

CITY OF EMERYVILLE

MANAGEMENT OF EMERYVILLE SERVICES AUTHORITY

PERSONNEL

**RULES AND
REGULATIONS**

February, 1999

CITY OF EMERYVILLE

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RESOLUTION NO.
RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF EMERYVILLE ADOPTING PERSONNEL SYSTEM RULES AND REGULATIONS
FOR THE CITY OF EMERYVILLE

WHEREAS, the City Council of the City of Emeryville has previously adopted Rules and Regulations for the administration of the Personnel System

WHEREAS, Resolution No. 86-42, adopted October 2, 1986, entitled "Resolution of the City Council of the City of Emeryville Relating To The Establishment Of Personnel Rules and Regulations", is hereby repealed

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Emeryville does hereby adopt the following Rules:

RULE I
PURPOSE

The objectives of these rules are to facilitate efficient and economical services to the public and to provide for a fair and equitable system of personnel management in the municipal government. To this extent, the following rules and regulations reflect the principles and standards of the City's Merit System of employment and describe other terms and conditions of employment.

These Rules set forth in detail those procedures which ensure similar treatment for those who compete for original employment and promotion, and define the obligations, rights, privileges, benefits, and prohibitions which are placed upon all employees in the competitive services of the City.

At the same time, within the limits of administrative feasibility, latitude shall be given to the City Manager, or his/her designee, in the interpretation of these Rules and Regulations.

RULE II
GENERAL PROVISIONS

Section 2.00 Definition of Terms

The following terms whenever used in these Rules and Regulations shall be defined as follows:

1. Advancement: a pay increase within the limits of the salary range established for a classification.
2. Allocation: the official assignment of an individual position to its proper classification in accordance with the duties performed, and the authority and responsibilities exercised.

3. Anniversary Date: the date of appointment to current classification.
4. Applicant: a person who has filed an application for an examination.
5. Appointment: the offer to and acceptance by a person of position in accordance with the provisions of these Rules and Regulations.
6. Appointing Authority: the City Manager and/or other Official designated by the City Manager or City Council having the power to make appointments to the position to be filled.
7. Candidate: an applicant who participates in an examination for possible employment.
8. Certification: the act of providing verification of eligibility for employment as provided for in these Rules and Regulations.
9. Class or Classification: all positions sufficiently similar in duties, authority, and responsibilities to permit grouping under a common title in the application with equity of common standards of selection, transfer, demotion and salary.
10. Competitive Service: all positions of employment in the service of the City except those excluded by these Rules and Regulations.
11. Date of Hire: the first date of paid service.
12. Days: means calendar days unless otherwise stated.
13. Demotion: the movement of an employee for disciplinary purposes from one class to another having a lower maximum base rate of pay.
14. Eligible: a person whose name is recorded on an employment eligibility list.
15. Eligible List: candidates whose names appear on an eligibility list shall be deemed qualified for appointment, pending further review of such qualifying processes as reference checks, medical examination, background investigations, departmental interviews or other test measures deemed appropriate.
 - a. Open employment list: a list of names of persons who have taken an open-competitive examination and who have been qualified.
 - b. Promotional employment list: a list of names of persons who have taken a promotional examination for a class in the competitive service and have been qualified.
16. Examination:
 - a. Open Competitive Examination: an examination for a particular class which is open to persons meeting his/her qualifications for the class.
 - b. Promotional examination: an examination for a particular class which is open only to City employees meeting the qualifications for the class.
 - c. Continuous examination: an open competitive examination which is administered periodically and as a result of which names are placed on an employment list, in order of final scores, for a period of not more than one year.
 - d. Promotional certification: a process of examination, by the Human Resources Director, of employment history, education and training to determine whether an

employee possesses the required qualifications for a position in a higher classification.

17. Immediate Family: the father, mother, brother, sister, spouse, child, step-child, foster child, grandparents, grandchildren, mother-in-law, father-in-law, and any person living in the employee's household as a family member.
18. Lay Off: the separation of employees from the active work force due to lack of work or funds, or reorganization.
19. Personnel Rules and Regulations: Rules and Regulations which create a personnel system for the City of Emeryville.
20. Position: a group of duties and responsibilities in the competitive service requiring the full or part time employment of one person.
21. 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 he/she was appointed by actual performance of the duties of the position.
22. Promotion: an appointment to a position in the classified service having a higher maximum rate of salary.
23. Provisional Appointment: an appointment of a person who possesses the minimum qualifications established for a particular class and who has been appointed to a position in that class in the absence of an available eligibility list. Such appointment may be in effect until an eligibility list is established and an appropriate hire is made.
24. Reclassification: the change in allocation of an individual position by raising it to a higher, reducing it to a lower, or moving it to another class of the same level, on the basis of existing or proposed changes in duties and responsibilities assigned to that position.
25. Re-employment lists: a list of names of probationary and regular employees who are separated from the competitive service by lay off or exhaustion of available leaves.
26. Regular Employee: an employee in the competitive service who has successfully completed his/her probationary period and has been retained as hereafter provided in these rules.
27. Reduction in Pay: a salary decrease within the limits of the pay range established for a classification for disciplinary reasons. Such reduction is subject to review at six-month intervals to determine whether the reduction should be continued or restored to the former level.
28. Reinstatement: restoration of a former regular employee without examination to a classification in which the employee formerly served as a regular non-probationary employee within twenty-four (24) months following that employee's separation from the service.
29. Relief of Duty: temporary assignment of an employee to a status of leave with or

without pay.

30. Salary Range: a schedule of rates to be paid that is within specified minimum and maximum amounts.
31. Special Assignment Pay: compensation for the assumption of a special assignment or project, but the employee does not assume the full day-to-day duties of a higher level classification.
32. Suspension: the temporary separation of an employee for disciplinary purposes from his/her position with loss of pay.
33. Temporary Employee: an employee who is employed for a limited term to a non-regular position in the same or in a comparable class including casual, seasonal and emergency appointments.
34. Transfer: a change of an employee from one position to another position in the same or in a comparable class having essentially the same salary limits; involving the performance of similar duties and requiring substantially the same minimum qualifications.
35. Voluntary Downgrade: a permanent change in an employee's classification occurring as a result of the affected employee's written request.
36. Work Day/Shift: a period of time designated by departments for the performance of work by individuals occupying specific classifications.

Section 2.01 Personnel Administration

The City Manager shall administer the City Merit System and may delegate any of the responsibilities and authorities to another designee. The City Manager or designee shall:

- A. Interpret and administer all provisions of this resolution and all related ordinances, resolutions, policies and procedures concerning personnel matters of the City.
- B. Prepare and recommend to the City Council personnel rules and regulations including revisions and amendments thereto.
- C. Prepare or cause to be prepared a position classification plan including class specifications, a compensation plan, and recommended revisions of the plans.
- D. Provide for the publishing or posting of notices of test for positions in the competitive service; the receipt and evaluation of applications thereof; the conducting and grading of tests; the certification to the appointing authority of a list of persons eligible for appointments to the appropriate position in the competitive service; and the performance of any other duty that may be required to administer the personnel system.

Section 2.02 Memorandum of Understanding

In the event the provisions of these rules irreconcilably contradict those included in any

present or future Memorandum of Understanding adopted by the City Council by resolution and in effect between the City of Emeryville and a formally recognized employee organization, the terms of the Memorandum of Understanding shall prevail.

Section 2.03 Application of Rules

These Rules and Regulations shall apply to all positions and employees in the competitive service of the City of Emeryville. Those positions not considered to be in the competitive service are:

- A. Elected Officials
- B. All positions and employees in the City Manager and City Attorney's offices unless otherwise designated by the City Manager or City Attorney
- C. Department Heads and Managers as defined in the classification plan
- D. Contract, Volunteer, Reserve, Temporary, Seasonal, Provisional, and other employees who are not employed in regular or probationary employment.

All employees who are not in the competitive service are considered to be at-will employees who serve at the pleasure of the Appointing Authority and may be removed from service at any time, with or without cause. Such employees are not entitled to a hearing upon termination.

In the event of a conflict between these rules and department rules, these rules shall apply. Department rules shall be reviewed by Human Resources prior to adoption.

Amendments and revisions of these Rules shall become effective upon adoption of a resolution by the City Council. Proposed amendments or revisions to these rules shall be publicly posted at City Hall for at least five (5) consecutive days together with notice and date of hearing by the City Council.

Amendments and revisions may be suggested by any interested party and shall be submitted through the Human Resources Director. Advance notice in writing on such proposed amendments or revisions shall be given to recognized employee organizations in accordance with State law.

Section 2.04 Violation of Personnel Rules and Regulations

Violation of these Rules shall be grounds for rejection of application, removal from an eligibility list, dismissal, suspension, demotion reduction in salary, or any other disciplinary action deemed appropriate under the circumstances by the Appointing Authority.

Section 2.05 Employment of Relatives

No employee, prospective employee, or candidate shall be denied employment or benefits of employment solely on the basis of marital status. The employment of relatives of any City Employee or elected City official may be permitted by the Appointing Authority if he/she determines that the efficiency or mission of the City will not be adversely affected by such employment. In general, members of an employee's immediately family will not be employed or

assigned to work in a direct supervisory relationship, or in any other position which will pose difficulties for supervision, safety, security or morale. In all cases of denial of employment of relatives such denial shall be consistent with the law.

