

City of San Marcos
Personnel Rules and Regulations
For
San Marcos Supervisor's Association
San Marcos Classified Miscellaneous Employees' Association and
At Will Employees

*Revised
July 14, 2015*

City of San Marcos

Personnel Rules and Regulations for the San Marcos Supervisors' Association, the San Marcos Classified Miscellaneous Employees' Association and At-will Employees Effective July 14, 2015

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Rule 1.0 – GENERAL PROVISIONS

1.1 Scope and Purpose of Rules

- 1.1.1 The purpose of this manual is to set forth basic procedures and policies, which relate to the City of San Marcos personnel system in order to:
 - 1.1.1.1 Facilitate efficient, economical and effective service to the public.
 - 1.1.1.2 Attract, employ, develop, promote and retain employees based on merit and job performance.
 - 1.1.1.3 Insure fair, equitable and uniform treatment of applicants and employees in municipal service.
 - 1.1.1.4 Define the responsibilities, rights, privileges, benefits, obligations and prohibitions placed upon all employees in the service of the City.
- 1.1.2 This manual will not take the place of common sense nor will it provide an answer to all personnel questions and issues that may arise within the City. If a provision of these rules conflicts with any provision of an applicable collective bargaining agreement entered into by the City of San Marcos and a recognized employee organization, to the extent of such conflict, the provision of the collective bargaining agreement shall be deemed controlling unless the provision of these rules has been negotiated more recently.
- 1.1.3 The policies and procedures contained in this manual supersede any and all previously issued City policies, procedures, rules or instructions related to matters discussed herein and this manual may be updated and revised, as needed, due to changing circumstances. Nothing in this manual shall be deemed to supersede applicable state or federal law or administrative regulations related to personnel matters.
- 1.1.4 The rules apply to all employees of the City, except those employees or employee groups excluded below or except where the rules specifically provide otherwise. Excluded employees and employee groups are:
 - 1.1.4.1 City Manager

1.1.4.2 Employees designated as volunteer, temporary, per diem, provisional or seasonal.

1.2 Management Rights

- 1.2.1 The City shall retain, whether exercised or not, solely and exclusively, all express and inherent rights and authority pursuant to law with respect to determining the level of, and the manner in which, the City's activities are conducted, managed and administered, and the Associations recognizes the exclusive right of the City to establish and maintain departmental rules and procedures for the administration of its departments.
- 1.2.2 The City has the exclusive right and authority to determine the mission of the City's constituent departments, commissions and boards.
- 1.2.3 The City shall determine assignments, and establish methods, standards of service and the processes by which assignments are performed to maintain the efficiency of governmental operations, and while every incidental duty connected with operations enumerated in job descriptions is not always specifically described; nevertheless, it is intended that the employee shall perform all such duties as assigned by the City.
- 1.2.4 The City has the authority to schedule all work and/or overtime work as required in the manner most advantageous to the City.
- 1.2.5 The City exercises complete control and discretion over the City's organization and the technology utilized in the performance of its work.
- 1.2.6 The City shall determine the procedures and standards of selection for employment.
- 1.2.7 The City reserves the right to discipline or discharge employees subject to these Rules. The City reserves the right to lay off personnel of the City at any time.
- 1.2.8 The City has the exclusive right to transfer employees within departments and to positions outside a department in a manner most advantageous to the City.
- 1.2.9 The City shall have the authority, without prior meeting and conferring, to effect reorganizations and reallocation of work of the City. The City will meet and confer to discuss the impacts of such a decision.

- 1.2.10 The City has the right, without prior meeting and conferring, to contract for matters relating to municipal operations, including contracting out bargaining unit work. The right of contracting or subcontracting is vested exclusively in the City.
- 1.2.11 The City has the right to take all necessary actions to carry out its mission in emergencies.
- 1.2.12 The inherent and express rights of the City, including those herein specifically referred to that are not expressly modified or restricted by a specific provision hereof, are not in any way, directly or indirectly, subject to meeting and conferring or the Grievance Procedure herein, except as otherwise required by law.

1.3 Responsibility of City's Personnel Officer

The City Manager is the individual responsible for all personnel matters within the City and, subject to the provisions of Ordinance 71-180, is the ex-officio Personnel Officer for the City. The City Manager may delegate any of the powers and duties conferred upon him or her as Personnel Officer to any other officer or employee of the City. The City Council appoints both the City Attorney and City Manager. All other employees are appointed by the City Manager. The City Manager, or his or her designee, is responsible for maintaining this manual in a current state.

1.4 Equal Employment Opportunity

It is the City's policy to seek the most qualified person for each position while providing an equal opportunity for all persons to compete for employment with the City. The City prohibits harassment or discrimination in employment on the basis of an individual's race, color, age, ancestry, national origin, citizenship status, marital status, political or religious affiliation, sex (including gender, gender identity, gender expression, and pregnancy) sexual orientation, genetic characteristics or information, disability, medical condition, or any other basis protected by law, except where a bonafide occupational qualification so dictates.

The City will comply with Federal, State and local regulations in regard to equal opportunity to all qualified employees and applicants as to all terms and conditions of employment, including recruitment, appointment, compensation, training, promotion, retention, transfer, discipline, termination and all other personnel matters. Employees

who believe they have experienced any form of harassment or discrimination are encouraged to report this immediately as outlined in the City's [DISCRIMINATION AND HARASSMENT POLICY](#), (Revised January 1, 2012)

1.5 Reasonable Accommodation

The City provides employment-related reasonable accommodations to qualified individuals with disabilities within the meaning of the California Fair Employment and Housing Act and the Americans with Disabilities Act.

1.5.1 Request for Accommodation

An employee who desires a reasonable accommodation in order to perform essential job functions should make such a request in writing to the Human Resources/Risk Department.

1.5.2 Reasonable Documentation of Disability

Following receipt of the request, the Human Resources/Risk Department may require additional information, such as reasonable documentation of the existence of a disability.

1.5.3 Fitness for Duty Examination

The City may require an employee to undergo a fitness for duty examination to determine whether the employee can perform the essential functions of the job with or without accommodation. The City may also require that a City-approved physician conduct the examination.

1.5.4 Interactive Process Discussion

After receipt of the results of a fitness for duty report or other physician report that provides reasonable documentation of disability, the City will arrange for a discussion, in person or via telephone conference call, with the employee, and his or her representatives, if any. The purpose of the discussion is to work in good faith to fully discuss all feasible potential reasonable accommodations.

1.5.5 Case-by-Case Determination

The City will determine, in its sole discretion, whether reasonable accommodation(s) can be made, and the type of accommodation(s) to provide.

The City will not provide accommodation(s) that would pose an undue hardship upon City finances or operations, or that would endanger the health or safety of the employee or others. The City will inform the employee of its decision as to reasonable accommodation(s) in writing.

1.6 Merit System Policy

The personnel system within the City of San Marcos is operated on the merit system. The City Council and the City Manager have determined that it is in the public interest that all personnel are employed, promoted, demoted, disciplined or terminated based upon their job performance. Individuals will be hired based upon their qualifications for a particular position or job classification. Such individuals will be expected to perform the duties required and fulfill the responsibilities of that position. The City's merit system will attempt to be as flexible as possible to provide for the needs and requirements of each individual employee, but the primary purpose of the merit system is to create a smoothly operating municipal personnel system, which provides services to the public in an efficient and economical manner.

1.7 Amendment and Revision of Rules

- 1.7.1 The Human Resources/Risk Director shall review all suggested amendments or revisions to these Rules for appropriateness and consistency. The City Manager or his/her designee shall notify the exclusively recognized Employee Organization(s) in writing of any amendments, which affect wages, hours and other terms and conditions of employment. Upon request, the City shall provide the opportunity to meet and confer with any recognized employee organization so requesting in accordance with Resolution [No.2010-7389](#). If the proposed amendment does not affect wages, hours and other terms and conditions of employment, or is otherwise not subject to meet and confer requirements under state law, or is a managerial right of the City, the City Manager, at his or her sole discretion, may consult with the recognized employee organization for their suggestions and comments.
- 1.7.2 Following the above, the City Manager shall schedule the proposed amendment or revision as a resolution for consideration by the City Council at their regular public meeting. The City Manager shall make recommendations to the City Council as to action, which may be taken on the proposed modification. Any interested person may appear before the City Council and be heard prior to

Council action on the City Manager's recommendation. The City Council may reject or adopt the amendment as submitted or refer proposed modifications back to the City Manager for further review and/or for input from the employee organization(s), if appropriate. Approved resolutions shall become effective immediately unless a different effective date is specified.

1.7.3 As provided in Section 3500 et. seq. of the Government Code, in cases of emergency, when the City Council determines that amendments(s) to these rules must be adopted immediately without prior notice or meeting and conferring with the recognized employee organization, the City shall provide such notice and the opportunity to meet at the earliest practical time following the adoption of the amendment(s).

1.8 Violation of Rules

All employees are expected to abide by these Rules as required for continued employment with the City. Violation of the provisions of these Rules constitutes grounds for rejection of application, suspension, dismissal or other disciplinary action. Disciplinary action shall depend upon, the nature of the violation, the circumstances surrounding the violation, the employee's prior work record and other relevant information and shall be carried out in accordance with [MOU ARTICLE VI – DISCIPLINARY ACTION](#).

1.9 Personnel Records and Reports

1.9.1 Service Record

The City maintains a personnel file on each employee. The file shall be maintained in the Human Resources/Risk Department and shall contain materials that are necessary and relevant to the administration of the City's personnel program including, but not limited to, the name, title of position, department, employment status, salary and other employment information as may be considered pertinent.

