

# CITY OF BUELLTON



## Personnel Rules

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## **RULE I. GENERAL PROVISIONS**

### **SEC. 1.1 PURPOSE**

These Rules are intended to implement and supplement the Personnel Ordinance and the Classification and Salary Resolution in the establishment and maintenance of an efficient and uniform personnel program for the City of Buellton ("City").

### **SEC. 1.2 APPLICABILITY**

A. The provisions of these Rules apply to all employees in the Classified Service. Unless otherwise required by law or expressly stated herein, the applicability of these Rules to individuals in the Exempt Service (as defined in 1.4(B)(16)), is limited to the following Rules: **Rule I** (General Provisions) **Rule XVIII** (Policy Against Workplace Violence).

B. In addition to the Rules identified in Section 1.2(A), the following Rules will also apply to Department Directors: **Rule II** (Classification); **Rule III** (Compensation); **Sections 4.1, 4.2, 4.3.A.1, 4.3.E., and 4.3.F. of Rule IV** (Applications, Recruitment and Examinations); **Rule V** (Appointments); **Rule VII** (Performance Reports); **Rule VIII** (Hours of Work/Overtime); **Rule IX** (Leaves of Absence); **Rule X** (Layoff/Separation/Retirement); **Rule XI** (Outside Employment/Political Activities); **Sections 12.1, 12.2, and 12.3 of Rule XII** (Disciplinary Actions); **Rule XIV** (Employee Benefits); **Rule XV** (Educational Assistance); **Rule XVI** (City-Provided Attire and Equipment), and **Rule XVII** (Dress Code), **Rule XIX** (Personnel Files and Records), and **Rule XX** (Whistleblowing).

C. In addition to the Rules identified in Section 1.2(A), the following Rules will also apply to all temporary, seasonal, and part-time employees: **Section 3.15** (Pay Periods), **Sections 4.3.A.1, 4.3.E, 4.3.F of Rule IV** (Applications, Recruitment and Examinations); **Section 5.6 of Rule V** (Nepotism); **Rule VIII, except Sections 8.6** (Rest Periods) **and 8.7** (Meal Periods), **Sections 9.3** (Sick Leave), **9.6** (Military Leave), **9.7** (Jury Duty), **9.8** (Voting Leave), **9.9** (Election Official Leave), **9.10** (Lactation Breaks), **9.11** (Unpaid Leaves of Absence), **9.12** (Unauthorized Leaves of Absence and Failure to Return from Leave), **9.15** (Victim Leave), **9.16** (School Visitation or Participation Leave), and **Section 9.17** (Leave for Emergency Duty as Volunteer Firefighter, Reserve Peace Officer, or Emergency Rescue Personnel); **Rule X** (Layoff/Separation/Retirement); **Rule XI** (Outside Employment/Political Activities); **Sections 12.1, 12.2, and 12.3 of Rule XII** (Disciplinary Actions); **Rule XVI** (City-Provided Attire and Equipment); **Rule XVII** (Dress Code); **Rule XIX** (Personnel Files and Records); and **Rule XX** (Whistleblowing). Also, **Rule IV** (Applications, Recruitment and Examinations) will apply in full to part-time employees, but not temporary or seasonal employees.

### **SEC. 1.3 AMENDMENT OF RULES**

The City Council shall have authority to adopt, amend, or repeal these Rules as provided in the Personnel Ordinance. The Personnel Officer shall have authority to prepare and recommend revisions to the Personnel Rules.

### **SEC. 1.4 DEFINITION OF TERMS**

- A. General Definition: All words and terms used in these Rules and in any resolution or ordinance dealing with personnel policies, system, or procedures shall be defined as they are normally and generally defined in the field of personnel administration unless a specific definition is provided for herein.
- B. Specific Definitions:
1. Acting Appointment: An interim appointment to temporarily perform the duties of a higher position. The person filling this position must meet the minimum standards or qualifications of the position. Acting appointments are held on an at-will basis by current City employees. Acting appointments to a vacant position during a pending recruitment will last no longer than 960 hours in a fiscal year.
  2. Advancement: A salary increase within the limits of a pay range established for a Class.
  3. Allocation: The assignment of a single Position to its proper Class in accordance with the duties performed, and the authority and responsibilities exercised.
  4. Appointing Authority: The City Manager or his/her designee shall make the appointments to Positions in the Classified Service. The City Manager or his/her designee shall make the appointments to Positions in the Exempt Service except that the City Council shall appoint the City Manager, City Clerk, City Attorney, and City Treasurer.
  5. Career Advancement: Employees who obtain a Grade II Operator Certificate for Water or Wastewater from the State Water Resources Control Board while in a Maintenance & Utility Worker I position are eligible to advance to a Journey level classification within the same position in accordance with Section 3.8 of these Personnel Rules. This process shall be exempt from requirements regarding promotion and reclassification.
  6. Class: All Positions sufficiently similar in duties, authority, and responsibility, to permit grouping under a common title in the application with equity of common standards of selection, transfer, demotion and salary.

7. Classified Service: All Positions of employment in the service of the City except those in the Exempt Service.
8. Compensation: The salary, wage, allowance, and all other forms of valuable consideration earned by or paid to any employee by reason of service in any Position, but does not include expenses authorized and incurred incidental to employment.
9. Continuous Service: Service in the employ of the City without a break or interruption. A severance of the employee from his/her employment initiated by either the City or the employee for periods of more than fifteen (15) days constitutes a break in continuous service, except where otherwise required by law.
10. Council: The City Council of the City of Buellton.
11. Days: Calendar days unless otherwise stated.
12. Demotion: The movement of an employee from a Position in one Class to a Position in another Class having a lower maximum base rate of pay.
13. Department Director: Any individual having the authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees with the concurrence of the Personnel Officer, or the responsibility to direct them, or to adjust their grievances, or to effectively recommend such action, if the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.
14. Disciplinary Action: The written reprimand, discharge, demotion, reduction in pay, or suspension of a regular or management employee for punitive reasons.
15. Domestic Partner: A person who has filed a Declaration of Domestic Partnership with the California Secretary of State pursuant to California *Family Code* section 297 *et seq.*
16. Eligibility List: The list which contains the names of successful applicants according to relative performance on the total weighted examinations.
17. Exempt Service: The Exempt Service shall include the following:
  - a. All elected officials and members of boards and commissions;
  - b. The City Manager, City Attorney, City Clerk, and City Treasurer;
  - c. All Department Directors;
  - d. Architects, consultants, counsel and others rendering temporary professional services;

- e. Voluntary personnel and personnel appointed to service without pay;
  - f. Emergency employees who are hired to meet the immediate requirements of an emergency condition, such as fire, flood or earthquake which threatens life or property;
  - g. Such other Positions involving seasonal or part-time employment; and
  - h. Any new Position created at the Department Director, Assistant Department Director, or staff level, if it is specified as exempt by the City Council at the time of creation.
18. Full-Time Employees: Employees whose Positions work more than one thousand (1,000) hours per fiscal year. All Positions shall be full-time unless otherwise designated, or unless the compensation is fixed upon the basis of part-time work.
  19. Human Resources Director: The City Clerk/Human Resources Director or his/her designee.
  20. Internal Recruitment: A recruitment for a particular Position that is open to Regular and probationary Employees only.
  21. Lay-Off: The separation of employees from the active work force due to lack of work or funds, or to the abolition of Positions by the City Council for the above reasons or due to organization changes.
  22. Management: Those employees holding the position of Department Director or higher.
  23. Minimum Qualifications: The minimum requirements for an applicant to be considered for a particular City position, which vary according to the position sought.
  24. Non-exempt Employees: Employee who hold Positions that, by the nature of the job requirements or the salary earned, is entitled to earn compensation at an overtime rate. Non-exempt status is based on applicable state and federal law, including, but not limited to guidelines under the Fair Labor Standards Act ("FLSA").
  25. Open-Competitive Recruitment: A recruitment for a particular Position that is open to all interested applicants.
  26. Part-Time Employees: Employees whose Positions work less than one thousand (1,000) hours per fiscal year, are paid on an hourly basis and only receive fringe benefits that are specifically provided to part-time employees by separate resolution of the City Council, or as may be expressly provided in these Rules.

27. Position: A group of duties and responsibilities in the Classified Service requiring the full-time or part-time employment of one person.
28. Personnel Officer: The City Manager or his/her designee.
29. Personnel Ordinance: Ordinance No. 92-16 which creates a personnel system for the City.
30. Probationary Period: A period to be considered an integral part of the examination, recruiting, testing and selection process during which an employee is required to demonstrate fitness for the Position to which the employee is appointed by actual performance of the duties of the Position.
31. Promotion: The movement of an employee from a Position in one Class to a vacant Position in another Class having a higher maximum base rate of pay.
32. Provisional Appointment: An appointment of a person who is not a current employee and who possesses the minimum qualifications established for a particular Class due to the absence of available eligible candidates.
33. Reduction in Pay: A temporary or permanent decrease in an employee's rate of pay for disciplinary reasons.
34. Reemployment List: A list of names of Regular Employees who have been laid off from a Position.
35. Regular Employee: An employee in the Classified Service who has successfully completed the Probationary Period and has been retained as hereafter provided in these Rules.
36. Reinstatement: The restoration without examination of a former employee or probationary employee to a classification in which the employee formerly served.
37. Rejection: The involuntary separation from the City service of an employee who has not successfully completed the Probationary Period for a Position, or the demotion of an employee who did not successfully complete the employee's promotional probationary period.
38. Resignation: The voluntary separation of a City employee from the City service.
39. Salary Range: The range of Salary Rates for a Class.
40. Salary Rate: The dollar amount of each step in a Salary Range, or the flat dollar amount for a Class not having a Salary Range.
41. Salary Step: The minimum through maximum salary increments of a Salary Range.

42. Seniority: An employee's status in relation to other employees based first on years of service in a particular Class and then on total years of service at the City.
43. Suspension: The temporary separation from service of an employee without pay for disciplinary purposes.
44. Temporary Employee: An employee who is appointed for a limited period of time for a specified, limited purpose and is only entitled to benefits as provided by resolution of the City Council. A Temporary Employee is not appointed to a Position.
45. Transfer: The movement of an employee from one Position to another vacant Position in the same Class or to a vacant Position in another Class with the same maximum base rate of pay.

## **SEC. 1.5 NON-DISCRIMINATION**

### **A. Equal Employment Opportunity**

The City is committed to a policy of equal opportunities for applicants and employees. The City does not discriminate against applicants or employees with respect to terms or conditions of employment based on race, color, ancestry, national or geographical origin, ethnicity, sex, gender, sexual orientation (including homosexuality, heterosexuality, and bisexuality), gender identity, gender expression, age, religious or political affiliation or belief, ethnicity, national or geographical origin, creed, physical or mental disability, medical condition, genetic information, marital or registered domestic partner status, membership in or attitude toward any employee organization, military or veteran status, or any other characteristic protected by state or federal law or local ordinance, nor does the City discriminate against applicants or employees who are perceived to have such characteristics or who associate with an individual having such characteristics. Every reasonable effort will be made to provide an accessible work environment for such employees and applicants.

### **B. Disabled Applicants and Employees**

Employment practices (e.g., hiring, training, testing, transfer, promotion, compensation, benefits, and discharge) will not discriminate against disabled employees or applicants. The City will engage in the interactive process, as defined by the Americans with Disabilities Act ("ADA") and the Fair Employment and Housing Act ("FEHA"), to determine whether an applicant or employee is able to perform the essential functions of his/her position. During this process, the City will examine possible reasonable accommodations that will make it possible for the employee or applicant to so perform.

1. **Request for Accommodation.** An applicant or employee who desires a reasonable accommodation in order to perform essential job functions should make such a request in writing to the Human Resources Director. The request must identify: 1) the job-related functions at issue; and 2) the desired accommodation(s). Reasonable accommodation can include, but

is not limited to job restructuring, reassignment to a vacant Position for which the employee is qualified, leaves of absence, and making facilities accessible.

2. Reasonable Documentation of Disability. Following receipt of the request, the Human Resources Director may require additional information, such as reasonable documentation of the existence of a disability or additional explanation as to the effect of the disability on the employee's ability to perform his/her essential functions, but will not require disclosure of diagnosis or genetic history.
3. Interactive Process. The City will engage in the interactive process, as defined by the FEHA and ADA, to determine whether an applicant or employee is able to perform the essential functions of his/her position. During this process, the City will examine potential reasonable accommodations that will make it possible for the employee or applicant to so perform. Such interactive process will include a meeting with the employee or applicant, the City, and, if necessary, the employee or applicant's health care provider.
4. Case-by-Case Determination. The City determines, in its sole discretion, whether reasonable accommodations(s) can be made, and the type of reasonable accommodations(s) to provide. The City will not provide an accommodation that would pose an undue hardship upon the City or that is not required by law. The City will inform the employee of any decisions made under this section in writing.
5. Fitness for Duty Leave. While the City is engaged in the interactive process with an employee, or while otherwise awaiting the outcome of a medical examination based on an employee's possible lack of fitness for duty, the City may require that the employee be placed on a fitness for duty leave.
6. Medical Examinations.
  - a. Depending on the essential functions of a position, a medical examination may be required for:
    - (1) Applicants who have received a conditional offer of employment;
    - (2) Employees seeking a transfer from one position requiring general physical abilities to another position requiring physical abilities of a more different nature;
    - (3) Employees returning to work from a medical leave of absence. The physician conducting the medical examination will be supplied with a current job description indicating the essential functions of the position; or

(4) When a supervisor observes or receives a reliable report of an employee's possible lack of fitness for duty. Observations and reports may be based on, but are not limited to, employee's own self-report of potential unfitness, dexterity, coordination, alertness, speech, vision acuity, concentration, response to criticism, interactions with the public, co-workers, and supervisors.

b. The results of all medical examinations will be kept confidential. Examination results for newly hired employees and employees transferring to another position will be kept in the employee's confidential medical file. No employee will hold any position in which the employee is not able to perform the essential functions of the job, with or without reasonable accommodation.

C. Prevention of Harassment/ Discrimination/Retaliation

1. City policy prohibits harassment and discrimination based on an employee's race, color, ancestry, national or geographical origin, ethnicity, sex, gender, sexual orientation (including homosexuality, heterosexuality, and bisexuality), gender identity, gender expression, age, religious or political affiliation or belief, creed, physical or mental disability, medical condition, genetic information, marital or registered domestic partner status, membership in or attitude toward any employee organization, military or veteran status, and/or any other category protected by federal and/or state law. In addition, City policy prohibits retaliation because of the employee's opposition to a practice the employee reasonably believes to constitute employment discrimination or harassment or because of the employee's participation in an employment investigation, proceeding, or hearing.
2. Employees who believe they have been harassed, discriminated against, or retaliated against, should report that conduct to the City, and the City will investigate those complaints. For more information regarding the policy and complaint procedures, employees should review the City's policy against harassment, discrimination, and retaliation.

**RULE II. CLASSIFICATION**

**SEC. 2.1 PREPARATION OF PLAN**

The Personnel Officer shall ascertain and record the duties, responsibilities, minimum standards, and minimum qualifications of all Positions in the City and shall recommend a classification/compensation plan for all Positions to the City Council for adoption. The classification/compensation plan need not be contained in only one document, but may be comprised of various documents. The classification/compensation plan shall consist of Classes of Positions defined by Class specifications or job descriptions, including the title. The classification/compensation plan shall be so developed and maintained so that all Positions substantially similar with respect to duties, responsibilities, authority,

and character of work are included within the same Class, and that the same schedules of compensation may be made to apply with equity under similar working conditions to all Positions in the same Class. The classification/compensation plan will contain the General Salary Schedule and a General Benefits Schedule.

## **SEC. 2.2 ALLOCATION OF POSITIONS**

Following the adoption of the classification/compensation plan, the Personnel Officer shall allocate every Position in the Classified Service to one of the Classes established by the plan.

## **SEC. 2.3 NEW POSITIONS**

A new Position shall not be created and filled until the classification plan has been amended by the Personnel Officer and adopted by the City Council to provide therefore and an appropriate eligibility list established for such Position.

## **SEC. 2.4 RECLASSIFICATION AND REALLOCATION**

If the Personnel Officer determines that the assigned duties for a Position have been materially changed by the City so as to warrant reclassification, to a new or already created Class, the Personnel Officer shall determine whether to recommend that the Position be reclassified by the City Council and reallocated by the Personnel Officer to a more appropriate Class following adoption of an amended classification/compensation plan by the City Council. Reclassifications shall not be used for the purpose of avoiding restrictions concerning demotions and promotions, nor to effect a change in salary in the absence of a significant, ongoing change in assigned duties and responsibilities.

