fifteen (15) calendar days of the leave request may result in denial of the leave request until such certification is provided.

If the City has reason to doubt the medical certification supporting a leave because of the employee's own serious health condition, the City may request a second opinion by a health care provider of its choice and paid for by the City. If the second opinion differs from the first one, the City will pay for a third, mutually agreeable, health care provider to provide a final and binding opinion.

Recertifications are required if leave is sought after expiration of the time estimated by the health care provider. Failure to submit required recertifications can result in termination of the leave.

#### **F. Notice**

Employees shall provide not less than thirty (30) calendar days' written notice, or such shorter notice as is practicable, to the Personnel Director for foreseeable childbirth, placement of a child for adoption or foster care, or any planned medical treatment for the employee or his/her spouse, child, or parent.

Failure to provide such notice is grounds for denial of a leave request, except if the need for Family and Medical Leave was an emergency or was otherwise unforeseeable. Where possible, employees must make a reasonable effort to schedule foreseeable planned medical treatments so as not to unduly disrupt the City's operations.

#### **G. Intermittent Leave**

If Family and Medical Leave is taken because of the employee's own serious health condition or the serious health condition of the employee's spouse, parent, or child, the leave may be taken intermittently or on a reduced leave schedule when medically necessary, as determined by the health care provider of the person with the serious health condition.

If Family and Medical Leave is taken because of the birth of the employee's child or the placement of child with the employee for adoption or foster care, the minimum duration of leave is two (2) weeks, except that the City will grant a request for Family and Medical Leave for this purpose of at least one work day but less than two weeks' duration on any two (2) occasions.

If an employee needs intermittent leave or leave on a reduced leave schedule that is foreseeable based on planned medical treatment for the employee or a family member, the employee may be transferred temporarily to an available alternative position for which he or she is qualified that has equivalent pay and benefits and that better accommodates recurring periods of leave than the employee's regular position.

In the event that an employee requires intermittent Family and Medical leave, including, but not limited to, prolonged treatment plans or a series of surgeries, he or she shall notify the City in writing of the anticipated dates for the Family and Medical leave as much in advance as possible.

## H. Protection of Employment and Benefits

Upon timely return at the expiration of the Family and Medical Leave period, an employee is entitled to the same or a comparable position with the same or similar duties and virtually identical pay, benefits, and other terms and conditions of employment unless the same position and any comparable positions have ceased to exist because of legitimate business reasons unrelated to the employee's Family and Medical Leave.

An employee on unpaid Family and Medical Leave remains an employee and the leave will not constitute a break in service. An employee who returns from Family and Medical Leave will receive the same step in the salary range he or she received when such leave began. The period of Family and Medical Leave without pay shall not count towards service increases within the salary range or benefit accruals. The anniversary of an employee on Family and Medical Leave without pay will be set forward in time one-half month for each fifteen (15) consecutive calendar days of such leave.

Failure on the part of an employee on leave to report promptly at its expiration, or within twenty-four (24) hours after notice to return to work, shall be cause for dismissal. A letter deposited with the United States Postal Service addressed to the employee's last known address shall be reasonable notice.

Before an employee will be permitted to return from Family and Medical Leave taken because of his or her own serious health condition, the employee must obtain a certification from his or her health care provider that he or she is able to resume his or her essential work functions in his or her former position.

**Section 13.12. California Family Rights Act Leave:** Under the California Family Rights Act (CFRA), employees who have more than twelve (12) months (52 weeks) of service with an employer, have worked at least 1,250 hours in the twelve- (12) month period before the date leave begins, and work at a location in which the employer has at least fifty (50) employees within 75 miles of the employee's work site, may request up to twelve (12) weeks CFRA leave for the birth of a child for purposes of bonding, for placement of a child in the employee's family for adoption or foster care (within one year of the qualifying event); for the serious health condition of the employee's child, parent, or spouse; and for the employee's own serious health condition. If the City employs both parents, a total of twelve (12) week's leave shall be granted for the birth, adoption, or foster-care placement of their child. No other limitations restrict these parents from taking a CFRA leave for other qualifying reasons. Where allowed by law, CFRA Leave shall run concurrent with Family and Medical Leave. If the City learns at any time that an employee is taking paid or unpaid leave for a CFRA Leave qualifying reason, the City may retroactively count the employee's leave as a CFRA Leave starting from the date that the employee began his or her leave of absence.

