

CITY OF WEST COVINA



PERSONNEL RULES

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RULE I – GENERAL PROVISIONS

SEC. 1.1 PURPOSE

These Personnel Rules are intended to implement and supplement the Personnel Ordinance and the Classification and Salary Resolution in the establishment and maintenance of a justifiable, efficient, and uniform personnel program for the City of West Covina (“City”).

SEC. 1.2 APPLICABILITY

The provisions of these rules shall apply to all classified employees. The applicability of these rules to unclassified employees is limited to position classification, attendance, vacation and holidays, leave policies, outside employment, long term disability, political activity, solicitation, and discrimination, except where specified.

SEC. 1.3 NO CONTRACT RIGHT

These rules do not create any contract right, or any express or implied contract of employment.

SEC. 1.4 CONFLICT BETWEEN THESE RULES AND A MEMORANDUM OF UNDERSTANDING

If a provision of these rules conflicts with any provision of a valid memorandum of understanding (“MOU”) between the City and a recognized employee organization, the provision of the MOU that is in conflict shall apply to employees covered by that MOU.

SEC. 1.5 EMPLOYEE ACCEPTANCE OF RULES AND REVISIONS TO RULES

As a condition of employment, the City requires that each employees read and, if necessary, request clarification regarding these rules. Each employee must sign a statement of receipt acknowledging that: a) he or she has received a copy, or has been provided access to the rules; and b) understands that he or she is responsible for reading and becoming familiar with the contents of the rules and any subsequent revisions to the rules.

SEC. 1.6 ADMINISTRATIVE RESPONSIBILITIES

A. Personnel Officer

1. The duties and responsibilities of the Personnel Officer may be assumed entirely by the City Manager, entirely by another employee designated by the City Manager as the Personnel Officer, entirely by an individual or

agency with which the City contracts for performance of the Personnel Officer, or the Personnel Officer's duties and responsibilities may be divided among any combination of the foregoing.

2. In the event that the City Manager delegates all or part of his/her powers and duties as Personnel Officer as provided in these rules to another officer or employee of the city, such employee may be employed on a full-time or part-time basis. The position of Personnel Officer may be combined with any other position in the City Service.
3. The Personnel Officer shall establish and maintain an updated roster of officers and employees of the City, an individual employment folder for each employee containing all papers pertinent to said employee's work history, such forms, records, and documents as required to implement the proper administration of the classification and salary plans, the examining program, and such other aspects of the overall personnel programs as are necessary.
4. The Personnel Officer shall be responsible for the preparation and revision of such forms, documents, records and operating procedures as are necessary for the accomplishment of the provisions of these rules, the Personnel Ordinance and the Classification and Salary Resolution and as are required in the administration of the personnel program for the City.

B. Contracting for Services

The City Manager shall consider and make recommendations to the City Council regarding the extent to which the City should contract for the performance of technical services in connection with the development and administration of any phase of the personnel program. The Council may contract for the performance of such service with a qualified person or agency.

C. Human Resources Commission

1. The regular monthly meeting of the Human Resources Commission ("Commission") shall be held at the time and place, which the Commission may determine. The City Council must confirm the meeting time and place by resolution. The Personnel Officer shall give written notice of special meetings to all members of the Commission at least 24 hours prior to the meeting. The notice may be delivered personally or by mail; and shall contain a statement of the purpose of the meeting.
2. The Commission shall maintain official minutes of its actions. The Personnel Officer shall arrange for taking and preparation of the Commission's minutes.

3. All substantive requests, recommendations and actions of or to the Commission shall be in writing and shall be made part of the record.
4. Each Commission member shall recognize that it is the policy of the Commission to act as an official body. No member or combination of members of the Commission shall grant a private or unofficial hearing to any employee or group of employees, or pursue any such course as might be construed to be prejudicial for or against any employee or group of employees, or encourage the violation of the passing of any step or stage in the official lines of authority within the City organization, or any step or stage of procedures established by these rules, the Personnel Ordinance, or the Classification and Salary Resolution.
5. At any hearings conducted by the Commission, within the scope of the Commission's responsibilities as set forth in Chapter 2, Article III, Section 2-73 of City's Municipal Code, the Commission may make arrangements to keep stenographic records of the proceedings. When a decision is made by the Commission, it shall be reduced to writing and incorporated in the records.

SEC. 1.7 AMENDMENT OF THE RULES

A. Power to Amend

The City Council shall have the authority to adopt, amend, or revise the Personnel Rules as provided in Section 2-192, paragraph (b) of West Covina Municipal Code.

B. Hearings on Amendments

1. At the City Council's discretion, upon recommendation of the Personnel Officer and Commission, the Council may authorize the Commission to conduct hearings relative to any proposed amendment to the Personnel Rules.
2. In the event such hearings are to be held, the Personnel Officer, upon request of the Commission, shall post notices in all City departments announcing the times of, and describing the issues involved in, such hearings, such notices shall be posted no less than five (5) working days prior to the date of the hearing.

SEC. 1.8 DEFINITION OF TERMS

A. General Definition

All Words and terms used in these rules and in any resolution or ordinance dealing with personnel policies, systems, or procedures shall be defined as they are normally and generally defined in the field of personnel administration.

B. Specific Definitions

1. **“Allocation”** means the official assignment of an individual position to an appropriate class in accordance with its duties and responsibilities.
2. **“Anniversary Date”** means an employee’s original hire date, which is the first day an employee reports to and performs work for the City and is in paid status. An “anniversary date” is the date used to compute an employee’s seniority and various conditions and benefits described in personnel rules, employment policies and ordinances, unless otherwise defined. An anniversary date would not need to be adjusted for employees who transfer from one full-time position to another, without a break in service.
3. **“Appointing Authority”** means the City Manager, Division Manager, or Department Head having the power by law or ordinance to make an appointment to any position in a specified department of the City of West Covina.
4. **“Calendar Month”** means any of the twelve months starting on the first day thereof and terminating at the close of the last day thereof.
5. **“Class”** or **“Class Positions”** is composed of all positions in the City service having duties and responsibilities sufficiently similar so that the same requirements as to education, experience, knowledge, and ability may be demanded of incumbents and so that the same schedule of compensation may be made to apply with equity to all.
6. **“Classified Service”** means all positions in the city service except for those specifically exempted by Section 2-236 of the Municipal Code.
7. **“Compensation”** means the salary, wage, allowance, and all other forms of valuable consideration earned by or paid to any employee by reason of service in any position, but does not include expenses authorized and incurred incidental to employment.
8. **“Continuous Service”** means regular service in the employ of the city without a break or interruption. A deliberate severance of the employee from his/her employment initiated by either the City or the employee for periods of more than 15 days constitutes a break in continuous service.

9. **“Council”** means the City Council of the City of West Covina.
10. **“Department”** includes offices and various divisions of departments and is a section of the organization designated as such on the Organizational Chart.
11. **“Department Head”** means the head of an established City department, having supervision of such department.
12. **“Desirable Qualifications”** as stated in the class specifications means those requirements deemed highly suitable for employment in the classification described.
13. **“Division Manager”** is the manager of several City departments, having supervision of Department Heads and reporting to the City Manager.
14. **“Elective Service”** means all positions of elected officers.
15. **“Eligibility List”** means the names of successful applicants according to relative performance on the total weighted examinations.
16. **“Employee”** means a person occupying a position in the City service.
17. **“Full-Time Employees”** shall mean those employees whose positions require the total number of hours prescribed for normal employment in the class or position, generally 40 hours per workweek. All positions shall be full-time unless otherwise designated, or unless the compensation is fixed upon the basis of part-time work. Full-time employees receive all benefits provided in these rules, unless otherwise provided in an MOU, or an employment agreement approved by the City Council.
18. **“Police Officer Lateral Entry”** A Police Officer possessing a California P.O.S.T. Basic Certificate and employed- for a minimum of 18 months with a California Police or Sheriff’s Department or Highway Patrol.
19. **“Limited Service”** includes all or any of the following:
 - a. **“Part-time Employee”** means a person holding an authorized position which is designated part-time, and the compensation for which is fixed upon the basis of part-time work. Part-time employees may have different rights to leave and other benefits under the law or these rules, depending on the number of hours they work. A part-time employee serves as an at-will employee and at the pleasure of the appointing authority, has no property right in continued

employment, and has no right to any pre- or post-disciplinary procedural due process or appeal.

- b. **“Seasonal Employee”** means an employee temporarily employed in a position, which is not regular and is not dependent upon a condition of emergency, but is regularly recurrent in certain offices or departments based on seasonal workload. A seasonal employee is not a full or part-time employee, and is not appointed from an eligibility list. A seasonal employee is appointed on a seasonal basis, not to exceed six (6) months. A seasonal employee serves as an at-will employee and at the pleasure of the appointing authority, has no property right in continued employment, and has no right to any pre- or post-disciplinary procedural due process or evidentiary appeal.
 - c. **“Temporary Employee”** means an employee employed on a temporary basis because of the workload within a department. A temporary employee is not a full or part-time employee, and is not appointed from an eligibility list. A temporary employee is appointed on a project oriented or department workload as needed basis, not to exceed six (6) months. A temporary employee serves as an at-will employee and at the pleasure of the appointing authority, has no property right in continued employment, and has no right to any pre- or post-disciplinary procedural due process or evidentiary appeal.
- 20. **“Military Leave”** means leave of absence for Military Duty.
 - 21. **“Position”** means a combination of current duties and responsibilities legally assigned to a single officer or employee and performed on either a full or part-time basis.
 - 22. **“Provisional Employee”** shall be a full-time employee appointed in the absence of an eligibility list for a stipulated period of time.
 - 23. **“Reallocation”** means a change in allocation of an individual position from one class to another.
 - 24. **“Recognized Employee Organization”** means an employee organization that has been recognized as provided for herein by the City as an employee organization that represents City employees.
 - 25. **“Strike”** means any concerted stoppage of work by a City employee or employees, or a concerted slow-down or other concerted interruption of City operations by an employee or employees. A strike shall be considered an emergency situation.

26. **“Title”, “Class Title”, or “Title of Class”** means the official name applied to a class and to each position allocated to the class and to the legally appointed incumbent of each such position.
27. **“Unclassified Service”** includes those positions as specified in Section 2-236 of the Municipal Code, which are exempted from the **“Classified Service”** in the annual Management/Confidential Salary and Benefit Resolution and Section 2-236 of the Municipal Code.

SEC. 1.9 POLITICAL ACTIVITY

A. During Working Hours

Employees in the service of the City shall not advocate the election or defeat of any ballot proposition or any candidate for any political office or engage in any other kind of political activity during his/her assigned working hours or while on City property. No employee or official shall participate in political activities while dressed in the uniform required in any department of the City or dressed in any other City-issued clothing, whether or not it is during his/her assigned working hours.

B. Political Contributions

No officer or employee of the city shall solicit or receive, from anyone on an eligible list or employed in the service of the city, any assessment, subscription, contribution, or political service, for aiding or assisting in the campaign for election, or appointment to any position in the City, either partisan or nonpartisan.

SEC. 1.10 POLICY AGAINST DISCRIMINATION, HARASSMENT AND RETALIATION; COMPLAINT PROCEDURE

A. Purpose

The City has a strong commitment to prohibiting and preventing discrimination, harassment and retaliation in the workplace. The City has zero tolerance for any conduct that violates this Policy. Conduct need not arise to the level of a violation of state or federal law to violate this Policy. Instead, a single act can violate this Policy and provide grounds for discipline or other appropriate sanctions. This Policy establishes a complaint procedure for investigating and resolving internal complaints of discrimination, harassment and retaliation. The City encourages all covered individuals to report any conduct they believe violates this Policy as soon as possible. Any retaliation against an employee because they filed or supported

a complaint or because they participated in the complaint resolution process is prohibited. Individuals found to have retaliated in violation of this Policy will be subject to appropriate sanction or disciplinary action, up to and including termination.

B. Covered Individuals and Scope of Policy

The individuals covered by this Policy are: applicants; employees regardless of rank or title; elected or appointed officials; interns; volunteers; and contractors. This Policy applies to all terms and conditions of employment, internships, and volunteer opportunities, including, but not limited to, selection, hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation, and training.

C. Definitions

1. Protected Classification

This Policy prohibits harassment, discrimination or retaliation because of an individual's protected classification. "Protected Classification" includes race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (40 and over), sexual orientation, reproductive health decision making, or military and veteran status, or any other basis protected by law. This Policy prohibits discrimination, harassment or retaliation because: (1) of an individual's protected classification; (2) the perception that an individual has a protected classification; or (3) the individual associates with a person who has or is perceived to have a protected classification.

2. Protected Activity

This Policy prohibits discrimination, harassment, or retaliation because of an individual's protected activity. Protected activity includes: (1) making a request for an accommodation for a disability; (2) making a request for accommodation for religious beliefs; (3) making a complaint under this Policy; (4) opposing violations of this Policy; or (5) participating in an investigation under this Policy.

3. Discrimination

This Policy prohibits treating covered individuals differently and adversely because of the individual's protected classification, actual or perceived; because the individual associates with a person who is member of a

protected classification, actual or perceived; or because the individual participates in a protected activity as defined in this Policy.

4. Harassment

Harassment includes, but is not limited to, the following types of behavior that are taken because of a person's actual or perceived protected classification:

- (a) Speech, such as epithets, derogatory comments or slurs, and propositioning on the basis of a protected classification. This includes inappropriate comments about appearance, dress, physical features, gender identification, or race-oriented stories and jokes.
- (b) Physical acts, such as assault, impeding or blocking movement, offensive touching, or physical interference with normal work or movement. This includes pinching, grabbing, patting, or making explicit or implied job threats or promises in return for submission to physical acts.
- (c) Visual acts, such as derogatory posters, cartoons, emails, pictures or drawings related to a protected classification.
- (d) Unwanted sexual advances, requests for sexual favors and other acts of a sexual nature, where submission is made a term or condition of employment, where submission to or rejection of the conduct is used as the basis for employment decisions, or where the conduct is intended to or actually does unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive working environment.

D. Guidelines for Identifying Harassment

Harassment includes any conduct that would be unwelcome or unwanted to an individual of the recipient's same protected classification. The following guidelines to determine if conduct is unwelcome or unwanted should be followed:

- (a) It is no defense that the recipient "appears" to have consented to the conduct at issue by failing to protest about the conduct. A recipient may not protest for many legitimate reasons, including the need to avoid being insubordinate or to avoid being ostracized or subjected to retaliation.
- (b) Simply because no one has complained about a joke, gesture, picture, physical contact, or comment does not mean that the conduct is welcome.

Harassment can evolve over time. Small, isolated incidents might be tolerated up to a point. The fact that no one has yet complained does not preclude someone from complaining if the conduct is repeated in the future.

(c) Even visual, verbal, or physical conduct between two people who appear to welcome the conduct can constitute harassment of a third person who witnesses the conduct or learns about the conduct later. Conduct can constitute harassment even if it is not explicitly or specifically directed at a particular individual.

(d) Conduct can constitute harassment even if the individual has no intention to harass. Even well-intentioned conduct can violate this Policy if the conduct is directed at, or implicates a protected classification, and if an individual would find it offensive (e.g., gifts, over-attention, endearing nicknames, hugs).

E. Retaliation

Retaliation occurs when an employer takes adverse conduct against a covered individual because of the individual's protected activity as defined in this Policy. "Adverse conduct" may include but is not limited to: (1) disciplinary action; (2) counseling; (3) taking sides because an individual has reported harassment or discrimination; (4) spreading rumors about a complainant or about someone who supports or assists the complainant; (5) shunning or avoiding an individual who reports harassment or discrimination; or (6) making real or implied threats of intimidation to prevent or deter an individual from reporting harassment or discrimination.

F. Complaint Procedure

A covered individual who believes he or she has been subjected to discrimination, harassment or retaliation may make a complaint – orally or in writing – to any supervisor, any manager, or any department head, without regard to any chain of command. Any supervisory or management employee who receives a harassment complaint should immediately notify the Personnel Officer. Upon receiving notification of a harassment complaint, the Personnel Officer will complete and/or delegate the following steps. If the Personnel Officer is accused, or a witness to the events at issue, an individual with higher authority will complete and/or delegate the following steps.

(a) Authorize and supervise the investigation of the complaint and/or investigate the complaint. The investigation will usually include interviews with: (1) the complainant; (2) the accused; and (3) other persons who have relevant knowledge concerning the allegations in the complaint.

- (b) Review the factual information gathered through the investigation to determine whether the alleged conduct violates the Policy giving consideration to all factual information, the totality of the circumstances, including the nature of the conduct, and the context in which the alleged incidents occurred.
- (c) Report a summary of the determination as to whether this Policy has been violated to appropriate persons. If discipline or sanctions are imposed, the level of discipline or sanctions will not be communicated to the complainant.
- (d) If conduct in violation of this Policy occurred, take or recommend to the appointing authority prompt and effective remedial action. The remedial action will be commensurate with the severity of the offense.
- (e) Take reasonable steps to protect the complainant from further harassment, discrimination or retaliation.

