

CITY OF AVALON

PERSONNEL RULES AND REGULATIONS

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CITY OF AVALON PERSONNEL RULES AND REGULATIONS

CHAPTER ONE: PURPOSE, DEFINITIONS AND ADMINISTRATION

1. PURPOSE

1.1 Applicability. The City's Personnel Rules and Regulations ("Rules") apply to all employees in the competitive service, unless such employees are expressly exempted by contract or by the City Council. The Rules shall be interpreted uniformly for the purpose of obtaining and retaining the best qualified personnel and to assure that appointments and promotions are made on the basis of merit and qualifications.

1.2 Right to Modify. The Rules do not constitute an employment contract. The Rules may be modified at any time by the City Council. Employees will be advised of changes in the Rules.

1.3 Scope of Management Authority to Modify. No employee, including the City Manager, may amend or modify the Rules. The Rules may only be modified by the City Council. The City Manager is authorized to issue written management procedures to implement the Rules.

1.4 Primacy of Contracts. If the Rules conflict with a currently valid and applicable Memorandum of Understanding ("MOU") between the City and a recognized employee association or union, the term(s) of the MOU shall prevail. The City Manager shall bring the conflict(s) to the attention of the City Council and shall recommend action to resolve the conflict(s).

1.5 Governing Laws Prevail. If the Rules conflict with any provision of currently applicable law, that law shall apply instead.

2. DEFINITION OF TERMS

The following terms shall be defined as follows:

2.1 Acting Employee. An employee assigned to perform the duties of a higher job classification for one full pay period, or longer.

2.2 Acting Pay. An employee assigned to perform the duties of a higher job classification shall be paid for work performed in the higher job classification until the employee is returned to his/her regular job assignment.

2.3 Allocation. The assignment of a single position to its proper class in accordance with the position's actual duties, authority and responsibilities.

2.4 Appeal. A written statement by an employee requesting the appropriate authority to review a decision related to a dispute concerning the interpretation or application of these Rules or a disciplinary action.

2.5 Appointing Authority. The City Manager, or his/ her designee, is the appointing authority for all appointments to positions in the competitive service. The City Manager shall also appoint all department heads.

2.6 Appointment. The offer and acceptance by an applicant of employment by the City in accordance with the provisions of these Rules.

2.7 At-Will Employee. An employee employed at the pleasure and discretion of the City Council. The City Council may terminate an at-will employee without notice or cause.

2.8 Certified List. Applicants determined to be qualified for consideration for employment in a specific position. The certified list shall be prepared by the Personnel Officer.

2.9 Class. All positions having sufficiently similar duties and responsibilities grouped under a common title. Common standards of selection, assignment and compensation shall be applied to positions within a class.

2.10 Compensatory Time Off. Time off with pay granted to an employee in lieu of monetary compensation for overtime work.

2.11 Competitive Service. All positions in the service of the City except the following: City Manager, City Attorney, temporary employees, volunteers, elected officials, individuals serving on boards, commissions or agencies, individuals performing services under contract, and individuals performing services during an emergency. Positions excluded from the competitive service are not subject to these Rules except as specifically provided herein.

2.12 Day. A calendar day, unless otherwise stated.

2.13 Demotion. The movement of an employee to a position with a lower maximum salary.

2.14 Disciplinary Action. The discharge, demotion, reduction in pay, or suspension of an employee for misconduct or unsatisfactory job performance.

2.15 Emergency Appointment. An appointment of temporary duration made solely to protect the City's interests, or to avert imminent danger to persons or property.

2.16 Employee. A person legally employed by the City.

2.17 Examination. Any combination of relevant and valid tests used to determine the relative qualifications of applicants for appointment or promotion to a position.

2.18 Full-time Employee. An employee who works 40 or more hours a week on a regular basis.

2.19 Immediate Family. An employee's spouse, registered domestic partner, child (natural, step, or adopted), parent, grandparent, sibling, current in-laws, or a person who is at least 50% dependent on the employee.

2.20 Intermittent Employee. An employee who works on an on-call basis.

2.21 Lay-off. The separation of employees from employment for reasons of lack of work, lack of funds, changes in the City's priorities, the adoption of measures to enhance efficiency, or to accommodate organization changes.

2.22 Open Competitive Examination. An examination for a position which is open to all persons meeting the qualifications for the position.

2.23 Open Employment List. A list of names of qualified applicants who have successfully completed an open-competitive examination for a position in the competitive service.

2.24 Part-Time Employee. An employee who works less than 40 hours a week on a regular basis. Benefits shall be provided to part-time employees on a pro-rated basis.

2.25 Personnel Officer. The City Manager or his/her designee.

2.26 Position. The assigned duties and responsibilities, which require the full or part-time employment of a person.

2.27 Probationary Employee. An employee serving a probation period. The appointing authority shall determine the duration of the probation period for each position. A probationary employee may be discharged without cause or notice. A probationary employee may not appeal his/her discharge. A probationary employee is not entitled to a hearing regarding his/her discharge.

2.28 Promotion. The movement of an employee to a position with a higher maximum salary.

2.29 Promotional Employment List. A list of qualified employees who have successfully completed a promotional examination for a position in the competitive service.

2.30 Promotional Examination. An examination for a position which is open only to regular employees who meet the qualifications for the position.

2.31 Provisional Appointment. The temporary appointment of a person to a position pending the establishment of an employment list.

2.32 Regular Employee. An employee who has successfully completed his/her probationary period and has been assigned to a position not designated as "at-will."

2.33 Reinstatement. The rehiring, without examination, of a former regular employee or probationary employee to a position in which the employee formerly served.

2.34 Salary Advancement. A salary increase of one or more steps within a salary range.

2.35 Salary Range. One or more pay rates assigned to be the range of possible compensation rates for a position.

2.36 Salary Reduction. A salary decrease of one or more steps within a salary range.

2.37 Seniority. The length of service of a regular employee with the City.

2.38 Suspension. The temporary separation from service without pay for misconduct or unsatisfactory job performance.

2.39 Temporary Employee. An employee hired to fill a position of limited duration or service. A temporary assignment may not exceed one year unless the position is subject to uncertain, long term funding. A temporary employee may be terminated without notice or cause, may not appeal his/her discharge, and is not entitled to a hearing regarding his/her discharge.

2.40 Time Off. An authorized absence from work with or without pay.

2.41 Transfer. The movement of an employee from one position to another position in the same class.

3. ADMINISTRATION

3.1 City Council Authority. The City Council is primarily responsible for the property and affairs of the City. The general control and management of City property and affairs shall be conducted in accordance with the policies and procedures promulgated by the City Council.

3.2 Administration of Rules. The City Manager, subject to the direction of the City Council, shall be responsible for the interpretation, application and administration of these Rules subject to review by the City Council.

3.3 Delegation of Duties by the City Manager. The City Manager may delegate any of the authority contained in these Rules as he or she may deem appropriate and necessary.

CHAPTER TWO: COMPENSATION AND BENEFITS

4. PREPARATION OF A SALARY PLAN

4.1 Plan Preparation. The City Manager shall prepare an annual salary plan covering all positions in the competitive service. The plan shall contain minimum, intermediate, and maximum rates of pay for each position.

4.2 Salary Factors Considered. In establishing salary ranges and arriving at specific rates of pay, the City Manager shall consider:

- 4.2.1 Prevailing rates of pay for comparable work in other public and private employment;
- 4.2.2 Appropriate internal pay differences between job classes;
- 4.2.3 Changes in the cost of living;
- 4.2.4 The City's financial condition, funding sources, and fiscal policies; and,
- 4.2.5 Such other sources of information the City Manager deems relevant and necessary.

The salary plan shall be prepared and reviewed annually during the first quarter of each year. Other studies of the salary plan shall be conducted as directed by the City Council.

5. ADOPTION OF THE PLAN

5.1 The City Manager shall submit the proposed salary plan to the City Council for adoption, or amendment by the Council. No position shall be assigned a higher pay rate or a lower pay rate than that designated in the salary plan. City Council approval shall be required for amendments, or exceptions, to the salary plan.

6. CHARACTERISTICS OF THE SALARY PLAN

6.1 Each salary range shall consist of five “steps” – a minimum pay rate, a maximum pay rate, and three intervening pay rates.

6.2 There shall be an approximately 5% difference between each step in the salary range.

6.3 The minimum and maximum step of each salary range shall be approximately 2.5% greater than the corresponding steps on the immediate lower salary range.

7. ADMINISTRATION OF THE SALARY PLAN

7.1 The City Manager may authorize advancements within an established pay range in accordance with these Rules. Advancement may be authorized up to and including the fifth step.

7.2 Salary advancement within an established salary range shall not be automatic. Advancement shall depend upon the increased value of the employee to the City and the recommendation of the employee's supervisor. An employee's eligibility for advancement shall be based upon the employee's job performance, length of service, qualifications, training, conduct record and other relevant factors.

7.2.1 The first salary step in a salary range is the minimum pay rate for a position, which will be the default hiring rate for a position. An employee may be hired above this rate if he/she possesses unusually high qualifications and when such action is clearly in the

best interest of the City. The decision to hire an employee above the minimum pay rate in a salary range shall be made by the City Manager.

7.2.2 The second salary step shall be used as an incentive to encourage improved job performance. An employee shall be eligible for movement to the second step after six months of good job performance at the first salary step in the position. The increase shall only be made upon the recommendation of the employee's supervisor and the approval of the City Manager. An employee whose performance does not justify an increase should be released from his/her employment in that position.

7.2.3 The third salary step is the pay rate an employee is eligible to receive after twelve months of good job performance at the second salary step. The recommendation of the employee's supervisor and City Manager are required for advancement to this step.

7.2.4 The fourth salary step is the pay rate the employee is eligible to receive after twelve months of good job performance at the third salary step. The recommendation of the employees' supervisor and the City Manager are required for advancement to this step.

7.2.5 The fifth salary step is the pay rate the employee is eligible to receive after twelve months of good job performance at the fourth salary step. The recommendation of the employee's supervisor and the City Manager are required for advancement to this step.

8. SALARY REVIEW DATE

8.1 Unless otherwise provided by the City Manager, the salary review date for an employee shall be the date the employee completes six months continuous service or upon the employee's successful completion of the initial or promotional probationary period, whichever occurs later. The salary review date of an employee promoted to a position with a higher maximum salary shall be altered to coincide with the anniversary date of the promotion.

9. GENERAL SALARY ADJUSTMENT

9.1 When the City makes a general salary adjustment, salary ranges shall be adjusted accordingly. If the general salary adjustment occurs at the same time an employee has qualified for a step advancement, the employee shall be advanced to the appropriate step.

10. ELIGIBILITY FOR EMPLOYEE BENEFITS

10.1 Only probationary and regular employees shall be eligible for the employee benefits provided for in these Rules. The City Manager shall determine the eligibility for benefits for other classes of employees.

10.2 Regular employees shall be eligible for employee benefits upon appointment. However, a regular employee may not utilize accrued vacation until he/she has satisfactorily completed six months employment.

11. COMPENSATION OF THE CITY MANAGER

11.1 The City Manager is directly responsible to the City Council for the successful administration of the City. The salary range for the City Manager position shall be established by the Council. The Council shall periodically review the salary of the City Manager. Changes in the salary of the City Manager shall be at the discretion of the City Council.

CHAPTER THREE: RECRUITMENT AND SELECTION

1. ANNOUNCEMENT

Applicants shall be recruited in such a manner as to obtain qualified candidates for employment. Vacancies shall be publicized in a manner to attract a wide range of applicants. The City Manager has the discretion to limit competition for a vacancy to current employees. All vacancies shall be announced so that employees are made aware of the job opening.