An employee is required to use all accumulated annual leave, vacation leave and administrative leave at the beginning of any otherwise unpaid CFRA Leave. Accumulated

sick leave may be used during an otherwise unpaid CFRA Leave only to the extent permitted by Section 13.6.2 of these Rules. An employee using accumulated leave while on CFRA Leave shall continue to fully accrue annual, vacation, sick, and administrative leave benefits, and such CFRA Leave shall count as time worked for purposes of establishing seniority for layoff, recall, promotion, job assignment and seniority related benefits such as annual leave, vacation leave, and longevity pay.

While an employee is on CFRA Leave, and using accumulated paid leave, the City's contributions on behalf of the employee to the City's medical, dental, optical, and short and long-term disability insurance plans will be continued, including any City paid dependent coverage. Life insurance benefits for employee and dependent coverage will also be continued.

While an employee is on unpaid CFRA Leave, the City will provide health benefits consistent with the requirements of the Family and Medical Leave Act (reference Section 13.11.D of these Rules). If the employee has used twelve (12) weeks of Family and Medical Leave and requests additional unpaid leave time under CFRA, the employee shall be responsible for paying for health benefits and disability and life insurance premiums.

An employee who is on unpaid CFRA Leave may choose to continue insurance coverages not paid by City during the leave of absence by paying the City the required premiums at the same time that the premiums would have been paid by the City and the employee, had the employee been in a paid status. The City shall not be required to make such payments on the employee's behalf if the employee fails to timely make the full amount of the payments to the City.

An employee on unpaid CFRA Leave shall receive no compensation and shall not accrue annual leave, vacation leave, administrative leave, or sick leave. Unpaid CFRA Leave shall not count as time worked for purposes of establishing seniority for layoff, recall, promotion, job assignment and seniority related benefits such as vacation.

**Section 13.13. Reasonable Accommodation:** A leave of absence may be considered as a reasonable accommodation for a qualified individual with a disability, pursuant to the provisions of Section 13.3 of these Rules.

## **RULE 14. WORKER'S COMPENSATION**

**Section 14.1. Injuries on the Job:** All employees of the City of Moorpark shall be governed by the laws of the State of California relating to Worker's Compensation or as broadened by this Section. All injuries sustained in the course of employment shall be immediately reported by the injured employee to his/her immediate supervisor. If the immediate supervisor is not available, then the injured employee shall immediately notify one of the following in the order listed: their department head, Human Resources Analyst/Assistant, Administrative Services Director, City Clerk, City Manager or Acting City Manager, or Assistant City Manager. All accidents or injuries, no matter how minor or

small, must be reported by the injured employee or their supervisor on the prescribed form by the end of the work shift in which the injury occurred. If the work shift concludes after the end of normal business hours or the work shift is on a Saturday, Sunday or holiday, when the injured employee contacts his/her immediate supervisor, as required above, the supervisor shall also arrange to have the prescribed forms completed no later than the next succeeding work day that City offices are open. The supervisor must provide the injured employee with a worker's compensation claim form within one working day after learning about the injury. At the time of injury or upon notice of injury, the supervisor must immediately notify the department head and file a written accident report with the Personnel Director no later than the next succeeding work day that City offices are open. In the event that a work related injury requires emergency medical care, the employee's supervisor may report the injury. Within one working day after an employee files a claim form, the City and/or the City's worker's compensation carrier shall authorize the provision of treatment up to \$10,000, consistent with the provisions of the California Labor Code. Such authorization does not signify acceptance of the claim.

