

# **CITY OF WEST SACRAMENTO**

## **PERSONNEL RULES**

(As revised February 1995)

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## **PREFACE**

### TITLE AND SCOPE

The document contained herein shall be known as the PERSONNEL RULES of the City of West Sacramento. These rules shall govern all employees of the City of West Sacramento. Individual department operating procedures or rules including standing orders shall be consistent with these rules. In the event that a personnel practice, benefit, term, or condition of employment pursuant to an employment agreement or Memorandum of Understanding conflicts with these rules, the employment agreement or Memorandum of Understanding shall prevail.

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## **1. DEFINITION OF TERMS**

### **1.1. Administrative Employee**

ADMINISTRATIVE EMPLOYEE shall mean an exempt employee whose primary duty consists of responsible office or non-manual work directly related to management policies or general business operation requiring the exercise of discretion and independent judgment and works only under general supervision.

### **1.2. Administrative Leave (Formally Investigative Leave)**

ADMINISTRATIVE LEAVE shall mean directed leave with pay pending investigation of facts possibly giving rise to the potential need for discipline.

### **1.3. Anniversary Date**

ANNIVERSARY DATE means the hiring, reclassification, promotion, demotion, or reinstatement of an employee. This is the date on which and from which employee benefits are computed including, but not necessarily limited to, salary increases, vacation, sick leave, and other excused absences. For all leave accruals and benefits, if the effective date of the action falls between the first and the fifteenth of the month, this date will be the first day of the present month. If the effective date of the action falls after the fifteenth of the month, this date will be the first day of the following month.

### **1.4. Applicant**

APPLICANT means a person who, according to the rules, has made formal application for employment pursuant to City policy.

### **1.5. Appointment**

APPOINTMENT means an offer to and acceptance by an applicant for a position, either on a regular or non-regular employment basis with the City as defined in Section 1.25.

### **1.6. Appropriate Unit**

An APPROPRIATE UNIT means a group of employees who the City Manager or the City Council has determined should have the opportunity to be represented by a single employee organization in matters concerning wages, hours, and working conditions.

### **1.7. At Will Employee**

An AT WILL EMPLOYEE means an employee who is appointed by and sits at the pleasure of the City Manager. At will employees may not be subject to the disciplinary procedures as provided for in these Rules. These positions shall be so designated in the classification plan.

### **1.8. Basic Rate of Pay**

BASIC RATE OF PAY means an employee's salary excluding any special pays.

### **1.9. Certification**

CERTIFICATION means the submission of names of eligible candidates from an appropriate eligibility list to the City Manager.

### **1.10. City**

CITY means the City of West Sacramento, and, where appropriate herein, refers to the City Council or any duly authorized City representative as herein defined.

### **1.11. City Manager**

The CITY MANAGER is appointed by and sits at the pleasure of the City Council and serves as the administrative head of the City under the direction of the City Council. The City Manager appoints all employees of the City and acts as the City's Affirmative Action Officer. As used in these rules, "City Manager" means the City Manager or his/her designee.

### **1.12. Classification**

CLASSIFICATION means the grouping under a common title of all positions similar in duties performed, the conditions under which they are performed and the assigned authority and responsibility.

### **1.13. Classification Plan**

CLASSIFICATION PLAN means the alphabetical listing of all classifications in the City with their respectively assigned salary ranges.

### **1.14. Compensation**

COMPENSATION means the salary, wage, allowances, and all other forms of valuable consideration, earned or paid to an employee by reason of service in any position, but does not include any allowances authorized and incurred as necessary expenses.

### **1.15. Confidential Employee**

CONFIDENTIAL EMPLOYEE means an employee who, in the course of his/her duties, is (1) privy to decisions of the City Council or management affecting employer-employee relations; (2) has access to or possesses information relating to the City's employer-employee relations; or (3) who has access to confidential employee and financial records and/or other confidential information not generally available to the public.

### **1.16. Continuous Service**

CONTINUOUS SERVICE means service without interruption during which the employee has been employed by the City; specifically:

- a) A break in service shall occur for any unexcused absence or excused absence without pay and during any period of layoff;
- b) No break in service shall occur for any excused absences with pay;
- c) Partial calendar months shall be excluded in computing continuous service.

**1.17. Consult/Consultation**

CONSULT/CONSULTATION means to communicate orally or in writing for the purpose of presenting and obtaining views or advising of intended actions; and, as distinguished from meeting and conferring in good faith, does not involve an exchange of proposals and counterproposals with an Exclusively Recognized Employee Organization in an endeavor to reach agreement in the form of a plan.

**1.18. Day**

DAY means calendar day unless expressly stated otherwise.

**1.19. Demotion**

DEMOTION means the movement of an employee, from one classification to another classification having a lower maximum base rate of pay.

**1.20. Department Head**

The DEPARTMENT HEAD is the recognized head of a specific department in the City.

**1.21. Disciplinary Action**

DISCIPLINARY ACTION means action taken by a supervisor resulting in the dismissal, demotion, reduction in pay, suspension, or reprimand, oral or written, of an employee.

**1.22. Dismissal**

DISMISSAL means the separation of a regular or limited term employee from City employment for cause, or a probationary, provisional, or temporary employee for any reason and without right of appeal.

**1.23. Eligible Candidate**

ELIGIBLE CANDIDATE means a person who may legally be appointed to vacant positions with the City by reason of prior employment, current employment, or as the result of successful passage of an entrance or promotional examination.

## **1.24. Eligibility List**

ELIGIBILITY LIST means a list of the names of eligible candidates for a classification.

## **1.25. Employee**

EMPLOYEE means a person occupying an approved classification. Employees are considered to be of regular or non-regular status as defined below.

### **1.25.1. Regular Employees**

#### 1.25.1.1. Provisional Employee

An employee who possesses the minimum qualifications established for a particular classification and has been appointed to said classification pending the selection process.

#### 1.25.1.2. Regular Full Time Employee

An employee who has been appointed to a position with the City and has successfully completed his/her probationary period and works full time on a daily, weekly, monthly, or annual basis as defined by departmental working conditions.

#### 1.25.1.3. Regular Part Time Employee

An employee who has been appointed to a position with the City and who has successfully completed his/her probationary period but works a minimum of fifty percent (50%) of the full time equivalent on a daily, weekly, monthly, or annual basis as defined by departmental working conditions.

#### 1.25.1.4. Limited Term Employee

An employee who has been appointed to a position that has been established for a limited term, funded for a limited term, or funded by a program which governs the eligibility of the employee to hold the position as a participant in the program.

**1.25.2. Non-Regular Employee**

1.25.2.1. Probationary Employee

An employee who is serving a probationary period and who is employed in either a regular full time or part time or limited term position.

1.25.2.2. Temporary Employee

An employee intended to work on less than a year round basis to cover seasonal peak work loads, emergency work loads of limited duration, necessary vacation and sick leave relief and other situations involving a fluctuating staff or fluctuating workload.

**1.26. Employee Representative**

EMPLOYEE REPRESENTATIVE means a person or persons designated and authorized by an Exclusively Recognized Employee Organization to represent the membership of said organization.

**1.27. Evaluation Date**

EVALUATION DATE means the date on which an employee performance appraisal is due.

**1.28. Examination**

EXAMINATION means a test or group of tests that determine the bona-fide occupational qualifications of the person seeking employment or promotion with the City.

**1.29. Exclusively Recognized Employee Organization**

An EXCLUSIVELY RECOGNIZED EMPLOYEE ORGANIZATION means an employee organization which has been formally acknowledged by the City as the sole employee organization representing the employees in an appropriate unit. An Exclusively Recognized Employee Organization has the exclusive right to meet and confer in good faith concerning statutory required subjects pertaining to unit employees, and thereby assumes the corresponding obligation of fairly representing such employees.

### **1.30. Executive Employee**

An EXECUTIVE EMPLOYEE means an exempt employee whose primary duty is the managing of a recognized department or division thereof. The employee must exercise discretionary powers and be relatively free from supervision.

### **1.31. Exempt Employee**

An EXEMPT EMPLOYEE means an employee who is exempt from the minimum wage and overtime requirements of the Federal Fair Labor Standard Act. To be considered "exempt," an employee must work in a bona fide executive, administrative, or professional capacity and be paid the minimum salary required by the Fair Labor Standards Act. These positions shall be so designated in the classification plan.

### **1.32. Impasse**

IMPASSE means a deadlock in discussions between a recognized employee organization and the City Manager or his/her designee over any matters concerning which they are required to meet and confer in good faith, or over the scope of such subject matter.

### **1.33. Layoff**

LAYOFF means the interruption and/or cessation of employment of an employee without prejudice for any of the following reasons:

Necessity based on lack of funds or work; or

Reorganization or other reasons in the interest of economy or efficiency.

### **1.34. Management Employee**

MANAGEMENT EMPLOYEE means an employee having sufficient responsibility for formulating, administering, or managing the City policies and programs. Management employees generally supervise or make recommendations regarding personnel actions. These positions shall be so designated in the classification plan.

**1.35. Meet and Confer in Good Faith**

To MEET AND CONFER IN GOOD FAITH means the mutual obligation of the City, and the employee representative(s) to personally meet and confer promptly upon request by either party and to continue for a reasonable period of time in order to exchange freely information, opinions, and proposals and to endeavor to reach agreement on matters within the authority of such representative(s) and within the scope of representation.

**1.36. Non-Exempt Employee**

A NON-EXEMPT EMPLOYEE means employees who are not bona fide Executive, Administrative, or Professional employees as defined by the Federal Fair Labor Standards Act. Non-exempt employees are bound by the overtime requirements of the Fair Labor Standards Act.

**1.37. Oral Reprimand**

ORAL REPRIMAND means a formal discussion with an employee by a supervisor wherein the supervisor expresses dissatisfaction with the employee's performance.

**1.38. Position**

POSITION means a group of duties and responsibilities with the City requiring the full time or part time employment of one person.

**1.39. Probationary Period**

PROBATIONARY PERIOD means a period during which an employee is required to demonstrate fitness for the classification to which the employee is appointed. Unless specified otherwise the probationary period is for one (1) year.

**1.40. Professional Employee**

PROFESSIONAL EMPLOYEE as defined by Government Code §3507.3, means an employee engaged in work requiring specialized knowledge and skill



attained through completion of a recognized course of instruction, including, but not limited to, attorneys, physicians, registered nurses, engineers, architects, and the various types of physical, chemical, and biological scientists.

**1.41. Proof of Employees Support**

PROOF OF EMPLOYEE SUPPORT means:

An authorization card recently signed and personally dated by an employee; or

A verified authorization petition or petitions recently signed and personally dated by an employee; or

An employee dues deduction authorization, using the payroll register for the period immediately prior to the date a petition is filed hereunto. The words "recently signed" shall mean within forty-five (45) days prior to the filing of any petition requiring proof of an employee support.

**1.42. Reclassification**

RECLASSIFICATION means a change in the classification placement of an employee by placing the employee in an higher classification, reducing an employee to a lower classification for non-disciplinary reasons, or moving the employee to another classification on the basis of substantial changes in the kind, difficulty or responsibility of duties performed in such position, or to correct an improper classification.

**1.43. Recall List**

RECALL LIST means a list of persons, arranged in order provided by these rules, who have occupied classifications with the City and who have either been separated from City employment due to layoff, or who have accepted a demotion in lieu of layoff to a lower classification and who, in accordance with these rules, are entitled to have their names certified to the City Manager when vacancies in the classification from which they were separated are available. A recall list may also include employees who requested in writing, prior to or at the time of layoff, to be recalled to a different classification which is in the same or lower salary range and for which the employee is immediately qualified to perform. An employee

may remain on a recall list for a period of two (2) years from the date of layoff or demotion in-lieu of layoff.

**1.44. Reduction in Pay**

REDUCTION IN PAY means the reduction of an employee's salary to a lower step within the salary range of the employee's classification as a result of a disciplinary action.

**1.45. Regular Rate of Pay**

REGULAR RATE OF PAY means the rate of pay as defined within the provisions of the Fair Labor Standards Act (FLSA).

**1.46. Reinstatement**

REINSTATEMENT means restoration of a laid-off employee or an employee demoted in lieu of layoff to active employment in a classification in which status was formerly held. Reinstatement also means restoration of an employee who has resigned in good standing to fill a vacancy in the employee's former position within two (2) years from the date of resignation, even though such former employee is not on an applicable eligibility list.

**1.47. Response Meeting**

RESPONSE MEETING means a meeting with the Department Head following notice to an employee of proposed discipline.

**1.48. Salary Range**

SALARY RANGE means the recognized range of compensation with the City designated to embrace all classifications as specified in the classification plan.

**1.49. Scope of Representation**

SCOPE OF REPRESENTATION means all matters relating to employment conditions and employer-employee relations, including but not limited to, wages,

hours, and other terms and conditions of employment, except, however, the scope of representation shall not include consideration of the merits, necessity, or organization of any services or activity allowed by law or executive order.