1.1 Items Included. Job announcements shall contain the title and salary range of the position; the nature of the work to be performed; qualifications necessary or desirable for the position; the dates, time, place, and manner of receiving applications and the administration of any examinations; and other pertinent information. All job announcements shall include a statement that the City is an Equal Opportunity Employer.

2. EMPLOYMENT STANDARDS

2.1 General Standards. Applicants for employment must meet the standards of education, experience, skills, abilities, and personal and physical characteristics required for successful performance of the duties of the position, with or without reasonable accommodation. The City may use application reviews, written tests, oral tests, and individual interviews to assess applicants. Upon completion of the examination process qualified applicants will be ranked according to the results of the examination process.

2.2 Additional Requirements. A successful candidate must meet the following conditions to be eligible for appointment:

2.2.1 Medical Examination. The applicant must pass a job-related medical examination designed to determine his/her physical fitness for the position. For safety-sensitive positions, pre-employment screening may include appropriate tests and medical evaluation to identify improper use of prohibited or controlled substances and excessive use of alcohol. Medical and other examinations shall be administered by a licensed medical doctor or other qualified authorities, selected and paid for by the City.

2.2.2 Work Eligibility. An applicant must be legally entitled to work in the United States. It is the policy of the City to hire only individuals authorized to work in the United States. Documentation of eligibility to work in the United States will be required as a condition of employment.

2.2.3 Driver's License. If a position requires an employee to drive a motor vehicle, the applicant must possess a valid California driver's license.

3. APPLICATION FORMS

3.1 Application for employment shall be made on forms prescribed by the Personnel Officer. Application forms shall elicit information related to the applicant's training, experience, and other job related information. The application may require certificates of one or more examining physicians, personal references, and the applicant's fingerprints. All applications must be signed by the applicant.

3.2 Providing a false or misleading statement or omitting a material fact from an application shall be cause for disqualifying an applicant, or for discipline of an employee up to and including termination if discovered at any time after employment has begun.

4. DISQUALIFICATION OF APPLICANTS

4.1 The Personnel Officer may reject any application which indicates on its face that the applicant does not possess the qualifications required for the position. An applicant may also be rejected if the application process reveals information that shows the applicant is physically or psychologically unable to perform the job and no reasonable accommodation can be made for the applicant's disability; is addicted to the habitual excessive use of illegal drugs or intoxicating liquor; has made a false statement(s) or omitted material fact(s) from the application, or has provided misleading information.

5. CRIMINAL CONDUCT -- INELIGIBILITY FOR EMPLOYMENT

5.1 Conviction, including pleas of guilty and nolo contendere to a felony or other crimes related to the ability to perform the applicable job, shall generally result in the disqualification of the applicant. However, the Personnel Officer may disregard such conviction for an applicant who is otherwise qualified if he/she finds that sufficient mitigating circumstances exist. In making his/her determination whether to exercise such discretion, the Personnel Officer shall consider the following factors:

- 5.1.1 the relationship of the duties of the position to the nature of the conviction;
- 5.1.2 the nature and seriousness of the offense;
- 5.1.3 the circumstances surrounding the conviction;
- 5.1.4 the length of time elapsed since the conviction;
- 5.1.5 the age of the person at the time of conviction;
- 5.1.6 the presence or absence of rehabilitation or efforts at rehabilitation; and,
- 5.1.7 contributing social or environmental conditions.

6. METHODS OF EXAMINATION

6.1 Methods. The selection techniques used in the examination process shall be impartial and relate to those subjects which, in the opinion of the Personnel Officer, measure the relative abilities of the applicants to execute the duties and responsibilities of a given position. Examinations shall consist of selection techniques which test the qualifications of applicants and may include, but are not necessarily limited to, achievement and aptitude tests, written tests, personal interviews, performance tests, physical agility tests, evaluation of daily work performance, work samples, job-related medical tests, psychological tests, successful completion of prescribed training, or any combination of these or other job-related tests of fitness. When there are a large number of applicants for a position, the Personnel Officer may elect to screen applications to identify those with the most relevant, job-related qualifications. Under such circumstances, only those applicants possessing the most relevant qualifications will be invited to later stages of the examination process.

6.2 Probationary Period Requirement. The probationary period shall be considered as the final phase of the selection process.

7. CONDUCT OF EXAMINATION

7.1 The Personnel Officer shall determine the manner and methods used in the examination process. The Personnel Officer may recommend the retention of a qualified agency or individual to prepare or score the examinations. The Personnel Officer shall arrange for the use of facilities, equipment, and related matter for the conduct of the examinations.

8. OPEN EXAMINATIONS

8.1 When it is in the best interests of the City, the Personnel Officer may conduct an open examination. Employees and non-employees shall be eligible to participate in an open examination. Notice of the open examination shall be published or posted prior to the examination. After the open examination is completed, successful applicants shall be placed on an employment list in descending order of the score achieved on all parts of the examination.

9. PROMOTIONAL EXAMINATIONS

9.1 As the needs of the City may require, promotional examinations, limited to City employees who meet the qualifications for the position, may be conducted to fill positions.

10. EMPLOYMENT LISTS

10.1 As soon as possible after the conclusion of an examination, the Personnel Officer shall prepare and keep available an employment list consisting of the names of the applicants who passed the examination(s). The names of applicants shall be arranged in descending score order. An applicant's final score shall be determined by the total of the scores received by each qualifying competitor for each part of the examination based upon the relative value assigned to each part of the examination.

11. DURATION OF LISTS

11.1 Employment lists shall remain in effect until exhausted or abolished by the Personnel Officer. Names placed on an employment list may be merged with others already on an existing employment list.

12. REMOVAL OF NAMES FROM LISTS

12.1 The name of any individual appearing on an employment, reemployment or promotional employment list shall be removed by the Personnel Officer upon the written request of the individual. An individual's name shall be removed from the employment list if he/she does not respond to any employment-related notice from the City. Notices will be sent to the last address provided to the City by the individual.

The names of individuals on promotional employment lists who resign their employment with the City, or are terminated for cause, shall automatically be removed from the list.

13. METHOD OF FILLING VACANCIES

13.1 All vacancies in the competitive service shall be filled by promotion, transfer, demotion, reemployment, reinstatement, or from an employment list. In the absence of persons eligible for appointment from any of these sources, a provisional or temporary appointment may be made as provided by these Rules.

14. NOTICE TO PERSONNEL OFFICER

14.1 When a vacancy in the competitive service is to be filled, the appropriate department head shall notify the Personnel Officer of the vacancy. If there is no reemployment list available for a position, the Personnel Officer shall decide whether to fill the vacancy by reinstatement, transfer, demotion, appointment from a promotional employment list or from an open employment list.

15. CERTIFICATION OF ELIGIBILITY

15.1 When a department head requests a vacancy be filled by appointment from a promotional employment list or from an open employment list, the Personnel Officer shall certify from the specified list the names of all individuals qualified to accept appointment. Whenever there are fewer than three names of individuals willing to accept appointment on a promotional employment list or on an open employment list, the department head may recommend an appointment from among such individuals or may request the Personnel Officer to establish a new employment list. The Personnel Officer may conduct additional examinations to establish a new employment list or expand the existing list.

16. APPOINTMENTS

16.1 After a job-related interview and/or other required investigations of fitness for appointment, the appointing authority shall appoint an individual from among the top three individuals on the list, and shall immediately notify the department head of the appointment. The individual accepting an appointment shall report to the Personnel Officer for processing on or before the date of appointment. If the applicant accepts the appointment and reports for duty

within the period of time prescribed by the City, the applicant shall be deemed to be appointed; otherwise, the applicant shall be deemed to have declined the appointment.

17. COMPLIANCE WITH APPOINTMENT PROCESS

17.1 All applicants must complete all employment-related documents as directed by the Personnel Officer or his/her designee within three (3) work days after appointment. Individuals who fail to comply with this requirement shall be deemed to have declined appointment and another individual may be appointed to the position.

CHAPTER FOUR: APPOINTMENTS

1. POWER OF APPOINTMENT

1.1 Subject to the requirements of these Rules and any relevant rules in a current applicable MOU, the City Manager or his/her designee is authorized to appoint, remove, promote or demote any and all officers and employees of the City except Councilmembers, the City Clerk, City Attorney, and City Treasurer.

2. KINDS AND CONDITIONS OF APPOINTMENTS

2.1 Types. The types of appointments the City Manager or his/her designee may make are acting, at-will, emergency, probationary, regular, provisional and temporary.

3. ACTING DUTY ASSIGNMENTS

3.1 Acting assignments occur when an employee has been assigned the job duties of a higher position for one full pay period or longer. An employee assigned to an acting duty assignment shall be compensated at the rate of pay for the higher position until such time as the employee is reassigned. Acting duty assignments shall not exceed 30 working days. After 30 working days, the department head shall use available employment lists to fill the position or make a provisional appointment.

4. AT-WILL APPOINTMENTS

4.1 At-will appointments are for positions which serve at the discretion of the City Council. The City Council may terminate the employment relationship of an at-will employee at any time without cause or notice. The City Council may elect to prescribe conditions for at-will employees in written employment agreements.

5. EMERGENCY APPOINTMENTS

5.1 Definition. In an emergency involving imminent danger to life or property, or to protect the City's interests, the City Manager may appoint any person available to a position. Emergency appointments shall be terminated as soon as the emergency ends and shall not exceed 30 working days unless extended in writing by the City Manager.

5.2 Authority to Make. A department head may make an emergency appointment when the normal appointment procedures cannot be used in time to meet the needs of the emergency. Emergency appointments shall be reported to the Personnel Officer no later than the next work day after the appointment is made.

6. PROBATIONARY APPOINTMENTS

6.1 Purpose. Probationary appointments are for the purpose of evaluating the job performance of an individual prior to filling a position on a regular basis. The probationary appointment shall be subject to the following conditions and limitations.

6.2 Duration. The probation period shall be six months for all positions. The probation period may be extended by the City Manager upon the recommendation of the employee's immediate supervisor. The extension may not exceed six months.

6.3 Dismissal of Probationary Employee. Employees may be dismissed during the probation period without cause or notice and without the right of appeal or hearing.

6.4 Required Certification. At the conclusion of the probation period, the employee's supervisor and the Personnel Officer shall certify, in writing, the employee's fitness for regular appointment to the position.

7. REJECTION FOLLOWING PROMOTION

7.1 Any employee rejected during the probation period following a promotional appointment shall be returned to his/her former position if available, or another available position, except when the promoted employee is discharged for misconduct. An employee rejected during a promotional probation period shall not have any right to grieve, appeal, or have a hearing conducted with regard to such action.

8. REGULAR APPOINTMENTS

8.1 Regular appointments are for the purpose of providing an adequate staff of employees to discharge the duties and responsibilities assigned to the work force of the City. Regular appointments shall be made from those employees who have successfully completed their probation period. Regular employees may only be terminated in accordance with the policies and procedures contained in these Rules.

9. TEMPORARY APPOINTMENTS

9.1 Purpose. Temporary appointments are made for the purpose of filling a position of limited duration or, a position with uncertain funding. A temporary employee may be terminated without notice or cause and without the right to appeal or have a hearing held with regard to his/her termination.

9.2 Conditions. Temporary appointments may be made without recourse to the formal selection process. A department head may terminate, with written notification to the City

Manager, a temporary appointee, at his/her discretion, without cause, and no appeal may be made for such action. Temporary appointments may not be made except as follows:

9.2.0.1 As a substitute for a regular employee who is absent from his/her position.

9.2.0.2 When it is impractical or has not been possible to recruit an individual meeting the standards for the position.

9.2.0.3 When the City's budget allows only for temporary employment.

9.2.0.4 When it is anticipated that the duration of the position is temporary or that the position is scheduled to be abolished.