**Section 14.2. Choice of Physicians:** The provisions of the California Labor Code shall apply for the choice of physicians for a Workers Compensation injury. Every new employee on their first day of work will be provided the "Written Notice to New Employees" concerning the rights, benefits and obligations under worker's compensation law. The "Notice to Employees—Injuries Caused By Work" shall also be posted at each work site location, which includes notice for "Naming Your Own Physician Before Injury" and "See Your Primary Treating Physician." Consistent with these provisions, employees shall have the opportunity to pre-designate their primary care physician as their treating physician for purposes of worker's compensation treatment. Should an employee fail to pre-designate, a physician of the City's choosing shall initially treat the employee. When pre-designating a physician, the employee should include the following information: (1) name of personal physician; (2) physician's address; and (3) physician's telephone and facsimile numbers. The employee should date and sign the document, and return it to the City's Human Resources/Risk Management Division.

**Section 14.3. Authorized Absence:** This Section shall only apply to those injuries or illnesses that are admitted by the City as arising out of and in the course of employment. Whenever a regular or probationary full-time employee of the City is disabled by an injury or illness arising out of, and in the course of his/her duties, the City shall continue full salary for a period of three (3) work days (including the work day of injury). After three (3) work days, the employee may use accumulated annual leave or sick leave in combination with temporary disability benefits provided under State Worker's Compensation Laws to provide continuation of the employee's regular monthly base salary until such accumulation is exhausted or until the employee is no longer temporarily disabled, whichever occurs first. If accumulated annual leave or sick leave is sooner exhausted, an employee temporarily disabled under the provisions of this Section may, for the purpose of supplementing Worker's Compensation temporary disability benefits, elect to use accumulated annual leave, vacation leave, and/or accumulated compensatory time off to continue his/her regular salary in combination with the temporary disability payments. The use of any portion of accumulated sick leave, annual leave, vacation leave, or compensatory time

must be requested in writing by the employee prior to its use. Absence from work shall run concurrent with Family and Medical Leave and CFRA Leave, if applicable (see Sections 13.11 and 13.12).

It is strictly prohibited to combine sick leave, annual leave, vacation leave, and/or Worker's Compensation benefits in any manner, which would exceed the employee's regular monthly base salary. An employee on approved paid Worker's Compensation leave will receive holiday pay in the amount of the difference between their regular salary and the benefit they are paid from Worker's Compensation insurance. Employees on unpaid leaves of absence do not receive holiday pay. A written report shall be furnished by the department head to the City Manager during each thirty (30) calendar days, setting forth the physical condition of the injured employee and his/her recovery progress.

Regular part-time employees may use their accumulated leave during periods of job-related disability on a pro-rata basis.

Any employee bringing an action against a third party to recover for injuries or disabilities for which the City has made payments of salary or compensation, shall forthwith give the City written notice of such action and thereafter, the City shall be entitled to reimbursement out of any recovery made by the employee in such action for amounts paid for salary or compensation and fringe benefits during the period of disability. Upon receipt of restitution by the City, an appropriate amount of such sick leave, annual leave, vacation leave, and compensatory time off used by the employee during the disability shall be restored to the employee's account.

**Section 14.4. Disability Evaluation:**

**A. Temporary modified work program resulting from injury or illness.**

There are no guaranteed temporary modified light duty positions in the City of Moorpark. The purpose of this section is to establish a uniform procedure regarding temporary modified work/return to work program.

It shall be the policy of the City of Moorpark, to assign temporary modified work to employees who are temporarily disabled from the usual and customary job duties as a result of an on-the-job injury or illness when such temporary modified work is within the limitations prescribed by a City-approved physician or employee-approved physician according to the following definitions, responsibilities and procedures.

**DEFINITIONS:**

1. **On-the-job injury or illness:** Injury or illness which occurs in the course of the employment.
2. **Off-work injury or illness:** Injury or illness which occurs during non-work periods and is non-industrial in origin.

