

**CITY OF MERCED**

**Personnel Rules And Regulations**

**June 19, 1989**

TABLE OF CONTENTS

<u>Article</u>	<u>Title</u>	<u>Page</u>
I	Merit Principle .....	1
II	Definition of Terms .....	2
III	General Provisions .....	6
IV	Personnel Board .....	8
V	Classification .....	11
VI	Pay Plan .....	14
VII	Examination Announcements .....	18
VIII	Applications and Applicants .....	19
IX	Examinations .....	21
X	Eligible Lists .....	25
XI	Appointments .....	28
XII	Probationary Period .....	32
XIII	Performance Evaluation .....	33
XIV	Changes in Employment Status .....	34
XV	Leaves of Absence With Pay .....	35
XVI	Leaves of Absence Without Pay .....	37
XVII	Attendance - Hours of Work - Overtime ....	39
XVIII	Vacation - Sick Leave .....	40
XIX	Outside Employment and Use of City Property .....	44
XX	Disciplinary Proceedings .....	46
XXI	Appeals and Hearings .....	50

**ARTICLE I  
MERIT PRINCIPLE**

**SECTION 1.01 CIVIL SERVICE MERIT SYSTEM ESTABLISHED.**

- A. By adopting this resolution, the City Council hereby establishes a civil service merit system in accordance with the provisions of the Charter Section 800.
- B. Appointments and promotions in the classified service of the City shall be made according to merit and fitness and from eligible lists to be established in accordance with these rules adopted in the manner provided in the Charter.

ARTICLE II  
DEFINITION OF TERMS

**SECTION 2.01 DEFINITIONS.** The following terms used in these rules shall have the meaning hereinafter designated, unless from the context hereof it clearly appears that a different meaning is intended.

**Acting Appointment.** The temporary assignment of an employee to a vacant position in the absence of an employee who normally fills the position.

**Allocation.** The official assignment of an individual position to its appropriate class on the basis of the duties performed and the authority and responsibilities exercised.

**Applicant.** A person who has submitted a written application for employment with the City in accordance with these rules. The term does not apply to a person who has indicated orally or in writing interest in employment or has filed an interest card for employment.

**Appointing Authority.** The person or persons having lawful authority to appoint or remove persons from positions in the City in accordance with the City Charter Section 501, 600, and 607.

**Appointment.** The offer of and acceptance by a person of a position in the City service in accordance with these rules.

**Authorized Position.** A position approved and authorized by the City Council and for which funds are appropriated.

**Board.** The Personnel Board appointed by the City Council in accordance with the Charter, Section 710.

**Charter.** The Charter of the City of Merced.

**City.** The City of Merced, California.

**Class (Classification).** A position or group of positions, the duties, authorities and responsibilities of which are sufficiently similar so that the same descriptive title, examples of duties, recruiting standards, and compensation can be applied.

**Classified Service.** All employee positions not specifically included in the unclassified service as set forth in the Charter, Section 801.

**Closed Examination.** A competitive examination for a particular class which may be taken only by regular employees of the City who meet the requirements set forth in the examination announcement.

**Compensatory Time Off (CTO).** The leave time granted with pay in lieu of payment for approved overtime hours worked.

**Day.** A calendar day unless otherwise designated.

Demotion. A reduction in pay, unless it is part of a plan to reduce salaries and wages in connection with a general economy or curtailment program. A failure to grant an increase to an individual at a time when increases are granted generally as a part of a plan to increase salaries and wages throughout the City service shall likewise be a demotion (Charter Section 806).

Department Head. The person who administers the operation of a City department (Charter Section 608).

Dismissal. The termination of an employee from the City service for cause.

Eligible. A person whose name is on a current employment, reemployment or reinstatement list.

Employee. A person employed by the City, but not including elected officials, members of boards or commissions, or a person under contract as an independent contractor.

Employment List. A list of eligibles established by competitive examination who may be considered for employment with the City under specific conditions set forth in these rules.

Examination. (Test or Exam) The selection technique used to measure the relative capacities and fitness of applicants.

Final Score. The score used to establish an applicant's ranking on an employment list. The final score may be a score computed from a combination of scores from various parts of the exam process.

Layoff. The involuntary separation of one or more regular employees from the work force occasioned by the abolishment of a position or positions or the reduction in number of employees in a given class (Charter Section 805).

Merit Increase. A merit pay increase granted in the sole discretion of the City within the limits of the pay range established for a class.

Open Examination. A competitive examination for a particular class in which all those applicants who meet the qualifications for the class may participate, whether or not they are employed by the City.

Oral Reprimand (Oral Warning). A verbal statement to an employee, usually by the supervisor, pointing up an unsatisfactory element of job performance. An oral reprimand (oral warning) is intended to be corrective or cautionary.

Pay Plan. A set of base pay or salary rates assigned to specific classes of positions.

Pay Range. (Salary Range) A series of pay or salary steps to which a class may be assigned.

Personnel File. The official personnel file maintained in the Personnel Department.

Position. A combination of current duties and responsibilities assigned to a single class and normally performed by one employee.

Position Description. A written statement of the essential factors which distinguish one job from other jobs.

Probationary Appointment. An appointment made from an eligible list to a regular position in the classified service for a specified working test period during which an employee serves at will.

Probationary Employee. An employee who has been appointed to a position but has not completed the probationary period.

Probationary Release. The separation of an employee from City service during the probationary period.

Promotion. The movement of an employee from one class to another class resulting in a salary increase and in a higher maximum rate of pay.

Reclassification. The change in the assignment of a position from one existing class to a new class or another existing class.

Reemployment. The reappointment of a former regular employee from a reemployment list.

Reemployment List. A list of names of former regular employees who have been laid off from a class, with those laid off last at the top of the list for reemployment to that class (Charter Section 805).

Regular Employee. An employee who has successfully completed the probationary period for a class and occupies a regular position in the classified service.

Regular Position. A position in the classified service that is established by the Council without any limitation as to time.

Resignation. The voluntary separation of an employee from employment with the City.

Salary. The amount of individual cash compensation for the performance of duties in a position in a range and step established in accordance with a Memorandum of Understanding or Management Pay Plan.

Termination. The separation of an employee from City service.

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

Unclassified Service. Those offices and positions in classes specified in the Charter and not included in the classified service (including, but not limited to, elected officials, City Manager, City Attorney, Finance Officer, Secretary to the City Manager, Board and Commission members, temporary and extra-help employees) (Charter Section 801).

Written Reprimand. A cautionary or corrective written notice to an employee with a copy to his/her personnel file informing the employee of an action on his/her part which is the cause for disciplinary action.

**Y-Rate.** The action of "freezing" the salary of an employee when such salary exceeds the maximum rate authorized in the pay plan for the class of said employee.

ARTICLE III  
GENERAL PROVISIONS

SECTION 3.01 PERSONNEL POLICY. In accepting employment with the City each employee agrees to be governed by and to comply with the Charter, the Merced Municipal Code, these rules, the administrative rules and procedures established by the City Manager, the rules, regulations and directives of the department in which employed, and the memorandum of understanding in effect between the City and the appropriate employee organization and as amended from time to time.

SECTION 3.02 EQUAL OPPORTUNITY EMPLOYER.

- A. The City is committed to the goal of equal employment opportunities and to that end has adopted an Affirmative Action Plan.
- B. It is the policy of the City to ensure that the application of these rules and regulations, and the recruitment, employment, training, advancement, layoff, pay, termination, and all other personnel actions for all positions, classes and individual employees shall be on the basis of qualifications and performance without regard to race, color, religion, national origin, sex, age, political affiliation, or physical handicap, except where a bona fide occupational qualification exists.

SECTION 3.03 POWERS OF THE CITY MANAGER.

- A. The City Manager, is the chief administrative officer and the head of the administrative branch of the City Government (Charter Section 500 et seq.). Whenever the term "City Manager" is used in these rules, it shall include the City Manager or any person designated by him/her to carry out any function required by these rules. When any officer or employee other than the City Manager is assigned a duty or responsibility under these rules, such assignment is subject to the direction and control of the City Manager, and the City Manager shall have the right to assign any other officer or employee, including himself/herself, to perform such duty or responsibility.
- B. Subject to the Charter, the Merced Municipal Code, and these rules, the City Manager has the power and authority to:
  - 1. Establish, when not in conflict with these rules, such other policies, procedures, rules and regulations necessary for the control and supervision of the affairs of the City;
  - 2. Appoint and remove all department heads, officers and employees of the City, except those officers appointed by the Council;
  - 3. Pass upon and approve all proposed appointments and removals of subordinate employees by all officers and department heads;
  - 4. Transfer, promote, demote, reemploy, reinstate, discipline, layoff, reduce in pay, suspend, or dismiss City employees.



- C. The City Manager shall interpret, apply, administer and enforce the provisions of these rules, any ordinances or resolutions relating to personnel matters, the employer-employee relations resolution, the memoranda of understanding, and any other pertinent regulations, directives and policies which relate to the City's personnel system.

**SECTION 3.04 DEPARTMENT RULES AND REGULATIONS.** Department heads may develop, implement and revise as necessary any policies, procedures, rules and regulations pertaining to unique operational requirements and their effect upon departmental personnel as are needed for the full performance of duties and responsibilities and not contrary to these rules.

**SECTION 3.05 APPLICATION OF PERSONNEL RULES.**

- A. Except as provided otherwise, these rules shall apply to all City employees and positions except:

1. Elected officials;
2. Members of appointed boards, commissions and committees;
3. Persons engaged under contract to render professional, scientific, technical or expert services for a definite period of time;
4. Volunteer personnel who receive no regular compensation from the City;
5. Classes of employment for which these rules establish exemptions from a provision or provisions of these rules;
6. The City Manager, City Clerk, City Attorney, Finance Officer and Executive Secretary.

**SECTION 3.06 ADOPTION OF PERSONNEL RULES.** The personnel rules shall be established by resolution adopted by the City Council (City Charter, Sections 710 and 800).

**SECTION 3.07 AMENDMENT AND REVISION OF PERSONNEL RULES.**

- A. Proposed amendments to or revisions of the Personnel Rules shall be submitted to the Personnel Board in writing by the Personnel Manager after approval of the City Manager (City Charter, Section 710).
- B. The Personnel Board shall recommend to the City Council, after a public hearing thereof, the adoption, amendment or repeal of civil service rules and regulations (City Charter, Section 710).

**SECTION 3.08 VIOLATION OF PERSONNEL RULES.** Each employee is responsible to comply with these rules and any amendments hereto. Violation of the provisions of these rules shall be grounds for disciplinary action, up to and including dismissal.

**SECTION 3.09 APPLICATION OF PERSONNEL RULES AND MEMORANDA OF UNDERSTANDING.** In the event that one or more provisions of these rules contradict provisions included in memoranda of understanding as accepted by the Council and currently in effect between the City and the formally recognized employee organizations, the terms of the memoranda of understanding shall prevail.

ARTICLE IV  
PERSONNEL BOARD

SECTION 4.01 MEMBERSHIP OF THE PERSONNEL BOARD (City Charter Section 709). There shall be a Personnel Board consisting of five members appointed by the Council from the qualified electors of the City. No member of the Board, while a member of the Board or for a period of one year after ceasing for any reason to be a member, shall be eligible for appointment to any salaried office or employment in the service of the City or be eligible to hold any City elective office.

SECTION 4.02 APPOINTMENTS TO THE PERSONNEL BOARD (City Charter Section 709).

- A. The members of the Board shall be nominated and appointed by motion of the Council adopted by at least four affirmative votes in the following manner:
1. Two members shall be appointed by the Council from a list of five persons to be nominated by election by the employees in the classified service;
  2. Two members shall be appointed by the Council directly; and,
  3. The fifth member shall be appointed by the Council from a list of three persons nominated by a majority of the four thus appointed.
- B. The successor of any member of the Board shall be nominated and appointed in the same manner as such member was nominated and appointed.

SECTION 4.03 TERMS OF OFFICE OF THE PERSONNEL BOARD (City Charter Section 702).

- A. The members of the Board shall serve for a term of four years and until their respective successors are appointed and qualified.
- B. The members of the Board shall not be eligible to serve more than two consecutive terms plus any unexpired term appointed to. At any time after the expiration of two years following said two consecutive terms a former member of the Board may again be appointed to serve thereon, subject to the limitations of this Section.
- C. The members of the Board shall be subject to removal by motion of the Council adopted by at least five affirmative votes.

SECTION 4.04 SELECTION OF PRESIDING OFFICER OF THE PERSONNEL BOARD (City Charter Section 704). As soon as practicable, following the first day of July of every year, the Board shall organize by electing one of its members to serve as presiding officer at the pleasure of the Board.

SECTION 4.05 MEETINGS OF THE PERSONNEL BOARD.

- A. The Board shall hold at least one regular meeting each month in the City Hall, and may adjourn such meeting from time to time as the Board may deem necessary and proper.

- B. Three members of the Board shall constitute a quorum for the transaction of business.
- C. The affirmative or negative vote of a majority of the entire membership of the Board shall be necessary for it to take action.
- D. The City Manager shall designate a secretary to record minutes for the Board and to keep a record of its proceedings and transactions (City Charter, Section 704).