1.9.2 Notifying the City of Changes in Personal Information

Each employee is responsible to promptly notify the Human Resources/Risk Department of any changes in relevant personal information, including:

- Mailing Address
- Telephone Numbers

- Persons to Contact In Emergency
- Number and Names of Dependents

1.9.3 Medical Information

1.9.3.1 Separate Confidential Files – All medical information about an employee or applicant is kept separately and is treated as confidential, in accordance with the Americans with Disabilities Act and the American's With Disabilities Amendment Act (45 U.S.C. section 12112(d)(3)(b)), and the California Confidentiality of Medical Information Act (Cal. Civil Code section 56 et seq.), and any other applicable state or federal law.

1.9.3.2 Information in Medical Files – The City will not obtain medical information about an employee or applicant except in compliance with the California Confidentiality of Medical Information Act. To enable the City to obtain certain medical information, the employee or applicant may need to sign an "Authorization for the Release of Employee Medical Information" form.

1.9.3.3 Access to Medical Information – Access to employee or applicant medical information shall be strictly limited to only those with a legitimate need to have such information for City business reasons, or if access is required by law, subpoena or court order. In the case of an employee with a disability, managers and supervisors may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations.

The City will not provide employee or applicant medical information to a third party (except as permitted under the California Confidentiality of Medical information Act, or other applicable state or federal law) unless the employee signs an "Authorization for the Release of Employee Medical Information" form. The City will release only the medical information that is identified in the employee's authorization. If the employee's authorization indicates any limitations regarding the use of the medical information, the City will communicate those limitations

to the person or entity to which it discloses the medical information.

1.9.4 References and Release of Information in Personnel Files

1.9.4.1 Public Information – Upon request, the City will release to the public information about its employees as required by the California Public Records Act. The City will not disclose personal information if it believes doing so would constitute an unwarranted invasion of personal privacy.

1.9.4.2 Reference Checks – All requests from outside the City for reference checks or verification of employment concerning any current or former employee must be referred to the Human Resources/Risk Director. Information will be released only if the employee signs an “Authorization for the Release of Employment Information” form, except that without such authorization, the following limited information will be provided:

- Dates of Employment
- Job Title
- Salary upon Departure

Verification of employment and reference checks will be done through the Human Resources/Risk Department only.

1.9.4.3 Medical Information – Medical information will be released only in accordance with subsection 1.8.3 above.

1.9.5 Employee Access to Personnel File

1.9.5.1 Inspection of File – Employees, or his or her authorized representative, has the right to inspect all materials placed in their own personnel file and shall have the right to provide comments to be attached to any materials placed therein. The employee shall make an appointment with the Human Resources/Risk Department to review their personnel file at least one (1) working day in advance and the City shall honor the employee’s request as soon as practicable. The review must be done in the presence of the Human Resources/Risk Director, or designee.

1.9.5.2 Copies – On request, an employee is entitled to receive a copy of the personnel records that relate to the employee’s performance or to any grievance concerning the employee, with the exception of (1) records relating to investigation of a possible criminal offense, (2) ratings, reports or records that were obtained prior to the employee’s employment, prepared by identifiable examination committee members; or obtained in connection with a promotional examination; (3) letters of reference; (4) records that are subject to the Public Safety Officers Procedural Bill of Rights; and (5) records of agencies subject to the Information Practices Act of 1977. An employee who wishes to receive a copy of records that relate to the employee’s performance or to any grievance concerning the employee should contact the Human Resources/Risk Director. The employee shall acknowledge receipt of the material by signature.

1.9.6 Destruction of Records

Service records, examination results and all related records will be retained permanently. All other Human Resources/Risk Department records, such as application, examinations, correspondence, reports, etc. may be destroyed after a specified period of time as determined by the City’s Records Retention Policy.

1.10 Disclaimer

These rules do not create any contract of employment, expressed or implied or any rights in the nature of a contract.

1.11 Severability

If any section or portion of any section of these Rules is found to be illegal, the balance of these Rules shall not be affected and shall remain in full force and effect.

Rule 2.0 -DEFINITIONS

In order to provide a mutual understanding and agreement in terminology, the following terms used in these rules are understood to have the following meanings:

2.1 Administrative Leave – Absence with full pay and benefits, ordered by the City Manager based upon the recommendation of the Department Head, when the City’s interests

require the employee to be away from the job. An employee on a paid administrative leave is required to comply with all lawful orders by the City.

- 2.2 Advancement – A salary increase within the limits of the merit and longevity pay ranges established for a classification.
- 2.3 Allocate – The assignment of a single position to its proper class in accordance with the duties performed and the authority and responsibilities exercised.
- 2.4 Anniversary Date - (1) The date, which signifies the completion of each year of service by a regular employee in a position. (2) The date an employee starts his or her probationary period for either original, promotional, or change in classification appointments.
- 2.5 Applicant – Any person who has submitted an employment application for a position for which the City is currently recruiting.
- 2.6 Appointing Authority – The City Manager.
- 2.7 Appointment – The selection of, and acceptance by, an applicant to occupy an authorized position in the service of the City.
- 2.8 At Will Employee - At Will refers to any City employee who (1) does not hold regular status, (2) serves at the pleasure of the council, city manager or appointing authority, and (3) can be terminated at any time without cause and without the opportunity to appeal. At will employees do not have bumping rights in the event of a layoff or reorganization.
- 2.9 Candidate – A person who has applied for and meets the qualifications of the position.
- 2.10 City – The City of San Marcos, California.
- 2.11 City Council – The City Council of the City of San Marcos, California.
- 2.12 City Manager – The individual appointed by the City Council to hold the position.
- 2.13 Class Specification/Job Description – A written statement of the duties and responsibilities of the position(s) in a class and will include examples of typical duties of the position(s), and the qualification requirements of the position(s) in the class as determined by the Human Resources/Risk Department.
- 2.14 Classification or Class – All positions sufficiently similar in duties, authority and responsibility to permit grouping under a common title in the application of equity of common standards of selection, transfer, demotion and salary.

2.15 Closed Promotional Recruitment – A competitive selection process for a particular class in which only those persons presently employed full-time by the City and meeting the minimum qualifications for the class may participate. An employee must have completed his or her initial probationary period with the City to be eligible to participate in a closed promotional recruitment process. At-will employees may participate upon completion of twelve months of consecutive employment.

2.16 COBRA Rights – Consolidated Omnibus Budget Reconciliation Action of 1985 provides eligible employees and their qualifying dependents with the right to continue health care coverage.

2.17 Compensation – The salary, wage, allowances, fringe benefits and other forms of valuable compensation earned by or paid to any employee by reason of employment with the City.

2.18 Days – Means calendar days unless otherwise stated.

2.19 Demotion – The movement of an employee from one class to another class having a lower maximum base rate of pay, and an equivalent decrease in the required duties, skills, and/or qualifications.

2.20 Department – An organizational unit with responsibility for carrying out a function or variety of functions under the supervision of a Department Head.

2.21 Department Head – The individual who administers the operation of a City Department and who is directly responsible to the City Manager for the performance of the department. Department Heads are at-will employees and do not have bumping rights in the event of a layoff or reorganization.

2.22 Discharge/Dismissal – The termination of an employee from City service by the City Manager or his/her designee.

2.23 Disciplinary Action – The discharge/dismissal, demotion, reduction-in-salary, or suspension of an employee with the objective of obtaining employee compliance with rules, orders, procedures, standards of conduct and/or expected job performance when non-disciplinary corrective actions do not achieve compliance, or a particular event is serious enough to warrant disciplinary action on its own.

2.24 Division Head – The individual who administers the operation of a City Division and who is directly responsible to the Department Head or the City Manager for the performance of

the division. Division Heads are at-will employees and do not have bumping rights in the event of a layoff or reorganization.

- 2.25 Eligibility List – A list of qualifying candidates who have competed for a position and who have been ranked alphabetically or according to their respective qualifying score.
- 2.26 Eligible – A person whose name is on an eligibility list.
- 2.27 Employee – A person employed to fill an authorized City position. An employee is either a full-time or part-time employee. The term employee used in these Rules, shall refer to full-time (unless otherwise modified by the term part-time) employees, employed by the City of San Marcos.
- 2.28 Entry Level – The initial position in a class series.
- 2.29 Examination – A selection technique used to measure qualifications, skills and knowledge of the applicants applying for a position with the City.
- 2.30 Evidentiary Review – An administrative review of disciplinary actions or violations of the personnel Rules conducted by the City Manager in which disputing parties present appropriate documents, records and testimony.
- 2.31 Fiscal Year – July 1 to June 30.
- 2.32 Flex-time – A work schedule that equals eighty (80) hours per pay period, although the hours worked may not be from 8:00 a.m. to 5:00 p.m. daily or scheduled Monday through Friday.
- 2.33 Grievance – A complaint by an employee or group of employees arising out of the application or interpretation of existing rules, regulations, polices or practices.
- 2.34 Incumbent – An employee assigned to a position.
- 2.35 Layoff – The separation of one or more employees from the active work force due to lack of funds, organizational change or lack of work.
- 2.36 Leave of Absence – An approved absence from duty, with or without pay, which is granted by the City Manager when in his or her opinion such leave is warranted.
- 2.37 Management Rights – The rights of managers appointed by the City Council or the City Manager to determine the mission of its constituent departments, commissions and boards; set standards of service; determine the procedures and standards of selection for

employment; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or for other lawful reasons; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work.

- 2.38 Memorandum of Understanding – A binding agreement of wages, hours, benefits, and other conditions of employment for designated classes between the bargaining units and the City that have been adopted by the City Council.
- 2.39 Merit System – The City’s personnel system, which utilizes job performance in all decisions relative to employment, promotions, demotions, disciplinary actions and dismissals/discharges.
- 2.40 Minimum Qualifications – Mandatory requirements established for a specific class.
- 2.41 Open Competitive Recruitment – A competitive selection process for a particular class, which shall be open to all applicants who meet the minimum qualifications for the particular classification for which the recruitment is to be held.
- 2.42 Open-Until-Filled Recruitment – An open competitive selection process for a particular class, which is conducted on an “open-until-filled” basis. The recruitment does not have a specified filing period but continues at the discretion of the Human Resources/Risk Director. Examinations may be given repeatedly and names placed on eligibility list on a continuous basis. The names of all eligible candidates who took the same test on different dates shall be ranked by score on one eligibility list.
- 2.43 Overtime – For, other than exempt employees, time worked in excess of forty (40) hours in an employee’s designated workweek (See ALTERNATE WORK SCHEDULE POLICY IF ALTERNATE WORK SCHEDULE IS IN EFFECT)
- 2.44 Paid Leave – The use of earned time such as earned sick leave, vacation or compensatory time (accrued due to overtime work) by an employee with approval from the Department Head and the City Manager.
- 2.45 Performance Evaluation – An evaluation conducted by the immediate supervisor, Department Head or City Manager of an employee’s job performance within the position and classification assigned. Each employee will be evaluated at least once annually.