9.2.0.5 When there is no employment list, or when those on the list are not available.

9.2.0.6 When a state of disaster is declared or conditions exist which seriously endanger the health, welfare and safety of the community.

9.2.0.7 When extensive illnesses, injuries, or the absence of an employee creates a hardship on a department and creates the need for a temporary employee to replace the absent employee.

9.2.2 If a temporary appointee is subsequently appointed to a regular position, the time served as a temporary appointee shall be counted towards the fulfillment of the required probationary period.

9.2.3 No special credit shall be allowed in meeting any qualifications for employment or in the giving of any test or the establishment of any open competitive or promotional employment list, for service rendered as a temporary employee.

9.2.4 Temporary employees shall not earn or accrue any benefits.

10. PROMOTIONAL APPOINTMENTS

10.1 Definition. The movement of an employee to a position with a higher maximum salary. Promotions shall be based upon merit and an employee's qualifications, and not merely on the basis of seniority.

10.2 Salary Adjustment. A promoted employee shall receive a pay increase of not less than 5%, unless the difference in pay ranges between the employee's former position and the new position is less than 5%. Step placement on the new salary range shall be as close to a 5% pay increase as possible. A promoted employee shall serve a new probationary period when he/she is promoted.

11. PROVISIONAL APPOINTMENTS

11.1 Definition. Provisional appointments may be made by the Personnel Officer when there are fewer than three eligible individuals on an employment list available to accept employment. The provisional employee must satisfy the qualifications for the position. A provisional appointment shall be no longer than six months unless the appointment is extended in writing by the Personnel Officer. The Personnel Officer shall initiate an examination for the position when a provisional appointment is made.

11.2 Dismissal of Provisional Employee. A provisional employee may be removed at any time without notice or cause or the right of appeal or hearing.

11.3 Benefit Conditions. A provisional appointee shall not earn or accrue benefits except as authorized by the Personnel Officer. If a provisional appointee subsequently qualifies for appointment as a regular employee, the time served as a provisional appointee shall be counted as time toward the fulfillment of the required probationary period.

11.4 Limitations. No special credit shall be allowed in meeting any job qualification or in the giving of any test or the establishment of an open or promotional employment list, for service rendered as a provisional employee.

CHAPTER FIVE: TRANSFER, PROMOTION, DEMOTION, SUSPENSION AND REINSTATEMENT

1. TRANSFER

1.1 Conditions. An employee may be transferred to a position if the employee possesses the qualifications for satisfactory performance of the duties of the position. With the approval of the Personnel Officer, an employee may be transferred at any time by a department head or designated alternate from one position to another position in the same or a comparable class. For transfer purposes, a comparable class is one with the same maximum salary, involves the performance of similar duties and requires substantially similar qualifications.

1.2 Between Departments. If the transfer involves movement from one department to another, both department heads must consent to the transfer unless the City Manager orders the transfer.

1.3 Prohibitions. A transfer shall not be made for disciplinary reasons or for the sole purpose of increasing an employee's salary.

2. PROMOTION

2.1 Policy. Insofar as it is consistent with the best interests of the City, vacancies in the competitive service may be filled by promotion from within the competitive service, after completion of a promotional examination and certification from a promotional employment list.

2.2 Conditions for Open Examinations. If, in the opinion of the Personnel Officer, it is in the best interests of the City, a vacancy in the competitive service may be filled by an open, competitive examination instead of promotional examination. The Personnel Officer shall

arrange for the open, competitive examination and for the preparation and certification of an open employment list.

2.3 Salary Anniversary Date. For the purpose of determining progression through the steps in a salary range as a result of a promotion, an employee shall be eligible for a step increase after the satisfactory completion of the promotional probation period. The date of the satisfactory completion of the promotional probation date shall serve as the review date for subsequent salary adjustments.

3. DEMOTION

3.1 Conditions. The Personnel Officer may demote an employee if an employee's ability to perform his/her required duties falls below a minimum acceptable level of performance, or for disciplinary purposes. Upon the request of an employee, and with the consent of the appointing authority, a voluntary demotion may be made to a vacant position. An employee shall not be demoted to a position which he/she is not qualified to perform.

4. SUSPENSION

4.1 Conditions and Authority. The Personnel Officer may suspend an employee from employment at any time for disciplinary reasons or to protect the safety of others or property. Suspension without pay shall not exceed 30 calendar days, nor shall any employee be penalized by suspension for more than 45 calendar days in any fiscal year. Department heads may suspend a subordinate employee for not more than three working days at any one time, and not more than once in a 30-day period. All proposed suspensions shall be reported immediately to the Personnel Officer.

5. REINSTATEMENT

5.1 Conditions. With the approval of the Personnel Officer, a regular employee or probationary employee who has resigned with a good performance record may be reinstated within one year of the effective date of the resignation to a vacant position in the same or comparable class held by the employee prior to his/her resignation. Upon reinstatement, the employee shall be subject to the probationary period prescribed for the position. No credit for former employment shall be granted in computing salary, vacation, sick leave, or other benefits except on the specific recommendation of the Personnel Officer at the time of reinstatement.

CHAPTER SIX: CLASSIFICATION

1. PREPARATION OF CLASSIFICATION PLAN

1.1 Definition and Process. After consulting with affected department heads, the Personnel Officer or a person or agency employed for that purpose shall ascertain and record the duties and responsibilities of all positions in the competitive service. The Personnel Officer shall recommend to the City Council a classification plan for such positions. The classification plan shall group positions in the competitive service into classes, as defined by written class specifications. Each class specification shall outline the main characteristics and qualification requirements of positions allocated to the class, and give examples of duties which employees

holding such positions may be required to perform. The class specification should be descriptive and explanatory, and not restrictive. The listing of particular examples of duties in the specification does not preclude the assignment of other tasks or duties of a related kind, character, or skill to the position. The statement of desirable qualifications in a class specification is intended to be used as a guide in selecting candidates for employment, as an aid in the preparation of competitive examinations, and for use in determining the relative value of positions in one class to other classes.

1.2 Classification Criteria. Each class shall include those positions sufficiently similar in respect to their duties and responsibilities so that similar requirements as to training, experience, knowledge, skills, and abilities may be applied to those positions. The same salary range may be applied to all positions in the same class.

1.3 Allocation of Positions. The Personnel Officer shall assign every position in the competitive service to one of the classes established by the classification plan.

2. RESPONSIBILITY

2.1 City Manager Responsibility. The duties for each position shall be contained in position descriptions established and amended from time to time by the City Manager or his/her designee. A classification plan containing general class specifications or position descriptions also shall be maintained by the City Manager.

3. ADOPTION OF PLAN

3.1 City Council Authority. The City Council must approve the classification plan before it becomes effective.

4. UPDATING THE CLASSIFICATION PLAN

4.1 Responsibility and Process. The duties and responsibilities of an individual position may change to such a degree that the current position description and class specification no longer adequately describe the position's assignments, qualifications and requirements. When necessary, the City Manager or his/her designee shall prepare and submit information regarding changes in positions for consideration by the City Council. The information will include recommended changes in the position salary range commensurate with the classification change. The City's job classification plan may be modified by the City Council.

4.2 Maintenance Cycle. Every five years, a comprehensive overall review of the City's classification plan and pay structure shall be undertaken by the City Manager or his/her designee.

4.3 Review Assignment. The review may be conducted by a non-employee at the discretion of the City Council.

CHAPTER SEVEN: ATTENDANCE AND LEAVE

1. HOURS OF WORK

1.1 Workweek (Non-Firefighters). The regular hours of work for full-time City employees shall consist of eight (8) hours per day, five (5) days per week. Specific work schedules may be established to comply with legal requirements or to meet the City's business and public service needs.

1.2 Workweek (Firefighters). The regular workweek for firefighters is 53 hours within a seven (7) day consecutive period. A tour of duty within a period shall be 24-1/4 hours, including a non-compensable eight (8) hour sleep period. The Fire Chief at his/her discretion may assign firefighters to alternate workweek periods and/or schedules, including but not limited to an eight (8) hour day, five (5) day per week work schedule. The City will advise firefighters of their individual workweek period and work schedule upon assignment and whenever they are changed.

1.3 Rest Periods. Employees shall be allowed a paid rest period of 15 minutes during each four (4) consecutive hours of work. Rest periods shall be scheduled by an employee's department head or supervisor. A 30 or 60 minute unpaid meal period shall be provided as designated by an employee's department head or supervisor. Meal periods shall be scheduled at approximately the middle of an employee's work shift to the extent practicable

1.4 Rest Period Conditions. The City may designate areas where rest periods may be taken. An employee may occasionally be required to perform duties during his/her normally scheduled rest period. The rest break will be rescheduled if the employee is required to work during his/her normal rest break.

2. ATTENDANCE

2.1 Conditions. Employees shall be in attendance at their work in accordance with the City's rules regarding hours of work, holidays and leaves. The Personnel Officer shall enforce attendance requirements and maintain attendance records for all employees. Any absence from work without prior authorization shall be the cause for disciplinary action if such absence is found to be unwarranted or regarded as detrimental to the interests of the City.

3. OVERTIME

3.1 Definition. Work performed in excess of 40 hours in a work week shall be considered overtime work. Employees shall typically be compensated for overtime work at the rate of 1 1/2 hours of compensatory time off for each overtime hour worked. The City Manager in his/her discretion may instead authorize monetary compensation for overtime work at the rate of 1 1/2 times the employee's straight time hourly rate of pay.

3.2 Compensatory Time Off. Compensatory time off may be credited up to a maximum of 64 hours. When the maximum is reached, the employee shall be paid monetary compensation for all additional overtime work. Employees may request to use their accrued compensatory time off subject to the approval of their immediate supervisor. Such time off shall be permitted within a reasonable period after the request is made, unless the compensatory time off unduly disrupts the City's operations.

3.3 Overtime Exemption. Employees exempt from the overtime pay requirements of the Fair Labor Standards Act shall not be entitled to nor be paid overtime compensation of any kind. Exempt employees shall be granted up to 56 hours of administrative leave per year upon the approval of the City Manager.

3.4 Payment Due Upon Separation. Employees shall be paid for all accrued but unused compensatory time off due upon separation from City service. Payment for all unused compensatory time off shall be at the employee's hourly rate of pay at the time of separation or the average regular rate received by the employee during the last three (3) years of the employee's employment, whichever is higher.

3.5 Hours Not Counted Toward Overtime Computation. Sick leave, vacation and holiday time are not considered to be hours worked for purposes of computing overtime compensation.

4. CALL-BACK

4.1 Definition. It may be necessary to call back an employee to work outside the employee's normally assigned work-shift to respond to an emergency situation. An employee called back shall receive a minimum of 2 hours pay at 1 1/2 times his/her straight time hourly rate of pay. Exempt employees are not eligible for call-back pay. Call-back pay will not be paid to an employee receiving "stand-by duty" pay.

5. STAND-BY DUTY

5.1 Definition and Pay Rate. The nature of the City's services and the potential for damage to property may make it necessary to designate employees to respond to emergency calls during weekends, holidays and other non-work hours. An employee designated for stand-by duty shall arrange his/her schedule of personal activities so that he/she can be contacted within 10 minutes by pager, radio or telephone and can respond to an emergency request within 30 minutes of notification. An employee performing stand-by duty shall receive stand-by duty pay for a minimum of three hours at the employee's overtime pay rate with the understanding that the employee may be required to work the entire three hours and shall be paid until notified by City management that the stand-by duty has been completed.