Notification and posting of meeting times, dates and places shall be in accordance with state regulations and the responsibility of the Personnel Manager.

- E. The Board may prescribe its own rules and regulations which shall be consistent with the Charter, and copies of such rules and regulations shall be kept on file in the office of the City Clerk where they shall be available for public inspection (City Charter, Section 704).
- F. The Board shall have the same power as the Council to compel the attendance of witnesses, to examine them under oath and to compel the production of evidence before it (City Charter, Section 704).

**SECTION 4.06 COMPENSATION OF MEMBERS OF THE PERSONNEL BOARD (City Charter, Section 705).** The members of the Board shall serve without compensation for their services as such, but shall receive reimbursement for necessary traveling and other expenses incurred on official duty when such expenditures have received authorization by the City Council.

**SECTION 4.07 VACANCIES ON THE PERSONNEL BOARD (City Charter Section 705).**

- A. When a vacancy occurs on the Board leaving an unexpired portion of a term, any appointment to fill such vacancy shall be for the unexpired portion of such term.
- B. If a member of the Board absents himself/herself from three consecutive regular meetings of the Board, unless by permission of the Board expressed in its official minutes, or is convicted of a crime involving moral turpitude, or ceases to be a qualified elector of the City, the office shall become vacant and shall be so declared by the Council.

**SECTION 4.08 POWERS AND DUTIES OF THE PERSONNEL BOARD (City Charter Section 710)**

- A. The Board shall have powers and duties to:
  1. Recommend to the Council, after a public hearing thereon, the adoption, amendment or repeal of personnel rules;
  2. Hear formal complaints, grievances and discrimination/harassment complaints and to hear appeals of any person in the classified service relative to any suspension, reduction in salary, demotion or dismissal; and

3. Make any investigation which it may consider desirable concerning the administration of personnel in the city service and report its findings to the Council and the City Manager.

B. Each member of the Board shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the Board.

**SECTION 4.09 CITY MANAGER RIGHT TO BE PRESENT.** The City Manager, as the chief administrative officer of the City, shall be entitled to meet with the Board at each of its regular and special meetings, to advise the Board on all matters and to be heard on all matters coming before the Board.

**SECTION 4.10 PERSONNEL BOARD ACTIONS.** Each Board member shall recognize that it is the policy of the Board to act as an official body. No member or combination of members of the Board shall take it upon himself/herself/themselves to grant a private or unofficial hearing to any employee or group(s) of employees, on any matter that may appear before the Personnel Board, or to pursue any such course as might be construed to be prejudicial for or against any employee or group(s) of employees, or to encourage the violation or bypassing of any step or stage in the official lines of authority within the City organization or any step or stage or procedure established by these rules or any resolution dealing with personnel matters.

ARTICLE V  
CLASSIFICATION

SECTION 5.01 PREPARATION OF CLASSIFICATION PLAN.

- A. The Personnel Manager, or the person or agency selected for that purpose, shall ascertain and record the duties and kind and level of responsibilities of all positions in the City and develop a classification plan for such positions.
- B. The classification plan may contain classes to which there are no current allocation of positions in order to provide for future organizational growth or changes in organizational structure.

SECTION 5.02 ADOPTION OF CLASSIFICATION PLAN.

- A. The classification plan shall be established and amended by resolution adopted by the Council.
- B. The Council may create new classes and adjust, divide, combine, revise, or abolish existing classes of positions in the City service.

SECTION 5.03 ALLOCATION OF POSITIONS. The allocation of a position to a class shall be determined by the Personnel Manager after study of the duties and responsibilities of the position and shall be based on the principle that positions shall be included in the same class if:

- 1. The positions are sufficiently similar in respect to duties, authority and responsibilities that the same descriptive title may be used; and
- 2. Substantially the same requirements as to education, experience, knowledge and ability are demanded of incumbents; and
- 3. Substantially the same tests of capacities and fitness may be used in choosing qualified appointees.

SECTION 5.04 PROMOTIONAL CLASSES. The Personnel Manager may recommend the arrangement of various classes of positions into promotional series when, in the judgment of the Personnel Manager, the classes are similar or closely related enough in requirements, duties and responsibilities to warrant such arrangement.

SECTION 5.05 CLASS DESCRIPTIONS.

- A. The Personnel Manager shall prepare and maintain a written description for each class of position in the City service. Each class description shall set forth the title of the class, a class code number, a definition of the class, examples of the typical tasks and a statement of qualifications a person should possess.

**SECTION 5.06 CLASS DESCRIPTION QUALIFICATIONS STATEMENTS.**

- A. Qualifications may be stated as minimum or as desirable and shall be revised as the need arises.
- B. Personal qualifications commonly required of all incumbents of positions, such as acceptable physical condition, freedom from disabling defects which prevent the performance of the duties of the position, honesty, fidelity, sobriety, industry, amiability to supervision, and willingness to cooperate with associates, the ability to read, write, and speak the English language, to follow written and oral instructions, shall be implied as qualifications required for every class even though such traits are not mentioned specifically in the job descriptions.
- C. Where a position requires an employee to drive either a City-owned or privately-owned vehicle on official City business, such employee must possess and maintain the appropriate valid California operator's license.
- D. Where a position requires an employee to have a certificate, license, permit or registration, such employee must possess and maintain a current certificate, license, permit or registration.

**SECTION 5.07 INTERPRETATION OF CLASS DESCRIPTIONS.** The class descriptions are descriptive and explanatory and not restrictive. They are intended to indicate the kinds of duties and responsibilities allocated to the various classes and should not be construed as limiting the assignment of duties and responsibilities to any position. 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 level of responsibility. The description 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.

**SECTION 5.08 OFFICIAL USE OF CLASS TITLE.** A position shall be identified by class title in all official personnel and budget records and transactions.

**SECTION 5.09 RECLASSIFICATION.** Whenever a material change in duties or responsibilities of any existing position in the City service occurs the Personnel Manager, on his/her own initiative or upon a request of the department head or the City Manager, may investigate the duties of the affected position.

**SECTION 5.10 STATUS OF INCUMBENTS IN RECLASSIFIED POSITIONS.** Whenever reclassification occurs, an employee occupying the position may be retained in the position after it has been reclassified without further competitive examination when:

- A. The reclassification results from an official recognition of a change in duties and responsibilities which has already occurred for a significant period of time; and
- B. The changed duties and responsibilities justifying allocation to a different classification have taken place during the employment of the present incumbent in such position and were not the result of planned management action; and

- C. The incumbent possesses the knowledge, skills and abilities required of the different class.

**SECTION 5.11 PROCEDURE FOR RECLASSIFICATION OF INCUMBENTS.**

- A. The findings set forth in Section 5.10 of these rules shall be transmitted by the Personnel Manager to the City Manager at the time a reclassification is under consideration. The Personnel Manager shall recommend to the City Manager appropriate action to be taken regarding the incumbent whose position is being reclassified.
- B. The Personnel Manager shall determine whether the reclassification of a position constitutes a downward, lateral or upward movement of the position relative to its former allocation. The following actions prevail with regard to each of the following kinds of changes:
  - 1. Downward. The incumbent may accept a demotion to the reallocated position or be reassigned to a vacant position in the same class and retain permanent status. If the incumbent refuses demotion and reassignment, then the layoff procedure will be invoked.
  - 2. Lateral. The incumbent will remain unchanged in the class to which the position is reallocated.
  - 3. Upward. The employee will retain permanent status in the new class when the Personnel Manager determines that either (a) there has been no essential change in the duties or responsibilities of the position during the individual's incumbency; or (b) there has been a gradual change in the duties and the incumbent has performed the higher level tasks for a significant period, normally six months. If the change is the result of a reorganization, successful completion of a probationary period may be required by the Personnel Manager prior to the incumbent attaining permanent status in the new class. If none of the above situations exist, the employee may be transferred, demoted, laid off or compete for the reallocated position.

**SECTION 5.12 CLASSIFICATION FOR TEMPORARY EMPLOYMENT.**

- A. Whenever a position is required for the efficient and economical operation of a department, a temporary appointment may be authorized by the City Manager.
- B. A department head may request a temporary position by submitting justification and such other information as the Personnel Manager may require. The Personnel Manager shall submit to the City Manager a recommendation on the need for such a class, a class title and a salary rate.

ARTICLE VI  
PAY PLAN

SECTION 6.01 PREPARATION OF PAY PLAN.

- A. The Personnel Manager, shall prepare a pay plan for all classes in the classified and unclassified City service.
- B. The pay plan shall establish a schedule of pay ranges and salary steps showing monthly minimum and maximum rates, biweekly rates and hourly rates.

SECTION 6.02 ADOPTION OF PAY PLAN.

- A. The pay plan shall be established and amended by resolution adopted by the Council.
- B. Each class in the classified and the unclassified services shall be assigned to a pay range and salary steps, or an hourly rate.

SECTION 6.03 SALARIES. All pay rates prescribed shall be fixed on the basis of full-time service in full-time positions, unless otherwise designated.

SECTION 6.04 SALARY AT INITIAL APPOINTMENT. Salary at initial employment shall be at a salary step as determined by the City Manager.

SECTION 6.05 CALCULATION OF PERSONNEL ACTION DATE.

- A. The personnel action date shall be established as the effective date of employment, step advancement or promotion in the city service.
- B. The personnel action date of those reemployed shall be the effective date of the re-employment.
- C. The personnel action date of those reinstated shall be established as provided by Section 6.13 of these rules.

SECTION 6.06 MERIT SALARY INCREASES.

- A. Department heads may recommend merit salary increases only for those employees who have demonstrated appropriate standards of work performance. Merit increases may be recommended to the next highest step in the salary range for the classification. Department heads may recommend an additional merit increase based on exceptional performance by an employee.
- B. The Personnel Manager shall process all merit increases and shall notify the Finance Officer, in writing, of all approved merit increases and such notification shall constitute authorization for the Finance Officer to make payment to the employee at a higher salary step rate.
- C. Merit increases in salary are not automatic, they are made at the sole discretion of the City Manager on the basis of merit, fitness and



increased service value of the employee to the City as documented in performance evaluations by the department.

**SECTION 6.07 APPLICABLE SALARY RATES FOLLOWING PAY RANGE INCREASES AND DECREASES.** When a pay range for a given class is revised upward or downward, the incumbents of positions in classes affected shall have their existing salary adjusted to the same step in the new pay range (step B to step B, step C to step C, etc.).

**SECTION 6.08 RETENTION OF SALARY AND "Y" RATES.** When a pay range for a given class is adjusted downward, incumbents, on approval of the City Manager, may retain their same dollar amount of salary within the lower pay range, or if their present rate exceeds the maximum of the lower range, may continue to receive the same dollar amount and said amount shall be designated a "Y" rate. Any such "Y" rate shall be indicated by a capital "Y" following the salary each time it appears on personnel records or transactions. Said "Y" rate shall be cancelled on vacancy of the position or when general salary adjustments increase the salary to a range which encompasses the "Y" rated salary.

**SECTION 6.09 PAY RANGE CHANGE ON PERSONNEL ACTION DATE.** When a pay range change becomes effective on an employee's personnel action date, the employee shall receive first any range adjustment to which entitled and then receive the corresponding step adjustment.

**SECTION 6.10 MERIT INCREASE ON DATE OF PROMOTION.** When a merit increase becomes effective on the date an employee is promoted to a higher class, the employee shall receive first any merit increase to which entitled in the lower class, and then the promotional adjustment as provided in Section 6.13 of these rules.

**SECTION 6.11 APPLICABLE PAY FOLLOWING REEMPLOYMENT.** Upon the appointment of an employee from a reemployment list as provided by Section 11.10 of these rules, the employee shall receive the salary step in the pay range the employee received prior to layoff.

**SECTION 6.12 APPLICABLE PAY FOLLOWING REINSTATEMENT.** Upon the reinstatement of an employee as provided by Section 11.11 of these rules, the employee shall receive not more than the same salary step in the pay range the employee received prior to voluntary resignation or voluntary demotion and a new personnel action date for the employee shall be established coinciding with the date of such reinstatement.

**SECTION 6.13 APPLICABLE PAY FOLLOWING PROMOTION.**

- A. Upon the promotion of any employee, such employee shall be placed at the step of the new range that provides a minimum five percent (5%) increase over the salary formerly received unless the top step of the new range is less than five percent in which case they shall be placed at the top step of the new range.
- B. Effective on the date of the promotion, a new personnel action date shall be established coinciding with the effective date of the promotion.

SECTION 6.14 APPLICABLE PAY FOLLOWING TRANSFER. Upon the transfer of any employee from one position to another in the same class or to another class to which the same pay range is applicable, the employee shall remain at the same salary step and shall retain the same personnel action date.

SECTION 6.15 APPLICABLE PAY FOLLOWING DEMOTION TO A LOWER CLASS. Upon the demotion of any employee to a class with a lower maximum salary, the employee shall be assigned to a salary step in the lower pay range as follows:

1. If the demotion is a disciplinary demotion, the employee may be assigned to any designated step in the pay range for the lower class which is at least one step less than the dollar amount received in the pay range for the class from which demoted.
2. If the demotion is a voluntary demotion, the employee shall be assigned to that salary step in the new pay range so as to receive the same salary he/she was receiving in the old range. If the same salary is not a step in the new range, he/she shall be placed on such step of the new range as to receive the nearest lower salary. The employee's previous personnel action date shall be retained. When the City Manager determines that it is in the best interest of the City, an employee may be "Y" rated upon a voluntary demotion.