The Personnel Officer shall consider input from the incumbent Employee in the Position and from the Department Director but shall have sole discretion in determining whether to recommend reclassification of a Position to the City Council.

## **SEC. 2.5 CLASS SPECIFICATIONS/JOB DESCRIPTIONS**

A. The Personnel Officer with the assistance of the Department Directors will prepare written job descriptions for each Class of positions.

B. Each job description will include the Class title, a brief description of the scope, nature, and responsibility of the Class, a description of the tasks or duties ordinarily performed in the Positions allocated to the Class; a statement of the minimum qualifications considered necessary for proficient performance of the work, including education, experience, training, knowledge, skills, physical characteristics, and any additional factors considered pertinent. Job descriptions are not restrictive. The job descriptions, shall not be construed as an all-inclusive list of tasks performed; or be interpreted as restricting the assignment of related tasks not specifically listed therein; or as limiting the authority of supervisory personnel to assign, direct and control the work of subordinate employees. A Department Director may assign other related duties and responsibilities or otherwise direct the work of employees.

C. Substantive revisions to job descriptions that are associated with substantive changes to the duties performed by a particular Class shall be subject to approval by the City Council. Non-substantive changes, such as to reflect previous, gradual changes in the conditions in which work is currently performed or to improve accuracy in describing the Class or Position title or non-substantive details associated with job duties already performed, may be approved administratively by the Personnel Officer and are not subject to approval by the City Council.

D. Each job description will identify the date of approval or last revision.

### **RULE III. COMPENSATION**

#### **SEC. 3.1 SALARY ON APPOINTMENT**

- A. New Employees: New employees shall be paid at the first step of the salary range for the Position to which the employee is appointed except as provided for elsewhere in these Rules.
- B. Advanced Step Hiring: The Personnel Officer may appoint a new employee to an advanced step of the pay range if it is determined that qualified applicants cannot be successfully recruited at the first step of the salary range.
- C. Reemployment: A person who previously held a Position with the City and was in good standing may, at the discretion of the City Manager, when reemployed in a Position with the same or lower pay range than held at separation, be appointed at the same salary rate which was paid at the effective date of the person's termination, or the nearest lower applicable step for the range to which the person is appointed.

#### **SEC. 3.2 SALARY ANNIVERSARY DATES**

Employees shall have a salary anniversary date on the same date of his/her initial hire date, promotion, demotion, reinstatement or reemployment, whichever is most recent. The salary anniversary date may be modified by the action of the Appointing Authority under Section 7.6.A.4.

#### **SEC. 3.3 INCREASES WITHIN SALARY RANGE**

Employees will normally become eligible for an adjustment in pay after twelve (12) months of service in the first or starting step. The adjustment shall be made only if recommended by the Department Director, and if approved by the City Manager. The remaining steps are incentive adjustments, based on performance evaluation, to encourage an employee to perform at his/her highest level, and to recognize seniority and increased skill on the job. Employees are normally eligible for these adjustments any time after the completion of twelve (12) months of service at the preceding step. This period may be shortened or extended in conjunction with the performance report recommendations and as approved by the City Manager.

### **SEC. 3.4 SALARY UPON PROMOTION**

Except in instances where the granting of a full step increase would result in a salary in excess of the top step of the salary range, any employee who is promoted to a Position in a Class with a higher salary range shall be placed on the step in the new higher range which is at least equal to an advancement of a full step over the step he/she held in his/her former range. If the maximum of the range would be exceeded by such advancement, the employee shall receive the top step of the range. An employee thus promoted is assigned to a new salary anniversary date effective on the date of promotion.

### **SEC. 3.5 SALARY UPON TRANSFER**

Any employee who is transferred from one Position to another Position in the same Class, or to another Position in a Class having the same salary range, shall be compensated at the same step in the salary range as he/she previously received and his/her salary anniversary date shall not change.

### **SEC. 3.6 SALARY ON CHANGE IN RANGE ASSIGNMENT**

Whenever a Class is reassigned to either a higher or lower salary range by the Council, the salary of each incumbent in such Class on the date the reassignment is effective shall be adjusted to the step/salary Position in the new range that corresponds to the step/salary he/she was receiving in the former range and he/she shall retain the same salary anniversary date.

### **SEC. 3.7 SALARY ON REALLOCATION OF POSITION FOLLOWING RECLASSIFICATION**

- A. If, following reclassification, the Position is reallocated to a Class having the same salary range, the salary and the salary anniversary date of the incumbent shall not change.
- B. If, following reclassification, the Position is reallocated to a Class which has a higher salary range, the City Manager shall adjust the salary of the incumbent employee to any step of the higher salary range which is at least as much as he/she was receiving in the former range and he/she shall retain the same salary anniversary date.
- C. If, following reclassification, the Position is reallocated to a Class with a lower salary range, and the employee's salary exceeds the top step of the Class to which his/her Position is reallocated, his/her salary shall not change until it is exceeded by the top step of the Class. The employee's salary anniversary date shall not change.

### **SEC. 3.8 CAREER ADVANCEMENT**

- A. An employee who is currently employed in a Position in the Maintenance & Utility Field Worker I Class is eligible for Career Advancement to the Journey level

Maintenance & Utility Field Worker Class within the same Position, upon satisfaction of all of the following criteria:

1. Achieve an overall rating higher than “Does Not Meet Expectations” or equivalent on his/her most recent performance report.
  2. Complete the steps necessary to obtain a Grade II Operator Certificate for Water or Wastewater (whichever is required for the employee’s assignment.)
  3. Submit a copy of the Grade II Operator Certificate to the City Manager.
  4. Receive and acknowledge written confirmation of Career Advancement from the City Manager.
- B. Career Advancement shall take effect on the first day of the next pay period following satisfaction of all of the above criteria, A.1 through A.4.
- C. An employee who attains Career Advancement shall be placed on the step of the salary range for the Journey level classification which is at least as much he/she was receiving in the former range. The employee’s salary anniversary date shall not change.

### **SEC. 3.9 SALARY ON DEMOTION**

Any employee who is demoted to a Position in a Class with a lower salary range shall have his/her salary reduced to a salary step in the range for the lower Class which is:

- A. If a disciplinary demotion, one or more steps less than that received in the salary range for the Class from which demoted. A new salary anniversary date shall be established on the basis of the demotion.
- B. If a non-disciplinary demotion, the step he/she would have attained in that lower Class if his/her services had been continuous in said lower Class with the same level of performance and length of service. He/she shall retain his/her salary anniversary date.

### **SEC. 3.10 ACTING PAY**

- A. An employee who is assigned to an acting appointment under Section 5.3 of these Rules shall receive the entrance salary rate of the higher salary range or one rate higher than the rate he/she normally receives, whichever is greater.
- B. An employee is entitled to acting pay only after the employee has served for ten (10) consecutive working days in the higher classification. Acting pay will be issued starting with the 11<sup>th</sup> consecutive working day that the employee serves in the acting appointment.

- C. While receiving acting pay, the employee will not receive certificate pay or other premium or incentive pays unless an employee holding that higher position would also be eligible to receive that pay.

**SEC. 3.11 ON-CALL PAY**

Non-exempt employees in field positions who are placed on "on-call" status by the Department Director shall receive \$60.25 for each pay period for which they are in "on-call" status.

**SEC. 3.12 MONTHLY SALARY**

Monthly salary rates for Non-exempt employees are based on a 40-hour work week and no authorization may be made for such an employee to work less than said work week without a directly proportionate decrease in compensation, unless paid leave is used to make up the difference.

**SEC. 3.13 LONGEVITY/SERVICE BONUS**

As an incentive for continued employment with the City, employees will receive a bonus on the following schedule:

- A. \$50 per month for completion of 5 to 9 consecutive or cumulative years of City employment.
- B. \$100 per month for completion of 10 to 14 consecutive or cumulative years of City employment;
- C. \$150 per month for completion of 15 to 19 consecutive or cumulative years of City employment.
- D. \$200 per month for completion of 20 or more consecutive or cumulative years of City employment.

Employees who were first hired on or before March 1, 1982 and have completed 20 or more consecutive years of City employment will receive \$286 per month.

**SEC. 3.14 SPECIAL SALARY ADJUSTMENTS**

Notwithstanding anything in these Rules to the contrary, in order to correct gross inequities, or in exchange for outstanding achievement and performance that the City Council may find justified, the City Council may by the affirmative vote of no less than three members, upon recommendation of the City Manager, adjust the salary rate of an incumbent of a particular Position to any step within the salary range for the Class to which the Position is allocated.

**SEC. 3.15 PAY PERIODS**

- A. Timing of Pay Periods

1. The salaries and wages of all employees are paid bi-weekly.
2. In the event a pay day falls on one of the observed holidays listed in these Rules, the immediately previous working day shall become the pay day.

#### **RULE IV. APPLICATIONS, RECRUITMENT AND EXAMINATIONS**

##### **SEC. 4.1 VACANCIES**

- A. Vacant regular Positions in the Classified Service may be filled only by selection from an eligibility list, by acting or provisional appointment, by transfer, by reinstatement or by demotion. Selection of employees for Positions in the Classified Service is made by the Department Director for the Position, subject to approval by the City Manager.
- B. When a Classified Service Position becomes vacant, the Human Resources Director shall be notified by the Department Director responsible for the Position regarding the need to fill the vacancy, and the requested method for filling the vacancy.
- C. Announcements of all vacant Positions in the Classified Service will be posted on a bulletin board in City Hall.

##### **SEC. 4.2 ANNOUNCEMENT OF VACANCIES/ACCEPTANCE OF APPLICATIONS**

- A. If a continuing need for the Position exists, the Personnel Officer will determine whether to conduct an initial internal recruitment or proceed directly to an open-competitive recruitment.
- B. The Personnel Officer may conduct an internal recruitment when he or she determines, in his/her sole discretion, that doing so is in the best interest of the City.
  1. If the Position will be filled by open-competitive recruitment only, then the Human Resources Director will publicly advertise the Position by a written announcement setting forth the basic requirements for the job, a closing date for acceptance of applications, and information where applications and the job description can be obtained.
  2. If the Personnel Officer determines that an initial internal recruitment will be conducted, then the Human Resources Director will limit all initial advertisement for the position to current employees only and will initiate the examination process in accordance with Section 4.3.A., ending with an interview with the responsible Department Director.
    - a. As part of an initial screening process, employees who achieved any rating of "Does Not Meet Expectations," or equivalent, on their most recent performance report will be disqualified from further consideration at the first step of the internal recruitment.

3. Following completion of the interview process for internal applicants and scoring of candidates in accordance with Section 4.3.A.2.c., the Department Director will provide the Personnel Officer with a written recommendation, as follows:
  - a. The internal eligibility list should be used in accordance with Section 4.3.F. to extend a conditional offer of employment.
  - b. Cause exists as set forth in Section 4.3.B. to abolish the internal eligibility list and proceed with an open-competitive recruitment for which any prior internal candidates may re-apply.
- C. If the Personnel Officer finds cause to abolish the internal eligibility list, the affected applicants will receive written notice of this action and of the opportunity to re-apply in connection with the open-competitive recruitment.
- D. For all recruitments, applications will be available in the office of the Human Resources Director and online through the City's website. Applications will be collected by the Human Resources Director until the closing date specified in the announcement for acceptance of applications.
- E. Applications lacking information deemed material by the Personnel Officer may not be accepted. The City may notify the applicant regarding missing information and provide an opportunity to re-submit. Any incomplete applications, including re-submitted applications that remain incomplete, that are received fewer than two full business days before the end of the filing period will not be given consideration.

### **SEC. 4.3 ELIGIBILITY LIST/SELECTION TESTING**

Following the closing date for applications, and completion of the examination process, an eligibility list shall be created.

- A. Examination Process
  1. Criminal Conviction History
    - a. The City shall not ask any applicant for employment to disclose, through any written form or verbally, at any time, information concerning an arrest or detention that did not result in conviction, or information concerning a referral to, and participation in, any pretrial or posttrial diversion program, or concerning a conviction that has been judicially dismissed or ordered sealed pursuant to law, including, but not limited to, Sections 1203.4, 1203.4a, 1203.45, and 1210.1 of the Penal Code.
    - b. Unless otherwise required by law, the City shall not ask an applicant for employment to disclose, orally or in writing, information concerning the conviction history of the applicant, until

the City has issued a conditional offer of employment. The job announcement for the position in question will advise whether a lawful exception to this provision applies, such as for positions subject to the stringent requirements of Public Resources Code Section 5164.

2. Examination Process

- a. Examinations shall be conducted and used to aid in the selection of qualified employees. They shall consist of recognized selection techniques that will fairly test the qualifications of candidates and shall be job-related. Examinations may include, but are not limited to, written tests, personal interviews, performance tests, physical agility tests, evaluation of daily work performance, work samples or any combination thereof. The Human Resources Director may set minimum standards for all tests.
- b. Upon scoring of all selection components, the names of applicants will be placed on eligibility lists, ranked according to scores.
- c. In case of tied scores, the following rules shall apply:
  - (1) For purposes of placement on the list of eligibles, if an applicant who has a tied score is a veteran, as that term is defined in Section 50088 of the California Government Code, or as may be amended, the tie will be broken in favor of the veteran, such that the veteran will be placed at a higher position than the non-veteran.
  - (2) All other candidates with tied scores shall be listed in alphabetical order.

B. Duration of Eligibility Lists.

1. Eligibility lists shall become effective upon the Personnel Officer's certification that the lists represent the relative evaluations of the candidates whose names appear on them.
2. Unless otherwise provided in these Personnel Rules, eligibility lists shall be effective for a period of one (1) year from the date of their establishment, provided that the Personnel Officer may extend the period not to exceed an additional twelve (12) months. The Personnel Officer may abolish for cause an eligibility list at any time and request a new recruitment and the preparation of a new eligibility list for any Class or position. Two (2) or less names of qualified candidates available for appointment on an eligibility list constitutes sufficient cause for abolishing an eligibility list, but is not the sole reason constituting cause.

C. Removal of Names from Eligibility Lists. The Personnel Officer may remove the name of any eligible candidate from an eligibility list for any of the following reasons:

1. On evidence that the eligible candidate cannot be located by postal authorities. Failure to reply within five (5) business days to a letter requesting information as to availability for appointment, or failure to notify the Personnel Officer of any change of address resulting in the return of letters without forwarding by the U.S. Post Office, will be considered grounds for removal. A candidate who is notified of his/her removal under this section may request in writing that the Personnel Officer restore his/her name to the eligibility list. Such a request may be granted if, in the Personnel Officer's sole discretion, an acceptable reason exists for the candidate's failure to reply to a notice requesting availability for appointment or failure to file a notice of a changed address. Upon receipt of a verbal or written statement from the eligible candidate declining appointment and stating that he/she wishes his/her name to be removed from the eligibility list.
2. If an offer of regular full-time employment in the Class for which the eligibility list was established has been declined by the eligible candidate.
3. If an eligible candidate on a promotional eligibility list leaves the City service.
4. After a determination has been made by the Personnel Officer that the candidate does not meet job-related standards.

D. Availability of Candidates. It shall be the responsibility of eligible candidates to notify the Human Resources Department in writing of any change of address or other change affecting availability for consideration for appointment.

E. Offers of Employment and Related Procedures

1. Only the Personnel Officer may extend offers of employment to selected candidates. Employment offers for all positions will be made in writing and will include starting salary on an hourly, weekly, or monthly basis. An employment offer made in terms of annual salary does not imply a yearly contract.
2. Background Screening and Conviction History
  - a. An offer may be conditioned on a requirement that the applicant be fingerprinted and/or undergo a background check prior to beginning employment. Refusal of an applicant to be fingerprinted, failure to report for fingerprinting, or failure to provide such information as is necessary to conduct a background check will be sufficient grounds for disqualification under Section 4.3.C.

- b. All applicants will have their fingerprints submitted for clearance through the California Department of Justice and other agencies as deemed appropriate. Fingerprints will be submitted using the “LiveScan” process and in accordance with applicable state, federal, and local laws regarding the LiveScan process.
- c. The City also retains the right to conduct a thorough background check of each applicant. A background investigation may include, but is not limited to reference checks, employment history, criminal history, and public records. When conducting background checks on applicants, the City shall comply with all applicable state and federal laws.
- d. If the background screening discloses a previous criminal conviction, the Personnel Officer will conduct an individualized assessment, taking into account a number of factors in determining whether to disqualify the applicant and rescind the conditional offer of employment. Such factors may include the nature of the position, nature of the conviction, length of time since conviction, and completion of any resulting incarceration or probation.
- e. The Personnel Officer will then make a preliminary determination based on the results of the individualized assessment. If that preliminary determination is to disqualify an applicant based on conviction history, the Personnel Officer will issue a written notice of intent to the applicant, identifying the conviction at issue, including a copy of the conviction history report (if any), and advising of the applicant’s right to respond within five business days to challenge the accuracy of the conviction history report and provide evidence of any mitigating circumstances. An applicant who notifies the Personnel Officer of efforts to obtain evidence disputing the conviction history information or report will receive a minimum of five additional business days to respond. The City Manager may permit additional time due to delay despite reasonable demonstrated efforts by the applicant.
- f. After considering any information provided by the applicant, the Personnel Officer will make a final decision regarding disqualification.
  - (1) If the final decision is to disqualify the applicant based on conviction history, the Personnel Officer will provide written notice to the applicant of the decision and of the applicant’s right to file a complaint with the California Department of Fair Employment and Housing.