6. HOLIDAYS

6.1 The following days are recognized as paid holidays for at-will, probationary, and regular employees, unless otherwise provided by a current applicable MOU:

New Year's Day (January 1st)

Martin Luther King Day (Third Monday in January)

Lincoln's Birthday (February 12th)

President's Day (Third Monday in February)

Memorial Day (Last Monday in May)

Independence Day (July 4th)

Labor Day (First Monday In September)

Veteran's Day (November 11th)

Thanksgiving Day (A Thursday in November designated by the President of the United States)

The Friday After Thanksgiving Day

Christmas Day (December 25th) **

** The City Manager may substitute the day before or after Christmas.

Eligible employees shall receive their regular day's pay for the holidays listed above, other days or portions of days designated as paid holidays by official proclamation of the Mayor. The Mayor may take action to have such paid holidays coincide with holidays declared by the President of the United States, the Governor of the State of California, or when in the opinion of the Mayor a significantly important local event merits such action.

An employee on an unpaid leave of absence shall not receive holiday pay.

6.2 When a holiday falls on a Sunday, the following Monday shall be observed as the authorized holiday. When a holiday falls on a Saturday, the previous Friday shall be observed as the authorized holiday.

7. VACATIONS

7.1 Accrual Rates. All probationary and regular employees shall accrue vacation at the following rates (unless provided otherwise by a current applicable MOU):

Years of Service	Vacation Days Accrued Per Full Year
0 – 4 years	10 days (0.385 days per full pay period)
5 – 9 years	15 days (0.577 days per full pay period)
10+ years	20 days (0.769 days per full pay period)

Vacation accrual rates for at-will employees shall be separately agreed upon by the at-will employee and the City Council. Vacation shall not be accrued while an employee is on an unpaid leave of absence.

7.2 Pro-rated Accruals. Part-time employees shall earn vacation leave on a prorated basis.

7.3 Vacation Leave Usage Waiting Period. Vacation leave may not be used until an employee has completed at least six months of continuous service. An employee may not use vacation leave in excess of his/her unused and accrued vacation leave balance.

7.4 Authority to Grant Vacation Leave Use. Vacation shall be scheduled with the approval of an employee's immediate supervisor. Vacation requests will be granted with due regard for the wishes of the employee to the extent they do not conflict with the operational needs of the City.

7.5 Holiday Adjustments. Paid holidays coming within an employee's authorized vacation leave shall not be charged as vacation time.

7.6 Maximum Vacation Leave Accumulation. An employee may accumulate a maximum of 240 hours of vacation leave. If an employee's vacation leave balance exceeds 240 hours on March 31st of any year, the employee shall cease accruing vacation leave until the employee takes vacation and reduces the balance to be 239 hours or less at the beginning of a month. Exceptions to the maximum accrual limit may be made by the City Manager. During January of each year, the Personnel Officer will notify department heads of affected employees that the employees' vacation leave balance may exceed the maximum vacation limit by March 31st.

7.7 Payment Upon Termination. Employees shall be paid for their accrued and unused vacation leave upon termination or resignation. Payment will be at the employee's regular hourly rate of pay at the time of separation.

7.8 Accrual Initiation. Employees appointed after the 15th day of the month shall not earn any vacation leave for that month.

7.9 No Double Compensation. Employees shall not work and be paid for vacation at the same time.

8. SICK LEAVE

8.1 Accrual Rate. At-will, probationary, and regular employees shall accrue sick leave at the rate of one work day per month for each calendar month of service. Employees appointed after the 15th day of the month shall not earn any sick leave for that month. Sick leave shall not be earned while an employee is on an unpaid leave of absence.

8.2 Pro-rated Accruals. Part-time employees shall earn sick leave on a prorated basis.

8.3 Sick Leave Usage Conditions. Sick leave shall not be considered a privilege which an employee may use at his/her discretion, but shall be used only in the case of necessity such as actual illness or injury of an employee, the employee's spouse or children, or another member of the employee's immediate household. Sick leave may also be used for dental (including orthodontic) appointments, vision care appointments, or other medical examinations or medical treatments.

8.4 No Accrual Limitation. Sick leave may be accrued without limit.

8.5 Sick Leave Usage During Absences. If an employee is absent due to illness or injury and exhausts his/her sick leave balance, additional paid time off shall be charged against the employee's compensatory time off balance (if any), and then the employee's vacation leave balance (if any), before allowing an employee to take unpaid leave. Employees on pregnancy disability leave are not required, but are encouraged, to apply all accrued and unused vacation leave before taking any unpaid leave.

8.6 Holiday Exemption. Holidays that occur during an employee's period of authorized paid sick leave shall not be charged against the employee's sick leave balance.

8.7 Conversion From Vacation Leave. An employee who becomes ill while on vacation leave and wishes to convert his/her absence from vacation leave to sick leave time must make the request as soon as possible after the employee determines that he/she wants to use sick leave. The request may be provisionally granted by an employee's immediate supervisor; however, final approval must be obtained from the City Manager.

8.8 Notification. An employee must notify his/her immediate supervisor of his/her intention to use sick leave time within one-half hour before the employee's normal time for reporting to work. The employee is expected to call personally or to have another person provide the proper notification. A reason for not making personal notification shall be given immediately upon return to work. An employee will be required to provide proper medical certification for an absence of three (3) or more consecutive work days or if there is reason to believe the employee is abusing the use of sick leave.

8.9 Sick Leave Abuse. Violation and/or abuse of sick leave procedures or privileges will result in disciplinary action. Employees with a pattern of frequent absences for short durations and without a reasonable basis for such absences are subject to appropriate disciplinary action, up to and including termination. Examples of potential sick leave abuse include frequent absences following or preceding holidays or repeated absences on Fridays and Mondays.

8.10 Non-Payment Upon Termination. An employee is not entitled to receive payment for unused sick leave except as provided in section 8.11 below.

8.11 Payment of Sick Leave Credits Upon Separation. Upon separation from City employment, an employee is entitled to receive payment for unused sick leave in accordance with the following schedule:

Years of Service	Balance Payable
2 – 4	25% of accrued and unused sick leave
5 – 9	50% of accrued and unused sick leave
10+	75% of accrued and unused sick leave

When calculating the total amount payable to an employee upon separation for his or her accrued and unused sick leave, the Personnel Officer shall determine the total amount of accrued and unused sick leave, allocate an equal portion of such leave to each year of service, and determine the highest hourly pay rates for each year of service.

9. SPECIAL LEAVES

9.1 Administrative Leave. On rare occasions, due to special circumstances, the City Manager may find it necessary to place an employee on special leave status, with or without pay, as warranted by the special circumstances. The City Manager may authorize special leave for all employees except at-will employees, with or without pay, and maintain the employee's employment status during the leave. The City Council shall act upon all leave requests submitted by at-will employees.

9.2 Family and Medical Leave; Pregnancy Disability. Under the federal Family and Medical Leave Act of 1993 (“FMLA”) and the California Family Rights Act of 1993 (“CFRA”), if an employee has at least twelve (12) months of service with the City, has worked at least 1,250 hours in the past twelve (12) months, and at the time of his or her need for leave is employed at a worksite where the City employs at least fifty (50) employees within seventy-five (75) miles, that employee may have a right to FMLA and/or CFRA leave. Employees eligible for such leave may be entitled to take up to twelve (12) workweeks of unpaid, job protected leave in a 12-month period for the birth, adoption, or foster care placement of their child; for their own serious health condition; for the care of their child, parent, or spouse; or to address a “qualifying exigency” arising out of a covered family member’s active military duty or call to active duty. Eligible employees may also take up to 26 workweeks of FMLA leave in a single 12-month period to care for a “covered servicemember,” if the employee is the spouse, son, daughter, parent, or next of kin of the covered servicemember. At the employee’s option or the City’s option, certain kinds of paid and unpaid leave may be substituted for family leave.

Even if an employee is not eligible for FMLA and/or CFRA leave, if she is disabled by pregnancy, childbirth, or related medical conditions, an employee is entitled to take a pregnancy disability leave (“PDL”) of up to four months, depending on the period(s) of actual disability. If the employee is also FMLA/CFRA-eligible, she has certain rights to take BOTH a PDL/FMLA leave and a CFRA leave in connection with the birth of her child, up to a combined total of four months and 12 workweeks.

When medically necessary, leave may be taken on an intermittent or a reduced work schedule. For employees taking CFRA leave following the birth, adoption, or foster care placement of a child, the basic minimum duration for such leave is two workweeks, and employees must conclude the leave within one year of the birth or placement for adoption or foster care.

If possible, employees must provide at least thirty (30) days advance notice for foreseeable events (such as the expected birth of a child or a planned medical treatment for yourself or of a family member). For events which are unforeseeable, the employee, or someone on the employee’s behalf, must notify the City at least verbally as soon as the employee learns of the need for the leave. Failure to comply with these notice requirements is grounds for and may result in deferral of the requested leave.

The City may require certification from the employee’s health care provider before allowing a leave for pregnancy disability or the employee’s own serious health condition, or certification from the health care provider of the employee’s child, parent, or spouse who has a serious health condition, before allowing the employee a leave to take care of that family member. The City may also require certification for leave taken to address a qualifying exigency or to care for a covered servicemember. Under certain circumstances, the City may also require second or third opinions (at the City’s expense) and a fitness for duty report prior to the employee’s return to work.

Where the FMLA and/or CFRA apply, the City will continue group health plan coverage (if any) for up to a maximum of 12 weeks in any 12-month period under the same terms and conditions as applied prior to the employee’s leave of absence, or up to 26 workweeks for covered servicemember leave. Employees will not accrue any paid time off during any unpaid period of leave. Upon return from leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms, subject to any exceptions permitted by law. While taking a family care or pregnancy disability leave may impact certain benefits, use of FMLA, CFRA, and/or PDL leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee’s leave of absence.

If employees incur a non-work-related injury or disability and are not eligible for FMLA or CFRA leave, the City will allow time off from work to accommodate for such injury or disability to the extent required by law.

For more information and/or a copy of the City’s detailed policies regarding family leave and/or pregnancy disability leave, please contact your supervisor.

9.3 Work-Related Injury or Illness Leave of Absence. Any work-related injury or illness regardless of how minor must be immediately reported to an employee's supervisor or other available supervisory personnel.

An employee who requires a work-related injury or illness leave of absence ("work-injury leave") must notify the City Manager, preferably in writing, of the need for such a leave as soon as the employee learns that he/she is unable to work due to a work-related injury or illness. The notice must specify the reason for the work-injury leave, the date the leave will begin, and the expected duration of the leave. An employee who requests such a leave may be required to provide to the City, initially and from time to time thereafter, proof of disability in the form of a physician's statement. An employee may be directed to be examined by a City-selected physician by the City Manager.

The work-injury leave shall be granted for the duration of the work-related disability or to the extent provided by law, whichever is shorter. Accrued vacation, sick leave and/or compensatory time off may be used to supplement any workers' compensation benefits or other disability insurance benefits received by the employee during the work-injury leave. An employee may elect not to use accumulated leave time while on work-injury leave. The City will pay any minimal disability time not covered by the City's worker's compensation carrier, and this time will not be charged against the employee's accruals. In no case shall the employee's compensation while on work-injury leave exceed his/her regular earnings. An employee shall not earn or receive any benefits while on work-injury leave, except to the extent required by law or a current applicable MOU. An employee who is on a work-injury leave for a period in excess of three months must notify the City by the end of each month thereafter both of the status or the disability and his/her continued intent to return to work at the end of the work-injury leave. An employee returning from a work-injury leave shall be required to provide a physician's statement which indicates that the employee is fit to return to work. The employee may be examined by a City-selected physician before being returned to work.