SECTION 6.16 APPLICABLE PAY FOLLOWING RECLASSIFICATION.

- A. If a position is reclassified to a class which has the same maximum salary, the salary and the personnel action date of the incumbent shall not change.
- B. If a position is reclassified to a class which has a higher maximum salary, the salary shall be adjusted in accordance with Sections 6.11 and 6.14 of these rules.
- C. If a position is reclassified to a class which has a lower maximum salary, the incumbent shall be placed on the step of the new salary range so as to receive the same salary as received in the old range. If the present salary is between steps of the new range, the employee shall be placed on the step of the new range next higher than the present salary. If the present salary is greater than the maximum salary for the new range, then the salary shall be "Y" rated as provided in Section 6.09 of these rules. The incumbent's personnel action date shall remain unchanged.

SECTION 6.17 ACTING APPOINTMENT. The City Manager may authorize a special salary upgrading for an employee who is temporarily assigned the work of a higher position when it is determined to be in the best interest of the City to do so. Persons receiving an acting appointment must meet the minimum qualifications of the position. Acting appointments may be considered in cases where:

- A. A permanent position incumbent is expected to be absent for a significant period of time, generally thirty (30) days or more.
- B. A permanent position vacancy exists and organizational constraints preclude filling the position in a timely manner.

- C. The best interests of the City would be served from either: a special project completion, training or special assignment standpoint.
- D. Acting appointments may extend for no longer than six months except that the City Manager may, when extenuating circumstances exist, approve an additional extension of up to an additional six months.
- E. An employee who is assigned to and performs the duties of a higher classification shall receive adjusted compensation at the first step in the pay range for the higher classification. If the salary at such step is less than or equal to the employee's current salary, such employee shall receive the salary at the next step in the pay range of the higher classification which is greater than the employee's current salary.
- F. No adjusted compensation shall be paid unless and until the employee has worked in the higher classification for thirty (30) consecutive workdays, in which event the employee shall receive retroactively adjusted compensation from the first workday in the higher classification.
- G. The merit system status and classification title for employees serving in an acting capacity shall remain unchanged.
- H. Upon termination of the acting appointment, the employee shall be returned to the salary of his/her former position as though the special adjustment had not occurred.

ARTICLE VII  
EXAMINATION ANNOUNCEMENTS

SECTION 7.01 EXAMINATION ANNOUNCEMENT.

- A. All personnel requisitions shall be approved by the City Manager prior to announcement of an examination.
- B. The Personnel Manager shall prepare an official bulletin announcing any proposed examination. The bulletin shall be posted in public view in such places and by such means as to attract a sufficient number of qualified applicants.
- C. The examination announcement shall contain the class title, a statement that the City is an affirmative action-equal opportunity employer, and shall specify at least the major job responsibilities, minimum and desirable qualifications, the selection process to be used, and the time and manner of making application.

SECTION 7.02 DATES MAY BE CHANGED IN EXAMINATION ANNOUNCEMENT. Dates specified in any examination announcement may be extended, postponed or cancelled by the Personnel Manager if such action is necessary or expedient to the needs of the City.

ARTICLE VIII  
APPLICATIONS AND APPLICANTS

SECTION 8.01 APPLICATIONS FOR EMPLOYMENT.

- A. Applications for employment with the City shall be made on official application forms available in the Personnel Office.
- B. The application shall contain the original signature of the applicant in the space provided on the application.
- C. The application shall be received in the Personnel Department office on or before the announced final filing date and time.
- D. Applications and addenda to applications shall become the property of the City.

SECTION 8.02 CITIZENSHIP OF APPLICANTS. Employment is open to qualified persons who are citizens of the United States and to qualified persons who are not citizens of the United States but who have complied with state and federal laws defining the eligibility of noncitizens for employment in state and local government.

SECTION 8.03 INCOMPLETE APPLICATIONS. Incomplete applications may be rejected or returned to the applicant for additional information and/or completion.

SECTION 8.04 NUMBER OF APPLICATIONS.

- A. A separate, signed application must be submitted each time and for each classification of position for which an applicant applies.
- B. Notwithstanding any other provisions of this Article, the Personnel Manager may close the filing period when a predetermined number of applications have been received.

SECTION 8.05 APPLICATION INFORMATION SUBJECT TO VERIFICATION.

- A. During the course of the employment process, information presented on an application may be verified and supplemented by investigations which may include the employment record, character and personal history of the applicant.
- B. Applicants may be required to furnish the Personnel Manager with certified copies of any diploma, license or any other accreditation or certification required to meet the qualifications established for the examination or which the applicant claims to hold.

SECTION 8.06 DISQUALIFICATION OF APPLICANTS. The Personnel Manager may disqualify any applicant from consideration, either before or after an examination, whose appointment is deemed contrary to the best interests of the City. Reasons for rejecting an application or an applicant may include but shall not be limited to any of the following deficiencies:

1. The applicant is lacking in any of the qualifications or requirements established for the examination, or set forth in the class description for the class for which he/she is applying, or in these rules.
2. The applicant is physically or mentally unfit for the performance of the duties of the position to which the applicant seeks appointment.
3. The applicant has made false statement of material fact, or practiced or attempted to practice deception or fraud in his/her application or examination, or in securing eligibility for appointment.
4. Intemperance, drunkenness on duty or addiction to the use of controlled substances (Government Code 19572).
5. The applicant has been dismissed from any position for any cause which would be cause for dismissal by the City.
6. The applicant resigned from a position in order to avoid dismissal.
7. The information from reference or background checks of the applicant indicates probable unfitness.
8. The applicant failed to submit the completed application to the personnel office by the prescribed filing date.
9. The applicant used or attempted to use personal or political influence or pressure, or bribery, to secure an advantage in an examination or appointment.
10. The applicant failed to appear promptly at the time and place designated for any portion of an examination, or failed to reply within a reasonable time to communications concerning availability for employment.

**SECTION 8.07 APPLICANTS WITH FELONY OR MISDEMEANOR CONVICTIONS.** Conviction including pleas of guilty and nolo contendere of a felony or of any misdemeanor which evidences moral turpitude or unfitness for employment on the part of the applicant or eligible shall be grounds for rejecting the applicant or removing the name of an eligible from any employment list.

**SECTION 8.08 ACCESS TO CRIMINAL RECORDS BY PERSONNEL MANAGER.** In order to further the objectives set forth in Section 8.07 of these rules and as authorized by the California Penal Code Section 11105b(10) and 13300(b)(10), the Personnel Manager is hereby authorized to have access to and utilize criminal history record information on file with the State of California Department of Justice and/or local law enforcement agencies when it is necessary for such records to be utilized to fulfill employment or certification duties as set forth in these rules and in California Labor Code Section 432.7.

**SECTION 8.09 APPLICATION AS PART OF THE EXAMINATION.** Applications shall be considered a part of the examination process.

ARTICLE IX  
EXAMINATIONS

SECTION 9.01 RESPONSIBILITY TO CONDUCT EXAMINATIONS.

- A. The Personnel Manager shall determine or approve the manner and methods of preparation of examinations, and by whom they are administered, and shall be responsible for the conduct of examinations for all classes of positions within the City service.
- B. The examination process is intended to test the job functions identified in the class descriptions, and the Personnel Manager may examine applicants by any one or combination of techniques such as: achievement tests, aptitude tests, evaluation of education, experience and personality, assessment centers, personal interviews, performance tests, evaluation of work performance and/or work samples, physical agility tests, other written tests, review and investigation of personal background and references, medical, physical and/or psychological examinations, successful completion of prescribed training, or by such other techniques as determined by the Personnel Manager.

SECTION 9.02 NEED FOR EXAMINATIONS.

- A. The Personnel Manager shall schedule examinations as he/she deems necessary whether or not a vacancy currently exists.
- B. Examinations may be specified by the Personnel Manager as a closed exam or as an open exam.

SECTION 9.03 OPEN EXAMINATIONS.

- A. "Open examinations" are open to all persons who meet the requirements and conditions set forth in the examination announcement.
- B. Open examinations shall be conducted when the Personnel Manager determines they are in the best interests of the City.

SECTION 9.04 CLOSED EXAMINATIONS. "Closed examinations" are open to regular employees of the City who meet the requirements and conditions set forth in the examination announcement.

SECTION 9.05 PRE-EMPLOYMENT MEDICAL, PHYSICAL AND/OR PSYCHOLOGICAL EXAMINATIONS.

- A. No appointment to a probationary position shall be made until the required medical, physical and/or psychological examination has been completed with a certification of physical and/or psychological qualifications for employment submitted to the Personnel Manager by the physician/psychologist designated by the City to perform the examination.
- B. It is the responsibility of the prospective appointee to take and complete any and all examinations at the time and place set by the City. Failure to do so shall constitute a basis for denying appointment.

SECTION 9.06 RETURN TO WORK MEDICAL, PHYSICAL AND/OR PSYCHOLOGICAL EXAMINATIONS.

- A. Where it is in the City's best interest, an employee before returning to work after taking sick leave or industrial disability leave due to injury or illness, may be required to undergo an examination by a physician, psychiatrist or psychologist designated by the City and/or submit a certificate of employability from the treating physician.
- B. In all cases of medical absence due to a communicable disease, or its potential, the afflicted employee shall notify the Personnel Manager and the department head immediately of such condition, and shall be required to provide medical evidence of employability before returning to work.

SECTION 9.07 HEALTH MAINTENANCE MEDICAL, PHYSICAL AND/OR PSYCHOLOGICAL EXAMINATIONS. When, in the opinion of the Personnel Manager and appropriate department head, it would be in the best interest of the City to evaluate the medical or psychological condition of any employee, the Personnel Manager may schedule such employee for an examination, at City expense, with a physician, psychiatrist or psychologist selected by the City.

In unusual circumstances where an employee may present a hazard to himself/herself, co-workers, or others, the department head may order the employee's reassignment, or compulsory leave pending results of a medical or psychological examination.

SECTION 9.08 ELIGIBILITY DETERMINATION. Subsequent to any physical or psychological exam, the Personnel Manager and appropriate department head shall make a determination of eligibility for employment based on the physician's/psychiatrist's/psychologist's examination report, the employment history of the individual, and the physical and/or psychological requirements of the class to be filled.

SECTION 9.09 APPEALS. An individual who is disqualified in the medical or psychological examination and who wishes to appeal must use the following procedure:

The appeal must be filed with the Personnel Manager within five days after notice of disqualification. The only basis for appeal is presentation of medical and/or psychological evidence that the applicant meets the medical standards and the applicant is qualified.

The Personnel Manager shall review the evidence submitted and within ten (10) working days of receipt determine whether the applicant is qualified. The Personnel Manager's decision shall be final.

SECTION 9.10 RATING EXAMINATIONS.

- A. The passing score on an examination or any part of an examination will be established by the Personnel Manager.
- B. An applicant's final score in a given examination shall be the score or the combination of scores attained on each competitive part of the examination, as prescribed in the examination announcement.



- C. When so stated in the examination announcement, failure on any one part of the examination may be grounds for declaring that the applicant has failed the entire examination, or that the applicant is disqualified for subsequent parts of the examination.
- D. The Personnel Manager may designate any part of an examination as qualifying only, and no numerical weight need be assigned to passing scores on such part.

**SECTION 9.11 NOTICE OF EXAMINATION RESULTS.** Each applicant in an examination shall be sent written notice to his/her last known address giving the results of such examination and, if successful, his/her final score and relative position on the employment list.

**SECTION 9.12 INSPECTION OF KEYED TEST BOOKLET.**

- A. For a period of five workdays immediately following the date of the written examination, applicants may inspect a keyed copy of the examination and submit written protests to the Personnel Manager on any items or parts of the examination.
- B. Notwithstanding A. above, inspection keys will not be provided for form, standardized or copyrighted tests, essay or problem tests not subject to scoring by an absolute standard or examination used on a continuing basis by the City.
- C. Inspection of test papers and keyed test booklets shall be at such time and place and under such conditions of supervision as the Personnel Manager may require. Applicants will not be permitted to copy examination items.

**SECTION 9.13 PROTEST OF WRITTEN TESTS.** Protests to the accuracy of scoring or substance of exam items must be submitted to the Personnel Manager within ten (10) working days of the date of the mailing of exam score notices and he/she may take such corrective measures as appropriate. Correction of any score shall not invalidate any previous appointment.

**SECTION 9.14 EXAMINATION RECORDS.** The records of an examination are working documents, confidential in nature, and not public documents. The Personnel Manager shall establish and maintain procedures to ensure the confidentiality of examination records including rating sheets, test results, reference checks, background investigations, physical and psychological examinations, records, ethnic, sex, age, citizenship/legal alien documents and data. The relative position of an applicant on an eligible list shall be made known only to the applicant.

**SECTION 9.15 STATUS OF PROTESTED EXAMINATIONS.** The Personnel Manager may, after considering the needs of the City, continue the scoring of tests and other parts of the examination, certification, and appointment process prior to answering protests. Appointments made are not invalidated even if a protest is subsequently allowed.

