



PERSONNEL RULES AND REGULATIONS

**CITY OF LINCOLN
PERSONNEL RULES
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CITY OF LINCOLN PERSONNEL RULES

1 General Provisions

1.1 Purpose

The purpose of these Personnel Rules is to establish a system of personnel administration in order to provide for effective personnel management practices, to promote fairness and equality in the recruitment, appointment, retention, promotion, and termination of employees on the basis of merit and fitness, and in order to provide the public with the highest quality of public service.

1.2 Conflicts with Other Policies

These Personnel Rules will not create any additional or parallel rights which already exist in a Memorandum of Understanding (MOU) and in no event will be considered to create an additional or supplemental appeal right from a personnel decision.

Whenever these Personnel Rules contain a provision relating to a subject matter that is also referred to in a MOU or Employment Agreement, then the provisions of said MOU or Employment Agreement shall prevail.

Whenever there is a conflict between Personnel Rules and the City of Lincoln Municipal Code, then the Municipal Code shall prevail.

This Priority Preference Table is for informational purposes only.

(Priorities are Listed from Highest to Lowest)

1. MOU or Employment Agreement
2. Municipal Code
3. Personnel Rules
4. City Administrative Policies
5. Department Policies and Procedures

1.3 Notice

These Personnel Rules, any changes thereto, and any department directives or regulations related to these rules, regulations, policies and procedures shall be made available to all City employees.

1.4 Scope

These Personnel Rules shall apply to all offices, positions and employees of the City of Lincoln except:

1. Members of appointive boards, commissions, and committees
2. Independent contractors engaged under contract to supply expert, professional, technical or any other services except as otherwise provided in these Personnel Rules
3. Voluntary personnel

1.5 Administration

The City Manager is designated as the Personnel Officer (Lincoln Municipal Code Section 2.16.050(B) and shall administer the City personnel system and may delegate any of the powers and duties to any other officer or employee of the City to:

1. Act as the appointing authority for the City;
2. Administer all of the provisions of the personnel system and of the Personnel Rules not specifically reserved to the City Council;
3. Prepare and recommend to the City Council Personnel Rules and revisions and amendments to such rules;
4. Prepare a position classification plan, including class specifications, and revisions of the plan;
5. Have the authority to discipline employees in accordance with the Personnel Rules of the City and any MOU;
6. Provide for the publishing or posting of notices of tests for positions in the competitive service; the receiving of applications therefore; the conducting and grading of tests; the certification of a list of all persons eligible for appointment to the appropriate position in the competitive service; and performing any other duty that may be required to administer the personnel system.

1.6 Relationship to Other Administrative Procedures

The City Manager and department heads may develop and implement administrative and operating procedures not in conflict with these Personnel Rules.

1.7 Severability

If any provisions of these Personnel Rules are held invalid, then the remainder of these rules, regulations, policies and procedures and their application shall not be affected.

1.8 Interpretation

The City Manager and the Human Resources Manager are responsible for the interpretation of these Personnel Rules.

1.9 Amendments

The City Manager is authorized to amend these Personnel Rules, subject to the approval of the City Council.

2 Definition of Terms

2.1 Advancement

A salary increase within the limits of a pay range established for a class.

2.2 Allocation

The assignment of an individual position to an appropriate class on the basis of the type, difficulty and responsibilities of the work assigned. As used in these Personnel Rules, employees are appointed to positions; positions are allocated to classes.

2.3 Anniversary Date

The month and day of an employee's appointment.

2.4 Appointing Authority

The City Manager, or by delegation, his/her designee(s). The City Council is the appointing authority for the City Attorney and the City Manager.

2.5 Appointment

The employment of a person in a position. Types of appointment are regular or temporary and shall be either full-time or part-time. Except as provided in an Employment Agreement or a Memorandum of Understanding (MOU), all appointments are at-will appointments which may be terminated by the City or the employee at anytime with or without cause and with or without notice. Only the City Manager or City Council may enter into an Employment Agreement or a MOU.

2.5.1 At-Will Appointment

Employment of the City Manager and/or City Attorney may be terminated with or without cause and with or without notice at any time by the employee or the City Council; subject, however, to the terms of the Employment Agreement, if any. Nothing in these Personnel Rules or in any document or statement shall limit the right to terminate employment at will.

Except as provided in the Lincoln Municipal Code, or an Employment Agreement or a MOU, employment of all other City employees may be terminated with or without cause and with or without notice at any time by the employee or the City Manager. Nothing in these Personnel Rules or in any document or statement shall limit the right to terminate employment at-will.

2.5.2 Regular Position Appointment

Appointment to a position which works an ongoing schedule and for which the City Council has authorized the providing of health and welfare benefits.

2.5.3 Full-Time Position

Appointment to a position which works forty (40) hours per work week (fifty-six [56] hours per work week for fire safety employees).

2.5.4 Part-Time Position

Appointment to a position which works less than full-time.

2.5.5 Temporary Position Appointment

Appointment to a position which is not a regular position appointment. Temporary position appointments are limited to nine hundred ninety-nine (999) or fewer paid hours during any fiscal year. Also referred to as "Seasonal Position Appointment."

A "seasonal position" is a temporary position which is anticipated to work, or which actually is authorized to work in more than one continuous fiscal year.

2.5.6 Provisional Position Appointment

Appointment on an interim basis to a regular position without any health and welfare benefits and limited to nine hundred ninety-nine (999) or fewer paid hours during any fiscal or calendar year.

2.6 City

The City of Lincoln; to also include the Lincoln Redevelopment Agency, and any other legal entity for in which the City Council of the City of Lincoln serves as the majority membership of the governing board, unless specifically excluded in these Personnel Rules.

2.7 City Manager

The City Manager of the City of Lincoln, or his/her designee, may also be referred to as the Personnel Officer or the Employee Relations Officer.

2.8 Class or Classification

A group of positions sufficiently similar in duties, responsibilities, authority, and qualifications to permit combining them under a single title.

2.9 Class Series

The placement of two or more classifications within a group where the classifications within the series perform similar type of job duties and are primarily distinguished by the level of responsibility and the complexity of the assigned duties.

2.10 Class Specifications

A written description of a class of work, including an appropriate class title, which includes the level of the work assigned, and specifies desirable knowledge, skill and ability standards for positions assigned to the class.

2.11 Competitive Service

All employees within the City services shall be employed on a continuous basis and following the probationary period defined within the Personnel Rules shall be disciplined only for cause, except for the following, who shall serve at the pleasure of the appointing authority:

1. The City Manager;
2. The City Attorney and any assistant or deputy city attorneys;
3. The Chief of Police, except as further described in these rules;
4. Department heads who are hired after the effective date of these rules;
5. Employees who enter into an Employment Agreement that provides for discipline without cause;
6. All council-appointed city officers;
7. 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;
8. Employees, other than those listed elsewhere in this section, who are not regularly employed in regular positions. "Regularly employed in permanent positions" means an employee hired for an indefinite term into a budgeted position, who is regularly scheduled to work no less than one thousand (1000) hours per year, and has successfully completed the probationary period and has been retained as provided in the Personnel Rules;
9. Employees not hired as provided for in the Personnel Rules and for whom the appointing authority compensates hourly, and anticipates employment for a definite time period.

2.12 Days

Means calendar days unless otherwise stated.

2.13 Demotion

The voluntary or involuntary reduction of an employee to a position in another class having a lower maximum salary rate.

2.14 Dismissal

The involuntary termination of an employee.

2.15 Disciplinary Action

Disciplinary action is a punitive action against an employee, which may include a written reprimand, suspension, demotion, reduction in pay, or a dismissal of an employee. The demotion or rejection of an employee during the probationary period does not constitute discipline or a disciplinary action.

2.16 Domestic Partnership

A domestic partnership shall exist between two persons regardless of their gender and an individual who satisfies the following conditions and intends to do so indefinitely shall be considered the “domestic partner” of the other individual: a) the two parties reside together and intend to reside together indefinitely and share the common necessities of life; b) the two parties are each not married, eighteen years or older, not related by blood closer than would bar marriage in the State of California, and mentally competent to consent to contract; and c) the two parties declare that they are each other’s sole domestic partner and they are responsible for their common welfare.

2.17 Elected Officials

The elected City Clerk, elected City Treasurer, and the elected City Council Members.

2.18 Eligible

A person whose name is on an employment list.

2.19 Employee

A person occupying a position.

2.20 Employee Relations Officer

The City Manager.

2.21 Employment Agreement

A written agreement between the City and a specific individual, who is not a member of a recognized bargaining unit, which sets forth the terms and conditions of employment for that individual.

2.22 Employment Eligibility List

A list of qualified candidates.

2.22.1 Open Employment List

A list of names of persons who have taken an open-competitive examination for a class in the competitive service and have qualified for the position.

2.22.2 Promotional Employment List

A list of names of persons who have taken a promotional examination for a class in the competitive service and have qualified for the position.

2.23 Equal Employment Opportunity

The City is an equal opportunity employer as defined by State and federal law. The policies pertaining to equal employment opportunity are found in the Policy and Procedures Manual.

2.24 Examination

A recruitment for employment, including the testing, selection and evaluation processes of an individual for a prospective position.

2.24.1 Open-Competitive Examination

A recruitment for a particular class which is open to all persons.

2.24.2 Promotional Examination

A recruitment for a particular class which is open only to existing regular employees.

2.25 Gender and Number

The masculine pronoun, whenever used herein, shall include the female pronoun and the singular shall include the plural, except where the content requires otherwise.

2.26 Human Resources Manager

A management position assigned by the City Manager to manage the day-to-day operations of these Personnel Rules and other duties as specified in the class description. Also includes the Human Resources Manager's designee.

2.27 Layoff

The non-disciplinary separation of an employee, or assignment of such employee to a lower paying position, because of a material change in organization, or shortage of work or funds, or for which the City Council defines as serving the public interest.

2.28 Leave

Authorized absence, with or without pay, by an employee from work.

2.29 Overtime

For employees, excluding fire safety employees, designated by the City Manager as Fair Labor Standards Act (FLSA) non-exempt, hours paid in excess of forty (40) worked hours during the work week. For fire safety employees, hours paid in excess of fifty-six (56) paid hours during a twenty-seven (27) day cycle. For employees designated by the City Manager as FLSA exempt, there is no overtime.

2.30 Personnel Action

Any action taken with reference to appointment, compensation, classification, disciplinary action, or termination.

2.31 Personnel Ordinance

Lincoln Municipal Code Section 2.40, which creates a personnel system for the City and which the City Council from time to time may amend.

2.32 Policy and Procedures Manual

The manual initiated and periodically updated by the City Manager and as adopted by the City Council; which sets forth various policies of the City pertaining to employment and the procedures to be followed in complying with those policies (including, where appropriate, standard forms to be used). The policies include, but are not limited to, the City's implementation of various State and/or federal laws (e.g, family medical leave).

2.33 Position

A group of duties and responsibilities requiring employment of one person.