### 3. Pre-Employment Medical Examinations

Following a conditional offer of employment, all job applicants are required to submit to a physician's examination, and depending on the Position, may also be required to submit to a drug screen, at the City's expense, upon being made a conditional offer of employment. No job commitment shall be made until a negative drug screen result is obtained, where applicable, and a physician has certified that the applicant is medically fit to perform the essential functions of the Position, with or without reasonable accommodation. When the applicant reports to the medical facility for the scheduled examination, personal identification shall be provided to the facility in the form of a photograph and verifiable signature (for example, a driver's license). The applicant may also be required to complete a medical history questionnaire and a medical records release as necessary to facilitate the examination. All test results will be kept confidential. The applicant will be told whether the tests were passed or failed, but only the Human Resources Director, the Personnel Officer and their assistant(s) will have access to the test results, on a need-to-know basis.

### 4. Firm Offer of Employment

The Personnel Officer will issue a firm offer of employment when the selected applicant has passed his or her background check and has passed his or her medical examination. The appointment will become effective when the applicant has signed all official papers required by the City, and those papers bear the appropriate signatures from City management confirming the appointment.

### F. Employment Oath:

All employees of the City must complete and sign the Oath or Affirmation of Allegiance for Public Officers and Employees on the first day of employment or as soon thereafter as practicable in accordance with Article XX, Section 3 of the Constitution of the State of California. A signed copy will be included in the employee's personnel file.

## **RULE V. APPOINTMENTS**

### **SEC. 5.1 APPOINTMENT OF NEW EMPLOYEE**

The hire date of a new employee shall be that of the first day actually worked.

### **SEC. 5.2 PROVISIONAL APPOINTMENTS**

- A. It shall be the policy of the City to require all Department Directors and other appointing authorities, whenever possible, to notify the Human Resources Director of impending or anticipated vacancies in their departments sufficiently in advance so as to allow for the establishment of an appropriate eligibility list. However, when the demands of the services are such that it is not practicable to give such notification and if it is not practicable to delay appointment until a new eligibility list can be certified, the Appointing Authority may make a provisional appointment to the Position. As soon as practicable, but not longer than six (6)

months after a provisional appointment has been made, the Human Resources Director may cause an examination to be prepared, and all Positions filled provisionally shall be filled by an appointment from an eligibility list. No person shall be employed by the City under provisional appointment for a total of more than six (6) months in any fiscal year except that the City Manager may, with approval of a majority of the Council, extend the period of any provisional appointment for not more than ninety (90) days by any one action and shall not exceed a total of twelve (12) months.

- B. A person appointed to a Position on a provisional basis shall not be entitled to credit for the time served under the provisional appointment toward the completion of his/her Probationary Period and shall be entitled to the same salary and other benefits as an applicant appointed from an eligibility list except that he/she may not be employed under the provisional appointment for longer than the period authorized herein.
- C. No preference shall be allowed in any examination or the establishment of any eligibility lists for a Position for an applicant who rendered service in that Position under a provisional appointment.

### **SEC. 5.3 ACTING APPOINTMENTS TO A HIGHER CLASS**

- A. An acting appointment may be made of a current employee to a higher Class or Position that is vacant or from which an employee is absent temporarily due to an authorized leave of absence. During an acting appointment, the employee will perform all of the duties and assume all of the responsibilities of the higher Class on a full-time basis.
- B. Eligibility: The City Manager may assign an acting appointment to any employee who possesses the Minimum Qualifications for the higher Class.
- C. Maximum length of acting appointments:
  - 1. An acting appointment to a position that is vacant during recruitment for a regular appointment will last no longer than 960 hours in a fiscal year.
  - 2. An acting appointment to a position that is vacant temporarily due to an employee's leave of absence will last no longer than the duration of the incumbent employee's leave of absence.
    - a. Appointments made under these circumstances may not initially exceed six (6) months. However, the City Manager may extend acting appointments in increments of up to 30 days, if the City Manager determines that doing so does not present an undue hardship for the City.
- D. End of acting appointments: Acting appointments are held on a temporary, at-will basis and may be terminated by action of the City Manager at any time with or without cause. In addition:

1. An acting appointment due to the authorized leave of absence of the incumbent employee will terminate automatically upon the release of incumbent employee, unless the incumbent employee is unable to perform the essential functions of the position with or without reasonable accommodation.
  2. An acting appointment to a vacant position for which recruitment is pending will terminate automatically upon the earlier of the following:
    - a. Completion of 960 hours in a fiscal year;
    - b. First date of employment by a new hire into the position;
    - c. Action by the City Council to re-classify or eliminate the position.
  3. The employee may request to be reassigned back to his/her usual class and position at any time during an acting appointment. If the City Manager determines that reassignment is feasible, the employee will be reassigned within seven working days.
- E. Return from acting appointments: After an acting appointment ends, the employee shall resume the duties and receive the same step status and merit increase eligibility date he/she would have achieved if the employee had remained in the lower class throughout the period of his/her service in the higher class.

#### **SEC. 5.4 REINSTATEMENT**

The Appointing Authority may, with the approval of the Personnel Officer, reinstate any person who has resigned in good standing, provided that such reinstatement is accomplished within one (1) year of the date of resignation, or as otherwise required by law. Such reinstatement action may, at the discretion of the Appointing Authority, take precedence over any eligibility list except a reemployment list. Any person so reinstated shall be subject to a new Probationary Period of the same length as established for new appointees to a Position in the Class, unless excused by Personnel Officer.

#### **SEC. 5.5 TRANSFER**

- A. The Personnel Officer may institute a voluntary or involuntary transfer of an employee from one Position to another vacant Position in the same Class or to a vacant Position in a comparable Class at the same salary level.
- B. An employee who has achieved a rating other than "Does Not Meet Expectations" on his/her most recent performance evaluation. may initiate a request for voluntary transfer to an available position in the same Class for which a recruitment has not yet opened pursuant to Section 4.2, and for which he/she meets the Minimum Qualifications, by submitting a request in writing to the Department Director. The Department Director will issue a written recommendation to the Personnel Officer as to whether to proceed with an

internal recruitment in accordance with Section 4.2, proceed with an open-competitive recruitment, or to exercise the discretion to grant the employee's transfer request.

- C. While the Personnel Officer retains sole discretion whether to institute voluntary and involuntary transfers, consideration will be given to the affected employee's and the Department Director's wishes.

## **SEC. 5.6 NEPOTISM**

### **A. Definitions.**

1. Applicant. A person who applies for a position at the City and is not a Current Employee.
2. Change of Status. A change in the legal status or personnel status of one or more Current Employees.
  - a. Changes in legal status include but are not limited to marriage, divorce, separation, or any such change through which a Current Employee becomes a Family Member or ceases to be a Family Member of another Current Employee.
  - b. Changes in personnel status include but are not limited to promotion, demotion, transfer, resignation, retirement or termination of a Current Employee who is a Family Member of another Current Employee.
3. Current Employee. A person who is presently a City employee, or an elected or appointed City official.
4. Direct Supervision. One or more of the following roles, undertaken on a regular, acting, overtime, or other basis shall constitute Direct Supervision:
  - a. Occupying a position in an employee's direct line of supervision; or
  - b. Functional supervision, such as a lead worker, crew leader, or shift supervisor;
  - c. Participating in personnel actions including, but not limited to, appointment, transfer, promotion, demotion, layoff, suspension, termination, assignments, approval of merit increases, evaluations, and grievance adjustments.
5. Family Member: A spouse, domestic partner, child, parent, legal guardian, grandparent, grandchild, aunt, uncle, cousin, niece, or nephew, including step-relations and in-laws.
6. Prohibited Conduct. Conduct by Family Members including, but not limited to, one or more of the following:

- a. Participation directly or indirectly in the recruitment or selection process for a position for which a Family Member is an Applicant.
- b. Direct Supervision of a Family Member that does not comply with limitations set forth in this Rule;
- c. Conduct by one or more Family Members that has an adverse effect on supervision, safety, security or morale.

B. Guidelines for Applicants.

1. No qualified Applicant may be denied the right to file an application for employment and compete in the examination process. However, consistent with this Article, the City may reasonably regulate, condition, or prohibit the employment of an Applicant for a full-time position.
2. Disclosure: Each Applicant is required to disclose the identity of any Family Member who is a Current Employee.
3. Assessment by the Personnel Officer: For each Applicant who has a Family Member who is a Current Employee, the Personnel Officer shall assess whether any of the following circumstances exist:
  - a. Business reasons of supervision, safety, security or morale warrant the City's refusal to place the Applicant under Direct Supervision by the Family Member; or
  - b. Business reasons of supervision, security, or morale that involve potential conflicts of interest or other hazards that are greater for Family Members than for other employees, which warrant the City's refusal to permit employment of Family Members in the same department, division, or facility.
4. Decision of the Personnel Officer: If the Personnel Officer determines that either of the above circumstances exist, the Personnel Officer shall exercise his or her discretion to either reject the Applicant or consider the Applicant for employment in a position that does not present either of the above circumstances.
5. Following examination, if the Applicant is successfully certified as eligible pursuant to Article VIII, he or she may be employed in a position for which the Personnel Officer has determined that neither circumstance exists pursuant to Section 5.6(B)(3).
6. When an eligible Applicant is refused appointment by virtue of this Article, his or her name shall remain on the eligibility list for openings in the same classification. For each opening, the Personnel Officer shall make a determination consistent with Section 5.6(B)(3).

C. Guidelines for Current Employees.

1. Employees shall report a Change of Status to the Personnel Officer within a reasonable time after the effective date of the Change of Status. Wherever feasible, Employees shall report a Change of Status in advance of the effective date.
2. Within thirty days from receipt of notice, the Personnel Officer shall undertake a case-by-case consideration and individualized assessment of the particular work situation to determine whether the Change of Status has the potential for creating an adverse impact on supervision, safety, security, or morale.
  - a. The Personnel Officer shall consult with an affected Department Director to make a good faith effort to regulate, transfer, condition or assign duties in such a way as to minimize potential problems of supervision, safety, security, or morale.
  - b. Notwithstanding the above provisions, the City retains the right to exercise its discretion to determine that the potential for creating an adverse impact on supervision, safety, security, or morale cannot be sufficiently minimized and to take further action pursuant to Section 5.6(C)(3)(a).
3. Following a Change of Status or new hire of a Family Member, affected Department Directors shall reasonably monitor and regulate both Family Members' conduct and performance for a period of one year from the date of the Personnel Officer's determination. The Department Director shall document these actions. Successive Department Director may re-visit such a determination at their discretion.
  - a. If the Department Head determines, subject to any applicable requirements of due process, that an employee has engaged in Prohibited Conduct, the Department Director shall re-visit the Personnel Officer's determination. Depending on the severity of the Prohibited Conduct, the Department Director may recommend that the Personnel Officer take one or more of the following additional measures:
    - (1) Transfer one of the Family Members to a similar position that would not be in violation of this policy. The transfer will be granted provided the Family Member qualifies and there is an opening to be filled. There can be no guarantee that the new position will be within the same classification or at the same salary level.
    - (2) If the situation cannot be resolved by transfer, one of the Family Members must separate from City employment. If one of the employees does not voluntarily resign, the

employee with primary responsibility for the Prohibited Conduct will be discharged.

4. Department Directors who receive complaints from other employees that one or more Family Members has engaged in Prohibited Conduct shall respond in accordance with existing complaint and disciplinary procedures, where applicable.
  5. Where situations exist prior to the effective date of this Article that may be in conflict with this Article, every effort shall be made to reasonably address the situation so as to avoid any future conflict.
- D. Employee Complaints. Employees who believe that they have been adversely affected by Prohibited Conduct by one or more Family Member should submit complaints to a Department Head or to the Personnel Officer.
- E. Savings Clause. Should any provision of this Rule, or any application thereof, be unlawful by virtue of any federal, state, or local laws and regulations, or by court decision, such provision shall be effective and implemented only to the extent permitted by such law, regulation or court decision, but in all other aspects, the provisions of this Rule shall continue in full force and effect.

## **RULE VI. PROBATION**

### **SEC. 6.1 PROBATIONARY STATUS**

During the Probationary Period the employee, unless subject to the terms and conditions of an employment contract, may be rejected at any time, for any lawful reason, or no reason.

### **SEC. 6.2 PROBATIONARY PERIODS**

- A. The Probationary Period shall not include time served under a temporary, acting or provisional appointment. Periods of time on leaves longer than thirty (30) days require that the Probationary Period be extended a period of time equal to the amount of time spent on leave.
- B. Length of Probationary Period:
1. All original and promotional appointments shall have a Probationary Period of one (1) year.
  2. Probationary Period - Transfers: Whenever a transfer is made, at the initial request of the employee, the transfer shall be subject to the employee satisfactorily completing a six (6) month probation period in the new Position or completing the remainder of the original Probationary Period, whichever is longer.
  3. Performance Reports for Probationary Employees. In accordance with Section 7.3, during the probationary period, all probationary employees

will be evaluated in three month increments for the duration of the probationary period.

4. Extension of Probationary Period: At the discretion of the Appointing Authority, any employee serving a Probationary Period may at the conclusion of such period have his/her Probationary Period extended for up to an additional six (6) months, but for no longer than a total of twelve months. The Appointing Authority shall notify the Personnel Officer of such contemplated extension of the Probationary Period, before taking such action. Employees shall be notified in writing of any extension Probationary Periods.

### **SEC. 6.3 REGULAR STATUS**

- A. An employee's status shall be considered regular upon his/her completion of the applicable Probationary Period, including any extension implemented in accordance with Section 6.2.B.4.
- B. If the Personnel Officer issues a written notice of rejection to a probationary employee prior to expiration of the applicable Probationary Period, the employee has not attained "completion" within the meaning of Section 6.3.A .

### **SEC. 6.4 REJECTION DURING PROBATIONARY PERIOD OF PROMOTED EMPLOYEES**

- A. Regular Employees: A Regular employee who is rejected during the Probationary Period from a Position to which he/she has been promoted shall be reinstated to the Position from which he/she was promoted, if such Position is vacant and existing, unless he/she is discharged for cause, which would have been sufficient to cause his/her discharge from his/her former Position as well. In such case, the employee shall be entitled to appeal his/her discharge as provided in these rules.
- B. Probationary Employees: Employees promoted to a higher Class while on probation in a lower Class and who subsequently fail to perform satisfactorily in the promoted Position will be entitled to return to their former Position provided the Position has not been eliminated and is vacant. Such employee shall continue to serve a Probationary Period for the length of time remaining on the Probationary Period at the time of promotion.

## **RULE VII. PERFORMANCE REPORTS**

### **SEC. 7.1 POLICY**

It is the policy of the City that periodic and regular reports be made as to the efficiency, competency, conduct and merit of its employees. To this end, it is the responsibility of the City Manager and the Department Directors that these ratings be made. It is the responsibility of the Human Resources Director to provide and prescribe the forms and

procedures to be used in such reports of performance so that the program of performance reporting will be carried on in a sound, timely, and effective manner.

## **SEC. 7.2 AUTHORITY TO MAKE REPORTS**

Department Directors shall have the authority to prepare reports of performance for those employees within his/her department, in consultation with Human Resources. The City Manager shall prepare reports of performance for the Department Directors.