Section 2.06 Fair Employment Practices

Any technique or procedure used in recruitment and selection of employees shall be designed to measure only the job related qualifications of applicants. No recruitment or selection technique shall be used which is not justifiably linked to successful job performance.

Section 2.07 Departmental Rules

The separate departments of the City may develop, implement, and revise as necessary any policies, procedures, and rules pertaining to unique operational requirements and their effect upon departmental personnel as are needed for the full performance of duties and responsibilities. Such policies, procedures and rules shall not conflict with these rules and regulations or other City resolutions or amendments thereto. Memoranda of Understanding shall prevail over departmental and/or these Personnel Rules and Regulations. Departmental rules shall be submitted to Human Resources and the City Manager for review and approval as to consistency with these Personnel Rules and Regulations.

RULE III
CLASSIFICATION

Section 3.00 Preparation of Plan

The Human Resources Director or designee shall ascertain and record the duties and responsibilities of all positions in the competitive service and, after consultation with Appointing Authority and heads of departments affected, shall recommend a Classification Plan for such positions. The Classification Plan shall consist of classes of positions in the competitive service including maximum number of positions authorized, defined by class specifications, including title, a description of typical duties and responsibilities of positions in each class, a statement of the training, experience, and other qualifications to be required of applicants for positions in each class. The Classification Plan shall be 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.

Section 3.01 Adoption, Amendment, and Revision of Plan

The Classification Plan as currently adopted shall remain in effect and may be amended by resolution of the City Council from time to time. Amendments and revisions of the Plan may be suggested to the City Council by any interested party and shall be submitted through the

Human Resources Director to the Appointing Authority. Advance notice in writing on such proposed amendments and revisions shall be given to recognized employee organizations in accordance with State law.

Section 3.02 Allocation of Positions

Following meeting and conferring with any recognized employee organization potentially affected, and adoption by the City Council, the Human Resources Director shall allocate every position in the competitive service to one of the classes established by the Plan.

Section 3.03 Classification/Reclassification Procedure

Whenever one or more new positions are under consideration for possible establishment, or whenever, because of a revision in organization or methods, a major change of the duties or responsibilities of any existing position is to be made which may require the reallocation of such position, or whenever because of the abolishment or combination of any existing classes, an amendment to the Classification Plan is required, one or a combination of the following procedures shall be observed:

1. The department head shall forthwith report the significant facts relating to such possible changes in writing to the Human Resources Director.
2. The Human Resources Director, upon written request of any employee or any employee organization, or upon his/her own initiative after consultation with the department head concerned, may undertake an inquiry of the classification of any positions. Upon either of the above initiations, the Human Resources Director or designee, shall make a study of the assigned duties and responsibilities of such position, the qualifications required, and the relationships of such positions to other classes of position in the Classification Plan. On the basis of such investigation, the City Manager, or his/her designee, shall then do one of the following:
 - a. Make no change in the allocation of the position.
 - b. Recommend to the City Council that the position be allocated to a more appropriate class in the existing Classification Plan.
 - c. Recommend to the City Council a reclassification and the establishment of a new class to which the position would be allocated.

Whenever a position is reallocated or reclassified, the existing position may be deleted from the Plan and a new position created in the class to which the position is to be assigned.

Section 3.04 Status of Reclassified Incumbents

Whenever reclassification occurs, the employee occupying the position may be retained,

at the discretion of the appointing authority, in the position after it has been reclassified without further competitive examination, provided that, upon investigation, the department head concerned and the Human Resources Director find all of the following:

1. The reclassification results from an official recognition of a change in duties and responsibilities which has already occurred.
2. The performance of duties and responsibilities of the position by the incumbent has been satisfactory.
3. The incumbent possesses the required qualifications of the new class.
4. The incumbent has regular status in the class to which the position was formerly allocated.

Section 3.05 Procedure for Reclassification of Incumbents

The above findings shall be transmitted by the Human Resources Director through the Appointing Authority to the City Council for its review and action at the time a reclassification is under consideration. This process is included as a means of encouraging proper classification and organization without jeopardizing the regular employment status of employees and shall not be used for the purpose of avoiding restrictions surrounding demotions and promotions.

RULE IV **COMPENSATION**

Section 4.00 Preparation of Compensation Plan

The Human Resources Director or a person or agency employed for that purpose shall prepare a Compensation Plan covering all classes or positions in the competitive and exempt service showing the minimum and maximum rates of pay, and shall, thereafter, make such further studies of the Compensation Plan as may be deemed necessary.

Section 4.01 Adoption of the Compensation Plan

The Compensation Plan shall be made effective by the adoption of a resolution by the City Council which shall establish the salary range or rate for each authorized position.

Section 4.02 Administration of Compensation Plan

The Human Resources Director shall implement the compensation plan. The City Manager establishes pay periods and the method of time distribution and record keeping.

The Plan may provide a flat salary or a salary range for each classification with minimum and maximum steps.

The beginning or normal hiring rate shall usually be at the first step or minimum of the compensation range. Every new employee shall be paid at the first step upon appointment

except that the Appointing Authority may authorize appointment at a higher step if the labor supply is restricted or the person to be hired is unusually well qualified. Appointment at such higher step shall be at the sole discretion of the Appointing Authority.

Section 4.03 Special Assignment Pay

In the administration of the Compensation Plan, the Appointing Authority may, upon recommendation of the appropriate department head, award up to an additional 10% salary increase to an employee for special assignment. Such discretionary additional compensation shall be assigned only for the regular and continuous performance of special assignments, in addition to an employee's regular duties, and shall not be used as a merit or bonus payment.

Section 4.04 Acting Pay

An employee assigned in writing by the Department Head, who pursuant to such assignment, does assume and perform all of the ordinary day to day duties of a position of a higher classification for three (3) consecutive days shall be paid an additional 5% of the regular pay of his/her own classification, or the first step of the higher classification whichever is greater, for such time worked in the higher classification. Work assignments shall not be changed for the sole purpose of evading the requirements of providing acting pay to an employee who would otherwise be eligible.

Section 4.05 Advancement in Pay

Employees are eligible to be advanced to higher steps as demonstrated by progressive improvement in job skills and work performance. The following time and step requirements shall apply before an employee gains eligibility for advancement in pay:

<u>Step</u>	<u>Time Before Eligible to Proceed to Next Step</u>
A	at time of hire
B	12 months
C	24 months
D	36 months
E	48 months

If warranted for the good of the service, or when an employee demonstrates outstanding performance of his/her duties, that employee may be advanced in pay prior to completion of the above time-in-step requirement, upon the recommendation of the department head and Human Resources Director and upon approval by the Appointing Authority.

If an employee is on leave without pay for more than one (1) continuous month or more than sixty (60) accumulative days, the time on leave shall be deducted from the employee's accumulated time in step.

Section 4.06 Attaining Advancement

The Human Resources Director shall cause performance evaluations of each employee to be conducted from time to time in a manner to be prescribed. Department performance evaluation shall guide supervisors and their superiors in determining whether advancement has been earned by the employee and should be recommended to the City Manager or the designated authority. An employee must demonstrate that advancement in pay is merited on the basis of job performance. Advancement shall not be made solely because the employee is eligible according to time-in-step requirements. Supervisors shall notify the employee via performance evaluations, as to the reasons for recommending that a step advancement be awarded. The City Manager or designated authority shall make final determination of whether the performance evaluations provide sufficient justification for recommended advancement and shall have the power to disapprove such recommendations upon determination that the performance of the employee does not merit advancement.

Section 4.07 Withholding Advancement

Supervisors and their superiors have the authority and responsibility to recommend to the Appointment Authority that a step advancement not be awarded if that advancement is not merited. Department heads shall keep their employees informed about their job performance, giving good work its proper recognition and any deficient work all possible guidance and assistance toward improvement. Supervisors shall notify the employee, via performance evaluations, as to the reasons for recommending that a step advancement not be awarded. Final determination to withhold advancement may be made in spite of a supervisory recommendation to grant an advancement, when it is determined by the City Manager or designated authority that the performance of the employee does not merit advancement.

Section 4.08 Promotion

When an employee is promoted, the employee shall normally receive the first step in the salary range for the new position. However, if such step is equal to or less than the present salary, that employee may receive the next step in the salary range of the new position which is immediately above the present salary.

When an employee who has been promoted is rejected during the probationary period, the employee's salary following such rejection shall be at the step and the salary range of the position from which the employee was promoted.

Section 4.09 Reduction in Classification

When an employee is reduced in classification as a substitute for layoff or as a result of a request for a voluntary downgrade in classification, that employee shall be placed in the salary step in the new class which is the same as or immediately above the step held prior to reduction,

providing said reduction in classification is not the result of disciplinary action. Reduction may occur as specified in Section 8.05. Voluntary downgrade may occur as specified in Section 2.00, Item 34.

Section 4.10 Reclassification

When a position is reallocated to a classification with a higher salary range, the incumbent appointed to the new higher classification shall be placed at the step which is closest to but not lower than their current salary.