2.34 Probationary Period

A trial period during which an employee is required to demonstrate his/her fitness to perform the actual duties required of a specific position. The probationary period is an integral part of the examination of an individual.

2.35 Promotion

The advancement of an employee from a position in one class to an existing vacant position in another class having a higher maximum rate of pay. Movement within a class series is not considered to be a promotion.

2.36 Qualified Candidate

A person who has been certified by the Human Resources Manager for consideration for appointment.

2.37 Reclassification

The reassignment of a position by raising it to a higher class or reducing it to a lower class as measured by the change in the kind, difficulty, and responsibility of the work performed. Movement within a class series is considered to be a reclassification.

2.38 Reemployment

The reappointment, without examination, of a former employee who has resigned in good standing, to the last position the employee previously held.

2.39 Reinstatement

The reappointment, without examination, of a former employee who has previously been laid off, or demoted in lieu of being laid off, or returning from an approved leave of absence, and whose name appears on a reinstatement list.

2.40 Retirement

2.40.1 Service Retirement

The voluntary separation of a regular employee after becoming eligible for retirement benefits.

2.40.2 Disability Retirement

The separation of a regular employee due to physical or mental inability to perform the duties of the position. Non-industrial disability means the disability need not be work related. Industrial disability means the disabling injury or illness is work-related.

2.41 Salary Range

The minimum, maximum, and intermediate salary steps that are assigned to a class and the positions within a class.

2.42 Safety Position

A position as defined within in the Public Employment Retirement Law (PERL) and/or California Public Employees' Retirement System (PERS) regulations.

2.43 Service

A period that includes all paid periods of City employment.

2.44 Supervisor

An employee with the responsibility for organizing, directing, and evaluating the work of other employees.

2.45 Suspension

The temporary loss of pay and loss of work, for a limited period of time, of an employee for disciplinary purposes.

2.46 Termination

The separation of an employee's employment with the City, either voluntarily or involuntarily.

2.47 Time Sheet

The document on which an employee's actual hours worked and absences from work are recorded.

2.48 Transfer

A change of an employee from one position to another position in the same class or in a comparable class.

2.49 Vacancy

An authorized position that is not occupied.

3 Classification Plan

3.1 Purpose

The purpose of the classification plan is to provide a complete inventory of all classes, to provide accurate class specifications, and to ensure that each position is allocated to the appropriate class.

3.2 Preparation of Plan

The Human Resources Manager shall ascertain and record the duties and responsibilities of all positions in the competitive service and shall recommend to the City Manager a class for such positions. The classification plan shall consist of classes of positions defined by class specifications, including the title. The classification plan shall be so developed and maintained that all positions substantially similar with respect to duties, responsibilities, authority, and character of work are included within the same class, and that the same salary range may be made to apply to all positions in the same class.

3.3 Approval, Amendment and Revision of Plan

Any proposed amendment or revision to the classification plan shall be initiated by or submitted to the Human Resources Manager who shall provide a recommendation to the City Manager. The classification plan shall be approved, and may be amended from time to time, by the City Manager.

3.4 Allocation of Positions

The City Council shall allocate every position to one of the classes established by the classification plan.

3.5 Reclassification

Positions, the assigned duties of which have been materially changed by the City so as to necessitate reclassification, whether new or already created, shall be allocated by the City Council to a more appropriate class.

Positions within a class series may be allocated by the City Manager to the appropriate class.

This Summary of Approvals table is for informational purposes only.

1.	Approve or amend job descriptions.	City Manager
2.	Assign positions to a class.	City Council
3.	Move a position within a class series.	City Manager
4.	Move a position to another class.	City Council
5.	Assign a salary range to a class.	City Council

4 Recruitment

4.1 Applications and Applicants

All examinations for classes shall be publicized for a minimum of one (1) week by such methods as the Human Resources Manager deems appropriate. The announcements shall specify the title and pay of the class for which the examination is announced, the nature of the work performed, required training experience, the manner of making application, and other pertinent information.

4.2 Application Forms

The application form may require such application information as deemed necessary by the Human Resources Manager and consistent with applicable State and Federal laws.

4.3 Disqualification

Any application may be rejected which is incomplete, was not submitted by the specified filing date, that indicates on its face that the applicant does not possess the qualifications for the position, which contains false statements, or if the applicant does not satisfactorily complete any element of the selection process. When an application is rejected, the applicant shall be notified by mail of the rejection. At the discretion of the Human Resources Manager an applicant may be asked to correct a deficient application provided, however, that all filing deadlines are met by the applicant.

4.4 Selection Process

The selection techniques used in the examination process shall be impartial and relate to those subjects which, in the opinion of the Human Resources Manager, measure the relative capabilities of the persons examined to execute the duties and responsibilities of the class to which they seek appointment. Examinations shall consist of selection techniques which will test the qualifications of candidates such as, but not necessarily limited to, achievement and aptitude tests, review of work history and/or education, written tests, personal interviews, performance tests, physical ability tests, skill tests, evaluation of daily work performance, work samples, medical tests, psychological tests, successful completion of prescribed training, or any combination of these or other tests. All applicants meeting the minimum qualifications are not guaranteed advancement through any portion or phase of the selection process.

5 Anti-Nepotism Policy

5.1 Definitions

For purposes of this policy, "relative" shall mean spouse or domestic partner, son, daughter, brother, sister, father, mother, grandchild, or grandparent, either by blood or present marriage. Hiring, reemployment, reinstatement, promotion, transfer, or other job assignment, which will result in relatives of employees working in the same department, shall be permitted, except as provided below.

5.2 City Rights Under the Anti-Nepotism Policy

Notwithstanding the above provisions, the City retains the right:

1. To refuse to place one relative under or over the direct supervision of the other relative where such has the potential for creating adverse impact of supervision, safety, security, or morale.
2. To refuse to place both relatives in the same department, division, or facility where such has the potential for creating adverse impact on supervision, safety, security, or morale, or involves potential conflicts of interest, including, but not limited to, situations where both employees would have the same immediate supervisor, or where the employees would have job duties requiring performance of shared duties on the same or related work assignments.

5.3 Marriage of Employees

If employees marry or become domestic partners, or an employment situation listed in Section 5.2 is created by any other means, the City shall make reasonable efforts to assign job duties so as to minimize problems of supervision, safety, security, morale, or potential conflicts of interest. Should reasonable efforts to assign job duties to minimize such problems fail, one of the following must occur:

1. The City Manager may attempt to arrange a transfer to a similar position in another department, division, or facility for one of the employees, usually the one in the most junior classification. While the wishes of the involved parties will be considered, the controlling factor in determining which relative shall be transferred shall be the positive operation, efficiency, and needs of the City. There can be no guarantee that the position to which one person is transferred will be within the same classification or at the same salary level.
2. Employees may continue to work in the same department when so requested by the appointing authority and the request is approved by the City Manager.

3. If the City Manager does not approve one of the actions in 5.3.1 or 5.3.2 above, one of the employees must be separated from City employment. If one of the employees does not voluntarily resign, the employee with the most City service will be retained and the other employee will be dismissed from employment.

5.4 No Appeal

Neither the transfer of an employee nor the separation from service of an employee nor any other decision implemented pursuant to this policy shall be subject to any administrative appeal or the grievance procedure.

5.5 Relatives of Elected Officials

No person who is the spouse or domestic partner, son, daughter, brother, sister, father, mother, grandchild, or grandparent, either by blood or present marriage, of a City elected official shall be eligible for regular position appointment.

Relatives of elected officials currently employed as of the date this Personnel Rule was originally adopted may remain employed with the City and are not subject to the automatic exclusions of employment. However, such persons are subject to all other provisions of this chapter.

6 Temporary Employee Preference

6.1 Policy Statement

The City wishes to acknowledge and provide encouragement to qualified and competent temporary employees who decide to compete for regular position appointments.

6.2 Definition of Eligible Temporary Employee

For the purposes of this personnel rule, "eligible temporary employee" means any temporary employee as defined within these Personnel Rules who has remained in continuous employment and worked a minimum of seven hundred (700) hours during the preceding twelve (12) months. "Continuous employment" means that the temporary employee has not had a separation of employment and is presently employed by City.

6.3 Temporary Employee Preference

6.3.1 Eligibility List by Rank: Eligible temporary employees who obtain a passing score and are placed on an employment eligibility list will receive an additional five (5) points added to their score. The temporary employee shall be placed on the employment eligibility list at the appropriate ranking after the additional points are added.

6.3.2 Pass/Fail or Block Eligibility List: Eligible temporary employees who obtain a passing score and are placed on an employment eligibility list will receive a temporary employee's preference notation and such individuals shall be considered prior to the appointing authority's consideration of other equally ranked eligibles except as may be provided within these Personnel Rules.

6.4 Waiver of Employment Test

The Human Resources Manager may, at his/her discretion, waive an employment test of a temporary employee when the temporary employee's immediate supervisor and department head have verified, in a form and manner specified by the Human Resources Manager, that the temporary employee meets the requirements of the position.

7 Veterans' Preference

7.1 Policy Statement

In accordance with Government Code Section 50088(b), preference in examinations shall be given to veterans over the other identically qualified applicants.

7.2 Definition of Veteran

For the purposes of this personnel rule, "veteran" means any person who has served on active duty for a period of not less than six (6) continuous months in the armed forces of the United States.

7.3 Veteran's Points

7.3.1 Eligibility List by Rank: Eligible veterans who obtain a passing score and are placed on an employment eligibility list will receive an additional five (5) points added to his/her score. The veteran shall be placed on the employment eligibility list at the appropriate ranking after the additional points are added.

7.3.2 Pass/Fail or Block Eligibility List: Eligible veterans who obtain a passing score and are placed on an employment eligibility list will receive a veterans' preference notation and such individuals shall be considered prior to the appointing authority's consideration of other equally ranked eligibles.

Those eligibles who have received veteran's preference points shall be considered prior to those who have received any other preference on the same type of employment eligibility list (e.g., veteran's preference will be considered before temporary employee preference).

7.4 Notice of Veteran Status and Request for Preference

Any individual applicant wishing to receive veterans' preference for any particular examination must submit proof of his/her honorable service by submitting Federal form DD-214 along with the original employment application.

7.5 Currently in the Military Service

Candidates who are in the military service at the time of an examination, and who are discharged during the duration of the eligibility list, may apply for veteran's preference points upon discharge. If all the eligibility criteria and documentation is in accordance with this chapter, then the candidate's rank on the employment list will be adjusted accordingly.

7.6 Those not Eligible for Veteran's Preference Points

Veteran's Points will not be given to those candidates who:

1. Are competing in a promotional examination; or
2. Are retired from the armed forces at or above the rank of Major, or its equivalent; or
3. Were discharged more than five years prior to the final filing date stated on the job announcement; except for those veterans who are declared by the United States Veterans Administration to have a service-connected disability of 30% or more at the time of the examination, if otherwise qualified, shall not be restricted to the five-year limitation; or
4. Have enlisted in the Reserve or National Guard, but who have not served on active military duty. Unless otherwise specifically specified by State or federal law, "active military duty" does not include annual training and/or weekend duty.