**1.50. Seniority**

SENIORITY means the amount of time an employee has been employed by the City from their date of hire, minus any breaks in continuous service. Maternity and Family and Medical Leave are not considered a break in service for purposes of seniority. If two (2) or more employees are hired on the same date, seniority shall be determined by a lottery system.

**1.51. Special Pay**

SPECIAL PAY means any premium pay relating to terms and conditions of employment which includes, but is not limited to, shift differential, overtime, standby, and educational incentive pay.

**1.52. Step Increase**

STEP INCREASE means a salary increase within the step increments of the salary range established for a classification.

**1.53. Supervisory Employee**

A SUPERVISORY EMPLOYEE means an employee with the responsibility for assigning and directing the work of other employees and handling grievances, or effectively recommending such action if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. A supervisory employee may have the responsibility to recommend hiring, rewarding, or disciplining employees under his/her charge.

**1.54. Suspension**

SUSPENSION means separation of an employee from his/her position without pay for a disciplinary purpose. Exempt employees are not subject to

suspensions of less than one workweek, except in the case of serious safety violations.

**1.55. Title**

TITLE means the designation given to, or name applied to, a classification and to the legally appointed incumbent of said classification.

**1.56. Transfer**

TRANSFER means the change of an employee from one position to another position in the same classification but in a different department.

**1.57. Week**

A WEEK is defined as commencing at 12:01 am Saturday and ending at midnight the following Friday.

**1.58. Workday/Work Week**

A standard WORKDAY is defined as eight (8) hours of work performed, not including any unpaid non-work time, within a day as herein defined. A standard WORK WEEK is defined as forty (40) hours of work performed, not including any unpaid non-work time, within a week as herein defined. The definitions of standard workday and standard workweek, however, are not to be construed as a guarantee of any specific number of hours to be worked in any day, or days to be worked in any week.

The standard workweek definition as defined herein may be modified in accordance with the Fair Labor Standards Act.

**1.59. Written Reprimand**

WRITTEN REPRIMAND means a written memorandum given to the employee by a supervisor wherein the supervisor expresses dissatisfaction with the employee's performance and warns of further discipline if the conduct is not corrected, or if it reoccurs.

## **2. EMPLOYER/EMPLOYEE RELATIONS**

### **2.1. Purpose**

It is the purpose of these rules and regulations to implement those provisions of the Government Code of the State of California governing "Local Public Employee Organizations" (Sections 3500 et seq.) by promoting full communication between the City and its employees regarding wages, hours, and other terms and conditions of employment. It is also the purpose of these provisions to promote the improvement of personnel management and employer/employee relations within the City by providing a uniform basis for recognizing the right of the employees of the City to join, or to refrain from joining, organizations of their own choice and be represented, or not be represented, by such organizations in their employment relationships with the City.

Nothing contained herein shall be deemed to supersede the provisions of existing State law or City ordinances, resolutions, and rules which establish, regulate, and provide for other methods of administering employer/employee relations. These provisions are intended, instead, to strengthen all other methods of administering employer/employee relations through the establishment of uniform and orderly methods of communication between the employees of the City.

Nothing in these provisions shall interfere with the right of the City Council to manage the affairs of the City in the most economical and efficient manner and in its best interest and according to its governing laws, including, but not limited to, the merits, necessity, or organization of any service or activity allowed by law.

These rules and regulations provide procedures for consulting with regard to the adoption of rules and regulations for the administration of employer/employee relations, and for meeting and conferring in good faith with recognized employee organizations regarding matters which directly affect and primarily involve wages, hours, and other terms and conditions of employment of employees in appropriate units and that are not preempted by Federal or State law.

### **2.2. Employee Rights**

Except as otherwise provided by law or limited by a specific term of a labor agreement, employees shall have the right to form, join, and participate in the

activities of employee organizations of their own choosing for the purpose of representation on all matters within the scope or representation. Employees also shall have the right to refuse to join and participate in the activities of the employee organization and shall have the right to represent themselves individually in their employment relations.

No employee shall be interfered with, intimidated, restrained, coerced or discriminated against by the City or by any employee organization because of the exercise of these rights.

Professional employees have the right to be represented separately from non-professional employees by a professional employee organization consisting of such professional employees.

In accordance with Government Code Section §3508, the City may not prohibit the right of its employees who are full time "peace officers," as that term is defined in Chapter 4.5 (commencing with Section 830) of Title III of Part 2 of the Penal Code, to join or participate in employee organizations which are composed solely of such peace officers, which concern themselves solely and exclusively with the wages, hours, working conditions, welfare programs, and advancement of the academic and vocational training in furtherance of the police profession, and which are not subordinate to any other organization.

### **2.3. City Rights**

Except as otherwise limited by a specific term of a labor agreement, the City has, and retains the sole and exclusive rights and functions of management, including, but not limited to, the following:

To determine the nature and extent of services to be performed, as well as the right to determine and implement its public function and responsibility.

To manage all facilities and operations of the City including the methods, means and personnel by which the City operations are to be conducted.

To schedule working hours and assign work.

To establish, modify, or change work schedules or standards.

To direct the workforce, including the right to hire, assign, promote, demote, or transfer an employee.

To determine the location of all work assignments and facilities.

To determine the layout and the machinery, equipment or materials to be used.

To determine processes, techniques, methods and means of all operations, including changes, allocations, or adjustments of any machinery or equipment.

To determine the size and composition of the work force.

To determine policy and procedures affecting the selection or training of employees.

To establish, assess and implement employee performance standards, including, but not limited to, quality and quantity standards; the assessment of employee performances; and the procedures for said assessment.

To control and determine the use and location of City employees, property, material, machinery, or equipment.

To schedule the operation of, and to determine the number and duration of shifts.

To determine and enforce safety, health, and property protection measures and require adherence thereto.

To transfer work from one job site to another or from one location or unit to another.

To introduce new, improved, or different methods of operations, or to change existing methods.

To layoff employees from duty for lack of work, lack of funds, or any other reason.

To reprimand, suspend, discharge, or otherwise discipline employees.

To discharge probationary employees without right of appeal.

To establish, modify, determine, or eliminate job classifications and allocate City positions to such classifications.

To promulgate, modify, and enforce work rules, safety rules, and regulations.

To take such other and further action as may be necessary to organize and operate the City in the most efficient and economical manner and in the best interest of the public it serves.

To take all necessary actions to prepare for and carry out its mission in emergencies.

To contract or subcontract construction, services, maintenance, distribution, or any other work with outside public or private entities.

No arbitrator shall have the authority to diminish any of the City rights included in this section.

Any agreement by the City to meet and confer or meet and consult over the effect of the exercising of a City right shall not in any way impair the right of the City to exercise and implement any of its rights.

#### **2.4. Rights of Exclusively Recognized Employee Organizations**

An Exclusively Recognized Employee Organization shall have the following rights:

To represent its members in their employment relations with the City and to meet and confer in good faith with the City Manager on matters within the scope of representation.

To reasonable use of City facilities for meeting upon timely written or oral application stating the purpose for such use. Such use shall not interfere with the regular course of doing business. The City reserves the right to condition such use on payment of appropriate charges to offset the cost of such use of the facilities.

To install a bulletin board for exclusive use by employee organizations. All material shall be posted upon the bulletin board and not upon walls, doors, file cabinets, or any other place. Posted materials shall not be obscene, defamatory, or of a partisan political nature, misleading, violative of any Federal, State, or local ordinance, law, statute or rule. Such material shall not pertain to public issues which do not involve the City and its relations with employees. All posted materials shall be neatly displayed and bear the identity of the sponsor and the date of posting. Unless special arrangements are made, the materials posted will be removed thirty-one (31) days after the date of posting. The City reserves the right to determine where bulletin boards may be used. Any employee organization that does not abide by these rules may forfeit its right to have a bulletin board.

To reasonable access to non-confidential information pertaining to employment relations as contained in the public records of the City, subject to limitations and conditions set forth in this Rule and §§6250-6260 of the California Government Code. Such information will be made available during regular office hours and after payment of reasonable cost, where applicable. Nothing herein shall be construed to require disclosures which constitute an unwarranted invasion



of privacy or are gathered pursuant to promises to keep the source confidential. Nor shall anything herein be construed to require disclosure of records that are working papers or memoranda not retained in the ordinary course of business, records pertaining to the litigation to which the City is party, or to claims or appeals which have not been settled. The City shall not be required to do research or assemble data in a manner other than that usually done by the City.

Except in cases of emergency as provided herein, to have reasonable written notice of any proposed ordinance, rule, resolution, or regulations directly relating to matters within the scope of its representation and the opportunity to meet and consult with the City Manager prior to the adoption of such proposal. In cases of emergency when the City Council determines that an ordinance, rule, resolution, or regulation must be adopted immediately without prior notice or meeting and conferring with an Exclusively Recognized Employee Organization, the City Manager shall provide such notice and opportunity to meet and confer at the earliest practical time following the adoption of such ordinance, rules, resolution, or regulation.

To have an employee representative who may contact members of his/her organization in City facilities provided he/she has first made arrangements with the management or supervisory employee in charge and has arranged for a time not during regular work time. This right does not extend to contacting City employees who are not members of the particular employee organization, and soliciting membership or representation rights in an employee organization which shall not be done in City facilities.

To have a reasonable number of employee representatives allowed reasonable time off without loss of compensation or other benefits when formally meeting and conferring with the City Manager about matters within the scope of representation.

Any other rights granted recognized employee organizations by §§3500-3511 of the California Government Code.

## **2.5. Representation Proceedings**

### **2.5.1. Filing of an Exclusive Recognition Petition by Employee Organization**

The City will grant recognition to an employee organization only on an exclusive recognition basis. An employee organization that seeks to be formally

acknowledged as the exclusively recognized employee organization representing employees in an appropriate unit, shall file a petition with the City Manager containing the following information and documentation:

Name and address of the employee organization;

Names and titles of its officers;

Names of employee organization representatives.

A statement that the employee organization has as one of its primary purposes the responsibility of representing employees in their employment relations with the City.

A statement whether the employee organization is a chapter of, or affiliated directly or indirectly in any manner, with a local, regional, state, national, or international organization, and if so, the name and address of each such other organization.

Certified copies of the employee organization's constitution and by-laws.

A designation of those persons, not exceeding two (2) in number, and their address to whom notice is sent by regular United States mail will be deemed sufficient notice on the employee organization for any purpose.

A statement that the employee organization has no restriction on membership based on race, color, creed, sex, national origin, age, marital status, or physical disability.

The job classifications or position titles of employees in the unit claimed to be appropriate and the approximate number of member employees therein.

A statement that the employee organization has in its possession proof of employees support as defined in Section 1.41 to establish that thirty percent (30%) of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the City. (Such written proof shall be submitted for confirmation to the City Manager.)

A request that the City Manager formally acknowledge the petitioner as the Exclusively Recognized Employee Organization representing the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith. The petition, including the proof of employees support and all accompanying documentation, shall be declared to be true, correct, and complete, under penalty of perjury, by the duly authorized officer(s) of the employee organization executing it.

All changes in the information filed with the City by an Exclusively Recognized Employee Organization under this Section shall be submitted in writing to the City Manager within fourteen (14) days of such change.

### **2.5.2. City Response to Recognition Petition**

Upon receiving the petition, the City Manager shall determine whether:

There has been compliance with the requirements of a recognition petition, and

That the proposed representation unit is an appropriate unit in accordance with Section 2.9 of these rules.

If an affirmative determination is made by the City Manager on the foregoing two (2) matters, he/she shall so inform the petitioning employee organization, shall give written notice of such request for recognition to the employees in the unit, and shall take no action on said request for thirty (30) days thereafter. In the event that proof of employees support is in excess of seventy percent (70%), the City Manager may waive the waiting period and respond affirmatively to the recognition petition and proceed with the election pursuant to Section 2.5.4 of these Rules.

If either of the foregoing matters are not affirmatively determined, the City Manager shall offer to consult with such petitioning employee organization. If such determination thereafter remains unchanged, the City Manager shall inform the employee organization that it may appeal such determination in accordance with Section 2.11 of these Rules.

### **2.5.3. Open Period of Filing Challenging Petition**

Within thirty (30) days of the date written notice was given to affected employees that a valid recognition petition for an appropriate unit has been filed, any other employee organization may file a competing request to be formally acknowledged as the Exclusively Recognized Employee Organization of the employees in the same unit, by filing a petition evidencing proof of employees support in the unit of at least thirty percent (30%) and otherwise in the same form and manner as set forth in Section 2.5.1 of these Rules.

#### **2.5.4. Election Procedure**

In all cases, when a valid petition for recognition has been filed, the City Manager shall arrange for a secret ballot election to be conducted by a third party agreed to by the City Manager and the concerned employee organization(s). This election shall be in accordance with the third party's rules and procedures except as may be modified by the provisions of these rules and regulations. All employee organizations who have duly submitted petitions which have been determined to be in conformance with this Article shall be included on the ballot. The ballot shall also reserve to employees the choice of representing themselves individually in their employment relations with the City. Employees entitled to vote in such election shall be those persons (a) who were employed in regular positions within the designated appropriate unit; and (b) who were employed immediately prior to a date which is not less than fifteen (15) days before the date the election commences, including those so employed but who did not work because of illness, vacation, or other excused absences; and (c) who are employed by the City in the same unit on the date of election. An employee organization shall be formally acknowledged by the City Manager as the Exclusively Recognized Employee Organization for the designated appropriate unit following an election or run-off election if it receives a numerical majority of all valid votes cast in the election.