## **SEC. 7.3 TIME FOR REPORTING**

- A. Probationary Employees: Within ten (10) days prior to the completion of every six (6) months during the Probationary Period, the Department Director shall furnish the Human Resources Director with a report as to the progress and capacity of the probationary employee, a copy of which shall also be furnished to the probationer. The Department Director, in consultation with Human Resources, may exercise discretion to issue performance reports on a more frequent basis.
- B. Regular Employees: A report for an employee shall be prepared and received within thirty (30) days after his/her salary anniversary date, provided that the employee may in addition be given a report of performance at any other time during the year upon his/her request or at the discretion of the Appointing Authority, and provided further that any employee who has been rated "improvement needed" or "unsatisfactory" (or equivalent i.e. "does not meet expectations") shall be reported on again three (3) months from receiving such rating and again three (3) months subsequent to that in connection with a Performance Improvement Plan, as set forth in Section 7.6.B.
- C. Lack of Opportunity to Observe Performance: If, as a result of extended absence or other circumstances resulting in a Department Director's opportunity to observe an employee's performance for fewer than three (3) months, the employee and Department Director may mutually agree in writing to delay issuance of the report of performance by up to three (3) months. If the employee is eligible for a step advancement, and the Department Director determines that the employee's performance so warrants, he/she may recommend to the City Manager that the employee receive the step advancement retroactively to the salary anniversary date.

## **SEC. 7.4 REVIEW WITH EMPLOYEE**

It is acknowledged that one of the prime benefits of a sound performance rating system is that it can bring together the employee and his/her Department Director in a frank and constructive discussion and appraisal of the employee's work and the specific ways in which it may be improved. Therefore, each performance report shall be thoroughly discussed with the employee with this view in mind. The employee shall sign the report to acknowledge its contents. Such signature shall not necessarily mean the employee endorses the content of the report. The employee shall be entitled to submit a written response to his/her performance report within 10 calendar days of receipt of the

performance report. Any such response will be attached to the employee's performance report and maintained in his/her regular personnel file. No administrative appeal of the rating or contents of a performance report may be had by the employee.

## **SEC. 7.5 DISTRIBUTION OF REPORTS**

Reports shall be prepared in three (3) copies. After review and approval of the Department Director, one copy shall be retained by him/her for his/her files, one copy provided to the employee, and one copy shall be transmitted to the Human Resources Director. The Human Resources Department copy, along with any response by the employee, shall be made a part of the employee's employment history and included in the employee's personnel file.

## **SEC. 7.6 PERFORMANCE RATINGS**

### **A. Effects of "Improvement Needed" and "Unsatisfactory" Ratings:**

1. Any employee who receives an overall rating of "unsatisfactory" or of "improvement needed" (or equivalent "i.e. "does not meet expectations") will not be eligible to be appointed off of any eligibility list until a satisfactory rating is established.
2. Any employee who receives an overall rating of "unsatisfactory" or of "improvement needed" (or equivalent i.e. "does not meet expectations") will not receive any merit salary increase during the period following the report, except as provided in subsection 5 below.
3. Any employee who receives an overall rating of "unsatisfactory" or of "improvement needed" (or equivalent i.e. "does not meet expectations") may be subject to a Performance Improvement Plan, as provided in subsection 7.6.B., below.
4. In any case, where an employee receives an overall rating of "unsatisfactory" on two (2) consecutive occasions or "improvement needed" (or equivalent i.e. "does not meet expectations") on three (3) consecutive occasions, Disciplinary Action shall be taken by the Appointing Authority as provided for in these rules, if such action has not already been taken.
5. If an employee who has been denied a merit salary increase improves his/her performance to such an extent that the Department Director believes a merit salary increase is now justified, the Department Director shall indicate the improvement on a report of performance form and may recommend that the Personnel Officer approve a merit salary increase. Additionally, in recommending the merit salary increase under this subsection, the Department Director may recommend changing the merit salary increase anniversary date to the date of the award of the merit salary increase or may permit the anniversary date to remain the same.

Any merit salary increase awarded under this subsection shall not be made retroactive.

B. Performance Improvement Plan:

1. The Personnel Officer may authorize the use of a Performance Improvement Plan following an employee's receipt of an overall rating of "unsatisfactory" or "improvement needed" (or equivalent i.e. "does not meet expectations") in his/her most recent performance report, or upon request of a Department Director whose other efforts to have an employee conform to the Department's policies and procedures or other standards of performance have not been successful.
2. A Performance Improvement Plan is not a disciplinary action, and should not be used in place of appropriate disciplinary action.
3. A Performance Improvement Plan shall detail the specific reasons that performance is deficient or non-compliant, requirements for improvement, the number of special and/or regular evaluation periods that the Plan is intended to be in place, and a schedule for review of the employee's progress under the Plan.
4. The employee will receive an opportunity to meet with his/her Department Director or the Personnel Officer to provide input into the terms of the Performance Improvement Plan before the Plan takes effect. However, in the Personnel Officer's discretion, the Performance Improvement Plan may take effect prior to expiration of the employee's time to respond to his/her performance report; as set forth in Section 7.4.
5. The Personnel Officer shall retain discretion to determine at any time that an employee under a Performance Improvement Plan has not demonstrated reasonable improvement and that the Plan should be discontinued.
6. The Personnel Officer may further determine at any time that Disciplinary Action is warranted to address an employee's insufficient performance or other misconduct in accordance with Rule XII.
7. If the Personnel Officer determines that the employee has demonstrated sufficient improvement under the terms of the Performance Improvement Plan, and the employee then maintains acceptable performance over the full period of the Performance Improvement Plan, then the Plan shall be considered "successful."
  - a. After the completion of a "successful" Performance Improvement Program, the City shall maintain a record of the Program in the employee's personnel file.

8. If the Personnel Officer determines that a Performance Improvement Plan has not been “successful,” or that the employee’s performance has regressed in the evaluation period following completion of a “successful” Performance Improvement Plan, the Personnel Officer may determine that disciplinary measures are warranted in accordance with Rule XII.

## **RULE VIII. HOURS OF WORK/OVERTIME**

### **SEC. 8.1 POLICY**

It is the policy of the City that eight (8) hours shall constitute a day’s work and five (5) days shall constitute a week’s work, for all Full-Time Employees, except that work days and work weeks of a different number of hours may be established in order to meet the varying needs of the different City departments where permitted by law.

### **SEC. 8.2 WORK WEEK**

The work week shall be seven (7) consecutive twenty-four (24) hour periods starting at 12:01 a.m. on Saturday and ending at midnight on the following Friday.

### **SEC. 8.3 DAILY HOURS OF WORK**

Daily hours of work or shifts for employees within departments shall be assigned by Department Directors as required to meet the operational requirements of said departments. The normal work shift for employees is eight (8) hours per day.

### **SEC. 8.4 CHANGE IN WORKING HOURS**

Any foreseeable absence or deviation from scheduled working hours desired by an employee shall, in advance, be cleared in writing through the office of the Human Resources Director, and such absence shall be noted on the employee’s time sheet.

### **SEC. 8.5 OVERTIME AND COMPENSATORY TIME OFF**

#### **A. Overtime Compensation:**

1. Employees shall not perform work outside of their regularly scheduled shifts unless requested to do so by a Department Director or with advance written authorization from a Department Director. This requirement applies to, but is not limited to:
  - a. Work performed before the start of the shift;
  - b. Work performed during meal periods;
  - c. Work performed after the end of the shift; and
  - d. Other work performed "off the clock" including work performed at home.

2. All employees shall take reasonable measures wherever feasible to avoid the need for work to be performed outside of their regularly scheduled shifts. Where required, time spent on such work shall be kept to a minimum.
  3. Department Directors shall adhere to the following guidelines in requesting or assigning work outside an employee's regularly scheduled shift:
    - a. An employee who may be required to perform work outside the regular shift shall be notified of the apparent need for such work as soon as practicable prior to when the work is expected to begin.
    - b. When practicable, opportunities shall be made available on an equal basis to employees capable of performing the work.
  4. Non-exempt employees shall be paid at one and one-half times the employee's regular rate of pay for all hours worked in excess of forty (40) hours in a work week. Vacation, sick leave, holidays, jury duty and compensatory time off shall not be considered hours worked. Although no Department Director shall be entitled to any compensation for overtime work, Department Directors shall receive management leave as specified in Section 9.13.
  5. Employees shall be subject to discipline, up to and including termination, for violation(s) of this section.
- B. Compensatory Time Off: Employees may elect to convert earned overtime to compensatory time off at the rate of one and one-half (1½) hours for each hour actually worked, subject to the prior approval of the Department Director. Employees may not accrue more than one hundred twenty (120) hours of compensatory time off. Employees shall be permitted to use compensatory time off within a reasonable period of time after the employee makes a request, provided that it does not unduly disrupt the City's operations. "Unduly disrupt" shall mean that it would impose an unreasonable burden on the City's ability to provide services of acceptable quality and quantity for the public during the time the employee requested off. Compensatory time off shall be used within one (1) year from the time overtime was performed. If the Department Director is unable to schedule and grant the time off within one (1) year, cash payment shall be made at the employee's current rate of pay in lieu of compensatory time off. An employee whose employment is terminated for any reason shall be paid for all unused compensatory time off at a rate of the higher of (1) the average hourly rate the employee earned during the last three (3) years of employment; or (2) the final hourly rate earned by the employee.

## **SEC. 8.6 REST BREAKS**

Non-exempt employees shall be entitled to a paid 15-minute break for every four (4) hours worked. Such time shall be considered hours worked.

**SEC. 8.7 MEAL PERIODS**

- A. Non-exempt employees are entitled to unpaid, thirty minute meal periods during which they shall be entirely relieved of responsibilities and restrictions. Such time shall not constitute hours worked.
- B. Department Directors shall schedule meal periods to ensure appropriate coverage.
- C. Non-exempt employees who work during their meal periods shall be paid for time worked.

**RULE IX. LEAVES OF ABSENCE**

**SEC. 9.1 HOLIDAYS**

- A. The following days shall be recognized and observed as paid holidays:
  - 1. New Year's Day (January 1)
  - 2. Martin Luther King Jr.'s Birthday
  - 3. Presidents' Day
  - 4. Memorial Day
  - 5. Independence Day (July 4)
  - 6. Labor Day
  - 7. Veteran's Day (November 11)
  - 8. Thanksgiving Day
  - 9. Day After Thanksgiving Day
  - 10. Christmas Eve (December 24)
  - 11. Christmas Day (December 25)
- B. For purposes of this Rule, a holiday will be considered to be "observed" by the City solely on those days on which City Hall would usually be open but is closed due to the holiday.
- C. If a holiday falls on a Sunday and is observed nationally the following Monday, the City will observe the holiday on the following Monday.
- D. Full-Time and Probationary Employees shall receive one (1) day's pay for each of the holidays listed above for the number of hours they would have been scheduled to work.
- E. Whenever a holiday falls on a Saturday or Sunday and is not otherwise observed by the City, the employee will be granted an additional vacation day for each Saturday or Sunday holiday worked.
- F. If any employee works on the day the City observes any of the holidays listed above (excluding Admission Day), he/she shall be paid for all hours worked at the rate of two (2) times his/her hourly rate of pay and shall be granted a different day off in lieu of the holiday.

- G. Birthday Holiday: Each employee is entitled to one paid holiday in celebration of his/her birthday. The employee is required to observe this holiday on a date that falls within the period from seven calendar days before to seven calendar days after the employee's birthday. If the employee is unable to observe the birthday holiday during this time period because the Department Director has determined that it would cause a hardship to the department or to the City, the City Manager can approve an exception in writing to permit the employee to observe the birthday holiday at a later date in the same calendar year. An employee who does not observe his/her birthday holiday in the time period specified, and does not request an exception before the expiration of the birthday holiday observation period, shall not be permitted to observe the birthday holiday that year. A birthday holiday has no cash value and shall not be paid out or carried forward.
- H. Admissions Day: Each full-time employee will accrue one additional vacation day per year in honor of Admissions Day. The extra vacation day will be added to the vacation bank in the next pay period following September 9<sup>th</sup> of each year.

## **SEC. 9.2 VACATION**

- A. Full-time Regular and Probationary employees in all classifications shall accrue vacation, on a daily basis, according to the following schedule:
1. From the date of hire through five (5) years of service: ten (10) days per year.
  2. Beginning the sixth year through ten (10) years of service: fifteen (15) days per year.
  3. Beginning the eleventh year of employment: twenty (20) days per year.
- B. The City Manager may in his/her sole discretion, permit a Department Director to accrue vacation on a schedule other than as specified in Section 9.2.A. The City Manager shall specify the applicable schedule in writing at the time of hire.
- C. The maximum number of vacation days that may be accumulated by an employee is forty (40) days. Once an employee reaches the maximum accumulation, he/she shall cease vacation accrual until his/her total number of vacation hours falls below the maximum allowable.
- D. A maximum of five (5) vacation days per calendar year may be converted to compensation and shall be paid at the employee's rate of pay at the time of the conversion.
- E. An employee may also convert an additional five (5) vacation days per calendar year to compensation, which shall be paid at the employee's rate of pay at the time of the conversion, provided that the employee takes an additional five (5) days of vacation off work during the same pay period in which the conversion occurs.

- F. At termination of employment for any reason, the City shall compensate the employee for the employee's accumulated vacation time at the employee's straight time rate of pay at the time of termination.
- G. The City will not require an employee to take vacation time in lieu of sick leave or leave of absence during periods of illness. However, the employee may elect to take vacation time in case of extended illness constituting a "serious health condition" within the meaning of the City's Family Care and Medical Leave, Pregnancy Disability Leave, and Military Family Leave Policy where sick leave has been fully used.
- H. If a holiday falls on a work day during an employee's vacation period, that day shall be considered as a paid holiday and not vacation time.
- I. Vacations may be scheduled at any time during the year upon written approval of the Department Director.

### **SEC. 9.3 SICK LEAVE**

#### **A. Definitions:**

1. Immediate Family: Immediate Family means a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands *in loco parentis*; biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or of the employee's spouse or registered domestic partner, or a person who stood *in loco parentis* to either the employee or the employee's spouse or domestic partner as a minor; or an employee's spouse, registered domestic partner; grandparent; grandchild; or sibling, including half-siblings.
2. Permitted Use of Sick Time:
  - a. Permitted Use of Sick Time consists of any of the following:
    - (1) Diagnosis, care, or treatment of the existing health condition of an employee or a member of the employee's Immediate Family;
    - (2) Preventative care for an employee or a member of the employee's Immediate Family;
    - (3) For employees who are victims of domestic violence, sexual assault, or stalking, leave taken for the purposes described in Sections 230(c) and 230.1(a) of the California Labor Code.
    - (4) Extension of Bereavement Leave to which an employee is entitled under Section 9.4.

3. Full-Time Employees: For purposes of this policy a “Full-Time Employee” means any Regular or Probationary Full-Time Employee, as defined in Section 1.4.B.18.
4. PTS Employees: For purposes of this policy a “PTS Employee” means any employee who is not a Full-Time employee, including, but not limited to, part-time, temporary, and seasonal employees.
5. New Hires: For purposes of this policy, a “New Hire” refers to any employee hired to work at the City on or after July 1, 2015.
6. Employees: For purposes of this policy the term “Employees” without further modification includes all City employees, regardless of status or hire date.

B. Eligibility:

All Employees are eligible to accrue and use paid sick leave in accordance with the applicable terms of this policy.

C. Waiting Period Prior to Use of Sick Leave by New Hires:

All New Hires must complete an initial, one-time 90-calendar day waiting period before using sick leave. Employees who leave City employment before completion of the 90-day waiting period are not entitled to use any sick leave. However, New Hires who return to City employment within 12 months of separation will have their sick leave balances restored in accordance with Section 9.3.H and need only complete the remainder of the 90-day period before becoming entitled to use available sick leave.

D. Accrual:

1. Full-Time Employees

Full-Time Employees shall earn sick leave at the rate of 8 hours per month. There shall be no limit on sick leave accrual.

2. PTS Employees

- a. PTS Employees will receive a bank of 24 hours of sick leave on July 1, 2015 or on the first day of the next month following their first date of employment, whichever is later. New Hires must satisfy the waiting period set forth in Section 9.3.C. before using any time from the sick leave bank.
- b. The City will provide an additional bank of 24 hours of sick leave on January 1 of each subsequent calendar year to each PTS employee.

- c. PTS Employees shall accrue no additional sick leave beyond the 24-hour bank and shall have no right to carry over banked hours from year to year.

E. Notice:

- 1. Unscheduled Time Off: An Employee shall contact his/her immediate supervisor prior to the commencement of the assigned work shift, or as soon thereafter as is practical, to report absence from work due to a Permitted Use of Sick Time. Consideration shall be given to emergency situations that restrict the employee from contacting his/her immediate supervisor prior to his/her assigned work shift, including, but not limited to accident, injury, or hospitalization.
  - a. An employee shall notify his/her immediate supervisor before the employee leaves the work site prior to completion of the work shift due to any unscheduled Permitted Use of Sick Time; however, the employee need not provide the reason that sick time is needed to the immediate supervisor.
- 2. Scheduled Time Off: Notice of time off for scheduled appointments involving a Permitted Use of Sick Time such as personal medical appointments must be provided to the Department Director at least one week in advance of the appointment, whenever feasible. Every effort should be made to schedule such appointments at times that do not conflict with the City's work schedule.
  - a. The employee shall again notify his/her immediate supervisor before the employee leaves the work site prior to completion of the work shift due to the scheduled Permitted Use of Sick Time.