8 Employment Eligibility Lists

8.1 Employment Lists

As soon as possible after the completion of an examination, the Human Resources Manager shall prepare an employment eligibility list consisting of the names of candidates who qualified in the selection process. Successive employment lists for a single class are permitted. When successive employment lists exist, an eligible shall be considered based on the date he/she was placed on an employment eligibility list.

8.2 Duration of Lists

Employment lists shall remain in effect for six months for non-safety positions and twelve months for safety positions, unless exhausted sooner or abolished by the Human Resources Manager. The Human Resources Manager may, at his/her discretion, extend the duration of an employment list, in two to six month increments, such that the total duration of an employment list does not exceed twenty-four (24) months.

8.3 Consideration of Applicants

Any applicant on the employment list may be considered for appointment, and such consideration of applicants shall be termed "rule of the list" such that any employee on the list may be appointed. However, no person on an employment list shall be considered for appointment unless all other eligibles with a higher employment list ranking have been considered. Within the meaning of this section "considered" means that the appointing authority or designee has conducted an interview.

8.4 Precedence

The names of eligibles shall be certified in accordance with the following priority:

1. Reinstatement List
2. Transfer List
3. Promotional and Open-Competitive Lists
4. Reemployment List

8.5 Removal of Names from List

The name of any person appearing on an employment list shall be removed by the Human Resources Manager if the person: 1) requests in writing that his/her name be removed; 2) fails to respond to a notice mailed to the last designated address; 3) no longer meets the eligibility requirements for appointment; 4) is subsequently hired

by the City; or 5) if, following an interview, the appointing authority indicates he/she no longer wishes to consider the qualified candidate for employment.

8.6 No Guarantee of Employment

No person who appears on an eligibility list is guaranteed employment with the City. The City Manager, Human Resources Manager, and/or appointing authority may determine not to appoint any person whose name appears on an eligibility list.

9 Medical Standards

9.1 Post-Offer, Preemployment Examinations

A post-offer, preemployment medical examination and/or drug screen may be required for applicants in select classes. A preemployment physical shall include a review of the individual's medical history and the prospective employee shall be evaluated in accordance with the standards set forth in the Americans with Disabilities Act, or other applicable law, to determine whether the employee can perform the essential duties of the position, with or without accommodation.

No appointment is official the prospective employee is determined medically qualified to perform the essential functions of the position. Only under unusually extenuating circumstances will a new hire be allowed to report to work prior to successful completion and receipt by the City of the medical examination results.

9.2 Fitness for Duty Examinations

An employee may be required to undergo a physical and/or mental evaluation (i.e., a medical examination) to determine his/her capacity to perform the duties of his/her position. Whenever there is reasonable suspicion that an employee is physically or mentally unfit to perform the duties of his/her position, may subject others to infection, may subject the employee or third persons to the risk of injury, or there is a reasonable suspicion that the employee has unlawfully used drugs (either lawfully prescribed or otherwise) or habitually uses alcohol, an employee may be required to submit to an examination by a competent medical practitioner, including a drug and/or alcohol test.

9.3 After Absence

The City may require a medical examination and/or medical release before an employee may return to work following an absence of three (3) days or longer due to illness, injury, or surgery.

9.4 After Classification Change

A standard post-employment medical examination may be required before an employee may change to a classification with more rigorous physical standards.

10 Appointment

10.1 Appointing Authority

All appointments shall be made by the appointing authority. All vacancies shall be filled from an appropriate employment eligibility list, if available. In the absence of persons eligible for appointment in these ways, provisional appointments may be permitted.

10.2 Notice to Human Resources Manager

Whenever a vacancy is to be filled, the department head shall notify the Human Resources Manager. The Human Resources Manager shall advise the department head as to the availability of eligibles on employment eligibility lists for the class.

10.3 Appointment

In the absence of appropriate employment eligibility lists, a provisional appointment may be made by the appointing authority. An employment eligibility list shall be established within six (6) months of any position being filled by provisional appointment and;

1. a regular appointment shall be made from such lists;
2. In no event shall any person or persons individually or collectively work in any provisional appointment more than 999 hours in any fiscal or calendar year.

10.4 Emergency Appointment

To meet the requirements of an emergency condition that threatens life, property, or the general welfare of the City, the City Manager may employ such persons as may be needed for the period of the emergency, without regard to the regulations as to appointment in these Rules.

11 Compensation

11.1 Salary Plan

Salary ranges are set for each class by the City Council. No person may be paid less than the minimum, nor more than the maximum, of the salary range established for the class in which employed. No change in the salary range of a class may be made without City Council approval.

Advancement within the salary range is based on performance and requires the approval of the City Manager and shall be effective at the beginning of the next pay period. Employees are eligible for a salary range advancement after six (6) months following appointment/promotion and a determination of satisfactory service. Thereafter, an employee with satisfactory performance may advance within a salary range every twelve (12) months. The City Manager, with the recommendation of the Human Resources Manager, and based upon meritorious service may provide an employee a salary range advancement more frequently than every twelve (12) months or a salary range increase greater than one salary step.

11.2 Payroll Procedures

The payroll periods and payroll payment dates shall be established in an Administrative Policy.

These tables are for informational purposes only.

NON-SAFETY EMPLOYEES	
<u>UPON ORIGINAL APPOINTMENT:</u> <u>at 6 Months</u> * performance evaluation * salary increase consideration <u>at 12 Months</u> * probationary status evaluated * performance evaluation <u>at 18 Months & Every 12 Months Thereafter</u> * performance evaluation * salary increase consideration	<u>UPON PROMOTION:</u> <u>at 6 Months</u> * performance evaluation * probationary status evaluated * salary increase consideration <u>Every 12 Months Thereafter</u> * performance evaluation * salary increase consideration

SAFETY EMPLOYEES

UPON ORIGINAL APPOINTMENT:

at 6 Months

- * performance evaluation
- * salary increase consideration

at 18 Months

- * probationary status evaluated
- * performance evaluation
- * salary increase consideration

Every 12 Months thereafter

- * performance evaluation
- * salary increase consideration

UPON PROMOTION:

at 6 Months

- * performance evaluation
- * probationary status evaluated
- * salary increase consideration

Every 12 Months thereafter

- * performance evaluation
- * salary increase consideration

11.3 Salary Upon Appointment

An employee who is appointed may be placed at any step within the salary range.

11.4 Salary Upon Promotion

An employee who is promoted shall be placed at a step within the salary range that constitutes a minimum five percent (5%) increase over the pay received in the prior position. However, the employee shall receive not less than the minimum nor greater than the maximum established for the class to which promoted.

11.5 Salary Upon Transfer

An employee who transfers to another position shall have no change made in his/her salary or salary advancement consideration date.

11.6 Salary Upon Reclassification

When an employee's position is reclassified, the employee's salary shall be determined as follows:

1. If the position is reclassified to a class with a higher salary range than the previous class, the employee's salary shall be established in the same manner as if the employee had been promoted.
2. If the salary of the employee is the same or less than the maximum of the salary range of the new class, the salary of the employee shall not change.

3. If the salary of the employee is greater than the maximum of the range of the new class, the salary of the employee shall be designated as a "Y-Rate" and shall not change during continuous City service until the maximum of the salary range to which the class is assigned exceeds the "Y-Rate" salary of the employee.

11.7 Salary Upon Reinstatement

An employee reinstated shall receive the same salary step in the range of the class he/she previously held.

11.8 Salary Upon Reemployment

An employee reemployed shall, at the discretion of the City Manager, receive the same salary step in the range of the class he/she previously held.

12 Probationary Period

12.1 Objective of the Probationary Period

The probationary period shall be regarded as part of the selection process and shall be utilized for closely observing the employee's work, for securing the most effective adjustment of a new employee to his/her position, and for rejecting any probationary employee whose performance in the opinion of the City Manager and/or appointing authority does not meet the required standards of work.

12.2 Probationary Period, Original Appointment

All original appointments to a regular position, excluding at-will employees, shall be tentative and subject to a probationary period of twelve (12) months of active duty from the date of probationary appointment, except for the safety employee whose probationary period shall be eighteen (18) months of active duty. Days absent without pay during the probationary period shall extend the probationary period to result in a probationary period of active working duty for the time specified.

Employees who transfer to another position in the same classification shall not be required to complete a new probationary period in the new position, provided the employee has completed the probationary period in the former position at the time of transfer.

During the probationary period, the employee may be dismissed from City employment at any time by the City Manager and/or appointing authority without the right of appeal or grievance.

The probationary period may be extended by the appointing authority.

12.3 Promotional Probationary Period

All promotional appointments to a regular position, shall be tentative and subject to a probationary period of six (6) months of active duty from the date of promotion. Days absent without pay during the probationary period shall extend the probationary period to result in a probationary period of active working duty for the time specified.

During the probationary period, the employee may be dismissed from City employment at any time by the City Manager and/or appointing authority without the right of appeal or grievance.

An employee who has previously completed a requisite probationary period in his/her prior position and who is rejected during a subsequent probationary period for a promotional appointment shall be reinstated to the former position from which the employee was appointed. If the employee was dismissed for reasons other than

failure to successfully complete the probationary period, the employee shall not be entitled to such reinstatement rights.

12.4 Probation Period, Applying for Open Positions

A probationary employee may apply for another position only with the approval of the City Manager

13 Performance Evaluation

13.1 Policy and Purposes

It is the policy of the City that regular reports shall be made on all employees regarding efficiency, competency, conduct and merit. The responsibility shall be borne by the City Manager, the department heads, and their subordinate supervisors. It shall be the responsibility of the Human Resources Manager to provide and prescribe the forms and procedures to be used in such performance reports and to assist in the training of supervisory personnel, so that performance reporting will be carried out in a sound, effective and timely manner.

Performance evaluations are an important part of the City's personnel policies. They provide an objective, consistent, and fair way to gauge each employee's on-the-job effectiveness. The evaluation process should inform employees of their standing and communicate expected standards of performance. It is also used to discuss City and department goals, employee goals, work standards, areas where improvement is needed, career development potential, and possible opportunities.

13.2 Filing Schedule

Performance evaluation reports shall be rendered at least once annually for all regular employees and at six (6) month intervals for probationary employees. An employee may be rated at more frequent intervals at the discretion of the City Manager, the department head, or at the employee's own request. An employee who received an overall rating of anything less than "meets minimum requirements" shall be re-evaluated within six (6) months of receiving the original rating and then again at least six (6) months subsequent to that rating.

Performance evaluation reports of all probationary employees who are being recommended for appointment to a regular position, or whose probationary periods are being extended, shall be rendered prior to the conclusion or extension of the probationary period. The City Manager and/or Human Resources Manager may require more frequent performance evaluation reports of probationary employees. Nothing in this section shall preclude the City from ending the employment of a probationary period with or without cause and/or with or without notice.