**SECTION 9.16 POSTPONEMENT AND CANCELLATION OF EXAMINATIONS.** If, in the opinion of the Personnel Manager, a sufficient number of qualified applicants has not made application for an examination, the Personnel Manager may extend

the final filing date and the date of the examination or cancel the examination.

**SECTION 9.17 LIMITED RECRUITMENT.** When it can be anticipated that the applicant group will be large in relation to anticipated vacancies, the Personnel Manager may take steps to limit the size of the applicant group through (a) shorter filing period; or (b) specifying a maximum number of applications which will be accepted; or (c) other means which are appropriate to the circumstances and otherwise consistent with these rules.

**SECTION 9.18 SELECTIVE RECRUITMENT.** The Personnel Manager may, within a job classification when a specific position's duties require a unique or specialized skill, restrict recruitment or selection processes to those individuals possessing the specialized skill.

ARTICLE X  
ELIGIBLE LISTS

SECTION 10.01 ESTABLISHMENT OF ELIGIBLE LISTS.

- A. Eligible lists shall be established as a result of examinations.
- B. Upon completion of scoring the examination, the names of successful applicants shall be arranged in order of final score earned, from the highest score down to the lowest passing score.
- C. Eligible lists shall become effective when certified by the Personnel Manager.

SECTION 10.02 DURATION OF ELIGIBLE LISTS. Eligible lists shall be effective for a period established by the Personnel Manager when the list is certified.

SECTION 10.03 CANCELLATION OF ELIGIBLE LISTS. The Personnel Manager may cancel an eligible list prior to the end of the prescribed period because of changed requirements for filling the position or when there are less than three names left on the list.

SECTION 10.04 EXTENSION OF ELIGIBLE LISTS. Prior to its expiration, the Personnel Manager may extend the effective period of an eligible list for a period of time not to exceed an additional 12 months.

SECTION 10.05 ELIGIBLE LISTS RESULTING FROM CONTINUOUS EXAMINATIONS. Persons attaining a passing score on continuous examinations shall be included on any existing eligible lists, their relative standing on such lists being determined by final earned score on an examination in relation to final earned score of all other persons on the new eligible list.

SECTION 10.06 REEMPLOYMENT LISTS. (Charter Section 8.05)

- A. The reemployment list for any class shall consist of the names of employees who have been laid off. Such names shall be placed on the reemployment list in reverse order of layoff.
- B. Persons placed on a reemployment list shall remain on such a list for one year from the date of layoff.

SECTION 10.07 REINSTATEMENT. Any terminated employee may, with the approval of the Personnel Manager, be reinstated within two years from the date of termination to the employee's former position if vacant, or to a vacant position in the same class, or to a vacant position in a lower rated class. Whenever any person is reinstated, his/her reinstatement date shall govern his/her seniority. Reinstated employees shall be required to serve a probationary period. No employee has a right to reinstatement. The decision to reinstate is at the sole discretion of the City Manager.

#### SECTION 10.08 AVAILABILITY OF ELIGIBLES.

- A. It is the responsibility of eligibles or those on reemployment lists or requesting reinstatement to notify the personnel department of any change of address or other change affecting availability for appointment.
- B. Eligibles and those on re-employment lists who do not indicate willingness to accept employment under the offered conditions will be considered to have declined appointment, and their names may be withheld from certification for other positions in which the same employment conditions apply.

#### SECTION 10.09 REMOVAL OF NAMES FROM ELIGIBLE LISTS.

- A. The Personnel Manager may remove the name of any eligible from an eligible list for any of the following reasons:
  - 1. Disqualification for any of the reasons identified in these rules that would be grounds for termination of employment.
  - 2. If a report of a background investigation or a reference check is unsatisfactory.
  - 3. If a report of a medical, physical, or psychological examination is unsatisfactory.
  - 4. On evidence that the eligible cannot be located by postal authorities at the last known address. Failure to reply within five workdays from the date the letter or card was mailed requesting information as to availability for appointment, or failure to notify the personnel department of any change of address resulting in the return of letters by the United States Post Office, will be considered sufficient evidence. On submission of a request therefor, giving acceptable reasons as to why the notice was not returned or change of address not filed, the Personnel Manager may restore the name of an eligible to the appropriate list.
  - 5. If the eligible has been appointed to the position for which the list was established.
  - 6. Upon receipt of a written statement from the eligible requesting the removal of his/her name from a list.
  - 7. If an offer of regular full-time employment in the class for which the list was established has been declined by the eligible.
  - 8. If the eligible selected has been granted at least two weeks to assume the position and fails to do so.

#### SECTION 10.10 SPECIAL CERTIFICATION OF ELIGIBLE LISTS.

When an eligible list for a class contains less than three names, the Personnel Manager may authorize the certification of less than three names or provisional appointments to regular positions until additional names are secured through another examination, provided that no provisional appointment

may be made if any names are available on the reemployment list for the class (see Provisional Appointments, Section 11.06, Personnel Rules).

**SECTION 10.11 RESTORATION TO ELIGIBLE LIST.** Any person whose name has been removed from an eligible list shall receive consideration for restoration of his/her name to a list by submitting a request, in writing, to the Personnel Manager specifying the reason(s) which he/she feels substantiates that request. Restoration may be requested only during the original period of eligibility or extension thereof, and granting of restoration is at the discretion of the Personnel Manager.

ARTICLE XI  
APPOINTMENTS

SECTION 11.01 APPOINTMENTS AND PROMOTIONS. All appointments and promotions to positions in the classified service shall be made according to merit and fitness and from eligible lists to be established in accordance with these rules (Section 800, City Charter).

SECTION 11.02 REQUEST TO FILL VACANCIES. Whenever a position in the classified service is to be filled, the department head shall notify the Personnel Manager and make a request for the certification of eligibles and provide such information as is required on the form(s) provided by the Personnel Manager.

SECTION 11.03 METHOD OF FILLING VACANCIES.

Vacancies in the classified service shall be filled by appointment from lists as set forth in Article XI of these rules. In the absence of persons eligible in such manner, provisional appointments may be made in accordance with Section 11.06 of these rules.

SECTION 11.04 CERTIFICATION OF ELIGIBLES.

- A. Except as provided in these rules, when a position in the classified service is to be filled from an eligible list, the Personnel Manager shall certify to the department head the names of the three highest candidates on the eligible list for such position (Section 804, City Charter).

SECTION 11.05 SELECTION OF EMPLOYEES.

- A. No appointment shall be made until the background evaluation, medical/physical/psychological examination and any other pre-employment testing deemed to be necessary and appropriate are successfully completed and received by the Personnel Manager.
- B. The City Manager may approve or disapprove the recommended appointment. If approved, the department head shall notify the appointee and, if the person accepts appointment and reports for duty within such period of time as prescribed by the department head, the applicant shall be deemed to be appointed; otherwise, the applicant is deemed to have declined appointment.

SECTION 11.06 PROVISIONAL APPOINTMENTS.

- A. A provisional appointment is a temporary appointment to a regular, allocated position.

A provisional appointment may be made when the demands of the service are such that it is not practicable to give advance notification of pending or anticipated vacancies, or when an employment list contains less than three names as provided in Section 10.10 of these rules, and if it is not practical to delay appointment until a new employment list can be prepared and certified.

- B. The City Manager may approve a provisional appointment to a classified position until a regular appointment can be made (Section 804, City Charter).
- C. As soon as practical after a provisional appointment has been made, the Personnel Manager shall cause an examination to be prepared and an employment list established.
- D. No person shall be employed by the City under provisional appointment for a total of more than six months within any calendar year (Section 804, City Charter).
- E. No special credit shall be awarded in any examination or the establishment of any employment lists for services rendered as a provisional employee.
- F. A provisional employee is not part of the classified service and, if eventually hired as regular employee, shall receive no credit for any purpose for time employed as a provisional employee.
- G. Unless otherwise approved by the City Manager, benefits, including but not limited to retirement, health/medical insurance, life insurance, disability insurance, vision care, dental care, vacation, sick leave, and holiday pay shall not be granted nor accrue to any employee serving a provisional appointment.
- H. A provisional employee serves at-will and may be removed at any time without the right of appeal or hearing.

SECTION 11.07 EXTRA HELP APPOINTMENTS.

- A. The City Manager may approve extra help appointments to temporary positions.
- B. No special credit shall be awarded in any examination or the establishment of any employment list for services rendered under an extra help appointment.
- C. An extra help appointment may, but need not be made from an employment list. Any person on an employment list who accepts employment as an extra-help employee shall retain his/her place on such employment list.
- D. An extra help employee is not part of the classified service and, if eventually hired as a regular employee, shall receive no credit for any purpose for time employed as an extra-help employee.
- E. Unless otherwise approved by the City Manager, benefits, including but not limited to retirement, health/medical insurance, life insurance, disability insurance, vision care, dental care, vacation, sick leave, and holiday pay shall not be granted nor accrue to any employee serving an extra help appointment.
- F. An extra help employee serves at-will and may be removed at any time without the right of appeal or hearing.

#### SECTION 11.08 REGULAR PART-TIME APPOINTMENTS.

A permanent part-time appointment may be made when there is part-time work to be performed on a regular and continuous basis.

#### SECTION 11.09 ACTING APPOINTMENTS.

- A. An acting appointment is the appointment of an existing City employee to a vacant position for a limited period of time. The acting appointment may be made when the demands of the service are such that it is not practical to leave the position vacant.
- B. The City Manager may approve an acting appointment provided that:
  - 1. The department head certifies that the position is temporarily vacant due to the absence of the employee who normally fills such position: and
  - 2. The Personnel Manager certifies that the person appointed meets all the qualifications for employment for the position.
- C. No special credit shall be awarded in any examination or the establishment of any employment list for services rendered under an acting appointment.
- D. An acting appointment may, but need not be made from an eligible list. Any person on an eligible list who accepts employment under an acting appointment shall retain his/her place on such eligible list.
- E. A person in an acting appointment shall not acquire regular status in such appointment.
- F. No change in benefits, including but not limited to retirement, health/medical insurance, life insurance, disability insurance, vision care, dental care, vacation and sick leave shall be granted or accrue to any probationary or regular employee under an acting appointment.
- G. An employee in an acting appointment may be removed from such appointment and replaced in his/her original probationary or regular position at any time without the right of appeal or hearing.
- H. Employees so appointed will perform all the duties and responsibilities of the position for at least the full number of work hours of each workday.

#### SECTION 11.10 REEMPLOYMENT APPOINTMENTS.

- A. A reemployment appointment shall be made from a reemployment list by the appointing authority with approval of the City Manager, provided that the person reemployed meets the qualifications for employment for the position and provided that the City receives a favorable medical report from its medical examiner.



SECTION 11.11 REINSTATEMENT APPOINTMENTS.

- A. A reinstatement appointment may be made upon recommendations of the department head and approved by the City Manager, provided that the person reinstated meets the minimum qualifications for employment for the position and provided that the City receives a favorable medical report from its medical examiner.
- B. Any person reinstated shall be treated as a new employee and shall have no vested interest in or be entitled to any benefits accrued during any previous employment with the City.

SECTION 11.12 APPOINTMENT OF RELATIVES.

- A. The City Council shall not appoint to a salaried position under the City Government any person who is a relative by blood or marriage within the third degree of any one or more members of such City Council and neither shall any officer having appointive power appoint any relative within such degree to any such position (Section 610, City Charter).
- B. Regular employees who are relatives by blood or marriage shall not be placed in such position as to supervise or evaluate a relative.

SECTION 11.13 PRE-EMPLOYMENT AND PROMOTIONAL MEDICAL EXAMINATIONS. Before any appointment is made to a position, the eligible shall be required to pass a medical, physical and/or psychological examination as set forth in Article X of these rules.

SECTION 11.14 EMPLOYEE OATH OF OFFICE.

- A. Every employee, before entering upon the duties of employment, shall take and subscribe to the Oath of Office required by the provisions of Article 20, Section 3, of the California Constitution and Section 612 of the City Charter.
- B. In the case of temporary employments, the oath or affirmation taken and subscribed as required by this Section shall be effective for all successive periods of employment which commence within one calendar year from the date of subscribing to the oath or affirmation.
- C. No compensation or reimbursement for expenses incurred shall be paid to any employee of the City unless such employee has taken and subscribed to the oath or affirmation required by this Section.

SECTION 11.15 FINGERPRINTS.

Prior to or immediately following the appointment of any person to a position with the City, such person shall be fingerprinted by the City of Merced. These fingerprints may be used as part of the background investigation

SECTION 11.16 PROOF OF CITIZENSHIP OR LEGAL RESIDENCY. Any person appointed to a regular position shall be required to submit a proof of citizenship or legal residency and/or permit to work to the Personnel Manager. Such documents shall be returned to the employee.

ARTICLE XII  
PROBATIONARY PERIOD

SECTION 12.01 PURPOSE OF PROBATIONARY PERIOD. The probationary period is part of the testing and selection process and shall be used for observing the employee's work, for facilitating the effective adjustment of the employee to his/her position, and for rejecting any probationary employee. A probationary employee serves at-will and is subject to termination without cause any time during the probationary period.