F. Medical Certification or Other Documentation:

Employees off work on sick leave for a period of four or more consecutive days may be required at any time to provide a doctor's note or other relevant documentation certifying that the reason for the employee's absence is a Permitted Use of Sick Time, and if the employee is unable to return to work, stating how long the employee is expected to be unable to do so.

G. Return to Work:

For any absence of four more or days due to an employee's own illness or injury, the supervisor may require that the employee provide a note from his/her physician, releasing the employee with or without restrictions, before the employee may return to work.

H. Reinstatement of Unused Sick Leave Balances:

An Employee who separates from employment with the City and returns to active employment within 12 months of his/her separation date shall have his/her unused sick leave balance reinstated, up to a maximum of 24 hours. For purposes of this provision, unused sick leave is leave that was accrued, but never taken by the Employee, and that was not converted to Personal Leave under Section 9.5.

I. Retention and Inspection of Records Pertaining to Sick Leave:

The City shall keep records documenting the hours worked and paid sick leave accrued and used by an employee for three years. Upon reasonable request, and within 21 calendar days after the request, the City shall afford current and former employees the right to inspect or copy records pertaining to their hours worked and paid sick days accrued and used. Access to all other personnel records shall be governed by Rule XIX.

J. Abuse of Sick Leave:

Employees who do not comply with this policy, including providing insufficient notice of sick leave or using sick leave for reasons other than for a Permitted Use of Sick Time, are committing abuse of sick leave, which is grounds for discipline, up to and including termination. The City reserves the right to take reasonable steps to determine whether an employee is abusing sick leave, including, but not limited to, attempting in-person or electronic communication with an employee using sick leave, identifying and tracking consistent patterns of sick leave use, such as in connection with weekends, holidays, and scheduled days off, and considering social media content or other relevant evidence that is either publicly available or shared voluntarily by other employees or interested individuals.

K. Retirement Credit for Sick Leave:

When an employee retires under the California Public Employees Retirement System (CalPERS), a credit for his/her unused sick leave shall be converted to additional service credit at the rate of 0.004 years of service credit for each day of unused sick leave (i.e., 250 days of sick leave equals one additional year of service credit) per CalPERS contract with the City.

**SEC. 9.4 BEREAVEMENT LEAVE**

- A. Full-time employees are entitled to paid bereavement leave in the event of death in their immediate family. Bereavement leave is a separate benefit from other paid leaves; however, sick leave may be used to supplement the periods provided in Section 9.4.B.
- B. Employees will receive up to three (3) working days of paid bereavement leave per calendar year, per immediate family member. Employees who provide documentation demonstrating a need for their attendance at a distance greater

than 300 miles from the City may be permitted up to a total of five (5) working days of paid bereavement leave, at the discretion of the Personnel Officer.

- C. For purposes of this Section 9.4, "immediate family" shall have the same definition as in Section 9.3.A.1. Requested exceptions to this definition may be approved in advance at the sole discretion of the Personnel Officer.

#### **SEC. 9.5 PERSONAL LEAVE**

- A. Full-time Employees may convert sick leave to personal leave in accordance with the procedure set forth in this Section. On January 1 of each year, if an employee has a minimum of ten (10) days (80 hours) of accumulated sick leave, ten percent (10%) of that accumulated sick leave will be available for conversion to, and use as, personal leave, during that calendar year. For example, an employee with twelve (12) days of sick leave on January 1 would have available 1.2 days of personal leave.
- B. No employee is required to convert sick leave to personal leave. However, when sick leave is converted and used as personal leave, the amount of the personal leave used will be deducted from the employee's accumulated sick leave balance. Thus, in the example above, if the employee used the 1.2 days of personal leave before earning any additional sick leave, the employee's accumulated sick leave balance would be 10.8 days.
- C. Any additional sick leave accrued, but not used, during the calendar year will be added to the employee's accumulated sick leave balance for calculating the amount of personal leave that will be available for the following calendar year.

#### **SEC. 9.6 MILITARY LEAVE**

Military leave shall be granted in accordance with Section 395 of the Military and Veteran's Code and the Federal Uniformed Services Employment and Reemployment Rights Act.

#### **SEC. 9.7 JURY DUTY**

- A. An employee summoned for jury duty will immediately notify the Human Resources Director. While serving on a jury, he/she will be given a leave of absence, in accordance with Section 9.7.B. or 9.7.C., below, as applicable. Said leave of absence is conditional upon the employee returning to work upon his/her dismissal each day to complete his/her normal work day.
- B. Regular and probationary full-time employees will receive leave with pay for the duration of jury service. Employees must convey to the City any compensation received as a juror, not including any travel allowance received.
- C. Part-time, temporary and seasonal employees will be permitted to take an unpaid leave of absence in accordance with Section 230 of the California *Labor Code*.

## **SEC. 9.8 VOTING LEAVE**

In accordance with California *Election Code* sections 14000 and 14001, if a registered voter does not have sufficient time outside normal working hours within which to vote at general direct primary or presidential elections, he/she may take off such working time as will enable him/her to vote. The scheduling of the time referenced above shall be subject to the approval of the Department Director and shall normally be at the beginning or end of a work shift. A maximum of two (2) hours may be taken with pay. The employee must provide two (2) days' notice of the need for voting leave.

## **SEC. 9.9 ELECTION OFFICIAL LEAVE**

Employees serving as an election official shall be permitted leave in order to so serve. Such leave is unpaid, but, at their option, employees may request to use vacation leave to serve as an election official. An employee taking leave to serve as an election official is required to give his/her Department Director at least ten (10) days' notice before the date of the election in which the employee is to serve as an election official. Employees serving as an election official are required to provide their Department Director with proof of service prior to taking leave.

## **SEC. 9.10 LACTATION BREAKS**

- A. In accordance with California and federal law, the City will provide an employee with reasonable unpaid time off and an appropriate area for the purpose of the employee expressing breast milk for the employee's infant child.
- B. For purposes of this Section 9.10, an "appropriate area" is a room or other location that is not a bathroom and that is private and is in close proximity to the employee's work area. The City will ensure that while an employee is using the area to express milk, there will be no intrusion by other employees or the public and there will be no use of the area other than for lactation purposes. The City will consider input from the affected employee but retains sole discretion in identifying an "appropriate area" on a case-by-case basis.

## **SEC. 9.11 UNPAID LEAVES OF ABSENCE**

- A. Upon the request of the employee and the recommendation of the Appointing Authority, a leave of absence without pay may be granted by the Council or City Manager to an employee, who immediately preceding the effective date of such leave, shall have completed at least one year of continuous service.
  - 1. An employee shall not be entitled to a leave of absence as a matter of right, but only upon good and sufficient reason.
  - 2. Request for leave of absence without pay shall be made in writing to the Human Resources Director, and shall state specifically the reason for the request, the date when it is desired to begin the leave, and the probable date of return. The Human Resources Director will transmit the request to the Council, in the case of leaves of more than one hundred twenty (120)

days. A request for a leave of one hundred twenty (120) days or less may be approved by the City Manager, upon recommendation of the Appointing Authority. A physician's statement will be required of employees who request leave of absence without pay as a result of a medical condition. However, employees are not required to include information regarding diagnosis.

3. A leave of absence without pay may be granted by the Council for a period not to exceed one year provided that the Council may extend such leave for up to an additional year.
  4. An employee shall be entitled to reinstatement in his/her regular position upon completion of the authorized period of leave.
- B. The Appointing Authority may grant a leave of absence without pay for a reasonable period of time to any employee who is injured on the job, or has a "serious health condition" within the meaning of the City's Family Care and Medical Leave, Pregnancy Disability Leave, and Military Family Leave Policy even though the employee does not meet the one year of continuous service requirements as specified in Section .9.11.A.
- C. A leave of absence without pay granted by the Appointing Authority or the Council under Section 9.11.A. or 9.11.B. shall not be construed as a break in continuous service or employment, and rights accrued at the time leave is granted shall be retained by the employee. However, vacation credits, sick leave credits, increases in salary and other similar benefits shall not accrue to a person granted such leave during the period of absence. An employee reinstated after leave of absence without pay shall receive the same step in the salary range he/she received when he began his/her leave of absence. Time spent on such leave without pay shall not count toward service for increases within the salary range, and the employee's salary anniversary date shall be set forward one month for each thirty (30) consecutive days taken.

#### **SEC. 9.12 UNAUTHORIZED LEAVES OF ABSENCE AND FAILURE TO RETURN FROM LEAVE**

- A. An employee may be considered to have voluntarily resigned from his/her employment with the City under any of the following circumstances:
1. Absence from his/her job for more than two (2) working days without compliance with applicable notice requirements under these Rules;
  2. Any action taken during a leave of absence from the City that is inconsistent with an intention to return to employment with the City, such as accepting full-time employment with another employer;
  3. Failure to return to employment following the expiration of an authorized leave of absence, unless the City permits extension of the leave.

- B. The City shall provide written notice to employees who are considered to have voluntarily resigned. The notice shall describe the facts on which the voluntary resignation is based and the right to petition the Personnel Officer for reconsideration.
- C. Employees who are considered to have resigned under Section 9.12.A. can petition the Personnel Officer for reconsideration by submitting a written statement within five (5) days of the date of notice. The Personnel Officer shall review the employee's statement to determine if good cause is present, and shall decide whether the employee's voluntary resignation will be withdrawn.
- D. Any unauthorized absence may be cause for Disciplinary Action as provided in Rule XII.

### **SEC. 9.13 MANAGEMENT LEAVE**

Department Directors shall receive eight (8) days of management leave per calendar year, which may be used at the Department Director's discretion, with advance approval by the City Manager. During their first year as a Department Director, they shall obtain a pro rata amount of management leave commensurate with the time remaining in the calendar year. Management leave may be carried forward from year to year. The maximum number of days that may be accumulated by an employee as management leave is sixteen (16) days. Once an employee reaches the maximum accumulation, he/she shall cease accrual of management leave until his/her total number of vacation hours falls below the maximum allowable. Department Directors will be compensated for management leave at the time of termination of employment at their straight time rate.

### **SEC. 9.14 SICK LEAVE DONATION POLICY**

- A. Purpose: The purpose of this Policy is to establish a program and procedures for employees to volunteer to donate a portion of their accumulated sick leave time to fellow employees who meet the criteria for eligibility in Section 9.14.B. There have been occasions when an employee, due to a catastrophic illness or injury, has exhausted all forms of paid time off. Such seriously ill employees have been forced to go without compensation for a length of time. This Policy is designed to address such circumstances. Participation by donors or recipients in the Sick Leave Donation Program is entirely voluntary.
- B. Sick Leave Donation Banks: The Sick Leave Donation Program will allow an employee to request that a Sick Leave Donation Bank be established on his/her behalf. A Sick Leave Donation Bank shall not be established unless the City Manager or the City Manager's designee has approved the employee's request. Leave donations will be credited to a particular recipient's Sick Leave Donation Bank and will be for use by that designated recipient only.
  - 1. Eligibility of Employee for Sick Leave Donations: To be eligible to receive approval for establishment of a Sick Leave Donation Bank on his/her behalf, an employee must meet all the following conditions:

- a. Must meet the criteria for use of sick leave in accordance with Section 9.3; and,
- b. Must have been employed by the City in a full-time Position for at least one year; and,
- c. Must submit a confidential statement from a treating physician which indicates that the employee's absence is due to a qualifying reason under Section 9.14.B.2. and estimates the duration of the employee's absence from work; and,
- d. Must have applied for long-term disability insurance, if any, or for Workers' Compensation benefits, if eligible, and have authorized the City to integrate any such awarded benefits with available leave balances; and,
- e. Must have exhausted all earned leave balances (including sick, vacation, compensatory time, and management leave). However, the Human Resources Director may approve the solicitation and acceptance of sick leave donations prior to all balances being exhausted when the physician's statement and existing leave balances indicate that all such balances will be exhausted within the next two pay periods.

2. Qualifying Reasons to Request Donated Sick Leave:

- a. For purposes of this Section 9.14 a "qualifying reason" to request donated sick leave is one of the following:
  - (1) The employee has a "serious health condition" that requires the employee's absence from work for longer than two (2) pay periods, including intermittent absences that are related to the same "serious health condition"; or
  - (2) The employee is caring for an "immediate family member" who has a "serious health condition" that requires the employee's absence for longer than two (2) pay periods.
  - (3) The employee needs additional time off after the death of an "immediate family member," beyond his/her entitlement under Section 9.4.
- b. For purposes of this Section 9.14, a "serious health condition" has the same meaning as in the City's Family Care and Medical Leave, Pregnancy Disability Leave, and Military Family Leave Policy.
- c. For purposes of this Section 9.14, an "immediate family member" shall have the same definition as in Section 9.3.A.1.

3. Sick Leave Donation Bank Guidelines: Leave donations will be credited to a recipient's Sick Leave Donation Bank on an hour-for-hour basis, regardless of the hourly pay rate of any particular employee. While using leave from the recipient's Sick Leave Donation Bank, the recipient will be treated as though he/she was merely using the recipient's own sick leave. Thus, the recipient will accrue additional vacation or sick leave, as usual, during the use of hours from the Sick Leave Donation Bank. Any hours of donated sick leave remaining in the Sick Leave Donation Bank at the time the Bank is abolished will be returned pro rata (in proportion to the number of hours each employee donated) to all employees who donated to the Sick Leave Donation Bank. The donated hours used by the recipient are taxable to him/her in accordance with Internal Revenue Service regulations and are subject to withholdings as required by law.
- C. Leave Donations: Donations of sick leave are subject to the following requirements:
1. Minimum Donations: Participating employees must donate a minimum of four hours from their accumulated sick leave balance. No donation from an employee will be permitted that would result in the donor's accumulated sick leave balance, immediately after the donation, being below eighty (80) hours of accumulated sick leave.
  2. Whole Hour Donations: Leave donations must be in whole hours. No fractions of hours may be donated.
  3. Maximum Donation Per Employee: No individual employee may donate more than forty (40) hours to a particular Sick Leave Donation Bank.
  4. Maximum Donation per Sick Leave Donation Bank: The maximum cumulative amount of sick leave that may be donated to a particular Sick Leave Donation Bank is four hundred eighty (480) hours.
- D. Responsibilities Under the Policy: The development and use of a Sick Leave Donation Bank carries with it a shared responsibility between City's management and individual employees desiring to participate in the program. The respective responsibilities are set forth below:
1. The Requesting Employee: The requesting employee will prepare and submit to the Human Resources Director a "Request to Establish a Sick Leave Donation Bank" form. Additionally, the requesting employee should submit a "Certification of Physician or Practitioner" form to the Human Resources Director in a sealed envelope labeled "Confidential – Request to Establish a Sick Leave Donation Bank." If the requesting employee is unable to make the request on their own behalf, the employee's Department Director may submit a request on the employee's behalf.
  2. The Program Administrator: The Human Resources Director will serve as the administrator of the Sick Leave Donation Program. The Administrator

will receive the confidential statement from the requestor's physician in a manner consistent with the Federal Family and Medical Leave Act and the California Family Rights Act. The Personnel Officer will approve or deny the establishment of a requested Sick Leave Donation Bank, in accordance with the requirements of this Policy. If the request is approved, the Bank shall be established and the Administrator will publicize the request with the statement approved by the requestor. The Administrator shall approve or deny each offered donation, if any, to the Sick Leave Donation Bank in accordance with the requirements of this Policy. The Administrator shall determine when the Sick Leave Donation Bank shall be abolished.

3. The Donating Employee: A donating employee will prepare and submit to the Human Resources Director a "Request to Donate to Sick Leave Donation Bank" form.
4. The Finance Department: The Finance Department will make the appropriate payroll and leave balance adjustments for both the recipient and any donors. The Finance Department will coordinate the usage of hours from the Sick Leave Donation Bank and the integration of any other benefits therewith, if applicable. If hours are remaining in the Sick Leave Donation Bank at the time it is abolished, the Finance Department will credit all donors' leave balances with a pro rata share of the hours remaining in the Bank in accordance with the number of hours each donor contributed.

#### **SEC. 9.15 VICTIM LEAVE**

Victims of domestic violence and/or sexual assault shall be permitted unpaid leave in accordance with *Labor Code* sections 230(c) and 230.1. Victims of a violent or serious felony or a felony involving theft or embezzlement shall be permitted unpaid leave in accordance with *Labor Code* section 230.2. Victims of offenses listed in *Labor Code* section 230.5 shall be permitted unpaid leave in accordance with that section.