3. Temporary modified work: The temporary restructuring and/or modifications of work, duties or tasks.

PROCEDURES:

In any instance which the employee is to be considered for temporary modified work, the work assignment(s) are to be within the limitations prescribed by a City-approved physician or employee-approved physician. The following procedures are set forth:

1. City-approved physician or employee-approved physician shall be expected, within the conduct of acceptable medical practice, to release employees to temporary modified duty and to fully describe the employee's limitations in sufficient detail to enable the City to determine and provide suitable temporary modified work.
2. If medically feasible, the employee must provide a statement from the physician, which includes an estimate as to an expected date of recovery from the injury or illness and to the extent the employee can be returned to full work status. Such dates can be adjusted based upon an accelerated or a prolonged period of rehabilitation or recovery.
3. Upon receipt of the doctor's release, the City Manager or his/her designee and the department head shall review the medical release and determine if the respective department to which the employee is assigned has available duties which would permit the employee to perform under the temporary modified work program.
4. If temporary modified work is unavailable within the employee's usual department, other departments shall be contacted and attempts shall be made to provide a suitable work assignment on a temporary basis.
5. If no suitable temporary modified duty task is available as a result of the specific types of injury or illness, the employee shall not be permitted to participate in the temporary modified duties program.
6. All temporary modified duty assignments shall be reviewed and approved in writing by the City Manager or his/her designee following each physician appointment and prior to an employee returning to work, and at a minimum shall be reviewed by the City Manager and department heads every thirty (30) calendar days.
7. Upon release to regular work without restrictions and receipt of written authorization from the City Manager or his/her designee, the employee shall be returned to his/her regular work unit and resume his/her regular duties.

8. The employee, during the period of temporary modified work shall be entitled to accumulate pay and benefits at the same rate of pay and benefit accumulation as if the employee were working his/her regular duties. Personnel action requests shall reflect the work period but shall also indicate a notation that the employee is on temporary modified work. Said notation is for record keeping purposes only.

B. When medical evidence obtained by the City-approved physicians and/or employee-approved physicians indicates with reasonable medical probability that the injured employee will be incapable of returning to the full duty position, the City Manager shall render a determination on employment as outlined in Section 14.5.

**Section 14.5. Determination on Employment:** Subject to medical consultations, a final determination shall be made by the City Manager as to whether or not the employee shall:

1. Return to work when the medical condition may be reasonably accommodated.
2. Transfer to another position based on the qualifications of experience, education and physical ability.
3. Terminate employment with the City. In the event an employee is unable to return to work after six (6) months of absence, the employee may be separated from City service and their position filled. If involuntarily separated hereunder, upon receiving a physician release stating that the employee is capable of returning to work, the employee may apply for reinstatement per Section 11.5, Reinstatement. Length of absence beyond six (6) months may be extended by the City Manager in increments of up to thirty (30) calendar days if there is a likelihood of recovery and such extension does not impair the operation of the department.

**Section 14.6. Accrual of Leave Benefits and City Contributions to Retirement and Health Plans Regarding Uncontested Claims:** Any regular employee shall continue to accrue annual leave, vacation and sick leave, and holidays, as otherwise described in these Rules, will earn eligibility for consideration for merit salary increases, and the City shall continue to make required contributions to the retirement and health and medical plans during an absence resulting from an on-the-job injury, providing he/she receives compensation payments under the provisions of the California Worker's Compensation Law. After the first three work days of City payment of full salary, as referenced in Section 14.3, the City will discontinue payment of bilingual pay, longevity pay, deferred compensation, and any uniform cleaning allowance for an employee on Worker's Compensation leave, with the exception of the use of accumulated City-paid leave. A probationary employee shall be entitled to the same benefits as a regular employee except

he/she shall not continue to earn eligibility for consideration towards completion of the probationary period and a merit salary increase.