SECTION 12.02 LENGTH OF PROBATIONARY PERIOD.

- A. All appointments are subject to a probationary period.
- B. Any person appointed to a regular position in the classified service in the classes of Police Officer and Fire Fighter shall serve a probationary period of 18 months.
- C. Any person appointed to a position in the classified service, in any class not listed above, shall serve a probationary period of 12 months.
- D. The probationary period shall not include the time served under any provisional, extra help, emergency or acting appointment, and shall begin on the effective date of appointment to a regular position.
- E. Leaves of absence or assignments out of class, for any reason, shall not be counted toward completion of the probationary period and the probationary period shall be extended by the number of days of such leaves or assignments that are in excess of one pay period.

SECTION 12.03 EXTENSION OF PROBATIONARY PERIOD. As an alternative to the release of a probationary employee, a probationary period may be extended for a period or periods not to exceed one year. Extension of probationary periods shall be approved by the City Manager.

SECTION 12.04 REJECTION DURING PROBATIONARY PERIOD.

- A. With approval of the City Manager, a probationary employee may be rejected and terminated at any time during the probationary period. Such rejection and termination shall not be subject to appeal. The effective date of termination shall be not later than the last day of the probationary period.
- B. An employee rejected during the probationary period from a position to which he/she has been promoted shall be reinstated to the position from which he/she was promoted, unless he/she is dismissed from the service of the City in addition to the rejection, in which event he/she shall have the right of a hearing before the Personnel Board as to such order of dismissal (Section 804, City Charter).

**ARTICLE XIII  
PERFORMANCE EVALUATION**

**SECTION 13.01 PERFORMANCE EVALUATION REPORTS OF EMPLOYEES.** Performance evaluation reports for employees shall be prepared on a schedule established by the Personnel Manager. In addition, a performance evaluation may be made at any time at the discretion of the department head.

**SECTION 13.02 PERFORMANCE EVALUATIONS NOT APPEALABLE.** Performance evaluations are not appealable. Employees may request discussion of the performance evaluation and may file a written response to the performance evaluation which will be placed in his/her personnel file.

ARTICLE XIV  
CHANGES IN EMPLOYMENT STATUS

SECTION 14.01 ATTAINMENT OF STATUS AS A REGULAR EMPLOYEE. An employee appointed to a position in the classified service shall earn status as a regular employee in a class if the employee successfully completes the designated probationary period.

SECTION 14.02 PROMOTION OF AN EMPLOYEE. Promotion to a position in the classified service shall be made from an employment list established for the class.

SECTION 14.03 STATUS OF EMPLOYEE FOLLOWING PROMOTION.

An employee who has been promoted, and successfully completes the designated probationary period in a class in the classified service to which promoted, gains status as a regular employee in the new class.

SECTION 14.04 TRANSFER OF AN EMPLOYEE.

- A. At the discretion of the City Manager, an employee may be transferred from one position to another position in the same class or to a comparable class at the same salary level.
- B. Whenever possible, an employee being considered for transfer shall be notified within a reasonable period in advance of the effective date of such transfer.

SECTION 14.05 DEMOTION OF AN EMPLOYEE.

- A. An employee may be demoted at his/her request, or as a result of reduction in force, or for disciplinary reasons.
- B. A regular employee may request a demotion by submitting such a request in writing to the Personnel Manager. Any demotion resulting from an employee's request shall be known as a voluntary demotion. Voluntary demotions may be made to a vacant position or by a downgrade of the same position upon approval by the City Manager. No employee may voluntarily demote to a position for which he/she does not meet the minimum qualifications and no employee has a right to voluntarily demote whether or not they meet the minimum qualifications.

ARTICLE XV  
LEAVES OF ABSENCE WITH PAY

SECTION 15.01. JURY DUTY.

- A. Each probationary or permanent full-time or part-time employee in the classified service required to report for jury duty shall be granted leave of absence upon presentation of the notice to appear for jury duty to the department head. Reasonable advance notice from the employee to the department head is required.
- B. If reasonable notice is given, the employee shall receive full pay for the time served on a jury provided that the employee remits to the City all fees received for such duties. Compensation for expenditures for mileage or subsistence allowances shall not be considered fees and shall be retained by the employee.
- C. An employee summoned to jury duty must provide evidence of such summons and subsequent jury duty days away from work to the department head.

SECTION 15.02. SUBPOENA.

The employee shall receive full pay for subpoenaed court appearances that are connected with the employee's official duties provided that the employee remits to the City all fees received for such appearances. Compensation for expenditures for mileage or subsistence allowances shall not be considered fees and shall be retained by the employee.

SECTION 15.03. MILITARY LEAVE OF ABSENCE.

- A. Military leave shall be granted in accordance with the provisions of applicable state and federal law.
- B. An employee entitled to military leave shall give the department head and the City Manager an opportunity within the limits of military regulations to determine when such leave shall be taken. Whenever possible the employee involved shall notify his/her department head of such leave request at least 30 calendar days in advance of the beginning date of such leave.
- C. An employee requesting military leave shall present military orders to his/her department head to qualify for this benefit.

SECTION 15.04 WORK RELATED DISABILITY LEAVE.

- A. Whenever an employee, except sworn police and uniformed fire personnel, holding a regular full-time position is compelled by direction of his/her physician to be absent from duty on account of an injury arising out of and in the course of his/her employment, he/she shall receive sick leave compensation during the first three (3) calendar days of such absence, provided he/she has accumulated sick leave to cover the period.
- B. Beginning with the fourth calendar day of such absence he/she may elect to apply prorated accrued sick leave to such absence and to receive

compensation to which he/she is entitled under the Workers' Compensation Act and his/her regular pay, not to exceed the amount of his/her normal compensation.

- C. An employee may elect to use any accumulated vacation time and accumulated compensatory time in like manner after his/her sick leave is exhausted.
- D. Employees subject to the provisions of Section 4850 et seq. of the State Labor Code (Police and Fire) shall not have any portion of their work-related disability leave charged against accrued sick leave until 4850 time is exhausted. At such time, the employee shall be required to use sick leave until exhausted and then CTO and vacation until they are exhausted.
- E. Employees who are found to abuse or fraudulently use the privilege and benefits of the temporary disability program as prescribed above shall be subject to disciplinary action up to and including termination from City service.
- F. An employee exercising these temporary disability provisions shall be required to provide the department head and the Personnel Manager with a copy of the attending physician's report, which shall contain a description of the nature and anticipated duration of the disability, and may be required to submit to physical, psychological, and/or medical examinations as directed by the City.
- G. An employee shall keep the department head and the Personnel Manager apprised of his/her medical condition at intervals prescribed by the Personnel Manager.
- H. An employee in the classified service shall continue to accrue vacation, holidays, and sick leave while the employee receives workers' compensation payments under the provisions of the California Workers' Compensation Law or is otherwise in paid status with the City.

**SECTION 15.05 FAILURE TO RETURN FROM AUTHORIZED LEAVE OF ABSENCE WITH PAY.**

Failure of an employee to return to his/her employment upon the termination of any authorized leave of absence with pay shall constitute an automatic resignation from City service.

ARTICLE XVI  
LEAVES OF ABSENCE WITHOUT PAY

SECTION 16.01 AUTHORIZED LEAVE OF ABSENCE WITHOUT PAY. An employee shall not be entitled to a leave of absence without pay as a matter of right (except as provided by federal or state law).

SECTION 16.02 AUTHORIZATION FOR LEAVE OF ABSENCE WITHOUT PAY.

- A. An employee's request for leave of absence without pay may be granted by the department head for a period of up to five work days.
- B. Upon recommendation of the department head and the Personnel Manager, requests for leaves of absence without pay may be granted by the City Manager for a period of up to one (1) year.
- C. The request and the authorization for any leave of absence without pay shall be in writing. A copy shall be filed with the Personnel Manager.
- D. A leave of absence without pay shall not be authorized until the employee has exhausted all accumulated compensatory time off, and vacation which exceeds 24 hours.

SECTION 16.03 EARLY RETURN FROM AUTHORIZED LEAVE OF ABSENCE WITHOUT PAY. An employee may request permission from the City Manager to return from an authorized leave of absence without pay prior to the expiration of such leave. Such a request may be granted at the discretion of the City Manager.

SECTION 16.04 STATUS OF EMPLOYEE ON AUTHORIZED LEAVE OF ABSENCE WITHOUT PAY.

- A. Authorized leave of absence without pay shall not be construed as a break in service, except as listed below, and rights accrued as of the time the leave is granted shall be retained by the employee.
- B. Benefits including, but not limited to, health/medical insurance, life insurance, vision care, dental care, vacation, sick leave, holidays, retirement, payments for special assignments, and other similar benefits shall not be granted nor accrue to a person granted a leave of absence without pay during period of absence if such period exceeds one pay period.

Employees and their dependents may continue their health/medical insurance by paying the premiums for such time as the employee is on authorized leave of absence without pay.

- C. An employee returning to employment after an authorized leave of absence without pay shall retain the same status and shall be placed at the same salary step in the pay range in effect for the class as the employee received when the authorized leave of absence without pay commenced.
- D. Time spent on an authorized leave of absence without pay shall not count towards service and the employee's personnel action date shall be set forward a period of time equal to the employee's total absence.

**SECTION 16.05 FAILURE TO RETURN FROM AUTHORIZED LEAVE OF ABSENCE WITHOUT PAY.**  
Failure of an employee to return to his/her employment upon the termination of any authorized leave of absence without pay shall constitute an automatic resignation from City service.



ARTICLE XVII  
ATTENDANCE - HOURS OF WORK - OVERTIME

SECTION 17.01 ATTENDANCE. Employees shall be in attendance and performing assigned duties at the time and place prescribed by the department to which they are assigned and in accordance with these rules and regulations regarding hours of work, holidays, and leaves of absence.

SECTION 17.02 HOURS OF WORK.

- A. The department head, with the approval of the City Manager, shall determine work schedules to meet the needs of the City. Such schedules may be changed from time to time based on the needs of department operations.
- B. Flexible work schedules may be approved by the City Manager.
- C. In case of a civil disaster, state of emergency or local peril, the department head or the City Manager shall have the authority to modify work schedules to meet the needs of the City.

SECTION 17.03 OVERTIME POLICY.

- A. When overtime work is necessary for the efficient operation of the City, such overtime may be required of the employee by the department head.
- B. Overtime worked by employees shall be paid in accordance with the Fair Labor Standards Act.
- C. Prior to the effective date of an employee's change from one class to another having a higher base pay rate, the employee, at the option of the city, may be paid for accumulated compensatory time off (CTO).

SECTION 17.04 OVERTIME AUTHORIZATION.

Overtime must be assigned and authorized by an employee's department head or designee.

ARTICLE XVIII  
VACATION -- SICK LEAVE

SECTION 18.01 VACATION ELIGIBILITY.

- A. Each probationary and permanent full-time employee in the classified service shall earn vacation benefits in accordance with his/her length of continuous service and in accordance with the provisions of approved memoranda of understanding or management pay plan. Upon re-employment, the employee shall begin accruing vacation as if no break in service had occurred. For purposes of this section, a leave of absence without pay of less than one pay period shall not be considered a break in service.
- B. Each probationary and permanent part-time employee in the classified service shall accrue vacation in an amount proportionate to the ratio of scheduled hours of work per week to the standard work week but in no case shall the number of hours of vacation accrued per year exceed those hours allowed to full-time employees.
- C. Provisional, temporary, or emergency employees shall not accrue vacation.

SECTION 18.02 MAXIMUM ACCRUAL OF VACATION.

- A. Employees may accumulate vacation up to an amount which does not exceed twice the annual accrual.
- B. When the maximum number of vacation hours is accumulated by an employee, vacation hours shall cease to accrue to that employee and hours that otherwise would accrue over the maximum are lost to the employee and will not be reimbursed.

SECTION 18.03 TIME OF VACATION. Dates of vacation may be requested by the employee, but are subject to the approval of the department head.

SECTION 18.04 HOLIDAYS FALLING DURING VACATION. When a holiday or day observed in lieu of a holiday occurs on a day on which an employee is taking vacation such employee shall not be charged as using vacation for that day. The employee's compensation for that day shall be holiday and he/she shall not be paid or charged for vacation.

SECTION 18.05 ILLNESS OR ACCIDENT DURING VACATION. An illness or accident during a regularly approved and scheduled vacation period may be converted to sick leave when:

The employee, immediately upon return to duty, submits to his/her department head a written request for sick leave and, if requested, a written statement signed by the employee's attending physician certifying to the nature and dates of the employee's physical disability.

SECTION 18.06 PAYMENT FOR VACATION UPON TERMINATION. An employee who leaves City employment shall be compensated at his/her current rate of pay for vacation accrued but not taken up to the date of termination.

SECTION 18.07 SICK LEAVE: STATEMENT OF POLICY.

- A. Sick leave is a privilege extended by the City, not a right of the employee.
- B. Sick leave means the absence from duty of an employee because of illness or injury or as defined in 18.08.
- C. Any employee requesting sick leave shall notify his/her supervisor or department head no later than one hour before their work shift begins or immediately when taken ill during work hours unless otherwise specified by the department head.
- D. No employee who is on sick leave shall engage in work or other activities at any time which would be detrimental to the employee's ability to return to work and to perform the duties assigned.