13.3 Filing Procedures

The Human Resources Manager shall notify departments approximately one (1) month prior to the due date for the performance evaluation of an employee.

The immediate supervisor of the employee being evaluated is expected to conduct the performance evaluation using the form prescribed by the Human Resources Manager. Where an employee has worked under several supervisors, each supervisor should contribute to the evaluation. Whenever a supervisor is transferred

or leaves City employment, he/she shall if reasonably possible, prepare, prior to his/her last day as the supervisor, a preliminary evaluation of employees working under him/her.

Each performance evaluation shall be discussed with the employee. The employee shall sign the report as a means of acknowledging its content and shall have the opportunity to make his/her own comments. Such signature shall not necessarily mean the employee agrees in whole or in part with the contents of said report.

After the evaluation has been completed and signed, a copy shall be given to the employee. The original is to be filed with the Human Resources Department.

13.4 Less than Meets Minimum Requirements Ratings

1. Rating Intervals. An employee who receives an overall performance rating of "partially meets" or less shall be rated at a more frequent interval, as provided in these Personnel Rules & Regulations.
2. Promotional Examinations. An employee who receives an overall rating of partially meets or less shall not be eligible to participate in any promotional examinations until at least an overall "meets minimum requirements" rating has been established for at least two successive evaluation periods.
3. Salary Advancements. An employee who receives an overall rating of "partially meets" or less shall not be eligible for any salary step advancement until an overall rating of at least "meets minimum requirements" has been established in at least two successive evaluation periods.

13.5 Consideration for Promotion

A pattern of poor performance, such as an unsatisfactory performance appraisal during the preceding twelve (12) months, or disciplinary action of a one (1) day suspension or greater during the past six (6) months shall render an employee ineligible to compete for promotion.

In determining whether to promote an employee, his/her past performance evaluations shall be considered.

13.6 Appeal of Ratings

If an employee is dissatisfied with his/her rating or evaluation, such employee shall confer successively with his/her immediate supervisor and department head on the matter. If the dissatisfaction is not resolved at this level and if, in the employee's opinion, the prescribed rating procedures have not been followed or the rating does not correspond to the facts, such employee may file an appeal to the Human Resources Manager.

If the dissatisfaction remains unresolved and if, in the employee's opinion, the prescribed rating procedures have not been followed or the rating does not correspond to the facts, such employee may file an appeal to the City Manager. The decision of the City Manager shall be final and no other appeal shall be available. Performance ratings and evaluations shall not be subject to the grievance procedures.

14 Resignation

14.1 Notification

An employee wishing to leave the City's employment in good standing shall file with the employee's immediate supervisor, department head, or Human Resources Manager, at least fourteen (14) days before leaving employment, a written resignation stating the effective date of, and reason(s) for leaving. The resignation shall be promptly forwarded to the Human Resources Manager. Resignations shall become effective upon receipt by the City, without the necessity of any formal written acceptance. The resignation of an employee who fails to give notice shall be reported to the Human Resources Manager by the department head immediately.

14.2 Failure to Notify

Failure of an employee to provide proper notice shall be entered on the service record of an employee and may be cause for denying future employment with the City.

14.3 Failure to Report to Work

An employee who is absent from work without leave for three or more consecutively scheduled work days shall be deemed to have voluntarily and automatically resigned employment. An employee who is deemed to have automatically resigned shall be given the opportunity to appear before the City Manager to explain his/her absence before the resignation becomes final. The employee must submit their request to appear before the City Manager in writing within seven (7) days after the resignation becomes final.

An employee who is absent from work without leave for two or less consecutively scheduled work days shall be subject to discipline; provided however that if there are two such absences within any thirty day period, the employee shall be deemed to have voluntarily and automatically resigned employment, but shall be given the opportunity to appear before the City Manager, as provided above.

14.4 Use of Accrued Leaves

Vacation, sick leave, administrative leave, compensatory time off, holidays, or paid time off in lieu of overtime or other accrued leave may not be used to extend an employee's resignation date beyond the employee's last day of actual work unless approved by the City Manager.

15 Layoff

15.1 Layoff Policy

Whenever the City Manager and/or City Council determines it necessary to abolish any position of employment, or that there are insufficient financial resources to fund a position, the employee holding that position may be laid off, transferred, or demoted without disciplinary action and without the right of appeal.

15.2 Notification

A regular employee being laid off shall be given at least fourteen (14) days prior notice.

15.3 Employment Status

In each class, employees shall be laid off according to employment status in the following order: temporary, regular part-time, probationary full-time, and regular full-time. For purposes of this chapter, probationary status means the probationary period required upon the initial employment with the City leading to a regular position.

15.4 Vacancy and Demotion

Whenever there is a layoff, the City Manager shall first demote an employee (based upon seniority within a class at the City) to a regular position vacancy, if any, in a lower class for which the employee who is laid off is qualified. All persons so demoted shall have their names placed on a reinstatement list for a period of one year.

In order to retreat to a 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 City within seven (7) days of receipt of notice of layoff. An employee retreating to a lower class shall be placed on the salary step representing the least loss of pay.

For purposes of layoff, seniority shall be defined as an employee's tenure in a class. When an employee retreats to a lower class, seniority for that class shall include the tenure of all higher classes.

Seniority includes time accrued in regular full-time and regular part-time service. In this chapter, length of service for regular part-time employment is calculated on a pro-rata basis. Employment in a temporary position does not count in calculating seniority.

The City Manager after consultation with the department head, may authorize the retention of an employee, despite that employee's position on a seniority list, if the

employee is determined to have special skills or knowledge which are required for the effective operation of a critical municipal service.

15.5 Reinstatement List

The names of all regular and probationary employees laid off shall be placed on a reinstatement list, provided their performance has been satisfactory; the reinstatement list shall remain in effective for twelve (12) months, unless the reinstatement list has been terminated.

Reinstatement lists shall take precedence over all other employment lists except that employees on such lists shall not have the right to displace those currently employed.

Failure to promptly respond to and accept a reinstatement offer within seven (7) days of the mailing by the City of such offer shall result in removal from the reinstatement list.

Reinstatement will result in removal from the reinstatement list except when reinstatement to in a lower class, in which case the employee remains eligible for reinstatement to the former class.

15.6 Reinstatement

A former employee appointed from a reinstatement list shall have the following benefits restored:

1. Unused or unpaid sick leave that had accrued as of the date of the layoff.
2. Seniority at the time of layoff for vacation accrual, future reduction in force, and department purposes as defined within department operating procedures (e.g., work schedule preferences, vacation scheduling preferences).

15.7 Layoff of At-Will Employees

By definition, employment at-will may be terminated with or without cause and with or without notice at any time. Nothing in this chapter shall either require or preclude the City Manager from offering or precluding a displaced at-will employee to displace an employee in a lower class or in requiring or precluding the City Manager from placing the displaced at-will employee on a reinstatement list.

16 Transfer

No person shall be transferred to a position for which he/she does not possess the minimum qualifications. Upon notice to the Human Resources Manager, an employee may be transferred by the appointing authority at any time from one position to another position in the same or a comparable class. For transfer purposes, a comparable class is one with the same maximum salary.

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

The decision as to whether or not to transfer an employee shall be at the sole discretion of the appointing authority and is not subject to any grievance or appeal procedure.

17 Re-Employment

With the approval of the appointing authority, an employee appointed to a regular position who has completed at least twelve (12) months of continuous service and who has resigned in good standing may be reemployed in a vacant position in the same or comparable class. Reemployment must occur within six (6) months following resignation. No credit for former employment shall be granted in computing vacation, sick leave, or other benefits except on the specific recommendation of the appointing authority and the approval of the City Manager.

The decision as to whether or not to reemploy a former employee shall be at the sole discretion of the appointing authority and is not subject to any grievance or appeal procedure.

18 Service Retirement

18.1 Notification

An employee wishing to leave the City's employment in good standing shall file with the Human Resources Manager, at least fourteen (14) days before leaving employment, a written notice stating that the employee intends to retire. Retirement shall become effective upon receipt by the City, subject to the provisions and requirements of the Public Employees Retirement System.

18.2 Use of Accrued Leaves

Except as provided in an MOU or Employment Agreement, vacation, sick leave, administrative leave, compensatory time off, holiday, paid time off or other accrued leave may not be used to extend an employee's retirement date beyond the employee's last day of actual work, unless approved by the City Manager.

19 Disability Retirement or Separation for Non-Safety Employees

19.1 Application

The following procedures apply to:

1. Non-safety employees who are permanently disabled and who are eligible to retire for disability under contract provisions between the City and PERS.
2. Those employees who are ineligible to retire for disability under PERS but who are, nonetheless, permanently disabled as defined.

19.2 Definition and Determination

Permanent disability is defined as the inability of an employee to perform the essential duties of his/her job, with or without reasonable accommodation, because of an illness or injury that is expected to be permanent or of indefinite duration.

The City Manager shall review one or more reports from medical doctors which set forth the fact that an employee is disabled. If the City Manager concludes that an employee is disabled he will notify the Human Resources Manager.

The determination by the City Manager that an employee is disabled is not a disciplinary act and there is no right to an administrative appeal.

19.3 PERS disability retirement for eligible employees.

If the employee is eligible to retire for disability under PERS, the Human Resources Manager shall assist the disabled employee to apply for disability retirement from PERS. In the event the affected employee does not make such an application, the Human Resources Manager may do so on his/her behalf.

19.4 Separation from service of non-eligible employees.

If an employee is permanently disabled, but is ineligible for a PERS disability retirement, the employee shall be separated from City service.

A separation for City service on account of disability is not a disciplinary act and there is no right of an administrative appeal.

19.5 Right to use accrued leaves.

Except as provided in an MOU or Employment Agreement, vacation, sick leave, administrative leave, compensatory time off, holiday, paid time off or other accrued leave may not be used to extend an employee's retirement date beyond the employee's last day of actual work, unless approved by the City Manager. Use of sick leave shall be authorized only upon proper medical verification that the use of such leave complies with the rules pertaining to the use of sick leave.

19.6 Re-hire of employee retired or separated for disability.

An employee who is retired or separated on account of disability may apply for re-employment with the City if the medical condition causing the disability improves such that the employee may perform the essential functions of the job for which he/she is applying, with or without reasonable accommodation.

20 Disability Retirement for Safety Employees.

20.1 Application; Definition of Permanent Disability

This Section applies to safety employees as defined by PERS.

The definition of permanent disability for safety employees is as set forth in subsection 19.2.

20.2 Type of Disability.

A safety employee may be disabled due to industrial (job-related) causes or non-industrial causes.