In an election involving three (3) or more choices, where none of the choices receive a majority of the valid votes cast, a run-off election shall be conducted between the two choices receiving the largest number of valid votes cast; the rules governing an initial election being applicable to a run-off election.

There shall be no more than one (1) valid election affecting the same unit in a twelve (12) month period.

In the event that the parties are unable to agree on a third party to conduct an election, the election shall be conducted by the State Conciliation Service.

Costs of conducting an election shall be borne in equal shares by the City and by each employee organization appearing on the ballot.

#### **2.6. Revocation of Recognition**

The City Council may revoke the recognition of an Exclusively Recognized Employee Organization that:

Repeatedly violates any Federal, State or Local law or any rule adopted herein for orderly and responsible employer/employee relations.

Intentionally furnishes any false information to the City in any report required herein.

Ceases to represent employees of the City. Cessation of representation may be presumed by failure to respond to inquiries concerning representation after sixty (60) days.

Unlawfully discriminates in practice or as contained in the organization's by-laws or constitution.

## **2.7. Procedure for Decertification of Exclusively Recognized Employee Organization or Its Replacement**

A decertification petition alleging that the incumbent Exclusively Recognized Organization no longer represents the majority of the employees in an established appropriate unit may be filed with the City Manager. A decertification petition may be filed by two (2) or more employees of the unit or their representative or an employee organization seeking to replace the incumbent Exclusively Recognized Employee Organization and shall contain the following information and documentation declared by the duly authorized signatory under penalty of perjury to be true, correct, and complete:

The name, address, and telephone number of the petitioner and a designated representative authorized to receive notices or request for further information.

The name of the established appropriate unit and of the incumbent Exclusively Recognized Employee Organization sought to be decertified as the representative of that unit.

An allegation that the incumbent Exclusively Recognized Employee Organization no longer represents a majority of the employees in the appropriate unit, and any other relevant material or facts relating thereto.

Proof of employee support that at least thirty percent (30%) of the employees in the established appropriate unit no longer desire to be represented by the incumbent Exclusively Recognized Employee Organization. Such proof shall be submitted for confirmation to the City Manager.

An employee organization may, in lieu of the decertification petition, file a petition under this Section in the form of a recognition petition that evidences proof of employee support of at least thirty percent (30%) that includes the information, and otherwise conforms to the requirements of Section 2.5.1.

The City Manager shall initially determine whether the petition for decertification or recognition petition has been filed in compliance with the applicable provisions of this Chapter. If his/her determination is in the negative, the City Manager shall offer to consult thereon with the representative(s) of such petitioning employees or employee organization, and, if such determination thereafter remains unchanged, shall return such petition to the employees or employee organization with a statement of the reasons therefore in writing. The petitioning employees or employee organization may appeal such determination in accordance with Section 2.11 of these Rules.

If the determination of the City Manager is in the affirmative, the City Manager shall give written notice of such decertification or recognition petition to the incumbent Exclusively Recognized Employee Organization and to unit employees.

In the case where a recognition petition has been filed and the City Manager has determined that the unit is appropriate, the City Manager shall thereupon arrange for a secret ballot election to be held on or about fifteen (15) days after such notice to determine the wishes of the unit employees as to the question of representation. Such election shall be conducted in conformance with Section 2.5.4.

## **2.8. Contract Bar Procedure**

An employee organization may file a decertification petition, or, in lieu thereof, a recognition petition for an appropriate unit at any of the following times:

- a) After the first full year of recognition if no written agreement has been negotiated; OR
- b) Within the contract period commencing one hundred twenty (120) days and ending sixty (60) days immediately prior to the expiration of a written agreement.

## **2.9. Policy and Standard for Determination of Appropriate Units**

The policy objectives in determining the appropriateness of units shall be the effect of the proposed unit on the efficient operations of the City and its compatibility with the primary responsibility of the City and its employees to effectively and economically serve the public, and to provide the employees with effective representation based on recognized community of interest considerations. These policy objectives require that the appropriate unit shall be the broadest feasible grouping of positions that share an identifiable community of interest. Factors to be considered shall be:

Similarity of the general kinds of work performed, types of qualifications required, and the general working conditions.

History of representation in the City and similar employment; except, however, that no unit shall be deemed to be an appropriate unit solely on the basis of the extent to which employees in the proposed unit have organized.

Consistency with the organizational patterns of the City.

Number of employees and classifications, and the effect on the administration of the employer/employee relations created by the fragmentation of classifications and proliferation of units.

Effect on the classification structure and impact on the stability of the employer/employee relationship of dividing a single or related classification among two (2) or more units.

Notwithstanding the foregoing provisions of this Section, managerial, supervisory, and confidential employee classifications, as defined in Chapter 1 of these Rules, are determining factors in establishing appropriate units hereunder, and therefore managerial, supervisory, and confidential employees may only be included in a unit consisting solely of managerial, supervisory, and confidential employees respectively. Managerial, supervisory, and confidential employees may not represent any employee organization which represents other employees. Exceptions to this rule may exist pursuant to a memorandum of understanding or appropriate unit determination.

## **2.10. Procedure for Modification of Established Appropriate Units**

Requests by an employee organization for modifications of established appropriate units may be considered by the City Manager. Such request shall be

submitted in writing and contain proof of employee support of at least thirty percent (30%) of the individuals occupying the classifications identified in the modification request. The request shall also contain a complete statement of all relevant facts and citations in support of the proposed modified unit in terms of the policies and standards set forth in Section 2.9. The City Manager shall consider if the modification is appropriate by applying the standards in Section 2.9 of these rules.

If an affirmative determination is made by the City Manager, he/she shall so inform the petitioning employee organization, shall give written notice of such request for modification to the employees in the unit, and shall take no action on said request for thirty (30) days thereafter. In the event that the petitioning employee organization provides proof of employee support in excess of seventy (70%) percent, the City Manager may waive the waiting period and respond affirmatively to the modification request and proceed with the election pursuant to Section 2.5.4 of these rules.

If an affirmative determination is not made by the City Manager, he/she shall offer to consult with such petitioning employee organization. If such determination thereafter remains unchanged, the City Manager shall inform the employee organization that it may appeal such determination in accordance with Section 2.11 of these rules.

The City Manager may on his/her own motion propose that an established unit be modified. The City Manager shall give written notice of the proposed modification(s) to any affected employee organization and shall consult concerning the proposed modification(s), at which time all affected employee organizations shall be heard. Any requests for information from an affected employee organization shall be responded to within ten (10) days of the request. Thereafter, the City Manager shall determine the composition of the appropriate unit or units in accordance with the factors outlined in Section 2.9, and shall give written notice of such determination to the affected employee organizations. The City Manager's determination may be appealed as provided in Section 2.11. If a unit is modified pursuant to the motion of the City Manager hereunder, employee organizations may thereafter file recognition petitions seeking to become the Exclusively Recognized Employee Organization for such new appropriate unit or units pursuant to Section 2.5.1.



An appropriate unit may be modified to include a new position at the time the classification description is adopted by the City Council. The City Manager and unit representative may agree to dispense with all of the requirements as set forth in this section in the event that the proposed modification is simplistic enough not to warrant such formality.

### **2.11. Appeal Procedure**

An employee organization aggrieved by an appropriate unit determination or modification of the City Manager, may within ten (10) days of notice of the City Manager's determination, appeal such determination to the City Council for final decision.

An employee organization aggrieved by a determination of the City Manager that an exclusive recognition petition (Section 2.5.1); challenging petition (Section 2.5.3); decertification petition (Section 2.7); or modification petition (Section 2.10) had not been filed in compliance with the applicable provisions of this Chapter may, within ten (10) days of notice of such determination, appeal to the City Council for final decision.

Appeals to the City Council shall be filed in writing with the City Clerk, and a copy thereof served on the City Manager. The City Council shall commence to consider the matter within thirty (30) days of the filing of the appeal. The decision of the City Council determining the substance of the dispute shall be final and binding.

### **2.12. Memorandum of Understanding**

If agreement is reached by the representatives of the City and an Exclusively Recognized Employee Organization, they shall jointly prepare a written memorandum of such understanding and present it to the City Council for ratification. The memorandum of understanding will not become effective and binding until and unless the City Council ratifies it.

### **2.13. Payroll Deductions**

An Exclusively Recognized Employee Organization may request that payroll deductions be made for payment of organization membership dues. The

providing of such service to the Exclusively Recognized Employee Organization by the City shall be contingent upon and in accordance with the provisions of the memorandum of understanding and must be approved in writing by each employee on a payroll deduction authorization card provided by the City.

#### **2.14. Construction**

Nothing contained herein shall be construed to deny to any person or employee any rights guaranteed by law or nor shall the rights, powers, and authorities of the City be modified or restricted hereby.

#### **2.15. Severability**

If any provision contained herein, or the application of such to any person or circumstance, be held invalid, the remainder thereof or the application to persons or circumstances other than those as to which it was held invalid, shall not be affected thereby.

#### **2.16. Individual Representation**

Nothing contained herein shall deny an individual the right to negotiate his/her own agreement or to enforce such individual employment agreement.

### **3. PERSONNEL PRACTICES**

#### **3.1. Purpose**

The primary purpose of this Chapter is to ensure the furtherance of personnel activities and transactions on the sole basis of merit and competence, in the best interest of the City, and without regard to personal, political, or other extraneous matters. Any technique or procedure used in recruitment and selection of employees shall be designed to measure only the job-related qualifications of applicants. In the event that the personnel practices outlined herein conflict with an employment agreement or Memorandum of Understanding, the Memorandum of Understanding or employment agreement shall prevail.

#### **3.2. Fair Employment Practices**

No person in the employment of the City or seeking employment thereby shall be appointed, reduced, or removed, or in any way favored or discriminated against because of sex, religious creed, age, color, national origin, ancestry, physical or mental disability, medical condition, marital status, or political affiliation. The City shall adopt Affirmative Action and Sexual Harassment policies to help ensure Fair Employment practices. The City shall ensure that all employment practices are in compliance with the Americans With Disabilities Act.

#### **3.3. Nepotism Policy**

It is the policy of the City of West Sacramento not to discriminate in its employment and personnel actions with respect to its employees, prospective employees, and applicants on the basis of familial or marital status. No employee, prospective employee, or applicant shall be denied employment or benefit of employment on the basis of his/her familial or marital status. This policy also applies to the selection of persons for part-time or seasonal employment.

Notwithstanding the above provisions, the City of West Sacramento reserves the right to reasonably regulate for reasons of supervision, safety, security, or morale, the working of spouses and relatives in the same department, division, facility, or unit. Such rules and regulations shall be consistent with these rules. However, the placement of one party to a relationship under the direct supervision of the other party to a relationship is subject to approval by the City Manager. Such rules and regulations shall be consistent with these rules.

Marital status is defined as an individual's state of marriage, non-marriage, divorce or dissolution, separation, widowhood, annulment, or other marital state for the purpose of this anti-discrimination policy.

Familial status is defined as the state of an individual's specific relatives working for the City of West Sacramento and shall include spouse, child, brother, sister, or parent.

### **3.4. Classification Description and Salary Range**

Each position in the City shall be assigned to an appropriate classification. For each classification, a written description of the classification shall be prepared by the City Manager and approved by the City Council. The description shall include the official title of the classification and the minimum qualifications required for admission in the classification.

Classification descriptions shall be interpreted in their entirety in relation to others within the City. They shall be descriptive and delineate the essential and marginal functions of the position. However, they are neither exclusive or inclusive of any and all duties expected to be performed by the incumbent in such classification.

Classification descriptions shall not be construed as limiting the duties and responsibilities of any other classifications, nor shall such description limit or modify the authority of any Department Head or of the City Manager to assign duties and to direct and control the work of employees of the City.

A recommended salary range shall be submitted by the City Manager to the City Council for approval. The salary range shall be based on the duties and responsibilities of the classification, the requirements as to education, experience and knowledge, internal alignment, and labor market considerations.

The City Manager shall be allowed to periodically perform maintenance updates to classification descriptions. Such updates shall be for the purpose of clarifying language and reformatting the description. The maintenance updates will not include a change in duties and responsibilities or qualifications.

#### **3.4.1. Classification Plan**

The City Manager shall submit to the City Council a Classification Plan. The Classification Plan shall be an alphabetical listing of all classifications in the

City with the respectively assigned salary ranges. The Classification Plan may be amended from time to time.

### **3.4.2. Classification Plan Administration**

The letters, "A", "B", "C", "D", and "E" respectively denote the five (5) steps in the salary range for each classification except Department Head and Management positions, on the Classification Plan.