SECTION 18.08 LEAVE CHARGEABLE TO SICK LEAVE.

- A. An employee with accumulated sick leave may be granted sick leave for the following:
  - (1) Illness or physical incapacity of the employee.
  - (2) Enforced quarantine of the employee in accordance with community health regulations.
  - (3) Illness or injury of the employee's spouse or child, which requires his/her attendance (up to 32 hours in a calendar year except for fire personnel who may use up to two shifts during a calendar year).
  - (4) Medical and dental office appointments which cannot be scheduled at other than work hours.
- B. Granting of sick leave shall be at the discretion of the department head.

SECTION 18.09 SICK LEAVE ELIGIBILITY.

- A. Each employee in the classified service shall earn sick leave benefits in accordance with the provisions of approved memoranda of understanding or management pay plan.
- B. Each probationary and permanent part-time employee in the classified service shall accrue sick leave in an amount proportionate to the ratio of scheduled hours of work per week to the standard work week but in no case shall the number of hours of sick leave accrued per year exceed those hours allowed to full-time employees.
- C. Provisional, temporary or emergency employees do not accrue sick leave benefits.

SECTION 18.10 MAXIMUM ACCRUAL OF SICK LEAVE.

- A. In January of each year, employees, except fire department employees on a 56 hour work week, who have accrued sick leave hours in excess of 960 will be paid at their straight time rate for 50 percent of such hours in excess of 960, but the remaining 50 percent of hours in excess of 960

will be forfeited. Fire department employees on a 56 hour work week who have accrued sick leave hours in excess of 1344 hours will be paid at their straight time rate for 50 percent of such hours, but the remaining 50 percent of hours in excess of 1344 will be forfeited.

**SECTION 18.11 PHYSICIAN'S STATEMENT REQUIREMENT FOR SICK LEAVE.**

- A. Prior to approving sick leave, the department head or the Personnel Manager may require a written statement from the attending physician or dentist, or from a physician or dentist selected by the Personnel Manager, that the employee requesting sick leave is or was incapacitated and unable to perform the duties of his/her position or employment.
- B. Before an employee returns to work following sick leave, the department head or the Personnel Manager may require a written statement from the attending physician or dentist, or from a physician or dentist selected by the Personnel Manager, that the employee is released to return to work and is capable of performing all the duties and responsibilities of his/her position or employment.

**SECTION 18.12 EXPIRATION OF SICK LEAVE.**

- A. In the event an employee's illness continues after expiration of his/her sick leave, such absence shall be charged to compensatory time off and vacation, in that order.
- B. Upon expiration of sick leave, compensatory time off and vacation, an employee may request, in writing, a leave of absence without pay for the purpose of recovering from an illness, provided that:

the employee presents to his/her department head for referral to and consideration by the City Manager a written explanation of the employee's illness and an estimate of the time required for recovery, signed by the employee's physician.

**SECTION 18.13 MEDICAL RELEASE AND EXAMINATION AFTER SICK LEAVE.** Prior to resuming his/her duties, an employee who has been on sick leave or a leave of absence may be required to take a physical, medical and/or psychological examination as prescribed by the Personnel Manager. The employment record and the results of such medical examination shall be considered by the Personnel Manager in determining the employee's fitness to return to work.

**SECTION 18.14 HOLIDAYS FALLING DURING SICK LEAVE.** When a holiday or day observed in lieu of a holiday occurs on a day on which an employee is taking sick leave with pay such employee shall not be charged as using sick leave for that day. The employee's compensation for that day shall be holiday and he/she shall not be charged for sick leave.

**SECTION 18.15 PAYMENT FOR SICK LEAVE UPON TERMINATION.**

- A. An employee who resigns, is laid off, or is dismissed from City service forfeits all further eligibility to and shall not be paid for any accrued but unused sick leave.

- B. An employee who retires from City service shall be compensated at his/her current rate of pay for 50 percent of sick leave accrued but not taken up to the date of separation and forfeits all further eligibility to the remaining 50 percent of accrued sick leave.
- C. When termination is caused by the death of the employee, such pay for 50 percent of sick leave accrued but not taken up to the date of death shall be made to the beneficiary the employee has designated and all further eligibility to the remaining 50 percent of accrued sick leave shall be forfeited.

ARTICLE XIX  
OUTSIDE EMPLOYMENT AND USE OF CITY PROPERTY

SECTION 19.01 POLICY CONCERNING OUTSIDE EMPLOYMENT. [Government Code 1126(a)]

- A. A City employee shall not engage in any employment, activity or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to his/her duties as a City employee or with the duties, functions or responsibilities of such a person's department head or the department in which employed.

SECTION 19.02 PROHIBITED ACTIVITIES FOR OUTSIDE EMPLOYMENT. (Government Code 1126)

- A. Subject to the concurrence of the City Manager, each department head may determine those outside employments, activities or enterprises which, for employees under his/her jurisdiction, are inconsistent, incompatible, in conflict with or inimical to their duties as City employees.
- B. An employee's outside employment, activity or enterprise shall be prohibited if it:
1. Involves the use for private gain or advantage of City time, facilities, equipment, supplies, or the badge, uniform, prestige, authority or influence of his/her City office or position; or
  2. Involves receipt or acceptance by the City employee of any money or other consideration from anyone other than the City for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course or hours of his/her City employment or as a part of his/her duties as a City employee; or
  3. Involves the performance of an act in other than the capacity of the City employee, which act may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other officer or employee of the City; or
  4. Involves such demands as would render performance of his/her duties as a City employee less efficient.

SECTION 19.03 AUTHORIZATION FOR OUTSIDE EMPLOYMENT. (Government Code Section 1126)

- A. An employee wishing to engage in any employment, activity or enterprise for compensation shall inform the department head of such desire by submitting in writing, on the appropriate form, information as to the time required and the nature of such activity. If authorization is granted by the department head, the Personnel Manager and the City Manager it shall be valid only for the work and period prescribed in the form. The decision of the City Manager shall be final.

- B. A copy of all correspondence relating to outside employment shall be filed with the Personnel Manager.
- C. The authorization for outside employment, activity or enterprise shall be denied or revoked by the Personnel Manager if a conflict of interest or work incompatibility as prescribed by California Government Code (Section 1126) is found to exist.

**SECTION 19.04 USE OF CITY PROPERTY AND EQUIPMENT PROHIBITED IN OUTSIDE EMPLOYMENT.**

- A. No City-owned, leased or rented equipment, automobiles, trucks, instruments, tools, supplies, machines or other item which is the property of the City shall be used by any City employee while said employee is engaged in any outside employment, activity or enterprise for compensation or otherwise for personal use.
- B. No City employee shall allow any person to rent, borrow or use any of the items mentioned in Subsection A of this Section, in any outside employment, activity or enterprise, except upon prior written authorization of and under conditions established by the City Manager.

**SECTION 19.05 VIOLATIONS AND PENALTIES CONCERNING OUTSIDE EMPLOYMENT.** Any violation of these provisions respecting outside employment, activity or enterprise and use of City property shall constitute sufficient grounds for disciplinary action, up to and including immediate dismissal of the employee from the City service.

ARTICLE XX  
DISCIPLINARY PROCEEDINGS

**SECTION 20.01 POLICY FOR DISCIPLINARY PROCEEDINGS.** In order to establish employee standards of conduct and work performance that are consistent with the efficient and effective delivery of public services, this Article sets forth those circumstances under which disciplinary action may be required and the procedures which govern such proceedings.

**SECTION 20.02 CAUSES FOR DISCIPLINARY ACTION.**

The following may be causes for disciplinary action including, but not limited to, written reprimand, demotion, suspension, or dismissal of any employee. The purpose of specifying these causes is to alert employees to the more commonplace types of disciplinary issues. However, this list is not all inclusive and there may arise instances of unacceptable behavior not included in this list.

- A. Improper or unauthorized use or abuse of sick leave.
- B. Excessive absenteeism that precludes reasonable availability for assigned duties.
- C. Absence without authorized leave; repeated tardiness to assigned work station; leaving assigned work without authorization; failure to report to work after a leave of absence has expired, or after a leave has been disapproved or revoked.
- D. Misconduct, willful or negligent violation of the personnel rules, resolutions, and other related ordinances including written departmental rules, regulations, and policies.
- E. Insubordination.
- F. Acceptance of gifts or gratuities in connection with or relating to the employee's duties.
- G. Refusal to take and subscribe any oath or affirmation which is required by law in connection with employment.
- H. Conviction of a felony or a misdemeanor involving moral turpitude. A plea or a verdict of guilty, or a conviction following a plea of nolo contendere, to a charge of a felony or any offense involving moral turpitude is deemed to be a conviction.
- I. Fraud or the submission of false information related to employment application, payroll, or any work related record or report.
- J. Soliciting outside work for personal gain during the conduct of City business; engaging in outside employment for any business under contract by the City; or participating in any outside employment that adversely affects the employee's City work performance.



- K. Discourteous treatment of the public or City employees or disorderly conduct on City property or on City business including fighting, using profane or abusive or threatening language toward others.
- L. Conduct tending to interfere with the reasonable management, operation and discipline of the City or any of its departments or divisions or failure to cooperate reasonably with superiors or fellow employees.
- M. Engaging in political activities while on duty, in uniform or using the authority associated with City employment.
- N. Violation or neglect of safety rules.
- O. Failure of good behavior, either during or outside the duty hours, which is of such a nature that it causes discredit to the City or one of its operating services.
- P. Discrimination, including harassment, against other employees or member of the public on the basis of race, color, national origin, religious creed, ancestry, sex, marital status, age or physical handicap.
- Q. Inefficiency, incompetence, or negligence in the performance of duties, including failure to perform assigned tasks or training, or failure to discharge duties in a prompt, competent, and reasonable manner.
- R. Refusal or inability to improve job performance in accordance with written or verbal direction after a reasonable trial period.
- S. Refusal to accept reasonable and proper assignment from an authorized supervisor.
- T. Intoxication, intemperance, or incapacity on duty due to or addiction to the use of controlled substances or alcohol.
- U. Conviction of driving under the influence of alcohol or drugs; suspension of driver's license where job duties require driving.
- V. Careless, negligent, or improper use of City property, equipment or funds, including unauthorized removal, or use for private purpose, or use involving damage or unreasonable risk of damage to property.
- W. Unauthorized release of confidential information or official records.
- X. Participation in an illegal strike, work stoppage, slowdown, or other job action against the City.
- Y. Inability to perform the duties of his/her job because of medical, physical, or psychological reasons which were caused or suffered in the course of his/her job.
- AA. Dishonesty.
- BB. Immorality.
- CC. Sleeping on the job.

DD. Retaliation for actions protected by law.

SECTION 20.03 PERSONS WHO MAY TAKE DISCIPLINARY ACTION.

The City Manager or any department head or designee may take disciplinary action against an employee.

SECTION 20.04 WRITTEN REPRIMAND.

- A. A written reprimand is an official notification to the employee stating the need for improvement in work performance or behavior, delineating the causes for dissatisfaction with the employee's services, and informing the employee that further disciplinary measures may be taken unless there is immediate and sustained improvement in work performance or behavior.
- B. A copy of the written reprimand shall be placed in the employee's personnel file by the Personnel Manager.
- C. A written reprimand may be considered as pertinent evidence or information in any subsequent hearing.
- D. The employee may provide a written response to the written reprimand and the response shall be placed in the employee's personnel file by the Personnel Manager.

SECTION 20.05 SUSPENSION WITHOUT PAY.

- A. Suspension without pay is the temporary separation of an employee from work for disciplinary purposes. During a period of suspension without pay, an employee shall not accrue or be allowed to use any other paid time (vacation, sick leave, CTO, etc.) and, if the suspension is for more than one pay period (two weeks), must pay health plan premium if continued coverage is desired.
- B. Suspension without pay shall not exceed 30 consecutive workdays in any one calendar year (City Charter, Section 806).

SECTION 20.06 DEMOTION. A reduction in pay shall be a demotion unless it is part of a plan to reduce salaries and wages in connection with a general economy or curtailment program. A failure to grant an increase to an individual, at a time when increases are granted generally as a part of a plan to increase salaries and wages throughout the City service, shall likewise be demotion (Charter Section 806).

SECTION 20.07 DISMISSAL. Dismissal is termination of an employee from City employment for cause.

SECTION 20.08 NOTICE OF SUSPENSION, DEMOTION, AND DISMISSAL (Charter Section 806).

If suspension, demotion, or dismissal is imposed, a written statement shall be given to the employee of the following:

1. The reasons for the disciplinary action.

ARTICLE XXI  
APPEALS AND HEARINGS

SECTION 21.01 RIGHT OF APPEAL TO THE PERSONNEL BOARD (Charter Section 806).

- A. Any employee shall have the right of appeal to the Personnel Board in the following:
1. Suspension without pay.
  2. Demotion.
  3. Dismissal.
- B. Any appeal to the Board shall be in writing and filed with the City Clerk and the Personnel Board within ten workdays of receipt of the written notice of disciplinary action.

SECTION 21.02 INVESTIGATIONS AND HEARINGS OF AN APPEAL.