When a position is reallocated to a classification with a lower salary range, the incumbent employee shall not be reduced in pay while continuing to occupy the position. If the present salary is less than the maximum step of the new range, the employee shall continue at present salary and carry forward time-in-step accumulation. If the present salary exceeds the maximum step of the new range, the employee's salary shall be frozen at its current level until the new salary range advances to that level (y-rated). When a position is reallocated to a classification with no change in salary, the incumbent employee may be allowed to carry forward time-in-step accumulation.

Section 4.11 Authorized Compensation

Employees in the competitive or exempt services shall not accept anything of value for the performance or official duties and responsibilities or other acts in service to the City of Emeryville except compensation duly authorized by the City Council, or as governed by State law.

Section 4.12 Compensation upon Demotion

When an employee is demoted to a lower classification the salary placement shall be as specified in the notice of discipline.

Section 4.13 Compensation During Work Related Disability

The City shall provide 45 calendar days of salary and insurance continuation for non-sworn employees subject to these provisions, in cases where a work related disability prevents an employee from performing either their regular and customary duties or a modified duty assignment. Sworn employees covered by these rules and regulations shall be compensated in accordance with the law.

Section 4.14 Compensation Upon Service Separation

- A. Probationary employees in the classified service who separate from City service shall be entitled to payment for accrued vacation and holiday hours earned on a prorated basis up to the date of separation. Probationary employees will not be entitled to payment for unused sick leave hours.
- B. All employees, regardless of service length, shall be entitled to payment for vacation,

holiday and compensatory time up to their date of separation.

C. All regular employees, regardless of service length, shall be entitled to payment for unused sick leave as follows:

1. Upon retirement from service, unused sick leave may be credited as prescribed by the contract with the Public Employees' Retirement System.
2. Upon separation from service, miscellaneous and Sworn Police employees shall be entitled to a payment at the rate of sixty percent (60%) up a maximum of one hundred twenty (120) days.
3. Upon separation from service, Fire personnel shall be entitled to a payment at the rate of fifty-five and eight tenths percent (55.8%) up to a maximum of 1440 hours for 56 hour employees, and (55.8%) up to a maximum of 960 hours for 40 hour employees.

RULE V

APPLICATIONS AND APPLICANTS

Section 5.00 Announcement of Examination

When necessary to establish an eligibility list, the Human Resources Director shall prepare a job announcement which shall specify the position title, qualifications necessary for the performance of the work to be performed, nature of duties, minimum qualifications, rate of compensation, application procedure and other pertinent information. Suitable and effective methods of distributing information relative to a job opening shall be practiced in securing the most qualified candidates available for competition.

All promotional examinations for positions in the classified service shall be published by distributing a job announcement to City departments for posting on departmental bulletin boards for a minimum period of ten (10) calendar days. The announcement shall specify the class title, salary range, the nature of the work to be performed in general terms, minimum required and desirable qualifications, the filing deadline, and any other information deemed appropriate.

Section 5.01 Application Forms

Application shall be made only on forms provided by the Personnel Department. All applications must be completed and signed by the person applying.

Section 5.02 Disqualification

The Human Resources Director may reject any application before, during, or after examination and prior to an appointment for any of the following reasons:

- A. Indication on the face of the application that the applicant does not possess the minimum qualifications required for the position.

- B. Incomplete application materials.
- C. Failure to properly file the application prior to the application deadline.

Whenever an application is rejected, notice of such rejection with statement of reason shall be mailed to the applicant prior to filling a vacancy. Defective applications may be returned to the applicant with notice to amend the same, providing the time limit for receiving applications has not expired.

An application that has been accepted and later determined to lack the requisite qualifications or contain false information may be rejected.

Section 5.03 Criminal Conduct-Ineligibility for Employment

Conviction of a felony, or a misdemeanor involving moral turpitude, including pleas of guilty or nolo contendere, may constitute grounds for disqualification of an applicant for employment, or grounds for termination of an existing employee. The Appointing Authority may disregard any criminal conviction in making the decision to offer employment if the circumstances of the conviction indicate that the conviction does not unsuit the applicant from City service. The decision to disqualify any applicant or employee on the basis of criminal conviction record will be made on a case by case basis. Factors which may be considered in reaching this decision include, but are not limited to:

- A. The classification, including sensitivity, to which the person is applying or being certified and whether the classification is unrelated to the conviction;
- B. The nature and seriousness of the offense;
- C. The circumstances surrounding the conviction;
- D. The length of time elapsed since the conviction;
- E. The age of the person at the time of conviction;
- F. The presence or absence of rehabilitation or efforts at rehabilitation.

Applicants for any sworn law enforcement position are disqualified from employment if the applicant has been convicted of a felony, regardless of circumstances.

RULE VI **EXAMINATIONS**

Section 6.00 Nature of Examinations

The examination process elements shall be impartial, of a practical nature, and relate to those subjects, which in the opinion of the Human Resources Director, fairly measure the relative

capacities of persons examined to execute duties and responsibilities of the position to which they seek appointment. Such examinations shall not include any element that violate State or federal law.

In examining persons for positions in the competitive service, promotional, open, or continuous examinations may be used as determined by the Human Resources Director after consultation with the concerned department head. Examinations will be completed in a manner that is consistent with the law and within the City's administrative abilities.

Section 6.01 Types of Examinations

Examinations shall consist of selection techniques which will test fairly the qualifications of candidates and may include such elements as achievement tests, other written tests, personal interviews, performance tests, physical agility tests, evaluation of daily work performance, work samples, medical tests, psychological tests, polygraph tests, successful completion of prescribed training or any combination of these or other tests, as appropriate under the law. The probationary period shall be considered part of the examination process.

Section 6.02 Continuous Testing

The Human Resources Director may, for any given class, administer continuous examinations as the needs of the service require.

Section 6.03 Shared Recruitment and Testing

The City may use eligibility lists established as a result of shared recruitment and testing processes with one or more agencies to substitute for any or all of the process that would otherwise be administered by the City directly. Further, in any case where the Human Resources Director after consultation with the concerned department head, determines that such action is in the best interest of the service, such eligibility lists provided may be treated as partially prepared eligibility lists with the applicants, whose names are on such lists, subject to further testing before the resulting eligibility lists are used for the purpose of making an appointment to City service.

Section 6.04 Promotional Examinations

Candidates for promotional examinations must possess minimum qualifications required for the position. Only regular employees who meet the requirements set forth in the promotional examination announcements as determined by the Human Resources Director may compete in promotional examinations. A regular employee may file an appeal of disqualification with Human Resources pursuant to this rule within five days of receipt of such notification.

Section 6.05 Scoring

The Human Resources Director shall establish the lowest qualifying score on individual tests of the entire examination in accord with the needs of the service. The Human Resources Director may include as part of the examination, tests which are qualifying only. Failure in one part of the examination may be grounds for declaring such applicant as failing the entire examination or disqualified for subsequent parts of the examination. A candidate's score on an examination may include his/her score on each competitive part of the examination.

Section 6.06 Notification of Results/Examination Record

Each candidate in an examination shall be given written notice of the results thereof and, if successful, a final earned score and/or rank on the eligibility list.

The records of an examination are working papers and are not public documents. Information concerning the results of an examination shall not be divulged until the eligibility list has been certified. Examination papers of eligibles shall be retained for two (2) years after the expiration date of the eligibility list.

Section 6.07 Medical Examinations

Pre-employment medical examinations may be required for certain classifications prior to hire as a City employee. Such medical examination shall be conducted by a qualified physician selected by the City. Failure to successfully complete such examination may result in ineligibility for hire. All such examinations shall be job-related, conducted and utilized in accordance with the law.

RULE VII
ESTABLISHMENT

Section 7.00 Establishment

As soon as possible after the completion of an examination Human Resources Director shall prepare and maintain an eligibility list consisting of the names of candidates who qualified in the examination. The names of successful candidates shall be ranked on the basis of final score earned, from highest score descending to lowest score rounded off to the nearest tenth of a whole number.

Whenever identical final scores are achieved by more than one competitor, the names of those competitors shall be shown alphabetically by last name and as occupying the same position on the eligibility list.

Candidates whose names appear on an eligibility list shall be deemed qualified for

appointment, pending further review of such qualifying processes as reference checks, medical examination, background investigations, departmental interviews or other test measures deemed appropriate.

Section 7.01 Duration

Eligibility lists other than those resulting from a continuous examination shall remain in effect for 12 months, unless sooner exhausted or abolished by the City Manager upon the recommendation of the Human Resources Director.

Eligibility lists established as a result of either an open or promotional examination may be extended prior to expiration date by action of the Appointing Authority, upon recommendation of the Human Resources Director, for an additional period, but in no event shall an eligibility list remain in effect for more than 36 months. Whenever fewer than three names of candidates willing to accept appointment on a promotion eligibility list or an open eligibility list, the Human Resources Director may, upon recommendation of the department head, abolish that list, notify candidates remaining on the list of such action, and hold an examination to establish a new eligibility list.

Section 7.02 Re-Employment Lists

The names of probationary and regular employees who are separated from the competitive service by abolition of position, lack of work, or lack of funds shall be placed on appropriate re-employment lists. Such names shall remain on the list for a period of twenty-four (24) months unless such persons are sooner re-employed.