2.46 Position – A group of duties and responsibilities in the competitive service requiring the full-time employment of one person.

2.47 Probationary Employee – An employee serving a probationary period, following an initial probationary appointment with the City or a promotion to a higher classification.

2.48 Probationary Period – A period to be considered an integral part of the examination, recruiting, testing and selection process during which an employee is required to demonstrate the fitness for the position to which the employee is appointed by actual performance of the duties of the position.

2.49 Promotion – The movement of a qualified employee from one class to another class having a higher maximum base rate of pay and greater job responsibilities.

2.50 Re-employment – Lists with names of regular employees that are created to re-employ prior workers who have been laid off, employees who have been demoted in lieu of layoff, or who have exhausted all of their leave.

2.51 Reassignment -- An option when an employee is moved to a vacant position equivalent in terms of pay and status.

2.52 Reasonable Suspicion – A belief based on objective facts sufficient to lead a reasonable, prudent supervisor to suspect that an employee is under the influence of drugs or alcohol, so that an employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform his or her job safely is reduced.

2.53 Reclassification – A change in allocation for a position from one class to another existing class or to a new class based on substantial changes in duties, and/or responsibilities.

2.54 Reduction-in-Salary – The reduction in an employee's salary from one rate to a lower rate within the established salary schedule for that employee's classification due to a disciplinary action.

2.55 Regular Employee – A full-time employee who has successfully completed his or her probationary period and has received a regular appointment.

2.56 Registered Domestic Partner – An employee's registered partner as certified by a copy of the State of California certification for Registered Domestic Partners. Such a partner has the same benefit status as a "spouse."

2.57 Reinstatement – An employee who has regular status in a class and who resigned from the City in good standing may be considered for reinstatement for a period of one (1) year after resignation. Such reinstatement must be approved by the City Manager or his/her designee. Upon reinstatement, the employee shall have a new seniority date which will be the first date of employment upon reinstatement. The employee also will serve a new probationary period if applicable.

2.58 Resignation – The voluntary separation of an employee from employment with the City, made at the request of the employee, preferably in writing.

2.59 Salary Schedule – A set of basic salary ranges assigned to specific classes of positions in the city service and as approved by the City Council.

2.60 Seniority – The seniority date of an employee shall be based upon the original date of hire for regular City employees, or in cases where there has been a break in continuous employment (except due to layoff), the most recent date of hire for regular City employment.

2.61 Suspension – The temporary separation from City service of an employee with or without pay for disciplinary purposes or pending investigation of charges.

2.62 Transfer – A change of an employee from one position to another position in the same class or another class having the same maximum salary limits, involving the performance of similar duties, and requiring the same basic qualifications.

2.63 Workweek – A regularly recurring period of 168 consecutive hours—seven (7) consecutive 24-hour periods. The workday can begin and end at any hour of the day as determined by the Department Head, subject to approval by the City Manager.

2.64 Work Schedule – the days of the workweek employees are to report for work. May be any combination of hours worked per day to equal 80 hours per pay period.

Rule 3.0 –CLASSIFICATION PLAN

The purpose of the classification plan is to provide a complete and continuous inventory of all classifications in the City service and to provide accurate descriptions and specifications for each class.

3.1 Preparation of Plan

The City Manager or his/her designee shall prepare and maintain a classification plan. The class title will be the official designation of an individual position or group of positions, which are approximately equal in difficulty and responsibility, sufficiently similar with respect to duties, responsibilities, authority and character of work to permit grouping under that title. Classes shall be arranged in series whenever possible.

3.2 Content of Class Specifications or Job Descriptions

A class specification or job description will be a written record providing, among other things, the title and definition of a class, a listing of illustrative examples of duties to be performed and the qualifications necessary for consideration of appointment. The class specifications or job description will be descriptive and explanatory but not restrictive. The class specifications or job description will not be construed as limiting the assignments or duties of any position, nor as limiting or modifying the power of the appointing authority to direct and control the work of employees under his or her supervision.

3.3 Allocation of Positions

The City Manager or his/her designee shall allocate each position to a class as established by the plan.

3.4 New Positions and Reclassifications

Only the City Manager may authorize new positions. No new position or class will be filled until the classification and salary plans have been amended to provide for the new position and approval to fill the position has been granted by the City Council. The duties of positions, which have changed materially as determined by the Department/Division Head in consultation with Human Resources/Risk, may be reviewed and reclassified to a more appropriate class. No reclassifications will be effective until approved by the City Manager.

3.5 Revision of the Classification Plan

The City Manager, with the approval of the City Council, may create new classes, revise or abolish existing classes and adjust salary ranges in order to meet the changing requirements of municipal government.

3.6 Maintenance of the Classification Plan

The Human Resources/Risk Director shall be responsible for the maintenance of the Classification Plan. The Human Resources/Risk Director shall be responsible for conducting classification studies when:

- 3.6.1 Notified by the City Manager that new positions are being authorized.
- 3.6.2 Notified by a Department/Division Head that the duties and responsibilities of a position or group of positions may be improperly classified or have undergone significant change.
- 3.6.3 Periodically or as a need arises, to review a certain position or group of positions in the City service.
- 3.6.4 When an incumbent has reason to believe that his or her position has evolved because of a gradual growth of duties to an assignment that may be outside the regular classification, he or she may initiate a request for review through the Human Resources/Risk Director by completing a Classification Review Request Form.
- 3.6.5 Reclassification requests are related to the position and its proper class and not to the incumbent's qualifications for appointment to the reclassified position.
- 3.6.6 If the Human Resources/Risk Department approves the reclassification, the reclassification and new pay range will be in effect the first pay period after approval of the reclassification study. There will be no retroactive compensation.

Rule 4.0 – RECRUITMENT AND SELECTION

4.1 Fair Employment Practices

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

4.2 Recruitment Process

The techniques utilized in the selection process will be impartial and practical in nature. The City Manager or his/her designee shall determine the techniques, which relate to subjects that fairly measure the relative capacity of applicants to execute the duties and

responsibilities of the position sought. The determination of the type of recruitment to be conducted shall be made by the Human Resources/Risk Director. Recruitments may be conducted in any of the following manners:

- 4.2.1 Open Competitive – Open competitive recruitments shall be those in which any individual may apply.
- 4.2.2 Closed Promotional – Closed promotional recruitments shall be those in which any regular City employee who has passed the original probationary period may apply or at-will City employee who has completed twelve months of consecutive employment. The procedures outlined in Section 4.7 below will be utilized for closed promotional recruitments.
- 4.2.3 Open- Until-Filled – An open competitive recruitment may be conducted on an “open until filled” basis, when deemed necessary by the Human Resources/Risk Director. An open until filled recruitment does not have a specified filing period, but continues at the discretion of the Human Resources/Risk Director. Examinations may be given repeatedly and names placed on eligibility lists on a continuous basis. The names of all eligible candidates who took the same test on different dates shall be ranked by score on one eligibility list.

4.3 Job Announcements

All positions, which become vacant and are not subject to a closed promotional recruitment, will be published and advertised by posting announcements in City Hall or other public places. The job announcement may also be published in newspapers and professional and trade publications. The announcement will specify at a minimum, the job title, salary range, minimum qualifications, the opening and closing dates, time, place and manner of making applications.

4.4 Applications

- 4.4.1 Application shall be made as prescribed on the announcement. Application for employment shall be made on standardized forms which request information pertinent to the applicant’s background in order to determine the eligibility of the applicant. Additional documentation such as supplemental questionnaires, certificates, licenses, records, etc., may be required at time of application as determined by the Human Resources/Risk Director.

- 4.4.2 Applicants shall file a separate, complete, signed application form for each recruitment. Applicants shall complete application forms in sufficient detail to allow comprehensive review and evaluation and shall certify the truth of all statements contained on the application.
- 4.4.3 Any false statement or willful omission of information on the application form may be grounds for rejection of the application or subsequent discharge of the employee.
- 4.4.4 In order to be considered for a position, the application must be signed by the applicant and received in the Human Resources/Risk Department within the filing period prescribed on the job announcement. Such filing periods may be extended as deemed necessary by the Human Resources/Risk Director. Applications through the mail, electronically or in person may be accepted if received in the Human Resources/Risk Department by the close of business on the final filing date. The Human Resources/Risk Department shall mark each application as to the date of receipt.
- 4.4.5 Facsimile applications are not accepted.
- 4.4.6 Accurately completed application packets are the sole responsibility of the applicant. Applications filed in the Human Resources/Risk Department shall become the property of the City and will not be returned to applicants.

4.5 Rejection and/or Disqualification of Application

The Human Resources/Risk Director may reject an application, disqualify an applicant in any phase of the examination, or refuse to place a name on an eligibility list for nondiscriminatory reasons. The following list, while not all-inclusive, provides reasons that may be appropriately used to reject or disqualify an applicant.

- 4.5.1 The application indicates on its face that the applicant does not possess the minimum requirements established for the examination or position for which application has been made.
- 4.5.2 Failure to submit a complete and/or signed application correctly or within the specified time limits.
- 4.5.3 Is a relative or member of an employee's household, and is subject to Section 4.13, Employment of Relatives and Household Members.