#### **SEC. 9.16 SCHOOL VISITATION OR PARTICIPATION LEAVE**

Employees shall be permitted to take unpaid leave in accordance with *Labor Code* sections 230.7 and 230.8.

#### **SEC. 9.17 LEAVE FOR EMERGENCY DUTY AS VOLUNTEER FIREFIGHTER, RESERVE PEACE OFFICER, OR EMERGENCY RESCUE PERSONNEL**

Employees shall be permitted to take unpaid leave to perform emergency duty as a volunteer firefighter, reserve peace officer, or emergency rescue personnel in accordance with *Labor Code* section 230.3.

**RULE X. LAYOFF/SEPARATION/RETIREMENT**

**SEC. 10.1 ELIMINATION OF POSITIONS**

Decreased public interest or changes in the City's fiscal priorities may result in the elimination or curtailment of a public service activity which may therefore require the layoff of one or more employees.

**SEC. 10.2 LAYOFF PROCEDURE**

Any employee may be laid off because of either the abolishment of the Position or a determination by the City Manager that there is a shortage of work funds. Said layoff shall not be subject to appeal. The procedures of the City of Buellton Municipal Code Section 2.60.190 shall be followed.

**SEC. 10.3 RESIGNATIONS**

Employees must provide notice of resignation at least two weeks prior to leaving the City's service, unless the time limit is waived by the City Manager. Notice must be submitted in writing to the City Manager for acceptance and must identify the date of the employee's last workday.

**SEC. 10.4 TERMINATIONS**

The City Manager may terminate:

- A. Employees at any time while they are on probation.
- B. Employees in the Exempt Service at any time. This authority applies only to those exempt employees the City Manager has the authority to appoint.
- C. Employees for disciplinary purposes in accordance with Rule XII, to the extent applicable.

**SEC. 10.5 RETIREMENT/DISABILITY RETIREMENT**

In accordance with the City's contract with the California Public Employees' Retirement System (CalPERS), employees who meet the age and service credit minimums may qualify for a service retirement from CalPERS. Under CalPERS laws, an employee who is unable to perform his/her job because of an illness or injury which is expected to be permanent, or last for at least 12 consecutive months, or result in death, may be entitled to receive a disability retirement. The cause of the disability need not be related to the employee's job.

**RULE XI. OUTSIDE EMPLOYMENT/POLITICAL ACTIVITIES**

**SEC. 11.1 OUTSIDE EMPLOYMENT**

- A. During the employees' work day, they are expected to devote full attention to their prescribed duties. Employees may engage in outside employment,

enterprise or activity (collectively "outside employment") under the following circumstances only:

1. They notify the Appointing Authority prior to beginning outside employment, providing sufficient information for the Appointing Authority to determine whether the outside employment is consistent with this Rule.
2. The Appointing Authority shall assess whether any of the following factors are involved in the proposed outside employment:
  - a. Receipt or acceptance by the employee of any money or other consideration from anyone other than the City for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course or hours of employee's City employment as a part of employee's duties as a City employee; or
  - b. Performance of an act in other than the employee's capacity as a City employee which act may later be directly or indirectly subject to the control, inspection, review, audit, or enforcement by such employee or the department by which the employee is employed; or
  - c. Conditions or factors which are likely to directly or indirectly lessen the efficiency of the employee in the employee's regular City employment, or conditions in which there is a substantial danger of injury or illness to the employee; or
  - d. Use of City time, facilities, equipment, and supplies, prestige, influence, or confidential information of the employee's City office or employment for private gain or advantage; or
  - e. Solicitation of future employment with a business doing business with the City over which the employee has some control or influence in employee's official capacity at the time of the transaction.
3. The Appointing Authority will approve proposed outside employment that he/she determines does not:
  - a. conflict with or is not incompatible or inconsistent with the employee's City responsibilities, including performance of overtime and emergency duties and any other aspect of City operations;
  - b. lessen the effectiveness of the employee; and
  - c. does not create a conflict of interest.
4. The Appointing Authority shall advise the employee in writing as to whether the outside employment is approved or prohibited.

5. An employee may submit a written appeal to the Personnel Officer within fourteen (14) days from the employee's receipt of the Appointing Authority's written determination that a proposed outside employment is prohibited. The written appeal shall specify the grounds on which the employee challenges the Appointing Authority's determination and shall include an attachment with all relevant documentary evidence for the appeal. The Personnel Officer shall schedule a meeting with the employee and appointing authority to discuss the appointing authority's determination. The Personnel Officer shall issue a written decision to the employee and the Appointing Authority within fourteen (14) days from the date of the meeting. The decision of the Personnel Officer shall be final.
- B. An employee with approved outside employment must notify the Appointing Authority within one (1) working day regarding any changes to the terms or conditions of the outside employment that may have a potential adverse effect on the application of one or more of the factors under Section 11.1.A.2.
- C. Employees shall be subject to disciplinary action pursuant to Rule XII for violation of this Rule, including, but not limited to, failure to disclose outside employment, failure to provide timely updates regarding changes to outside employment, and intentional inclusion of material mis-statements or exclusion of material information in the employee's description of the outside employment.

## **SEC. 11.2 POLITICAL ACTIVITIES**

Employees may not solicit political funds or contributions from other employees while on duty or on City property, nor may any employee participate in political activities while on duty or while in any uniform which would represent the City.

## **RULE XII. DISCIPLINARY ACTIONS**

### **SEC. 12.1 CAUSES**

- A. Disciplinary measures may be taken for any good and sufficient cause. The extent of the Disciplinary Action taken shall be commensurate with the offense provided that the prior employment history of the employee may also be considered pertinent. Cause may include, but is not limited to, the following:
  1. Violation of City Personnel Rules, ordinances, regulations, rules, and/or administrative policies and procedures; or of standards established under California or federal law;
  2. Failure to maintain job performance standards or to properly perform assigned duties;
  3. Theft of or harm to City property or the personal property of another;
  4. Lack of cooperation;
  5. Insubordination;

6. Dishonesty;
7. Conviction of a felony, or conviction of a misdemeanor relating to the employee's fitness to perform assigned duties;
8. Unauthorized absence from employment or excessive absenteeism;
9. Tardiness;
10. Failure to maintain satisfactory working relationships with other employees, officials, or the public;
11. Reporting for work, or being at work, under the influence of or in possession of alcohol, or non-prescribed controlled substances;
12. Assault, battery, or fighting while on duty or under the guise of office;
13. Gambling on City property or during working hours;
14. Sleeping on the job or leaving the job without authorization;
15. Improper use of City funds;
16. Acceptance of bribes or extortion;
17. Unauthorized use of City property;
18. Falsification of records, including information provided on an application for employment or on time sheets;
19. Failure to properly care for City property;
20. Acceptance of any gift, (other than as provided for by written City policy) reward or other form of compensation in addition to compensation for performance of official duties;
21. Carelessness or negligence;
22. Failure to maintain any employment qualification;
23. Discourteous treatment of the public or fellow employees;
24. Failure to comply with safety standards;
25. Interfering with the work performance of others;
26. Abuse of leaves of absence, including sick leave; and/or
27. Other failure of good behavior either during or outside of employment such that the employee's conduct causes discredit to the City.

- B. Reduction in Pay: Reductions in pay which are part of a general plan to reduce salaries and wages as an economy measure are not disciplinary measures.

## **SEC. 12.2 AUTHORITY FOR DISCIPLINARY ACTIONS**

- A. The Department Directors and/or City Manager shall have authority to take Disciplinary Action. As specified in Section 10.4, only the City Manager may terminate employees.
- B. The Personnel Officer shall be notified of any contemplated Disciplinary Action prior to the time it is taken, provided that in emergency situations or other instances when prior notification is not practicable, the Personnel Officer may be notified as soon as possible subsequent to the time the action is taken.

## **SEC. 12.3 TYPES OF DISCIPLINARY ACTION**

- A. Lesser Disciplinary Action:
  - 1. Oral Reprimand: Oral reprimand as a Disciplinary Action means the employee is informed of his/her poor performance verbally by his/her Department Director. The employee shall have no right to prior notice and no right of appeal.
  - 2. Written Reprimand: Written reprimand as a Disciplinary Action means an official notification of the employee that there is cause for dissatisfaction with his/her services and that further disciplinary measures may be taken if said cause is not corrected. Official reprimand shall be given in the manner and on forms prescribed by the Personnel Officer. Reprimand notices shall be made a part of the employee's official personnel record and may be considered as pertinent evidence or information in any appeal hearing. The employee shall have no right to prior notice and no right of appeal.
  - 3. Suspension Without Pay For Less Than Five (5) Working Days: Suspension without pay shall be a temporary separation from City service. Prior to the imposition of the suspension without pay, employees shall be provided with a Notice of Disciplinary Action which sets forth the effective date and specific reasons for the suspension without pay. The Notice of Disciplinary Action shall also include copies of all written materials supporting the suspension without pay. The employee's right of appeal is limited to the Complaint Procedure in Section 13.4.
  - 4. Reduction In Pay: Reduction for a time period equivalent to less than a five (5) working day suspension. Reduction in step within range as a disciplinary measure is the withdrawal of increments granted for merit, efficiency and length of service. The maximum reduction in pay that may be given for any one Disciplinary Action shall be two (2) steps within the range for that Class. Reduction in pay shall become effective on the first of the month following the effective date of the Disciplinary Action. Prior to

the imposition of the reduction in pay, employees shall be provided with a Notice of Disciplinary Action which sets forth the effective date and specific reasons for the reduction in pay. The Notice of Disciplinary Action shall also include copies of all written materials supporting the reduction in pay. The employee's right of appeal is limited to the Complaint Procedure in Section 13.4.

- B. Serious Disciplinary Actions: Serious Disciplinary Actions require due process as set forth in Rule 12.4. Serious Disciplinary Actions include the following:
1. Reduction in range equivalent to a five (5) or more working day suspension without pay.
  2. Suspension without pay for five (5) or more working days, but not more than thirty (30) working days. Suspension without pay shall be a temporary separation from City service.
  3. Demotion without consent as Disciplinary Action, shall be a reduction in classification or rank, with reduction in salary.
  4. Dismissal means the discharge of an employee from the City service on the initiative of the City Manager. Such termination of employment shall be permanent.

#### **SEC. 12.4 PROCEDURES FOR SERIOUS DISCIPLINARY ACTIONS**

- A. Notice of Proposed Disciplinary Action: In instances of serious Disciplinary Actions as defined in Section 12.3.B, employees shall receive a written notice of proposed Disciplinary Action.
1. The notice of proposed Disciplinary Action shall state the proposed Disciplinary Action and the effective date and specific reasons for the proposed Disciplinary Action.
  2. The notice of proposed Disciplinary Action shall include copies of all written materials supporting the proposed action.
  3. The notice of proposed Disciplinary Action shall inform the employee of his/her right to respond, either orally or in writing, to the Department Director or City Manager, as appropriate, within five (5) working days of the date of the notice of proposed Disciplinary Action if it was personally delivered, or within seven (7) working days of the date of the notice of proposed Disciplinary Action if it was delivered by United States mail. If the employee requests to respond orally to the notice of the proposed Disciplinary Action, the Department Director or City Manager, as appropriate, shall schedule a meeting as soon as possible.
- B. Notice of Decision: After review of the employee's timely written response, if any, or following the conclusion of the meeting, the Department Director or City

Manager, as appropriate, shall issue and deliver to the employee a Notice of Decision which shall be a written statement of the decision to uphold, modify, or reject the proposed Disciplinary Action. Such action to be taken may not include discipline more severe than that described in the notice of proposed Disciplinary Action. The Notice of Decision shall be served within seven (7) working days after the receipt of the written response or the conclusion of the meeting, whichever is later.

C. Disciplinary Appeal Hearing:

1. Right to a Disciplinary Appeal Hearing: Any employee who has received a Notice of Decision imposing serious Disciplinary Action shall be entitled to request an evidentiary appeal of the imposition of discipline.
2. Requesting a Disciplinary Appeal: An employee wishing to appeal the imposition of a serious Disciplinary Action shall initiate the appeal by filing a written request with the City Manager within five (5) working days of the date of the Notice of Discipline if it was personally delivered, or within seven (7) working days of the date of the notice of imposition of discipline if it was delivered by United States mail. The request shall be addressed to the City Manager, and shall identify the subject matter of the appeal, the grounds for the appeal, and the relief desired by the employee. All disciplinary appeal hearings shall be conducted in private unless the employee requests a public hearing.
3. Designation of Hearing Officer:
  - a. When a person other than the City Manager imposes the Disciplinary Action, the City Manager may choose to act as the Hearing Officer and conduct the hearing himself/herself and make the final decision;
  - b. When a person other than the City Manager imposes the Disciplinary Action, the City Manager may refer the hearing to an outside Hearing Officer, who will be selected by a method mutually agreed to by the employee and City Manager, to conduct the hearing and provide advisory findings and recommendations before the City Manager makes the final decision; or
  - c. The City Manager may refer the hearing to an outside Hearing Officer who will be selected by a method mutually agreed to by the employee and City Manager to conduct the hearing and make the final decision on the appeal. The City Manager shall delegate authority to a Hearing Officer in this manner whenever the City Manager imposed the Disciplinary Action under appeal or whenever the appealing employee demonstrates significant bias on the part of the City Manager that disqualifies him/her as a neutral reviewer of that appeal.

4. Scheduling the Disciplinary Appeal Hearing: The City Manager shall schedule the disciplinary appeal hearing within a reasonable time after the designation of a Hearing Officer, considering the availability of the Hearing Officer, the employee, and any witnesses.
  5. Representation and Employee Appearance at Disciplinary Appeal Hearing: The employee is entitled to be represented by counsel or other representative at the disciplinary appeal hearing. However, an employee who requests a disciplinary appeal hearing must be present during the disciplinary appeals hearing. Failure to be present shall constitute a waiver of the employee's right to an appeal. Waiver will not occur if the employee can demonstrate good cause for his/her failure to be present within three (3) working days from the date the employee fails to appear.
- D. Conduct of Disciplinary Appeal Hearings: The proceedings before the Hearing Officer shall be conducted as follows:
1. All parties shall have the following rights:
    - a. To call and examine witnesses;
    - b. To introduce exhibits;
    - c. To cross examine opposing witnesses on any matter relevant to the issue, even if the matter is not covered in the direct examination;
    - d. To impeach any witness regardless of which party first called him/her to testify;
    - e. To rebut the evidence against them; and
    - f. To present oral and written arguments
  2. The City shall have the burden of proof, and the burden shall be by the preponderance of the evidence.
  3. The hearing shall not be conducted in accordance with the technical rules relating to evidence and witnesses, but shall be conducted in a manner most conducive to the determination of the truth. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rules which might make improper admission of such evidence over objection in a court of law. The Hearing Officer's decision shall not be invalidated by any informality in the proceedings.
  4. Hearsay evidence may be used for the purpose of explaining any direct evidence but shall not be sufficient in and of itself to support a finding, unless it would be admissible over objections in civil actions.

5. The Hearing Officer shall not take testimony from one (1) party outside the presence of the other.
  6. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions.
  7. Irrelevant evidence and unduly repetitious evidence shall be excluded.
  8. The Hearing Officer shall determine the relevancy, weight, and credibility of testimony and evidence.
  9. The Hearing Officer shall have the power to exclude any witnesses.
- E. Issuance of Decision: Within thirty (30) days after the close of the hearing, a written statement of decision, containing findings of fact and conclusions of law, shall be issued by the Hearing Officer. The Hearing Officer shall have the authority to affirm, revoke, or reduce the Disciplinary Action imposed against the employee. The Hearing Officer may not provide for discipline more stringent than that imposed by the City. When the Hearing Officer presents an advisory opinion to the City Manager, the City Manager shall have an additional fifteen (15) days to consider the advisory opinion and any written objections to the advisory opinion filed by the parties before the City Manager must issue a final decision. The parties shall have seven (7) days from the date the advisory opinion is issued to file written objections with the City Manager.

The Hearing Officer's decision constitutes a final resolution of any Disciplinary Action and no further appeal shall be permitted within the City's administrative process. A copy of the Hearing Officer's decision shall be provided to the employee.

Notwithstanding the above, the Hearing Officer shall not have binding authority to add, modify, or subtract from the Personnel Rules, or any resolutions, ordinances, or policies adopted by the City. Further, the Hearing Officer shall not have the authority or power to render a binding decision that requires the City to expend additional funds, to hire additional personnel, to buy additional equipment or supplies, or to pay wages or benefits not specifically provided for in the Personnel Rules, or any resolutions, ordinances, or policies adopted by the City. The Hearing Officer shall not have the authority to require the City to perform any other action that would violate state or federal laws.