Section 7.03 Removal of Names

The name of a candidate may be removed from an eligibility list by the Human Resources Director for any of the following:

- A. Upon request of eligible candidate.
- B. Upon evidence that the eligible candidate cannot be located by postal authorities at that candidate's last known address.
- C. Failure to respond to an inquiry within the designated time.
- D. Two or more requests for waiver of certification on the part of the candidate.
- E. Any of the reasons specified in Section 5.02 of these rules.
- F. Resignation of an employee whose name is on a promotional eligibility list.
- G. For falsification of any application materials.

Section 7.04 Waiver of Certification

Persons listed on a promotional or open employment list, who temporarily desire not to

be considered for appointment at the time of certification of eligible candidates by the Human Resources Director to the hiring department head, may request that his/her name be passed over without altering his/her position on such list. Requests for waiver will be acknowledged and noted on the applicable eligibility list. However, only one such request will be accommodated, and subsequent lack of response to appear for employment consideration shall result in removal of the candidate's name from the appropriate list.

RULE VIII **METHOD OF FILLING VACANCIES**

Section 8.00 Notice to Human Resources Director

If a position vacancy in the competitive service is to be filled, the department head shall notify the Human Resources Director in the manner prescribed. The Human Resources Director shall determine whether to fill the vacancy by transfer, demotion, appointment from a promotional, open, or continuous, or re-employment eligibility list. Provisional appointment may be made in accordance with these Rules in the absence of persons eligible for appointment.

Section 8.01 Certification

The number of candidates to be certified to the hiring department, shall be all candidates certified to an employment list. The department head may select an appropriate number of candidates from among those certified to an eligibility list for hiring consideration. If there are not sufficient candidates to provide a reasonable candidate pool available on an eligibility list, the City Manager may abolish the list and call for a new examination.

Section 8.02 Appointment

All vacancies in the competitive service shall be filled by transfer, demotion, re-employment, re-instatement, or appointment from a valid eligibility list.

Section 8.03 Provisional Appointment

The appointing Authority upon recommendation of the department head and the Human Resources Director may make a provisional appointment of a person who possesses the minimum qualifications established for a particular class, in the absence of an available eligibility list. Such appointment may be in effect until an eligibility list is established and an appropriate hire is made. A provisional employee may be removed at any time without the right of appeal or hearing. If a provisional employee is selected for a full time position with the City the time served as the provisional appointee may be counted as time toward the fulfillment of the required probationary period provided there is no break in service. No special credit shall be

allowed in meeting any qualification or giving of any test or the establishment of any eligibility list for the service rendered under a provisional appointment.

Except as provided above, no person shall be appointed or employed to fill any position in the competitive service until the Classification Plan shall have been amended.

Section 8.04 Transfer

The transfer process shall not be used to effectuate a promotion, demotion, advancement, or reduction, each of which may be accomplished only as provided in these Rules.

No person shall be transferred to a position for which he/she does not possess the minimum qualifications.

For transfer purposes, a comparable class is one with the same maximum salary involving the performance of similar duties and requiring substantially the same basic qualifications. The Appointing Authority may order the transfer at any time of an employee from one position to another in a comparable class. If a transfer involves a change from one department to another, both department heads must consent to the transfer unless the City Manager/Appointing Authority orders the transfer.

Section 8.05 Reduction in Classification

Upon written request of an employee and with the consent of the affected department head(s) and Appointing Authority, reduction in classification may be made to a vacant position. When a reduction in classification is made the salary of the affected employee shall also be reduced to a level that is consistent with the authorized compensation of the newly assigned classification. An employee shall not be reduced to a position for which he/she does not possess the minimum qualifications. Reduction in classification may be made to a vacant position as a substitution for layoff. In the event of reduction in classification as a substitute for layoff, written notice of the reduction shall be given the employee seven (7) days prior to the effective date of the action.

Section 8.06 Demotion

The Appointing Authority may demote an employee whose performance of assigned duties and responsibilities falls below acceptable standards, or for other disciplinary purposes.

Section 8.07 Re-employment

Re-employment shall be made from a list of names of probationary and regular employees separated from the competitive service by abolition of position, lack of work, or lack of funds. Such re-employment shall be made only to the classification previously held by the employee.

Section 8.08 Re-instatement

Upon recommendation of the department head, the Appointing Authority may reinstate a former regular employee without examination to a classification in which the employee formerly served as a regular non-probationary employee within twenty-four (24) months following that employee's separation from the service. Upon reinstatement, the employee shall be subject to the probationary period prescribed for the class.

Section 8.09 Promotion

In consultation with the department head, the Human Resources Director shall determine if a vacancy is to be filled by promotion from within the competitive service. The filling of vacancies in such cases shall occur after a promotional examination has been given and an eligibility list established. Promotional certification may be utilized as a promotional examination in cases where only one (1) employee may be qualified for the higher level position.

Section 8.10 Emergency Appointment

To meet the needs of an emergency condition which threatens life, property, or the general welfare of the City, the City Manager may authorize the employment of such persons as may be needed for the period of the emergency, without regard to examination or appointment requirements in these rules.

Section 8.11 Temporary Appointments

The Appointing Authority may authorize a temporary appointment when personnel services are required to be rendered for a limited term in a non-regular position in the same or in a comparable class utilizing casual, seasonal and emergency labor.

The Appointing Authority shall further have the authority to terminate any temporary employment without cause at any time, and to alter or modify any of the previously prescribed terms, conditions and time period of such employment, unless same were prescribed by the City Council; in which case, the City Council may exercise like authority.

Temporary employees shall not have the right to appeal decisions made by the City affecting their employment.

Section 8.12 Modified Duty Assignments

Upon recommendations of the department head the City Manager may authorize the modified employment of an injured employee who is restricted in ability to perform the full range of normal job duties; and when necessary and appropriate, the City Council may authorize such funds as are required to support this form of limited employment.

Modified duty assignments may occur when a permanent employee, who has been injured on or off the job, has been medically released for limited work based on specified restrictions. At the conclusion of thirty (30) calendar days from the date of any injury or disabling illness, whether on or off the job, the City Manager may require the disabled employee to provide the department head with the treating physician's statement of work restrictions(s) or a status report specifying the employee's anticipated date of return to modified or full duty.

When an employee is assigned modified duty work, the employee shall be compensated for hours worked at the regular rate of base salary and benefits regardless of whether or not the employee performs work within the regular classified position; except in circumstances of a permanent modified duty position resulting from vocational rehabilitation after disability retirement wherein the employee would be compensated at the base rate established for such class of work. If an employee is assigned to modified duty less than full-time, compensation for hours worked may be supplemented by either accrued sick leave, partial Worker's Compensation disability payments, or other available leave.

RULE IX

PROBATIONARY PERIOD

Section 9.00 Objectives

The probationary period shall be regarded as an intrinsic part of the examination process and shall be utilized for closely observing the employee's work performance on the job.

The probationary period is designed to encourage the most effective adjustment of a new employee to his/her position, and specifically for dismissing any probationary employee whose performance does not meet the required standards.

Section 9.01 Appointment

All appointments to positions in the competitive service shall be subject to a probationary period. The normal probationary period shall be 6 months on-the-job work for all positions except for the following: Police Officer, 18 months; Police Services Technician, 12 months; Fire Fighter, 18 months. In individual cases, by mutual consent between the Appointing Authority and employee, the probationary period may be extended for up to 3 months. In special circumstances and with approval of the Appointing Authority, a department head may establish an alternate probationary period. The probationary period shall be considered as part of the examination and selection process from the time of appointment. Absence from work station with or without pay totaling more than 80 work hours, or 5 shifts for fire employees, for reasons other than vacation, shall not be counted toward completion of the probationary period.

A. Probationary Reports: Employees assigned to positions that have a 6 month

probationary period are to be evaluated at the end of the second and fifth months of service. Employees assigned to positions that have a 18 month probationary period are to be evaluated at the end of the third, seventh, eleventh, fourteenth, and seventeenth months of service. Employees assigned to positions that have 12 month probationary periods are to be evaluated at the end of the third, seventh, and eleventh months of service. Such evaluation shall be furnished by the appropriate department head to the Human Resources Director on an approved performance evaluation report form. Their report is to indicate the progress, capacity, and suitability of the probationary employee, a copy of which is to be provided to the probationary employee. Such probationary report shall not be subject to grievance or appeal.

- B. Recommendation Prior to Completion of Probationary Period. In the final performance evaluation report of the designated probationary period (end of fifth, eleventh or seventeenth month of service), the department head shall furnish the Human Resources Director with a recommendation as to whether the probationary employee's performance has been satisfactory and to be considered for a regular appointment to the class. If the probationary employee is recommended for a regular appointment to the class, the department head shall indicate the effective date upon a form the Human Resources Director may specify, otherwise the department head shall recommend the termination of the probationary appointment and provide due notice to the probationary employee. If the department head has not provided the Human Resources Director with a favorable recommendation by the beginning of the final month of the designated probationary period, the Human Resources Director shall consult the department head before initiating action to provide due notice and terminate the probationary appointment of the probationary employee prior to the completion of the designated or authorized extended probationary period. No probationary employee shall be allowed to complete a designated or authorized extended period without a favorable recommendation from the department head. If recommendation is made for rejection of the probationer by the department head, a written report of the reasons for said action shall be furnished to the Human Resources Director and to the employee a minimum of two weeks prior to effective date.