G. Option to Report to Outside Administrative Agencies

An individual has the option to report harassment, discrimination or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Civil Rights Department (CRD). These administrative agencies offer legal remedies and a complaint process. The nearest offices are listed on the Internet, in the government section of the telephone book or employees can check the posters that are located on City bulletin boards for office locations and telephone number.

H. Confidentiality

Every effort will be made to assure the confidentiality of complaints made under this Policy to the greatest extent allowed by law. Complete confidentiality cannot occur, however, due to the need to fully investigate and the duty to take effective remedial action. An employee who is interviewed during the course of an investigation is prohibited from attempting to influence any potential witness while the investigation is ongoing. An employee may discuss his or her interview with a designated representative. The City will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or court order.

I. Responsibilities

- (a) Each non-manager or non-supervisor is responsible for:

- 1) Treating all individuals in the workplace or on worksites with respect and consideration.
 - 2) Modeling behavior that conforms to this Policy.
 - 3) Participating in periodic training.
 - 4) Cooperating with the City's] investigations pursuant to this Policy by responding fully and truthfully to all questions posed during the investigation.
 - 5) Taking no actions to influence any potential witness while the investigation is ongoing.
 - 6) Reporting any act he or she believes in good faith constitutes harassment, discrimination or retaliation as defined in this Policy, to his or her immediate supervisor, or department head, or Personnel Officer.
- (b) In addition to the responsibilities listed above, each manager and supervisor is responsible for:
- 1) Informing employees of this Policy.
 - 2) Taking all steps necessary to prevent harassment, discrimination and, retaliation from occurring, including monitoring the work environment and taking immediate appropriate action to stop potential violations, such as removing inappropriate pictures or correcting inappropriate language.
 - 3) Receiving complaints in a fair and serious manner, and documenting steps taken to resolve complaints.
 - 4) Following up with those who have complained to ensure that the behavior has stopped and that there are no reprisals.
 - 5) Informing those who complain of harassment or discrimination of his or her option to contact the EEOC or CRD regarding alleged Policy violations.
 - 6) Assisting, advising, or consulting with employees and the Personnel Officer regarding this Policy.
 - 7) Assisting in the investigation of complaints involving employee(s) in their departments and, when appropriate, if the complaint is substantiated,

recommending appropriate corrective or disciplinary action in accordance with these Policies, up to and including termination.

- 8) Implementing appropriate disciplinary and remedial actions.
- 9) Reporting potential violations of this Policy of which he or she becomes aware to the Personnel Officer regardless of whether a complaint has been submitted.
- 10) Participating in periodic training and scheduling employees for training.

SEC 1.11 REASONABLE ACCOMMODATION AND INTERACTIVE PROCESS

A. Reasonable Accommodation

Absent undue hardship or direct threats to the health and safety of employee(s), the City provides employment-related accommodations to:

- (a.) qualified individuals with disabilities, both applicants and employees, to enable them to perform essential job functions; and
- (b.) employees with conditions related to pregnancy, childbirth, or a related medical condition, if she so requests, and with the advice of her health care provider; and
- (c.) employee victims of domestic violence, sexual assault, or stalking to promote the safety of the employee victim while at work; and
- (d.) employees who request reasonable accommodation to address a conflict between.

B. Supporting Documentation or Certification

1. Reasonable Medical Documentation of Disability

If the disability or the need for reasonable accommodation is not obvious, the City may require the individual to provide reasonable medical documentation confirming the existence of the disability and the need for reasonable accommodation, along with the name and credentials of the individual's health care provider. If the individual provides insufficient documentation, the agency will: (1) explain the insufficiency; (2) allow the employee or applicant to supplement the documentation; and (3) pursue the interactive process only to the extent that the request for reasonable accommodation is supported by the medical documentation provided.

2. Medical Certification Indicating the Need for a Reasonable Accommodation or Transfer Due to Pregnancy or Related Conditions

If a pregnant employee, or an employee with a pregnancy-related condition, requests a reasonable accommodation or transfer due to pregnancy, the City will provide the employee with notice of the need for a medical certification within two business days after the employee's request for accommodation. A medical certification confirming the need for a reasonable accommodation, including transfer, is sufficient if it contains: (1) a description of the requested accommodation or transfer; (2) a statement describing the medical advisability of the accommodation or transfer due to pregnancy; and (3) the date that the need for the accommodation or transfer will become necessary and the estimated duration of the accommodation or transfer.

3. Certification of Victim Status

- (a) An employee who is a victim of domestic violence, sexual assault, or stalking and who requests an accommodation to provide for his or her safety while at work must provide both of the following:
- (b) A written statement signed by the employee or an individual acting on the employee's behalf, to certify that the accommodation is to address victim-safety concerns while at work; and
- (c) A certification demonstrating the employee's status as a victim of domestic violence, sexual assault, or stalking, which can be in the form of: a police report indicating the employee's victim status; a court order separating the perpetrator from the employee or that the employee has appeared in court for that purpose; or documentation from a medical professional or counselor that the employee is undergoing treatment for physical or mental injuries or abuse resulting from an act of domestic violence, sexual assault, or stalking.

C. Fitness for Duty Examinations

1. Applicants

After the City extends a conditional offer of employment to an applicant, the City may require the applicant to submit to a fitness for duty examination that is job-related, necessary for efficient operations of the agency, and required of all applicants for the job classification. The City will notify an applicant or employee who is required to pass a medical and/or psychological examination of his/her right to obtain a second opinion at his/her expense and that he/she may submit such second opinions for consideration.

2. Current Employee

The Personnel Officer may require an employee to submit to a fitness for duty examination to determine if the employee has a disability and is able to perform the essential functions of his or her job when there is significant evidence that:

- (a) the employee's ability to perform one or more essential functions of his or her job has declined; or
- (b) could cause a reasonable person to question whether an employee is still capable of performing one or more of his or her essential job duties, or is still capable of performing those duties in a manner that does not harm him or herself or others.

3. Role of Health Care Provider

The City may request the applicant's or employee's health care provider to conduct a fitness for duty exam on the applicant or employee, or may request an City-selected health care provider to do so at the City's expense. The City will allow an employee paid time off to attend the exam. The City will provide the health care provider with a letter requesting a fitness for duty examination and a written description of the essential functions of the job. The examination will be limited to determining whether the applicant or employee can perform the essential functions of his/her position and any work restrictions and/or functional limitations that apply to the applicant or employee. The health care provider will examine the employee and provide the City with non-confidential information regarding whether:

- (a) The applicant or employee has a disability within the meaning of the California Fair Employment and Housing Act;
- (b) The applicant or employee is fit to perform essential job functions;
- (c) Workplace restrictions or functional limitations apply to the applicant or employee, and the duration of the work restrictions or functional limitations;
- (d) There are any reasonable accommodations that would enable the employee to perform essential job functions; and
- (e) The employee's continued employment poses a threat to the health and safety of him or herself or others.

Should the health care provider exceed the scope of the City's request and provide confidential health information, without valid consent of the applicant or employee, the City will return the report to the health care provider and request another report that includes only the non-confidential fitness for duty information that the City has requested.

4. Authorization for Use of Medical Information

During the course of a fitness for duty examination, the City will not seek or use information regarding an employee's medical history, diagnoses, or course of treatment without an employee's written authorization.

5. Medical Information from the Employee or Applicant

If an employee or applicant submits medical information to the City from his or her own health care provider, the Personnel Officer will not forward that information on to the health care provider who conducted the examination for the City, without the employee or applicant's written authorization. Upon receipt of the written authorization, the Personnel Officer will request the City-paid health care provider to determine whether the information alters the original fitness for duty assessment.

D. Interactive Process

1. When to Initiate the Interactive Process

The Personnel Officer will initiate the interactive process when:

- (a) An applicant or employee with a known physical or mental disability or medical condition requests reasonable accommodation(s);
- (b) The City otherwise becomes aware of the need for an accommodation through a third party (e.g. a doctor's note requesting an accommodation), or by observation of the employee's work;
- (c) The City becomes aware of the possible need for an accommodation because the employee with a disability has exhausted workers' compensation leave, Family and Medical Act leave, or other leave rights, but the employee and/or the employee's health care provider indicate that further accommodation is still necessary for recuperative leave or other accommodation;

- (d) An employee disabled by pregnancy, childbirth or related medical conditions requests a reasonable accommodation or transfer based on the advice of her health care provider;
- (e) An employee with a physical or mental disability, regardless of cause, fails to return to work following pregnancy disability leave;
- (f) An employee-victim of domestic violence, sexual assault, or stalking requests a reasonable accommodation(s) for his or her safety at work;
- (g) An employee requests an accommodation to address a conflict between religious belief, observance, or practice and any employment requirement; or
- (h) An employer is aware of the need for a reasonable accommodation for an employee's or applicant's religious beliefs, observance or practices.

2. Interactive Communication and Potential Accommodations for Applicants or Employees with Disabilities

After the occurrence of any of the above-stated circumstances that trigger the need to conduct an interactive process meeting, the Personnel Officer will promptly arrange for a discussion or discussions, in person or via conference telephone call, with the applicant or employee and his or her designated representative, (if any). The purpose of the interactive communications will be to discuss in good faith all feasible potential reasonable accommodations. The Personnel Officer will document these communications in writing.

Depending on the facts of each case, the interactive process analysis will generally begin with a review of possible reasonable accommodations that would enable the individual to retain his or her current job. The process will generally then move on to possible reasonable accommodations in other vacant jobs, for which the individual is qualified, if there is no reasonable accommodation in the current job that does not cause undue hardship, or that does not present a risk of harm to the individual or others. The City will consider accommodations that the applicant or employee suggests, but has the right to select and implement any reasonable accommodation that it deems effective.

3. Determination

After the interactive process communications, the Personnel Officer will review the information received, and determine: whether all available information has been reviewed; whether all potential accommodations that the applicant or employee has suggested have been considered; whether additional discussions with the applicant or employee would be helpful; whether the applicant's or employee's preferences have been taken into account; if there is a reasonable accommodation that would enable the applicant or employee to perform essential job functions without harming him or herself or others; and if the accommodations would pose an undue hardship on City finances or operations. The Personnel Officer will inform the applicant or employee of his or her determination in writing. The Personnel Officer will use his or her discretion based upon the particular facts of each case.

4. Access to Medical Information Regarding Fitness for Duty

Medical records and information regarding fitness for duty, or the need for an accommodation, will be maintained separately from non-medical records and information. Medical records and information regarding fitness for duty and the need for accommodation will be accessible only by the Personnel Officer, the City's legal counsel, first aid and safety personnel in case of emergency, and supervisors who are responsible for identifying reasonable accommodations. Medical records and information contained therein may be released pursuant to state and federal law.

RULE II – CLASSIFICATION

SEC. 2.1 THE CLASSIFICATION PLAN

The Council upon recommendation of the Personnel Officer and review of the Commission shall create and adjust classes of positions in the classified service which classes shall be known as the "Position Classification Plan of the City of West Covina."

- A. The Council, at any meeting thereof and upon recommendation of the Personnel Officer and review of the Commission, may by resolution, adopted by a majority vote, create new classes or divide, combine or abolish existing classes and may reassign a class from one salary range to another.
- B. All existing positions and all new positions in the classified service created or established by the Council shall be allocated by the Personnel Officer to their proper class in the classification plan.
- C. The classification title of a position shall be used in all official personnel and budget records and transactions.
- D. Whenever in the judgment of the Council it is necessary for the expeditious transaction of the business of the City for a department to employ a person on an emergency or extra help basis in a position for which there is no classification, then the Council may authorize such employment. In such case the Council, on recommendation of the Personnel Officer, shall by motion, fix the amount of compensation, and may determine the minimum qualifications for such additional employees, and shall limit the period of time the position may be allowed.

SEC. 2.2 CREATION AND ABOLISHMENT OF POSITIONS

- A. The Council shall have authority to create and abolish positions in the City service.
- B. The incumbent of an abolished position may be laid off, transferred, or demoted. Such action shall not be subject to the appeal process.

SEC. 2.3 AMENDMENT AND MAINTENANCE OF CLASSIFICATION PLAN

Whenever one or more new positions are under consideration for possible establishment, or whenever because of any revision in organization methods, a significant change of the duties or responsibilities of any existing position is made which may require the reallocation of such position, or whenever a new class is created to which any position may more appropriately be allocated, or whenever because of the abolishment or combination of any existing positions, or classes, an amendment of the classification plan

is required, one or a combination of the procedures stipulated as follows shall be observed:

1. The appointing authority shall report any significant facts relating to such possible changes in writing to the Personnel Officer in the manner prescribed.
2. The Personnel Officer upon written request of any employee, or upon his/her own initiative, after consultation with the head of the department concerned, may undertake an inquiry of the classification of any position.
3. Upon either of the above initiations, the Personnel Officer shall study the assigned duties and responsibilities of any such position and the qualifications required for filling the same, and of the relationship of such position to other classes of positions in the classification plan.
4. On the basis of such investigation, the Personnel Officer shall make a determination as to the appropriate action as follows: (1) no change in allocation of the position; or (2) allocation of the position to a more appropriate class in the existing classification; or (3) the establishment of the new class to which the position would be allocated.
5. The Personnel Officer shall recommend to the Council any change in the existing classes and class specifications he/she deems appropriate. Such proposed changes shall be reviewed by the Commission as provided in these rules.

SEC. 2.4 CLASS SPECIFICATIONS

- A. The Personnel Officer shall maintain a specification for each class, and such class specifications when approved and adopted by the Council, shall constitute the official specifications of classes in the City service. Such specifications shall be based on a study of the duties and responsibilities of positions in the City services. Each class specification shall set forth the title of the class, class definition, distinguishing characteristics, if necessary, examples of duties, and a statement of qualifications for proficient performance of the work.
- B. The class specification shall be maintained by the Personnel Officer. The specification shall be open to inspection by employees and the public.
- C. Said specifications referred to herein and any modifications or amendments thereto shall be made by a Resolution, duly passed and adopted by the majority vote of the Council.

SEC. 2.5 INTERPRETATION OF CLASS SPECIFICATIONS

The class specifications are descriptive and explanatory and not restrictive. They are intended to indicate the kinds of positions allocated to the various classes and should not be construed as limiting the assignment to the prescribed duties and responsibilities. The use of a particular expression or an illustration as to duties should not be interpreted to exclude others not mentioned that are of similar kind or quantity. The specifications for each class should be considered in its entirety and in relation to other classes in the classification plan. Consideration should be given to the general duties, specific tasks, responsibilities, qualifications desired and relation to other positions determine the kind of employment the class is designed to embrace.

RULE III – COMPENSATION

SEC. 3.1 INCREASES WITHIN THE SALARY RANGE

- A. Classified employees based upon evaluation of performance may be considered eligible for an increase in salary according to the following general plan:
1. The numbers 1, 2, 3, 4, and 5 respectively denote the various merit steps in the pay range.
 2. Salary Step "1" will be paid upon initial employment and for a period of six months from the anniversary date.
 3. Upon completion of six months of employment in Salary Step "1" where the department head determines the employee has demonstrated satisfactory job performance and the employee receives a performance rating of satisfactory or higher, the employee is eligible for Salary Step "2".
 4. Upon completion of one year of employment in Salary Step "2" where the department head determines the employee has demonstrated satisfactory job performance and the employee receives a performance rating of satisfactory or higher, the employee is eligible for an increase to Salary Step "3." Any further advancement in salary step(s) shall follow this aforementioned requirement and process.
 5. All other advancements in salary step are subject to the consideration and approval by the Personnel Officer/City Manager.
- B. An employee employed or reemployed at any step above step "1" may advance to the next higher step in his/her range no sooner than one year from the anniversary date of his/her employment or reemployment.
- C. On or about thirty (30) days prior to each employee's salary increase anniversary date, the department head shall be advised in writing by the Personnel Officer that the employee will be eligible for a salary increase. For step "2" and above, the department head shall advise the Personnel Officer in writing prior to the employee's salary increase anniversary date whether he/she recommends or does not recommend that the employee be advanced to the next higher step of the range. The Personnel Officer shall notify the Finance Department in writing of all anniversary increases and such notification shall constitute authorization for the Finance Department to make payment to the employee at a higher rate.

SEC. 3.2 SALARY ON APPOINTMENT

- A. Superior Qualifications

New employees shall be appointed at the first step of the salary range to which their class is assigned except when it appears that the education and previous training or experience of a proposed employee are substantially superior to those required of the class and justify a beginning salary in excess of such minimum compensation. Upon recommendation of the department head or appointing authority, the City Manager may authorize an appointment at a higher step. Such department head or appointing authority shall submit his/her recommendation to the Personnel Officer in such form, together with such information as the Personnel-officer may require.