- 4.5.4 False statement or omission of any material fact or attempted deception or fraud in the examination process.
- 4.5.5 Is a current user of illegal drugs.
- 4.5.6 Conviction of a crime, either a misdemeanor or felony, which renders the applicant unsuitable for a position in the classification.
- 4.5.7 Directly or indirectly obtaining information regarding the examination to which the applicant is not entitled.
- 4.5.8 Used or attempted to use political pressure or bribery to secure an advantage in the examination or appointment.
- 4.5.9 Failure to reply to communications concerning availability for employment.
- 4.5.10 Applicant has requested that his or her name be withheld from consideration.
- 4.5.11 Refuses to execute the loyalty oath.
- 4.5.12 Has had his or her privilege to operate a motor vehicle in the State of California suspended or revoked, if driving is job related.
- 4.5.13 For any material cause which in the judgment of the City Manager would render the applicant unsuitable for the position, including a prior resignation from the City, termination from the City, or a significant disciplinary action.

If an applicant is rejected or deemed disqualified for any reason, the Human Resources/Risk Director will notify the applicant in writing at his or her last known address, of the action taken. An applicant has the right to respond orally or in writing within five (5) working days from the date of mailing to the Human Resources/Risk Director, with no further right of appeal.

4.6 Criminal Convictions

Convictions (including pleas of guilty and nolo contendere) may disqualify an applicant from employment by the City. Criminal convictions do not necessarily disqualify individuals from employment with the City. In determining whether an individual with a conviction is disqualified, the Human Resources/Risk Director will consider the following factors:

- 4.6.1 The employment classification to which the person is applying, including its sensitivity.

- 4.6.2 Nature and seriousness of the conduct.
- 4.6.3 The length of time since the conduct.
- 4.6.4 The age of the individual at the time of conduct.
- 4.6.5 Circumstances surrounding the conduct.
- 4.6.6 Contributing social or environmental conditions.
- 4.6.7 The presence or absence of rehabilitation or efforts at rehabilitation.

4.7 Closed Promotional Recruitments

When conducting closed promotional recruitments, the following procedure is utilized to provide all employees an opportunity to apply for promotions:

- 4.7.1 The City will post each promotional recruitment flyer on the intranet and a specified bulletin board at each City facility as soon as possible once the position has been opened.
- 4.7.2 The City will leave each promotional recruitment open for a period of not less than fourteen (14) calendar days.
- 4.7.3 The City has no obligation to extend the recruitment period based on an employee's inaccessibility resulting from any absence(s).
- 4.7.4 Employees who have completed their initial twelve (12) month probationary period with the City may participate in a closed competitive examination for the promotion. Such employees must meet the minimum qualifications for the applicable position. At will employees do not have a probationary period, but may not apply for promotion until after completion of twelve (12) months of continuous employment.

4.8 Examination Process

- 4.8.1 The City Manager or his or her designee shall determine the manner and method by which the recruitment methods and/or examinations will be prepared and administered. The City Manager or his or her designee may contract with any competent agency or individual for the performance of such examinations. In the absence of such contract, the City Manager or his or her designee shall perform such duties.

4.8.2 The recruitment and selection process shall consist of one or more recognized personnel selection techniques: application review, training and experience evaluation, written tests, personality assessments, qualification appraisal boards, skills assessment centers, performance demonstrations, psychological evaluations, physical ability tests, evaluations of work samples, medical examinations, background investigations, fingerprinting at the State and/or Federal levels, as appropriate, or any combination of these or other tests. The probationary period, which may include the evaluation of daily work performance and work samples and the successful completion of prescribed training, shall be considered as an extension of the examination process.

4.8.3 A pre-employment physical, including testing and screening for alcohol and substance abuse, will be made a part of examinations where applicable.

4.8.4 Examinations will be conducted in accordance with the City's EEO policy.

4.9 Scoring of Examinations

The Human Resources/Risk Director shall establish a procedure for scoring each examination. A candidate's score in a given examination will be the score or combination of scores attained on each part of the examination. Failure in one part of the examination may be grounds for declaring such applicant as failing in the entire examination, or as disqualified for subsequent parts of an examination. The Human Resources/Risk Director may include, as part of the examination, tests, which are qualifying only, and establish a minimum passing score. Applicants for a position will be notified of the results of the examination in writing.

4.10 Examination Review

For a period of thirty calendar days immediately following the completion of the examination process, candidates may receive feedback from the Human Resources/Risk Department regarding their performance during the testing process. Rating records of interviews or performance demonstrations such as assessment centers or qualification appraisal boards are confidential and may not be reviewed by candidates. However, verbal feedback regarding rating records may be provided upon request to individual candidates, provided such requests are made according to the timeline indicated for examination review. Candidates shall not copy any examination materials.

4.11 Eligibility List

- 4.11.1 An eligibility list consisting of names of candidates who qualified in the examination, will be kept on file. A candidate will be deemed qualifying if the candidate achieved a ranking meeting or exceeding an established passing point on the examination. The names will be arranged in “scoring bands” and utilized to fill future openings with applicants who have already been through an examination. Eligibility lists are confidential and the relative ranking and scores of candidates on a list shall not be disclosed. The eligibility list will be maintained for a period of six (6) months. With City Manager approval, the eligibility list may be extended for an additional six (6) months. Applicants may be selected from the list without additional advertising.
- 4.11.2 Names appearing on the eligibility list will be submitted to the Department Head as technically qualified candidates. When selecting a final candidate to fill a vacancy, the Department Head will not consider race, color, age, ancestry, national origin, citizenship status, marital status, pregnancy, political or religious affiliation, sex, gender, gender identity, sexual orientation, genetic information, any physical or mental disability (whether perceived or actual), medical condition, or other functional limitation or any other basis protected by law, except where a bonafide occupational qualification so dictates.
- 4.11.3 Applicants whose names appear on the eligibility list are not guaranteed a position. Upon discovery that an omission or error has occurred in the preparation of an eligibility list, a corrected list shall be prepared by the Human Resources/Risk Director. The City Manager may reject all applications.

4.12 Selection

Once the Department Head or designee has selected a candidate, the Human Resources/Risk Director will be notified to extend an offer of a probationary or At Will position. Only the Human Resources/Risk Director or designee is authorized to extend an offer of City employment. The new employee will report to the Human Resources/Risk Department on the employee’s first day on the job for orientation and processing. Each applicant may be subject to a background investigation at the discretion of the City. Each new or promoted employee may be required to pass a medical examination for fitness to perform the job to which they are appointed.

4.13 Employment of Relatives and Household Members

4.13.1 Federal and State laws and regulations require public and private agencies to ensure that hiring and other personnel actions take place in an open and objective manner and that applicants are not discriminated against due to race, color, age, ancestry, national origin, citizenship status, marital status, pregnancy, political or religious affiliation, sex, gender, gender identity, genetic information, sexual orientation, physical or mental disability (whether perceived or actual), medical condition, or other functional limitation or any other basis protected by law, except where a bona fide occupational qualification so dictates.

4.13.2 Relatives or household members are eligible for employment by the City. However, it is the policy of the City to prevent family relationships and relationships involving members of the same household from adversely influencing employment selections, job assignments, promotions, performance evaluations and other personnel matters.

4.13.3 The City has an obligation to avoid the appearance of patronage and favoritism and to avoid sanctioning employment relationships, which have the potential for creating adverse impact on supervision, safety, security or morale or involve potential conflicts of interest. Therefore, the City may prohibit relatives or household members from working in the same department, division or City facility. The following definitions apply for this policy:

4.13.3.1 “Relative” means spouse, California registered domestic partner, child, step-child, parent, step-parent, grandparent, step-grandparent, grandchild, step-grandchild, brother, half-brother, step-brother, sister, half-sister, step-sister, aunt, uncle, niece, nephew, cousin, parent-in-law, brother-in-law, sister-in-law, and any other persons related by blood or marriage or by means of a “foster” relationship.

4.13.3.2 “Spouse” means two persons who have a valid marriage and who are wife and husband, or two people who are registered domestic partners, as California Law defines that term.

4.13.3.3 “Household Member” means any individual currently residing at the same residence as the employee.

4.13.3.4 “Supervisory Relationship” means one in which one-employee exercises the right to control, direct, reward, or discipline another

by virtue of the duties and responsibilities assigned to his or her City appointment.

4.13.3.5 "Employee," for purposes of this section only, is one who receives a City payroll check for services rendered.

4.13.4 This policy is intended to prevent, but is not limited to, the following:

4.13.4.1 Situations that might result in unfair preferential treatment of other employees and/or the public;

4.13.4.2 Professional decisions that might be disadvantageous for the operations of the City;

4.13.4.3 An employee being in a position to supervise, control or influence a relative or household member; and

4.13.4.4 An employee having access to the personnel file and other confidential information of a relative or household member.

4.13.5 Policy as to Relatives

A Department Head has discretion not to appoint, promote or transfer a person to a position within the same department in which the person's relative already holds a position, when such employment would result in any of the following:

4.13.5.1 A direct or indirect supervisory relationship;

4.13.5.2 The two employees having job duties which require performance of shared duties on the same or related work assignment;

4.13.5.3 Both employees having the same immediate supervisor; or

4.13.5.4 A potential for creating an adverse impact on supervision, safety, security, morale or efficiency that is greater for relatives than for unrelated persons.

4.13.6 Policy as to Employees Who Become Spouses or Domestic Partners

4.13.6.1 If two City employees who work in the same department become spouses or domestic partners, the Department Head has discretion to transfer one of the employees to a similar position in another

department. Although the wishes of the employees in question will be given consideration, the Department Head retains sole discretion to determine which employee is to be transferred based upon City needs, operations, or efficiency. Notwithstanding any provision in these Rules, any such transfer that results in a salary reduction is not disciplinary.