Section 9.02 Probation Upon Promotion

All employees promoted to a position in the classified service shall serve a probationary period of 6 months; Fire promotions, 12 months.

Section 9.03 Rejection of Probationary Employee

During the probationary period of an employee he/she may be discharged any time by the

Appointing Authority without cause and without right of appeal. Any probationary employee who has been discharged shall receive timely written notice of the action.

Section 9.04 Rejection Following Promotion

Any employee rejected during the probationary period following a promotional appointment shall be reinstated to the classification from which he/she was promoted unless the employee is discharged in the manner provided in these Rules.

Section 9.05 Performance Evaluations Following Probation

All employees shall be evaluated on an annual basis unless the necessity arises for more frequent evaluations. The annual evaluations shall coincide with the employee's anniversary date. Should an employee not receive an evaluation by his/her anniversary the evaluation is not considered to be waived. The supervisor shall prepare an evaluation at his/her earliest convenience.

RULE X
HOURS AND LEAVES

Section 10.00 General Hours of Work

The City Manager shall be responsible for assigning or modifying the work schedules. Unless prescribed in writing by the City Manager, the work day, work shift, work week and work schedule for each position shall be as follows:

- A. Hours of Work for General Employees: The regular hours for general administrative employees shall be from 9:00 a.m. to 5:00 p.m., Monday through Friday of each week. A one hour lunch shall be taken at the approximate mid-day point. However, department operations may necessitate different working hours and lunch schedule. Employees shall be at their work station during scheduled hours unless authorized in advance by the department head.
- B. Work Schedule for each position shall be established by the department head who may change such schedules from time to time based on the needs of departmental operations.
- C. A Flexible Schedule is a schedule of work hours and days during which an employee is to be present at work; the time of which shall consist of a specified period during the normal work scheduled, with the prescribed balance of hours to be worked by arrangement of the employee and department head. Employees working under a flexible schedule may not qualify for overtime for hours worked in excess of normal work day hours.
- D. Overtime Work is work that is specifically authorized by a supervisor and performed

in excess of the normal work day/week. Employees who perform overtime work shall be compensated at time and one-half (1½ times) the normal rate of pay. Employees who receive administrative leave are not eligible for overtime. Overtime is payable at no less than ¼ hour worked.

Section 10.01 Report of Duty Station

Employees are expected and required to report to their prescribed work location at the designated time work activities are scheduled to commence. Tardiness, unauthorized absence and failure to report as described in these rules and regulations or departmental rules and regulations, may be grounds for disciplinary action. In the event an employee cannot report to work on time, the employee shall notify the immediate supervisor or designee at least forty five (45) minutes prior to the start of a day(s) or shift's work at which time the employee shall give reason for the absence and a return date.

Section 10.02 Unauthorized Absence From Work/Failure to Report to Work

Employees who are absent from assigned work stations and schedules without official leave approval shall be considered absent without leave. Absence without leave is cause for discipline up to and including termination.

Section 10.03 Emergency Work Hours and Duty Assignments

- A. Many classes of employment in City service are subject to routine or periodic emergency call-back work as an inherent and integral part of assigned job responsibilities in order to provide continuous public services deemed to be necessary and appropriate by the department head.
- B. Employees who occupy positions designated for emergency work hours, including call-back, shall be required to keep the City apprized of a current telephone number where they can normally be reached during off-duty hours. Such employees shall be required to respond to such emergency work calls by the City within a reasonable amount of time, unless the employee is incapacitated or can give other just cause for not responding. The employee is considered to be officially on duty upon arrival at the designated work site.

Section 10.04 Vacation Leave

The purpose of vacation leave is to provide eligible employees the opportunity to take paid time off from their job responsibilities in order to maintain a high standard of mental, emotional and physical conditioning.

- A. Eligibility: All permanent employees who have completed at least one (1) year of continuous employment shall be entitled to an annual vacation leave with pay.

(Exceptions to this provision shall be granted by the Appointing Authority.)

B. Accrual: Eligible employees shall accrue paid vacation leave at a rate in accordance with prevailing Memoranda of Understanding with recognized employee organizations and/or based upon the following schedule of full time or equivalent uninterrupted service:

1. Police and Other Miscellaneous Employees: Every eligible employee shall be entitled to an annual vacation on the following basis:

1 to 5 years service	Ten (10) days
5 to 10 years of service	Fifteen (15) days
10 to 20 years and over	Twenty (20) days
21 years and over	Twenty-five (25) days

2. Fire fighters on a twenty four hour (24) shift shall receive and earn vacation in accordance with the current or latest Memorandum of Understanding.

3. Hourly Employees: An employee who is compensated on an hourly rate for services and who, is designated as permanent part-time, and who has been employed for one continuous year of service, shall accrue vacation time at the rate of 20 hours per year (.833 hours per pay period).

C. Use: An employee may elect to take all or part of earned vacation, or may carry over to the next service year all or part of earned vacation as approved by the department head and consistent with the provisions of subsection B hereinabove. However, the dates and amount of vacation selected by the employee shall be subject to departmental rules and approval of the department head.

D. Maximum Carry Over: No employee may carry over more than twice his/her annual rate of accrual. An employee who is found to have accrued more than twice their annual accrual shall be asked to schedule a vacation so that the excess may be reduced or placed on mandatory vacation leave.

E. Holiday Within Vacation Leave: Except for shift personnel in Police and Fire Departments, holidays which occur during a scheduled vacation period shall be counted as a holiday. Employees may request, in advance, that they extend their vacation leave by the number of holidays occurring within their scheduled leave, or request fewer vacation hours which with the holiday(s), will equal the total time period of their scheduled leave.

F. General:

1. In the event it becomes necessary to call an employee back to work from a scheduled vacation, the employee shall be credited with the unused vacation hours and shall have the opportunity to take such remaining vacation leave at

time of the employee's choosing with the department head's approval.

2. Under unusual or personal emergency circumstances, employees may request and department heads may consider the approval of vacation leave with fewer than the required days of notice.
3. If an employee leaves the City's employment and has unused vacation time, compensation shall be paid at the hourly rate times the number of hours of unused vacation.

Section 10.05 Holidays

The following holidays shall be observed by the City with respect to all employees. City offices shall be closed on these days except as otherwise provided by the department head.

- 1) New Years' Day (January 1)
- 2) Martin Luther King, Jr. Birthday (3rd Monday in January)
- 3) Washington's Birthday (3rd Monday in February)
- 4) Memorial Day (Last Monday in May)
- 5) Independence Day (July 4)
- 6) Labor Day (1st Monday in September)
- 7) Indigenous Peoples' Day (2nd Monday in October)
- 8) Veterans' Day (November 11)
- 9) Thanksgiving Day and Day after (4th Thursday and Friday after in November)
- 10) Christmas Day (December 25)
- 11) Floating Holiday (2 days)

If any holiday falls on Saturday, the preceding Friday shall be observed as the holiday; and if any holiday falls on a Sunday, the following Monday shall be observed as the Holiday.

If a holiday occurs on the employee's first normal day off, the employee shall take the preceding day as the holiday; if, however, the holiday occurs on the employee's second consecutive normal day off, the employee shall take the following day as the holiday. This policy shall be adhered to where practical and may be modified only by written consent of the department head to other conditions.

Notwithstanding the above, Miscellaneous Employees, who are required to work on a designated holiday, shall be credited with one and one-half (1 ½) additional vacation days for each holiday not taken.

Employees required to work on a holiday shall have the following options:

- 1) Take an alternate day off in the same pay period

- 2) Be credited with one and one-half (1½) days additional vacation
- 3) Be paid for one and one-half (1½) days at the regular rate of pay.

In either instance of election 1 or 2 the election must be approved by the department head.

In the first year of employment floating holidays for new employees are prorated and based on the number of full and partial months to be worked during the year. Holiday pay upon separation shall be in accordance with Section 4.13 A of these rules.

Fire Shift personnel shall receive holiday in accordance with the current MOU and applicable department policies, rules and regulations.

Sworn Police Department Personnel shall receive holidays in accordance with the current MOU and applicable department policies, rules and regulations.

Section 10.06 Excused Leaves of Absence

- A. Department heads may grant a permanent employee a leave of absence without pay for a period not to exceed one (1) calendar week.
- B. Leaves of absence without pay may be granted to permanent employees for a period not to exceed three (3) consecutive months upon recommendation of the department head and with approval of the City Manager. Following the initial granting of three (3) months, the leave of absence may be extended for a maximum of an additional six (6) months if recommended by the department head and approved by the City Manager. However, no such leave shall be granted except upon written request of the employee, setting forth the reasons for, circumstances of, and duration of requested leave.
- C. Temporary Leave With Pay: Notwithstanding the provisions of this section, the City Manager may approve, upon the recommendation of the department head, the temporary assignment of an employee to a status of leave with pay, pending the completion of an investigative or hearing process as may be required to determine possible disciplinary action.
- D. Bereavement Leave: Permanent or probationary promotional employees may be granted a maximum of three (3) work days or three (3) 24 hour shifts leave for each such incident relating to matters dealing with the death or critical/terminal illness of any member of the employee's immediate family. Upon documentation of extenuating circumstances, and with written authorization of the City Manager, such leave may be extended to five (5). Such leave is paid and no deductions will be made from other employee leave balances for such authorized purpose.