20.3 Procedure.

The process of retiring a disabled employee is set forth in the Public Employees' Retirement Law (PERL). It is summarized as follows:

1. The employee, or the Human Resources Manager on behalf of the employee, may make application to PERS for a disability retirement.
2. PERS will require the City to make an initial determination within six months, as to a) whether disability exists, and b) if so, whether it is industrial.
3. The initial determination of disability is made by the City Manager. The City Manager is the person delegated by the City under Government Code § 21152(c) to make determinations regarding the disability of safety employees. The City Manager shall review all available medical and other evidence to make the initial determination.
4. If the City Manager determines there is a disability, and that the disability is or is not industrial, and the employee agrees with that determination, the City Manager shall so notify PERS and the employee shall be retired.
5. If the City Manager determines that a disability exists, but that it is non-industrial, the employee may request that the Workers' Compensation Appeals Board (WCAB) make a determination as to whether the disability is industrial. The determination of the WCAB shall be forwarded to the employee, the City Manager, and PERS.
6. If the City Manager determines that no disability exists, the employee may request a hearing before an Administrative Law Judge (ALJ) appointed by the

Office of Administrative Hearings, State of California for a determination that a disability exists. The hearing shall be conducted as provided by law. The determination of the ALJ shall be forwarded to the employee, the City Manager, and PERS. If the ALJ finds there is a disability, the City Manager shall then determine if it is or is not industrial as provided above.

7. The effective date of retirement for a disabled employee and the rights of a disabled employee to challenge in court any determination made regarding his disability shall be as set forth in the PERL.

20.4 Right to Use Accrued Leaves

Except as provided in an MOU or Employment Agreement, vacation, sick leave, administrative leave, compensatory time off, holiday, paid time off or other accrued leave may not be used to extend an employee's retirement date beyond the employee's last day of actual work, unless approved by the City Manager. Use of sick leave shall be authorized only upon proper medical verification that the use of such leave complies with the rules pertaining to the use of sick leave.

21 Discipline and Appeals Procedure

21.1 Purpose

The purpose of this chapter is to establish the types of actions for which an employee can be disciplined and the disciplinary measure that may be used.

21.2 Exclusive Remedy

The procedures set forth in this chapter shall be exclusive, and the failure of an employee to utilize the provisions herein shall constitute a waiver of any claim to relief.

21.3 Application

This chapter applies only to those employees in the competitive service who have successfully passed a probationary period. It does not apply to those not in the competitive service, including, but not limited to, an at-will employee, the City Manager, the City Attorney, a Deputy or Assistant City Attorney, a department head, any employee hired on a temporary, provisional, seasonal, or emergency basis, or any person working under an Employment Agreement, unless the provisions of this chapter are specifically incorporated into that agreement.

An employee not covered by this chapter may be disciplined without reference to it. Such an employee has no property interest in his or her employment, express or implied.

21.4 Grounds for Discipline

Discipline may be taken against an employee for "good cause." Good cause exists where any fact or set of facts, based upon relevant circumstances, may be reasonably relied upon in the exercise of discretion as a basis for disciplinary action. The following are set forth as examples only and shall not be construed as an exclusive list:

1. Fraud in securing employment.
2. Incompetence.
3. Inefficiency.
4. Neglect of duty.
5. Insubordination.
6. Dishonesty, including, but not limited to, the misstatement of any fact, or the failure to disclose any material fact.

7. Absence without leave.
8. Violation of the City's Drug and Alcohol Policy, including, but not limited to, working under the influence or stimulus of alcohol and/or illegal drugs.
9. Conviction of any felony, or conviction of a misdemeanor which is of such a nature as to adversely affect the employee's ability to perform the duties and responsibilities of his or her position. A plea of guilty, or a conviction following a plea of no contest (nolo contendere), is deemed to be a conviction with the meaning of this section.
10. Improper political activity as governed by the Federal Hatch Act and/or the California Government Code.
11. Refusal of an employee to take and subscribe any oath or affirmation which is required by law in connection with his or her employment.
12. Discourteous treatment of the public or other officers or employees, including, but not limited to, loud, profane, rude and/or obnoxious words or conduct.
13. Violation of any of the rules and regulations of the City, department rules, regulations, policies, procedures and general orders, or any knowing breach of confidentiality.
14. Failure to observe City safety regulations.
15. Use of sick leave for any purpose other than specially authorized, or abuse of sick leave by claims of non-existent or exaggerated illness or injury.
16. Theft or embezzlement.
17. Assault and/or battery of a fellow employee or member of the public.
18. Conduct unbecoming an employee in the public service, or conduct which brings discredit to the City, or any of its departments, offices, employees, elected officials, or officers.

21.5 Types of Discipline – Minor

1. Oral Warning: An oral admonition to an employee whose conduct or performance must be improved and which details the areas for improvement,

the degree of improvement required, and notice that failure to improve will result in more serious disciplinary action.

2. Written Reprimand: A formal written notice to an employee which summarizes previous related disciplinary action, if any, and which details a record of conduct or performance that is substantially below standards and which advises that continued conduct or performance at such levels may result in suspension, pay reduction, demotion or dismissal. At the time a written reprimand is used, the employee shall be counseled and given an opportunity to review the reprimand and sign it, or make comments thereon, before it is placed in his or her personnel file.

21.6 Appeal from Minor Discipline.

1. There is no appeal from an oral warning.
2. A written reprimand may be appealed to the City Manager within seven (7) business days after it is delivered to the employee. The City Manager shall hear such evidence from the employee and the person issuing the reprimand as is necessary to make an informed decision as to whether the reprimand is warranted.

The City Manager may uphold, modify, or expunge the written reprimand.

The decision of the City Manager shall be in writing and shall be made within a reasonable time after the appeal is filed, but not more than thirty (30) business days after the City Manager receives the appeal.

The decision of the City Manager is final.

21.7 Types of Discipline – Major

1. Suspension: A temporary removal of an employee from the service of the City without pay, for cases involving chronic or serious misconduct. A suspension of this type does not include suspension with pay (administrative leave) pending an investigation of alleged misconduct.
2. Pay Reduction: A reduction in pay of one or more pay steps within the employees existing classification.
3. Demotion: The removal of an employee from a position to one of lower classification. Monthly salary shall be reduced two steps or to the maximum step in the salary range of the new classification, which ever is lower.

4. Dismissal: The removal of an employee from the service of the City when it has been determined that the employee has been given every reasonable opportunity to reach the standards of conduct or performance required by the City and has clearly failed to do so, or has committed one or more offenses for which no other measure is appropriate.

21.8 Disciplinary Procedures for Major Discipline

1. Notice of Intent to Discipline: Prior to the imposition of discipline, a Notice of Intent to Discipline, signed by the employee's department head, supporting the discipline shall be served on the employee. Service of the Notice of Intent to Discipline shall be made at least five (5) calendar days before a hearing pursuant to subsection C is held to discuss the changes. The Notice shall include:
 - A. The proposed discipline.
 - B. The facts upon which the discipline is based.
 - C. The reasons for the discipline.
 - D. The date, time, and place of the hearing provided by subsection C.
 - E. Attachment of, or reference to, any written documents pertinent to the discipline.

2. Service of Notice: Service of the Notice of Intent to Discipline shall be made by:
 - A. Personally giving the employee a copy; or
 - B. If service under 1. is infeasible, by first class certified mail, return receipt requested, to the last known mailing address of the employee.

Service is deemed complete when either of the preceding steps is taken.

3. Informal Hearing Procedure (Skelly Hearing). The employee shall be given an opportunity at an informal, or "Skelly" hearing to show why the proposed major discipline should not be imposed prior to its imposition.
 - A. The hearing will be conducted by a responsible, disinterested, person designated by the City Manager. It shall include the employee, the employee's representative, if the employee so wishes, and others as directed by the person conducting the hearing. The hearing is not an evidentiary hearing. It shall be tape recorded or stenographically recorded.

- B. At the hearing the employee shall be given an opportunity, either orally, in writing, or both, to bring forward facts or circumstances which may cause the proposed discipline to be revised or dropped.
- C. After the hearing, the person conducting it will recommend to the employee's department head whether it is appropriate to proceed with the discipline, modify the discipline, reduce the level of discipline to a minor status, or drop the proposed discipline. The department head shall consider, but is not bound by, the recommendation(s).
- D. If the decision of the department head is to not impose the discipline, the employee will be so notified. If the decision is to reduce the level of discipline to a minor status, the reduced discipline will be imposed, with appropriate notice to the employee. If the decision is to proceed with the imposition of major discipline, whether as originally proposed or as modified, the employee will be served with a Notice of Discipline. Service shall be as set forth in subsection B. The Notice of Discipline will contain a synopsis of the informal hearing, the matters set forth in subsection A (by reference to the Notice of Intent to Discipline or otherwise) and notice of the right of appeal as provided by Section 21.9

21.9 Appeal from a Major Discipline

1. Right of Appeal; Time An employee who has been given major discipline may appeal. The appeal must be in writing. It must be filed with the City Manager within ten (10) business days after service on the employee of the Notice of Discipline. An evidentiary hearing shall be held on the appeal.
2. Hearing Before Administrative Law Judge The City Manager shall arrange for an appeal hearing before an Administrative Law Judge (ALJ) appointed by the Office of Administrative Hearings on the State of California to commence within sixty (60) calendar days. The appellant and the City Manager may agree in writing that the date of the hearing be extended for a specified period of time. The time in which to commence the hearing may be extended by the City Manager if an ALJ is unavailable to conduct the hearing or because of other extenuating circumstances.
3. Notice The City Manager shall provide at least seven (7) business days written notice of the date, time and place of hearing to the appellant and to the Department Head imposing the discipline. The hearing shall be closed to the public unless the appellant requests, in writing, an open hearing at the time the appeal is submitted.

4. Hearing Procedure To the extent possible and appropriate, hearings shall be informal and shall include the introduction of any evidence that the ALJ deems pertinent. Technical rules of evidence need not be followed. Any evidence, including hearsay, upon which reasonable persons may rely in the conduct of serious affairs, may be admitted; provided, however, that hearsay, standing alone, is insufficient to prove a fact or support a charge unless otherwise permitted under the Evidence Code. Witnesses shall be examined under oath. The proceedings shall be tape recorded and/or stenographically reported.
5. Attendance of Appellant at Hearing The appellant shall personally attend all sessions of the hearing, unless specifically excused by the ALJ for proper cause; provided, however, that if excused for cause, the appellant may, upon the request of the department head imposing discipline, be required by the ALJ to attend for the purpose of giving testimony, unless the appellant is physically unable to do so. Unexcused failure of an appellant to appear at a hearing shall be deemed a withdrawal of the appeal.
6. Decision of ALJ Within fifteen (15) business days after completion of a hearing, unless waived by the parties, or because of extenuating circumstances, the ALJ shall prepare a written decision on the appeal and serve it on the appellant and the Department Head imposing the discipline. The decision shall include a brief statement of the case, the ALJ's factual determinations, with a citation to the evidence relied upon, a statement of the ALJ's conclusions, and a recommendation that the discipline be upheld, rejected, or modified. The decision shall be forwarded to the City Manager.
7. Action by City Manager The City Manager shall review the decision of the ALJ and the record of the hearing before the ALJ, and shall accept, reject, or modify the ALJ's proposed decision. The City Manager's decision shall be in writing and shall be issued within sixty (60) calendar days after receiving the ALJ's decision, unless waived by the parties or because of extenuating circumstances. The City Manager's decision shall be final. A copy of the City Manager's decision shall be forwarded to the ALJ, the department head imposing the disciplines, and the appellant. It shall be included in the appellant's personnel file.
8. Judicial Review If the appellant is dissatisfied with the City Manager's decision and wishes to seek judicial review, the limitations period provided in Code of Civil Procedure Section 1094.6, or any successor statute, shall apply. The City Manager's written decision shall include notice to the appellant that

the time within which judicial review must be initiated is governed by Code of Civil Procedure Section 1094.6.