Newly appointed employees shall generally be employed at the first step of the salary range for the particular classification to which the appointment is made. The City Manager or his/her designee has the discretion to appoint a new employee at a step higher than "A". Advancement within a salary range shall not be automatic, but shall be granted only upon the completion of a performance evaluation of at least an overall "satisfactory" rating and upon the affirmative recommendation of the Department Head and approval of the City Manager. Normally, and as a general rule, upon progress and productivity, employees shall be considered for an increase in salary according to the following schedule:

Step "A" shall be paid upon initial appointment to the CITY for a period of six (6) months, except when another step is indicated as the beginning pay step.

After satisfactory completion of six (6) months service in Step "A", employees may be considered for an increase to Step "B"; provided, however, that employees appointed at other than Step "A" may not be considered for increase to the next higher step until the satisfactory completion of twelve (12) months of service.

After satisfactory completion of twelve (12) months of service in Step "B", employees may be considered for increase to Step "C".

After satisfactory completion of twelve (12) months service in Step "C", employees may be considered for increase to Step "D".

After satisfactory completion of twelve (12) months service in Step "D", employees may be considered for increase to Step "E".

There are no steps within the salary ranges for Department Head and Management employees. Each range has a minimum and maximum monthly salary for the classification.

A newly appointed Department Head or Management employee is generally employed at the minimum salary for the classification in which he/she is

hired. The City Manager or his/her designee has the discretion to appoint a new employee beyond the minimum salary for the classification.

Advancement within the salary range shall not be automatic, but shall be granted only upon the completion of a performance evaluation and upon the approval of the City Manager or his/her designee. Normally, and as a general rule, Department Head and Management employees will be considered for a salary increase effective July 1 of each year. If a Management employee or Department Head is initially appointed at the minimum monthly salary for the range, he/she will be considered for a salary increase effective six (6) months after the appointment date.

Leaves of absence without pay exceeding eleven (11) days in any month shall cause the employee's date for advancement to the next step to be postponed by one (1) month. Except for those employees on Family and Medical Leave, leaves of absence with pay shall, on the thirty first (31) day of the leave, be treated in the same manner as leaves of absence without pay with respect to the postponement of a step advance. Regular part-time employees may be eligible for an increase when their equivalent length of service meets the provisions indicated above.

### **3.5. Recruitment**

#### **3.5.1. Announcement**

All recruitments for classification vacancies within the City shall be publicized by such methods as the City Manager deems appropriate, consistent with City standards. Special recruiting shall be conducted, if necessary, to ensure that all segments of the community are aware of the forthcoming examination(s). Announcements shall specify the title and compensation of the classification; the nature of the work to be performed delineating the essential and marginal functions of the job; the minimum qualifications for the classification; the manner of making application; the examination components; and other pertinent information.

#### **3.5.2. Applications**

Every applicant for examination shall file a formal, signed City of West Sacramento employment application. Other methods of acceptable application

due to an applicant's disability will be considered. Application forms shall require information covering training, experience, and other pertinent information as required by the City Manager. The City Manager may also require applicants to submit additional job related information.

### **3.5.3. Examinations**

Examinations for the establishment of eligibility lists shall be competitive and by such character shall test and determine the qualifications, fitness, and ability of competitors to perform the essential functions of the classifications for which they seek appointment.

The examination may include an investigation of character, personality, education, experience, and any tests of intelligence, capacity, technical knowledge, manual skill, or job-related physical fitness that the City Manager deems appropriate.

The City Manager shall designate the procedure, time, place, and type of examination, the conditions under which it may be conducted, and the individual or competent agency who will conduct the examination. The City will make every reasonable effort to accommodate disabled applicants in the administration of employment tests. Examinations may be promotional, open, or continuous as directed by the City Manager. In making a decision regarding the type of examination, the City Manager will consider the availability of qualified interested personnel in the City workforce, the possible Affirmative Action implications, and the need for expediency in filling the position.

#### **3.5.3.1. Open/Promotional Examinations**

Any person who meets the requirements set forth in the open/promotional examination announcement may compete in open/promotional examinations. The City Manager may adopt and implement objective standards to initially screen applications in order to reduce the number of applicants to a manageable size.

#### **3.5.3.2. Promotional Examinations**

Regular and non-regular employees, excepting temporary employees, who meet the requirements set forth in the promotional examination announcement, may compete in a promotional examination announcement.

### 3.5.3.3. Continuous Examinations

Continuous examinations may be administered periodically for a single classification. Names shall be placed on eligibility lists and shall remain on such lists as prescribed in Section 3.6.

## **3.6. Eligibility Lists**

### **3.6.1. Establishment**

As soon as possible after the completion of an examination, the City Manager shall prepare and maintain an eligibility list consisting of the names of the applicants or employees who qualified in the examination. The names on the list shall be in order based on each applicant's competitive score for the examination process, with the highest score being first on the list. Each applicant or employee shall be given notice of the results of his/her examination and ranking on the eligibility list.

Applicants on the eligibility list for a particular classification may be certified to the City Manager for consideration to hire for a classification in an equal or lower salary range in the event that an eligibility list for that classification does not exist, provided that the applicant is qualified. This may be done only with the approval of the City Manager. Applicants will not be penalized pursuant to Section 3.6.3 if they refuse to accept employment in the lower classification.

### **3.6.2. Duration of Lists**

All eligibility lists shall remain in effect until exhausted or abolished by the City Manager for due cause. As a general policy, eligibility lists shall remain in effect for not more than one (1) year. Eligibility lists may remain in effect for more than one (1) year at the City Manager's discretion. The City Manager may abolish eligibility lists with fewer than three (3) names.

### **3.6.3. Removal of Names from Eligibility Lists**

The name of any eligible candidate appearing on an eligibility list may be removed by the City Manager if any of the following occurs:

The eligible candidate requests that his/her name be removed.

The eligible candidate fails to provide notification of a change in address.

The eligible candidate fails to show for a scheduled interview.



The eligible candidate declined an interview on two (2) occasions.

The eligible candidate declined offers of employment on two (2) occasions.

The eligible candidate was on an eligibility list as a result of a promotional examination and has subsequently left City employment.

The eligible candidate was on a list for a specialized classification within one department of the City and was determined to be unsuitable by the Department Head.

#### **3.6.4. Disqualification**

At any point in the recruitment and selection process, the City Manager may refuse to declare an applicant an eligible candidate, or may withhold or withdraw from certification, prior to appointment, anyone who comes under any of the following categories:

Has failed to provide proof of any of the requirements established in the announcement for the classification for which he/she applied.

Has been convicted of a felony of such a nature as to have an adverse effect on the candidate's ability to perform the duties of the position.

Has a history of dismissal from any position in public or private service for any cause which would be a cause for dismissal from City employment.

Has practiced or attempted to practice any deception or fraud in his/her application, examination, or in securing eligibility.

Is not otherwise qualified for employment.

### **3.7. Filling Vacancies**

#### **3.7.1. Certification of Eligible Candidates**

Eligible candidates shall be certified to the City Manager or his/her designee based upon their rank order on the eligibility list. The order of candidate placement on the eligibility list shall be determined by a competitive examination ranking process. When a vacancy is to be filled, the top five (5) names shall be certified for each vacancy in a department.

#### **3.7.2. Provisional Appointment**

A person meeting the minimum qualifications for a vacant position may be provisionally appointed when there is no eligibility list available for the position.

The City Manager shall determine and establish that the person meets the minimum qualifications before the appointment becomes effective. A provisional employee may be removed at any time without the right of appeal or hearing. A provisional appointee shall accrue the same benefits as probationary employees. A provisional appointee must compete for the eligibility list for the position to which he/she was provisionally appointed in order to secure the regular position. If a provisional appointee is selected for a regular position with the City, the time served as a provisional appointee shall be counted as time toward the fulfillment of the required probationary period.

### **3.7.3. Temporary Appointment**

Whenever there is a need for a temporary employee, the City Manager shall authorize such a position and make an appointment to fill the position. The temporary employee shall occupy an adopted classification and be accorded the hourly salary for same. No benefits other than those required by law shall apply to temporary employees. If a temporary employee is thereafter selected for a regular position with the City, the time spent as a temporary appointee shall not be counted toward the fulfillment of the required probationary period. A temporary appointee shall not be employed more than nine hundred ninety hours (999) in a twelve (12) month period from July 1 to June 30 without the express approval of the City Manager.

In the event that a department has a need to work a temporary employee beyond the one thousand (1,000) hours in a fiscal year, the Department Head shall request the City Manager or his/her designee to consider an extension. In the request, the Department Head shall specify the need for the extension, a date certain wherein the temporary employee's work will end, the exact number of hours per week the employee will work, and any other relevant reasons for the request.

The City Manager, or his/her designee, will evaluate the request and provide the Department Head with a response. If the response is an affirmative one, the following will apply:

Upon attainment of one thousand (1,000) hours in a fiscal year, the subject employee will be enrolled in PERS.

In the month wherein the employee reaches one thousand (1,000) hours of work he/she will begin to accrue vacation, sick leave, and holiday time as follows:

Employees working thirty (30) to forty (40) hours per week: Leave accruals equivalent for regular positions in bargaining unit;

Employees working twenty (20) to twenty nine (29) hours per week: Leave accruals equivalent to one half (1/2) of that for regular positions in bargaining unit;

Employees working less than twenty (20) hours per week: No leave accruals.

Upon termination of the temporary employment, the employee will be paid for all paid leave time excluding sick leave. If the employee is hired as a regular employee with the City prior to termination of temporary status the leave balances will remain on the books.

Upon the attainment of two thousand eighty (2,080) hours in a fiscal year, the employee will automatically achieve regular status and be assigned to the same or similar position in the City.

#### **3.7.4. Emergency Appointment**

To meet the immediate requirement of an emergency condition which threatens life, public health, safety, welfare or property, the City Manager may employ such persons as may be needed without regard to these Rules. In no event shall an emergency appointment exceed ten (10) days, be extended, or provide employment of more than ten (10) days in any twelve (12) month period. Emergency appointments shall not be used in lieu of the other methods of employment. Time spent under such employment shall not be credited toward a probationary period or be used in computing any privileges accrued while employed by the City. Emergency appointees shall be entitled to wages as determined by the City Manager, but shall not be entitled to any other benefits other than those required by law.

#### **3.7.5. Reinstatement Following Resignation**

After an employee has resigned from employment with the City and within two (2) years from the date of resignation, he/she may be reinstated by the City Manager to fill a vacancy in the former position, even though such former employee is not on an applicable eligibility list, as long as the employee meets the minimum qualifications for the position. Human Resources will certify that the former employee still meets the minimum qualifications of the classification. The accruing of benefits, salary, and seniority shall commence anew on the date of

reinstatement in the same manner as if the employee had never been employed with the City. The employee must serve a probationary period again.

### **3.7.6. Limited Term Appointment**

The City Manager may fill a limited term position in a manner provided by these rules, subject to any particular requirements of the particular program or funding at issue. An appointment to a limited term position shall be limited to the term, for which the position exists, for which the position is funded, or for which the employee remains eligible to participate in the program by which the position is funded. The term of such appointment shall not exceed two (2) years with the exception of grant-funded positions which exceed two (2) years. When the position is no longer necessary, when the funding for the position ceases, or when the employee ceases to be eligible to participate in the program by which the position is funded, the employee shall be removed from the payroll. Regular employees who transfer, promote, or demote to limited term positions at the direction of the City Manager shall retain their former status and retain the layoff benefits of their former position. Except as set forth in this Section or otherwise prescribed, all limited term employees shall be subject to the same terms and conditions of employment which apply to regular employees.

### **3.8. Personnel Records**

The Human Resources Division of the City Manager's Office maintains a file on each employee which contains all records and documents pertinent to his/her employment status and history.

Information in the employee's personnel file is confidential and will not be revealed to outside sources except as required by law or with the consent of the employee. No documents will be placed in the employee's file without his/her knowledge. An employee may request the removal of adverse/derogatory materials from his/her personnel files. The City Manager may approve such requests in his/her sole discretion. Access to an employee's personnel file is limited to the employee, his/her supervisors and/or Department Head, the City Manager or his/her designee, and the employee's representative with the employee's written consent.

Upon request, an employee may inspect his/her personnel file during normal working hours at the Human Resources Office. The file may not be removed from the Human Resources Office. However, an employee may request a copy of any materials within his/her personnel file.

### **3.9. Probationary Period**

#### **3.9.1. Objective of Probationary Period**

The probationary period shall be considered an extension of the hiring process. It shall be utilized for closely observing and appraising the conduct, performance, attitude, dependability, aptitude, adaptability, and job knowledge of the employee and to determine whether the employee is qualified for regular employment.

#### **3.9.2. Length of Probation**

Unless specified otherwise, new employees shall be subject to a probationary period of not less than one (1) year dating from the appointment date, except when for good and sufficient reason the City Manager extends the period as he/she deems necessary to evaluate the employee's performance. Employees promoted or reinstated shall be subject to a six (6) month probationary period. In no case shall any employee serve a probationary period of less than one (1) year. During a promotional probationary period, employees will continue to be considered regular employees, will accrue seniority, and shall be protected in discharge procedures as other regular employees. If the employee is not recommended for permanent status in such position, he/she shall be entitled to return to the position from which he/she was promoted provided he/she held permanent status in such position and a vacancy exists or one will be created as the result of another employee being promoted. If the employee was not accorded permanent status for any reason other than the inability to perform the duties of the new position, he/she shall not be entitled to be restored to the position from which he/she was promoted.