B. Recruitment Step Advancement

Upon recommendation of the department head, initial employment at salary step "2" or "3" may be authorized by the City Manager when a particularly difficult recruiting problem for a class is found to exist. In such cases the incumbents in the affected class shall be advanced to the next higher step to the one they are then earning in the case of "2" step recruiting, or to the second higher step in the case of "3" step recruiting. New salary increase anniversary dates for said incumbent employees shall be established based on the date of the salary increase.

SEC. 3.3 SALARY ON PROMOTION

Except in instances where the granting of a full step increase would result in a salary in excess of the top step of the range, any employee who is promoted to a position in a class with a higher salary range shall be placed on the step in the new higher range which is at least equal to an advancement of a full step over the step he/she held in his/her former range in the basic salary schedule. If the maximum of the range would be exceeded by such advancement, the employee shall receive the top step of the salary range. An employee thus promoted is assigned to a new salary increase anniversary date effective on the date of promotion. An employee who, on his/her anniversary date is promoted to a class with a higher salary range shall first receive any within range increases to which he/she is entitled, and then the higher step as provided in this section.

SEC. 3.4 SALARY ON REEMPLOYMENT

An employee shall be placed at the same salary step or its equivalent that the employee occupied at a time of layoff.

SEC. 3.5 SALARY UPON REINSTATEMENT POST RESIGNATION

A. A reinstated employee shall not receive more than the salary step he/she received prior to his/her separation.

- B. Reinstated employees who were granted an education incentive salary differential prior to termination shall be granted that same salary differential upon reinstatement.

SEC. 3.6 SALARY ON TRANSFER

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

SEC. 3.7 SALARY ON NON-DISCIPLINARY DEMOTION

Any employee who is demoted to a position in a class with a lower salary range shall have his/her salary reduced to the salary step in the range for the lower class which is the same step he/she would have received in that lower class if his/her services had been continuous in said lower class; he/she shall retain his/her current salary increase anniversary date.

SEC. 3.8 SALARY ON CHANGE IN RANGE ASSIGNMENT

Whenever a class is reassigned to either a higher or lower salary range by the Council, the salary of each incumbent in such class on the date the reassignment is effective shall be adjusted to the step salary position in the new range that corresponds to the step-salary position he/she was receiving in the former range and he/she shall retain the same salary increase anniversary date. When a salary range reassignment becomes effective on the same date as an employee's salary increase anniversary date, he/she shall first receive any within range increase to which he/she is entitled and then receive his/her corresponding step adjustment.

SEC. 3.9 SALARY ON REALLOCATION OF POSITION

- A. If the position is reallocated to a class having the same salary range, the salary and the salary increase anniversary date of the incumbent shall not change.
- B. If the position is reallocated to a class which has a higher salary range, then the salary of such employee who shall fill such position shall be governed by these rules, Specifically Sec. 3.4, Salary on Promotion.
- C. If the position is reallocated to a class with a lower salary range, and the employee's salary exceeds the top step of the class to which his/her position is reallocated, his/her salary shall not change until it is exceeded by the top step of the class. The employee's salary increase anniversary date shall not change.

SEC. 3.10 SALARY ON DEMOTION

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

- A. If a disciplinary demotion, to any designated salary step in the lower salary range which is at least one step less than that received in the salary range for the class from which demoted. A new salary increase anniversary date shall be established on the basis of the demotion.
- B. If a non-disciplinary demotion, to that salary in the dollar amount he/she would have received in that lower class if his/her services had been continuous in said lower class, he/she shall retain his/her current salary increase anniversary date.

SEC. 3.11 MONTHLY SALARY

Monthly salary rates are based on a 40-hour workweek and no authorization may be made for a non-exempt employee to work less than said workweek without a directly proportionate decrease in compensation.

SEC. 3.12 SPECIAL SALARY ADJUSTMENTS

Notwithstanding anything in these rules to the contrary, the Council may by a four-fifths vote, upon recommendation of the department head or appointing Authority and the Personnel Officer, adjust the salary rate of an incumbent of a particular position to any step within the salary range for the class to which the position is allocated.

RULE IV – APPLICATIONS, RECRUITMENT, AND EXAMINING

SEC. 4.1 CONDITIONS OF EMPLOYMENT

- A. The City shall have the right to require all applicants to complete and submit any applications, agreements, or statements pertinent to their employment, as stipulated by decision of the City Council.
- B. All applicants for positions in the classified service shall be subject to an appraisal of their qualifications as provided in the Personnel Rules.
- C. Basic Requirements of Applicants
 - 1. No requirements as to residence in the City shall be made for any candidate at the time of his/her application, notwithstanding the fact that residence within the City or adjacent area may, at the discretion of the Council, be required of a regular employee.
 - 2. Job applications shall require information describing an individual's training, experience, and other pertinent information as deemed necessary to assess qualifications for the job. Applicants may be required to provide supplementary information, including but not limited to: answers to job-related questions; resume; licenses; certifications; diplomas; letters of recommendation; and references. All applications must be completed in full and signed, physically by the person applying. The Personnel Officer will not process any application which is not fully completed and signed. Should an applicant be appointed to a position, the supplemental information shall become a part of the individual's permanent employment records.
- D. Loyalty Oath

Employees are required to sign a loyalty oath as prescribed by law.

SEC. 4.2 REQUEST TO FILL VACANCIES

When a position is to be filled, the appointing authority shall notify the Personnel Officer and make a written request on the applicable form to fill the vacancy and provide such information as is required. The Personnel Officer shall advise the appointing authority as to the availability of persons for employment in the position.

SEC. 4.3 ANNOUNCEMENT AND APPLICATIONS

The Personnel Officer will prepare a job announcement to announce a proposed recruitment. The announcement may be posted on the City's website and other locations

the Personnel Officer deems appropriate, depending upon whether the recruitment is open to the public or current employees only. The announcement will include:

- A. The title and pay for the position;
- B. The nature of the work to be performed and essential job duties of the position;
- C. The minimum qualifications, including whether the job is a promotional position;
- D. A statement of the employment status of the position – for cause or at-will;
- E. The last date that the Personnel Officer will accept applications, if any;
- F. The time, place, and type of the examination, if known, and if a medical examination, and/or a drug screen will be required following a conditional offer of employment; and
- G. Such other information as determined in the discretion of the Personnel Officer.

SEC. 4.4 DISQUALIFICATION OF APPLICANTS BY PERSONNEL OFFICER

- A. The Personnel Officer may disqualify any applicant either before or after examination for any of the following causes:
 - 1. Applicant is substantially lacking in any of the minimum qualifications or requirements set forth in the Personnel Ordinance, the Classification and Salary Resolution, the official class specifications for the class in which he/she is applying, or in the Personnel Rules.
 - 2. Application is received after the application deadline.
 - 3. Applicant has made a false statement or omission of any significant material fact, or practices or attempted to practice any deception or fraud in his/her application, examination, or appointment.
 - 4. For any material cause which, in the judgment of the Personnel Officer, would render the applicant unfit for the particular position for which the application is filed.
- B. Criminal Conviction Check

After the City makes a conditional offer of employment, the Personnel Office may then request information about criminal convictions, except for misdemeanor marijuana-related convictions that are over two years old, or convictions that have been judicially sealed, eradicated, or expunged. Unless required by law, the City

will not deny employment to any applicant solely because he or she has been convicted of a crime. The City may, however, consider the nature, date and circumstances of the offense, evidence of rehabilitation, as well as whether the offense is relevant to the duties of the position. This Policy does not apply to applicants for public safety jobs.

C. Notice of Rejection

Whenever an applicant is rejected, notice of such rejection shall be mailed or emailed to the applicant by the Personnel Officer.

D. Incomplete or Defective Applications

Incomplete or defective applications may be corrected, provided the time limit for receiving applications has not expired at the time the application is corrected by the applicant.

SEC. 4.5 EXAMINATIONS

A. Responsibility to Examine

1. The Personnel Officer will determine the manner and methods of administering examinations for classes of positions within the City's service.
2. The Commission shall review the examination programs as provided in the Personnel Ordinance. The City Council may, upon recommendation by the Personnel Officer and Commission, contract with any responsible personnel agency for the performance of such technical examination services as may be desired.

B. Need for Examinations

The Personnel Officer shall determine when examinations are necessary. If there is a vacancy or one is anticipated, procedures governing an examination will be conducted as soon as practicable to establish or supplement an employment list.

C. Subject and Methods of Examinations

The examination content shall be determined or approved by the Personnel Officer, and at his/her discretion, the method of examining applicants may involve:

1. Examinations may consist of: written tests; oral tests; performance tests; evaluations of prior training and performance, experience and/or education; interviews; working style assessments; practical exercises; file review; or any combination thereof. The content of all examinations will be job-related

and designed to test knowledge, skills or abilities that help predict successful completion of job duties.

2. A physical, medical, and/or psychological test may be made a part of any examination. Appointments to certain positions may be made contingent upon the applicant/employee passing a drug/alcohol test, and/or job-related medical and/or psychological examination. Such examination shall only be required after a conditional offer of employment has been made. Such tests shall be made at the City's expense, by a duly licensed health care provider.
3. Applicants who meet the minimum qualifications and pass all examinations may be subject to a background and/or reference check. It shall be conducted at the City's expense.
4. In examinations where appropriate, the education, experience, qualifications and other pertinent information about the candidates may be evaluated by a Qualifications Appraisal Board consisting of at least two Board members, and all members shall, during their review, be cognizant of the criterion to be consistently applied to the review of every application. If possible, at least one of the members shall be technically familiar with the character of the work in the position for which the applications will be examined. The weight to be given the evaluation of the above shall be determined by the Personnel Officer.
5. Failure in one part of the examination, or the failure to meet established standards described in the job announcement, may be grounds for declaring such applicant as failing in the entire examination. Each applicant will be notified by mail whether he or she will continue in the examination process.
6. Job applicants upon receipt of a conditional offer (with the exception of police officer positions) shall submit their fingerprints through Live-Scan to obtain criminal history record information.

D. Open and Promotional Examinations

1. Examinations may be specified by the Personnel Officer as promotional only, as open only, or as both open and promotional. It shall be the policy of the Personnel Officer and the Commission to encourage the general practice of promotion within the City service wherever in their view a sufficient number of fully qualified candidates are available and such policy will contribute to a sound and efficiently operating City organization.

2. All examinations which are to be held on either promotional only or on both open and promotional basis, shall be so designated on the examination bulletin.
3. Employees shall be entitled to compete on a promotional basis in the promotional examination provided that they meet the requirements of the class for which the examination is to be held.

E. Conduct of Examinations

1. The Personnel Officer shall determine or approve the manner and methods of preparation of examinations, and by whom they are to be administered. The identity of persons taking written examinations shall remain confidential until after the examination papers of all applicants are marked and a passing score established.
2. Test Review by Candidates
 - a. Within five working days of the date of an examination, candidates may file a request with the Personnel Officer to designee to inspect a keyed copy of the written or practical examination.
 - b. Key inspection of the written or practical examination key shall be at such time and place and under such conditions of supervision as the Personnel Officer or designee shall require. Candidates will not be permitted to copy examination items except to take notes on the one or several under question.
 - c. Within ten calendar days of the examination date, a candidate may submit a written protest to any item(s) in the written or practical examination only. Protests should cite authorities or references, in support and/or reason for challenge to item in sufficient detail to enable the Personnel Officer or designee to understand the objection and to complete any research which is necessary to evaluate the soundness of the protest. Protests based purely on personal opinion without cited authority may not be entertained by the Personnel Officer or designee.
 - d. Upon timely receipt of the protests, the Personnel Officer or designee shall review the basis for the protests, consulting with subject authorities as appropriate, and make a determination that the item(s) shall stand as keyed, be eliminated from the test, or that the key be modified and test shall be scored or rescored accordingly. In any case, the protestant shall be notified of the Personnel Officer or designee's decision.

3. Normally, scoring of tests will not be completed pending disposition of protests. However, as the needs of the service may require filling vacancies from employment lists, tests may be scored and other parts of the examination, certification and appointment process completed prior to receipt of or City's response to protests. Appointments so made are not subject to any challenge or appeal should subsequent test rescoring based on a protest alter the rank order of the employment lists.

4. Veteran's Preference

Honorable discharged veterans of the Armed Forces of the United States, will be given a veteran's preference of five points, which shall be added to the earned total passing examination score in examinations for entrance level positions into the classified service. No veteran's preference points shall be credited to any veteran's scores on any promotional examination. The words, "Armed Forces of the United States" apply only to the actual Armed Forces of the United States and to members of the National Guard and State Militia only while called into and on active duty as part of the Armed Forces of the United States. A person must have completed his/her required military duty and have in his/her possession an Honorable discharge to obtain the Veteran's Preference. No applicant will be displaced as a result of another receiving Veteran's preference.

5. Each candidate who participates in an examination shall be sent written notice of the results of such examination, and if successful, of his/her final earned certification category on the employment list.

- F. Rating

Reliable measurement techniques and procedures shall be used in rating the results of tests and in determining the relative ranking of the candidates. At the discretion of the Personnel Officer, failure on any part of an entire examination, may be grounds for declaring that the applicant has failed the entire examination, or that he/she is disqualified for subsequent parts of the examination. The Personnel Officer may also designate any part of an examination as qualifying only, and no numerical weight need be assigned to passing scores in said part.

- G. Appeals to Commission

1. The Commission shall consider appeals from final ratings in any examination only after such appeals are heard by the Personnel Officer and-denied, where candidates allege noncompliance with Personnel Rules.
2. Appeals must be in writing and include information considered by the Personnel Officer. Upon receipt of such appeals the Commission shall

conduct such hearings and investigations as it deems necessary and if it finds the allegations of the appellant to be matters of fact, it shall recommend corrective action to the City Manager.

RULE V – ELIGIBILITY LISTS

SEC. 5.1 TYPE OF LISTS

- A. Promotional Only
- B. Open and Promotional
- C. Open Competitive Only

SEC. 5.2 ESTABLISHMENT OF ELIGIBILITY LISTS

- A. Upon scoring of all examination components, the Personnel Officer shall prepare an eligible list of persons with passing grades. Starting with the highest score, the names of eligibles shall be placed on the list in order of their final ratings. If some eligibles have identical ratings, they shall be grouped as one standing for certification purposes. If two or more eligibles have the same total percentage standing on the eligibility list, they shall be ranked in order of their scores in that portion of the examination having the greatest weight. In case this fails to break the tie, the eligible who first filed their application shall be listed first.
- B. If the examination was given on both a promotional and open competitive basis, two lists shall be formed. In case of tied scores, both applicants shall receive similar treatment which shall include certification at the same time, notwithstanding that such action may require an exception to any of these rules pertaining to numbers of persons certified.

SEC. 5.3 DURATION OF LISTS

- A. Eligibility lists shall become effective upon the Personnel Officer's certification of the lists..
- B. If a background investigation is required, applicants shall be referred to the Police Department according to relative performance and certified to the Eligibility List by the Personnel Officer upon successful completion of the background investigation.
- C. The review of the eligibility lists shall be included in the minutes of the Commission.
- D. Eligibility lists shall be effective for a period of one year from the date of their establishment, provided that the Personnel Officer may extend the period not to exceed twelve (12) months. The Personnel Officer may abolish an eligibility list at any time and for any reason before the expiration date of the one-year period and request a new examination and preparation of a new eligibility list for any class of position.

SEC. 5.4 REMOVAL OF NAMES FROM ELIGIBILITY LIST

The Personnel Officer may remove the name of any eligible applicant from an eligibility list:

- A. On evidence that the eligible applicant cannot be located by postal authorities. Failure to reply within five (5) working days to a letter requesting information as to availability for appointment, or failure to notify the Personnel Officer of any change of address resulting in the return of letters without forwarding by the U.S. Post Office, will be considered grounds for removal. On submission of a request from the applicant giving acceptable reasons as to why the notice was not returned or change of address not filed, the Personnel Officer may restore the name of an eligible candidate to the eligibility list.
- B. Upon receipt of a written statement from the eligible applicant declining appointment and stating that he/she wishes his/her name to be removed from the employment list.
- C. If two offers of regular full-time employment in the class for which the eligibility list was established have been declined by the eligible applicant.
- D. Upon request of the appointing authority after a determination has been made by the Personnel Officer that the candidate does not meet job related standards.

SEC. 5.5 ELIGIBILITY LIST PRIORITY

Priority for consideration for employment shall be given to the various eligibility lists in the following order: Reemployment Lists, Promotional Lists, and Open Competitive Lists.