21.10 Subpoenas

Either the appellant or the Department Head imposing the discipline may apply for the issuance of subpoenas to compel the attendance of witnesses at the hearing before the ALJ as provided by law.

21.11 Administrative Leave Pending Investigation and/or Delivery of Notice of Discipline

An employee may be placed on administrative leave, with pay, while charges of misconduct are being investigated, or at any time prior to the completion of the Skelly hearing, when the employee's department head, the Human Resources Manager or the City Manager determines it to be in the best interests of the City.

Reasonable conditions may be placed on an employee who is on administrative leave, including, but not limited to, a requirement that the employee maintain telephone contact with the City during normal working hours and be able to report to work within a reasonable time.

21.12 Removal of Police Chief

The Police Chief may not be removed as chief without providing him or her a written notice of the reason or reasons for removal and the right to an administrative appeal. The notice shall be provided not less than five (5) days prior to the date of removal.

It shall be sufficient reason or reasons for the removal of the Police Chief that there is a change in administration or that there is an incompatibility of management styles between the Police Chief and the City Manager.

The right to notice and the right to appeal as set forth in this section does not create a property interest in the Police Chief. Consequently, the administrative appeal provided to the Police Chief is not an evidentiary hearing. The appeal shall be limited to the right of the Police Chief to appear before the City Council in open or closed session of the Council, as elected by the Police Chief, to provide to the City Council why he or she believes the removal is not warranted or to clear his or her name with respect to any reason or reasons provided for the removal.

22 Grievances

22.1 Grievance Definition

A grievance is any dispute which involves the claimed violation, the interpretation or application of these Personnel Rules, or department rules and regulations, resolutions, or ordinances. Disciplinary actions are not grievances. Performance evaluations are not subject to grievances. A grievant may be an employee, or any group of employees, or a represented bargaining unit.

22.2 Grievance Procedure

A grievance shall be processed in the following manner:

Step 1.

Within seven (7) days of the event or discovery of the event giving rise to the grievance, the grievant will discuss the grievance verbally with the grievant's immediate supervisor. For good and sufficient reason, the grievant may initiate the grievance at Step 2. The grievant will clearly state that a grievance is being initiated, and the parties will discuss the matter and attempt to resolve the grievance.

Step 2.

If the grievance is not resolved in Step 1, the grievance shall be reduced to writing and presented to the department head within fourteen (14) days of the event or discovery of the event giving rise to the grievance. The written grievance shall contain the following:

1. name of grievant(s)
2. class title(s)
3. department
4. mailing address(e's)
5. a clear statement of the nature of the grievance (citing applicable sections of rules, regulations, resolutions, ordinances or existing practices)
6. the date(s) on which the event(s) giving rise to the grievance occurred
7. a proposed solution to the grievance
8. the date of execution of the grievance form
9. the signature of the grievant(s)

10. the signature of the bargaining unit representative, if such a representative is representing the grievant(s)
11. the date of the discussion meeting in Step 1 and the name of the supervisor involved

The department head will investigate the grievance and confer with the grievant(s) in an attempt to resolve the grievance. The department head will issue his decision regarding the grievance in writing within seven (7) days of receipt of the written grievance.

Step 3.

If the grievance is not resolved by the department head's decision in Step 2, the grievant(s) may appeal the written grievance to the City Manager within seven (7) days of receipt of the department head's decision in Step 2. The City Manager will investigate the grievance, confer with persons affected and their representatives, if any, to the extent he/she deems necessary and render a decision within seven (7) days of receipt of the written decision. The City Manager's decision shall be final and binding.

22.3 General Conditions of Grievances

1. The Human Resources Manager will act as a central repository for all grievance records.
2. Any time limit may be extended only by mutual agreement in writing or by the City Manager where circumstances reasonably warrant extension.
3. An aggrieved employee may be represented by another individual at any stage of the proceedings at his request. Both employee and representative (if employed by City) will be entitled to attend proceedings without loss of compensation, should such proceeding conflict with employee's and/or representative's normal working hours.
4. Proposals to add to or change these Personnel Rules shall not be considered under this section, and no proposal to modify, amend, or terminate any MOU between the City and a collective bargaining unit may be considered under this section.
5. Failure by the grievant or grievant's representative to initiate or appeal a grievance within the prescribed time limits shall waive the right of the grievant, the grievant's representative, and the grievant's collective bargaining unit (if any) to initiate or appeal a grievance. In the case of an

appeal, the last answer to the grievance shall be deemed to be the resolution to the grievance. Failure of the City to respond to a grievance within the prescribed time limits shall permit the grieving party to automatically move the grievance to the next step.

23 Employee Conflict of Interest

23.1 Purpose

The purpose of this policy is to establish guidelines for ethical standards of conduct which shall govern City employees in the performance of City business and the duties of their respective jobs. This policy is intended to provide positive direction to City employees in order to prevent potential conflicts of interest.

This policy is not all-encompassing in its definition of conflict of interest. The “prudent person” theory can and will be applied: action deemed inappropriate by a reasonable person, whether specifically cited in this policy or not, will be subject to inquiry.

This policy is in addition to the City’s Conflict of Interest Codes (Resolution 93-25 or as amended from time to time).

23.2 Conflicts of Interest

No City employee shall engage in any act which is in conflict, or creates an appearance of unfairness or conflict with the performance of official duties. An employee shall be deemed to have a conflict if the employee:

1. Has any financial interest in any sale to the City of any goods or services when such financial interest was received with the employee’s prior knowledge that the City intended to purchase the property, goods, or services.
2. Solicits, accepts, or seeks a gift, gratuity, or favor from any person, firm, or corporation involved in an application, contract, or transaction which is or may be the subject of official action by the City.
 - A. Recognizing that personal friendships often precede and can evolve from official contact between employees and persons engaged in business with the City, reasonable exceptions to this section are permitted for those occasions which are social in nature and are not predicated on the employee’s ability to influence, directly or indirectly, any matter before the City.
 - B. The employee will be guided in interpretation of this section by the distinction between a gift, gratuity, or favor given or received which has significant monetary value and is offered or accepted in expectation of preferential treatment, and expression of courtesy. Examples of acceptable courtesies include: a meal or social event; exchanges of floral offerings or gifts of food to commemorate events

such as illness, death, birth, holidays, promotions; a sample promotional gift of nominal value (nominal value shall be as defined within the City's Conflict of Interest Codes.)

3. Except for courtesies as provided in item "2b" above, an employee either directly or indirectly, gives, receives, or agrees to receive any compensation, gift, reward, commission or gratuity from any source except the City for any matter directly connected with or related to his/her official services as such employee with this City.
4. Participates in his capacity as a City employee in the issuing of a purchase order or contract in which he/she has a private pecuniary interest, direct or indirect, or performs in regard to such contract some function requiring the exercise of discretion on behalf of the City.
5. Engages in, accepts employment from, or renders services for a private interest for any compensation or consideration having monetary value when such employment or service is incompatible with the proper discharge of official duties or would tend to impair independence of judgment or action in performance of official duties, or give the appearance of the above. An employee should not make a unilateral decision, if there is any doubt about his/her private employment. The City Manager should be consulted.
6. Discloses or uses with or without authorization confidential information concerning property or affairs of the City to advance a private interest with respect to any contract or transaction which is or may be the subject of official action of the City.
7. Has a financial interest or personal interest in any legislation coming before the City Council and participates in discussion with or gives an official opinion to the City Council unless the employee discloses on the record of the Council the nature and extent of such interest.
8. Fails to comply with the provisions of the Political Reform Act, as regulated by the Fair Political Practices Commission, or any other state or federal laws governing conflict of interest matters.

The City Manager and his designee(s) are permitted to accept a gift, gratuity or favor on behalf of the City and may distribute such gifts, gratuities and favors as he/she deems appropriate to City employees in accordance with Fair Political Practices Commission regulations. (Examples may include sporting events tickets or cultural events tickets.)

23.3 Use of Public Property

No employee of the City shall request, use, or permit the use of City-owned vehicles, clothing, equipment, materials, or other property for unauthorized personal convenience, for profit, for private use, or as part of secondary employment. Use of such City property is to be restricted to such services as are available to the City generally and for the conduct of official City business.

Authorized personal uses include taking an assigned City vehicle to lunch on workdays as needed, use of a City copy machine at cost, stopping to run personal errands when the destination point is in conjunction with official or authorized business, and other nominal personal uses.

23.4 Political Activities

1. No employee may use City time or property in any manner to promote any political issue or candidate, or to solicit funds for any political purpose or to influence the outcome of any election.
2. No employee shall be eligible for appointment or election to any public office (including appointment to a City Board, Commission or Committee) when the holding of such office or position would be incompatible or would substantially interfere with the discharge of official duties.

23.5 Secondary Employment

Secondary employment is defined to mean any employment, activity or enterprise outside of an employee's normal City working hours wherein the employee is compensated for specific hours or duties on a regular basis. Outside employment does not include sporadic employment or occasional employment unless the employer requires the employee to perform work related to his/her position with the City or utilize any City owned/controlled facilities, equipment, information, records, supplies, and/or uniforms.

Full-time employees are discouraged from accepting second jobs, whether self-employment or otherwise. All employees holding or considering second jobs must obtain permission from the City Manager, whose decision is final, in order to ensure that the job will not create a conflict of interest or interfere with the proper performance of their duties.

Prior approval for outside employment is initiated by the employee submittal of an application to the department head. The application, at a minimum, shall include: name of employer, enterprise or activity; nature of employment; number of hours by day, week, month, quarter as appropriate; and whether the outside employment will utilize any city owned/controlled facilities, equipment, information, records, supplies,

and/or uniforms, and whether the outside employer will provide workers' compensation and liability insurance during said outside employment.

Secondary employment may be grounds for discipline, up to and including dismissal, if:

1. secondary employment involves the employee's use of the City's owned/controlled facilities, equipment, information, records, supplies, and/or uniforms; or
2. secondary employment involves the employee's use of work time compensated for by the City; or
3. secondary employment involves the employee's receipt of money, or other consideration for performance of work which the employee would normally be required to perform in their regular course of work for the City; or
4. secondary employment requires the employee to do work which may later be subject, directly or indirectly, to the control, inspection, review, audit, or enforcement by any other employee or officer of the City; or
5. secondary employment would require such demands on the employee's time that their ability to perform their city work would be adversely impacted.