Leaves of absence without pay exceeding eleven (11) days in any month shall extend the employee's date for completion of probation by one month. Leaves of absence with pay shall, on the thirty first (31st) day of the leave, be treated in the same manner as leaves of absence without pay with respect to the

extension of probation. Regular part-time employees are subject to the probationary provisions indicated above.

### **3.9.3. Probationary Period - Police Service Sworn**

The initial probationary period for all police service sworn personnel shall be eighteen (18) months. The Chief of Police may shorten the probationary period from eighteen (18) months to twelve (12) months upon satisfactory performance evaluations. All promotions and reinstatements shall be subject to a six (6) month probationary period. During a promotional probationary period, employees will continue to be considered regular employees, will accrue seniority, and shall be protected in discharge procedures as other regular employees.

### **3.9.4. Rejection of Probationer**

At any time during the probationary period, an employee may be rejected by the City Manager, or his/her designee. The City Manager, or his/her designee, need not state any reason for the rejection and the probationer shall be without the right of review of any kind. Notification of rejection shall be made in writing by the City Manager, or his/her designee, to the employee at his/her designated address.

### **3.10. Performance Appraisal**

The City is committed to having an objective and fair performance evaluation system. The goals of the performance evaluation are to document performance, evaluate an employee's strengths and weaknesses, effect constructive changes in work behavior, provide information to assist in professional development and to provide an opportunity for the evaluator and the employee being evaluated to discuss what each can do to make the workplace more productive. The performance evaluation process is also a means to help avoid misunderstandings by communicating expectations, values, and standards.

An employee's supervisor shall evaluate an employee's work performance by completing a performance evaluation form for each employee under his/her supervision at least every three (3) months during the probationary period. The evaluations shall be reviewed and approved by the Department Head. The probationer shall acquire regular status at the end of the probationary period.

After the probationary period, the employee's supervisor shall prepare a performance evaluation for each employee under his/her supervision at least every twelve (12) months. These evaluations shall be reviewed and approved by the Department Head.

An employee is eligible for a salary step increase only if he/she has exhibited satisfactory performance during the evaluation period.

No performance evaluation shall be placed in a departmental file, nor be transmitted to the City's personnel files, until the employee has reviewed or been given the opportunity to review the evaluation with the rating supervisor and/or Department Head. The employee has the right to read, sign, and file a written response to both favorable and unfavorable entries. A signing is not an admission by the employee of the truth of such entries, but rather an acknowledgment of notification. An employee's written response, if any, shall be transmitted to the City's personnel files. Performance evaluations are not subject to any grievance procedure.

Nothing shall be added by management to an evaluation after the employee has signed and received a copy of the evaluation without the employee's written acknowledgment.

### **3.11. Reclassification**

It is the responsibility of the Department Head to ensure that every employee in his/her department is working within his/her classification. However, in the event that the Department Head or an employee believes he/she is working on a regular basis outside of the regular duties of his/her classification, a reclassification study may be warranted. In such an event, the following process should be followed:

The employee shall request that the Department Head review his/her duties in conjunction with his/her assigned classification. If, in the opinion of the Department Head, there is a substantial probability that the employee is working out of class, the Department Head shall request that the City Manager conduct a classification study. This step may also be initiated by the Department Head. Reclassification requests shall be submitted to Human Resources during the months of September to December.

Upon request from a Department Head for a classification study, the City Manager shall conduct such study. Human Resources will complete the studies

by March 1 and inform Department Heads of the findings. The City Manager shall then determine whether or not the employee is working within his/her rightful classification.

In the event that the City Manager determines that the employee is not working within a correct classification, he/she shall determine what classification is appropriate in relation to the employee's assigned duties and responsibilities. Upon such determination, the City Manager shall recommend to the City Council that the Authorized Position List be amended to reflect the appropriate classification. At the same time, the City Manager will recommend the deletion of the position which was replaced through the reclassification. Positive recommendations for reclassification will be included in the department's budget request.

When the Council acts on the budget for the department, an action concerning the reclassification will also take place. Reclassification may take effect retroactively to the beginning of a fiscal year.

Upon reclassification to a higher level classification, an employee's basic rate of pay shall increase to the closest step in the new salary range that is at least five percent (5%) higher than the employee's current rate of pay or to the equivalent step placement in the new salary range, whichever is greater. For example, if an employee's basic rate of pay is at the "B" step and he/she is reclassified, his/her step in the new salary range would be "B" unless this is less than five percent (5%). In this case, the employee would then go to the "C" step. In either situation, he/she would then be eligible for advancement to the next step one (1) year from the date of reclassification. In no case will an employee be paid beyond the "E" step of the new range.

### **3.11.1. Out of Class Working Provisions**

In the event that the City Manager determines there is a need to have an employee work outside of his/her regular classification for a limited period, the employee shall be paid the step closest in the salary range for the position in which he/she is working that is at least five percent (5%) higher than the employee's current rate of pay. The employee must meet the minimum qualifications for the position. If no classification exists for salary placement, then the employee can be paid five percent (5%) higher than his/her current basic rate of pay. An employee shall not work out-of-class in excess of twelve (12) months.



#### 3.11.1.1. Out of Class Pay

Before "out-of-class" pay is approved for an employee, the Department Head must obtain the approval of the City Manager or his/her designee. Should the Department Head not obtain approval from the City Manager or his/her designee, and works the employee out-of-class, the employee will be paid for the time worked at the out-of-class pay rate. The Department Head will meet with the City Manager or his/her designee to discuss the reasons for working the employee out-of-class, the period of time the employee will be working out-of-class, and the recommended pay.

In making the decision regarding out-of-class pay, the City Manager or his/her designee will consider the following:

- 1) Whether or not a vacancy exists in a higher level classification thereby creating a need to work the employee out-of-class.
- 2) If there are any specific or unique circumstances that may warrant an employee to work above and beyond the scope of his/her current classification's duties and responsibilities.
- 3) The length of time the Department Head is proposing to work the employee beyond the scope of his/her classification's duties and responsibilities.
- 4) If there are a significant number of vacancies, regardless of the level of classification, which will cause the employee to assume significantly more duties and responsibilities than currently assigned.

#### **3.11.2. Reorganization**

In the event that a reclassification is necessary due to a division or department reorganization, the procedure as outlined in Section 3.11 need not necessarily apply.

#### **3.12. Promotion**

All vacancies may be filled by promotion pursuant to a promotional examination process at the discretion of the City Manager. No promotion shall be made except as a result of determination that the vacancy will be filled with the most qualified person available or as may otherwise meet the best interests of the

City. Upon promotion, an employee's base rate of pay shall increase to the step in the new salary range that is at least five percent (5%) higher than the employee's current rate of pay, not to exceed the "E" step.

### **3.13. Demotion**

The City Manager may demote an employee if his/her performance of the duties falls below normal standards or for disciplinary purposes. No employee shall be demoted to a position for which he/she does not possess the skill and ability to immediately perform the duties of the position in accordance with acceptable standards. Demotion may occur only if there is a vacancy in a lower level position. Any demotion shall comply with the procedures outlined in Section 4.10.

### **3.14. Transfer**

The City Manager may at any time transfer any employee under his/her jurisdiction. Employees have the option to request a transfer in accordance with the procedures established by the City Manager.

### **3.15. Suspension**

The City Manager may suspend an employee from a position at any time for a disciplinary purpose. Any suspension shall comply with the procedures outlined in Section 4.10.

### **3.16. Dismissal**

A regular employee of the City may be dismissed for cause at any time by the City Manager. Dismissal shall be taken in accordance with Section 4.10.

### **3.17. Resignation**

An employee wishing to leave employment with the City in good standing shall give ten (10) working days' notice of such intention and shall file with the City Manager a written resignation stating the effective date and reasons for leaving. The ten (10) working days may be waived by the City Manager if he/she so

desires. Failure to comply with this rule shall be cause for denying future employment with the City.

### **3.18. Layoff**

#### **3.18.1. Reasons for Layoff**

The City Manager may layoff employees in accordance with the provisions of this Section for any of the following reasons:

Necessity based on lack of funds or work; or

In the interest of economy or efficiency due to reorganization or other reasons; or

Return of another employee with greater seniority from an excused absence.

#### **3.18.2. Order of Layoff**

No regular employee shall be laid off until all non-regular employees serving in the classification(s) affected have been laid off. Regular employees in the affected classification shall then be laid off in the inverse order of their continuous service with the City to include service with the predecessor special districts.

#### **3.18.3. Demotion in Lieu of Layoff**

In lieu of being laid off, a regular employee may elect demotion to:

Any classification within the same or lower salary range in which he/she had satisfactorily served as a regular or probationary employee and has more continuous service time than any other employee in the classification and that classification still exists; or

A classification lower than the classification of layoff and of lesser responsibility where a vacancy exists for which the employee possesses the skill and ability to immediately perform the duties of the classification available in accordance with acceptable standards.

To be considered for demotion in lieu of layoff, an employee must notify the City Manager in writing of such election not later than forty eight (48) hours after receiving the notice of layoff. Any employee displaced by such demotion shall have the same rights accorded by this Section. The salary of the demoted

employee shall be at the step closest to the employee's current pay but not to exceed the top step of the new classification.

#### **3.18.4. Reduction in Hours in Lieu of Layoff**

The City Manager may offer an employee a reduction of working hours with a corresponding reduction in pay in lieu of a layoff. The employee must notify the City Manager in writing of his/her acceptance of the reduction not later than forty-eight (48) hours after receiving such notice from the City Manager.

#### **3.18.5. Recall of Laid Off Employees**

A regular employee who is laid off shall be placed on a recall list for the classification in which he/she was last employed, or in a classification in the same or lower salary range for which he/she is immediately qualified to perform. Employees will be recalled based upon their seniority and will have the first right of refusal for these vacancies.

A regular employee who is laid off and requested in writing, prior to or at the time of layoff, to be recalled to a different classification which is in the same or lower salary range and for which the employee is immediately qualified to perform, will be placed on a recall list for that classification. Employees will be recalled based upon their seniority and will have the first right of refusal for these vacancies.

Prior to reinstatement, Human Resources will ensure that an employee still possesses the minimum qualifications for the position.

An employee shall remain on a recall list for a period of two (2) years from the date of layoff or demotion in-lieu of layoff.

#### **3.18.6. Reinstatement After Layoff**

An employee reinstated after layoff or demotion in lieu of layoff shall retain the step in the salary range where he/she was at the time of layoff or demotion in lieu of layoff, the same level of benefits afforded his/her bargaining group, and seniority rights based on continuous service at the time of layoff.

## **4. TERMS AND CONDITIONS OF EMPLOYMENT FOR CITY EMPLOYEES**

### **4.1. Purpose**

The purpose of this Chapter is to provide City employees with certain terms and conditions of their employment. In the event that any fringe benefits or terms and conditions of employment conflict with an employment agreement or Memorandum of Understanding, the Memorandum of Understanding or employment agreement shall prevail.

### **4.2. Rest Periods**

All employees working more than six (6) hours in a day shall receive two paid fifteen (15) minute breaks (rest periods) in each day. The first shall occur approximately midway between their starting time and their mealtime. The second shall occur approximately midway between their mealtime and the end of their workday. All such employees are to take an unpaid meal period of not less than thirty (30) minutes and not more than one (1) hour after a work period of not more than five (5) hours.

All employees who work at least three and one-half (3 1/2) hours but six (6) hours or less in a day will receive one (1) paid fifteen (15) minute break (rest period) each day. This shall occur approximately mid-way between their starting time and their finishing time.

### **4.3. Outside Employment**

#### **4.3.1. General Provisions**

Regular employees are employed on the condition that employment with the City is their primary employment and that they shall not engage in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, or in conflict with his/her duties, functions, or responsibilities as a City employee.

No City employee shall lend his/her name as an employee of the City to any commercial or business enterprise. No employee shall approve or countenance the use of the name, uniform, or prestige of the City or any City department for any such purpose.

#### **4.3.2. Restrictions**

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

Involves, the use for private gain or advantage, of City time, facilities, equipment and supplies; or the badge, uniform, prestige, or influence of his/her City department or employment; or

Involves receipt or acceptance by the employee of any money or other consideration from anyone other than the City for the performance of an act which the employee, if not performing such an act, would be required or expected to render in the regular course or hours of his/her City employment or as a part of his/her duties as a City employee; or

Involves the performance of an act in other than his/her capacity as a City employee which act may later be subject directly or indirectly to the control, inspection, review or audit, or enforcement of any other employee to the department by which he/she is employed; or

Involves such time demands as would render performance of his/her duties as a City employee less efficient.