- F. Judicial Review: An employee may seek judicial review of the final decision by the Hearing Officer in accordance with Section 1094.5 of the California *Code of Civil Procedure* by filing a petition for a writ of mandate. Section 1094.5 of the *Code of Civil Procedure* requires that the petition writ of mandate must be filed not later than the ninetieth (90<sup>th</sup>) day following the date on which the Hearing Officer's decision becomes final.

## **SEC. 12.5 ADMINISTRATIVE LEAVE WITH PAY**

An employee may be placed on an Administrative Leave with Pay to allow the City time to fully investigate the facts of an alleged violation, while the Disciplinary Action is in process, or when the Personnel Officer determines that it is in the best interests of the City. The employee must be reasonably available by telephone during his/her normal working hours and able to report to the City within sixty (60) minutes if directed to do so. When an employee is placed on Administrative Leave with Pay during this investigation, he/she shall not discuss the alleged violation or the Disciplinary Action with anyone, except a representative of his/her choice. Failure to remain reasonably reachable by telephone or to report to the City within sixty (60) minutes of being directed to do so will be a separate and independent ground for Disciplinary Action, unless the employee has requested and received authorization to use vacation, sick, or other leave time for the time in question. Where applicable, the employee shall also be informed that communicating with others, except a representative of his/her choice, about a pending investigation constitutes insubordination and is a separate and independent ground for discipline. This section is not intended to prevent the employee from communicating with his/her legal counsel.

## **SEC. 12.6 TIME EXTENSIONS**

Any time limitations or requirements as set forth under this Rule may be extended or changed by mutual written agreement of the parties.

## **SEC. 12.7 DELIVERY OF NOTICES**

When notice is required under this Rule, the notice shall be given to the affected employee either by delivery of the notice to the employee in person; or if the employee is not available for personal delivery, by placing the notice in the United States mail, first Class, postage paid, and by Certified Mail, return receipt requested, in an envelope addressed to the employee's last known home address. It shall be the responsibility of the employee to inform the City, in writing, of his/her current home address and of any change in such address, and the information so provided shall constitute the employee's "last known home address". Such personal delivery or mailing shall be presumed to provide actual notice to the affected employee.

## **RULE XIII. GRIEVANCE AND COMPLAINT PROCEDURE**

### **SEC. 13.1 ESTABLISHMENT**

These procedures are established in order to provide adequate opportunities for employees to bring forth their views relating to any unfair or improper aspect of their employment situation and to seek correction thereof. This Section 13.1 reflects a statement of intent and does not create any enforceable right beyond the procedures set forth in this Rule XIII.

## **SEC. 13.2 SCOPE OF PROCEDURES**

The procedures set forth in this Rule shall apply to all employee complaints and grievances, as defined herein, except where other methods have been specifically prescribed in the Personnel Ordinance and in these Rules, such as in the matters of dismissal, demotion and reduction.

## **SEC. 13.3 DEFINITIONS**

- A. Complaint: An allegation or charge that the complaining employee has suffered a wrong as a result of management action or inaction.
- B. Complaint Procedure: The process by which a determination is made as to whether or not a wrong has been committed. Complaints may not be filed over matters for which there is a separate appeal, which are subject to the grievance procedure, or which are expressly excluded from the grievance procedure pursuant to Sections 13.3.C.1-6.
- C. Grievance: An expressed claim by an employee that the City has violated, misinterpreted, or misapplied an obligation to the employee as such obligation is expressed and written in the Personnel Ordinance, a resolution, or these Rules. Specifically excluded from the grievance procedures are the following:
  - 1. Performance evaluations and Performance Improvement Plans;
  - 2. Deferred merit salary increases;
  - 3. All Lesser Disciplinary Actions;
  - 4. Policy decisions of the City Council;
  - 5. Transfer to another Position in the same classification without a loss of pay; and
  - 6. Matters for which there is a separate appeal, including, but not limited to, Disciplinary Action.
- D. Grievance Procedure: The process by which the validity of a grievance is determined.

## **SEC. 13.4 COMPLAINT PROCEDURE**

- A. Step 1: The employee shall discuss any complaint with his/her Department Director within seven (7) days after the employee knew, or in the exercise of reasonable diligence should have known, of the events giving rise to the complaint. The Department Director is required to review every complaint and attempt to settle it as quickly and fairly as possible. The Department Director shall issue a written decision to the employee within ten (10) days from the date of his/her meeting with the employee.

- B. Step 2: If the action taken by his/her Department Director is not satisfactory, the employee shall submit his/her complaint in writing to the Human Resources Director within seven (7) days of receipt of the Department Director's written decision. The Human Resources Director or designee shall meet and discuss the complaint with the employee within ten (10) days of his/her receipt of the complaint. The Human Resources Director or designee shall have twenty (20) days from the date of his/her meeting with the employee to issue a decision. The decision of the Human Resources Director or designee is final.

### **SEC. 13.5 GRIEVANCE PROCEDURE**

- A. Step 1: The employee shall inform, in writing, his/her Department Director of his/her grievance and relevant facts within seven (7) days after the employee knew, or in the exercise of reasonable diligence should have known, of the events giving rise to the grievance. At least one (1) conference shall be held between the employee and his/her Department Director after the employee has expressed his/her grievance. The Department Director shall advise the employee of his/her decision in writing within fourteen (14) days following notification of the grievance.
- B. Step 2: If the grievance is not satisfactorily resolved in Step 1, the grievant may, within seven (7) days of receipt of the Department Director's decision, submit the grievance to the Human Resources Director for consideration by the City Manager. Such submittal shall include the original grievance form, a written statement of any issues which are still in dispute, the specific basis upon which the grievant takes issues with the Position of his/her Department Director, the specific provision of the Personnel Ordinance, resolution, or Personnel Rules that the grievant asserts has been violated, and the remedy the grievant seeks. The City Manager or his/her designee shall take such review and investigative action as he/she deems necessary and inform the grievant of his/her decision in writing within fourteen (14) days of receipt of the grievance. The decision of the City Manager or his/her designee is final.

### **SEC. 13.6 GENERAL PROVISIONS**

- A. No retribution or adverse employment action shall be taken against employees because of their use of the grievance or complaint procedures.
- B. All documents, communications, and records dealing with the processing of grievances and complaints shall be filed separately from personnel files.
- C. Failure by the City at any step of this procedure to communicate the decision on the grievance or complaint within the specified time limits shall permit the grievant or complainant to proceed to the next step.
- D. The grievant or complainant shall be present at all steps of the procedure.

- E. Failure at any step of these procedures to appeal a decision on a grievance or complaint within specified time limits shall be deemed acceptance of the decision rendered by the employee.
- F. The time limits specified at any step in this procedure may be extended by mutual written agreement of the City and grievant or complainant.
- G. The original grievance or complaint shall accompany all requests for institution of the next step in the grievance or complaint procedure.
- H. Communication with the grievant or complainant shall be processed by personal signed receipt of documents, or by certified mail, or registered mail.

**RULE XIV. EMPLOYEE BENEFITS**

**SEC. 14.1 HEALTH BENEFITS**

Accident, health, hospital, dental, and vision insurance to cover non-occupational injuries and sickness for probationary and Regular Full-Time Employees shall be provided by the City. The scope of coverage and the payment of premiums are subject to periodic review and revision by the City Council and shall be set by resolution of the City Council.

**SEC. 14.2 RETIREMENT BENEFITS**

The City has contracted with the California Public Employees' Retirement System (CalPERS) to enroll all City employees who meet the terms for CalPERS membership under applicable law and terms of the City's contract ("Members.") Members shall receive CalPERS retirement benefits in accordance with the following two-tier system. Except as specifically stated in Sections 14.2(A) and 14.2(B), below, the City shall pay for any increase in the employer rate and shall retain any savings from a decrease in the employer rate and any contribution credits (rebates) from CalPERS.

A. Tier I.

This Section 14.2(A) (including its subsections) shall apply to Members hired on or before December 31, 2012. In addition, this Section 14.2(A) (including its sub-sections) shall apply to Members who are qualified for pension reciprocity as stated in Government Code Section 7522.02(c) and related CalPERS reciprocity requirements.

1. 2% at 55 Pension Formula

The two percent (2%) at age fifty-five (55) retirement formula shall apply to Members covered by this Section 14.2(A).

2. Final Compensation Based on Highest Twelve Month Period

For purposes of determining a retirement benefit, final compensation for Members covered by this Section 14.2(A) shall mean the highest twelve consecutive month period as set forth in the City's contract with CalPERS.

3. City Payment of Required Member Contribution

The City shall pay the full seven percent (7%) required Member contribution.

B. Tier II.

This Section 14.2(B) (including its subsections) shall apply to Members hired on or after January 1, 2013 who do not qualify for pension reciprocity as stated in Government Code Section 7522.02(c) and related CalPERS reciprocity requirements.

1. 2% at 62 Pension Formula

- a. The two percent (2%) at age sixty-two (62) retirement formula shall apply to Members covered by this Section 14.2(B).

2. Final Compensation Based on Highest 36-Month Average

- a. For the purposes of determining a retirement benefit, final compensation for Members covered by this Section 14.2(B) shall mean the highest average pensionable compensation earned during 36 consecutive months of service, as set forth in Government Code Section 7522.32(a).

3. Required Member Contribution

- a. As required by Government Code Section 7522.04(g), Members covered by this Section 14.2(B) shall pay, through payroll deductions, fifty percent (50.0%) of normal costs.
- b. In the event that fifty percent (50.0%) of normal costs is less than seven percent (7.0%) percent, each Member covered by this Section 14.2(B) shall pay, through payroll deductions, the 50.0% of normal costs and an additional percentage of PERSable compensation up to a maximum of 7.0% towards the City's normal cost of pension benefits as permitted by Government Code Section 205616.

**SEC. 14.3 DEFERRED COMPENSATION PLAN**

Upon successful completion of the Probationary Period, Full-Time Employees shall be enrolled in the City's deferred compensation plan.

- A. Employees hired before January 1, 2012 are entitled to a contribution from the City equal to six (6) percent of base compensation.
- B. Employees hired on or after January 1, 2012 may choose to contribute to a deferred compensation plan with no entitlement to contribution from the City.
- C. At the discretion of the City Manager, and to the extent permitted by law, Department Directors hired on or after January 1, 2012 may be granted

entitlement to a contribution to the City's deferred compensation plan. The City Manager shall specify applicable terms in writing at the time of hire.

**RULE XV. EDUCATIONAL ASSISTANCE AND CERTIFICATION PAY**

**SEC. 15.1 EDUCATIONAL ASSISTANCE FOR TRAINING AND ADVANCEMENT**

- A. The responsibility for developing training programs for employees is with the Human Resources Director and Department Directors, jointly. When a training course to be taken by an employee will benefit the City, the City Manager may authorize payment by the City of tuition charges and books. Employees may be required to submit proof of satisfactory completion of coursework to the Human Resources Director as a condition of reimbursement.
- B. Non-exempt employees shall be compensated for travel time, attendance at training or meetings, and other similar time where required under applicable state and federal wage and hour laws.
- C. Employees who separate from City employment voluntarily, shall be required to repay the City for reimbursements received under Section 15.1.A., according to the following schedule:

<b>SEPARATION DATE</b>	<b>PERCENTAGE OF REIMBURSEMENT TO BE REPAID</b>
0-6 months after reimbursement	100%
6-12 months after reimbursement	75%
12-18 months after reimbursement	50%
18-24 months after reimbursement	25%

**SEC. 15.2 LICENSES AND CERTIFICATION ASSISTANCE**

- A. In cases of enrollment for Operator-in-Training, or any other certification which is a condition of employment, the City shall pay application fees in advance.
- B. The cost of licensing fees, renewal fees, and test fees for all levels of certification are reimbursable, upon the City's receipt of the certification or license. To obtain reimbursement after successful completion of the test/renewal/license process, the employee is responsible for submitting proof of payment for test fees, renewal fees, and license fees, along with proof of the certification or license, to the City Manager. In unusual circumstances, the City Manager may authorize the payment of the test/renewal/license fees in advance.

**SEC. 15.3 SWRCB OPERATOR CERTIFICATION PAY**

- A. Employees in Positions in the Maintenance & Utility Fieldworker Classification who possess or obtain, and maintain continual eligibility for, certification by the State Water Resources Control Board that is not a Minimum Qualification for the Position shall be entitled to certification pay, as follows:
- |   |                    |
|---|--------------------|
| 1. Water Distribution I Certificate         | \$100.00 per month |
| 2. Water or Wastewater Level II Certificate | \$100.00 per month |
| 3. Water Distribution II Certificate        | \$100.00 per month |
| 4. Water Distribution III Certificate       | \$100.00 per month |
| 5. Other Higher Level Certificate           | \$100.00 per month |
- B. An eligible employee will receive certificate pay starting with the first full pay period following receipt of notice by Human Resources that the employee passed the required examination for that certificate.

**SEC. 15.4 BILINGUAL PAY**

- A. All full-time and part-time employees who are certified as bilingual by the City in accordance with these provisions and who are designated in writing by the Personnel Officer to provide bilingual services in the performance of their regular duties will receive an additional \$50.00 per pay period, unless or until the Personnel Officer rescinds the designation in writing.
1. The City will offer certification for bilingual pay for oral fluency in the Spanish language only.
  2. The written designation issued by the Personnel Officer will provide details regarding the certification process, including the date, time, and location for administration of the bilingual examination.
  3. The bilingual examination will be scored on a pass/fail basis. Examination scores are final and non-appealable.
  4. Employees who do not earn a passing score can re-take the examination one time, for a maximum of two times per calendar year. Employees who pass the examination will be certified as bilingual by the City.
  5. Employees who are certified as bilingual by the City are not required to re-take the examination to maintain eligibility for bilingual pay.
  6. The Personnel Officer retains sole discretion to determine whether to limit the number of positions in which employees may receive bilingual pay.

7. An eligible employee will receive bilingual pay starting with the first full pay period following receipt of notice by Human Resources that the employee passed the examination.

#### **SEC. 15.5 NOTARY PAY**

- A. Full-time employees in the City's Administration or Planning Department who possess or obtain a commission as a notary public in the State of California and are authorized by the Personnel Officer in writing to act as a notary public for official City business in connection with their regular duties will receive an additional \$50.00 per pay period.
  1. Eligible employees will receive notary pay starting with the first full pay period following submission of a copy of his/her State of California commission certificate to Human Resources.
  2. Notary pay will continue unless and until the Personnel Officer rescinds the employee's eligibility in writing.
  3. Eligible employees are responsible for ensuring their continued eligibility for notary pay, including but not limited to, completing all necessary steps to obtain timely reappointment prior to expiration of their commission and providing a copy of the new commission certificate to Human Resources.
  4. Employees who intend to resign their commission must notify Human Resources in writing prior to the start of the next pay period and include a copy of the rescission letter to be sent to the California Secretary of State.

#### **SEC. 15.6 EDUCATION INCENTIVE PAY FOR POST-SECONDARY DEGREE, CERTIFIED PUBLIC ACCOUNTANT DESIGNATION, OR PROFESSIONAL ENGINEER LICENSE**

- A. All full-time employees are eligible for premium pay equal to 5% of monthly compensation for no more than one of the following reasons:
  1. Education Incentive Pay: The employee possesses or obtains a Bachelor of Arts degree, a Bachelor of Science degree, a Masters' degree, or other advanced degree. The degree must be reasonably related to, but not required for, his/her job classification, and must be issued by an accredited institution.
  2. Certified Public Accountant Certification Pay: The employee holds a position in the City's Finance Department and possesses or obtains a current California license as a Certified Public Accountant.
  3. Professional Engineer License Pay: The employee holds a position in the City's Public Works–Engineering Department and possesses or obtains a current California Professional Engineer License.

- B. Eligible employees will receive premium pay under this Section 15.6 starting with the first full pay period following submission of a copy of the degree or license to Human Resources.
- C. With the exception of Education Incentive Pay, eligible employees are responsible for ensuring their continued eligibility for premium pay under this Section 15.6, including but not limited to, completing all necessary steps to obtain timely renewal of their licenses prior to expiration and providing a copy of the renewed license to Human Resources.

**SEC. 15.7 CMC PAY**

- A. Full-time employees holding a position in the City Clerk classification who hold, or obtain, a Certified Municipal Clerk (“CMC”) designation and certificate from the International Institute of Municipal Clerks (“IIMC”) will receive an additional \$100 per pay period.
  - 1. Eligible employees will receive CMC pay starting with the first full pay period following submission of a copy of the CMC certificate to the City Manager.
  - 2. CMC pay will continue unless and until the City Manager rescinds the employee’s eligibility in writing.
- B. If the CMC Recertification Program is reinstated by the IIMC, employees will be responsible for ensuring that all necessary steps are completed to obtain timely recertification prior to expiration and providing proof of recertification to the City Manager.