- A. The reemployment list for any position shall consist of the names of regular employees who have been laid off for lack of work or lack of funds from a position in the same class or an equivalent class to that in which the vacancy exists. Such names shall be placed on the reemployment lists in reverse order of layoff. Employees whose positions have been reallocated to a lower class, but who have not been demoted for cause shall also have their names placed on the reemployment list for the class from which their position was reallocated.
- B. Promotional lists shall consist of the names of regular employees who have been successful in a promotional examination for a higher class than that which they presently occupy. Probationary employees who compete in a promotional exam process will be certified after completion of initial probationary processes.

- C. Open competitive lists shall consist of the names of persons not employed by the City who have been successful in an examination or of employees of the City who have passed the examination, but have not yet attained regular status; or in the case where an examination has been designated as open competitive, only the names of all passing candidates whether regular employees, non-regular employees, or persons not employed by the City, shall be placed on the list in order of their scores.
- D. Promotional lists and open competitive lists shall be created as a result of examination as provided in these rules. The names of probationary employees who are laid off for lack of work or lack of funds may be restored to the same eligibility list from which the original appointment was made and in the same rank or category as when the original appointment was made if it is so requested by the appointing authority.

SEC. 5.6 CERTIFICATION FROM ELIGIBILITY LISTS

Appointments shall be made from certified eligibility lists in accordance with the following provisions:

- A. If a reemployment list exists for the class, the Personnel Officer shall select the highest number of names from the list as the Personnel Officer deems necessary for the certified eligibility list for each vacancy to be filled.
- B. If no reemployment list exists for a class, the Personnel Officer shall select the highest number of names from the promotional list as the Personnel Officer deems necessary for the certified eligibility list for each vacancy to be filled.
- C. If no reemployment list or promotional list exists, the Personnel Officer shall select the highest number of names from the open competitive list as the Personnel Officer deems necessary for the certified eligibility list for each vacancy to be filled.
- D. When all eligibility lists for a class contain a total of fewer than the number of vacant positions plus two, the appointing authority may, at its discretion, make provisional appointments until additional names are secured through another examination.

SEC. 5.7 AVAILABILITY OF ELIGIBLES

It shall be the responsibility of eligible applicants to notify the Personnel Officer in writing of any change of address or other change affecting availability for appointment.

RULE VI – APPOINTMENTS – PROMOTIONAL/ACTING/REINSTATEMENT/LIMITED SERVICE

SEC. 6.1 APPOINTMENT OF NEW EMPLOYEES

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

SEC. 6.2 PROVISIONAL APPOINTMENTS

1. It shall be the policy of the City to require all department heads and other appointing authorities, whenever possible, to notify the Personnel Officer of impending or anticipated vacancies in their departments sufficient in advance so as to allow for the establishment of an appropriate open competitive or promotional eligibility list. However, when the demands of the services are such that it is not practicable to give such notification and when no eligibility list or appropriate combination of lists with seven or more names is available, and if it is not practicable to delay appointment until a new eligibility list can be certified, the appointing authority may make a provisional appointment to the position. As soon as practicable, but not longer than six (6) months after a provisional appointment has been made, the Personnel Officer shall cause an examination to be prepared, and all positions filled provisionally shall be filled by an appointment from an employment list.
2. In the absence of appropriate eligibility lists, a provisional appointment may be made by the appointing authority of a person meeting the qualifications for employment for the position. An eligibility list shall be established within six months for any regular position filled by provisional appointment. No person shall be employed by the City under provisional appointment for a total of more than six (6) months or 960 hours in any fiscal year except that the City Manager extend the period of any provisional appointment for not more than ninety days by any one action and shall exceed a total of twelve months. However, any extension provided shall not total more than 960 hours in any fiscal year.
3. A person appointed to a regular position from a provisional appointment shall not be entitled to credit for the time served under the provisional appointment toward the completion of his/her probationary period and shall be entitled to the same salary and other benefits as an employee appointed from an eligible list except that he/she may not be employed under the provisional appointment for longer than the period authorized herein.

4. No special credit shall be allowed in any examination or the establishment of any employment or promotional lists for services rendered under a provisional appointment.

SEC. 6.3 ACTING APPOINTMENTS TO A HIGHER CLASS

An acting appointment may be made to a higher class or position occupied by a person on temporary leave or disability, such acting appointment shall not exceed 12 months. Acting appointments shall be made from existing promotional lists. Should no promotional eligibility list exist, acting appointments shall be made in accordance with the provisional appointments section of the Personnel Rules. Upon the return of the incumbent from leave or disability, the acting appointment shall be immediately terminated, and the appointee shall resume regular duties, compensation and privileges as if he/she had continued his/her duties in his/her regular classification. An acting appointment to a higher class or position in a vacant position shall not exceed 960 hours in a fiscal year.

SEC. 6.4 REINSTATEMENT POST RESIGNATION

The appointing authority may, with the approval of the Personnel Officer, reinstate any person who has resigned in good standing, provided that such reinstatement is accomplished within one (1) year of the date of resignation. Such reinstatement action may, at the discretion of the appointing authority, take precedence over any eligibility list except a reemployment list. Any person so reinstated shall be subject to a new probationary period of the same length as established for new appointees to a position in the class. Reinstated Police Officers shall be subject to a probationary period of twelve (12) months.

Any employee who accepts a voluntary demotion from a class in which he/she had regular status may be reinstated to the class from which he/she was demoted, provided such reinstatement is accomplished within one (1) year of the date of demotion. Such reinstatement action may, at the discretion of the appointing authority, take precedence over any eligibility list except a reemployment list. Any person reinstated shall be subject to a new probationary period of the same length as established for new appointees to a position in the class.

SEC. 6.5 TRANSFER

A. Approval of the Personnel Officer

With the approval of the Personnel Officer, an employee may be transferred by the appointing authority from one position to another position in the same class or a comparable class at the same salary level. If such transfer involves a change from the jurisdiction of one appointing authority to that of another, both must consent thereto before the action shall be considered effective, except if the City Manager shall order the transfer, such consent shall not be required.

B. Notification

Whenever possible an employee being considered for transfer shall be notified within a reasonable period in advance of the effective date of such contemplated transfer and his/her wishes with respect to this action shall be taken into account to whatever extent practicable, consistent with the interest of efficient operations of the departments concerned.

SEC 6.6 EMPLOYMENT OF RELATIVES, SPOUSES, DOMESTIC PARTNERS

A. Policy

The City regulates the employment and placement of relatives, spouses, and domestic partners so as to avoid conflicts of interest and to promote safety, security, supervision, and morale.

B. Definitions

- (a) "Relative" means child, stepchild, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, or in-laws of those enumerated by marriage or domestic partnership.
- (b) "Spouse" means one of two persons to a marriage, or two people who are registered domestic partners, as those terms are defined by California law.
- (c) "Supervisory relationship" means one in which one employee exercises the right or responsibility to control, direct, reward, or discipline another by virtue of the duties and responsibilities assigned to his or her City appointment.

C. Employment of Relatives

The City will not appoint, promote or transfer a person to a position within the same department, division, or facility in which the person's relative already holds a position, if any of the following would result:

- (a) A direct or indirect supervisory relationship between the relatives;
- (b) The two employees having job duties which require performance of shared duties on the same or related work assignment;
- (c) Both employees having the same supervisor; or
- (d) A potential for creating an adverse impact on supervision, safety, security, morale or efficiency.

D. Spouses or Domestic Partners

The City will not appoint, promote, or transfer a person, to the same department, division, or facility in which the person's spouse or registered domestic partner already holds a position, if such employment would result in any of the following:

- (a) One spouse or domestic partner being under the direct supervision of the other spouse or domestic partner; or
- (b) Potential conflicts of interest or hazards for married persons or those in domestic partnership which are greater than for those who are not married or in domestic partnerships.

E. Marriage or Domestic Partnership After Employment

- (a) **Transfer:** If two City employees who work in the same department later become spouses or domestic partners, the Personnel Officer has discretion to transfer one of the employees to a similar position in another department, or modify the work schedule of one of the employees. Although the wishes of the two employees will be considered, the Personnel Officer retains sole discretion to determine which employee will be transferred based upon City needs for supervision, safety, security or morale. Any such transfer that results in a salary reduction is not disciplinary and is not subject to any grievance or appeal, or pre- or post-disciplinary appeal due process.
- (b) **Separation:** If continuing employment of both employees, who work in the same department and who later become spouses or domestic partners, cannot be accommodated in a manner the Personnel Officer finds to be consistent with the City's interest in the promotion of supervision, safety, security, or morale, then the Personnel Officer retains sole discretion to separate one employee from City employment. Absent the resignation of one employee, the less senior employee will be separated. Any such separation is not considered to be disciplinary and is not subject to any grievance or appeal, or pre- or post-disciplinary procedural due process or appeal.

RULE VII – PROBATION

SEC. 7.1 PROBATIONARY STATUS

- A. Any persons, other than those specified as unclassified, holding positions of employment in the classified service shall be regarded as holding their position or employment at-will. A probationary employee shall serve out the balance of his or her probationary period before obtaining regular status.
- B. During the probationary period the employee may be rejected at any time with or without cause or reason, without notice or right of appeal or grievance.

SEC. 7.2 PROBATIONARY PERIODS

- A. The probationary period shall not include time served under a temporary appointment, but shall include time served as a provisional employee. Periods of time on leaves longer than 30 days require that the probationary period be extended a period of time equal to the amount of time spent on leave.

B. Length of Probationary Period

- 1. With the exception of police officers and firefighters, all original and promotional appointments shall be for a probationary period of twelve (12) months.

- 2. Probationary Period-Transfers

Whenever a transfer is made, at the initial request of the employee, the transfer shall be subject to the employee satisfactorily completing a six (6) month probationary period provided that there are six months left in the period.

- 3. Extension of Probationary Period

At the discretion of the appointing authority, any employee serving a probationary period may at the conclusion of such period have his/her probationary period extended for an additional six (6) months, but for no longer. Prior to the end of the probationary period, the appointing authority shall notify the Personnel Officer of such contemplated extension of the probationary period.

SEC. 7.3 REGULAR STATUS

- A. An employee's status shall be considered regular upon completion of the probationary period only if the appointing authority reports to the Personnel Officer that the services of the employee have been satisfactory, the employee is recommended for regular status, and upon the employee having received written notification from the Personnel Officer of regular status and completion of the probationary period.
- B. If recommendation is made for rejection of the probationer by the appointing authority, he/she shall notify the Personnel Officer indicating the individual did not meet conditions of probation.

SEC. 7.4 REJECTION DURING PROBATIONARY PERIOD OF PROMOTED EMPLOYEES

- A. An employee rejected during the probationary period from a position to which he has been promoted shall be reinstated to the position from which he/she was promoted, unless he/she is discharged for cause, as provided in this division and the rules, which would have been sufficient to cause his/her discharge from his/her former position. In such case, the employee shall be entitled to appeal his/her dismissal as provided in these rules.
- B. Employees promoted to a higher class while on probation in a lower class and who subsequently fail to perform satisfactorily in the promoted position will be entitled to return to their former position provided the position is vacant or has not been eliminated.

RULE VIII – PERFORMANCE EVALUATIONS

SEC. 8.1 POLICY

It is the policy of the City that regular reports be made as to the efficiency, competency, conduct and merit of its employees. To this end, it is the responsibility of the City Manager, the department heads and their subordinate supervisors that these ratings be made. It is the responsibility of the Personnel Officer to provide and prescribe the forms and procedures to be used in such reports of performance and to assist in the training of supervisory personnel so that the performance reporting will be carried on in a consistent and effective manner.

SEC. 8.2 AUTHORITY TO MAKE REPORTS

The appointing authority shall have the authority to prepare reports of performance. He/she may, however, delegate said authority to such subordinate supervisory employees who are most familiar with the work of their subordinate employees , provided that he/she shall review and approve all performance evaluations of personnel under his/her jurisdiction.

SEC. 8.3 TIME FOR REPORTING

A. Probationary Employees

Within ten (10) days prior to the completion of every three (3) months during the probationary period, the department head shall furnish the Personnel Officer with a report as to the progress and performance of the probationary employee, a copy of which shall also be furnished to the probationary employee .

B. Regular Employees

A performance evaluation for a regular employee shall be prepared and received within thirty (30) days after his/her anniversary dates. The employee's anniversary date is the employee's date of hire except for employees who have been promoted, in which case a performance evaluation shall be completed on the anniversary of the employee's date of last promotion. In addition, the employee may be given a report of performance at any other time during the year upon his/her request or at the discretion of the appointing authority. Further, any employee who has been rated "improvement needed" or "unsatisfactory" shall be reported on again three (3) months from receiving such rating and again three (3) months subsequent to that.

SEC. 8.4 SALARY ON NON-DISCIPLINARY DEMOTION

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

SEC. 8.5 DISTRIBUTION OF REPORTS

Three (3) copies of the performance evaluation shall be prepared. After review and approval of the appointing authority, one (1) copy shall be retained by him/her for his/her files, one (1) copy provided to the employee, and one (1) copy shall be transmitted to the Personnel Officer. The Personnel Department copy shall be maintained in the employee's personnel file.

SEC. 8.6 PERFORMANCE RATINGS

- A. Effects of "Improvement Needed" and "Unsatisfactory" Ratings
1. Any employee who receives an "unsatisfactory" or "improvement needed" rating will not be eligible to be appointed to any promotional list until a satisfactory rating is established.
 2. Any employee who receives an "unsatisfactory" or "improvement needed" rating will not receive any 5th step merit salary increase during the period following the report in which the "unsatisfactory" or "improvement needed" rating is effective. If an employee receives one "improvement needed" rating and subsequently is granted a merit or length of service salary increase, due to a satisfactory rating within the year following his/her "improvement needed" or "unsatisfactory" rating, such increase shall be withdrawn if his/her next report of performance contains a rating of "improvement needed" or "unsatisfactory." Nothing herein shall prohibit an appointing authority from removing the "5" merit step when performance no longer qualifies an employee for it.

3. In any case, where an employee is rated “unsatisfactory” on two (2) consecutive occasions or “improvement needed” on three (3) consecutive occasions, further disciplinary action shall be taken by the appointing authority as provided for in these rules, if such action has not already been taken.
4. If an employee who has been denied a merit salary increase improves his/her performance to such extent that the appointing authority believes it is justified, he/she shall indicate the improvement on the report of performance form and may specifically recommend the restoration of any merit increment withheld and or merit increase anniversary date changed under the provisions of this rule.

B. Protest of Ratings

In any case of protest to an overall rating in a report of performance, the provisions of Rule XV shall apply provided, however, that the decision of the City Manager shall be final.

RULE IX – HOURS OF WORK/OVERTIME/COMPENSATORY TIME

SEC. 9.1 POLICY

It is the policy of the City that the hours of work, as negotiated by unit or determined by the City Council for non-represented employees, shall constitute a week's work for all full-time employees, except that work days and work weeks of a different number of hours may be established in order to meet the varying needs of the different City Departments.

SEC. 9.2 DAILY HOURS OF WORK

Daily hours of work or shifts for employees within departments shall be assigned by department heads as required to meet the operational requirements of said departments. The normal work shift for non-public safety employees and certain designated safety employees may be eight hours per day, nine hours per day, ten hours per day, twelve hours per day, or twelve and one-half hours per day as determined by the department. Fire suppression employees have a work shift of 24 hours.

SEC. 9.3 CHANGE IN WORKING HOURS

Any foreseeable absence or deviation from regular working hours desired by an employee shall, in advance, be cleared through the office of the Personnel Officer, and such absence shall be noted on the employee's time sheet.

SEC. 9.4 HOLD-OVER COMMUNICATIONS

When conditions necessitate, employees in the Communications Department and sworn employees in the Police Department shall be required on a mandatory basis to hold over past the end of their normal shifts and or to be called back to work during their off-duty time. Such action shall be taken during emergency situations as determined by the department head, including when staffing drops below department set minimum levels.

Approved overtime for Fire Department employees entitled to it also shall include time worked in excess of a regular scheduled shift, to be compensated on the basis of 15-minute increments.

SEC. 9.5 FIRE SUPPRESSION

A. In the Fire Department, employees classified as Firefighter, Firefighter/Paramedic, Fire Engineer, Fire Captain, and Assistant Fire Chief, will normally serve on the 3-

platoon system; each platoon is required to work 121.75 regularly scheduled 24-hour shifts per year.

- B. Each Fire Department employee classified as a Firefighter, Firefighter/Paramedic, Fire Engineer, Fire Captain and Assistant Fire Chief normally work a total of 2922 hours per year (56.19 hours per week).

SEC. 9.6 OVERTIME

It is the policy of the City of West Covina to avoid the necessity for overtime work whenever possible. However, when overtime is necessary and approved by the department head, payment will be at time and one-half for all hours worked in excess of the normal daily work shift.