A request for an extension of a work-injury leave will be considered if it is received by the City Manager in writing prior to the expiration of the approved work-injury leave and is supported by proof of continued disability in the form of a physician's statement. The City may require an employee to be examined by a City selected physician before acting upon a work-injury leave extension request.

An employee who fails to report for work at the end of a work-injury leave will be considered to have voluntarily resigned. The City will retain an employee on work-injury leave until one of the following occurs:

- 1) The employee is released for full or partial duty.
- 2) The City receives satisfactory medical evidence which indicates the employee will be permanently unable to return to work.

3) The employee directly or indirectly informs the City (i.e., by accepting other employment, moving out of the state, etc.) that he/she does not intend to return to work.

An employee who returns to work at the end of his/her work-injury leave will be returned to his/her former position, if possible, or will be offered the first available opening in a comparable position for which the employee is qualified.

9.4 Jury Duty and Court Witness Leave. A leave of absence with pay will be granted by the City Manager to an employee who is required to perform jury duty.

Any payment, except travel pay, meals, and lodging expenses received by the employee as a juror, shall be paid to the City.

A leave of absence with pay may be granted by the City Manager to an employee required to serve as a witness because of his/her employment with the City. Any payment, except travel pay, meals and lodging expenses received by the employee for service as a witness shall be paid to the City.

9.5 Leave Without Pay. Leave without pay may be granted to an employee by the City Manager whenever the City Manager considers such leave to be in the best interest of the City, or under any circumstances required by law. Leave without pay shall be granted only after all other applicable, available, and accumulated leave balances have been exhausted, to the extent the City may require such exhaustion under laws applicable to the particular type of leave.

An employee on leave without pay shall not earn vacation, sick leave, insurance or other benefits, except if required by law or a current applicable MOU. The employee's salary advancement date shall be delayed for a period equal to the length of the leave, unless a special exception has been expressly approved in writing by the City Manager.

Absent extenuating circumstances, failure of an employee on leave without pay to report to work promptly at the expiration of the leave or within a reasonable time after being sent a notice to return to duty shall be considered to voluntarily resigned.

9.6 Military Leave. Military leave shall be granted in accordance with the applicable state and federal laws. An employee entitled to military leave shall give the City Manager an opportunity within the limits of military regulations to determine when the leave shall be taken.

9.7 Military Spouse Leave. Qualified employees will be given up to 10 days leave during that time in which the employee's spouse or registered domestic partner is on leave from deployment in a combat zone with the active duty or reserve military or National Guard during a period of military conflict. Employees may use accrued vacation time or compensatory time off to cover this absence. If the employee has no accrued time off, the employee must request the

time off without pay.

“Qualified employees” are employees who work an average of at least 20 hours per week and have a spouse or registered domestic partner who is serving as (1) a member of the U.S. Armed Forces and who has been deployed during a period of military conflict to an area designated as a combat theater or combat zone by the President of the United States, or (2) a member of the Armed Forces Reserves or the National Guard and has been deployed during a period of military conflict.

Qualifying employees who wish to request this leave must provide the City with a written request for such leave within two business days of receiving official notice that the military spouse or registered domestic partner will be on leave from deployment. The employee must also provide written documentation to the City certifying that the military member will be on military leave from deployment.

Leave taken for this purpose is separate and distinct from the qualifying exigency and military caregiver leave entitlements for eligible employees under the FMLA, and is not governed by that law.

9.8 Bereavement Leave. Up to five days of paid leave may be granted because of the death of a member of an employee’s immediate family. For the purposes of this policy, immediate family is an employee's spouse or registered domestic partner, son, daughter, father, mother, grandfather, grandmother, brother, sister, in-laws, or any other person who was at least 50% financially dependent on the employee. With the approval of the City Manager, additional leave may be granted for bereavement.

CHAPTER EIGHT: DISCIPLINARY ACTIONS

1. RANGE OF ACTION

1.1 Policy. A regular employee may be suspended, demoted, reduced in pay or discharged for sufficient cause by the City Manager. Any employee who has been disciplined is entitled to receive a written statement describing the reasons for the action. Any employee, other than an at-will or probationary employee, who has been disciplined is entitled to appeal the discipline decision to the City Manager.

2. EXAMPLES OF REASONS FOR DISCIPLINARY ACTION

Each of the following shall be sufficient cause for discipline, up to and including termination. Grounds for disciplinary action include but are not limited to the reasons listed below:

2.1 Fraud, misrepresentation of fact, material omission, or concealment when securing initial employment with the City.

2.2 Incompetency and/or inefficiency.

- 2.3 Inexcusable neglect of duty.
- 2.4 Incapacity due to physical or mental disability when such incapacity interferes with satisfactory job performance and cannot be reasonably accommodated without undue hardship.
- 2.5 Insubordination (i.e., willful failure to follow directions of supervisors).
- 2.6 Dishonesty.
- 2.7 Possession or consumption of alcoholic beverage during work hours. Working while under the influence of alcohol.
- 2.8 Possession or use of narcotics, or any illegal or intoxicating drugs or controlled substances ("drugs") during the employee's workday or on City premises (other than medications prescribed by a licensed physician). Working while under the influence of drugs.
- 2.9 Unauthorized, unjustified, or excessive absences.
- 2.10 Conviction of a felony or conviction of a misdemeanor involving moral turpitude.
- 2.11 Discourteous treatment of the public or other employees.
- 2.12 Improper political activity during the employee's workday or on City premises.
- 2.13 Willful disobedience of safety rules, regulations, policies, practices or procedures.
- 2.14 Misuse of City, County or State property or equipment, such as use for personal gain.
- 2.15 Willful disregard of these Rules.
- 2.16 Failure to work harmoniously with other employees.
- 2.17 Failure to maintain any license or certification required to perform the duties of an assigned position.
- 2.18 Engaging in other workplace misconduct, including but not limited to acts or threats of violence, discrimination, harassment, or retaliation.

3. DISCIPLINARY ACTION BY AN IMMEDIATE SUPERVISOR AFTER THE PROBATIONARY PERIOD

3.1 Action Responsibility. It is the responsibility of each supervisor to take or recommend disciplinary action whenever a situation justifies it.

3.2 Basis for Action. Each disciplinary action shall be considered on an individual basis, taking into account the nature of the offense and the employee's previous work,

productivity, and conduct record. Supervisors will utilize the principles of progressive discipline whenever practical, although progressive discipline will not be required in every case.

3.3 Repetition and Severity. Repeated or more serious offenses will generally subject an employee to more severe discipline. Depending upon the circumstances, some offenses may result in more severe discipline or termination for the first offense.

3.4 Supervisory Action. When an employee engages in misconduct, unsatisfactory job performance or an infraction of City regulations, the immediate supervisor, after considering the nature of the offense, shall issue a warning to the employee, or recommend a more serious discipline to the City Manager.

3.5 Warnings. Warnings may be either oral or written. Oral warnings will not be recorded in an employee's personnel file, but will be noted in the supervisor's records. With the exception of employees covered by the Firefighters' Bill of Rights Act or the Public Safety Officers Procedural Bill of Rights Act, oral and written warnings are not subject to appeal.

3.5.1 Written warnings for more serious or repeat offenses will be given to employees. A copy will be sent to the City Manager. Immediate supervisors shall recommend whether or not a written warning shall become a permanent part of an employee's file.

3.6 Immediate Action. When an offense involves drug or alcohol abuse, represents a safety threat or a serious work disruption or rule violation, supervisors may immediately suspend an employee for one day. When an employee is suspended, the supervisor must submit a written report to the City Manager describing the reasons for the suspension. Upon the employee's return to work, he/she shall report to the immediate supervisor. A meeting will be scheduled with the City Manager as soon as possible. The City Manager will review the incident and determine whether the time away from work will be with or without pay.

3.7 Authority to Take Action. When an employee's offense is serious in nature or a repeat of a prior offense, the immediate supervisor may recommend demotion, suspension, reduction in pay or dismissal to the City Manager. The City Manager may take disciplinary action with strong consideration given to the immediate supervisor's recommendation.

4. DISCIPLINARY ACTION BY THE CITY MANAGER

4.1 Scope of Authority. Any employee may be suspended, demoted, reduced in compensation, or dismissed by the City Manager.

4.2 Process. The City Manager shall provide the disciplined employee with a written notice proposing discipline. The notice will indicate the specific grounds and particular facts upon which the disciplinary action was based and shall include all documentary evidence that the City Manager relied on in proposing the discipline.

4.3 Right to Respond. When applicable, the employee shall be informed of his/her right to respond to the proposed action to the City Manager in writing within five (5) business days of receipt of the disciplinary notice.

4.4 Review of Response and Final Decision. Upon receipt of an employee response, the City Manager shall schedule a meeting date to review it with the employee. The employee shall be provided written notice of the time, date, and place of the meeting. The City Manager shall then make a final decision on the proposed discipline after taking into consideration the employee's response. In the event the employee fails to respond to the proposed discipline, the City Manager shall make his or her decision based on the information contained in the Notice of Proposed Discipline. The City Manager's final decision shall be provided in writing to the employee.

Appeal of City Manager Decision Within ten (10) business days of receipt of the City Manager's final decision to impose discipline, the employee may appeal the decision to the City Council by submitting a written request to the City Manager. The City Council shall then schedule an appeal hearing to hear the employee's appeal. At the appeal hearing, the employee may be represented by counsel, present evidence, call and cross-examine witnesses, who shall testify under oath. After the City and the employee have been afforded an opportunity to present all relevant evidence, the City Council shall deliberate and render a written decision on the appeal. The City Council's decision shall be final. The City Council, at its discretion, may designate an individual or Council committee to conduct the appeal hearing, in which case the individual or committee shall issue an advisory decision to the City Council. The City Council may either adopt, amend or reject the advisory decision.**CHAPTER NINE: LAYOFFS AND SEPARATIONS**

1. REDUCTIONS IN WORKFORCE; LAY-OFFS

1.1 Policy. Whenever, in the judgment of the City Council, it becomes necessary to abolish any position, the employee holding the position shall, if no other vacancy within the class exists, be laid off or demoted. Such action is not considered to disciplinary action and is not subject to appeal. A vacancy is one which is not intentionally being held open or unfilled by the City.

2. NOTIFICATION

2.1 Employees shall be given, whenever possible, at least 14 calendar days advance notice of being laid-off.

3. VACANCY AND DEMOTION

3.1 Except if otherwise provided by a current applicable MOU, whenever there is a reduction in the workforce, the department head shall first demote a qualified employee to a vacancy, if a vacancy is available in the same class series or in a lesser class series. All persons demoted in lieu of lay off shall have their names placed on a reemployment list for the class from which they were laid off.

4. EMPLOYEE RIGHTS

4.1 An employee designated to be laid off shall have the right to displace an employee in the same department who has less seniority in a lower class, in the same class series or in a lower classification in which the affected employee once had regular employee status.

For the purpose these Rules, seniority includes all periods of full-time service at or above the classification level in which the lay-off is to occur.

5. SENIORITY

5.1 Displacement. In order to displace an employee who currently holds a position formerly held by an employee designated to be laid off employee or an employee in a lower class, the displacing employee must have more seniority than at least one of the incumbents in the lower class and request displacement of that employee in writing to the Personnel Officer within five (5) work days of receiving lay-off notice.