- 4.13.6.2 If continuing employment of both employees cannot be accommodated in a manner the Department Head finds to be consistent with the City's interest in the promotion of safety, security, morale, and efficiency, then the Department Head retains sole discretion to separate one employee from City employment. Notwithstanding any provision in these Rules, any such separation is not considered to be disciplinary.
- 4.13.6.3 This policy applies to relatives and household members of the same household of all employees and elected or appointed officials of the City of San Marcos. Each situation will be handled on a case-by-case basis. Employees and officials have a duty to disclose relationships that are addressed by this policy.
- 4.13.6.4 If two employees become subject to the restrictions of this policy after they are hired, the City will meet with the affected individuals and their representative(s) and make reasonable efforts to reassign one of the affected individuals to a different position or area within the City. If a reasonable accommodation is not reached and a legitimate business reason exists, the City may require, at its sole discretion, one of the affected employees to end his or her employment with the City. The decision regarding which employee will end employment with the City will be at the discretion of the affected employees.

4.14 Physical/Mental Requirements

The City shall require that all applicants and employees be in such physical or mental condition to perform the duties of their jobs and may require medical or psychological evaluation at City expense. No employee shall hold any position in a classification in which he/she cannot physically or mentally perform the duties of the position at a satisfactory

level or without hazard to him/her self or others. Within the limitations indicated below, the City's policy shall be to make such efforts as are consistent with the provisions of these rules to place physically disabled employees in such positions as are available in the City service where their disabilities will not affect their performance of duties, their safety or the safety of others. The employees' length of service, nature of past performance and the availability of openings may be considered in placing disabled employees.

Rule 5.0 – APPOINTMENTS AND PROBATIONARY PERIODS

5.1 Types of Appointments

- 5.1.1 Probationary – Shall be the appointment of a person to an authorized position, which the employee must serve a probationary period of a certain designated time span to demonstrate fitness for the position.
- 5.1.2 Regular – Shall be the appointment of a person who has satisfactorily completed his or her probationary period to an authorized position.
- 5.1.3 Out-of-Class (Acting) – Shall be the temporary assignment of a regular or probationary employee to a higher-level classification to fill a vacant position or to provide a replacement for an employee who remains on a leave of absence. Employees placed in a “out of class” appointment must meet the minimum qualifications of the higher-level position. “Out of Class” appointments may end at any time without advance notice or right of appeal. Out-of-Class (Acting) assignments shall not exceed a period of twelve (12) months.
- 5.1.4 At Will - At Will refers to any City employee who (1) does not hold regular status, (2) serves at the pleasure of the council, city manager or appointing authority, and (3) can be terminated at any time without cause and without the opportunity to appeal
- 5.1.5 Limited Term Appointments (Temporary, Provisional or Seasonal Employees) - An employee who is assigned to work on a particular project or on a job of limited or definite duration is a temporary, provisional or seasonal employee. A temporary, provisional or seasonal employee: (1) does not hold regular status; (2) does not serve a probationary period; (3) can be dismissed from City employment at any time without cause, right to appeal, grievance or hearing; and (4) is not entitled to earn, accrue, or participate in any City employee benefit plans, paid or unpaid leaves, except as required by law.

5.2 Probationary Period

- 5.2.1 The probationary period will be used as an aspect of the examination process. The objective is to observe the employee's performance and to provide the new employee a chance to receive immediate feedback and direction from their Department Head regarding performance. Informal review (i.e., feedback concerning the employee's job performance) will occur on an on-going basis during the probationary period.
- 5.2.2 All original appointments will be tentative and subject to a probationary period of twelve (12) months of actual and continuous service. The probationary period is an extension of the examination process and the employee's performance shall be carefully observed. Periods of time on paid or unpaid leave (excluding holidays and approved vacation time off) totaling forty (40) consecutive hours or more during a probationary period will not be included for the purpose of completing the probationary period and will automatically extend the probationary period by the number of days the employee is on leave.
- 5.2.3 During the probationary period, the employee may be dismissed at any time without cause and without right of appeal, grievance or hearing. Notification of termination shall be in writing and shall be given to the probationary employee with a copy placed in the employee's permanent personnel file. Rationale for rejection will be in accordance with the City's EEO policy. The probationary employee shall be notified prior to the expiration of the probationary period that he or she has been rejected for regular appointment.
- 5.2.4 When circumstances merit, upon City Manager's approval, the probationary period may be extended. Such extension shall be for not longer than six months of actual and continuous service. If the Department Head or designee determines that the probationary period should be extended, the probationary employee shall be given notice in writing prior to the expiration of the original probationary period. If the employee's probationary period is extended, the employee will not be eligible to receive a merit or step increase until his or her probationary period has been successfully completed.
- 5.2.5 At will employees do not serve a probationary period; therefore, at-will employees can be terminated at any time without cause and without the opportunity to appeal.

5.3 Probationary Period for Promotions

- 5.3.1 Employees who are promoted will undergo a six (6) month probationary period of actual and continuous service in their new position.
- 5.3.2 An employee who does not pass his or her promotional probationary period will be afforded the opportunity to be demoted back to his or her original position. Provided, however, that if the cause for not passing probation was sufficient grounds for termination the employee shall be subject to termination without reinstatement to the lower position. Such termination shall be subject to discipline procedures as contained in these Rules.
- 5.3.3 An employee retains the right to return to his or her former position until the probationary period is over. Once the employee passes probation he or she forfeits the right to return to the former position.

5.4 Probationary Period for Demotions

A new probationary period need not be served when demoting to a classification in which an employee previously held regular status, or to a lower classification in the same classification in that classification series.

5.5 Orientation and Training

- 5.5.1 The HR/Risk Director shall orient new employees, initially upon hire, as to City policies, procedures, and benefits. Each employee will be responsible for being familiar with these Personnel Rules and Regulations.
- 5.5.2 The Department Head shall acquaint employees with all aspects of the job function as described in a job description. Training courses and conferences are available which will benefit the City and the employee.
- 5.5.3 Upon approval of the Department Head, employees may be permitted to attend conferences/training sessions that will provide a benefit to the City and the City will pay for costs associated with those conferences/training sessions. All expenses for such training programs will be placed in the budget and must be accounted for in detail.

Rule 6.0 – EMPLOYEE PERFORMANCE EVALUATION

6.1 Policy

Performance evaluations are an essential tool to be utilized toward meeting the goal of delivering services effectively and efficiently. It is the policy of the City that regular reports are made as to the efficiency, competency, conduct and merit of its employees. To this end, it is the responsibility of the City Manager, the Department Heads and their subordinate supervisors that these ratings are made and that they are made in a timely manner.

6.2 Initial Probationary Appointment

During the initial probationary period, an evaluation report will be provided to the supervisor at least fourteen (14) days prior to the completion of the employee's first six (6) months of service and at least fourteen (14) days prior to completion of the twelve (12) months probationary period.

6.3 Initial At-Will Appointment

At will employees will also receive an evaluation report at the completion of the employee's first six (6) months of service, and at the completion of the first twelve (12) months of service. At-will employees are not eligible for a merit increase until after the completion of twelve (12) months of continuous service.

6.4 Annual Performance Evaluation

All employees will have his or her work evaluated in the form of a written report at least annually.

6.5 Promotional Probationary Appointment

An evaluation report will be provided to the supervisor at least fourteen (14) days prior to the completion of the employee's six (6) month promotional probationary period.

6.6 Performance Evaluation Interview and Written Report

The employee will be made aware, in writing, of satisfactory areas of his or her performance and what corrective actions can be taken to improve unsatisfactory performance areas. The employee does not have the right to appeal any matter relating to a performance evaluation. However, the employee shall be provided the option to comment regarding his or her work performance, either in a written statement attached to the report or orally. The performance evaluation will be signed by the reviewing supervisor, the Department Head, the employee, and the HR/Risk Director. The

employee's signature is to acknowledge that he or she is aware of its contents and has discussed the report with the evaluator. The employee's signature does not necessarily mean that he or she agrees with the contents of the report.

Reports of performance will be considered in making salary advances, promotions, reductions-in-salary, demotions, lay-offs or other disciplinary actions.

6.7 Distribution of Evaluations

Evaluations shall be forwarded to the Human Resources/Risk Department for the Human Resources/Risk Director's review, approval and subsequent distribution. The Human Resources/Risk Department shall provide a copy of the approved evaluation to the employee. A copy of the approved evaluation, along with any comments provided by the employee, will be filed in the employee's permanent personnel file.

6.8 Effects of Unsatisfactory Ratings

All merit salary step increases and stipends will be subject to satisfactory service will not be automatically based upon length of service alone, will be at the discretion of the City, and will not be considered a right of the employee.

- 6.8.1 An employee who receives a rating of "Needs Improvement" or "Major Improvement Needed" will not be eligible to receive a merit increase or stipend and will not be re-evaluated for a merit increase for at least ninety (90) days.
- 6.8.2 If the employee's performance has improved during the ninety (90) day re-evaluation period to such an extent that the supervisor and the Department Head believes it is justified, the improvement shall be indicated on the Ninety (90) day re-evaluation report. At that time, the supervisor and the Department Head may recommend the commencement of any merit or longevity step increase or stipend, or portion thereof, which was previously withheld. The step increase or stipend will be effective on the date of the ninety day re-evaluation; however, the annual performance will continue to be due as of the date of hire or date of promotion/demotion.

Rule 7.0 – COMPENSATION PROGRAM

7.1 Compensation Plan Structure

The City Manager or his/her designee shall prepare a compensation plan covering all classes of positions in the City service showing the salary ranges and listing other forms of compensation, which the classes receive. In arriving at such salary ranges, consideration may be given to prevailing rates of pay for comparable work in other public and private employment, and consideration of the City's financial condition. The City Manager or his/her designee may make further studies of the compensation plan as needed, or as may be requested by the City Council. All such studies will be done in accordance with applicable laws or current agreements affecting employer-employee relations in the City. The City Council shall adopt the compensation plan as part of the City's budget each fiscal year.