**RULE XVI. CITY-PROVIDED ATTIRE AND EQUIPMENT**

**SEC. 16.1 CLOTHING**

- A. In general. The City shall either provide clothing items that employees are required to wear to meet Department needs or shall bear the cost of required clothing items.
- B. Dress for field employees.
  - 1. The required clothing shall consist of collared or t-shirt-type shirts and jeans. Field employees shall be responsible for purchasing pants or other apparel that is generally usable in their occupations.
  - 2. The City will provide required items of clothing or an allowance to field employees, as follows:
    - a. Up to ten (10) shirts will be provided to each employee per fiscal year.

- b. Employees will be reimbursed for purchase of up to five (5) pairs of jeans per fiscal year, up to a maximum amount of \$300 per fiscal year.
3. Field employees are responsible for the proper cleaning and maintenance of their clothing items.

## **SEC. 16.2 EQUIPMENT**

- A. The City shall provide employees with the essential equipment to perform the duties of their Positions, as determined in the discretion of the Department Director.
- B. Employees are responsible for requesting training on equipment that they are unfamiliar with prior to using such equipment. Also, employees are responsible for the proper operation and maintenance of all equipment.

## **SEC. 16.3 SAFETY EQUIPMENT AND PROTECTIVE CLOTHING**

- A. All field employees will be required to wear approved safety shoes and other safety equipment and protective clothing. Field employees who fail or refuse to wear such safety and protective items as appropriate will be subject to Disciplinary Action under Rule XII. If any employee is unable to wear one or more safety or protective items due to protected characteristics, the Personnel Officer may grant exceptions to this Rule where required by law as a reasonable accommodation.
- B. The City will provide one of each of the following safety equipment and protective clothing items to each field employee:
  1. Hard hats
  2. Pair of ear plugs
  3. Safety goggles
  4. Non-prescription safety glasses
  5. Safety vests
  6. High visibility raincoats
- C. Approved Safety Shoes:
  1. The City requires that the approved safety shoes include both a steel toe and steel shank construction and meet the requirements of the American National Steel Institute (ANSI Z41.1). The shoes must be low quarter, three quarter or full boot.
  2. Employees must choose their own approved safety shoes meeting the above requirements. After obtaining approval from the Public Works Director, the employee will purchase a safety shoe which is approved by OSHA from a vendor pre-selected by the Public Works Director. After purchase of the approved safety shoes, the employee will present a

receipt of purchase to his/her Department Director for reimbursement. The maximum amount of reimbursement will be two hundred dollars (\$200.00), per fiscal year. Reimbursement will be made to the employee within ten (10) days after presentation of the receipt to the Public Works Director.

## **RULE XVII. DRESS CODE**

### **SEC. 17.1 GENERAL POLICY**

- A. The City is a professional organization, and customers, suppliers, and the general public (collectively “customers”) frequently form their initial impressions of professional credibility based solely on employee appearance. Therefore, all employees must present a professional appearance by wearing attire appropriate to their job classifications and must promote a positive image to customers.
- B. This Rule is intended to provide standards on dress and appearance and is not meant to address all situations. There may be differences in some Departments’ standards depending on the nature of the work environment, nature of work performed, involvement with the public, required attire under Rule XVI, or other circumstances identified by the Department Director. The standards in this Rule apply when the employee has officially reported to work. Department Directors shall be responsible for enforcement of this Rule and related Department Policies among their employees.

### **SEC. 17.2 GENERAL GUIDELINES FOR ATTIRE AND FOOTWEAR**

- A. Business Casual. Employees are required to dress each day in business casual dress. Business casual wear is a style of dress which projects a professional, business-like image while still permitting employees to wear more casual and relaxed clothing. Business casual does not include athletic wear, leisure wear, or beach wear. Clothing and footwear should be clean and in good repair. It may not be faded, torn, frayed, or revealing.
- B. Professional Business Attire. Employees should always consider each day’s activities when determining what to wear. If an employee is representing the City at a meeting (including City Council and Planning Commission meetings), professional business attire should be worn.

### **SEC. 17.3 LIMITED EXCEPTIONS**

- A. Department Directors may exercise their discretion regarding appropriate attire in light of weather conditions or requirements of special projects or assignments.
- B. The City may designate special casual days during which the dress code may be relaxed. Criteria for such casual days will be announced in advance.

### **SEC. 17.4 TATTOOS AND JEWELRY**

- A. All tattoos must be covered.

- B. Facial piercing jewelry, including, but not limited to that displayed via nose piercing, tongue piercing, eyebrow piercing, lip piercing, or any other facial piercing, is prohibited.
- C. Employees may wear up to two (2) earrings in each earlobe.
- D. All other jewelry must be appropriate, not detract from a professional appearance, and not constitute a potential safety hazard for the employee or others due to its characteristics or the manner in which it is worn. Such a determination shall rest in the discretion of the Department Director.

**SEC. 17.5 GROOMING**

- A. All employees must maintain a clean, presentable appearance.
- B. When used, perfumes, colognes, after shaves, and scented lotions shall be applied in moderation.
- C. Beards, sideburns, and moustaches must be neatly groomed. Hair must be properly restrained as required for its length and the nature of the assignment. Hair coloring shall be within the range of natural hair colors.

**SEC. 17.6 VIOLATIONS**

- A. Should an employee wear inappropriate attire or footwear to work, the employee shall be asked to leave the workplace and promptly return after changing into appropriate attire and footwear. Non-exempt employees may deduct the missed time from their available paid leave, or in the absence of leave, shall be required to take the missing time as leave without pay. Failure by any employee to return to work promptly may be grounds for discipline, pursuant to Rule XII.
- B. Repeated violations of this Rule may be grounds for discipline, pursuant to Rule XII.

**SEC. 17.7 ACCOMMODATION OF PROTECTED CHARACTERISTICS**

- A. The Personnel Officer may grant exceptions to this Rule as required by law to accommodate an employee's protected characteristic(s).

**RULE XVIII. POLICY AGAINST WORKPLACE VIOLENCE**

**SEC. 18.1 OBJECTIVES**

The City is strongly committed to ensuring the safety of all employees. Consistent with this policy, acts or threats of violence, including intimidation, harassment, and/or coercion which involve or affect employees will not be tolerated, and will be subject to appropriate Disciplinary Action pursuant to Rule XII, up to and including termination. The following are the objectives of the City:

- A. To ensure that all workplace threats and violent behavior are addressed promptly.
- B. To ensure that the level of physical and facility security in City workplaces is sufficient to protect the health and safety of employees.
- C. To ensure that all employees are appropriately trained in workplace security, diffusing hostile situations, and steps to take during an emergency incident.
- D. To ensure that all Disciplinary Action taken for behavior prohibited under this Rule is reviewed, evaluated, and administered consistently and equitably throughout the City, and done so in a timely manner.

## **SEC. 18.2 THREATS OR ACTS OF VIOLENCE DEFINED**

A credible threat of violence is a knowing and willful statement or course of conduct that would place a reasonable person in fear for his/her safety, or the safety of his/her immediate family, and that serves no legitimate purpose. General examples of prohibited workplace violence include, but are not limited to the following:

- A. Threatening to harm or harming an individual or his/her family, friends, associates, or their property.
- B. Fighting or challenging another individual to a fight.
- C. Intimidation through direct or veiled verbal threats, or through physical threats, such as obscene gestures, grabbing, and pushing.
- D. Making harassing or threatening telephone calls; sending harassing or threatening letters, emails, text messages, or other correspondence.
- E. Intimidating or attempting to coerce an employee to do wrongful acts that would affect the business interests of the City.
- F. Harassing surveillance or stalking, which is engaging in a pattern of conduct with the intent to follow, alarm, or harass another individual, which presents a credible threat to the individual and causes the individual to fear for his/her safety, or the safety of his/her immediate family, as defined in *Civil Code* section 1708.7.
- G. Making a suggestion or otherwise intimating that an act to injure persons or property is appropriate behavior.
- H. Possession of firearms (loaded or unloaded), weapons, or any other dangerous devices on City property. This includes "look-alike" weapons, such as toy guns. Weapons and dangerous devices may include, but are not limited to the following: blackjacks, slingshots, metal knuckles, explosive substances, dirks, daggers, gas- or spring-operated guns, knives having a blade longer than three and one-half (3½) inches, folding knives having a blade that locks into place, razor blades, and clubs.

- I. Use of a personal or City-issued tool or other equipment in a threatening manner toward another.

### **SEC. 18.3 REPORTING WORKPLACE VIOLENCE**

Any employee who is the victim of a threat or act of violence, or any employee who witnesses such conduct, should immediately report the incident to his/her Department Director or other appropriate person in the chain of command. Should the employee perceive that he/she is in immediate danger of a violent act, or has just been victimized by a violent act, or is a witness of a violent act or imminent violent act, he/she shall whenever possible:

- A. Place themselves in a safe location.
- B. If appropriate, call the Police Department or 911 and request immediate response of a police officer and be prepared to inform the police dispatcher of the circumstances and the exact location of where an officer is needed.
- C. Inform the Human Resources Director or the City Manager of the circumstances.
- D. Complete a written report as soon as possible and submit the original copy to the Human Resources Director.
- E. Cooperate fully in any administrative or criminal investigation, which shall be conducted within existing policy and laws.

### **SEC. 18.4 REPORTING POTENTIAL FUTURE WORKPLACE VIOLENCE**

Employees who have reason to believe they or any employee may be the subject of a violent act in the workplace or as a result of their City employment, must immediately notify the Human Resources Director or the City Manager.

The City will provide reasonable accommodation for the safety of an employee at work in accordance with Section 230(f) of the *Labor Code*.

### **SEC. 18.5 VIOLATION OF RULE**

The City's prohibition against threats and acts of violence applies to all persons in the City operation, including but not limited to City personnel, contract and temporary workers, customers, and anyone else on City property. Violations of this Rule by any individual may be followed by legal action as appropriate, which may include, but is not limited to, seeking a temporary restraining order and/or injunction on behalf of employees if the situation warrants such action. In addition to appropriate legal action, violations of this Rule by employees, including making a false report under this Rule, may lead to appropriate Disciplinary Action pursuant to Rule XII, up to and including termination.

## **RULE XIX. PERSONNEL FILES AND RECORDS**

### **SEC. 19.1 IN GENERAL**

The City maintains a personnel file on each employee. An employee's personnel file will contain only material that the City determines is necessary and relevant to the administration of the City's personnel program. Personnel files are the property of the City, and access to the information they contain is restricted, subject to, and in accordance with, this Policy.

#### **A. Inspection of a Current or Former Employee's Personnel File:**

1. A current or former employee wishing to inspect his/her personnel file must submit a written request to the Human Resources Director, along with reasonable proof of identity. A current or former employee who seeks to authorize another person to inspect copies of his or her personnel file must provide a satisfactory written authorization for inclusion with the written request along with proof of identity.
2. The City shall issue a written notice setting a date for inspection of the personnel file within thirty calendar days of receipt of the request, to take place during normal business hours. With the requesting person's written consent, the date for inspection may be extended on one occasion by up to five calendar days. If the requesting person is a former employee who was terminated for violation of City policy or law involving harassment or workplace violence, the City shall have discretion to mail a copy of the personnel file at the City's expense instead of scheduling an in-person inspection.
3. A current employee may inspect his/her personnel file at the place the employee reports to work, or may instead consent to inspect his/her personnel file at City Hall without loss of compensation. Inspection by former employees and authorized representatives shall take place at the Human Resources Director's office, unless otherwise mutually agreed in writing by the City, and may require additional reasonable proof of identity.
4. A designated City employee must be present throughout the inspection. No personnel files nor contents of personnel files shall be removed from the place of inspection without advance written authorization from the Human Resources Director.

#### **B. Obtaining Copies of a Current or Former Employee's Personnel File:**

1. A current or former employee wishing to obtain copies of documents or other materials in his/her personnel file in person or by mail must submit a written request to the Human Resources Director along with reasonable proof of identity. A current or former employee who seeks to authorize another person to obtain copies of his/her personnel file must provide a satisfactory written authorization for inclusion with the written request.

Reasonable proof of identity may be required at the time of in-person pick up of requested documents.

2. The City shall issue a written notice setting a date on which the requested copies may be picked up in person during normal business hours and identifying the cost of reproduction that must be paid to the City at the time of pick up. The date for in-person pick up of the documents shall be no more than thirty calendar days after receipt of the request by the City. With the requesting person's written consent, that date may be extended on one occasion by up to five calendar days. If the requesting person is a former employee who was terminated for violation of City policy or law involving harassment or workplace violence, the City shall have discretion to mail a copy of the personnel file at the expense of the City instead of scheduling an in-person pick up.
3. If the requesting person chooses delivery by mail instead of in-person pick up, the notice provided by the City under Section 19.B.2. shall also identify the additional actual postage expenses for which the requesting person must reimburse the City prior to receipt of the copies.

C. Limits on Frequency of Exercise of Rights to Inspect or Receive Copies of Personnel Files:

1. Current employees shall be entitled to exercise rights under this policy to inspect and obtain copies of personnel records at reasonable intervals upon reasonable notice in accordance with this policy.
2. Former employees shall be entitled to exercise rights under this policy to inspect or receive copies of their personnel records once per year.
3. The City shall comply with a maximum of 50 requests per month filed under this policy by one or more representatives of current Employees.

- D. Each employee is responsible for keeping his/her file up to date by notifying the Personnel Officer of any changes to relevant personal information, including, but not limited to change of address, contact information, emergency contact information, and number and names of dependents for health benefit maintenance.

**RULE XX. WHISTLE BLOWING POLICY**

**SEC. 20.1 DEFINITION OF "WHISTLE BLOWING"**

- A. For purposes of this provision, "whistle blowing" consists of disclosure of information that the employee reasonably believes constitutes a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee's job duties, when that disclosure is made to one or more of the following:

1. A government or law enforcement agency;
2. A person with authority over the employee;
3. Another employee who has authority to investigate, discover, or correct the violation or noncompliance; or
4. Any public body conducting an investigation, hearing, or inquiry, including, but not limited to, information given as testimony.

## **SEC. 20.2 SCOPE OF POLICY**

- A. The City encourages employee complaints, reports or inquiries about practices believed to be unlawful or constitute serious violation of the City policies, including illegal or improper conduct by the City itself, by its leadership, or by others on its behalf. Other subjects for which the City has existing complaint procedures shall be addressed under those other procedures. This policy is not intended to provide a means of appeal from outcomes in those other procedures.

## **SEC. 20.3 PROCEDURE**

- A. Complaints, reports or inquiries may be made under this policy on a confidential or anonymous basis. They should describe in detail the specific facts demonstrating the bases for the complaints, reports or inquiries. They may be directed to the Personnel Officer or City Manager, or to the City Attorney if involving the Personnel Officer or City Manager. The City will conduct a prompt, discreet, and objective review or investigation in response. However, Employees must recognize that the City may be unable to fully evaluate or address a report or inquiry that is made anonymously or made in a vague or general manner.

## **SEC. 20.4 PROTECTION FROM RETALIATION BECAUSE OF GOOD FAITH COMPLAINTS, REPORTS, OR INQUIRIES:**

- A. The City prohibits retaliation by or on behalf of the City against Employees for making good faith complaints, reports or inquiries under this policy or by participating in a review or investigation under this policy. Any Employee who makes a complaint using this procedure or otherwise engages in "whistleblowing" is protected against adverse employment actions (discharge, demotion, suspension, harassment, or other forms of discrimination) taken by the City or any person acting on behalf of the City. This protection extends to those whose allegations are made in good faith but prove to be mistaken or unsubstantiated. Employees who participate or assist in an investigation will also be protected. Every reasonable effort will be made to protect the anonymity of the "whistleblowing" employee however, there may be situations where it cannot be guaranteed.
- B. The City reserves the right to discipline persons who make bad faith, knowingly false, or vexatious complaints, reports or inquiries or who otherwise abuse this policy.

**CITY OF BUELLTON**  
**ACKNOWLEDGEMENT OF RECEIPT OF PERSONNEL RULES**

I acknowledge that I have received my copy of the City of Buellton Personnel Rules. I recognize that the Personnel Rules supersede any related Personnel Rules, policy statements, manuals, and/or administrative policies previously issued by the City of Buellton. I will read and abide by all Personnel Rules and regulations set forth in the Personnel Rules.

I understand that these Personnel Rules do not create a vested contractual right in the execution of the duties and responsibilities relating to these Personnel Rules.

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date