Any employee who fails to notify the City that he/she is engaged in secondary employment shall be subject to discipline, up to and including dismissal. Any employee who engages in secondary employment while on sick leave shall be subject to dismissal. Further, sick leave shall not be used if the sickness or injury resulted from an employee's outside employment.

23.6 Conflict of Interest Definitions

23.6.1 Interest

Interest is defined as any direct or indirect monetary or material benefit accruing to a City employee as a result of a contract or transaction which is or may be the subject of an official act or action by or with the City (except for such transactions which would confer similar benefits to all other persons and/or property similarly situated).

Interests include: a) interests in an employee's family, b) any business entity in which stock or legal beneficial ownership is in excess of one percent (1%) of the total stock, or legal ownership as controlled or owned directly or indirectly by the employee, c) interest in any business entity in which the City employee is an officer, director, or employee, d) interest in any person or business entity with whom a

contractual relationship exists with the employee; provided that a contractual obligation of less than \$500 or a commercially reasonable loan or purchase made in the course of ordinary business shall not be deemed to create a conflict of interest. Such interests as are prohibited under the Political Reform Act, or other state or federal regulations that prohibit financial conflicts of interest.

23.6.2 Immediate Family

Family includes spouse, domestic partner, child, parent, parent-in-law, brother, sister, grandparent, son-in-law, daughter-in-law, and grandchildren. Family also includes other persons residing in the employee's residence or are financially dependent upon the employee.

23.6.3 Contract

Contract shall include any contract or agreement, sale, lease, purchase, or purchase order.

23.7 Procedures

23.7.1 Interpretation

Interpretations of this policy shall be referred to the City Manager.

23.7.2 Investigation

The City Manager shall investigate, or cause to be investigated, all suspicions, allegations, and written complaints of unethical conduct.

Complaints or allegations that may be criminal in nature may be referred to an appropriate outside agency for investigation.

24 Leave of Absence Without Pay

24.1 Policy Statement

Except as provided by the Family Medical Leave Act and other applicable state or federal law, an employee shall not be entitled to a leave of absence as a matter of right, but upon request may be granted a leave of absence without pay in emergency cases or upon good and sufficient reason where such absence would not be contrary to the best interests of the City.

It shall not be the policy of the City to grant a leave of absence to an employee to accept employment with another employer; provided, however, that the employee may be assigned to another public agency for a period of time to be approved by the City Manager.

24.2 Authorized Leaves of Absence

Upon written request of an employee setting forth the reasons for the request, and upon the recommendation of the department head, the City Manager may grant an employee holding a regular full-time or regular part-time position appointment a leave of absence without pay. Approval for leaves of absences shall be in writing.

24.2.1 Status during Authorized Leaves of Absence

Authorized leaves of absence without pay shall not be construed as breaks in service. Rights accrued at the time leave is granted shall be retained by the employee. However, vacation credits, sick leave credits, holidays, health and welfare benefits, normal salary advancement, and other similar benefits shall not accrue to an employee during leave of absence without pay.

Benefits during leaves of absence for Family Medical Leave shall be as provided in Chapter 26.

24.3 Return from Authorized Leaves of Absence

Upon expiration of an authorized leave of absence, the employee shall be reinstated to the classification held at the time leave was granted. Such employee shall retain the same status and shall be placed at the same salary step, with the same accumulated time towards advancement to the next step as obtained at the time leave was granted.

24.3.1 Early Return from Authorized Leaves of Absence

An employee may request permission from the City Manager to return from an authorized leave of absence prior to expiration of such leave. Such a request may be approved, or denied, at the sole discretion of the City Manager.

24.3.2 Failure to Return from Authorized Leaves of Absence

Failure on the part of an employee to report back to work promptly upon the expiration of an authorized leave of absence shall be cause for dismissal.

25 Pregnancy Disability Leave

25.1 Eligibility and Leave Purposes

An employee who is disabled due to pregnancy, childbirth or related medical condition may request an unpaid pregnancy disability leave. There is no length of City service required before an employee disabled by pregnancy is entitled to a pregnancy disability leave.

An employee is “disabled” if, in the opinion of her health care provider, she is unable due to pregnancy to work at all, or is unable to perform any one or more of the essential functions of her job, or to perform these functions without undue risk to herself, the successful completion of her pregnancy, or to other persons. An employee is also considered to be “disabled” if she is suffering from severe morning sickness or needs to take time off for prenatal care.

25.2 Duration of Leave

Subject to the conditions of this policy, eligible employees may take a maximum of four (4) months of pregnancy disability leave as defined by law.

For employees who are also eligible for family and medical leave, the first twelve (12) weeks of pregnancy disability leave is considered family and medical leave in that:

1. To the extent that the employee receives health insurance from the City, the health insurance will continue to be provided by the City on the same terms, and conditions assuming the employee has not already taken the maximum amount of family and medical leave; and
2. Pregnancy disability leave counts against the amount of leave required to be provided under the Federal Family and Medical Leave Act, but not under the California Family Rights Act. As a result, the employee still may be eligible for an additional twelve (12) weeks of family and medical leave under the California Family Rights Act and the City’s family and medical leave policy at the conclusion of her pregnancy disability leave.

Leave may be taken intermittently or on a reduced work schedule if the employee’s health care provider determines that it is medically advisable for the employee to take such leave. Intermittent leave may also be taken for prenatal care appointment and for morning sickness.

25.3 Requirements Regarding the Use of Paid Leave

The employee must use any accrued sick leave during a pregnancy disability leave before any portion of the leave becomes unpaid leave. The employee may elect to use accrued vacation time in order to receive pay during the leave.

25.4 Notification Requirements

An employee requesting pregnancy disability leave must provide proper notification to the Human Resources Manager. If the leave is foreseeable, the employee must provide notice at least thirty (30) days before the leave is needed. If thirty (30) days advance notice is not practicable or the need for the leave is not foreseeable (due to, for example, a lack of knowledge of when leave will be required, a change in circumstances, or a medical emergency), notice must be given as soon as practicable. A failure to comply with these notification requirements may result in a denial or postponement of the requested leave until the employee complies with these requirements. However, if the need for a pregnancy disability leave results from an emergency or is otherwise unforeseeable, the leave will not be denied for failure to provide advance notice.

25.5 Certification by Health Care Provider

Employees must provide the Human Resources Manager with a certification issued by the employee's health care provider verifying the need for the leave, the date leave is to begin, and its expected duration.

25.6 Benefits and Seniority

If the employee is also eligible for family medical leave and participates in the City's group health insurance, the City will continue to provide the health insurance to the employee for up to twelve [12] weeks maximum within a twelve [12] month period under the same terms and conditions that coverage would have been provided to the employee if the employee had not gone on leave. If the employee was responsible to pay all or a portion of the premiums before the leave, the employee remains responsible for such payment during the leave. Benefits and seniority do not accrue during any unpaid portion of pregnancy disability leave.

25.7 Transfers

If an employee requests intermittent leave or reduced schedule leave that is foreseeable based on planned medical treatment, the employee may be transferred to an alternative position providing equivalent pay and benefits for the duration of the leave (unless the employee's health care provider disapproves of the transfer for medical reasons).

In addition, an employee may request a transfer to a less strenuous or hazardous position or to less strenuous or hazardous duties. Such a request must be based on the certification of the employee's health care provider that the transfer is medically

advisable. The City will grant the transfer request if it can be reasonably accommodated.

25.8 Return to Work

Except as provided by law, the employee will return to the same position she occupied when the leave commenced or, if the position is no longer available, the employee will return to a comparable position, if one is available.

As a condition of returning to work, an employee must provide a certification from her health care provider verifying her ability to return to work, including any work restrictions.

If the employee fails to return to work within three (3) days after the approved leave expires, the employee will be considered to have voluntarily resigned employment.

26 Family Medical Leave

26.1 Policy Statement

As provided by the 1993 Family and Medical Leave Act (FMLA), all eligible employees shall be entitled to take up to twelve (12) weeks of unpaid, job-protected leave during any twelve (12) month period for specified family and medical reasons.

26.2 Covered Family and Medical Reasons

An eligible employee shall be entitled to take up to 12 weeks of unpaid leave during a 12-month period for one or more of the following reasons:

1. The birth or placement of a child for adoption or foster care.
2. To care for an immediate family member (spouse, domestic partner, child, or parent) with a serious health condition.
3. To take medical leave when the employee is unable to work because of a serious health condition.

A serious health condition is defined as an illness of a serious and long-term nature resulting in recurring or lengthy absences. Treatment of such an illness would occur in an inpatient situation at a hospital, hospice, or residential medical care facility, or would consist of continuing care provided by a licensed health care provider

An employee may take leave if a serious health condition makes the employee unable to perform the functions of his/her position. Employees with questions about whether specific illnesses are covered under this policy or under the City's sick leave policy are encouraged to meet with a representative from the Human Resources Department.

26.3 Employee Eligibility

An employee shall be entitled to family leave when he/she meets the following criteria:

1. The employee has worked for at least twelve (12) months for the City. The twelve (12) months need not have been consecutive. (If the employee was on the payroll for part of a week, the City will count the entire week. The City considers fifty-two [52] weeks to be equal to twelve [12] months.)
2. The employee has to have worked for the City for at least one thousand two hundred fifty (1,250) hours over the twelve (12) months before the leave would begin.

3. The employee works in an office or worksite which employs fifty (50) or more employees, or there are fifty (50) employees within seventy-five (75) miles of the office or worksite.
4. When both spouses are employed by the City, they are jointly entitled to a combined total of twelve (12) work weeks of family leave for the birth or placement of a child for adoption or foster care, and to care for a parent who has a serious health condition.

26.4 Calculation of Leave

Eligible employees can use up to twelve (12) weeks of leave during any twelve (12) month period. The City will use a rolling twelve (12) month period measured backward from the date an employee uses any FMLA leave. Each time an employee uses leave, the City computes the amount of leave the employee has taken under this policy, subtracts it from the twelve (12) weeks, and the balance remaining is the amount the employee is entitled to take at that time. For example, if an employee has taken five (5) weeks of leave in the past twelve (12) months, the employee could take an additional seven (7) weeks under this policy.

26.5 Maintenance of Benefits

An employee shall be entitled to maintain group health, dental, and vision insurance coverage (if any) on the same basis as if he/she had continued to work for the City. To maintain uninterrupted coverage, the employee will have to continue to pay his/her share of insurance premium payments, if any. This payment shall be made either in person or by mail to the Finance Department by the fifteenth (15th) day of each month. The coverage will be dropped by the City if the employee's payment is more than thirty (30) days overdue.

If the employee informs the City that he/she does not intend to return to work at the end of the leave period the City's obligation to provide health benefits ends upon the City's receipt of such notice. If the employee chooses not to return to work for reasons other than a continued serious health condition, the City will require the employee to reimburse the City the amount the City contributed towards the employee's health, dental, and vision insurances (if any) during the leave period.