#### **4.3.3. Procedure for Obtaining Approval**

City employees wishing to obtain approval for outside employment shall file a statement with their respective Department Head including:

The nature of the job;

The name and address of the firm;

The number of hours worked, or to be worked, each week;

The work schedule or intended work schedule; and

The name and policy number of the secondary employer's worker's compensation insurance carrier.

The Department Head shall review the statement in consideration of the provisions of Sections 4.3.1 and 4.3.2. If in the opinion of the Department Head, such outside employment or intended employment, violates or would violate any of the provisions in Sections 4.3.1 or 4.3.2, the Department Head shall provide written notice to the employee of the possible area of conflict. With this notice, the Department Head shall schedule a time to meet with the employee to discuss

the matter further. Following the meeting, the Department Head shall render a written decision to the employee. If the Department Head does not approve the employment, the decision should also note that the employee may be subject to disciplinary action if he/she pursues the employment as requested. Further, the decision should advise the employee that the Department Head's decision is subject to appeal pursuant to the grievance procedure.

If the approval is granted for outside employment, the employee shall be responsible for informing the Department Head of any changes in the information previously provided concerning the employment. Said changes will necessitate a review of the outside employment.

#### **4.3.4. Outside Employment - Police Officers**

Nothing in this Section precludes a Police Officer from engaging in or being employed in, casual or part-time employment as a private security guard or patrolman for a public entity while off duty from his/her principle employment as a Police Officer with the City of West Sacramento, and exercising the powers of a Police Officer concurrently with that employment, provided that the Police Officer is in a police uniform and is subject to reasonable rules and regulations of the secondary agency for which he/she is a Police Officer and within the provisions of sub-division (k) and (l) of Section 7522 of the Business and Professions Code. In accordance with Penal Code Section 70 (c), any and all civil and criminal liability arising out of the secondary employment of any Police Officer pursuant to this section shall be borne by the officer's secondary employer.

Nothing in this section precludes a Police Officer from engaging in or being employed in casual or part-time employment as a private security guard or patrolman by a private employer while off-duty from his/her principal employment and outside his/her regular employment as a Police Officer with the City of West Sacramento.

A Police Officer, while off duty-from his/her principal employment with the City of West Sacramento, shall not exercise the powers of a Police Officer if employed by a private employer as a security guard.

#### **4.3.5. Termination of Outside Employment**

If any of the following conditions are found to exist as a result of outside employment, employees will be required to terminate their outside employment and will be subject to discipline up to and including discharge.

An employee's outside employment is adversely affecting his or her performance of City work or is in any other way interfering with City work.

City-owned equipment, supplies, facilities, or uniforms have been utilized while engaging in outside employment.

The employee is associated with an enterprise which provides or performs a service to the City in which the employee has regulatory responsibility or influence in his or her capacity as a City employee.

The employee solicited on behalf of the outside employment during his or her working hours for the City.

The employee's employment is otherwise in conflict with the provisions of Section 4.3.

#### **4.4. Overtime**

##### **4.4.1. General Policy**

It is the general policy of the City to avoid the necessity for overtime work whenever possible. Overtime shall be held to a minimum consistent with efficient operation. Overtime shall only be used to cover emergencies or where overtime is more economical than adding regular or temporary employees. Overtime work requires prior authorization by the Department Head or his/her designee.

##### **4.4.2. Incidental and Unauthorized Overtime**

Unauthorized overtime is not compensable except as provided in Section 4.4.4.

##### **4.4.3. Employees Exempt from Overtime**

Those employees occupying classifications who come within the exemption for overtime under the Fair Labor Standards Act (managerial, administrative, and professional employees) shall not be allowed overtime compensation. These classifications will be designated as exempt in the Classification Plan.

##### **4.4.4. Overtime Pay**



Any work performed, not including any paid leave time over eight (8) hours in a day or forty (40) hours in a standard work week shall be considered overtime and shall be compensated at a rate of one and one-half (1-1/2) times the employee's regular rate of pay as defined by the Fair Labor Standards Act. Paid time off for vacations, holidays, sick leave, and compensatory time taken shall not be computed as work performed for the purposes of determining overtime.

Overtime may be taken in cash or in the form of compensatory time off also calculated at time and one-half (1-1/2). Such compensatory time off shall not accrue in excess of eighty (80) hours in a fiscal year.

When overtime is necessary to provide emergency service and it is not duly authorized in advance, the employee working the overtime shall submit to the Department Head a written statement within one (1) working day, stating: (1) his/her name; (2) the date and hours worked overtime; and (3) the nature of the services performed during such overtime. This information must be verified by the employee's supervisor before the overtime will be paid.

There shall be no duplication or pyramiding of overtime pay under any of the provisions of this Chapter. When an employee receives overtime pay for work performed after being called back as specified in Section 4.4.5, he/she shall not, in addition, receive overtime pay for such equivalent number of hours as might exceed forty (40) within the standard workweek.

Upon leaving employment, an employee shall be paid the monetary value of his/her accrued, unused compensatory time off calculated based on the employee's regular rate of pay at the time of leaving employment.

#### **4.4.5. Call-Back Overtime**

When an employee, after completing his/her normal work shift and after leaving his/her work facility, responds to an authorized order to return to duty to perform emergency or non-scheduled services, he/she shall be entitled to overtime. The employee will be guaranteed the opportunity to work for two (2) hours or be paid at the overtime rate for two (2) hours worked even if the total hours worked in the workweek do not exceed forty (40) hours. If an employee who has returned to work is given the opportunity to perform additional work after finishing the work which required his/her return and requests permission to leave rather than perform the additional work, he/she shall be paid overtime only for the actual time worked, even if such time is less than two (2) hours.

Travel time on a callback is considered to be hours worked, whether the call back is to a location where the employee normally works or to another location.

#### **4.5. General Definition of Excused Leaves**

All employees must get prior approval from their supervisors when taking an excused absence from work and must apply appropriate paid leave time to approved absences. For example, if an employee schedules a medical appointment during his/her normal work hours, he/she is expected to charge that time off from work to his/her accrued sick leave, compensatory time off, or vacation. Should the employee not have sufficient accrued leave time to cover the time off work, his/her salary will be deducted by the monetary equivalent of the hours absent.

##### **4.5.1. Sick Leave**

###### 4.5.1.1. Definition

Sick leave is defined as the absence from duty by an employee because of:  
His or her own illness or injury or exposure to a contagious disease which incapacitates such employee from performing his or her duties;

His or her own medical or dental appointment(s); or

He/she must care for a member of his or her immediate family because of illness, injury, or exposure to contagious disease and when the care of such employee is needed, provided that the total number of days of sick leave taken pursuant to this subsection shall not exceed five (5) days per calendar year. As used in this subsection, "immediate family" means husband, wife, child (includes step-children and foster children), brother, sister, parents, grandparents, or spouse's parents, brother, sister, or grandparents.

The City Manager may request a doctor's certificate as proof of necessity for absences in order for sick leave to be granted.

###### 4.5.1.2. Accrual

Each full time City employee shall be entitled to sick leave which shall accrue at the rate of eight (8) hours for each month of service. Regular part-time City employees scheduled to work twenty (20) hours to twenty nine (29) hours per

week shall be entitled to accrue sick leave at the rate of four (4) hours for each month of service. Regular part-time City employees scheduled to work thirty (30) to thirty-nine (39) hours per week shall be entitled to accrue sick leave at the rate of six (6) hours for each month of service.

Employees hired between the first (1st) and the fifteenth (15th) of any month will be entitled to a full month's accrual for the month of hire. Employees hired between the sixteenth (16th) and thirty-first (31st) of any month will receive a full month's accrual commencing with the first (1st) of the month following the date of hire.

#### 4.5.1.3. Sick Leave Pay Upon Termination of Employment

An employee shall be paid one-half (1/2) of the value of his or her accumulated sick leave upon, lay-off or death, based upon his/her salary at the time of termination. **At retirement, an employee has two (2) options regarding his/her accumulated sick leave. An employee may choose a 50% cash-out of his/her accumulated sick leave, and have the remaining fifty percent (50%) of the employee's unpaid accumulated sick leave reported to CalPERS for additional service credit OR in lieu of receiving any cash-out, the employee may choose to have one hundred percent (100%) of the accumulated sick leave reported to CalpERS.**

#### 4.5.1.4. Sick Leave, Disability Insurance, and Worker's Compensation

Sick leave will be supplementary to worker's compensation or disability insurance benefits and will be paid so that at no time will sick leave and worker's compensation or disability insurance payments combined exceed one hundred percent (100%) of the employee's average earnings for the standard workweek preceding disability.

### **4.5.2. On the Job Injuries and Illness**

An employee who is off from work because of injury or illness arising from, and in the course of, his/her employment shall be entitled to receive his/her regular salary during the first three (3) working days of such absence without using accrued paid leave time. Thereafter, the employee may coordinate accrued paid leave time with Worker's Compensation temporary disability payments as per Section 4.5.1.4. At such time that an employee's accrued paid leave time is

exhausted, he/she may request an excused absence without pay according to the provision in Section 4.6 or Section 4.5.10, as appropriate.

An employee engaged in law enforcement, as defined by the provisions of Section 4850 of the Labor Code of the State, shall be entitled to his/her regular salary in lieu of State Worker's Compensation payments if he/she suffers an injury or illness arising from, and in the course of, her/her employment for the period of his/her disability but not to exceed one (1) year. The employee's accrued sick leave and vacation time shall not be charged.

An employee who is receiving Worker's Compensation temporary disability payments as a result of a work related injury or illness shall be treated the same as any other employee on the payroll; thus he/she will continue to accrue vacation and sick leave.

### **4.5.3. Vacations**

#### **4.5.3.1. Accrual**

During the first year of employment, vacation shall accrue on a monthly basis at the rate of eighty (80) hours per year. This rate of accrual will continue until the employee's fifth (5th) employment anniversary, at which time the accrual rate shall be increased to one hundred twenty (120) hours per year. This rate will continue until the employee's tenth (10th) employment anniversary at which time the accrual rate will be at one hundred sixty (160) hours per year.

A maximum of thirty (30) days or two hundred forty (240) hours of unused, vested time may be accumulated by an employee. If an employee has twenty (20) or more years of service, the maximum accrual is 300 hours. Department Heads may accumulate up to four hundred (400) hours of vacation. When an employee reaches the maximum amount of vacation accrual, he/she will not earn any vacation and may be directed to take vacation.

Regular part-time City employees shall be entitled to vacation leave with pay. Employees scheduled to work twenty (20) to twenty-nine (29) hours per week shall be entitled to accrue vacation leave at one-half (1/2) the rate of a full time employee. Employees scheduled to work thirty (30) to thirty-nine (39) hours per week shall be entitled to accrue vacation leave at three-fourths (3/4) the rate of a full-time employee.

Employees hired between the first (1st) and the fifteenth (15th) of any month will be entitled to a full month's accrual for the month of hire. Employees

hired between the sixteenth (16th) and thirty-first (31st) of any month will receive a full month's accrual commencing with the first (1st) of the month following the date of hire.

4.5.3.2. Vacation Scheduling

The time for, and scheduling of, vacations shall be subject to Department Head approval and coordination by the department with other employees.

#### 4.5.3.3. Vacation Pay Upon Termination of Employment

Upon leaving employment, an employee shall be paid the monetary value of his/her vested vacation. Such monetary value shall be calculated based on the employee's regular rate of pay at the time leaving employment.

#### **4.5.4. Holidays**

##### 4.5.4.1. City Holidays

All regular City employees shall be entitled to paid holiday leave for the following days:

- New Year's Day (January 1);
- Martin Luther King's Birthday (Third Monday in January);
- President's Day (Third Monday in February);
- Memorial Day (Last Monday in May);
- Independence Day (July 4);
- Labor Day (First Monday in September);
- Veteran's Day (November 11);
- Thanksgiving Day (Last Thursday in November);
- Day after Thanksgiving Day (Last Friday in November);
- Christmas Day (December 25).

When any of the above holidays fall on a Sunday, the Monday following shall be observed as a holiday. When any of the above holidays fall on a Saturday, the preceding Friday shall be observed as the holiday. *(See Section 4.5.4.3 for compensation for work on City holidays.)*

Public offices of the City shall be closed on the holidays identified above and shall not necessarily be closed on the state holidays as provided in California Government Code §§ 6700 - 6702.

##### 4.5.4.2. Employees Eligible for Pay on City Holidays

Regular full-time, probationary, and provisional employees shall be compensated for eight (8) hours work at the straight time rate on City holidays, even though no work was actually performed.

Regular part-time employees shall be compensated at the straight time rate pursuant to the following schedule on City holidays, even though no work was actually performed:

- a) Employees scheduled to work twenty (20) to twenty-nine (29) hours per week shall be compensated for four (4) hours;
- b) Employees scheduled to work thirty (30) to thirty-nine (39) hours per week shall be compensated for six (6) hours.

Temporary employees shall not receive any holiday pay.

#### 4.5.4.3. Compensation for Work on City Holidays

If a non-exempt employee is required to work on a day being observed as a City holiday, the employee shall be paid overtime compensation at one and one-half (1-1/2) times the employee's regular rate of pay plus retain the holiday hours, to be taken at a later date within the same fiscal year. Holiday hours not taken within the fiscal year when earned will be paid to the employee following the end of the current fiscal year.