Fair Labor Standards Act ("FLSA") overtime is defined as all hours worked by nonexempt employees in excess of 40 hours in an established workweek.

A. Overtime Authorization

1. If in the judgment of the department head, work beyond the established workweek is required by his/her employees, such work, except in the case of immediate emergency, shall be performed only with the prior authorization of the supervisor. Performing overtime work without prior authorization is grounds for discipline.
2. In emergencies, where prior authorization cannot be issued, the employee shall make a request department head shall obtain approval for the overtime worked at the earliest opportunity thereafter, in no case to exceed five calendar days after the day in which the overtime is worked.
3. An emergency shall be construed as an unforeseen combination of circumstances, which calls for immediate action, where life, health, safety, welfare, or security are involved.

B. Management Overtime

No department head, assistant department head, or exempt first-line supervisor shall be entitled to any compensation for overtime work except as provided in the applicable memorandum of understanding.

C. The City has established different FLSA work weeks and work periods to correspond to the various work schedules as follows:

1. Police Representation Unit – Law enforcement personnel are subject to the work period under the 7(k) exception to FLSA.
2. Fire Representation Unit – Fire suppression personnel are subject to the work period under the 7(k) exception to FLSA.
3. Work Week for 5/8 and 4/10 Work Schedule – The 7-day work week shall be fixed and regularly recurring period of 168 consecutive hours consisting of seven (7) consecutive 24-hour periods that begins on Sunday at 12:00 and ends on Saturday at 11:59 p.m.
4. Work Week for 9/80 Work Schedule – 7 day work week shall be a fixed and regularly recurring period of 168 consecutive hours consisting of seven (7) consecutive 24-hour periods as follows:

Employees working a 9/80 work schedule will have a regular day off every other week as determined by the City. For such employees working a 9/80 work schedule, each employee's designated work week shall begin exactly four hours after the start of his/her eight hour shift on the day of the week that corresponds to the employee's alternating regular day off.

Work Week for 3/12 Work Schedule -- 7-day work week shall be a fixed and regularly recurring period of 168 consecutive hours consisting of seven (7) consecutive 24-hour periods as follows:

Employees working a 3/12 work schedule will have a regular day off every other week as determined by the City. For such employees working a 3/12 work schedule, each employee's designated work week shall begin exactly four hours after the start of his/her eight hour shift on the day of the week that corresponds to the employee's alternating regular day off.

SEC. 9.7 COMPENSATORY TIME OFF

- A. Upon the approval of his/her supervisor, an employee, other than fire safety employees, may elect to receive compensatory time off in lieu of pay for overtime hours worked. Such compensatory time off shall be credited to the employee's

account on a time and one-half basis; i.e., one and one-half hours for each overtime hour worked.

- B. Once compensatory time off is selected and approved by the department head, the employee may not request cash payment. Upon separation, an employee shall be paid for accumulated compensatory time.
- C. The department head may set individual employee accumulation ceilings and procedures based on the needs of the department. These individual employee accumulation ceilings may not exceed the maximum limits set forth in employee's Memoranda of Understanding
- D. Department management will endeavor to schedule compensatory time off to the mutual satisfaction of employee and department unless the use of CTO on the day requested will cause undue disruption to department operations

RULE X – LEAVES

SEC. 10.1 TIME OFF BENEFITS FOR SHIFT EMPLOYEES

Holidays, vacations, sick leave, and other similar "time off" benefits granted City employees by these rules will be provided to all employees at the rate of eight (8) hours regardless of actual length of work day shift, unless otherwise stated in these rules or applicable MOU.

SEC. 10.2 HOLIDAYS

A. Class I Holidays for all Employees

1. Recognized holidays for all officers and employees shall be: New Year's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day. However, on any day appointed by the President or by the Governor as a special or limited holidays, City offices shall be open and shall function in their normal and usual manner, and all other public functions shall be performed as on days which are not holidays.
2. A special or limited holiday is hereby defined as a holiday applying only to a special class or classes of business, or a special class or classes of persons and not appointed to be generally observed throughout the state by all classes of business and all classes of persons. The West Covina City Hall will remain open on all limited holidays unless the Council takes official action to close it.

B. Class II Holidays

Class II Holidays are specified in the applicable Memoranda of Understanding.

C. Observation of Saturday and Sunday Holidays

For those employees whose normal work week is Monday through Friday, when a holiday falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day observed. When a holiday falls on a Saturday, the preceding Friday shall be deemed to be the holiday in lieu of the day observed. For all other employees, when a holiday falls on a regularly scheduled day off, the employee shall be entitled to straight time compensation for the holiday. This compensation

can be taken as either compensatory time or pay, at the discretion of the employee.

D. Compensatory Time for Holidays

Any employee whose regular schedule requires him/her to work on a holiday shall be given compensating time off for such work or paid the straight daily equivalent of his/her salary at the discretion of the department head.

E. Exception to Holiday Benefit

This section shall not apply to any employee hired on a part-time temporary, extra help, hourly, or daily basis. A temporary employee who is filling a full-time position, during the absence of a regular employee on military leave of absence for military duty, shall be entitled to the same holidays as a regular employee.

F. Employees are eligible to receive credit for holidays only if they are in "paid status" on the regularly scheduled work day or shift immediately preceding the holiday and the regularly scheduled work day or shift immediately following the holiday. "Paid status" includes vacation, sick leave; compensatory time, injured on duty, etc.

SEC. 10.3 FLOATING HOLIDAY LEAVE

A. With the exception of Police Lieutenants and Fire Battalion Chiefs, all management/confidential employees, and employees in the general, maintenance, and communications representation units are entitled to 40 hours per calendar year as floating holiday leave time, which is usable subject to the approval of the department head or the designated authority. Floating holiday leave becomes usable on January 1 of each calendar year and must be used by December 31 of the same calendar year. Floating holiday leave time may not be carried over into the next calendar year nor may the hourly equivalent be paid in lieu of time off.

B. Floating Holiday Leave – New Employees

New employees are not eligible to use floating holiday leave until they have been continuously employed with the City for a period of one month.

New employees appointed after the beginning of the calendar year are entitled to floating holiday leave days at a rate of 1.54 hours per pay period of employment.

C. Floating Holiday Leave – Reinstated Employees

Reinstated employees shall receive credit for all prior service in the current year in ascertaining the number of days/hours usable and when they may be used.

D. Floating Holiday Leave – Terminating Employees

1. Terminating employees who have not used all the floating holiday times that they are entitled to shall be paid off at the rate of 3.33 hours per month of employment in the current calendar year. If the employee's termination date is after the 18th of the month, the employee will receive credit for that month.
2. If terminating employees have taken more floating holiday leave time than they are entitled to, the amount of time taken in excess shall be deducted from vacation, sick leave pay-off, or salary when final checks are computed.

SEC. 10.4 VACATION

A. Vacation Accrual

1. Accrual Rates

If not otherwise defined in a MOU, agreement or policy, each full-time employee shall accrue vacation leave with pay at the rate of 6.67 hours of a working day per month for each month of service with the City up to and including 60 months of service, and at the completion of 60 months of service, 40 additional hours vacation shall be granted; from 61 up to and including 108 months, vacation shall be earned at the rate of ten (10) hours per month; and from 109 up to and including 120 months, vacation time shall be earned at the rate of 10.67 hours per month; and from 120 up to and including 132 months, vacation time shall be earned at the rate of 11.33 hours per month; and from 132 up to and including 144 months, vacation time shall be earned at the rate of 12.00 hours per month; and from 144 up to and including 156, vacation time shall be earned at the rate of 12.67 hours per month; and from 156 or more months, vacation time shall be earned at the rate of 13.33 hours per month, up to a maximum not to exceed 160 hours earned vacation per year.

2. Management New Hires

Each management employee shall be granted, upon completion of one year of employment, at the employee's first anniversary date, a maximum of 160 hours of vacation leave with pay. Additional vacation, based on length of service, will accrue pursuant to these rules.

3. Reinstated/Reemployed Employees

Any employee who is reinstated or reemployed under the provisions of these rules shall accrue vacation at the same time as prior to his/her termination.

4. Ineligible Employees

No vacation with pay is allowable to part-time, emergency relief, seasonal, temporary, or extra help employee, nor to employees paid solely on an hourly or daily basis. Provided, however, that a temporary employee who is filling a position in which a person on military leave has regular classification and the right to return, shall be entitled to the same vacation as he/she would have been entitled to had he/she not been on temporary employment.

B. Vacation Use

1. New employees – Upon completion of six (6) consecutive months of service, may be credited with one-half of the annual vacation earnings, and may begin using such accrual. Thereafter, employees may use vacation as they complete each month of service.
2. It is the policy of the City that where possible, vacation be taken in the year earned. Upon approval of the department head, vacation leave may be accumulated to a maximum of 160 hours added to an amount equal to the monthly accrual rate multiplied by 12.
3. The time during the year at which an employee may take his/her vacation shall be determined by the appointing authority of such employee with due regard to the wishes of the employee and particular regard for the needs of the service.

4. If a holiday falls within a scheduled vacation period, 8 additional hours of vacation shall be granted.
5. The Division Managers shall fix vacation periods for department heads.

C. Payment for Unused Vacation

1. Any employee who terminates his/her employment, shall be paid for accrued vacation time on the effective date of termination.

Upon request of the employee and the department head and with approval of the City Manager, in order to address unusual or emergency conditions, an employee may be paid the straight time daily equivalent of his/her salary in lieu of vacation time off. Such payment shall be for no more than 40 hours in any one calendar year, except as otherwise provided herein or as set forth in a Memorandum of Understanding.

2. Management Employees

- a. Management employees with less than five years City service, exempt or non-exempt, may receive payment in lieu of up to 80 hours of accumulated vacation time in any calendar year upon filing a written request with the Finance Department five days prior to requested date of issuance of the check, upon approval of department head.
- b. Management employees with five or more years of City service, exempt or non-exempt, may receive payment in lieu of up to 120 hours accumulated vacation time in any one calendar year upon filing a written request with the Finance Department five days prior to requested date of issuance of the check, upon approval of department head.

3. Confidential Employees

- a. Confidential employees with less than five years City service, exempt or non-exempt, may receive payment in lieu of up to 40 hours accumulated vacation time in any calendar year upon filing a written request with the Finance Department five days prior to requested date of issuance of the check, upon approval of department head.

- b. Confidential employees with five or more years of City service, exempt or non-exempt, may receive payment in lieu of up to 80 hours accumulated vacation time in any one calendar year upon filing a written request with the Finance Department five days prior to requested date of issuance of the check, upon approval of department head.

D. Advance Payment of Vacation

Any employee who is authorized to take 40 or more hours, (2-1/2 shifts for fire suppression employees) of vacation with pay at one time may apply for the payment of salary in advance for any pay period occurring during the period of the employee's authorized vacation. The application must be approved by the employee's department head and filed with the Finance Director at least seven (7) days before the vacation period for which the salary advance is requested. In cases of extreme emergency where the employee is unable to give the required notice, approval for an advance vacation check may be given where such request can be justified to, and approved by, the department head, division manager, and Finance Director.

SEC. 10.5 SICK LEAVE

A. Allowance/Accumulation

Following completion of thirty (30) days of full-time service, each City employee shall receive 3.69 hours per pay period of sick leave pay. Thereafter, for each pay period of service in which the employee has worked or has been paid for one-half (1/2) or more of the actual number of working days of such month, he/she shall continue to accrue 3.69 hours of credit for sick leave with pay. Unused sick leave may be accumulated without limit.

A part-time, seasonal or temporary employee who for 30 or more days within a year from the beginning of employment is entitled to paid sick leave. Paid sick leave accrues at the rate of one hour per every 30 hours worked, paid at the employee's regular wage rate. Accrual shall begin on the first day of employment. A part-time, seasonal or temporary employee may use accrued paid sick days beginning on the 90th day of employment.

B. Reinstatement of Sick Leave

1. Any employee who is reinstated under the provisions of these rules shall be given full credit for his/her unused accumulated sick leave at the time of termination provided, however, that no payoff for accumulated sick leave was received upon termination.
2. Applicable only to non-public safety employees. Upon reemployment, an employee will have sick leave time reinstated in that amount accumulated at the time of layoff up to a maximum of 320 hours. In the event that through the course of continued employment accumulated sick leave exceeds 320 hours, payoff for such excess accumulations shall be in accordance with the payoff provisions of the program, but in no case shall the aggregate of such amount(s) exceed that provided by the policy.

C. Use of Sick Leave

1. Purposes for Sick Leave

Sick leave is paid leave from work that an employee may use for the following purposes:

1. Diagnosis, care, or treatment of an existing health condition of, or preventative care for the employee themselves or any of the following family members of the employee: a child of any age or dependency status; a parent; a parent-in-law; a spouse; a registered domestic partner; a grandparent; a grandchildren; sibling; or designated person; or
2. For an employee who is a victim of domestic violence, sexual assault, stalking, or other crime in order for the employee to engage in any of the following activities: (1) obtain or attempt to obtain a temporary restraining order or other court assistance to help ensure the health safety or welfare of the employee or their child; or (2) obtain medical attention or psychological counseling, services from a shelter, program or crisis center, or (3) participate in safety planning or other actions to increase safety.

2. Immediate Family

No more than 48 hours of sick leave within any calendar year may be granted to an employee for the care or attendance upon members of his/her immediate family and not more than 40 hours (or three shifts for fire platoon

employees) of sick leave within any calendar year may be granted to an employee for each absence due to death of his/her immediate family.

The phrase "immediate family" for the use of sick leave, is defined as grandparent, parent, spouse, registered domestic partner, parent-in-law, child, stepchild, grandchild, brother, or sister.

3. Temporary Disability

A city employee who is entitled to temporary disability indemnity under Div. 4, of the State Labor Code may elect to take that number of days or portions of days of his/her accumulated sick leave, or his/her accumulated vacation, as when added to his/her disability indemnity will result in payment to him/her of his/her full salary. When his/her accumulated sick leave, or vacation, or both are exhausted, he/she is still entitled to receive disability indemnity.

4. Sick Leave Exemptions

An employee may not be entitled to sick leave with pay while absent from duty on account of the following causes:

- a. Sickness or disability sustained while on leave of absence, other than regular vacation leave or sick leave.
- b. Disability or illness arising from compensated employment other than with the City of West Covina.

5. Sick Leave During Vacation

Sick leave shall not be used in lieu of or in addition to vacation. However, an employee who becomes seriously ill on an approved vacation may contact his/her department head and request that sick leave be granted in lieu of vacation for the period of illness. The department head has discretion in approving or disapproving such request.

6. Holiday During Sick Leave

Observed holidays occurring during sick leave shall not be counted as a day of sick leave.

7. Use of Sick Leave to Offset Disability Retirement

No employee shall use sick leave days to offset the date of disability retirement. The effective date of disability retirement shall be as soon as practicable after the City's physician has determined that the employee can no longer perform the duties of his/her or an alternate position.

D. Proof of Illness or Injury

The department head may require evidence in the form of a physician's certificate or written statement, as to the adequacy of reason for any employee's absence of three (3) or more consecutive working days for which sick leave was requested.

In the Fire Department, the Department Head may require evidence in the form of a physician's certificate or written statement, as to the adequacy of the reason for any Fire employee's absence of three (3) or more consecutive shifts.

E. Sick Leave Pay-Off Upon Termination

1. Employees in the Communications, General, and Maintenance classifications, upon termination of continuous service, other than by discharge, shall be paid for 50 percent of all sick leave accrued to the time of such termination which is in excess of 320 hours, but does not exceed a maximum accrual of 800 hours.
2. Management and Confidential and employees in position classifications in the Police representation unit, upon death, retirement, or voluntary termination, shall be paid 1/3 of their accumulated and unused sick leave up to a maximum of 400 hours provided, however, that no eligibility for payoff of unused sick leave exists for employees terminating prior to three years of full-time employment with the City.

SEC. 10.6 BEREAVEMENT LEAVE

Bereavement – 40 hours (3 shifts for fire platoon/shift employee) of said leave per calendar year will be available to an employee in the event of the death of said employee's

“immediate family”, which is defined as grandparent, parent, spouse, registered domestic partner, parent-in-laws, child, stepchild, grandchild, brother or sister. The program is supplemental to the current sick leave program.

SEC. 10.7 MILITARY LEAVE

Military leave with pay shall be granted in accordance with Section 395 of the Military and Veteran's Code.