If the employee contributes to a life insurance or disability plan, the City will continue making payroll deductions while the employee is on paid leave. While the employee is on unpaid leave, the City will require that the employee continue to make those payments. If the employee does not continue these payments, the City will recover the payments at the end of the leave period, in a manner consistent with the law.

Other benefits such as the accrual of seniority will not continue during leave. However, the use of family or medical leave will not be considered a break in service when vesting or eligibility to participate in benefit programs is being determined.

26.6 Job Restoration

An employee who utilizes family or medical leave under this policy will be returned to the same classification or a classification with equivalent status, pay, benefits and other employment terms.

The City may choose to exempt certain highly compensated, "key" employees from this job restoration requirement and not return them to the same or similar position at the completion of FMLA leave. Employees who may be exempted will be informed of this status when they request leave. If the City deems it necessary to deny job restoration for a key employee on FMLA leave, the City will inform the employee of its intention and will offer the employee the opportunity to return to work immediately.

26.7 Use of Paid and Unpaid leave

If an employee has accrued paid leave available, then the employee shall use paid leave first and if insufficient to cover the entire Family Medical Leave absence in full, the balance of the leave shall be in an unpaid status.

If an employee uses leave because of his/her own serious medical condition or the serious health condition of an immediate family member, the employee shall first use all sick leave, paid vacation, or personal leave, and then will be eligible for unpaid leave.

An employee using leave for the birth of a child will use paid sick leave for physical recovery after childbirth. The amount of sick leave utilized after this point will be decided on a case-by-case basis. The employee then shall use all paid vacation, compensatory time off, administrative leave, and other available paid leaves, and then will be eligible for unpaid leave for the remainder of the twelve (12) weeks.

An employee using leave for the adoption or foster care of a child shall use all paid vacation, compensatory time off, administrative leave, and other available paid leaves, and then will be eligible for unpaid leave for the remainder of the twelve (12) weeks.

Should an exempt employee under the Fair Labor Standards Act utilize the Family Medical Leave and should any such time be in an unpaid status, then the employee shall still receive full compensation with no loss of salary for that particular work week.

26.8 Intermittent Leave and Reduced Work Schedules

In certain cases, intermittent use of the twelve weeks of family or medical leave or a part of a reduced work week may be allowed by the City. Employees wishing to use leave intermittently or to utilize a reduced work week for birth or adoption purposes will need to discuss such use with the employee's department head and the Human Resources Manager.

Employees may also use family or medical leave intermittently or as a part of a reduced work week whenever it is medically necessary. If the need to use leave is foreseeable and based on preplanned and prescheduled medical treatment, then the employee is responsible to schedule the treatment in a manner that does not unduly disrupt the City's operations. This provision is subject to the approval of the health care provider.

In some cases, the City may temporarily transfer an employee using intermittent or a reduced work week to a different job with equivalent pay and benefits if another position would better accommodate the intermittent or reduced schedule.

26.9 Procedures

26.9.1 Procedure for Requesting Leave

All employees requesting leave under this policy must complete the Family Medical Leave form available from the Human Resources Manager.

When an employee plans to take leave under this policy, the employee must give the City thirty (30) days notice. If it is not possible to give thirty (30) days notice, the employee must give as much notice as is possible.

While on leave, employees are required to report monthly to the City regarding the status of the medical condition, and their intent to return to work.

26.9.2 Procedure for Notice & Certification of Serious Health Condition

On occasion, the City may require the employee to provide notice of the need to utilize leave (where it is possible to know beforehand) and/or may require the employee to provide certification of an employee's or immediate family member's serious health condition by a qualified health care provider. The employee should respond to such a request within seven (7) days of the request, or provide a reasonable explanation for the delay.

Qualified health care providers include: doctors of medicine or osteopathy, podiatrist, dentists, clinical psychologists, optometrists, chiropractors, nurse practitioners and nurse-midwives authorized to practice under State law and

performing within the scope of their practice under State law; and Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts.

When seeking certification of a serious medical condition, an employee should ensure that the certification contains the following:

- A. Date when the condition began; expected duration; diagnosis; and a brief statement of treatment.
- B. If employee is seeking medical leave for his/her own medical condition, certification should also include a statement that the employee is unable to perform the essential functions of the employee's position.
- C. For a seriously ill family member, the certification should include a statement that the patient requires assistance and that the employee's presence would be beneficial or desirable.
- D. If taking intermittent leave, or working a reduced schedule, certification should include dates and duration of treatment and a statement of medical necessity for taking intermittent leave or working a reduced schedule.

If deemed necessary, the City may ask for a second opinion. The City will pay for the employee to get a certification from a second doctor, which the City will select. If there is a conflict between the original certification and the second opinion, the City may require the opinion of a third doctor. The City and the employee will jointly select the third doctor, and the City will pay for the opinion. The third opinion is considered final.

27 Sick Leave Protocols

27.1 Sick Leave Proper Use

Sick leave is not a right which may be used at the discretion of an employee, but a privilege which shall be exercised only for one of the following purposes:

1. Illness, or physical disability of the employee resulting from accident; or
2. Visits to a medical doctor, chiropractor, acupuncturist, dentist, optometrist, optician, psychiatrist or psychologist, medical or clinical laboratory on order of a doctor, or other licensed medical provider; or
3. Attend to a seriously ill spouse, domestic partner, child, parent, grandparent or ward of the employee; or
4. At the approval of the City Manager, death of or attendance at a funeral of a spouse, domestic partner, child, parent, grandparent or ward of the employee or his/her spouse or child.

27.2 Sick Leave Notice

An employee must notify his/her supervisor within two (2) hours following the employee's start time of any unexpected absence due to disability arising from sickness or injury of the employee or his/her immediate family.

An employee is to request prior authorization for any absence due to attendance at any medical appointment or attendance at a funeral. For the purposes of this section, "request prior authorization" shall mean that the employee has notified his/her supervisor at least one (1) work day in advance of the medical appointment or funeral.

27.3 Sick Leave Verification of Illness

When an employee returns to work after more than three (3) days absence on sick leave, the employee's supervisor may require a signed statement from an appropriate health care provider that the employee was incapacitated and unable to perform his/her duties on the specified days. If such an affidavit or statement is requested and not filed, the employee shall not be entitled to sick leave unless the Human Resources Manager grants a waiver.

In the case of frequent use of sick leave, an employee may be required by the employee's supervisor to file a physician's statement for each absence regardless of duration.

27.4 Sick Leave Improper Use Barred

No employee shall be granted sick leave with pay while absent from duty for the following reasons:

1. Disability arising from sickness or injury which was willfully self-inflicted or caused by the employee's willful misconduct;
2. Disability arising from sickness or injury while on unpaid leave of absence;
3. Disability arising from sickness or injury occurring during employment by another employer.

28 Miscellaneous Leaves

28.1 Jury Leave

Absence from work because of required jury duty will be considered an excused absence with pay. To receive full salary and benefits, the regular employee shall notify his/her supervisor three (3) days prior to jury duty and turn in to the finance department any payment for jury duty, excluding pay for travel and meals.

28.2 School or Day Care Attendance Leave

The City shall permit an employee who is the parent or guardian of a child in kindergarten or grades one (1) through twelve (12), or attending a licensed day care facility, up to forty (40) hours off per calendar year for the purpose of participating in activities of the school or licensed day care facility.

An employee is permitted to use accrued leaves (such as vacation, compensatory time off, or administrative leave; but not sick leave) when taking time off under the provisions of this Personnel Rule; otherwise, such time off shall be without pay.

Documentation from the school or licensed day care facility as proof that the employee participated in the activity on a specific date and at a specific time may be required by the City. An employee who fails to provide said documentation shall be subject to discipline, up to and including dismissal from employment.

28.3 Child's Suspension Leave

An employee who is the parent or guardian of a child who has been suspended from school shall be granted time off work if requested to appear at the school in connection with that child's suspension. The employee must give reasonable notice to the City of the request for leave.

An employee is permitted to use accrued leaves (such as vacation, compensatory time off, or administrative leave; but not sick leave) when taking time off under the provisions of this Personnel Rule; otherwise, such time off shall be without pay.

Documentation from the school or licensed day care facility as proof that the employee participated in the activity on a specific date and at a specific time may be required by the City. An employee who fails to provide said documentation shall be subject to discipline, up to and including dismissal from employment.

28.4 Military Leave

Authorized leaves of absence for military duty shall be granted in accordance with the provisions of State law. An employee entitled to military leave shall give the City Manager an opportunity within the limits of the military regulations to determine

when such leave shall be taken. Extensions of unpaid leave beyond State law are subject to the discretion of the City Manager.

Notwithstanding other provisions of this section, State law shall apply in determining benefits for those employees returning from an authorized leave of absence for military duty.

28.5 Emergency Duty Leave

An employee who is an “emergency rescue personnel” for an entity other than the City shall be permitted to take temporary leaves of absence, up to a total of fourteen (14) days per calendar year, to engage in fire or law enforcement training.

“Emergency rescue personnel” is defined as any person who is an officer, employee, or member of a fire department or fire protection or firefighting agency of the federal government, the State of California, a city, county, city and county, district, or other public or municipal corporation or political subdivision of California, or of a sheriff’s department, police department, or a private fire department, whether that person is a volunteer or partly paid or fully paid, while he or she is actually engaged in providing emergency services.

An employee is permitted to use accrued leaves (such as vacation, compensatory time off, or administrative leave; but not sick leave) when taking time off under the provisions of this Personnel Rule; otherwise, such time off shall be without pay.

28.6 Time Off for Voting

If an employee does not have sufficient time outside of working hours to vote in a local or statewide election, he/she may, without loss of pay, take off up to two (2) hours of working time to vote. Such time must be at the beginning or end of the regular working shift, whichever allows the most free time for voting and the least time off from working, unless otherwise mutually agreed. The employee must notify the employee’s supervisor at least two (2) working days in advance to arrange a voting time.

28.7 Lactation Leave

The City shall provide a reasonable amount of break time to accommodate an employee desiring to express breast milk for the employee’s infant child. If possible, the break time should coincide with the employee’s paid rest time.

The City shall make a reasonable effort to provide the employee with the use of a room or other location (other than a toilet stall) in close proximity to the employee’s work area so that the employee may express milk in private. Lactation Leave during working hours is paid and not charged against an employee’s time bank.

28.8 Leave for Victims of Domestic Violence

The City shall not discipline, discriminate or retaliate against an employee who is a victim of domestic violence and who takes time off to ensure his/her health, safety, or welfare, or that of his/her child to:

1. Obtain a temporary restraining order, a restraining order, or other court assistance; or
2. Seek medical attention for injuries caused by domestic violence; or
3. Obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence; or
4. Obtain psychological counseling related to an experience of domestic violence; or
5. Participate in safety planning and take other actions to increase safety from future domestic violence, including temporary or permanent relocation.

An employee is permitted to use accrued leaves (such as vacation, compensatory time off, or administrative leave; but not sick leave) when taking time off under the provisions of this Personnel Rule; otherwise, such time off shall be without pay.