If a non-exempt employee is required to work on any of the holidays listed below and the holiday falls on a Saturday or Sunday, the employee shall be paid overtime compensation at one and one-half (1-1/2) times the employee's regular rate of pay. If that employee also works on the observed holiday (Friday before or Monday after the actual holiday), the employee will not be eligible for overtime compensation for the hours worked on the observed holiday, but will retain the holiday hours to be taken at a later date within the same fiscal year.

- New Year's Day (January 1)
- Independence Day (July 4)
- Veteran's Day (November 11)
- Christmas Day (December 25)

When any of the above holidays falls during a paid leave period, both exempt and non-exempt employees will receive pay for the holiday in lieu of being charged with the appropriate leave time. If the holiday falls during an unpaid leave period, the employee will not receive holiday pay.

#### 4.5.4.4. Floating Holidays

Floating holidays are accrued on a fiscal year basis. An employee appointed during the period from July 1 through December 31 shall be entitled to three and one-half (3-1/2) floating holidays for that fiscal year. An employee appointed during the period from January 1 through March 31 shall be entitled to one (1) floating holiday for the fiscal year. An employee appointed during the

period from April 1 through June 30 shall not be entitled to any floating holidays for that fiscal year, but shall earn three and one-half (3-1/2) floating holidays at the start of the next fiscal year (July 1).

Unused floating holidays will not be carried forward to the next fiscal year.

#### 4.5.4.5. Holiday Pay Upon Termination of Employment

Upon leaving employment, an employee shall be paid the monetary value of the remaining floating holidays and for holiday hours accrued as a result of working on a City holiday. Such monetary value shall be calculated based on the employee's regular rate of pay at the time leaving employment.

#### **4.5.5. Disability Leave**

Disability leave is defined as a reasonable period of time during which an employee is unable to perform his/her regularly assigned duties on account of a non-work related accident, injury, illness, or other physical condition. Without regard to the particular cause of the disability, all employees are entitled to the same benefits and subject to the same conditions as set forth in this Section.

The employee, upon learning of the onset of the disability or as soon as practicable after receiving medical advice of the potential for occurrence of disability, must notify his/her supervisor and the Department Head of the disability or the anticipated date the disability will commence. The employee may be required to furnish medical proof of his/her ability to perform the job without being a risk to either him/herself or to fellow employees. In no event, will the employee be allowed to work if in the judgment of the employer he/she has become a safety hazard to either him/herself or fellow employees.

At the time the employee requests disability leave, he/she will inform the Department Head whether or not he/she intends to return to work when the disability ends and, if so, the anticipated date of return. If for any reason the employee fails to return on his/her anticipated date of return without prior notice and proof of continuing disability, he/she will be subject to discipline. The employer also retains the right, if in its judgment there is a doubt as to the continued presence of the disability, to request the employee to submit to a physical examination by a physician of the employer's choosing to determine the validity of the employee's claim to continuing disability.



Upon return following a disability leave, the employee will be returned to the same or similar job held at the time of the commencement of the disability leave.

Unless the employee chooses to coordinate any disability insurance payments, disability leave time will be charged against the employee's accrued leave time. If the employee chooses to coordinate benefits, upon receipt of the disability insurance payment the City will charge the difference between the employee's paid leave time.

At such time as all paid leave time is exhausted the provisions of Sections 4.5.10 and 4.6 apply.

#### **4.5.6. Maternity and Paternity Leave**

Maternity leave may be taken by female employees for up to one hundred twenty days (120) days. Family and Medical Leave of up to twelve (12) weeks is also available in addition to the leave provided in this section (See Section 4.5.10). In no case will leave be granted beyond one (1) year from the original maternity leave date. The one hundred twenty (120) day maternity leave and Family and Medical Leave of up to twelve (12) weeks does not constitute a break in service for purposes of seniority. Leave beyond this will be counted as a break in service for seniority purposes.

The employee must notify either her supervisor or the Department Head at the earliest time of her expected date of delivery and the anticipated date upon which her maternity leave will commence. At the time the employee requests her maternity leave, she should inform the Department Head whether or not she intends to return to work when her disability ends following childbirth. If for any reason she fails to return on her anticipated date of return without prior notice and proof of continuing disability, she will be subject to discipline.

For six (6) weeks following the birth of the child, the City will compensate the employee the difference between her regular salary and disability insurance payments that she may be receiving. In no event will this extend beyond six (6) weeks.

Following the six (6) week period, the employee has the option of coordinating any extended disability payments with paid leave time (e.g., vacation, floating holiday time, comp time, sick leave, and management leave). If the employee is not receiving extended disability payments, she has the option of

using accrued leave time or taking leave without pay. However, if the leave extends beyond the one hundred twenty (120) days of maternity leave plus the twelve (12) weeks of Family and Medical Leave, the employee must use paid leave time until exhausted for the remaining duration of her leave. After leave time has been exhausted, the remainder of her leave is without pay. No benefits or leave time, including holidays, accrue or are paid during any unpaid leave time.

City holidays occurring during the leave period will be recorded as holiday time for payroll purposes and used accordingly. This does not apply to employees on unpaid leave status.

A male regular employee is entitled to a five (5) day paternity leave in connection with the birth of his child. Paid leave shall be utilized for this period. The provisions of Section 4.5.10, Family and Medical Leave pertaining to the birth of a child also apply.

#### **4.5.7. Military Leaves**

Military leaves shall be governed by the provisions of the Military and Veteran's Code §395 and §395.02.

#### **4.5.8. Bereavement Leave**

When a death occurs in an employee's immediate family, the City will provide time off, with pay, up to a maximum of four (4) days. An additional two (2) days may be granted by the Department Head in his/her discretion, depending upon the circumstances; however, this additional time shall be charged against vacation, floating holiday, or sick leave, or taken without pay if no leave time exists. Members of the immediate family are parents, stepparents, husband, wife, children (including step-children and foster children), brother, sister, mother-in-law, father-in-law, daughter-in-law, and son-in-law.

In case of the death of other close relatives, including the employee's brother-in-law, sister-in-law, step-brothers, step-sisters, aunts, uncles, grandparents, or grandchildren the employee shall be allowed time off, with pay, up to a maximum of two (2) days. An additional two (2) days may be granted by the Department Head in his/her discretion, depending upon the circumstances; however, this additional time shall be charged against vacation, floating holiday, or sick leave, or taken without pay if no leave time exists.

#### **4.5.9. Jury Duty**

Any employee who is called for jury service shall be excused from work for the days on which he/she serves. Service, as used herein, includes reporting for jury duty when summoned, whether or not he/she is used. The employee shall receive his/her regular pay for such time provided he/she reimburses the amount of any fees, less mileage received for such appearance.

An employee who is called for jury service to appear in any proceeding on a matter involving City business and who does so during working hours shall receive his/her regular pay for such time, provided he/she reimburses the City the amount of any fees, less mileage, received for such appearance. City transportation may be used, provided that any mileage reimbursement received must be turned over to the City.

The employee must immediately inform his/her supervisor of the call to jury service.

#### **4.5.10. Family and Medical Leave Policy**

The City acknowledges the applicability of the Federal Family and Medical Leave Act and the State Family Care and Medical Leave Act (Acts) and intend to apply and implement the provisions of this section of these rules so as to comply with the Acts.

Any regular or non-regular employee, excepting temporary employees, who has been employed for at least twelve (12) months with the City, or has worked at least one thousand two hundred fifty (1,250) hours of service in a preceding twelve (12) month period is eligible for Family and Medical Leave.

An eligible employee is entitled to a total of twelve (12) workweeks of leave during any twelve (12) month period for any of the following reasons:

- a) The birth of a child of the employee. This may be in addition to the maternity or paternity leave provided for in Section 4.5.6.
- b) Placement of a child with an employee in connection with the adoption of the child by employee.
- c) Placement of a child with the employee for foster care.
- d) A serious health condition that makes the employee unable to perform the essential functions of the position.
- e) To care for a child, parent, or spouse who has a serious health condition. A serious health condition is defined as a condition involving: (1) a

period of incapacity or treatment involving in-patient care in a hospital, hospice, or residential medical care facility; (2) an incapacity requiring absence from work of three (3) days and requiring continuing treatment by a health care provider; or (3) continuing treatment by a health care provider for a chronic/long-term condition that is incurable or so serious that without treatment the condition is likely to involve an incapacity of three (3) days, or for prenatal care.

The City has the right to request validation of the event necessitating the leave in writing from an appropriate health care provider.

Spouses employed by the City are jointly entitled to a combined total of twelve (12) workweeks of family leave for the birth or placement of a child for adoption or foster care and for a parent (but not for a parent-in-law) who has a serious health condition.

During the Family and Medical Leave period, the employee must use appropriate paid leave time. The reason for the leave will dictate the type of leave time that is appropriate for use. However, the City may only require an employee to use accrued sick leave when the leave is required because of the employee's own serious health condition. If the employee does not have sufficient appropriate paid leave time, the leave-without-pay provisions of these rules apply except that Family and Medical Leave does not constitute a break in service for purposes of seniority.

During the family leave period, the City will maintain group insurances under the same conditions as prior to leave.

In accordance with the provisions of the Family and Medical Leave Act of 1993, the City may recover premiums it paid to maintain health coverage for an employee who fails to return to work from Family and Medical Leave.

Upon completion of the Family and Medical Leave, the employee shall return to the same or comparable position as was held prior to the leave. Upon request by the employee, this obligation of reinstatement shall be made in writing prior to the employee commencing the leave.

#### 4.5.10.1. Requesting Family and Medical Leave

In requesting Family and Medical Leave, an employee should, whenever possible, provide his/her Department Head with as much advance notice as possible of the date the leave will commence and of the duration of the leave. At a minimum, written notice of no less than five (5) working days from learning of

the events is required. The request shall state the reason Family and Medical Leave is being requested. The City may require that this request be submitted on a City-provided form.

The Department Head shall promptly respond to the employee's request for Family and Medical Leave.

#### **4.5.11. Witness Duty**

Any employee who is subpoenaed by the City or on behalf of the City to testify as a witness in a deposition before a court of law or other administrative tribunal shall be excused from work for the period of time he/she is called. The employee shall receive his/her regular pay for such time provided he/she reimburses the amount of any witness fees, less mileage received for such appearance. The employee must immediately notify his/her supervisor after being served the subpoena.

Former employees who are subpoenaed to testify by the City or on behalf of the City as a witness in a deposition before a court of law or other administrative tribunal will be compensated if they produce proof that they were required to take paid leave time or leave of absences from their employment in order to testify. Compensation will be based on his/her last hourly rate when employed by the City plus mileage paid at the City's current reimbursement rate. Any witness fees received by the former employee will be deducted from the total compensation.

#### **4.6. Excused Absences Without Pay**

The Department Head may grant a regular employee an excused absence without pay upon the written request of the employee when the employee has no applicable accrued leave time (e.g. vacation, floating holidays, sick leave). No benefits will accrue during unpaid excused absences.

Employees on an unpaid excused leave of absence for more than one-half (1/2) of any accrual period will not accrue any paid leave time for that accrual period.

Unless specified otherwise, an excused absence without pay shall not last for more than one hundred twenty (120) days. Leaves beyond one hundred twenty (120) days must be approved by the City Manager. The maximum amount

of leave granted is one (1) year. If the employee returns to work within the one hundred twenty (120) day period, he/she shall be entitled to employment in his/her former capacity. The City Manager has the discretion to transfer employees returning from leave beyond one hundred twenty (120) days. If the employee does not report for duty within the approved time period, it shall be within the discretion of the City Manager as to whether or not he/she shall be reinstated.

#### **4.7. Fitness for Duty**

The City Manager may require an employee to submit to a physical or mental examination, or both, at any time if the City Manager has reason to believe the employee's physical or mental condition, or both, affects his/her ability (a) to perform the duties of employment at a level of efficiency required by the City, or (b) to perform such duties without constituting a threat to him/herself, other employees, or City property. Such physical or mental examination may be imposed as a condition of continued employment and shall be performed by a doctor chosen by the City.

#### **4.8. Benefits**

##### **4.8.1. General**

In addition to the monetary wages and other employee benefits provided by these Rules, the following benefits shall also be provided to all regular employees.

##### **4.8.2. Insurance**

The City shall provide a health and welfare insurance plan(s) to all regular employees of at least fifty percent (50%) time and their dependents with the exception of temporary employees. The types, plans, scope of coverage, and related matters shall be determined by the City. Copies of the plan(s), and related documents and brochures shall be on file in the City's Human Resources Office, and shall be made available to covered employees upon request. The City shall make contributions for the plan(s) and insurance(s) in accordance with collective bargaining or other negotiated agreements. Regular part-time employees who work twenty (20) to twenty nine (29) hours per week shall be eligible for fifty

percent (50%) of the contribution rate negotiated for full time employees. Regular part-time employees who work thirty (30) to thirty-nine (39) hours per week shall

be eligible for seventy-five percent (75%) of the contribution rate negotiated for full time employees. Regular full-time employees receive one hundred percent (100%) of the contribution rate. Contributions not covered by the City will be the responsibility of the employee.