5.2 Salary Upon Lay-off Demotion. An employee displacing an employee in a lower class in lieu of lay-off shall be placed at the salary step representing the least loss of pay within the range for that position. In no case shall an employee who displaces another employee in lieu of lay-off receive an increase in pay because of the displacement,

6. ORDER OF LAY-OFF BY STATUS

6.1 Lay-off Order. In each class or position, employees shall be laid off according to employment status in the following order: temporary, provisional, probationary, and regular.

6.1.1 Temporary, provisional, and probationary employees shall be laid off according to the needs of the City as determined by the Personnel Officer.

6.1.2 Regular status employees shall be laid off in inverse order of seniority in City service.

7. REEMPLOYMENT LIST

7.1 The names of employees laid off shall be placed on a reemployment list for six months, except that employees appointed to regular positions at the same level from which they were laid off shall, upon such appointment, be removed from the reemployment list. Employees reemployed in a lower class, or on a temporary basis, shall remain on the reemployment list for the higher position for one year.

8. SEPARATION FROM THE SERVICE – DISCHARGE

8.1 The tenure of every employee shall be conditioned upon good behavior and satisfactory job performance. An employee may be demoted or dismissed whenever, in the judgment of the appropriate department head, the employee's job performance or misconduct so warrants. Upon taking such action, the department head shall file with the employee and the Personnel Officer a written notification containing a statement of the reasons for the disciplinary action and the effective date of the action. The notice shall inform the employee that the employee may file a written or oral reply to the disciplinary action with the department head or the Personnel Officer.

The City Manager may demote, suspend, reduce in pay or dismiss, for good cause, any department head of the City. The decision of the City Manager shall be final.

9. SEPARATION FROM THE SERVICE – RESIGNATION

9.1 An employee wishing to leave the competitive service in good standing shall file with his/her department head a written resignation advising the City of the effective date and reasons for the resignation. The resignation shall be filed at least two weeks before the effective date of the resignation, unless such time limit is waived by the Personnel Officer. Failure to give notice as required by this Rule shall be cause for denying future employment with the City.

CHAPTER TEN: GRIEVANCES AND COMPLAINTS

1. PROCEDURE

1.1 Policy. An employee may make an appointment with his/her immediate supervisor to discuss his/her work and working conditions, and to discuss any perceived violation, misinterpretation, or inequitable application of these Rules.

1.2 Stage One. Within 10 work days of an event or specific incident giving rise to a grievance, an employee shall seek initial adjustment of the grievance with his/her immediate supervisor. Should the immediate supervisor be unable to make a satisfactory adjustment of the grievance within 10 work days of its submission, or if the supervisor is the subject of the grievance, the employee may seek adjustment through his/her department head.

1.3 Stage Two. The employee shall submit the grievance in writing to his/her department head. The employee shall submit a copy of the grievance to the City Manager. The written grievance shall include the name of the grievant, date the grievance was initiated, statement of any previous action upon the grievance, a clear statement of the nature of the grievance, a proposed solution to the grievance, and the signature of the grievant.

1.4 Stage Three. Should the department head be unable to resolve the grievance within 10 work days of its submission, or if the department head is a party to the grievance, the employee may seek adjustment of the grievance from the City Manager.

1.5 Stage Four. Within 20 work days after receiving a written request for a review of a grievance, the City Manager shall investigate and evaluate the grievance. The evaluation of the grievance may be conducted in public or private at the option of the employee. The City Manager shall, within work 10 days after the close of the investigation and evaluation, render his/her decision in writing, and shall send a copy of the decision to the grievant by certified mail. The decision of the City Manager is final.

2. COMPLAINTS OF DISCRIMINATION, RETALIATION, AND SEXUAL HARASSMENT

2.1 Policy. If an employee believes a violation of the discrimination, retaliation, and/or sexual harassment prohibitions stated in Chapter Sixteen of these Rules has occurred, the employee shall immediately report the violation to his/her immediate supervisor, department head or the City Manager, or a member of the City Council, as described in Chapter Sixteen.

CHAPTER ELEVEN: EMPLOYEE CONDUCT

Failure to observe any of the following Rules regarding employee conduct may subject the employee to discipline, up to and including termination.

1. POLITICAL ACTIVITY

1.1 Solicitation Prohibited. Employees are prohibited from either soliciting funds or actively supporting any candidate for election to the City Council during work time, while in uniform or on City premises.

1.2 Prohibited Activities. General political activities during work hours or on City premises are prohibited. General political activity during non-work hours is completely at the discretion of each employee. Any such activity shall not impact any employment, disciplinary, or promotion decision.

2. ACCEPTANCE OF GIFTS

2.1 Gifts to City. Gifts to the City shall be accepted only by official City Council action.

2.2 Gift to Employees Prohibited. Employees shall not accept any special tip, gift of value or other consideration in return for services rendered as an employee.

3. OUTSIDE EMPLOYMENT

3.1 City Employment Priority. Although the City recognizes employees' right to engage in private and/or commercial activities outside the normal working hours, the City expects each employee to avoid those outside activities which are a conflict of interest or which may potentially become a conflict of interest. Full-time employees may not carry on concurrently with their City employment any private business or employment which negatively affects their work or which tends to discredit the City.

3.2 Outside Employment Approval. All employees interested in pursuing private and/or commercial activities outside normal working hours that have the potential for a conflict of interest shall be required to present a written explanation of such activities in advance to the City Manager for approval. A copy of the written explanation and approval or disapproval by the City Manager shall be included in the employee's personnel file.

4. MOTOR VEHICLE DRIVING RECORD

4.1 Requirement. All employees required to drive a motor vehicle as part of their job duties must possess a valid California motor vehicle driver's license and at all times maintain a good driving record commensurate with the City's ability to retain its insurability under its existing automobile liability policy. Any conduct which adversely affects an employee's ability to operate a motor vehicle is cause for disciplinary action.

5. USE OF CITY VEHICLES AND EQUIPMENT

5.1 Business Usage only. City vehicles and equipment are to be used for City business only. Seat belts must be worn at all times by employees driving or riding in City vehicles, and all other speed and traffic laws must be obeyed.

5.2 Incidental Personal Use. Any employee assigned a City vehicle may not use the vehicle for personal business, other than for commuting or de minimis personal use (such as a stop for a brief personal errand on the way between a business activity and the employee's home).

6. USE OF PRIVATE AUTOS ON CITY BUSINESS

6.1 Authorization. Unless specifically authorized by a department head, an employee shall not use his/her personal vehicle on City business. In special circumstances, when use of a private vehicle is authorized for long-range travel, the employee shall be reimbursed at the rate authorized by the City Council.

7. USE OF CITY TELEPHONES

7.1 The City's telephones are to be used for business and emergency calls only. Employees are not to accept collect calls, except from another on-duty employee. Employees should avoid using City telephones for personal business, and should not place or receive excessive or lengthy personal calls. City telephones include cellular phones issued by the City.

8. GROOMING AND SAFETY

8.1 All employees shall maintain a standard of grooming and safety commensurate with public service. Maintenance personnel shall observe suitable safety precautions at all times. Department heads may establish specific grooming and safety standards consistent with the department's operational needs. The City may require that visible tattoos be covered.

CHAPTER TWELVE: TRAVEL

1. ACCOUNTABILITY

1.1 Policy. Travel shall be by the most reasonable economic means which is consistent with the nature of the trip. The City will reimburse authorized employees for their necessary and reasonable travel expenses incurred and certified by the employee.

2. REQUIRED DOCUMENTATION

2.1 Employees seeking reimbursement for business-related travel expenses shall validate such claims with receipts whenever possible.

2.2 Each employee shall be eligible to seek reimbursement for incidental expenses not to exceed \$10 per day if receipts are not available. The employee shall certify in writing that the expenses were incurred for City purposes.

CHAPTER THIRTEEN: TRAINING AND CONFERENCES

1. GENERAL

1.1 Policy. The City Manager shall be responsible for authorizing the proper training and certification of employees. With the approval of the City Manager, an employee shall be reimbursed his/her tuition and reasonable travel expenses for successful completion of a training course directly beneficial to the City.

1.2 Career Development. Successful completion of training courses may be considered when employees are reviewed for salary advancement and promotion. Evidence of such activity shall be submitted to the City by the employee for inclusion in an employee's personnel file.

2. AUTHORIZATION FOR TRAINING AND CONFERENCES

2.1 Authorization. Authorization may be granted for employees to attend professional conferences and meetings, or to participate in training which is in the best interest of the City.

2.2 Reimbursement. Reimbursement of incurred educational expenses shall be granted in accordance with the City's established financial procedures and within the limits prescribed by the City Council.

CHAPTER FOURTEEN: EMPLOYMENT SERVICE CONDITIONS

1. CONFLICT OF INTEREST

1.1 Policy. No employee or Councilperson shall have a direct or indirect interest in City property, property under consideration for purchase by the City, or a contract with the City which violates any laws of the State of California relating to conflicts of interest.

1.2 Notification Requirements. All conflict of interest notifications required by law shall be completed by employees and Councilpersons. It shall be the responsibility of employees and Councilpersons who may be in potential violation of the statute to familiarize themselves with the provisions and intent of the conflict of interest statutes.

1.3 Unfair Economic Gain. It is the policy of the City that no employee or Councilperson shall be in a position to realize unfair economic gain by virtue of their employment or elected status.

2. Employment of Relatives

2.1 The purpose of this policy is to provide guidance and direction to applicants and employees regarding the employment of relatives within the City and to avoid the appearance of impropriety in selection, promotion, and other employment decisions.

It is the policy of the City that no employee, prospective employee or applicant shall be denied employment or benefits of employment solely on the basis of his or her family relationship. Subject to the following, employment with the City shall be based on the applicant's individual merit.

For purposes of this policy, relatives and those holding a familial relationship are defined as: mother, father, brother, sister, child, parent of spouse or registered domestic partner, grandmother, grandfather, grandchild, cousin, aunt, uncle, brother-in-law, sister-in-law, father-in-law or mother-in-law.

For business reasons of supervision, security or morale, the City may refuse to place relatives in the same department, division or facility if the work involves potential conflicts of interest or other hazards greater for relatives than for other persons. In determining whether there is a greater potential for conflict, the City Manager, or designee, shall carefully assess the actual work setting to determine whether that setting would pose, because of the mutual concerns relatives are assumed to bear, a potential conflict of interest or other hazard greater for relatives than other employees. If the potential conflict or hazard is greater, the City shall take such steps to regulate the employment of relatives to avoid the conflict or other hazard. The City shall attempt to match reasonably the severity of its actions towards one or other relative to the degree of risk and the significance of the potential harm involved.

Where potential conflicts of interest exist, the City retains the right to disqualify one party to the relationship for a position privy to confidential matters who has a relative already in the City's employment, when such relationship could result in the compromise of confidential information.

If co-employees marry (or enter into a relationship similar to marriage, including a registered domestic partnership) or become related by marriage, the City will make reasonable efforts to assign job duties so as to minimize problems of supervision, safety, security and morale following completion of the assessment discussed above. If such efforts prove to be unsatisfactory, the City reserves its rights to transfer or reassign said employee as may be appropriate to alleviate the condition.

This policy shall apply to all employees of the City, including full-time, part-time and temporary positions.

CHAPTER FIFTEEN: RECORDS AND REPORTS

1. EMPLOYEE PERSONNEL FILE

1.1 Contents. The Personnel Office shall maintain a personnel file for each employee showing the employee's name, position, department, salary, changes in employment status, and any other relevant information.