Any employee who is on temporary military leave of absence for military duty ordered for purposes of active military training, encampment, naval cruises, special exercises, or like activity as such member, provided that the period of ordered duty does not exceed 180 calendar days including time involved in going to and returning from the duty, but not for inactive duty such as scheduled reserve drill periods, and who has been in the service of the public agency from which leave is taken for a period not less than one year immediately prior to the day on which the absence begins shall be entitled to receive his/her salary or compensation as such public employee for the first 30 calendar days of any such absence. Pay for such purposes shall not exceed 30 days in any one-year of public agency service, all service of said public employee in the recognized military service shall be counted as public agency service.

SEC. 10.8 JURY DUTY, WITNESS LEAVE

A. Jury Duty

1. No deductions shall be made from the salary of an employee while on jury duty if he/she has waived or remitted to the City the fee for jury duty paid for hours the employee is scheduled to work. If he/she has not so waived or remitted the jury fee, he/she shall be paid only for the time actually worked in his/her regular position. An employee accepted for jury duty shall immediately notify his/her department head in writing whether or not he/she waives or remits his/her jury fee to the City.
2. The City will grant an employee required to serve on jury duty, or to report for examination to serve on jury duty, one time for a maximum of 160 hours, paid leave for such purposes during any three consecutive years of employment. All fees received by the employee for jury duty, exclusive of mileage, shall be remitted to the City." Administrative procedures will govern implementation of this program.

B. Witness Leave

An employee who is subpoenaed or required to appear in court as a witness on job related matters shall be deemed to be on paid leave of absence, while actually in court. Any notification of such appearance shall immediately be reported to the employee's supervisor for supervisor approval prior to the appearance. The employee shall remit to the City Treasurer all fees received related to the appearance, except mileage

SEC. 10.9 FAMILY AND MEDICAL CARE LEAVES

A. Statement of Policy; Concurrent Running of FMLA and CFRA Leaves

The City provides family and medical care leave for eligible employees as required by State and federal law. Employees who misuse or abuse family and medical care leave may be disciplined up to and including termination. Employees who fraudulently obtain or use CFRA leave are not protected by the CFRA's job restoration or maintenance of health benefits provisions. This Policy is supplemented by the Federal Family and Medical Leave Act ("FMLA"), and the California Family Rights Act ("CFRA"). Unless otherwise stated in this Policy, "Leave" means leave pursuant to the FMLA and CFRA. Unless otherwise provided by law, the City will run each employee's FMLA and CFRA leaves concurrently.

B. Definitions

- (a) "12-Month Period" means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken.
- (b) "Single 12 Month Period" means a 12-month period, which begins on the first day the eligible employee takes FMLA leave to take care of a covered servicemember and ends 12 months after that date.
- (c) "Family member" for FMLA leave means an employee's child, parent, and spouse. "Family member" for CFRA leave means an employee's child, parent, parent-in-law, spouse, domestic partner, grandchild, grandparent, and sibling.
- (d) "Child"

- 1) Under the FMLA, “child” means a child under the age of 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee’s child is one for whom the employee has actual day-to-day responsibility for care, and includes a biological, adopted, foster or stepchild. A child is “incapable of self care” if he/she requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living or instrumental activities of daily living, such as caring for grooming and hygiene, bathing, dressing and eating, cooking, cleaning shopping, taking public transportation, paying bills, maintaining a residence, or using telephones and directories.
 - 2) Under the CFRA, “child” means a child, including a child who is 18 years of age or older who is capable of self-care. An employee’s child means a biological, adopted, foster, stepchild, legal ward, a child of a domestic partner, or a person to whom the employee stands in loco parentis.
- (e) “Parent” means the biological parent of an employee or an individual who stands or stood in loco parentis (in place of a parent) to an employee when the employee was a child. This term does not include parents-in-law.
 - (f) “Parent-in-law” means the parent of a spouse or the domestic partner of the employee.
 - (g) “Spouse” means one or two persons to a marriage, regardless of the sex of the persons, and for purposes of CFRA leave, includes a registered domestic partner as defined below.
 - (g) “Domestic Partner” is another adult with whom the employee has chosen to share their life in an intimate and committed relationship of mutual caring and with whom the employee has filed a Declaration of Domestic Partnership with the Secretary of State, and who meets the criteria specified in California Family Code section 297. A legal union formed in another state that is substantially equivalent to the California domestic partnership is also sufficient.
 - (h) “Grandparent” means a parent of the employee’s parent.
 - (i) “Grandchild” means a child of the employee’s child.

- (j) "Sibling" means a person related to the employee by blood, adoption, or affinity through a common legal or biological parent.
- (k) "Serious Health Condition" means an illness, injury impairment, or physical or mental condition that involves:
 - 1) Inpatient Care in a hospital, hospice, or residential medical care facility, including any period of incapacity (e.g., inability to work or perform other regular daily activities due to the serious health condition, treatment involved, or recovery therefrom). A person is considered "inpatient" when a health care facility admits him or her to the facility with the expectation that he or she will remain at least overnight, even if it later develops that such person can be discharged or transferred to another facility, and does not actually remain overnight; or
 - 2) Continuing treatment by a health care provider: A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:
 - a. A period of incapacity (i.e., inability to work, or perform other regular daily activities) due to serious health condition of more than three consecutive calendar days; and
 - b. Any subsequent treatment or period of incapacity relating to the same condition, that also involves:
 - i. Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision by a health care provider, or by a provider of health care services (e.g., a physical therapist) under orders of, or on referral by a health care provider; or
 - ii. Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider. This includes, for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. If the medication is over the counter, and can be initiated without a visit to a health care provider, it does not constitute a regimen of continuing treatment.
 - 3) Any period of incapacity due to pregnancy or for prenatal care. Note that pregnancy is a "serious health condition" only under the FMLA. Under California law, an employee disabled by pregnancy

is entitled to pregnancy leave. (See Policy 808, Leave Because of Pregnancy, Childbirth, or Related Medical Condition.)

- 4) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
 - a. Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;
 - b. Continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - c. May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one day.
- 5) A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by health care provider.
- 6) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.

(l) "Health Care Provider" means:

- 1) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery in the State of California;
- 2) Individuals duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, which directly treats or supervises treatment of a serious health condition;
- 3) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual

manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California State law;

- 4) Nurse practitioners and nurse-midwives and clinical social workers who are authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law;
- 5) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; and
- 6) Any health care provider from whom an employer or group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

(m) "Covered active duty" means: 1) in the case of a member of a regular component of the Armed Forces, duty during deployment of the member with the Armed Forces to a foreign country; or 2) in the case of a member of the reserve component of the Armed Forces, duty during the deployment of members of the Armed Forces to a foreign country under a call or order to active duty under certain specified provisions.

(n) "Covered Servicemember" means: 1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or 2) a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

(o) "Outpatient Status" means, with respect to a covered servicemember, the status of a member of the Armed Forces assigned to either: (1) a military medical treatment facility as an outpatient; or (2) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

(p) "Next of Kin of a Covered Servicemember" means the nearest blood relative other than the covered servicemember's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered servicemember by court decree or

statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA.

- (q) "Serious Injury or Illness" means: 1) in the case of a member of the Armed forces, including a member of the National Guard or reserves, means an injury or illness that a covered servicemember incurred in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by the service in the line of duty on active duty in the Armed Forces) and that may render the servicemember medically unfit to perform the duties of the member's office, grade, rank, or rating; or 2) in the case of a veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

C. Reasons for Leave

Leave is only permitted for the reasons listed below.

- (a) The birth of a child or to care for a newborn of an employee; ;
- (b) The placement of a child with an employee in connection with the adoption or foster care of a child;;
- (c) Leave to care for a child, parent, spouse, or domestic partner who has a serious health condition; ;
- (d) Under the CFRA only, leave is permitted to care for a domestic partner, grandparent, grandchild, parent-in-law, sibling, or designated person who has a serious health condition. Leave for this purpose does not apply to FMLA leave and will not run concurrently with leave under the FMLA;
- (e) Leave because of a serious health condition that makes the employee unable to perform any one or more essential functions of his/her position;

- (f) Leave for a variety of “qualifying exigencies” arising out of the fact that an employee’s spouse, son, daughter, or parent is on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation ;
- (g) Leave to care for a spouse, son, daughter, parent, or “next of kin” who is a covered servicemember of the U.S. Armed Forces who has a serious injury or illness: incurred in the line of duty while on active military duty; or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces. This leave can run up to 26 weeks of unpaid leave during a single 12-month period; or
- (h) Under the CFRA only, leave for a variety of “qualifying exigencies” arising out of the fact that an employee’s domestic partner is on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation. Leave for this purpose does not apply to FMLA leave and will not run concurrently with leave under the FMLA.

D. Employees Eligible For Leave

An employee is eligible for leave if:

- (a) The employee has been employed by the City for at least 12 months; and
- (b) The employee has been employed by the City for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave; and
- (c) The City directly employs at least 50 full or part-time employees within a 75-mile radius for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year. The workweeks do not have to be consecutive. The phrase “current or preceding calendar year” refers to the calendar year in which the employee requests the leave or the calendar year preceding this request. This criteria is not required and does not apply for an employee to be eligible CFRA leave.

E. Amount of Leave

Eligible employees are entitled to a total of 12 workweeks (or 26 workweeks to care for a covered servicemember) of leave during any 12-month period. If FMLA leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first.

F. Minimum Duration of Leave

- (a) If leave is requested for the birth, adoption or foster care placement of a child of the employee, leave must be concluded within one year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks. However, an employee is entitled to leave for one of these purposes (e.g. bonding with a newborn) for less than two weeks duration on any two occasions.

- (b) If leave is requested to care for a child, parent, parent-in-law, spouse, domestic partner, grandparent, grandchild, sibling or the employee him/herself with serious health condition, there is no minimum amount of leave that must be taken. However, compliance with the notice and medical certification provisions in this Policy is required.

G. Parents both Employed by the City of West Covina

If both parents of a child, adoptee, or foster child are employed by the City and are entitled to bonding leave:

- 1. The aggregate number of workweeks of leave to which both may be entitled may be limited to 12 workweeks during any 12-month period; and
- 2. Each parent is entitled to take 12 workweeks of CFRA leave during any 12-month period.

If both parents of a covered servicemember are employed by the City and are entitled to leave to care for a covered servicemember, the aggregate number of workweeks of leave to which both may be entitled is limited to 26 work weeks during the 12-month period. This limitation does not apply to any other type of leave under this Policy.

H. Employee Benefits While On Leave

- (a) Group Health Insurance During Unpaid Leave: Leave under this Policy is unpaid. While on unpaid leave, employees will continue to be covered by the City's group health insurance for up to 12 weeks each leave year to the

same extent that coverage is provided while the employee is on the job. If the employee is disabled by pregnancy, coverage will continue up to four months each leave year. If an employee disabled by pregnancy also uses leave under the CFRA for baby-bonding, the City will maintain her coverage while she is disabled by pregnancy (up to four months or 17 1/3 weeks) and during her CFRA leave (up to 12 weeks).

- (b) **Benefit Plans Not Provided through the City's Group Health Plan During Unpaid Leave Do Not Continue:** The City does not pay for benefit plans that are not part of the group health plan for any employee on unpaid leave. As a result, employees will not continue to be covered under the City's benefit plans that are not provided through the City's group health plans while the employee is on unpaid leave.
- (c) **Payment of Premiums:** Employees may make the appropriate contributions for continued coverage under the health benefits plans by payroll deductions (if the employee is using his or her paid leave) or direct payments (if the employee is not using his or her paid leave). The City will inform the employee whether the direct payments for premiums should be paid to the carrier or to the City, and the deadlines for paying premiums in order to prevent coverage from being dropped. Employee contribution rates are subject to any changes in rates that occur while employee is on leave.
- (d) **Recovery of Premium if the Employee Fails to Return from Leave:** If an employee fails to return to work after his/her leave entitlement has been exhausted or expires, the City shall have the right to recover its share of health plan premiums for the entire leave period, unless the employee does not return because of the continuation, recurrence, or onset of a serious health condition of the employee or his/her family member which would entitle the employee to leave, or because of circumstances beyond the employee's control.

I. Substitution of Paid Accrued Leaves

Although family and medical care leave is unpaid, an employee may elect and the City will require an employee to concurrently use all paid accrued leaves during family and medical care leave as described below.

J. City's Right to Require an Employee to use Paid Leave when using FMLA/CFRA Leave

Employees must use and exhaust their accrued leaves concurrently with family and medical care leave to the same extent that employees have the right to use their accrued leaves concurrently with family and medical care leave with two exceptions:

- (a) Employees are not required to use paid leave during leave pursuant to a disability plan that pays a portion of the employee's salary while on leave unless the employee agrees to use paid leave to cover the unpaid portion of the disability leave benefit; and
- (b) An employee must agree to use accrued sick leave to care for a child, parent, parent-in-law, spouse, domestic partner, grandparent, grandchild or sibling.

K. City's Right to Require an Employee to Exhaust FMLA/CFRA Leave Concurrently with Other Leaves

If an employee takes a leave of absence for any purpose, which also qualifies under both the FMLA and/or CFRA, the City will designate that leave as running concurrently with the employee's 12-week FMLA and/or CFRA leave entitlement.

L. City's and Employee's Rights if an Employee Requests Accrued Leave without Mentioning FMLA or CFRA

If an employee requests to utilize accrued vacation leave or other accrued paid time off without reference to a FMLA/CFRA qualifying purpose, the City may not ask the employee if the leave is for a FMLA/CFRA qualifying purpose. However, if the City denies the employee's request and the employee provides information that the requested time off is for a FMLA/CFRA qualifying purpose, the City may require the employee to exhaust accrued leave as described above.

M. Medical Certification/ Recertification

Employees who request leave must provide a medical certification and/or recertification to support the need for the leave as described below:

- (a) Employee's Own Serious Health Condition: Employees who request leave for their own serious health condition must provide written certification from the health care provider that contains all of the following: the date, if known, on which the serious health condition

commenced; the probable duration of the condition; and a statement that, due to the serious health condition, the employee is unable to work at all or is unable to perform any one or more of the essential functions of his or her position. Upon expiration of the time period the health care provider originally estimated that the employee needed for his/her own serious health condition, the employee must obtain recertification if additional leave is requested.

- (b) **Family Member Serious Health Condition:** Employees who request leave to care for a child, parent, parent-in-law, domestic partner, spouse, grandparent, grandchild, sibling or designated person who has serious health condition must provide written certification from the health care provider of the family member requiring care that contains all of the following: the date, if known, on which the serious health condition commenced; the probable duration of the condition; an estimate of the amount of time which the health care provider believes the employee needs to care for the child, parent, domestic partner, spouse, grandparent, grandchild, sibling or designated person, and a statement that the serious health condition warrants the participation of the employee to provide care during a period of treatment or supervision of the child, parent, spouse domestic partner, grandparent, grandchild, sibling or designated person. The term “warrants the participation of the employee” includes, but is not limited to, providing psychological comfort, and arranging third party care for the covered family member, as well as directly providing, or participating in, the medical care. Upon expiration of the time period the health care provider originally estimated that the employee needed to care for a covered family member, the employer must obtain recertification if additional leave is requested.

- (c) **Servicemember Serious Injury or Illness:** Employees who request FMLA leave to care for a covered servicemember who is a child, spouse, parent or “next of kin” of the employee, must provide written certification from a health care provider regarding the injured servicemember’s serious injury or illness. The City will verify the certification as permitted by the FMLA regulations.

- (d) **Qualifying Exigency:** The first time an employee requests FMLA leave because of a qualifying exigency, an employee may require the employee to provide a copy of the military member’s active duty orders or other documentation issued by the military which indicates that the military member is on covered active duty or call to active duty status in a foreign country, and the dates of the military member’s active duty service. A copy of the new active duty orders or similar documentation

shall be provided to the City if the need for leave because of a qualifying exigency arises out of a different active duty or call to active duty status of the same or a different military member. The City will verify the certification as permitted by the FMLA regulations.

N. Time to Provide a Medical Certification

When an employee has provided at least 30 days' notice for a foreseeable leave, the employee must provide a medical certification before the leave begins. When this is not possible, the employee must provide the medical certification to the City within the time frame requested by the City (which must allow at least 15 calendar days after the employer's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

O. Consequences for Failure to Provide an Adequate or Timely Certification

If an employee provides an incomplete medical certification, the employee will be given a reasonable opportunity to cure any such deficiency. However, if an employee fails to provide a medical certification within the time frame established in this Policy, the City may delay the taking of FMLA/CFRA leave until required certification is provided, or deny FMLA/CFRA protections following the expiration of the time period to provide an adequate certification.

P. Personnel Officer's Review of the Contents of Medical Certification for Employee's Own Serious Health Condition

(a) Complete and Sufficient: The employee must provide a certification for his or her own serious health condition that is complete and sufficient to support the request for leave. A certification is incomplete if one or more of the applicable entries on the certification form have not been completed. A certification is insufficient if the information on the certification form is vague, ambiguous, or not responsive. If the certification is incomplete or insufficient, the Personnel Officer will give the employee written notice of the deficiencies and seven days to cure, unless a longer period is necessary in light of the employee's diligent, good faith efforts to address the deficiencies.