**Section 14.7. Contested Claims:** This section shall only apply to those cases in which the City is claiming that an injury or illness did not arise out of or in the course of employment as defined under the Worker's Compensation laws. In such contested industrial injury claims, the City of Moorpark shall authorize the provision of all treatment, consistent with the applicable Labor Code requirements for the alleged injury and shall continue to provide treatment until the date that liability for the claim is accepted or rejected. In such contested industrial injury claims, the employee shall be entitled to use accumulated annual leave or sick leave to provide continuation of the employee's regular monthly salary for a period until the employee is no longer temporarily disabled. In those cases in which the accumulated annual leave or sick leave is exhausted before the employee becomes permanent and stationary, the employee may elect to use other accumulated leave such as vacation leave, and/or compensatory time off to continue his/her regular monthly salary. The use of any portion of accumulated compensatory time, sick leave, annual leave, or vacation must be requested in writing by the employee prior to its use. If the period of temporary disability extends beyond the use of accumulated annual leave, vacation leave, and compensatory time off, or the employee has elected not to use any portion of said accumulated leave, the employee shall be placed on an unpaid leave of absence by the City as outlined by Section 13.3 of the City's Personnel Rules, pending a determination regarding compensability of the claim under applicable provisions of California Worker's Compensation law.

While on such an unpaid leave of absence, no annual leave, vacation leave, or sick leave shall accrue. City contributions to retirement, health and medical plans, including but not limited to medical, dental, vision, life and long-term disability programs shall be suspended. Any pre-paid premium made by the City on behalf of the employee and/or his dependents not exceeding thirty (30) calendar days from the date the City determines to contest the claim shall be honored by the City. In the event of such suspension of the employer-paid contribution to health and medical plans, the City will offer the employee at his/her cost the opportunity to continue coverage under said plans for a period of time and payment of administrative fee to the City as allowed pursuant to applicable Federal and State laws. Such payment by the employee must be received by the City prior to the City's due date for payment of the premium.

If the injury or illness is later determined to have arisen out of or within the course of employment by the Worker's Compensation Appeals Board, the employee will be retroactively provided accrued benefits in accordance with Section 14.3 of the City's Personnel Rules. If a retroactive reinstatement of said benefits as outlined in Section 14.3 results in an inequity, the benefits will be adjusted so that neither the City nor the employee will receive more than they would have been entitled to by statute or according to City of Moorpark Personnel Rules had the case not been contested.

## **RULE 15. GRIEVANCE PROCEDURE**

**Section 15.1. Matters Subject to Grievance Procedures:** An employee may file a grievance when there is a dispute regarding the interpretation, meaning, or application of a Memorandum of Understanding, certain sections of the Personnel Rules or certain aspects of a performance evaluation. The following are not subject to review through the grievance procedure:

- a. disciplinary actions, including, but not limited to: verbal admonishments, written reprimands, restitution, transfer, demotion, reduction in salary, suspension, dismissal (see e.g., Rules 11 and 12);
- b. an alleged infringement of an employee's personal rights, such as discrimination, harassment, retaliation, or the alleged capricious use of supervisory or management authority (see e.g., Sections 2.6 and 2.19);
- c. alleged violation of commonly accepted safety practices and procedures;
- d. determination of contents of job classifications (see e.g. Rule 3);
- e. procedures and standards of selection for employment and promotion (see e.g., Section 6.2, Rule 7, Section 8.2, and Section 8.3);
- f. budgetary items;
- g. standards of service;
- h. the mission of departments;
- i. all other matters of general legislative and managerial policy;
- j. performance evaluation of a probationary employee (see e.g., Rule 9);
- k. weighting of performance factors to be evaluated and included in a performance evaluation report (see e.g., Rule 9); and
- l. outside employment (see e.g., Rule 2).