2. REPORTS OF PERSONNEL TRANSACTIONS

2.1 Required Reporting. To enable the Personnel Office to perform its duties accurately and expeditiously, each department head shall report promptly, on the forms provided, the following transactions:

2.1.1 All appointments, reemployment, reinstatements, promotions, and separations from service

2.1.2 Transfers and demotions

2.1.3 Sick leave, injury, and vacations

2.1.4 Salary increases

2.1.5 Completion of probationary period

2.1.6 Leaves of absence and time off without pay

2.1.7 Disciplinary actions

2.1.8 Changes in the City's organization resulting in the establishment or abolition of a position, promotion or demotion or changes in the duties of a classification

2.1.9 Assignments to special duty within a class

3. RESPONSIBILITY FOR TRANSACTIONS

3.1 Each department head shall cooperate with the Personnel Officer and be responsible for properly reporting personnel transactions and for properly distributing within the department all personnel materials and information, including the posting of notices upon department bulletin boards.

4. OFFICE RECORDS

4.1 Records Custodian. The Personnel Office shall keep records necessary for transactions and reference, and for making reports showing administrative actions, including records of all examinations, employment lists, records and files of employment history of each employee, history of each position, classification plan, compensation plan, occupational injury reports, files, books, and correspondence.

5. CONFIDENTIAL NATURE OF PERSONNEL RECORDS

5.1 Personnel records such as employment applications, examination papers, performance reports, and disciplinary actions shall be considered confidential, and shall be made available to affected employees for review at a time and place designated by the Personnel Officer.

5.2 Department heads may make arrangements with the Personnel Officer for the review of relevant personnel documents.

CHAPTER SIXTEEN: POLICY AGAINST DISCRIMINATION, RETALIATION, AND HARASSMENT

1. DISCRIMINATION, RETALIATION, AND HARASSMENT PROHIBITED

1.1 Policy. It is the policy of the City to employ persons with the best available skills for the efficient provision of high quality service. The City shall actively promote equal opportunity in all aspects of employment, including recruitment, hiring, promotion, transfer, training, compensation, benefits, working conditions, reductions in force, reinstatement and all other employment matters.

1.2 Job Related Actions. Equality of opportunity shall be based solely on job related skills, knowledge, and performance without discrimination because of race, color, ancestry, religion, national origin, sex, age, physical or mental disability, sexual orientation, medical condition, marital status, or any other factor unrelated to job qualifications or performance.

1.3 Non-discrimination. The City does not condone and will not tolerate any action on the part of an employee that discriminates against any employee or other individual.

1.4 Harassment Prohibition. The City strongly condemns and prohibits harassment of any individual because of the individual's sex, race, religion, ancestry, color, age (over 40), national origin, ancestry, marital status, medical condition, sexual orientation, or physical or mental disability, or any other protected class under applicable law.

1.4.1 Definition. Harassment includes, but is not limited to, the following:

Harassment may consist of offensive verbal, physical, or visual conduct when such conduct is based on or related to an individual's sex and/or membership in one of the above-described protected classifications, and:

- 1) Submission to the offensive conduct is an explicit or implicit term or condition of employment;
- 2) Submission to or rejection of the offensive conduct forms the basis for any employment decision affecting the employee; or
- 3) The offensive conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

Examples of what may constitute prohibited harassment include, but are not limited to, the following:

- 1) Kidding or joking about sex or membership in one of the protected classifications;
- 2) Hugs, pats, and similar physical contact;

- 3) Assault, impeding or blocking movement, or any physical interference with normal work or movement;
- 4) Cartoons, posters, and other materials referring to sex or membership in one of the protected classifications;
- 5) Threats intended to induce sexual favors;
- 6) Continued suggestions or invitations to social events outside the workplace after being told such suggestions are unwelcome;
- 7) Degrading words or offensive terms of a sexual nature or based on the individual's membership in one of the protected classifications;
- 8) Prolonged staring or leering at a person;
- 9) Similar conduct directed at an individual on the basis of race, color, ancestry, national origin, religion, religious creed, physical or mental disability, medical condition, age (over 40), marital status, sexual orientation, gender identity or any other protected classification under applicable law.

1.4.2 Internal Reporting Procedure. If any employee believes that he or she has been the victim of harassment, the employee should immediately report the incident to his or her immediate supervisor. If the immediate supervisor is involved in the reported conduct or, if for some reason the employee feels uncomfortable about making a report to the supervisor, the report shall be made to the City Manager. If the complaint involves the City Manager or another at-will employee, an employee may submit his/her complaint to a member of the City Council.

1.4.3 External Reporting Procedure. Any employee who believes that he or she has been the victim of sexual or other prohibited harassment by co-workers, supervisors, clients or customers, visitors, vendors, or others may file a complaint with the California Department of Fair Employment and Housing ("DFEH") or the federal Equal Employment Opportunities Commission ("EEOC"). The phone numbers for DFEH and EEOC are located in the phone book under government agencies.

1.4.4 Investigatory Follow-Up. The City Manager or his or her designee will investigate any report of harassment and take whatever corrective action is deemed necessary, including disciplining any individual who is determined to have violated the City's harassment policies. In the event the complaint is against the City Manager, an investigator may be appointed by the City Council.

1.4.5 Confidentiality. All records and information relating to the investigation of any alleged harassment and resulting disciplinary action shall be confidential, except to the extent disclosure is required by law, as part of the investigatory or disciplinary process, or as otherwise reasonably necessary.

1.4.6 Remedies.

1) Disciplinary Action

If the City Manager determines that the complaint of harassment is founded, the City Manager shall take immediate and appropriate disciplinary action consistent with the requirements of law and any personnel policies or procedures pertaining to employee discipline. Other steps may be taken to the extent reasonably necessary to prevent recurrence of the harassment and to remedy the complainant's loss, if any.

Disciplinary action shall be consistent with the nature and severity of the offense, the rank of the harasser, and any other factors relating to the fair and efficient administration of the City's operations.

2) DFEH Remedies

In the event a complaint is filed with the DFEH, and the DFEH finds that the complaint has merit, the DFEH will attempt to negotiate a settlement between the parties. If not settled, DFEH may issue a determination on the merits of the case.

Where a case is not settled and the DFEH finds a violation to exist, it can prosecute the charging party's case before the Fair Employment and Housing Commission ("FEHC"). Legal remedies available through DFEH and FEHC for a successful claim by an applicant, employee, or former employee include possible reinstatement to a former job; award of a job applied for; back pay; front pay; attorneys' fees; and under appropriate circumstances, actual damages and/or administrative fines.

In the alternative, DFEH may grant the employee permission to withdraw the case and pursue a private lawsuit seeking similar remedies.

1.4.7 Retaliation Prohibited. Retaliation against anyone for opposing conduct prohibited by this policy or for filing a complaint with or otherwise participating in an investigation, proceeding or hearing conducted by the City, DFEH, EEOC or FEHC is strictly prohibited and may subject the offending person to, among other things, disciplinary action, up to and including, termination of employment.

1.4.8 Employee Obligations.

- 1) Employees are not only encouraged to report instances of harassment, they are obligated to report instances of harassment.
- 2) Employees are obligated to cooperate in every investigation of harassment, including, but not necessarily limited to:
 - a. Coming forward with evidence, both favorable and unfavorable to a person accused of harassment; and
 - b. Fully and truthfully making a written report or verbally answering questions when required to do so during the course of a City investigation of alleged harassment.
- 3) Knowingly, falsely accusing someone of harassment or otherwise knowingly giving false or misleading information in an investigation of harassment shall be grounds for disciplinary action, up to and including, termination of employment.

CHAPTER SEVENTEEN: DRUG AND ALCOHOL ABUSE POLICIES

1. POLICY OBJECTIVE

1.1 Purpose. The purpose of the City's Drug and Alcohol Abuse Policy is as follows:

1.1.1 To establish and maintain an alcohol and drug free, safe, secure and healthy working environment for all employees;

1.1.2 To protect the citizens of Avalon and all other individuals who come in contact with City employees;

1.1.3 To reduce the incidence of alcohol or drug related injuries to persons or damage to property;

1.1.4 To reduce alcohol or drug related absenteeism, tardiness, and substandard job performance;

1.1.5 To provide guidelines for the rehabilitation of employees who seek City's help in overcoming addiction to, dependence upon, or problems associated with the use of alcohol or drugs.

2. CITY POLICY

2.1 Policy. The City has an obligation to its officers, employees and members of the public to take reasonable steps to provide an alcohol and drug free workplace and to deliver

services to the public in a safe manner. The following acts are strictly prohibited and constitute cause for disciplinary action up to and including termination:

2.1.1 Reporting for work or working under the influence of alcohol or drugs;

2.1.2 The use, possession, transfer, purchase or sale, or attempted use, possession, transfer, purchase or sale of alcohol or drugs in any manner during work hours, including rest breaks and meal periods, or while on City premises;

2.1.3 Using City property or premises to manufacture alcohol or drugs.

3. DEFINITIONS RELATED TO DRUG/ALCOHOL ABUSE POLICY

3.1 Alcohol. Any beverage that has an alcoholic content in excess of three percent (3%) by volume.

3.2 City Premises. All buildings, parking lots, service yards, patios, lunch rooms, break areas, rest rooms, loading docks, City-owned vehicles, work sites or any other sites where employees perform services for the City regardless of the City's ownership or control of the property.

3.3 Employee. For the purposes of this policy, any individual employed by the City except elected officials. "Employee" includes, but is not limited to, individuals employed on the following basis: full-time, part-time, probationary, non-probationary, casual, temporary, and seasonal.

3.4 Illegal drug. Any drug which it is illegal under federal, state, or local law to use, sell, transfer, possess, manufacture or consume.

3.5 Prescribed drug. Any drug or medication lawfully prescribed for use by an employee by a licensed medical practitioner.

3.6 Under the influence. Behavior modified by alcohol or drugs, resulting in substandard or modified job performance; diminished motor reflexes, impairment of coordination, speech, or mental concentration; or other conduct that poses a safety hazard to the employee, co-workers or others.

4. DISCIPLINE

4.1 Any violation of this policy is cause for disciplinary action up to and including termination. Discipline may be imposed regardless of whether an employee is charged with and/or convicted of any criminal set relating to any violation of this policy.

5. PRESCRIPTION DRUGS

5.1 No prescription drug shall be possessed or used by any employee other than the employee for whom the drug is prescribed by a licensed medical practitioner. Prescription drugs shall be used only in the manner, combination, and quantity prescribed. If an employee is using

or under the influence of a prescription drug during work hours that may adversely impact his or her job performance, it is the employee's responsibility to advise his/her supervisor of the use or influence of the prescription drug before beginning work.

6. REPORTING OF VIOLATIONS TO LAW ENFORCEMENT AGENCIES

6.1 Violations of this policy that may constitute criminal conduct will be reported to appropriate law enforcement agencies.

7. PRE-EMPLOYMENT TESTS

7.1 All applicants for employment are required to take a pre-employment physical examination that is job-related and consistent with business necessity, including alcohol and/or drug tests for those applying for safety-sensitive positions.

8. SAFETY OF WORK FORCE, MEDICAL EXAMINATIONS, DRUG AND/OR ALCOHOL TESTS

8.1 Each employee may be asked to submit to a medical examination and/or an appropriate test to determine the use of alcohol and/or drugs if there is a reasonable basis to believe the employee has used or is under the influence of alcohol and/or drugs.

8.2 Alcohol and/or drug testing may be requested following work-related accidents or any suspected violation of safety rules or standards, whether or not injury or damage resulted from the accident or safety violation, if there is a reasonable basis to suspect a violation of this policy.

8.3 The decision to proceed with a medical examination and/or alcohol or drug test will be made by the City Manager or his/her designated alternate.