7.2 Advancement Through the Plan

An employee occupying a position in the City service will be paid a wage within the salary range established for that position's class under the adopted salary schedule. The salary schedule shall provide salary steps for all classes of positions, excluding Division and Department Heads. An employee may be assigned by the City Manager or his/her designee, with the Department Head's recommendation, to the various steps within the range for the classification. Salary steps are not automatic and are not based upon length of service alone. Merit increases may be accelerated at the discretion of the City Manager. Each salary change must be accompanied by a written performance review as provided in [RULE 6.0 – EMPLOYEE PERFORMANCE EVALUATION](#) in which the Department Head recommends advancement.

7.3 Withholding of a Step Increase Based Upon Performance

Step increases may be withheld in the event that an employee's performance, as viewed by the Department Head, has been less than satisfactory. As outlined in [RULE 6.0 – EMPLOYEE PERFORMANCE EVALUATION](#), the denial of a step increase shall be in writing and shall be discussed with the employee along with the areas of his/her performance, which need improvement. The employee's performance will be re-evaluated in ninety (90) days. If the employee's performance has improved during the ninety (90) day re-evaluation period to such an extent that the supervisor and the Department Head believes it is justified, the supervisor and the Department Head may specifically recommend the commencement of any merit step increase, or portion thereof, which was previously withheld.

7.4 Special Merit Increases

Upon the recommendation of the Department Head and the approval of the City Manager, an employee may receive a special merit increase. Such special merit increases are to provide recognition for truly exceptional performance beyond the normal expectations of the position. A Special Performance Evaluation must accompany such a request. No merit increases can exceed the maximum of the employee's current classification range.

7.5 Pay Periods

The pay period for all employees will be bi-weekly (beginning on Tuesday and ending on Monday) and contains ten (10) working days. Paychecks will be distributed bi-weekly on Wednesday.

When the regular payday falls on a holiday, paychecks will be distributed on the workday immediately preceding such holiday.

7.5.1 Mandatory Payroll Deductions

On each bi-weekly payroll and in such forms as the City Manager or his/her designee may determine, the Finance Department is authorized and directed to deduct and withhold from the salary paid to each employee of the City:

- 7.5.1.1 The minimum amount required by Federal law for income tax purposes and to make payment to the United States as required by law.
- 7.5.1.2 The minimum amount required by State law for income tax purposes and to make payment to the State of California as required by law.
- 7.5.1.3 The minimum amount required for said employee's contribution to the California Public Employees Retirement System (CalPERS).
- 7.5.1.4 The minimum amount for said employee's contribution to the Federal Social Security System.
- 7.5.1.5 Court mandated payments.

7.5.2 Voluntary Deductions

Any employee may authorize the Finance Department, as approved by the City Manager, to make deductions from his or her salary to be paid to:

- 7.5.2.1 The carrier(s) of the City's health insurance program and other applicable benefit programs, including, but not limited to, the City's Deferred Compensation Programs with ICMA and Voya as well as the ICMA Retiree Health Savings (RHS) Program.
- 7.5.2.2 The City's Section 125 Flexible Benefit Plan.
- 7.5.2.3 A charitable organization.
- 7.5.2.4 A financial institution such as a Bank, Credit Union, etc.
- 7.5.2.5 An employee organization.

When so authorized by the employee, the Finance Department may make such deductions from the employee's salaries and pay the amounts designated to the appropriate organization. Such authorization will be filed in writing with the Finance Department.

7.5.3 Special Pay Requests

Except for employees being terminated, salaries will be paid only on regular paydays, unless an emergency pay request has been made by the employee and approved by the City Manager.

7.6 Timing of Salary Increases

If the effective date of a Merit increase, promotion, or reclassification falls within the first seven (7) days of the pay period, it will be implemented effective the first day of the pay period. If, however, said increase/adjustment falls within the last seven (7) days of the pay period, it will be implemented the first day of the following pay period.

7.7 Compensation on Promotion

When an employee is promoted, he or she will be placed on the salary step of the new salary range, which is a minimum of six percent (6%) above the employee's current salary but not to exceed the new classification's maximum salary range. An employee who is promoted will be eligible for a salary step merit increase, on an annual basis, from the date of promotion until the maximum step in the classification is reached.

7.8 Compensation on Reclassification

When a position is reclassified, it will result in one of three outcomes, remain within the existing grade and range and therefore not result in any change to existing salary, result in a promotion, in which case rule 7.9 applies, or a demotion in which case rule 10.2.2 applies

7.9 Compensation Overtime – Non Exempt Employees

- 7.9.1 Overtime will be paid to non exempt employees for hours worked in excess of forty (40) hours in a work week at time and one half their regular hourly rate of pay, or overtime will be converted to compensatory time off at time and one half their regular hourly rate of pay. Employees may accumulate up to eighty (80) hours of compensatory time off. The employee may request to be paid overtime in either salary or compensatory time off. Overtime eligible employees are not permitted to work overtime except as the Department Director authorizes or directs. Overtime eligible employees directed to work overtime must do so. Working overtime without advance approval is grounds for discipline.
- 7.9.2 Employees will not work during their lunch break or before or after regular hours of work unless prior authorization has been given by the Department Head. During heavy work schedules, emergencies or unforeseeable circumstances, employees will be given the opportunity for overtime pay provisions if employees are required to work through their lunch period and are not provided an alternative time prior to working 6 or more hours into their shift. Employees must notify their supervisor in the event they work through the duty free lunch period.
- 7.9.3 If an employee is called to work on a day off, or if an employee is called back to work after the employee's regular work schedule, he or she shall receive a minimum of two (2) hours overtime pay or compensatory time off.
- 7.9.4 Any employee directed to attend public hearings after normal work hours will receive a minimum of 2 hours overtime credit.
- 7.9.5 An employee called back to work for emergency work after his or her regular work schedule to the employee's regular work location will be compensated for actual travel time not to exceed thirty (30) minutes to work and thirty (30) minutes from work. The travel time of an employee called back to perform emergency work at a location other than the employee's regular work location is fully compensable.

7.9.6 If an employee is required to work on a scheduled holiday, the employee will be paid double time of his or her regular rate of pay plus holiday pay at straight time.

7.9.7 An employee may volunteer to work on a holiday (with the Department Head's permission) and receive vacation at straight time or take another day off. (See [RULE 8.0 – EMPLOYEE FRINGE BENEFITS, Section 8.4 Holidays – General Miscellaneous Employees](#) for a listing of City Holidays.)

7.9.8 If an employee receives and responds to a phone call outside of regular business hours, the employee will bill the city for the time spent on the call. Time will be reflected in fifteen (15) minute increments and will be paid at the appropriate overtime rate.

7.10 Compensation Overtime – Emergency Medical Technician (EMT) Employees

An employee in the Emergency Medical Technician classification will be eligible for overtime after 40 hours per workweek with sick leave and vacation hours not counted as hours worked under FLSA for calculation purposes.

7.11 Compensation – Out-of-Class

When an employee is temporarily assigned to a higher classification for the convenience of the City for a period equal to or exceeding 110 consecutive hours he or she shall be paid a minimum of 6% above his or her regular rate of pay or Step 1 of the class into which he or she is working, whichever is higher, not to exceed the maximum of the out-of-class pay range. To be eligible for out-of-class pay under this provision, approval must be received in advance from both the Department Head and the City Manager. Once approved, out-of-class pay will begin at the first hour of the out-of-class assignment and will continue through the duration of the assignment, for a period not to exceed twelve (12) months.

7.12 Compensation – Bilingual

Employees who are required to use their bilingual skills in the performance of their duties will receive an additional Seventy Five Dollars (\$75) per month. In order to be eligible, employees must successfully complete a bilingual performance examination as outlined in the [BILINGUAL COMPENSATION POLICY, EXHIBIT C.](#)

7.13 Compensation – Conversion of Vacation to Cash

An employee may be granted compensation in lieu of vacation at full pay with the approval of the City Manager. In order for a request to be granted, the employee must have utilized at least sixty (60) hours of vacation during the last twelve month period or have had a specific vacation request denied by his or her Department Head due to department concerns and/or staffing needs. The number of cashed-out days will be deducted from the employee's vacation accrual balance.

7.14 Compensation – Jury Duty

An employee summoned to jury duty may be absent from work with full pay if the procedures provided in Section [9.3.4 Jury Duty Leave](#) are followed. Any jury fees, excluding mileage and meals, received by the employee will be remitted to the City. However, if the jury duty assignment occurs on a Friday that the City is closed due to the Nine-Eighty (9/80) Work Schedule, jury fees may be retained by the employee for that day only. An employee must notify his or her Department Head immediately upon notification of jury duty and must furnish the City with a copy of the jury duty summons. The time spent on jury duty is not work time for purposes of calculating overtime compensation. Employees will be credited one work day for each day of actual jury service.

7.15 Compensation – Termination Pay

Employees leaving the City's service will normally be paid within forty-eight (48) hours following the date of termination and only after written clearance is received from the Department concerned that said employee has returned all City-owned property including but not limited to tools, equipment and keys.

7.16 Uniform Allowance - Emergency Medical Technician (EMT) Employees

Upon initial employment, and on each July 1st, a uniform allowance of Three Hundred Fifty Dollars (\$350) will be issued to each EMT employee and must be used in accordance with the Fire Department's Uniform and Grooming Policy. Since this allowance is considered by the California Public Employees Retirement System (CalPERS) to be a "uniform allowance" as defined by law, the allowance is also considered by CalPERS to be a form of "compensation." As such, this cost must be reported to CalPERS as part of the employee's annual gross income for purposes of computing the CalPERS contribution. In addition, Federal and State taxes must be paid on the income. Therefore, this amount will be included at the end of the year on the employee's W-2. The City agrees to cover the employee's portion of the CalPERS contribution and applicable taxes.

Each employee will be required to provide receipts on an annual basis to document that the Uniform Allowance was spent in accordance with the Fire Department's Uniform and Grooming Policy. The City agrees that an EMT employee may utilize the same receipt during two consecutive fiscal years if the receipt is in excess of the \$350 for one year's allowance. The employee has the responsibility of maintaining the receipts, etc.