**Section 15.2. Informal Grievance Procedure:** Within five (5) work days from the date of the incident giving rise to the grievance or from the date the employee should have been aware of the incident giving rise to the grievance, the employee must commence the grievance process by informally discussing the matter with his/her immediate supervisor. Every effort shall be made to resolve a grievance through this informal discussion between the employee and the employee's immediate supervisor. If, after such discussion, the employee does not feel that the grievance has been satisfactorily resolved, the employee

shall have the right to discuss the matter with the immediate supervisor's supervisor, if any, within the department organization. Otherwise, the employee shall have the right to discuss the matter with the department head. The informal grievance procedure shall not apply to a written performance evaluation signed by the department head. The supervisor or department head, as applicable, shall be responsible for documenting the informal discussion in writing.

**Section 15.3. Formal Grievance Procedure:** If the employee is not in agreement with the decision rendered in the informal grievance procedure, an employee shall have the right to present a formal grievance in writing to the department head within five (5) work days after the employee and the immediate supervisor have held their informal discussion. The department head shall review the grievance and meet with the employee within ten (10) work days of receipt of the grievance. The department head shall thereafter render a decision in writing and return it to the employee and/or the employee's designated representative, with a copy to the City Manager, within five (5) work days after meeting with the employee. For grievance of a performance evaluation signed by a department head, the grievance shall be filed directly with the City Manager within ten (10) work days of the later of the date the department head signs the performance evaluation or the date of the performance evaluation meeting.

**Section 15.4. Formal Grievance to the City Manager:** If the employee does not agree with the decision reached by the department head, the employee may present in writing a formal grievance to the City Manager within five (5) work days after the employee's receipt of the department head's decision. For grievance of a performance evaluation signed by a department head, the time period for filing the grievance with the City Manager is ten (10) work days of the later of the date the department head signs the performance evaluation or the date of the performance evaluation meeting. The formal grievance to the City Manager shall be signed and delivered to the City Manager, who shall set a hearing with the employee and/or the employee's representative within ten (10) work days. Within seven (7) work days after the hearing, the City Manager shall render a formal decision in writing. The City Manager shall deliver a copy of the decision to the employee and/or the employee's representative and the department head. The decision of the City Manager shall be final.

The City Manager may appoint a hearing officer mutually selected by the City Manager and the employee or his/her designated representative to consider the grievance. In such event, the hearing officer shall set the hearing within thirty (30) work days. Within fourteen (14) work days, the hearing officer shall render a formal decision in writing. The hearing officer shall deliver a copy of the decision to the employee or employee's representative, the department head, and City Manager. The decision of the hearing officer shall be final.

**Section 15.5. Requirement to Appoint Hearing Officer:** If the grievance concerns a decision of the City Manager, the formal grievance shall be heard by a hearing officer mutually selected by the City Council or its designee and the employee or his/her designated representative. At the first meeting of the City Council held after the written grievance is received in accordance with Section 15.4, the City Manager shall inform the

City Council of the receipt of the formal grievance. The hearing shall be conducted in accordance with Sections 15.4, 15.6, and 15.7 except that the hearing shall be held within thirty (30) work days after the City Council is informed of the receipt of formal grievance. Within fourteen (14) work days, the hearing officer shall render a formal decision in writing.

The hearing officer shall deliver a copy of the decision to the employee or employee's representative, the department head, City Manager, and City Council. The decision of the hearing officer shall be final.

**Section 15.6. Formal Grievance Hearing Procedures:** When a grievance is heard under Section 15.4 or 15.5, the following rules shall apply to the conduct of the hearing:

- a. All hearings shall be open to the public, provided, however, that the City Manager/hearing officer shall, at the request of the employee or the Personnel Director or Personnel Officer, exclude the public from all or any portion of the hearings.
- b. All interested parties shall have the following rights:
  - (1) To call and examine witnesses;
  - (2) To introduce exhibits;
  - (3) To cross-examine opposing witnesses on any matter relevant to the issue, even if the matter is not covered in the direct examination;
  - (4) To impeach any witness regardless of which party called him/her to testify;
  - (5) To rebut the evidence against them; and
  - (6) To present oral and written arguments.
- c. The employee shall have the burden of proof.
- d. The hearing need not be conducted in accordance with the technical rules relating to evidence and witnesses, but shall be conducted in a manner most conducive to the determination of the truth. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rules which might make improper admission of such evidence over objection in a court of law. Decisions made by the City Manager/hearing officer shall not be invalidated by any informality in the proceedings.
- e. The City Manager/hearing officer shall not take testimony from one (1) party outside of the presence of the other.
- f. Hearsay evidence may be used for the purpose of explaining any direct evidence but shall not be sufficient to support a finding, unless it would be admissible over objections in civil actions.