Section 10.07 Sick Leave

The objective of this section is to provide methods of furthering health and general welfare of City employees, as well as ensuring maximum and reasonable job attendance. Sick leave is a privilege not a right and is to be used only for the bona fide illness or injury that precludes the employee from working or for legitimate medical appointments that can not be scheduled during off duty hours.

A. General:

1. Employees may be granted sick leave in minimum units of one (1) hour for those reasons specified, provided that such time has been earned.
2. Department heads may require probationary employees to support each incident of sick leave use by verification of an attending physician's of statement bona fide injury/illness.
3. In all instances of sick leave, certification of approved or disapproved use shall be made by the department head. Department heads shall maintain accurate records of sick leave use, including annual surveys to determine possible corrective measures.

B. Accrual:

1. Sick leave shall be accrued monthly for all eligible full-time employees at the rate of one and one quarter (1-1/4) days, hourly employees ten (10) hours per year, and fire shift personnel in accordance with the latest Memorandum of Understanding.
2. Employees may accumulate sick leave as earned, but unused, without limit.

C. Procedure to Receive Sick Leave: To qualify for paid sick leave, the employee must notify the first level management supervisor in the work unit at least forty five (45) minutes prior to the start of the day's/shift's work.

1. Immediately upon notification of an unforeseen emergency, the employee shall inform the department management personnel of the circumstances of the emergency and request such length of absence as is deemed necessary. Department management personnel so informed shall use reasonable discretion in the exercise of requiring prior notification.
2. When sickness or injury exceeds two (2) consecutive working days, or one (1) shift, the employee's department head may require that a certificate in writing be provided, signed by a duly licensed physician and fully stating the nature and extent of such sickness or injury.
3. If, in the opinion of the department head, any single occurrence of an employee's use of sick leave was in connection with a condition that may be detrimental to the health and welfare of other employees, the department head

may require the employee to obtain a medical release from a physician of the City's choice and at City expense.

- D. Holidays During Sick Leave: Observed paid holidays occurring during sick leave shall not be counted as a day of sick leave, but shall be regarded as the taking of a holiday (except in the Fire Department where it is paid holiday).
- E. Sick Leave for Immediate Family Care: An employee may use up to twenty four (24) hours of accrued sick leave in any twelve (12) consecutive months for illness in the immediate family. At the City's request, the employee will provide satisfactory evidence of the facts justifying such absence.
- F. Sick Leave Without Pay: Upon written request of an employee, the department head may grant leave without pay due to personal illness/injury for up to thirty (30) calendar days and may, with the approval of the City Manager, grant extensions up to a total maximum period of ninety (90) calendar days. The initial and subsequent requests for sick leave without pay must be accompanied by a physician's certificate stating the nature and approximate duration of medical disability.
- G. Sick Leave Abuse: In order to assure compliance by employees with the sick leave privilege, and to refrain from imposing undue requirements on all employees for the misconduct of a few, an administrative program is hereby established to identify probable cases of sick leave abuse and apply corrective measures. Except when sick leave use is known to be in connection with hospitalization, major injury or illness, or verified emergency leave, sick leave abuse, as used here, shall generally be defined as any of the following conditions:
 - 1. Where an employee utilizes more than three (3) days or two (2) shifts of sick leave in any quarter calendar year in connection with the day before or after a holiday, or first or last day of the work week/shift.
 - 2. Where an employee uses all of their earned sick leave which requires their wages to be reduced because of sick leave without pay.
 - 3. Where an employee fraudulently utilizes any single occurrence of sick leave.

Generally, when a pattern of abuse of sick leave is apparent, the department head, or employee's supervisor, shall evaluate such cases. In those cases where sick leave privilege has been apparently abused, appropriate action including the denial of sick leave use and/or disciplinary action up to and including termination may be taken.

Section 10.08 Disability Leave

All employees may be eligible for Disability Insurance administered by the State of California Employment Development Department. Under the California Employment Insurance code, definition of "disability" includes any illness or injury, either personal or mental, including

pregnancy, childbirth, or related medical condition, that prevents the employee from doing his/her regular or customer work requirements.

Section 10.09 Health Maintenance Physicals

Prior to the resumption of work duties, after taking any occurrence of sick or industrial disability leave, an employee may be required to undergo a physical examination by a physician of the City's choice and at City expense; or submit a certificate in writing of employability from the employee's treating physician where it is in the City's best interest to determine the employee's physical or mental ability to resume work duties.

In all cases of medical absence due to a threatening contagious condition, or its potential, the afflicted employee shall immediately notify the department head by telephone of such condition and shall be required to provide medical evidence of employability before returning to work.

Section 10.10 Maternity Leave

- A. Continuation of Employment: A pregnant employee may continue employment as her health, the health of the unborn fetus, and/or her ability to adequately perform prescribed job responsibilities would not be adversely affected by continued employment.
- B. Provisions: The provisions for maternity leave are contained in Administrative Instruction 1124, "Maternity."
- C. Term of Leave: Maternity absences shall be granted only for medical reasons arising out of and in the course of a pregnancy, the subsequent childbirth, or other related medical conditions, as provided in state and federal regulations.
- D. Paternity Leave: Paternity absences for the birth of a child may be granted up to three (3) days; such leave shall be deducted from the employee's accrued sick leave.

Section 10.11 Military Leave

Employees obligated to serve involuntary periods of active military duty shall be compensated for normal work hours/days/shifts during such absence in accordance with the law.

Section 10.12 Jury Duty Leave

- A. Employees who have been summoned, or subsequently selected, to service on a jury shall receive their regular rate of compensation for normal work hours/days/shifts during such absence from work, provided the employee endorses to the City that compensation received for such duty service.
- B. Employees will be allowed to retain any mileage compensation granted to them by the respective court jurisdiction to which they were summoned, or selected, for jury

- duty.
- C. Employees must provide evidence to their respective department heads of summons to jury duty and of subsequent jury duty days away from work.
 - D. Employees compensated by the summoning court jurisdiction for jury duty shall endorse such payment(s) to the City within the same pay period in which payment is received by the employees in order to receive regular compensation from the City. Endorsement is to be forwarded directly by the employee to the Finance Director.

RULE XI

DISCIPLINARY ACTION/SEPARATION FROM THE SERVICE

Section 11.00 General Provisions

In order to establish standards of conduct and work performance for employees that are consistent with the efficient delivery of public services, and to maintain the integrity or employment where public interest is vital, the City hereby sets forth those circumstances under which disciplinary action may be required and the procedures under which such actions may occur, which will afford employees fair treatment and due process.

To ensure equitable processing of disciplinary actions, the City Manager shall be responsible for the proper handling of such matters, including the assurance that employee rights are protected and that appropriate action is taken when circumstances warrant. Officers of the City, who are responsible for recommending or implementing disciplinary action, shall do so based on the procedures prescribed herein.

As used in this chapter, “disciplinary action” shall mean discharge, demotion, reduction in salary, written or oral reprimand, disciplinary transfer, disciplinary probation and/or suspension without pay.

- A. The procedures set forth in this Rule apply only to regular employees in the competitive service, and shall not apply to probationary employees who are rejected from probation pursuant to these rules, or to any employee exempted from the provisions of these rules pursuant to Section 2.03.
- B. The procedures set forth in this chapter shall not apply to a reduction in force, or a reduction in pay which is part of a general reclassification plan, to any regular employee performance evaluation, or to informal counseling.
- C. The procedures set forth in this chapter shall not preclude an employee from entering into a written agreement with the City to settle a pending disciplinary matter, and further shall not preclude an employee from waiving any of the provisions herein provided for, as part of any such written settlement.
- D. Any time lines set forth in these rules may be extended by the City Manager for good reasons, upon notice to the employee and his/her representative.

Section 11.01 Causes for Disciplinary Action

Causes for disciplinary action against any employee include, but are not limited to, the following:

1. Fraud or dishonesty in securing appointment
2. Incompetence, unsatisfactory performance, or neglect of duty
3. Insubordination, willful disobedience or repeated failure to follow instruction
4. Failure to cooperate reasonably with supervisors, or fellow employees
5. Dishonesty, theft
6. Consumption of or being under the influence of alcoholic beverages or narcotics while on duty
7. Unlawful use, sale or possession of firearms, narcotics, or other controlled or illegal substances
8. Commission or conviction of a felony or of a misdemeanor unfitting the employee for public service
9. Tardiness, absence without leave, unauthorized use of leave, abuse of leave, absenteeism
10. Discourteous treatment of the public or other City staff
11. Unlawful political activity
12. Violation of safety procedures or repeated avoidable accidents
13. Misuse of City property, equipment or funds
14. Violation of Personnel System Rules and Regulation, departmental rules, regulations, standard operating procedures, collective bargaining agreements, or state or federal law
15. Refusal to take or subscribe to any oath or affirmation which is required by law in connection with employment
16. Failure to maintain required licenses, certifications or other minimum qualification for the position
17. Unauthorized use of City uniforms, insignia, identification, authority or discretion
18. Unauthorized outside employment which interferes with the employee's work performance, or which is in conflict with the employee's City employment
19. Failure to satisfy the terms of any performance improvement plan
20. Unauthorized release of confidential information or official record, or
21. Any other act, either during or outside of duty hours, which is detrimental to the public service or brings discredit to the City.
22. Any act or conduct that is discriminatory in nature toward another person's race, creed, color, national origin, sex (including sexual harassment), age, religious beliefs or political affiliations.