Safety clothing required in the performance of job duties shall be furnished by the City and must be worn when performing hazardous duties.

The City agrees to provide each EMT employee with Department regulated steel-toed safety boots. The City shall determine standards of maintenance of uniforms and equipment and employees must maintain these standards as set forth in the Fire Department's Uniform and Grooming Policy.

Rule 8.0 – EMPLOYEE FRINGE BENEFITS

In addition to the basic monthly salary, which is paid bi-weekly (26 times a year), the City provides other fringe benefits to employees. These benefits may be amended from time to time by the City Council, as may the basic salaries, depending on a variety of factors including but not limited to the City's financial situation, negotiations, and management recommendations

8.1 Vacation Leave

8.1.1 Accrual Schedule – Each employee will be granted an annual vacation leave accrual in accordance with the following schedule:

General Miscellaneous Employees

One to five years service	80 hours per year.
Six to ten years service	120 hours per year.
Eleven years Service & Over	160 hours per year.

Emergency Medical Technician Employees

One to five years service	108 hours per year.
Six to ten years service	148 hours per year.
Eleven years service & over	188 hours per year.

Total vacation allowance will be computed to the next whole day based upon the number of full months of the City service.

8.1.2 Eligibility for Leave

An employee shall be entitled to annual vacation leave, upon prior approval from their Department Head, after six (6) months of service with the City. The City Manager may authorize an employee to take accrued vacation earlier if, in his or her judgment, there are valid reasons to conclude that it is in the best interests of the City and the employee that an exception is granted.

8.1.3 Scheduling of Vacation

Department Heads will arrange annual vacation schedules for their employees. All employees shall request time off for vacation at least fifteen (15) days in advance; however, the Department/Division Head may make exceptions. Vacations shall be granted based upon departmental staffing needs.

8.1.4 Accumulation

No employee will be allowed to accumulate vacation leave in excess of two (2) full years of his or her particular vacation schedule, except upon written approval of the City Manager. When the employee reaches the maximum accrual he or she shall cease earning vacation leave until the balance falls below the maximum accrual.

8.1.5 Compensation in Lieu of Vacation

An employee may be granted vacation pay (at the employee's current hourly rate) in lieu of vacation at full pay with the approval of the City Manager. In order for a request to be granted, the employee must have utilized at least sixty (60) hours of vacation during the last twelve months or have had a specific vacation request denied by his or her Department Head due to department concerns and/or staffing needs. The number of days will be deducted from the employee's vacation accrual balance.

8.1.6 Holiday and Illness During Vacation

In the event that one or more approved holiday(s) falls within an annual vacation leave, such holidays will not be charged as vacation leave, and the vacation leave will be extended accordingly. An illness or injury occurring while on vacation leave may be charged to sick leave with the approval of the City Manager or designee. Sick leave will not be granted to any employee to permit

an extension of the employee's vacation. The employee must submit a doctor's certificate upon return to full duty.

8.1.7 Vacation Pay at Separation

At the time of separation, all accrued vacation hours earned, up to two (2) years accrual, will either be converted to cash (at the employee's current hourly rate) and deposited, pre-tax, in the City's Retiree Health Savings (RHS) Program in the employee's account or paid on the employee's final pay check depending on the employee's election.

8.2 Sick Leave

8.2.1 Accrual Schedule – Each employee will be granted an annual sick leave accrual in accordance with the following schedule:

General Miscellaneous Employees – Eight (8) hours for each calendar month of service (96 hours annually).

Emergency Medical Technician Employees – Nine (9) hours for each calendar month of service (108 hours annually).

Unused sick leave may be accumulated to a total not to exceed eight hundred (800) hours for General Miscellaneous Employees and nine hundred (900) for Emergency Medical Technician Employees.

8.2.2 Appropriate Use

Sick leave will not be considered a privilege which an employee may use at his or her discretion, but will be granted by the City to an employee because of employee illness, injury or disability or to accommodate the employee's attendance at medical, dental and optical appointments to the extent that such appointments cannot be scheduled outside the work day. Human Resources/Risk may require, at any time, evidence in the form of a physician's certification of the adequacy of the reason for an employee's absence during the time for which sick leave was requested.

Supervisors shall have the discretion to place employees on sick leave when, in the judgment of the supervisor, the presence of the employee at work would endanger the health and welfare of other employees or where the illness or

injury of the employee interferes with the performance of such employee's duties.

8.2.3 Notification Procedure

In order to be granted sick leave with pay, the following apply:

- 8.2.3.1 Public Works employees shall notify the appropriate designated individual or his or her Supervisor or Department Head by leaving a voice mail message prior to the time set for the beginning of his or her daily duties.
- 8.2.3.2 All other employees shall notify their Supervisor or Department Head prior to their start time by voice mail or not later than thirty minutes after the time set for the beginning of their daily duties.

Failure to follow the notification procedures outlined without good reason may result in the day of absence being treated as leave of absence without pay.

8.2.4 Family Assistance Sick Leave

- 8.2.4.1 In accordance with the Family Assistance Law (Labor Code Section 233), when circumstances are such and the City Manager determines that the situation qualifies, an employee may be granted use of up to one half of their annual accrual of sick leave because of illness, or injury of a member of the employee's immediate family requiring the employee's attendance.
- 8.2.4.2 An employee may use a maximum of forty-eight (48) hours of sick leave per fiscal year to provide health care for family members. Employees in the EMT classification may use fifty-four (54) hours of sick leave per fiscal year to provide health care for family members.
- 8.2.4.3 An employee's immediate family shall consist of the employee's spouse, registered domestic partner, child or a parent.
- 8.2.4.4 For the purposes of Family Assistance Sick Leave, the following definitions apply:

- 8.2.4.4.1 "Child" means a biological, foster or adopted child, a stepchild, a legal ward or a child of a person standing loco parentis.
- 8.2.4.4.2 "Parent" means a biological, foster or adoptive parent, a stepparent, or a legal guardian of the employee.
- 8.2.4.5 Use of Family Assistance Sick leave will be subject to the same rules and verification requirements as employee sick leave.

8.2.5 Bereavement Leave

- 8.2.5.1 When circumstances are such and the City Manager determines that conditions warrant, an absence may be charged to bereavement leave when it is due to the death of a member of the employee's immediate family. An Employee may use a maximum of forty (40) hours of bereavement leave per fiscal year. If additional bereavement leave is requested, the bereavement leave board will determine eligibility.
- 8.2.5.2 For purposes of Bereavement Leave only, "immediate family" shall mean spouse, registered domestic partner, child, step-child, parent, step-parent, brother, half-brother, step-brother, sister, half-sister, step-sister, grandparent, step-grandparent, grandchild, and step-grandchild, of the employee, spouse, or registered domestic partner and any other verifiable current member of the employee's immediate household. (See Section [8.2.4.4](#) for applicable definitions.)

8.2.6 Penalty for Sick Leave Abuse

When in the judgment of the Department Head, the employee's reason(s) for being absent because of alleged sickness are inadequate; he or she shall indicate on the payroll time sheet that the absence was leave without pay. Abuse of sick leave will be considered in establishing the employee's performance rating. In addition, the Department Head may impose such disciplinary action as in his or her discretion seems warranted.

8.2.7 Illness While on Vacation

An illness or injury occurring while on vacation leave may be charged to sick leave with the approval of the Department Head. Sick leave will not be granted to any employee to permit an extension of the employee's vacation. The employee must submit a doctor's certificate upon return to full duty.

8.2.8 Holidays During Sick Leave

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

8.2.9 Conditions Upon Use

Absence for illness may not be charged to vacation in lieu of sick leave if the employee has accumulated sick leave available for use. Nor, may it be charged to sick leave not already accumulated. The employee may, however, with the City Manager's approval use vacation or compensatory time off when their sick leave balance is exhausted. If an employee has no accumulated leave or compensatory time, the employee must take time off without pay.

8.2.10 Payment for Unused Sick Leave on Separation

At the time of separation, all accrued sick leave hours earned will be converted to cash (at the employee's current hourly rate) and deposited, pre-tax, in the City's Retiree Health Savings (RHS) Program in the employee's account or paid in cash and included in the employee's final check, depending on the employee's elections.

8.3 Sick Leave Incentive Plan for Non-Use

8.3.1 Sick leave is not convertible to vacation time or compensatory time off. However, in order to reward those employees who do not abuse sick leave, the City will provide an incentive plan.

8.3.2 Employees may elect the following:

8.3.2.1 Employees who have at least 300 hours of accumulated sick may be reimbursed for any leave in excess of 300 hours on the basis of one (1) hour's pay per each one (1) of sick leave.

8.3.3 This plan will be voluntary and payment will be received with the first paycheck of December each year on the sick leave balance existing at the end of the first pay period in November. If the employee terminates at a time other than the normal disbursement period, the City will reimburse the employee relative to the applicable option as outlined by the employee's election.

8.4 Holidays – General Miscellaneous Employees

8.4.1 All employees on the Nine-Eighty (9/80) Work Schedule shall receive the following thirteen (13) paid holidays:

New Year's Day	Veteran's Day
Martin Luther King Jr.'s Birthday	Thanksgiving Day
Presidents' Day	Day After Thanksgiving
Memorial Day	Christmas Day
Independence Day	Labor Day
Three Floating Holidays	

8.4.2 When the holiday falls on Saturday, the holiday will be observed on the preceding Friday. When the holiday falls on Sunday, the holiday will be observed on the following Monday. NINE-EIGHTY (9/80) WORK SCHEDULE—POLICY, outlines how floating holidays and holidays that fall on a closed Friday will be accounted for.

8.4.3 An employee must have been employed by the City of the day preceding and the day following a holiday to qualify for holiday pay. For the purposes of this paragraph, an employee who is absent on authorized vacation with pay or on accrued sick leave is deemed to be employed at such time.