- g. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions.
- h. The City Manager/hearing officer shall determine the relevancy, weight, and credibility or testimony and evidence.
- i. Irrelevant evidence and unduly repetitious evidence shall be excluded.
- j. If a hearing officer is appointed, he/she shall not have the authority or power to render a binding decision that requires the City to expend additional funds, to hire additional personnel, to buy additional equipment or supplies, or to pay wages or benefits not specifically provided for in applicable memorandums of understanding or to take any action that would violate state or federal laws.
- k. The cost of the hearing and the hearing officer's fees shall be borne equally by the parties.

**Section 15.7. Conduct of Grievance Procedure:**

- 1. The time limit specified above may be extended to a definite date by mutual written agreement of the employee and the appellate person or body.
- 2. The employee may request the assistance of another person of his/her own choosing in preparing and presenting his/her appeal at any level of review. Grievance preparation shall be done on the employee's own time.
- 3. The employee and his/her representative may use up to a maximum of two hours of work time in attending the grievance hearing with the City Manager or hearing officer. Such time may be extended with the written approval of the City Manager.
- 4. Failure of the employee to take further action within the above-described time limits shall constitute withdrawal of the grievance.
- 5. The employee may be assured freedom from reprisal for using the grievance procedures.

**RULE 16. EMPLOYEE REPORTS AND RECORDS**

**Section 16.1. Personnel File:** The Personnel Director shall maintain a personnel file for each employee in the Competitive Service of the City. The file shall include the employee's name, position title, department to which assigned, salary, all information used to determine the employee's qualifications for employment, promotion, additional compensation and disciplinary action and such other information as may be considered

pertinent by the Personnel Director. Employees have the right to inspect the contents of their respective personnel files during a scheduled appointment, except that the employee shall have no right to inspect letters of reference, background investigation report, or records relating to any investigation of possible criminal offense by the employee and/or other records exempted by the California Labor Code or applicable court rulings.

**Section 16.2.**      **Disclosure of Information:** No information shall be disclosed from the personnel file of a current or former employee other than the employee's job title, work location, work phone number, salary verification, and departmental assignment to any person other than the City Manager, City Attorney or their designated representatives. An employee or former employee may authorize the disclosure of information from their file only when written permission is provided. Nothing herein shall preclude nor specifically deny the use of any information in personnel files in any phase of a disciplinary or probationary action.

**Section 16.3.**      **Personnel Transactions:** Any action concerning an employee's status of employment shall be processed on forms as prescribed by the Personnel Director. Each department head shall complete such forms according to his/her recommendation. Such status shall become effective on the date specified by the City Manager. All employees shall be notified in writing of any personnel action taken during their status of employment.

**Section 16.4.**      **Notification of Address/Telephone:** Employees shall notify the Personnel Director of any change of address and/or telephone number within five (5) work days of such change by written notice to the Human Resources/Risk Management Division.

**Section 16.5.**      **Resignation:** An employee wishing to leave the Competitive Service in good standing shall file with the appointing authority a written resignation stating the effective date and reasons for leaving at least two weeks (eighty work hours), including any City holidays but excluding other paid time off, before leaving the service, unless such notice period or restriction on use of paid time off is waived in writing by the City Manager at his or her sole discretion. Resignation in good standing requires the aforementioned minimum two-week notice period in order to allow an orderly transition of duties and responsibilities and completion of assignments. Failure to give notice as required by this rule shall be cause for denying future employment by the City and will disqualify the employee for reinstatement.