Section 11.02 Persons by Whom Disciplinary Action May Be Taken - Notice Requirements

A. The City Manager or any Department Head may take the following disciplinary actions against an employee under his/her supervision by notifying the employee in the manner provided:

1. Oral Reprimand - verbal notification (verbal notification may be followed by a written confirmation of the oral reprimand which may be placed in the

- employee's personnel file.)
2. Written reprimand - written notice of a reprimand by personal delivery or by regular mail to the employee's last known address.
 3. Suspension without pay up to and including 3 working days or 3 shifts-written notice by personal deliver or by regular mail to the employee's last known address.
- B. A department head may suspend an employee without pay for a period not to exceed 10 working days or 3 shifts, in any one instance; twenty work days of 6 shifts in any fiscal year. The City Manager may impose any of the following disciplines: suspension without pay for a period not to exceed six weeks, temporary or permanent demotion, reduction in pay, disciplinary probation up to three calendar months, discharge, or disciplinary transfer. The following notice will be provided to employees in the case of a discipline under this paragraph:
1. The employee will be provided with a written notice of intended, proposed or recommended discipline, setting forth the specific nature of the discipline, the proposed effective date, and the reasons for the discipline. A copy of the materials upon which the discipline is based will either be provided with the notice, or made available to the employee after the delivery of the notice.
 2. The notice will be delivered personally or by regular mail to the employee's last known address.
 3. The notice will advise the employee of the employee's right to respond either orally or in writing to the person imposing the discipline, or his/her designee, and of the employee's entitlement to be represented in the preparation and presentation of this response. The employee will normally be allowed seven (7) days to respond.
 4. After receiving the employee's response, if any, the person imposing the discipline will notify the employee of the discipline in writing. The notice will include a statement of the nature of the disciplinary action, reasons for and the effective date of the discipline, and of the employee's appeal rights.

Section 11.03 Appeal of Lesser Disciplines

- A. Any regular or probationary employee who has been suspended without pay up to and including 3 working days or one 1 shift, or transferred for purposes of punishment, or who has received a written reprimand, has the right to appeal the discipline to the City Manager.
- B. Such appeal must be filed with the City Manager within ten (10) calendar days after receipt of the Notice of Discipline. Failure to file an appeal within such period constitutes a waiver of the right to appeal.

- C. The appeal must be in writing, and state the specific reasons upon which it is based.
- D. Within fourteen (14) calendar days of receipt of such an appeal, the City Manager will schedule a conference with the employee. The employee will have the opportunity to submit a response to the discipline, either orally or in writing, and present reasons as to why the discipline should not be imposed. The employee will have a right to representation during this conference.
- E. Upon conclusion of the conference, the City Manager may make any additional inquiries as necessary for a decision on the merits of the appeal. Within fourteen (14) calendar days after the conclusion of the conference, the City Manager will render a written decision on the matter, which shall be conclusive and not subject to reconsideration.
- F. Any time limit specified herein may be extended by the City Manager for appropriate cause.

Section 11.04 Appeal of Serious Disciplines

- A. An employee who has been discharged, demoted, reduced in salary, placed on disciplinary probation, transferred for disciplinary reasons or suspended without pay for more than three days has the right to appeal the discipline as provided herein below. To preserve this right, the appeal must be filed with the City Manager within ten (10) calendar days after receipt of the notice of discipline. Failure to file an appeal within such period constitutes a waiver of the right of appeal.
- B. The appeal must be in writing and must state specifically the reasons upon which it is based.
- C. Employees who are governed by a memorandum of understanding or Council resolution which contains a disciplinary appeal procedure will be entitled to an appeal in accordance with that procedure.

Section 11.05 Relief From Duty

Notwithstanding any other provision of this rule, the City Manager may approved the temporary placement of an employee on leave with pay during an investigation relating to discipline, or pending the opportunity to respond to proposed discipline.

RULE XII **REPORTS AND RECORDS**

The Human Resources Director shall maintain a service or personnel record for each employee in the service of the City, showing name, classification, the department to which assigned, salary, changes in employment status, and such other information as may be considered

pertinent by the Human Resources Director. Such records shall be maintained in accordance with the provisions of state and federal law.

Section 12.00 Attendance

Employees shall be in attendance at their work assignments in accordance with the Rules regarding hours of work, holidays and leaves.

All supervisors shall maintain and submit to the designated authority, daily attendance records of all employees in the competitive and exempt services, in the same manner prescribed.

Section 12.01 Change of Status

Every appointment, transfer, promotion, demotion, change of salary range, or any other temporary or permanent changes in status of an employee shall be reported to and/or approved by the Human Resources Director in the manner prescribed.

Section 12.02 Accident reports

Any employee involved in an accident while on the job which results in personal injury or property damage of any kind, shall report the accident promptly to his/her supervisor. The employee and/or the supervisor shall fill out forms for reporting the accident to the Human Resources Director in the manner prescribed.

Section 12.03 Review of Personnel File

Employees wishing to review or obtain materials contained in their personnel file may, upon reasonable advance notice to the Human Resources Department, inspect records pertaining to their own employment at any reasonable time during normal office hours. Such records may not be reproduced without the notification of the Human Resources Director. Any reproduction of materials will be carried out by Human Resources Department staff only, and will be subject to a reasonable administrative fee.

RULE XIII
GRIEVANCE PROCEDURE

Section 13.00 Grievance

It is the purpose of this Chapter to provide fair, reasonable, equitable and timely administrative mechanisms by which employees may have disputes resolved concerning matters of, or relating to, employment with the City. It is the intent of this Chapter to:

- 1) Promote harmonious employer/employee relations by providing an orderly and meaningful system through which employee problems, or concerns, can be reviewed

- by appropriate management personnel, including the City Manager;
- 2) Provide dispute resolution in a timely fashion and at the lowest possible level and to prevent recurrences; and/or
 - 3) Assure fair and equitable treatment of all employees.

Any employee in the competitive service shall have the right to grieve any action relative to any disciplinary action, dismissal, demotion, suspension or alleged violation of the Personnel Rules, or Memorandum of Understanding, except in instances where the right of appeal is prohibited by these Rules.

- Step 1:** The employee and/or his/her representative may present the grievance informally, in writing or orally, to the immediate supervisor within ten (10) working days of the occurrence of the dispute or ten (10) working days from such time as the employee could have reasonably been aware of the occurrence. The supervisor shall transmit a response to the grievant within seven (7) working days of receipt of the grievance.
- Step 2:** Should the grievance remain unresolved at Step 1, the grievance may be submitted in writing to the department head or his/her designee within seven (7) working days of the discussion held in Step 1. A written response shall be given to the employee within seven (7) working days of submittal to the department head and his/her designee.
- Step 3:** Should the matter remain unresolved, the grievance will be submitted within seven (7) working days to the Human Resources Director who shall give a written reply within seven (7) working days.
- Step 4:** Should the grievance remain unresolved at Step 3, the employee, within seven (7) working days after receiving the Human Resources Director's, the employee and/or his/her representative may request a hearing of the grievance before a hearing officer designated by the City Manager. Such hearing officer shall render an advisory decision to the City Manager, who may adopt, modify or remand the hearing officer's decision. The Human Resources Director shall notify the employee, and any concerned parties, of the date, time, and place of hearing. Each party will have the right to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses on any relevant matter, to impeach any witness regardless of which party first called that witness, and to rebut the evidence against him or her. The grievant may be called to testify by either party, and may be examined as if under cross-examination by the City.

The hearing need not be conducted according to the technical rules of evidence. Any relevant evidence shall 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 rule which might make improper the admission of the evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing, and irrelevant and unduly repetitious evidence shall be excluded. The decision of the City Manager shall be final and binding.

Waiver of Steps and Time Limits:

Any time limit or stage or procedure specified in this section may be waived upon consent of all parties involved. In the case of dismissals, demotions, and suspensions, the employee may initiate his/her grievance at the third step.

RULE XIV

LAY OFF

Section 14.00 Causes of Layoff

The City Council may abolish any position or employment in the competitive service for reasons of lack of work, lack of funds, economy, or reorganization. Positions subject to a layoff include grant-funded positions

Section 14.01 Notice to Employees and Employee Representatives

Once the City Council has decided to abolish positions, the City will notify all effected employees, and all effected recognized employee organizations of the Council's decision. Except in emergency conditions, the layoff shall not occur until a reasonable time has been afforded those effected employees and employee organizations to meet and confer over the effects of the proposed actions and consider such alternatives as they may propose. In addition, recognized employee organizations shall be provided notice of all public hearings regarding the action or proposed action. Employees shall be given a minimum of two (2) weeks written notice prior to actual termination.

Section 14.02 Order of Layoff

The order of layoff shall be in reverse order of seniority in the affected classification (City wide) plus higher classifications. To have seniority in the affected classification, the employee must be serving in or have previously served in the classification or in a higher classification in the same job family (e.g., Clerk I, Clerk II, Clerk III). No regular employee will be laid off in any classification while there are employees with non-regular status in the same

classification. Layoffs involving grant funded positions shall be consistent with the applicable funding regulations. Part-time positions are considered to be lower classifications to full-time positions in the same job classification.