(b) Authentication and Clarification: After giving the employee an opportunity to cure the deficiencies in a medical certification for the employee's own serious health condition, the Personnel Officer may contact the health care provider who provided the certification to clarify and/or authenticate the certification. "Authentication" means providing

the health care provider with a copy of the certification form and requesting verification that the information on the form was completed or authorized by the health care provider who signed the form. "Clarification" means contacting the health care provider to understand the handwriting on the medical certification or to understand the meaning of the response. The Personnel Officer may not ask for additional information beyond that required on the certification form.

Q. Second and Third Medical Opinions For Employee's Own Serious Health Condition

If the City has a good faith, objective reason to doubt the validity of a certification for the employee's serious health condition, the City may require a medical opinion of a second health care provider chosen and paid for by the City. If the second opinion is different from the first, the City may require the opinion of a third provider jointly approved by the City and the employee, but paid for by the City. The opinion of the third provider will be binding. The City must provide the employee with a copy of the second and third medical opinions, where applicable, without cost, upon the request of the employee.

R. Intermittent Leave or Leave on a Reduced Leave Schedule

If an employee requests leave intermittently (a few days or hours at a time) or on a reduced leave schedule for his or her own serious health condition, or to care for an immediate family member with serious health condition, the employee must provide medical certification that such leave is medically necessary. "Medically necessary" means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule. The City may require an employee who certifies the need for a reduced schedule or intermittent leave to temporarily transfer to an alternate position of equivalent pay and benefits that better accommodates the leave schedule.

S. Employee Notice of Leave

Although the City are required to give as much verbal or written notice as possible of their need for leave. If leave is foreseeable, at least 30 days' notice is required. In addition, if an employee knows that he/she will need leave in the future, but does not know the exact day(s) (e.g. for the birth of a child or to take care of a newborn), the employee shall inform his/her supervisor as soon as possible that such leave will be needed. For foreseeable leave due to a qualifying exigency, an employee must provide

verbal or written notice of the need for leave as soon as practicable, regardless of how far in advance such leave is foreseeable.

T. Reinstatement Upon Return From Leave

- (a) Reinstatement to Same or Equivalent Position: Upon expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position with equivalent benefits and pay. Employees have no greater rights to reinstatement, benefits, and other conditions of employment than if the employee had been continuously employed during the FMLA/CFRA period.
- (b) Date of Reinstatement: If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the reinstatement date differs from the original agreement of the employee and the City, the employee will be reinstated within two business days, where feasible, after the employee notifies the employer of his/her readiness to return.
- (c) Employee's Obligation to Periodically Report on His/Her Condition: Employees may be required to periodically report on their status and intent to return to work. This will avoid any delays to reinstatement when the employee is ready to return.
- (d) Fitness for Duty Certification: As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition, which made the employee unable to perform his or her job, the employee must obtain and present a fitness-for-duty certification from the health care provider stating that the employee is able to resume work. Failure to provide such certification will result in denial of reinstatement.
- (e) Reinstatement of "Key Employees": Under the FMLA only, the City may deny reinstatement to a "key" employee (i.e., an employee who is among the highest paid 10 percent of all employed by the City within 75 miles of the worksite) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the City, and the employee is notified of the City's intent to deny reinstatement on such basis at the time the employer determines that such injury would occur. Under the CFRA, the City may not deny reinstatement to a "key" employee during or upon expiration of CFRA leave.

U. Required Forms

Employees must complete the applicable forms to receive family and medical care leave. The forms may be found at Human Resources.

SEC. 10.10 LACTATION POLICY

A. Lactation Break Time and Location

The City will provide a reasonable amount of break time to accommodate any employee desiring to express breast milk for the employee's infant child each time the employee has a need to express milk. The break time shall, if possible, run concurrently with any break time already provided to the employee. If the employee takes lactation breaks at times other than their provided break times, then the lactation break shall be unpaid or the employee may choose to use accrued leave.

Those desiring to take a lactation break at times other than their provided break times must notify a supervisor prior to taking such a break. Breaks may be reasonably delayed if they would seriously disrupt operations. Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

The City will provide a room or other appropriate location in close proximity to the employee's worksite that is not in a bathroom to express milk in private. The room or location will meet the following requirements:

- Be shielded from view and free from intrusion while being used to express milk;
- Be safe, clean, and free of hazardous materials;
- Contain a surface on which to place a breast pump and personal items;
- Contain a place to sit; and
- Have access to electricity needed to operate an electric battery-powered breast pump.

An employee occupying such private area shall either secure the door or otherwise make it clear to others through signage that the area is occupied and should not be disturbed. All other employees should avoid interrupting an employee during an authorized break under this section, except to announce an emergency or other urgent circumstance.

The City will provide access to a sink with running water and a refrigerator, or other cooling device, suitable for storing milk, in close proximity to the employee's work area.

B. Lactation Accommodation

An employee may make a request for lactation accommodation, either orally or in writing, with the Personnel Office.

Following receipt of a request for lactation accommodation, the City will provide a timely written response to the employee in which the City will indicate if it is unable to provide the requested break time or a requested location for the purposes of expressing breast milk.

An employee does not believe that the City is providing an appropriate lactation accommodation should immediately inform the Personnel Office.

An employee who does not believe that the City is providing an appropriate lactation accommodation as required by state law has the right to file a complaint with the California Division of Labor Standards Enforcement/Labor Commissioner.

SEC. 10.11 WORK RELATED DISABILITY LEAVE

A. Entitlement to Leave

Whenever any employees of the City are disabled, whether temporarily or permanently, by injury or illness arising out of and in the course of their duties, they shall be entitled, regardless of their period of service with the City, to leave of absence while so disabled, without loss of salary - temporary disability compensation, if any, being considered as and credited to salary for this purpose - for the period of such disability, but not exceeding one year, or until such earlier date as they are determined to be permanent and stationary and unable to return to their usual and customary duties; and the leave of absence, hereby granted shall be in addition to, and shall not be charged to or deducted from, accumulated sick leave except as provided herein. Such leave, however, shall not be paid for more than three days unless and until such employees are determined by the City to be legally entitled to receive benefits under the Worker's Compensation Law of the State of California based upon such injury or illness. When and while applicable, this section shall supersede the provisions of the Grievance Procedure.

B. Salary Step Increases During Leave (CC Action 1/8/02)

Relative to non-public safety employees, (1) promotion or step increases which would have come due during a disability leave shall take effect upon the day the

employee returns to regular duties in accordance with existing rules; (2) holidays occurring during disability shall not be counted as disability leave days, but shall be considered as holidays for which time off has been utilized; and (3) vacation and sick leave benefits shall continue to accrue during periods of industrial disability leaves.

C. Review of Safety Committee

The first three (3) days of absence of a non-public safety employee due to a disability shall be charged to the employee's usable accumulation of sick leave or other time off benefits; provided, however, that the Safety Committee or its sub-committee, upon request of the employee, shall review the circumstances of the injury. If the Safety Committee rules that the employee had no possible opportunity to prevent or reduce the injury through any alternative action, disability time off charged to the employee's time off benefits may be restored. Such restorations shall be limited to causes where no danger could have been anticipated or precautions and actions taken by the employee to prevent or reduce the injury.

Appeal of Safety Committee determinations provided for in this section shall be made to the City Manager, whose decision shall be final.

D. Paid Leave During Disability

No sworn members of the Police and Fire Departments, while on or entitled to disability leave of absence, shall suffer the loss of any vacation, sick leave, or increase in compensation which would have accrued, or to which he/she would have been entitled, if he/she were actually performing his/her duties.

E. Probation During Disability

Probationary employees on temporary disability due to work incurred or related injury/illness shall not progress towards the completion of the probationary period while on such temporary disability leave.

SEC. 10.12 SPECIAL LEAVE OF ABSENCE WITH PAY

When an employee has exhausted all sick leave and vacation time to which he/she is entitled, the City Council may, upon a showing of good cause and justifiable and

deserving circumstances, grant to such employee a leave of absence with pay for a period not exceeding six months and subject to such conditions as the City Council may deem advisable. If temporary disability payments are paid to such employee during any such leave of absence with pay, they shall be credited to and considered a part of his/her salary, and the City shall pay only the difference which when added thereto would equal his/her full salary.

SEC. 10.13 LEAVES OF ABSENCE WITHOUT PAY

A. Unauthorized Absence – Automatic Termination

Any employee absent from his/her job for more than (2) working days without prior permission of the department head, shall be considered to have automatically terminated his/her employment with the City.

B. Unauthorized Absence – Other Disciplinary Action

Any unauthorized absence may be cause for disciplinary action as provided in these rules.

C. Authorized Absence

1. Upon the request of the employee and the recommendation of the appointing authority, a leave of absence without pay may be granted by the Council or City Manager to an employee, who immediately preceding the effective date of such leave, shall have completed at least one year of continuous service.
2. An employee shall not be entitled to a leave of absence as a matter of right, but only upon good and sufficient reason.
3. If the leave without pay request is in relation to a disability accommodation, then the leave will be determined through the interactive process on a case-by-case basis without aforementioned restrictions.

D. Non-Medical Leave of Absence Without Pay - Duration

1. Request for leave of absence without pay shall be made as prescribed by the Personnel Officer, and shall state specifically the reason for the request,

the date when it is desired to begin the leave, and the probable date of return. The Personnel Officer will transmit the request to the Council, in the case of leaves of more than one hundred twenty (120) calendar days. A request for a leave of one hundred twenty (120) calendar days or less may be approved by the City Manager upon recommendation of the appointing authority.

2. A leave of absence without pay may be granted by the Council for a period not to exceed one year provided that the Council may extend such leave for an additional year.
3. If the leave without pay request is in relation to a disability accommodation, then the leave will be determined through the interactive process on a case-by-case basis without the aforementioned restrictions.

E. Military Leave

The Council may grant a military leave of absence without pay for an indefinite period of time to any employee who is called into active military service even though the employee does not meet the one (1) year of continuous service requirements specified in Section 10.7.

F. Leave of Absence - Injury

The Council may grant a leave of absence without pay for an indefinite period of time to any employee who is injured on the job, or has a serious illness even though the employee does not meet the one year of continuous service requirements as specified in Section 10.35.C.

G. Accrual Benefits

Leave of absence without pay granted by the Council shall not be construed as a break in service or employment, and rights accrued at the time of leave is granted shall be retained by the employee; However, vacation credits, sick leave credits, increases in salary and other similar benefits shall not accrue to a person granted such leave during the period of absence. An employee reinstated after leave of absence without pay shall receive the same step in the salary range he/she received when he/she began his/her leave of absence. Time spent on such leave without pay shall not count toward service for increases with in the salary range,

and the employee's salary increase anniversary date shall be set forward one month for each thirty (30) consecutive days taken.

SEC. 10.14 FAILURE TO RETURN FROM LEAVE

- A. Failure of the employee to return to his/her employment upon the termination of any authorized leave of absence shall constitute an automatic termination from City service of that employee, unless such leave is extended.
- B. The Council reserves the right to revoke or cancel any authorized leave for reasons which said Council finds to be sufficient.

RULE XI – LAYOFF/REEMPLOYMENT

SEC. 11.1 ELIMINATION OF POSITIONS

Public interest may require elimination or curtailment of a public service activity which may, therefore, require the layoff of one or more employees. The following procedure is intended to provide primary consideration to seniority of service.

SEC. 11.2 LAYOFF PROCEDURE

A. Seniority

Seniority is defined as the length of continuous service in the employee's present classification or in higher or equal classes regardless of department to which assigned. When employees have equal seniority for retention in a class, the employee with the greater amount of seniority credit with the City shall have the highest retention priority. "Seniority credit with the City shall be defined as the length of continuous service from the last date of hire by the City, including time spent in the San Gabriel Valley Fire Authority. If a tie occurs, priority shall be determined on the basis of the employee's rank on the certified eligibility list at the time of appointment to that class.

B. Employees will be laid off on the least seniority bases in order of the following categories, completely exhausting each before proceeding to the next.

1. Temporary, seasonal and provisional non-regular employees.
2. Probationary, full-time employees in the classified service.
3. Regular, classified full-time employees.

C. When a position within a class is abolished, the following steps shall be observed:

1. The names of all employees occupying positions in said class shall be listed in the order of their lengths of service in said class or in higher or equal classes.
2. If on this list there is included the names of any probationary or otherwise non-regular employees, the appointing authority shall choose an employee

from the three with the least seniority to be laid off for each position to be abolished. The provision of paragraph 4 shall apply to these laid off employees who hold regular status in a lower class.

3. The appointing authority shall base the layoff decision on quality of service and seniority. If one layoff is to be made, then the three lowest seniority employees will be considered. If more than one layoff is to be made, the number of employees lowest in seniority equal to the number of layoffs, plus two, will be considered.
4. An employee laid off under the provisions of paragraph 2 who holds regular status in a lower class, may request demotion to a position in said lower class or equivalent class in order to avoid layoff. If the employee makes such request, a list of employees as prescribed in paragraph 1 shall be prepared and subject employee shall have his/her name placed among the other names on said list according to his/her seniority. Thereafter, the appointing authority shall choose an employee to be laid off according to the provisions of paragraphs 2 and 3.
5. An employee laid off, under the provisions in paragraph 4 may request demotion to a position in any lower class within the same series as, or an equivalent series to, that within which he/she held his/her position. If the employee makes such request, thereafter the same provisions as stipulated in paragraph 4 with respect to the preparation of a list of employees and the selection of an employee to be laid off shall apply.
6. In the case of layoffs necessitated by demotion under the above outlined procedures, the same general provisions as outlined above shall apply in laying off employees in the lower class.
7. In the case of any questions as to the equivalency of classes for the purpose of preparing the lists prescribed above, the Personnel Officer, having responsibility for the maintenance and application of the classification plan, shall render his/her judgment and such judgment shall be final.

D. Written Notice of Layoff

1. Any employee to be laid off will be given written notice of layoff not less than fourteen (14) calendar days prior to the effective date of such layoff.
2. An employee so notified will be provided with three (3) working days to respond/appeal the City's layoff notice. The employee must request an appointment with the Personnel Officer for an informal pre-layoff review meeting within three (3) working days for the City's layoff notice. The Personnel Officer's decision is final.
3. Upon receipt of notice of layoff and in order to avoid layoff, an employee may request a demotion in writing to the Personnel Officer within three (3) working days of receipt of layoff notice.

E. Specially Funded Positions

1. When a position is created and is funded by a grant of funds from the State or the Federal government, the position shall be automatically abolished when the funding is terminated. The incumbent of the position shall be laid off on the date upon which the position is abolished and the layoff procedures prescribed in these rules are applicable and shall be followed.
2. Any employee hired or promoted to fill a vacancy in a regular full-time City position resulting from the assignment of a regular employee to a specially funded position, may be demoted or laid off in accordance with this procedure at the time the regular employee returns to his/her former position.

SEC. 11.3 REEMPLOYMENT

A. Reemployment List

1. The reemployment list shall consist of the names of regular employees who have been laid off for lack of work, lack of funds from a position in the same class, or an equivalent class, or that in which the vacancy exists.
2. Such names shall be placed on the reemployment list in reverse order of layoff. Last employee laid off is the first employee on the reemployment list with other laid off employees in sequential order thereafter.
3. Employees whose positions have been reallocated to a lower class, but who have not been demoted for cause, shall also have their names placed on the reemployment list for the class from which their position was reallocated.

4. Reemployment lists shall be certified by the Personnel Officer and shall be valid for one year from date of layoff.

B. Appointments

The appointing authority shall select from among the three highest available and qualified on the reemployment list. Qualifications shall be determined by the last performance evaluation.

C. Prior Service

For the purpose of computing total seniority with the City, an employee reemployed shall have the same prior service credited to them as they had at the time of layoff.

D. Anniversary Date

Upon reemployment, an employee shall be credited with the same portion of a year as that credited at the time of layoff for purposes of establishing a new anniversary date for step and merit increase eligibility.

RULE XII – SEPARATIONS/RETIREMENT

SEC. 12.1 RESIGNATIONS

A resignation in good standing shall require the submittal by the employee of a notice of planned resignation. Once submitted a resignation notice may not be withdrawn without the approval of the appointing authority.

RULE XIII – OUTSIDE EMPLOYMENT

SEC. 13.1 POLICY

A city officer or employee shall not engage in any employment, activity, or enterprise which is inconsistent, incompatible, or in conflict with his/her duties, functions, or responsibilities of his/her appointing authority or the department in which he/she is employed, nor shall he/she engage in any outside activity which will directly, or indirectly, contribute to the lessening of his/her effectiveness as a City employee.