#### **4.8.3. Retirement**

All City employees, excepting temporary employees, are entitled to participate in a retirement plan through the Public Employees' Retirement System (PERS). The City and employees will contribute those salary percentages to PERS in the amount and form set forth in one or more contracts between the City and PERS which may be adopted and amended from time to time. The employee's share, if any, shall be paid through a payroll deduction.

#### **4.9. Standards of Conduct**

##### **4.9.1. Purpose**

These general rules govern everyday conduct for employees on the job. These rules do not cover every possible situation, but are considered reasonable standards of conduct for all employees. Individual departments may adopt internal operating procedures or rules including standing orders which shall be consistent with these rules. In the event that a personnel practice, benefit, term, or condition of employment pursuant to an employment agreement or Memorandum of Understanding conflicts with these rules, the employment agreement or Memorandum of Understanding shall prevail. Violations of any of these rules could result in discipline up to and including termination.

##### **4.9.2. Work Rules**

###### **4.9.2.1. Sleeping**

Sleeping during work hours is prohibited unless separate authorization has been given.

###### **4.9.2.2. Disorderly Conduct**

Disorderly conduct including, but not limited to, such things as so-called practical jokes, horseplay, rowdiness, and running is prohibited.



#### 4.9.2.3. Stealing

Unauthorized possession of City property, parts, tools, or attempting to remove same from City property is considered stealing and is prohibited.

#### 4.9.2.4. Intent to Harm Persons

Threatening, intimidating, coercing, interfering, or fighting on City premises or while on business is prohibited.

Unlawful discrimination, including harassment, on the basis of race, religious creed, color, national origin, ancestry, disability, marital status, sex, or age against the public or other employees while acting in the capacity of a City employee is prohibited.

Unlawful retaliation against any other City officer or employee or member of the public who, in good faith, reports, discloses, divulges, or otherwise brings to the attention of any appropriate authority any information relative to actual or suspected violation of any law of this State or the United States occurring on the job or directly related thereto is prohibited.

#### 4.9.2.5. Intent to Harm Property

Acts during working time or on City property intended to destroy property, equipment, whether or not the destruction actually occurs are prohibited.

#### 4.9.2.6. Bulletin Boards and Unauthorized Notices

Posting notices on City property, other than City bulletin boards, without written approval or altering or removing any matter which has been posted by the City on the City bulletin boards or City property is prohibited.

#### 4.9.2.7. Alcohol, Illegal Drugs

Possessing, using, or being under the influence of alcohol or illegal drugs on City premises, while on duty, or while transacting City business is prohibited.

#### 4.9.2.8. Prescription Drugs

Failure to report use of prescription drugs that would potentially impair job performance and create a hazardous condition for the employee or others is prohibited.

#### 4.9.2.9. Firearms, Explosives, Dangerous Weapons

Possession of firearms, explosives, or other dangerous weapons on City property, or attempting to bring firearms, explosives, or other dangerous weapons onto City property is prohibited unless required as part of the employee's duties.

#### 4.9.2.10. Reporting Injury

Failure to report an injury or damage to the property of others or to the equipment or facilities of the City to his/her supervisor is prohibited.

#### 4.9.2.11. Smoking

Smoking in areas where smoking has been disallowed is prohibited.

#### 4.9.2.12. Falsifying Records, Reports, Fraudulent Statements

Falsification of production records, time cards, reports, or any City records, or the unauthorized use, taking or possession of City records is prohibited. False injury claims and fraudulent or false statements of any nature are prohibited.

#### 4.9.2.13. Failure to Comply with Instructions

Failure to follow City instructions, verbal or written, including refusing or failing to perform work assigned by a supervisor, failure to report for work at the time and place assigned, failure to return on time from an excused absence, or failure to comply with established work at the time and place assigned, failure to return on time from an excused absence, or failure to comply with established work procedures is prohibited.

#### 4.9.2.14. Discourtesy to Public, Employees, Supervisors

Discourtesy to members of the public, fellow employees, or supervisors during working hours or while transacting City business is prohibited.

#### 4.9.2.15. Political Activity

Employees may not pose for campaign materials nor participate in any other political activities during working hours. Employee political activity administrative policies adopted by the City must be adhered to.

## **4.10. Disciplinary Procedure**

### **4.10.1. Purpose**

The purpose of the disciplinary procedure is:

To provide employees subject to disciplinary action with all rights to which they are entitled by law;

To provide an orderly procedure for pre-action notice, response, implementation, and appeal;

To correct deficiencies in employee performance and to assure improvement to meet job standards.

### **4.10.2. Employee Representation**

An employee may have a representative present at all stages of the disciplinary process as outlined in Section 4.10.4 through 4.11 provided that the representative is not a party to the action.

### **4.10.3. Administrative Leave**

An employee may be placed on administrative leave, with pay, pending investigation of facts possibly giving rise to the potential need for discipline.

### **4.10.4. Notice of Proposed Disciplinary Action**

Prior to suspension without pay, reduction in pay, demotion, or dismissal, the employee shall be provided the following:

Notice of the proposed action;

The reasons for the proposed action;

A copy of the charges and any materials upon which the proposed action is based;

Notice that the employee is entitled to an opportunity to respond to the charges orally or in writing, or both, personally or with a representative which may be an attorney;

The date and time of the response meeting during which the employee and his/her representative shall have an opportunity to refute the charges or present facts that may not be known;

Notice that if the employee fails to attend the response meeting the employee shall be deemed to have waived all rights to said meeting and from appeal to any action taken.

#### 4.10.4.1. Notice of the Response Meeting

Notice of the response meeting shall be given no less than seven (7) days prior to the meeting.

#### **4.10.5. Response Meeting**

At the time and place set for the meeting giving the employee an opportunity to respond, the employee may respond orally and/or in writing, personally, or with a representative.

Neither party shall be entitled to call witnesses or take testimony.

At the meeting, the City Manager or his/her designees may consider information contained in the charges and recommendations, as well as information presented by the employee or his/her representative.

At the conclusion of the response meeting or within seven (7) days, the City Manager or his/her designee shall issue an order, implementing or determining not to implement the action. The City Manager or his/her designee may implement an action that is of lesser severity than that what was initially proposed.

#### **4.10.6. Implementation of Discipline**

When discipline is imposed, a copy of the order shall be served upon the employee either personally, or by registered or certified mail, return receipt requested, at the last known address on file with the City. The order shall include:

A statement of the nature of the discipline imposed;

The effective date of the discipline;

A statement of the causes for the discipline;

A statement of the specific facts or omissions upon which the discipline is based; and

A statement advising the employee of his/her rights to appeal the disciplinary action. This statement shall include the manner and time within which an appeal must be taken, and the required content of the appeal notice.

#### **4.11. Disciplinary Appeal Procedure**

The employee, or his/her representative, after service of an order of disciplinary action as specified in Section 4.10.6 may request that the matter be

submitted to an arbitrator as provided in the following sections. A written request for an appeal must be served on the City Manager or his/her representative within ten (10) days following receipt of the order of discipline. The demand for a hearing shall include:

Specific grounds for review;

Copies of materials on which the appeal is based.

#### **4.11.1. Selection of Arbitrator**

An arbitrator may be mutually agreed upon by the two parties. If they fail to agree upon the arbitrator within ten (10) working days, the Division of Conciliation of the State of California Department of Industrial Relations shall be requested to submit a list of five (5) arbitrators, and from such, the employee and the City Manager or his/her designee shall promptly select the arbitrator by the alternate striking of names, commencing with the employee, from said list.

Upon selection of the arbitrator, the City Manager or his/her designee shall contact the arbitrator and arrange for the earliest hearing date available with regard to the parties' schedules. Should the arbitrator's calendar preclude a hearing date within sixty (60) days, the City Manager may require the parties to strike names for a replacement hearing officer.

#### **4.11.2. Arbitration Hearing and Decision**

The arbitration hearing shall be conducted as a full scale evidentiary hearing with full due process rights including the right to present witnesses, present evidence, cross examine opposing witnesses, the right to counsel and findings to support the decision.

Within thirty (30) days of the conclusion of the hearing, the arbitrator shall render a written decision.

The decision of the arbitrator shall be provided to both parties. Any decision of the arbitrator shall be advisory to the City Manager. Upon review of the decision, the City Manager may affirm, modify, reverse, or otherwise resolve the disciplinary action. The decision of the City Manager shall be final subject only to judicial review pursuant to the Code of Civil Procedure Section 1094.6.

#### **4.11.3. Cost of Disciplinary Arbitration**

The cost of the arbitrator and any expenses associated with the hearing shall be shared equally by the employee and the City. If a transcript of the proceedings is requested, the party making such request shall pay the cost.

#### **4.11.4. At-Will Employees**

At-will employees may not be subject to the disciplinary procedures as provided in Section 4.10.

### **4.12. Grievance Procedure**

#### **4.12.1. Purpose**

The purpose of this procedure is to provide for an orderly process for reviewing and resolving employee grievances at the lowest possible administrative level in the shortest possible time.

#### **4.12.2. Definition of Grievance**

Grievance: A grievance is a complaint of one or a group of employees or a dispute between the City and an Exclusively Recognized Employee Organization involving the interpretation, application, or enforcement of the express terms of any Memorandum of Understanding, rules or regulations.

Discharge, suspension, demotion, and/or other disciplinary actions of an employee shall not be subject to the grievance procedure pursuant to this Section. Those matters shall be governed by the disciplinary procedures set forth in these Rules.

#### **4.12.3. Informal Grievance Procedure**

The grievant shall orally discuss his/her grievance with his/her immediate supervisor within ten (10) days from the event giving rise to the grievance or from the date the employee could reasonably have expected to have had knowledge of such event, but in no event longer than thirty (30) days from the act or omission. The employee shall identify the discussion as the informal step of the procedure. However, failure to identify the discussion as an informal step of the procedure shall not prejudice the grievant. The supervisor shall have seven (7) days to give

an answer to the employee. The supervisor's response may be given orally or in writing and should clearly be identified as the informal response to the grievance.

#### **4.12.4. Formal Grievance Procedure**

##### 4.12.4.1. Level I

If a grievant is not satisfied with the resolution at the informal level, he/she may within five (5) days of receipt of such answer file a formal written grievance on a prescribed form with his/her supervisor. The supervisor within five (5) days thereafter give a written answer to the grievant.

##### 4.12.4.2. Level II

If the grievant is not satisfied with the written answer from his/her supervisor, the grievant may, within five (5) days from the receipt of such answer, file a written appeal to the Department Head. Within fifteen (15) days of the receipt of the written appeal, the Department Head shall investigate the grievance which may include a meeting with the concerned parties and give a written answer to the grievant. The Department Head may affirm, modify, reverse, or otherwise resolve the decision appealed.

##### 4.12.4.3. Level III

If the grievant is not satisfied with the written answer from the Department Head, the grievant may, within five (5) days of such answer, file a written appeal to the City Manager or his/her designee. Within twenty (20) days of the receipt of the written appeal, the City Manager shall investigate the grievance which may include a meeting with the concerned parties and thereafter give a written answer to the grievant, which answer shall be final and binding unless appealed. The City Manager may affirm, modify, reverse, or otherwise resolve the decision appealed.

##### 4.12.4.4. Level IV

If the grievant is not satisfied by the decision made by the City Manager, he/she may within fifteen (15) days of the receipt of the response from the City Manager request a hearing before an arbitrator. The hearing before the arbitrator shall be heard whenever possible within thirty (30) days of receipt of the request by the City Manager. The grievant shall be sent notice of the date of the hearing at least fifteen (15) days prior to the hearing.

Grievance arbitrations shall be conducted according to the rules of arbitration for disciplinary matters as defined in these rules, including selection of the arbitrator and rules of procedure.

#### 4.12.4.5. Level V

The arbitrator shall conduct a hearing and shall either issue an oral bench decision, or shall within thirty (30) days of conclusion of the hearing, render a written decision and/or order. Any decision and/or order of the arbitrator shall be final.

#### **4.12.5. Automatic Advances**

If, at any step in the informal or formal grievance procedure, it is determined that the designated person who is to respond to the grievance does not have the authority to resolve the issue presented, the grievance automatically advances to the next line of authority as designated in the grievance procedure who does have the authority to respond.

#### **4.12.6. Costs of Grievance Arbitration**

The cost of the arbitration, including the arbitrator's fee, shall be shared equally by the employee and the City.

#### **4.12.7. Time Limits**

Time limits are considered an integral and important part of the grievance procedure and may not be waived except by mutual written consent of the parties. In the event that a grievant fails to carry his/her grievance forward within a prescribed time period, the grievance shall be considered settled without precedent based upon the decision rendered at the most recent step utilized and any right to pursue the grievance further shall be deemed waived and abandoned. If a supervisor or manager fails to respond with an answer to a grievant within a given time period, the grievant may proceed to the next higher level of the grievance procedure.