- A. The Personnel Board shall hold a hearing on the appeal. Such hearing is normally held within 30 workdays after the appeal is filed.
- B. The procedure of any hearing shall be informal and the rules of evidence need not apply (Charter Section 806).
- C. In any investigation or hearing conducted by the Board, it shall have the power to examine witnesses under oath and compel their attendance or production of evidence by subpoenas issued in the name of the City and attested by the City Clerk. The Police Chief or designee shall cause all such subpoenas to be served and refusal of a person to attend or to testify in answer to such a subpoena shall subject the person to prosecution in the same manner set forth by law for failure to appear before the Council in response to a subpoena issued by the Council.
- D. Within ten days after concluding the hearing, the Personnel Board shall certify its findings and recommendations to the board or officers from whose action the appeal was taken, and to the City Manager and City Council (Charter Section 806).
- E. The recommendations of the Personnel Board shall be advisory only to the Board or officer having appointive power. The findings and recommendations of such Personnel Board and the decision of such Board or officer with respect to such recommendations shall be final and conclusive and no appeal shall be taken therefrom (City Charter, Section 806).

SECTION 21.03 OATHS AND AFFIRMATIONS BEFORE THE PERSONNEL BOARD. Each member of the Board shall have the power to administer oaths and affirmations in any investigation or proceeding pending before the Board.

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(Rev. 3/89)

2. The effective date(s) of the disciplinary action.
3. Any rights of appeal.

A copy of which statement shall be furnished to the Personnel Board.

**SECTION 20.09 MEDICAL TERMINATION.** An employee who is terminated for an inability to perform the duties of his/her job because of medical reasons shall have such fact indicated on his/her personnel records as the reasons for termination.

**SECTION 20.10 APPEAL OF DISCIPLINARY ACTION/MEDICAL TERMINATION.**

- A. An employee shall have the right to appeal suspension, demotion, and dismissal to the Personnel Board in accordance with Article XXI of these rules.

INDEX

<u>Art. No.</u>	<u>Section Title</u>	<u>Section Number</u>	<u>Page Number</u>
XVI	Absence Without Pay, Authorization for Leave of	16.02	37
XVI	Absence Without Pay, Authorized Leave of	16.01	37
XVI	Absence Without Pay, Early Return From	16.03	37
XVI	Absence Without Pay, Failure to Return From	16.05	38
XVI	Absence Without Pay, Status of Employee on	16.04	37
VIII	Access to Criminal Records by Personnel Manager	8.08	20
XVIII	Accrual of Vacation, Maximum	18.02	40
XVIII	Accrual of Sick Leave, Maximum	18.10	41
VI	Acting Appointment	6.17	16
XI	Acting Appointments	11.09	30
IV	Actions, Personnel Board	4.10	10
V	Adoption of Classification Plan	5.02	11
VI	Adoption of Pay Plan	6.02	14
III	Adoption of Personnel Rules	3.06	7
V	Allocation of Positions	5.03	11
III	Amendment and Revision of Personnel Rules	3.07	7
VII	Announcement, Examination	7.01	18
XX	Appeal of Disciplinary Action/Medical Termination	20.09	49
XXI	Appeal to the Personnel Board, Right of	21.01	50
XIX	Appeal of Medical, Psychological Examination	9.09	22
XXI	Appeal to the Personnel Board, Right of	21.01	50
VI	Applicable Pay Following Demotion	6.15	16
VI	Applicable Pay Following Promotion	6.13	15
VI	Applicable Pay Following Reclassification	6.16	15
VI	Applicable Pay Following Reemployment	6.11	15
VI	Applicable Pay Following Reinstatement	6.12	15
VI	Applicable Pay Following Transfer	6.14	16
VI	Applicable Salary Rates Following Pay Range Increases and Decreases	6.07	15
VIII	Applicants, Citizenship of	8.02	19
VIII	Applicants, Disqualification of	8.06	19
VIII	Applicants With Felony or Misdemeanor Convictions	8.07	20
VIII	Application as Part of the Examination	8.09	20
VIII	Application Information Subject to Verification	8.05	19
III	Application of Personnel Rules	3.05	7
III	Application of Personnel Rules and Memoranda of Understanding	3.09	7
VIII	Applications for Employment	8.01	19
VIII	Applications, Incomplete	8.03	19
VIII	Applications, Notice of Rejection of	8.09	20
VIII	Applications, Number of	8.04	19
XI	Appointment of Relatives	11.12	31
XI	Appointments, Acting	11.09	30
XI	Appointments and Promotions	11.01	28
XI	Appointments, Extra Help	11.07	29
XI	Appointments, Provisional	11.06	28
XI	Appointments, Reemployment	11.10	30
XI	Appointments, Regular Part-Time	11.08	30

<u>Art. No.</u>	<u>Section Title</u>	<u>Section Number</u>	<u>Page Number</u>
XI	Appointments, Reinstatement	11.11	31
IV	Appointments to the Personnel Board	4.02	8
XIV	Attainment of Status as a Regular Employee	14.01	34
XVII	Attendance	17.01	39
XVI	Authorization for Leave of Absence Without Pay	16.02	37
XIX	Authorization for Outside Employment	19.03	44
XVII	Authorization for Overtime	17.04	39
XVI	Authorized Leave of Absence Without Pay	16.01	37
X	Availability of Eligibles	10.08	26
VI	Calculation of Personnel Action Date	6.05	14
X	Cancellation of Eligible Lists	10.03	25
IX	Cancellation of Examinations, and Postponement	9.16	23
XX	Causes for Disciplinary Action	20.02	46
X	Certification of Eligible Lists, Special	10.10	26
XI	Certification of Eligibles	11.04	28
X	Certification, Special, of Eligible Lists	10.10	26
VIII	Citizenship of Applicants	8.02	19
		11.16	31
III	City Manager, Powers of the	3.03	6
IV	City Manager Right to be Present at Personnel Board	4.09	10
XIX	City Property and Equipment, Use of, Prohibited in Outside Employment	19.04	45
I	Civil Service Merit System Established	1.01	1
V	Class Descriptions	5.05	11
V	Class Descriptions, Interpretation of	5.07	12
V	Class Descriptions Qualifications Statements	5.06	12
V	Class Title, Official Use of	5.08	12
V	Classification for Temporary Employment	5.12	13
V	Classification Plan, Adoption of	5.02	11
V	Classification Plan, Preparation of	5.01	11
IX	Closed Examinations	9.04	21
IV	Compensation of Members of the Personnel Board	4.06	9
IX	Conduct of Examinations Determined by Personnel Manager	9.01	21
X	Continuous Examinations	10.05	25
VIII	Criminal Records, Access to, by Personnel Director	8.08	20
VI	Date, Calculation of Personnel Action	6.05	14
VI	Date, Pay Range Change on Personnel Action	6.09	15
VII	Dates May be Changed in Examination Announcement	7.02	18
II	Definitions	2.01	2
VI	Demotion, Applicable Pay Following to a Lower Class	6.15	16
XIV	Demotion of an Employee	14.05	34
III	Department Rules and Regulations	3.04	7
V	Descriptions, Class	5.05	11
IX	Determination, Eligibility	9.08	22
XV	Disability Leave, Work Related	15.04	35
XX	Disciplinary Action, Appeal of	20.09	49
XX	Disciplinary Action, Causes for	20.02	46
XX	Disciplinary Action, Persons Who May Take	20.03	48
XX	Disciplinary Proceedings, Policy for	20.01	46
XX	Dismissal	20.07	48
VIII	Disqualification of Applicants	8.06	19
X	Duration of Employment Lists	10.02	25

<u>Art. No.</u>	<u>Section Title</u>	<u>Section Number</u>	<u>Page Number</u>
XVI	Early Return from Authorized Leave of Absence Without Pay	16.03	37
X	Eligible Lists, Cancellation of	10.03	25
X	Eligible Lists, Duration of	10.02	25
X	Eligible Lists, Establishment of	10.01	25
X	Eligible Lists, Extension of	10.04	25
X	Eligible Lists, Resulting From Continuous Examinations	10.05	25
X	Eligible Lists, Removal of Names From	10.09	26
X	Eligible Lists, Restoration To	10.11	27
X	Eligible Lists, Special Certification of	10.10	26
XIX	Eligibility for Holiday Pay		
XVIII	Eligibility, Sick Leave	18.09	41
XVIII	Eligibility, Vacation	18.01	40
X	Eligibles, Availability of	10.08	26
XI	Eligibles, Certification of	11.04	28
XI	Employee Oath of Office	11.14	31
XIV	Employee, Demotion of	14.05	34
XIV	Employee, Promotion of	14.02	34
XIV	Employee, Status of, Following Promotion	14.03	34
XIV	Employee, Transfer of	14.04	34
XI	Employees, Selection of	11.05	28
VIII	Employment, Applications for	8.01	19
XIX	Employment, Authorization For Outside	19.03	44
XIX	Employment, Policy Concerning Outside	19.01	44
XIX	Employment, Prohibited Activities For Outside	19.02	44
XIX	Employment, Use of City Property Prohibited in Outside	19.04	45
XIX	Employment, Violations and Penalties Concerning Outside	19.05	45
III	Equal Opportunity Employer	3.02	6
	Equipment Prohibited in Outside Employment, Use of City		
X	Establishment of Eligible Lists	10.01	25
XIII	Evaluation Reports of Employees, Performance	13.01	33
XIII	Evaluations Not Appealable	13.02	33
VII	Examination Announcement	7.01	18
VII	Examination Announcement, Dates May Be Changed in	7.02	18
VIII	Examination, Application as Part of the	8.09	20
XVIII	Examination, Medical Release and, After Sick Leave	18.13	42
IX	Examination, Protests	9.13	23
IX	Examination Records	9.14	23
IX	Examination Results, Notice of	9.11	23
IX	Examinations, Status of Protested	9.15	23
X	Examinations, Continuous	10.05	25
IX	Examinations, Health Maintenance Medical, Physical and/or Psychological	9.07	22
IX	Examinations, Need For	9.02	21
IX	Examinations, Closed	9.04	21
IX	Examinations, Open	9.03	21
IX	Examinations, Postponement and Cancellation of	9.16	23
IX	Examinations, Pre-Employment Medical, Physical and/or Psychological	9.05	21
IX	Examinations, Rating	11.13	31
		9.10	22

<u>Art. No.</u>	<u>Section Title</u>	<u>Section Number</u>	<u>Page Number</u>
IX	Examinations, Responsibility to Conduct	9.01	21
IX	Examinations, Return to Work Medical, Physical and/or Psychological	9.06	22
XVIII	Expiration of Sick Leave	18.12	42
X	Extension of Eligible Lists	10.04	25
XII	Extension of Probationary Period	12.03	32
XI	Extra Help Appointments	11.07	29
XV	Failure to Return from Authorized Leave of Absence With Pay	15.05	36
XVI	Failure to Return from Authorized Leave of Absence Without Pay	16.05	38
VIII	Felony or Misdemeanor Convictions, Applicants With	8.07	20
XI	Fill Vacancy, Request to	11.02	28
XI	Filling Vacancies, Method of	11.03	28
XI	Fingerprints	11.15	31
IX	Health Maintenance Medical, Physical and/or Psychological Examinations	9.07	22
XXI	Hearings of an Appeal, Investigations and	21.02	50
XVIII	Holidays Falling During Sick Leave	18.14	42
XVIII	Holidays Falling During Vacation	18.04	41
XVII	Hours of Work	17.02	39
XVIII	Illness or Accident During Vacation	18.05	40
VIII	Incomplete Applications	8.03	19
VI	Increases, Merit Salary	6.06	14
V	Incumbents in Reclassified Positions, Status of	5.10	12
V	Incumbents, Procedure for Reclassification of	5.11	13
VIII	Information Subject to Verification, Application	8.05	19
VI	Initial Appointment, Salary at	6.04	14
IX	Inspection of Keyed Test Booklet	9.12	23
V	Interpretation of Class Descriptions	5.07	12
XXI	Investigations and Hearings of an Appeal	21.02	50
XV	Jury Duty	15.01	35
XIX	Keyed Test Booklet, Inspection of	9.12	23
XVIII	Leave Chargeable to Sick Leave	18.08	41
XV	Leave of Absence, Military	15.03	35
XVIII	Leave Eligibility, Sick	18.09	41
XVIII	Leave, Expiration of Sick	18.12	42
XVIII	Leave, Holidays During Sick	18.14	42
XVIII	Leave, Maximum Accrual of Sick	18.10	41
XVIII	Leave, Medical Release and Examination After Sick	18.13	42
XVIII	Leave, Physicians Statement Required For Sick	18.11	42
XVIII	Leave Upon Termination, Payment For Sick	18.15	42
XV	Leave of Absence With Pay, Failure to Return From Authorized	15.05	36
XVI	Leave of Absence Without Pay, Authorization For	16.02	37
XVI	Leave of Absence Without Pay, Authorized	16.01	37
XVI	Leave of Absence Without Pay, Early Return From Authorized	16.03	37
XVI	Leave of Absence Without Pay, Failure to Return From Authorized	16.05	38
XVI	Leave of Absence Without Pay, Status of Employee on Authorized	16.04	37
XV	Leave, Work Related Disability	15.04	35
XII	Length of Probationary Period	12.02	32