8.4 An employee determined to be unable to perform his/her duties in a satisfactory or safe manner may be ordered to leave the workplace.

8.5 Any employee may file a written complaint with the Personnel Officer regarding a suspected violation of this policy by any other City employee.

8.6 If an employee charges that a fellow employee has violated this policy and subsequently the allegations are shown to be malicious, knowingly false or were made so as to harass the employee, appropriate discipline will be imposed on the complaining employee.

9. REFUSAL OF AN EMPLOYEE TO SUBMIT TO A MEDICAL EVALUATION AND/OR ALCOHOL OR DRUG TEST UPON REASONABLE SUSPICION

9.1 An employee's refusal to consent to a medical examination and/or alcohol or drug test upon reasonable suspicion may result in the immediate suspension of the employee pending investigation.

9.2 An employee who upon request refuses to consent to a medical examination and/or alcohol or drug test shall not be permitted to utilize the rehabilitation benefits described in section 13 of this policy. An employee who voluntarily participates in a counseling program described in section 13 of this policy prior to being asked to consent to a medical examination and/or drug or alcohol test shall be allowed to utilize the rehabilitation benefits described in this policy. An employee must be informed of the option for voluntary counseling before the employee is requested to consent to a medical examination or alcohol or drug test.

9.3 Except as provided in this policy, an employee who upon request refuses to consent to a medical examination and/or alcohol or drug test, may be disciplined for misconduct or unsatisfactory job performance; however, the employee's use of drugs or alcohol shall not be considered a mitigating factor with regard to the imposition of discipline if the employee has refused to voluntarily participate in a counseling program described in section 13 of this policy prior to being asked to Consent to a medical examination and/or drug or alcohol test. An employee's willingness to voluntarily submit to a medical examination and for alcohol or drug test and/or to voluntarily participate in a counseling program described in section 13 of this policy shall be considered when a decision to discipline the employee is made.

10. INSPECTIONS TO ADMINISTER AND ENFORCE POLICY

10.1 In order to promote an alcohol and drug free, safe, productive and efficient workplace, the City reserves the right to search any City owned or controlled articles or property in the employee's control or possession to determine the presence of alcohol or drugs. The City expressly reserves the right to inspect City owned or controlled lockers, desks, tool boxes, vehicles, packages, containers and other articles within the work area. Fire employees have a right to be present or to be notified that such a search will take place in their locker or other area assigned to them, unless a search warrant has been obtained.

10.2 If the City Manager or his/her designated alternate or a department head has reason to believe that alcohol or drugs are present in a work area in violation of this policy, the appropriate law enforcement agency will be contacted and asked to conduct a search of the work area.

11. TEST RESULTS

11.1 A positive alcohol or drug test result will be retested.

11.2 A chain of custody of the tested blood, urine, or other sample will be established and maintained by the City and/or testing clinic or laboratory,

11.3 Laboratory reports and/or test results shall not be placed in an employee's personnel file. Laboratory reports and/or test results shall be maintained in a separate confidential medical records file. The confidential medical records file shall be maintained by the City Manager. Laboratory reports and/or test results shall be disclosed to other individuals on a need-to-know basis, and to the employee upon request.

12. GUIDELINES FOR DEPARTMENT HEADS, MANAGERS, AND SUPERVISORS

12.1 The suspicion of alcohol or drug use must be based upon objective factors related to the employee's appearance, conduct, speech, behavior and/or other objective facts. If a department head, manager or supervisor has reason to believe an employee is under the influence of alcohol or drugs, or otherwise in violation of this policy, the department head, manager, or supervisor should do the following:

12.1.1 Accompany the employee to a private office, room, or other area to address the issue. If possible, another managerial employee should accompany the employee and the department head, manager or supervisor to act as a witness.

12.1.2 If it is determined that this policy may have been violated, the City Manager or his/her designated alternate should be advised of the situation. After receiving authorization to conduct a medical examination and/or alcohol or drug test, the employee should be told that his/her behavior or performance warrants a medical examination and/or alcohol or drug test conducted at a City-designated testing facility.

12.2 If the employee agrees to a medical examination and/or alcohol or drug test, the following procedures should be carried out:

12.2.1 The employee should be asked to read, and sign an Authorization For Testing form (Attachment A), and an Authorization For Release And Use Of Testing Information (Attachment B).

12.2.2 The City Manager or his/her designated alternate will arrange transportation to a City designated testing facility.

12.2.3 If the results of the medical examination and/or alcohol or drug test indicate the employee is under the influence of alcohol and/or drugs or has violated this policy, appropriate disciplinary action may be taken up to and including termination.

12.2.4 If the results of the medical examination, alcohol and/or drug test indicate another medical or psychological cause for the employee's behavior, the employee may be placed on medical leave. If so, the employee will be required to provide the City with a medical release from a physician before returning to work. The City may require the employee to be examined and evaluated by a City-selected physician before being allowed to return to work.

12.2.5 If the results of the medical examination and/or alcohol or drug tests are negative or inconclusive, no further action will be taken by the City with regard to alcohol and drug use. The employee may be disciplined for misconduct or unsatisfactory job performance.

12.3 If the employee refuses to consent to a medical examination and/or alcohol or drug test, the following actions should be taken:

12.3.1 The department, manager, or supervisor must explain to the employee that the requested medical examination and/or alcohol or drug test is used to establish the employee's compliance with this policy and/or fitness to perform his/her job.

12.3.2 An employee who voluntarily participates in a counseling program described in this policy prior to being asked to consent to a medical examination and/or drug or alcohol test shall be allowed to utilize the rehabilitation benefits described in this policy. The department head, manager, or supervisor must inform the employee that his/her refusal to consent to a medical examination and/or alcohol or drug test will be interpreted as a deliberate failure to comply with a reasonable request and the employee will not be allowed to use evidence of alcohol or drug abuse as a mitigating factor regarding any discipline imposed for misconduct or unsatisfactory job performance. The employee will be immediately suspended if the employee refuses to consent to a medical examination and/or alcohol or drug test. Refusal to submit to a medical examination and/or alcohol or drug test shall mean drug or alcohol abuse shall not be considered a mitigating factor in the imposition of discipline for misconduct or unsatisfactory job performance. An employee's willingness to voluntarily submit to a medical examination and/or alcohol or drug test and/or to voluntarily participate in a counseling program described in section 13 of this policy shall be considered when a decision to discipline the employee is made. Refusal to submit to a medical examination and/or alcohol or drug test shall preclude the employee from utilizing any of the rehabilitation benefits described in this policy.

12.4 The City Manager or his/her designated alternate must be informed of the situation by the department head, manager, or supervisor. The decision to suspend the employee will be made by the City Manager or his/her designated alternate.

12.5 If the employee is suspended, the department head, manager, or supervisor should arrange for the employee to be transported home.

12.6 All department heads, managers and supervisors involved in any incident investigated under this policy must prepare a written record of the incident within twenty-four hours of its occurrence.

13. REHABILITATION

13.1 An employee found to have reported to work under the influence of alcohol or drugs will be given an opportunity to participate in a City-approved counseling program after the first violation of this policy. The City may require an employee as a condition of continued employment to participate in good faith in a counseling program described in this section if the employee engage in off-duty conduct which effects their ability to perform his/her job duties. Employees are encouraged to utilize available employee assistance programs and health insurance plans to provide payment for such programs and help them resolve their alcohol or drug abuse problems.

13.2 An employee who violates the policy a second time within one year of the first violation will be required to participate in the approved rehabilitation program. The employee may use accumulated sick leave during the first thirty (30) days of the leave of absence. If the employee does not have thirty (30) days of sick leave, the City shall provide the difference between the accumulated sick leave and the time needed for the rehabilitation program, up to thirty (30) days combined employee accumulated leave and City-provided leave.

13.3 A third violation of the policy within one year of the initial violation shall be grounds for dismissal.

13.4 All leaves of absence, returns to employment, the conditions of continued employment and the payment of sick leave benefits are conditioned upon the employee's good faith and satisfactory participation in the rehabilitation program. The City may require evidence of good faith and satisfactory participation in the rehabilitation program.

13.5 If upon completion of the employee's leave of absence and rehabilitation program the employee can present written evidence from a qualified medical practitioner that the alcohol and/or drug problem has been eliminated or is in remission, the employee will be reinstated, if the employee is qualified to perform the available work.

13.6 If at the end of the leave of absence the employee is still experiencing an alcohol and/or drug problem but can provide evidence that he/she is still receiving treatment, an extension of the leave of absence may be granted. If the employee is unable to provide evidence of treatment, elimination or remission of the alcohol and/or drug problem the employee may potentially be dismissed upon expiration of the leave of absence.

13.7 The City Manager retains the sole discretion to decide if an employee will be granted a rehabilitation leave, returned to work and the conditions under which the employee may return to work.

13.8 If an employee does not violate this policy for a two year period after the most recent violation, the records related to the employee's prior violations will be destroyed.

14. REPORTING CONVICTIONS

14.1 Employees as a condition of employment must report any conviction under a criminal drug or alcohol statute for violations occurring on or off City premises while working for the City. A report of a conviction must be made within five days after the conviction.

15. CONDITIONS OF EMPLOYMENT

15.1 Employees must as a condition of employment abide by the terms of this policy.

ATTACHMENT A: Authorization for Testing

I, _____ (name of employee), voluntarily agree that the City and other persons or entities acting for or with them may:

1. Collect blood, urine, saliva or other necessary samples from me and to test those samples for the presence of alcohol and/or drugs.

2. Conduct other medical tests and physical examinations that are job-related and consistent with business necessity to enforce the City's Alcohol and Drug Abuse Policy.

3. Use the results of any tests or examinations to administer the City's Alcohol and Drug Abuse Policy.

Signature of employee

Date

ATTACHMENT B: Authorization for Use or Disclosure of Medical Information
(Drug and Alcohol Test of Employee)

A. EXPLANATION:

This Authorization for Use and Disclosure of Summary Medical Information is being requested of you in compliance with the terms of the Confidentiality of Medical Information Act.

B. AUTHORIZATION:

I, _____, hereby authorize
(Name of Employee/Patient)
_____ to furnish to the City of Avalon
(Name of Physician, Hospital or Health Care Provider)
(hereinafter the "Employer") medical information in summary form pertaining to the results (positive or negative) of my drug and alcohol tests.

C. USES:

I authorize the Employer to receive and use the results of my drug and alcohol tests for the purpose of evaluating possible disciplinary action and other purposes that are job-related and consistent with business necessity.

D. DURATION:

This authorization shall become effective immediately and shall remain in effect until _____.
(Date)

ATTACHMENT C: Certification of Receipt of Rules

TO CITY EMPLOYEES:

The booklet entitled PERSONNEL RULES AND REGULATIONS has been adopted by the City Council of the City of Avalon as its personnel policies. The rules and regulations contained in this booklet may not be modified by your supervisor, the City Manager, or any other City employee or representative without the approval of the City Council. However, the City Manager has been granted reasonable administrative latitude to interpret and apply these rules. These Rules may be modified at any time. You will be made aware of any changes in the Rules.

Please read this booklet carefully. Do not hesitate to ask for clarification or guidance from your supervisor or your Department head.

To the extent these Rules conflict with any provision of a current applicable Memorandum of Understanding or state or federal law, such provision shall govern.

After reading these Rules, **TEAR OUT THIS SHEET, SIGN IT, AND RETURN IT TO THE CITY MANAGER'S OFFICE** within 10 work days of receipt of these Rules.

I have read the City's PERSONNEL RULES AND REGULATIONS, and I understand I am responsible for complying with these Rules.

NAME: _____
(Please Print)

SIGNATURE: _____

DATE: _____