Section 14.03 Seniority

Seniority shall be calculated on the basis of an employee's time served in full-time paid status as a regular, probationary, provisional or grant funded employee, and time served on military or workers compensation leave. One seniority point shall be awarded for each month of such service in which the employee was in paid status for at least eighteen (18) work days. In the case of two or more employees having the same seniority point ratings in the affected class, the order of layoff shall be determined first by original date of hire, and second by order of rank on the eligibility list.

Section 14.04 Rights of Laid-Off Employee

Employees who are notified that they are subject to lay-off have the right to accept any of the following elections:

- A. Accept the lay-off and be placed on a re-employment list for twenty-four (24) months.
- B. Exercise displacement rights into any of the following categories and be placed on a re-employment list for twenty-four (24) months:
 1. Any classification in which the employee has previously served in a regular status and in which there is at least one employee with lower seniority than the displacing employee.
 2. Any classification which the displacing employee has previously supervised and in which there is at least one employee with lower seniority than the displacing employee.
 3. A remaining part-time position in the same classification as the displacing employee provided that the part-time incumbent has less seniority than the displacing employee.
 4. A vacant position in a lateral or lower class for which he or she has the necessary education, experience, and training (as determined by the Appointing Authority and not subject to review.)

Acceptance of any of the bumping options (B (1)-(4)) will not effect an employee's right to reinstatement to the position from which he/she was displaced should a vacancy arise during the twenty-four (24) months following lay-off.

Section 14.05 Responsibility of the Human Resources Director

The Human Resources Director will be responsible for maintaining seniority and re-employment lists for use in the case of a layoff. Upon notification by the Appointing Authority of a decision by the City Council to eliminate positions, the Human Resource Director will provide the Appointing Authority with a seniority list of the employees who will be affected by the proposed layoff.

Section 14.06 Re-employment

It is the responsibility of employees who have been laid off to provide the City Human Resources Director with current address and telephone number for the purpose of re-employment notification. When a vacancy occurs in any classification for which there is an eligible on a re-employment list, the City will notify those employees eligible for re-employment. Re-employment will be in seniority order. The employee will be provided with ten (10) working days to reply to the re-employment offer, and has the right to waive re-employment one time before being removed from the list. Any employee who fails to respond within the ten days will be removed from the list. The City has no responsibility to attempt to locate employees who have not provided current address and telephone number information to the Human Resource Manager.

Employees who are re-employed from a lay-off list do not receive credit for seniority or other benefits for the period of layoff, but are re-employed at the salary and benefit accrual level they were entitled to at the time of lay-off.

Section 14.07 Right of Review

The City Council's decision to abolish positions is not subject to administrative review. The application of any of the lay-off or bumping procedures is subject to review pursuant to the applicable grievance procedure.

RULE XV
EMPLOYEE ACTIVITIES

Section 15.00 Political Activities

A. **Policy of the City**

It is the policy of the City of Emeryville to encourage its employees to develop an interest in community affairs and to become active in community social and political organizations to the extent permitted by State and Federal Laws. Subject to the limitation herein set forth, every employee is free to actively support in a variety of ways, any candidate or political issue of his/her choice.

However, City employees are directed not to campaign, circulate or sign petitions of a

political or other nature, utilize city vehicles for campaign work, or be photographed for campaign endorsements during normal working periods, while on duty, or in uniform.

Such restrictions prohibit the use of any employee's working time, the use of city supplies and/or the use of city materials for furthering, in any way, the candidacy of the employee or any other individual.

Political activities must be limited to the employee's own time, using outside resources, and political endorsements should be given as individuals rather than as employees of the City of Emeryville.

C. **State law** prohibits any City officer or employee from doing the following:

1. Directly or indirectly soliciting or receiving political funds or contributions, knowingly, from other city officers or employees or from persons on the employment lists (Sec. 3205, Government Code). An officer or employee may solicit or receive political funds or contributions to promote the passage or defeat of a ballot measure which would affect the rate of pay, hours of work, retirement, Civil Service, or other work conditions during non-working hours (Section 3209, Government Code).
2. No one who holds, or who is seeking election or appointment to any office or employment in a state or local agency shall, directly or indirectly, use, promise, threaten or attempt to use, any office, authority, or influence, whether then possessed or merely anticipated, to confer upon or secure for any individual person, or to aid or obstruct any individual person in securing any position, nomination, confirmation, promotion or change in compensation or position, within the state or local agency, upon consideration or condition that the vote or political influence or action of such person or another shall be given to, used on behalf of, or withheld from, any candidate, officer, or party, or upon any other corrupt condition or consideration. This prohibition shall apply to urging or discouraging the individual employee's action (Section 3204, Government Code).
3. Participating in political activities of any kind while in uniform (Section 3206, Government Code).

C. Federally Funded Programs

City officers and employees whose principal employment is in connection with a city activity which is financed in whole or in part by loans or grants made by the United States or a Federal Agency are prohibited by Federal Law (5 U.S.C.A. Section 1501-1508) from:

1. Being a candidate for elective office if any candidate represents a national or state political party any of whose candidates for presidential electors received votes in the last preceding election at which presidential electors were selected (this does not preclude participation as a candidate in campaigns where none of the candidates represents such a political party).
2. Using her/her official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office.
3. Directly or indirectly coercing, attempting to coerce, commanding or advising a State or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency or persons for political purposes.

Section 15.01 Off-Duty Employment

Gainful employment other than an employee's regular position with the City shall be considered a privilege subject to regulation and not a right. No employee shall continue or engage in a gainful occupation outside his/her City position which is incompatible with City employment, or which is of such nature as to interfere with the satisfactory discharge of his/her regular duties. Any employee who wishes to engage in or accept employment outside his/her regular employment with the City may do so only after having conferred with the respective department head and of the Human Resources Director.

City employees are permitted to work off duty when all of the following conditions are met:

- 1) Such employment does not conflict with department schedules, duties and responsibilities.
- 2) Such employment does not create a conflict of interest nor an incompatibility to City employment.
- 3) Off-duty employment does not create detrimental effect upon the employee's performance of City duties and responsibilities.
- 4) Work performed in off-duty employment is not regulated or inspected by the employee in the capacity of his/her City employment.
- 5) The off-duty employment does not involve conducting private business during hours of City employment.

- 6) The off-duty employment is strictly for the benefit of the employee.

An employee who sustains a disabling injury or illness during the course of self-employment or off-duty employment, not related to employment in the City of Emeryville, is not entitled to receive Worker's Compensation benefits provided by the City.

Section 15.02 Privacy Issues

A. Computers, Voice Mail, Mechanical and Electronic Equipment

Personal computers, telephone voice mail and other mechanical and electronic equipment are the property of the City. The City reserves the right to have access to information stored in the equipment whenever business needs of the City require such access.

B. Searches of Work Area

Employees have a reasonable expectation of privacy in areas intended to remain as private, depending upon the realities of the work place. At the same time, the City has a legitimate interest in maintaining a safe and efficient work place. A Department Head's search of his or her employee's work area, office, desk, locker or file cabinets is justified if conducted with a witness and if necessary for a work-related purpose, or with a witness if there is reasonable suspicion of employee misconduct. The scope of the search must be limited to serve only the legitimate purpose and does not include the right to search inside personal property found in those areas.

Section 15.03 Employee Orientation, Training/Development

Within the first week of appointment a newly hired employee shall receive a thorough orientation of department work rules and practices, safety procedures, City policies and procedures. The hiring department shall be responsible for all department functions rules and regulations, personnel shall be responsible for City wide policy orientation.

The City encourages the training, self-improvement and personal development of all employees. Toward this end the City may provide employee training and education by either in-service training or educational programs.

A. In-Service Training

The Department Head and Human Resources Director have responsibility for developing in-service training programs. Training programs may include classes, lectures, courses, demonstrations, reading assignments, research and report writing, and other methods for improving effectiveness and broadening the knowledge of employees.

B. Educational Programs/Tuition Reimbursement

Employees are encouraged (but not required) to further their education by taking accredited courses which are:

1. Related to the employee's present position with the City;
2. Related to the employee's potential development with the City;
3. Part of a program leading to a degree related to the employee's present position or potential for development; or
4. Required to obtain a diploma, degree or certification.

An employee who participates in an educational program may be eligible for reimbursement of courses taken on the employee's own time and at his/her expense. Expenses eligible for reimbursement are registration fees and books.

To be eligible for tuition reimbursement the employee must:

1. Be a regular employee;
2. Submit a request for reimbursement to the Department Head and have it approved in advance of taking a course;
3. Receive a satisfactory ("C" or better) passing grade in the course.

An employee who voluntarily terminates employment with the City within 18 months after receiving tuition reimbursement, is required to make restitution of the reimbursement to the City or have the amount deducted from compensation.

The City Manager may establish policies and regulations for the administration of the tuition reimbursement program including annual maximum reimbursement and a pro-rata return policy for employees who terminate within 18 months. In establishing policies and regulations the City Manager will take into account the fiscal condition of the City. The decision of the City Manager on all tuition reimbursement matters is final.