<u>Art. No.</u>	<u>Section Title</u>	<u>Section Number</u>	<u>Page Number</u>
IX	Limited Recruitment	9.17	24
X	List, Cancellation of Eligible	10.03	25
X	Lists, Duration of Eligible	10.02	25
X	Lists, Establishment of Eligible	10.01	25
X	Lists, Extension of Eligible	10.04	25
X	Lists, Reemployment	10.06	25
X	Lists, Removal of Names From Eligible	10.09	26
X	Lists Resulting From Continuous Examinations, Eligible	10.05	25
X	Lists, Special Certification of Eligible	10.10	26
XVIII	Maximum Accrual of Sick Leave	18.10	41
XVIII	Maximum Accrual of Vacation	18.02	40
IX	Medical, Physical and/or Psychological Examinations, Health Maintenance	9.07	22
IX	Medical, Physical and/or Psychological Examinations, Pre-employment	9.05	21
IX	Medical, Physical and/or Psychological Examinations, Return to Work	11.13	31
IX	Medical, Physical and/or Psychological Examinations, Return to Work	9.06	22
XVIII	Medical Release and Examination After Sick Leave	18.13	42
XX	Medical Termination	20.09	49
IV	Meetings of the Personnel Board	4.05	8
IV	Membership of the Personnel Board	4.01	8
VI	Merit Increase on Date of Promotion	6.10	15
VI	Merit Salary Increases	6.06	14
I	Merit System Established, Civil Service	1.01	1
XI	Method of Filling Vacancies	11.03	28
XV	Military Leave of Absence	15.03	35
VIII	Misdemeanor Convictions, Applicants With Felony or Names From Eligible Lists, Removal of	8.07	20
X	Names From Eligible Lists, Removal of	10.09	26
IX	Names of Applicants Not Public	9.12	23
IX	Need for Examinations	9.02	21
XX	Notice of Suspension, Demotion and Dismissal	20.08	48
IX	Notice of Examination Results	9.11	23
VIII	Number of Applications	8.04	19
XI	Oath of Office, Employee	11.14	31
XXI	Oaths and Affirmations Before the Personnel Board	21.03	50
IV	Office of the Personnel Board, Terms of	4.03	8
IV	Officer of the Personnel Board, Selection of Presiding	4.04	8
V	Official Use of Class Title	5.08	12
IX	Open Examinations	9.03	21
XIX	Outside Employment, Authorization for	19.03	44
XIX	Outside Employment, Policy Concerning	19.01	44
XIX	Outside Employment, Prohibited Activities for	19.02	44
XIX	Outside Employment, Use of City Property and Equipment Prohibited in	19.04	45
XIX	Outside Employment, Violations and Penalties Concerning	19.05	45
XVII	Overtime Authorization	17.04	39
XVII	Overtime Policy	17.03	39
XI	Part-Time Appointments, Regular	11.08	30
VI	Pay Following Demotion, Applicable	6.15	16
VI	Pay Following Promotion, Applicable	6.13	15

<u>Art. No.</u>	<u>Section Title</u>	<u>Section Number</u>	<u>Page Number</u>
VI	Pay Following Reclassification, Applicable	6.16	16
VI	Pay Following Re-Employment, Applicable	6.11	15
VI	Pay Following Reinstatement, Applicable	6.12	15
VI	Pay Following Transfer, Applicable	6.14	16
VI	Pay Plan, Adoption of	6.02	14
VI	Pay Plan, Preparation of	6.01	14
VI	Pay Range Change on Personnel Action Date	6.09	15
VI	Pay Range Increases and Decreases, Applicable		
	Salary Rates Following	6.07	15
XX	Pay, Suspension Without	20.05	48
XVIII	Payment for Sick Leave Upon Termination	18.15	42
XVIII	Payment for Vacation Upon Termination	18.06	40
XIX	Penalties Concerning Outside Employment, Violations and	19.05	45
XIII	Performance Evaluation Reports of Employees	13.01	33
XIII	Performance Evaluation Not Appealable	13.02	33
VI	Personnel Action Date, Calculation of	6.05	14
VI	Personnel Action Date, Pay Range Change on	6.09	15
IV	Personnel Board Actions	4.10	10
IV	Personnel Board, Appointments to the	4.02	8
IV	Personnel Board, Compensation of Members of the	4.06	9
IV	Personnel Board, Meetings of the	4.05	8
IV	Personnel Board, Membership of the	4.01	8
XXI	Personnel Board, Oaths and Affirmations Before	21.03	50
IV	Personnel Board, Powers and Duties of the	4.08	9
XXI	Personnel Board, Right of Appeal to the	21.01	50
IV	Personnel Board, Selection of Presiding Officer of the	4.04	8
IV	Personnel Board, Terms of Office of the	4.03	8
IV	Personnel Board, Vacancies on the	4.07	9
VIII	Personnel Manager, Access to Criminal Records by	8.08	20
IX	Personnel Manager, Conduct of Examinations Determined by	9.01	21
III	Personnel Policy	3.01	6
III	Personnel Rules, Adoption of	3.06	7
III	Personnel Rules, Amendment and Revision of	3.07	7
III	Personnel Rules, Application of	3.05	7
III	Personnel Rules, Violation of	3.08	7
XX	Persons Who May Take Disciplinary Action	20.03	48
IX	Physical, Medical, Psychological Examinations, Health Maintenance	9.07	22
IX	Physical, Medical, Psychological Examinations, Pre-Employment	9.05	21
IX	Physical, Medical, Psychological Examinations, Return to Work	9.06	22
XVIII	Physician's Statement Requirement for Sick Leave	18.11	42
XIX	Policy Concerning Outside Employment	19.01	44
XX	Policy for Disciplinary Proceedings	20.01	46
V	Positions, Allocation of	5.03	11
V	Positions, Status of Incumbents in Reclassified	5.10	12
IX	Postponement and Cancellation of Examinations	9.16	23
IV	Powers and Duties of the Personnel Board	4.08	9
III	Powers of the City Manager	3.03	6
XI	Pre-Employment and Promotional Medical Examinations	11.13	31

<u>Art. No.</u>	<u>Section Title</u>	<u>Section Number</u>	<u>Page Number</u>
IX	Pre-Employment Medical, Physical and/or Psychological Examinations	9.05	21
V	Preparation of Classification Plan	5.01	11
VI	Preparation of Pay Plan	6.01	14
IV	Presiding Officer of the Personnel Board, Selection of	4.04	8
XII	Probationary Period, Extension of	12.03	32
XII	Probationary Period, Length of	12.02	32
XII	Probationary Period, Purpose of	12.01	32
XII	Probationary Period, Rejection During	12.04	32
V	Procedure for Reclassification of Incumbents	5.11	13
XIX	Prohibited Activities for Outside Employment	19.02	44
XIX	Prohibited in Outside Employment, Use of City Property and Equipment	19.04	45
VI	Promotion, Applicable Pay Following	6.13	15
VI	Promotion, Merit Increase on Date of	6.10	15
XIV	Promotion of an Employee	14.01	34
XIV	Promotion, Status of Employee Following	14.03	34
V	Promotional Classes	5.04	11
XI	Promotional Medical Examinations, Pre-Employment and	11.13	31
XIX	Property and Equipment Prohibited in Outside Employment, Use of City	19.04	45
XI	Proof of Citizenship or Legal Residency	11.16	31
IX	Protest of Written Test	9.13	23
IX	Protested Examination, Status of	9.15	23
XI	Provisional Appointments	11.06	28
IX	Psychological Examinations, Health Maintenance	9.07	22
IX	Psychological Examinations, Pre-Employment	9.05	21
IX	Psychological Examinations, Return to Work	9.06	22
XII	Purpose of Probationary Period	12.01	32
V	Qualifications Statements, Class Descriptions	5.06	12
IX	Rating Examinations	9.10	22
V	Reclassification	5.09	12
VI	Reclassification, Applicable Pay Following	6.16	16
V	Reclassification of Incumbents, Procedure for	5.11	13
V	Reclassified Positions, Status of Incumbents in	5.10	12
IX	Records, Examination	9.14	23
XIX	Recruitment, Limited	9.17	24
XIX	Recruitment, Selective	9.18	24
VI	Reemployment, Applicable Pay Following	6.11	15
XI	Reemployment Appointments	11.10	30
X	Reemployment Lists	10.06	25
XI	Regular Part-Time Appointments	11.08	30
XIV	Regular Employee, Attainment of Status as a	14.01	34
III	Regulations, Department Rules and	3.04	7
VI	Reinstatement, Applicable Pay Following	6.12	15
XI	Reinstatement Appointments	11.11	31
XII	Rejection During Probationary Period	12.03	32
VIII	Rejection of Applications, Notice of	8.09	20
XI	Relatives, Appointment of	11.12	31
XVIII	Release and Examination After Sick Leave, Medical	18.13	42
X	Removal of Names from Eligible Lists	10.09	26
XX	Reprimand, Written	20.04	48

<u>Art. No.</u>	<u>Section Title</u>	<u>Section Number</u>	<u>Page Number</u>
XI	Request to Fill Vacancies	11.02	28
XI	Residency, Proof of Citizenship or Legal	11.16	31
IX	Responsibility to Conduct Examinations	9.01	21
X	Restoration to Eligible List	10.11	27
VI	Retention of Salary and "Y" Rates	6.08	15
XVI	Return From Authorized Leave of Absence Without Pay, Early	16.03	37
XVI	Return From Authorized Leave of Absence Without Pay, Failure to	16.05	38
XV	Return From Authorized Leave of Absence With Pay, Failure to	15.05	36
IX	Return to Work Medical, Physical and/or Psychological Examinations	9.06	22
III	Revision of Personnel Rules, Amendment and		
XXI	Right of Appeal to the Personnel Board	21.01	50
III	Rules, Adoption of Personnel	3.06	7
III	Rules, Amendment of Personnel	3.07	7
III	Rules, Application of Personnel	3.05	7
III	Rules and Regulations, Department	3.04	7
III	Rules, Violation of Personnel	3.08	7
VI	Salaries	6.03	14
VI	Salary at Initial Appointment	6.04	14
VI	Salary and "Y" Rates, Retention of	6.08	15
VI	Salary Increases, Merit	6.06	14
VI	Salary Rates Following Pay Range Increases and Decreases, Applicable	6.07	15
XI	Selection of Employees	11.05	28
IV	Selection of Presiding Officer of the Personnel Board	4.04	8
IX	Selective Recruitment	9.18	24
XVIII	Sick Leave Statement of Policy	18.07	41
XVIII	Sick Leave Eligibility	18.09	41
XVIII	Sick Leave, Expiration of	18.12	42
XVIII	Sick Leave, Holidays Falling During	18.14	42
XVIII	Sick Leave, Leave Chargeable to	18.08	41
XVIII	Sick Leave, Maximum Accrual of	18.10	41
XVIII	Sick Leave, Medical Release and Examination After Extended	18.13	42
XVIII	Sick Leave, Physician's Statement Requirement for	18.11	42
XVIII	Sick Leave, Statement of Policy	18.07	41
XVIII	Sick Leave, Upon Termination, Payment For	18.15	42
X	Special Certification of Lists	10.10	26
XIV	Status of Employee Following Promotion	14.03	34
XVI	Status of Employee on Authorized Leave of Absence Without Pay	16.04	37
XVI	Status as a Regular Employee, Attainment of	14.01	34
IX	Status of Protested Examinations	9.15	23
V	Status of Incumbents in Reclassified Positions	5.10	12
XV	Subpoena	15.02	35
XX	Suspension, Demotion and Dismissal, Notice of	20.08	48
XX	Suspension Without Pay	20.05	48
V	Temporary Employment, Classification For	5.12	13
XVIII	Termination, Payment for Sick Leave Upon	18.15	42
XVIII	Termination, Payment for Vacation Upon	18.06	40

<u>Art. No.</u>	<u>Section Title</u>	<u>Section Number</u>	<u>Page Number</u>
IV	Terms of Office of the Personnel Board	4.03	8
IX	Test Booklet, Inspection of Keyed	9.12	23
XVIII	Time of Vacation	18.03	40
V	Title, Official Use of Class	5.08	12
VI	Transfer, Applicable Pay Following	6.14	16
XIV	Transfer of an Employee	14.04	34
XIX	Use of City Property and Equipment Prohibited in Outside Employment	19.04	45
XI	Vacancies, Method of Filling	11.03	28
IV	Vacancies on the Personnel Board	4.07	9
XI	Vacancies, Request to Fill	11.02	28
XVIII	Vacation Eligibility	18.01	40
XVIII	Vacation, Holidays Falling During	18.04	40
XVIII	Vacation, Illness or Accident During	18.05	40
XVIII	Vacation, Maximum Accrual of	18.02	40
XVIII	Vacation, Payment for, Upon Termination	18.06	40
XVIII	Vacation, Time of	18.03	40
VIII	Verification, Application Information Subject to	8.05	40
III	Violation of Personnel Rules	3.08	7
XIX	Violations and Penalties Concerning Outside Employment	19.05	45
XV	Work Related Disability Leave	15.04	35
XX	Written Reprimand	20.04	48
IX	Written Tests, Protest of	9.13	12
VI	"Y" Rates, Retention of Salary and	6.08	15

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