SEC. 13.2 SALARY ON NON-DISCIPLINARY DEMOTION

- A. Any officer or employee wishing to engage in an occupation or outside activity for compensation, shall inform the appointing authority of such desire, providing information as to the time required and nature of such activity and such other information as may be required, and the appointing authority shall determine whether or not said outside activity is compatible with the employee's City employment.
- B. If the appointing authority determines such activity is compatible, he/she may authorize the activity in writing using the "Outside Employment Form" and sending a copy to the Personnel Office.
- C. Said authorization shall be valid only for work and period prescribed herein.

SEC. 13.3 DETERMINATION OF INCONSISTENT ACTIVITIES

In making a determination as to the consistency or inconsistency of outside activities with City employment, the appointing authority shall consider, among other pertinent factors, whether the activity:

- A. Involves the use for private gain or advantage of City time, facilities, equipment, and supplies, or the badge, uniform, prestige, or influence of one's City office or employment.
- B. Involves receipt or acceptance by the officer or employee of any money or other consideration from anyone other than the City for the performance of an act which the officer or employee, if not performing such act, would be required or expected

to render in the regular course of his/her City employment or as a part of his/her duties as a City officer or employee.

- C. Involves conditions or factors which would probably directly or indirectly lessen the efficiency of the employee in his/her regular City employment, or conditions in which a substantial danger or injury or illness to the employee.
- D. Involves the performance of an act in other than his/her capacity as a City officer or employee, which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement by such officer or employee or the department in which he/she is employed.

SEC. 13.4 INJURIES RELATED TO OUTSIDE EMPLOYMENT

The City will investigate injuries to determine if they were sustained or aggravated by outside employment. The determination that an employee's injury was sustained or aggravated by outside employment may impact eligibility for Workers' Compensation and rights under Section 4850 of the Labor Code of the State of California

RULE XIV – DISCIPLINARY ACTIONS

SEC. 14.1 CAUSES

- A. Disciplinary measures may be taken for any good and sufficient cause. The extent of the disciplinary action taken shall be commensurate with the offense, provided that the prior employment history of the employee may also be considered pertinent. Progressive discipline is to be used to assist employees in improving their performance and correcting deficiencies. There may be instances that require proceeding directly to more severe levels of discipline; and the City reserves the right to proceed to any level of discipline, including termination. Cause may include violation of the Personnel Ordinance or of these rules or any rules and for regulations of the Department or the personnel thereof, any act of insubordination or act detrimental to the public service, or any departmental policy or rule failure, refusal or inability to comply with the duties of the position occupied by the employee, or any other type of misfeasance, malfeasance or nonfeasance relating to his/her duties, office or position. Should there be an investigation to support the disciplinary measure, such investigation shall consider all relevant evidence as the investigator sees fit.

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

SEC. 14.2 AUTHORITY FOR DISCIPLINARY ACTIONS

- A. The appointing authority shall have authority to take disciplinary action provided also that the appointing authority may delegate to certain of his/her subordinate supervisory employees the authority to make official warnings. Immediate suspensions may not be stipulated, however, except by the appointing authority.

- B. The Personnel Officer shall be notified of any contemplated disciplinary action prior to the time it is taken, provided that in emergency situations or other instances when prior notification is not practicable, the Personnel Officer may be notified as soon as possible subsequent to the time the action is taken.

SEC. 14.3 KINDS OF DISCIPLINE

Disciplinary actions include suspensions, demotions, reduction in pay and dismissal. Oral and written reprimands and counseling memos are considered official warnings and are not disciplinary actions covered under this section. Employees receiving warnings may respond in writing and have such response placed in their personnel file.

All disciplinary actions shall be made in accordance with these Rules. Probationary and limited service employees may be dismissed, demoted or reduced in pay without right to review or appeal unless otherwise required by law.

A. Cause for Suspension, Demotion, Reduction in Salary, Dismissal

An employee with regular status may be demoted, suspended, reduced in pay or dismissed only for cause. Employee may be disciplined for, including but not limited to, any of the following causes of discipline:

1. Failure to meet work performance standards and requirements.
2. Discourteous or offensive treatment of the public or other employees.
3. Willful or negligent disobedience of any law, ordinance, rule or regulation, or superior's lawful order.
4. Excessive absenteeism or absence without approved leave.
5. Misappropriation or damage of public property or public funds through negligent or willful misconduct.
6. Excessive tardiness.
7. Deception or fraud in securing a job appointment, promotion or making a false statement on an application for employment.
8. Falsification of a relevant official statement or document.
9. Possessing or using narcotics, alcohol or controlled substances in City offices, facilities or property, or being under the influence of same while on duty.
10. Failure to supply full information as to character, employment history, or acts which, if known at the time of appointment might have resulted in disqualification for the job to which appointment was made.
11. Improper or unauthorized use of City property.

12. Failure to exhibit good behavior or conduct, either during or outside of duty hours which is of such nature that causes discredit to the appointing authority or City.
13. Outside employment not specifically noticed to and authorize by the appointing authority.
14. Acceptance from any source of a reward, gift, or other form of remuneration in addition to regular compensation to an employee for the performance of his or her official duties.
15. Improper political activity while on duty such as campaigning or espousing the election or non-election of any candidate in nation, state, county or municipal elections.
16. Dishonesty – acts and statements such as lying, making false entries on records and other actions showing a lack of truthfulness and integrity.
17. Theft.
18. Abusive conduct, including malicious verbal, visual, or physical actions, or the gratuitous sabotage or undermining of person's work performance.

SEC. 14.4 DISCIPLINE PROCEDURES

A. Notice to Employees

In instances of serious disciplinary actions which result in financial detriment to the employee, i.e., dismissal, demotion, salary reduction, and suspension equivalent to five (5) days or more, written notice of the proposed disciplinary actions shall be submitted to regular employees five (5) work days prior to the effective date of the proposed action. In emergency situations when prior notification is not practicable, an employee may be suspended with pay until such notice is given and until the proposed action becomes effective.

1. The written notice of proposed disciplinary action shall include the level of the proposed disciplinary action, the effective date, and specific charges upon which the proposed disciplinary action is based, and a summary of the facts that show that the elements of each at issue in the proposed discipline.
2. The written notice of proposed disciplinary action shall include a copy of all materials upon which the proposed disciplinary action is based.

3. The written notice shall also inform the employee of his/her right to respond, either orally by requesting a *Skelly* conference or in writing, to the Department Head or Division Manager before the disciplinary action is imposed. The written notice will also advise of the employee's right to have a representative of his or her choice at the *Skelly* conference. Such response must be made within five (5) working days of receipt of the written notice. Failure to respond during the time specified shall constitute a waiver of the right to respond prior to imposition of the proposed action.
4. If the employee requests a *Skelly* conference, the Department Head, Division Manager or designee will conduct an informal meeting with the employee. During the informal meeting, the employee shall have the opportunity to rebut the charges against him or her and present any mitigating circumstances. The Department Head or designee will consider the employee's presentation before issuing the disciplinary action. The employee's failure to attend the conference, or to deliver a written response by the date specified in the notice of proposed disciplinary action, is a waiver of the right to respond, and the intended disciplinary action will be imposed on the date specified in the notice.
5. After the *Skelly* conference and/or timely receipt of the employee's written response, the Department Head, Division Manager or designee will: (1) take no disciplinary action; (2) modify the intended discipline; or (3) impose the intended disciplinary action. In any case, the Department Head, Division Manager or designee will provide the employee with a final notice of discipline that contains the following:
 - The level of discipline, if any, to be imposed and the effective date of the discipline,
 - The specific charges upon which the discipline is based,
 - A summary of the facts that show that the elements of each charge at issue in the intended discipline;
 - A copy of all materials upon which the discipline is based; and
6. A reference to the employee's appeal right and deadline to appeal. In cases involving suspension of less than 40 hours, or reduction in pay equivalent to less than 40 hours of cumulative pay, oral notice of proposed action is sufficient prior to imposition. Written order of action shall be given to the employee within five (5) working days after the discipline is imposed.

B. Evidentiary Hearing – Right of Appeal

As provided in Section 2-254 of the Municipal Code, any regular employee in the classified service who has been demoted, dismissed, suspended for a period of

five work days or more, or reduced in step within his/her range shall be entitled to request a hearing before the Commission, provided, however, that employees in the position classifications in the Police representation unit shall have the right to appeal a disciplinary suspension pursuant to these rules, and the Public Safety Officer Procedural Bill of Rights Act. Employees in the position classifications in the Fire representation unit shall have the right to appeal a disciplinary suspension pursuant to these rules, and the Firefighters Procedural Bill of Rights.

C. Appeal Procedure

1. Provided that settlement of the matter has not been made, the employee may, within five (5) work days of the receipt of the final notice of disciplinary action, request in writing a hearing of the matter by the Commission. Such request shall be filed with the Personnel Officer. Failure to file a timely written request for an appeal waives the right to an appeal hearing and any appeal of the discipline.
2. The Personnel Officer shall then transmit to the Commission, within ten (10) working days, said employee's request together with copies of all the above-mentioned documents pertinent to the case and such other documents and information as may be requested by the Commission. The Commission may at its discretion designate an independent hearing officer to conduct disciplinary appeal hearings on its behalf. The role of the hearing officer is to set and conduct grievance appeal proceedings, administer oaths, and present findings and non-binding recommendations to the Commission for their consideration.
3. In the course of hearing the Commission shall cause the employee to appear before it. The employee may be represented by a representative of his/her choice. The hearing may be conducted by an informal process to facilitate garnering of information and to expedite the entire process.

Upon the conclusion of the Commission's hearing it shall certify its findings and final action shall be taken by the City Manager as provided in Section 2-257 of the Municipal Code.

4. The purpose of the hearing is to determine the accuracy and sufficiency of the facts attendant to the disciplinary action imposed. The appellant and the City shall have the right to introduce evidence and call witnesses. Hearings need not be conducted according to technical rules relation to evidence and witnesses, but hearings shall be conducted in a manner that the hearing officer decides is the most conducive to determining the truth. Any relevant evidence shall be permitted if it is the type reasonable persons can rely on

in the conduct of business. Irrelevant and repetitious evidence shall be excluded.

5. The burden of proof of in disciplinary appeals is the preponderance of evidence.
6. All hearings are closed to the public unless otherwise specifically stipulated by the appellant.
7. Communication to the appellant shall be by certified registered mail.

D. Findings

The Commission may recommend to sustain or modify the disciplinary action taken when it appears in the record that there was a substantial violation or omission of procedure or where the specific evidence produced in the hearing warrants such recommendation.

E. Reimbursement for Loss of Pay

1. Reimbursement for loss of pay due to a disciplinary action which is subsequently revoked or modified shall be made to an employee. Said reimbursement pertains to and is confined to the period of time between the date of initial action and ending with the date of final decision above.
2. Where procedural steps are not followed, the employee is entitled to back pay from the time the discipline was imposed up to the time the administrative review process has been completed and a final decision was made. Provided further, however, that loss of pay subsequent to the date of final decision may be made upon recommendation of the City Manager and approval of City Council.

RULE XV – GRIEVANCE AND COMPLAINT PROCEDURE

SEC. 15.1 ESTABLISHMENT

In accordance with Section 2-258 of the Municipal Code, these procedures are established in order to provide an adequate opportunity for City employees to bring forth their views relating to alleged violation of these rules or policies related to unfair or improper aspects of their employment situation and to seek correction thereof.

SEC. 15.2 SCOPE OF LIMITATIONS

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

SEC. 15.3 DEFINITIONS

- A. Complaint: An allegation or charge that the complaining employee has suffered a wrong as a result of management action or inaction.
- B. Complaint Procedure: The process by which a determination is made as to whether or not a wrong has been committed.
- C. Grievance: An expressed claim by an employee that the City has violated, misinterpreted, or misapplied an obligation to the employee as such obligation is expressed and written in the City Personnel Ordinance, Resolutions. The following procedure applies to all City employees, unless the following apply: the employee is covered by a grievance procedure in a memorandum of understanding, another dispute resolution procedure applies to the dispute, or a discipline policy and procedure applies.
- D. Grievance Procedure: The process by which the validity of a grievance is determined.

SEC. 15.4 COMPLAINT PROCEDURE

Step 1. The employee shall discuss any complaint with his/her immediate supervisor. The supervisor is required to review every complaint and attempt to settle it as quickly and fairly as possible.

Step 2. If the action taken by his/her immediate supervisor is not satisfactory, the employee may take his/her complaint to successive levels of supervision as determined by the chart of administrative organization, up to and including the City Manager.

SEC. 15.5 GRIEVANCE PROCEDURE

Step. 1. The employee shall inform in writing his/her immediate supervisor of his/her grievance and relevant facts within ten (10) working days after the employee knew, or in the exercise of reasonable diligence should have known, of the events giving rise to the grievance. At least one conference shall be held between the employee and his/her immediate supervisor after, the employee has expressed his/her grievance. The supervisor shall advise the employee of his/her decision within fifteen (15) working days following notification of the grievance.

Step 2. In the event such efforts as are specified in Step1 are not productive of a mutually satisfactory solution, the employee aggrieved shall fill out a City Grievance Form. The grievant shall set forth all the facts necessary to an understanding of the issues involved, and refrain from including any unrelated charges or language. The grievance shall include a citation of the sections of the City ordinances, resolutions, or rules alleged to have been violated and then remedy sought by the grievant. The grievance shall be signed by the grievant and submitted to the grievant's immediate supervisor. Within ten (10) working days of receipt of a Grievance Form, the supervisor shall inform the grievant of his/her decision.

Step 3. If the grievance is not satisfactorily resolved in Step 2, the grievant may, within ten (10) working days after receipt of his/her supervisor's response, submit the grievance to his/her department head. Such submittal shall be by written memo and include the original of the Grievance Form. After receipt of the grievance, the department head will meet with the grievant and make such investigation as is required. Within ten (10) working days of his/her meeting with the grievant, the department head shall return the original Grievance Form to the employee along with his/her written decision on the grievance.

Step 4. If the grievance is not satisfactorily resolved in Step 3, the grievant may, within ten (10) working days of receipt of the department head's decision, submit a grievance to the Personnel Officer for consideration by the Division Manager. Such submittal shall include the original Grievance Form, a written statement of any issues which are still in dispute, and the specific basis upon which the grievant takes issues with the position of his/her department head. The Division Manager or his/her designee shall take such

review and investigative action he/she deems necessary and appropriate and inform the grievant of his/her decision within fifteen(15) working days of receipt of the grievance.

Step 5. If the grievant is not satisfied with the Division Manager's decision, he/she may, by written notification to the Personnel Officer within ten (10) working days of receipt of the Division Manager's decision, request that the grievance be submitted to the Commission. The Personnel Officer shall submit said request, together with copies of all the pertinent forms, documents, and materials concerned, to the Commission. The Commission may at its discretion designate an independent hearing officer to conduct grievance appeal hearings on its behalf. The role of the hearing officer is to set and conduct grievance appeal proceedings, administer oaths and present findings and non-binding recommendations to the Commission for their consideration. The Commission shall, at its discretion, hold such hearings as it requires and certify its findings as provided in Section 2-257 of the Municipal Code.

Pursuant to Section 2-257 of the Municipal Code, the Commission shall certify copies of its or its designee's findings and recommendations to the City Manager, the Personnel Officer, and other officials from whose action the appeal was made, and to the appellant employee. The official from whose action the appeal was made shall then review such findings and recommendations with the City Manager and upon approval of the City Manager, shall then affirm, revoke or modify the original action taken. Such affirmation, revocation or modification taken shall then be final.

SEC. 15.6 GENERAL PROVISIONS

- A. No retaliation or prejudice shall be suffered by employees making use of the grievance or complaint procedures by reason of such use.
- B. Forms for filing and processing grievances and other documents necessary under these procedures shall be prepared by the Personnel Officer and given appropriate distribution. All documents, communications and records dealing with the processing of grievances shall be filed separately from personnel files.
- C. Failure by management at any step of this procedure to communicate the decision of the grievance within specified time limits shall permit the grievant to proceed to the next step.
- D. The grievant shall be entitled to be present at all steps of the procedure.

- E. Failure at any step of this procedure to appeal a decision on a grievance within specified time limits shall be deemed acceptance of the decision rendered.
- F. The time limits specified at any step in this procedure may be extended by mutual written agreement.
- G. The original Grievance Form shall accompany all requests for institution of the first step of the grievance procedure.
- H. A classified Maintenance Department employee shall be granted a reasonable amount of City time during the employee's work day to prepare for a grievance matter presentation. Such time off is subject to department head approval.
- I. Communications with grievant shall be acknowledged by personal signed receipt of document, certified mail or registered mail.