8.4.4 Prorating Floating Holidays Hours

The three (3) floating holidays shall be prorated for new employees as follows:

8.4.4.1 If an employee's effective date of hire is during the first four (4) months of the fiscal year (July- October), he or she will receive three (3) floating holidays (27 hours).

8.4.4.2 If an employee's effective date of hire is during the middle four (4) months of the fiscal year (November – February), he or she will receive two (2) floating holidays (18 hours).

8.4.4.3 If an employee's effective date of hire is during the last four (4) months of the fiscal year (March – June), he or she will receive one (1) floating holiday (9 hours).

Floating holiday hours must be utilized prior to the end of each fiscal year (June 30) or the hours will be lost to the employee.

8.4.5 Working on a Holiday

8.4.5.1 A Non Exempt employee may volunteer to work on a holiday and may do so with the permission of their respective Department Head. No employee will be allowed to work on a holiday unless they are present at work on the day preceding the holiday and following the holiday.

8.4.5.2 A Non Exempt employee will receive the equivalent straight time on their vacation leave or they may take another day off at straight time at the convenience of the department for which they work.

8.4.5.3 Any Non Exempt employee who is required to work on a holiday will receive pay at double time plus holiday pay. (See Section [7.9 Compensation Overtime – Non Exempt Employees](#) and Section [7.10 Compensation Overtime – Emergency Medical Technician](#))

8.5 Holiday-in-Lieu Pay- Emergency Medical Technician (EMT) Employees

In lieu of holiday time off, each employee in Emergency Medical Technician (EMT) employee who works a 24-Hour Schedule shall receive ninety-six (96) hours of straight time holiday pay. Holiday-in-lieu pay will be processed as a separate payment for each employee and will be received each year with the first paycheck in December.

8.6 Retirement

8.6.1 Social Security (FICA)

The City will pay the employee's share of Social Security (FICA) on behalf of employees hired before October 11, 1983 in an amount to be specified in each annual budget. All employees hired on or after October 11, 1983 will be required to pay the employee's share of Social Security (FICA).

8.6.2 California Public Employees Retirement System (CalPERS)

The City's contract with the California Public Employees Retirement System (CalPERS) includes the following options: 2.7% at 55 formula (Section 21354.5), Single Highest Year (SHY) (Section 20042), Post-Retirement Survivor Allowance (Sections 21624, 21626, and 21628), Military Service Credit as Public Service (Section 21024) and Credit for Unused Sick Leave (Section 20965) for all miscellaneous employees. In addition, Council Resolution No. 2004-6457 established the Employer Paid Member Contribution Converted to Pay Rate During the Final Compensation Period (EPMC) benefit for all miscellaneous employees.

Effective, January 1, 2012, all new hires or re-hires will be enrolled in the Tier Two retirement plan. The City's contract with the California Public Employees Retirement System (CalPERS) will be 2@ 55, 3 year compensation, Post-Retirement Survivor Allowance.

Effective January 1, 2013, all new employees (as defined by CalPERS) will be enrolled in the tier 3 retirement plan; 2% at 62, 3 year compensation.

Employees of the City shall be retired from the City service pursuant to and in accordance with the provisions of the Public Employees' Retirement Law. The City Manager, or his or her designee, is authorized to execute all necessary and appropriate documents to accomplish retirement of employees.

8.7 Group Health Insurance Plan

8.7.1 Eligibility Requirements

New employees will become members of the City's Health Care Program effective the first day of the month following the employee's date of hire. Membership of the employee's dependent(s) may be provided at the option of the employee. Eligible dependents include the following:

- 8.7.1.1 A legal spouse;
- 8.7.1.2 A California registered domestic partner;
- 8.7.1.3 Any dependent children/step-children or children of a California registered domestic partner up to age 26; and

8.7.1.4 Unmarried, dependent children/step-children or children of a California registered domestic partner of any age, if they are incapable of self-support due to a physical or mental disability (whether perceived or actual).

8.7.2 Coverage Upon Separation of Service

The City will comply with COBRA (Consolidated Omnibus Budget Reconciliation Act) the Federal law that requires employer groups to provide a member the ability to purchase health insurance if the member's job or coverage is terminated. This applies to both the employee and any dependents that are covered by the plan.

8.7.3 Retiree Group Insurance Coverage

At the time of retirement, current City employees will qualify for Retiree Group Insurance Coverage. The City agrees to provide such retired employees with the same health insurance coverage through the City's Group Health Insurance Program until the age of 65 at which time the employee will qualify for Medicare. The employee will be responsible for the full premium amount plus a 2% administrative fee. The City will only provide the ability for the retired employee to purchase health insurance coverage through the City's Group Health Insurance Program. Once the retired employee qualifies for Medicare, any dependents currently on the plan can purchase health insurance per Section 8.7.3.

8.8 Private Motor Vehicle Mileage Reimbursement

At times, City employees may be permitted, upon approval of their Department Head, to use their own vehicles while conducting municipal business. When this occurs, the employee shall be reimbursed for use of their private motor vehicles within the course and scope of the employee's duties at the current IRS allowed rate. In order for such employees or officers to receive reimbursement for such use, employees need to include the following information; date of use, actual miles driven and the purpose of such use, signed and approved by the employee's supervisor.

8.9 DMV License Renewal

For employees who are renewing or obtaining their initial required Class A or Class B driver's license, the following conditions apply:

- 8.9.1 The City will arrange for the DMV physical to be performed at City expense by the City's physician;
- 8.9.2 The City will provide the employee a reasonable amount of time during working hours to attend a prescheduled appointment with DMV to take any written or performance tests necessary to retain the Class A or Class B license; and
- 8.9.3 The City will reimburse the employee for the portion of the license renewal fee for a Class A or Class B license over and above the regular (Class C) license renewal fee. A DMV receipt or cancelled check must accompany the reimbursement request.

8.10 Voluntary Deferred Compensation

All employees are eligible to participate in the City's voluntary Deferred Compensation Program(s). These plans allow the employee to set aside pre-tax dollars each pay period to prepare for retirement. No City contribution is made to these plans.

8.11 Voluntary Group Life and Accidental Death and Dismemberment Program

All employees are eligible to participate in the City's voluntary Group Life and Accidental Death and Dismemberment (AD&D) Program, which offers eligible employees the opportunity to purchase additional Life and AD&D insurance. The City's Benefit Guide provides a description of the Program as well as applicable premiums. The employee pays premiums for coverage.

Rule 9.0 – ATTENDANCE AND LEAVES

9.1 Attendance

Employees shall be in attendance at their work in accordance with the Rules regarding hours of work, holidays and leaves. All departments shall keep accurate daily attendance records of employees, which shall be reported on the specified form and on the specified dates and reflect the actual hours worked by the employee.

9.1.1 Unauthorized Leave of Absence Without Pay

Failure on the part of the employee, absent without approved leave, or to return to duty within twenty-four (24) hours, may be grounds for discipline. Failure on the part of an employee to return to duty from any authorized leave or to report to duty as scheduled or ordered shall be an unauthorized leave of absence without pay. Failure to return or report to duty within twenty-four (24) hours after notice of return shall be cause for immediate discharge and such employee shall be automatically exempt for all grievance or appeal rights granted by the Rules. Notice shall have been made when the employee receives direct verbal notice to return to work from an authorized employee or when a written notice is personally delivered to the employee or when written notice with returned receipt requested by Certified Mail, addressed to the employee's last known place of address, has been deposited in the United States Mail.

9.1.2 Current Address Records

It shall be the responsibility of the employee to provide the Human Resources/Risk Department with his or her most current mailing address.

9.2 Hours of Work

Employees will be in attendance at their work in accordance with rules regarding hours of work, holidays, and leaves. Arriving late to work or leaving early in connection with scheduled work times, breaks or meal periods is prohibited. An employee is required to seek advance permission from his or her supervisor for any foreseeable absence or deviation from regular working hours.

9.2.1 Employee's Duty to Notify of Late Arrival or Absence

An employee who is unexpectedly unable to report for work as scheduled must notify his or her immediate supervisor as outlined in Section [8.2.3 Notification Procedure](#). The employee must report the expected time or duration of any late arrival or absence. If the employee's immediate supervisor is not available, the employee must notify the Department Head or another supervisor. An employee who fails to timely notify the supervisor of absences, or who is not present and ready to work during all scheduled work times will be deemed to have an unauthorized tardy or absence.

9.2.2 Excessive Tardiness/Absenteeism

Excessive tardiness occurs when an employee is late to work or returning from breaks more than three times during any 30-day period. Excessive absenteeism occurs when the number of unprotected absences (absences due to other than leaves authorized by state or federal law) exceeds three days in any three-month period. Excessive tardiness or absenteeism may be grounds for discipline, up to and including termination. Abuse of, or misrepresentation of any form of accrued or unpaid leave time will be grounds for discipline, up to and including termination.

9.2.3 Lunch Period and Breaks

Employees who work four (4) continuous hours will be provided a fifteen (15) minute rest break. The break will be structured so that City business and service will not be disrupted. This break time cannot be accumulated nor can it be combined to shorten the workday or to extend the meal period.

Lunch periods will be no longer than sixty (60) minutes in length. Lunch hours may be flexible insofar as they do not disrupt City business and service to the public, and are approved by the Department Head. City Hall offices responsible for direct public services will remain open during the lunch period.

9.2.4 Notice of Schedule Change

All employees shall be given two weeks notice of any routine change in their hours or shift schedule.

9.3 Leaves

9.3.1 Leave With Pay

The City Manager may grant an employee a paid leave of absence up to thirty (30) calendar days within a twelve (12) month period when, in the City Manager's opinion, such leave is warranted and benefits the City. No leave will be granted except upon written request of the employee.

9.3.2 Leave Without Pay

9.3.2.1 The City Manager, upon positive recommendation from the Department Head, may grant non-probationary employees a leave of absence without pay for periods of ninety (90) days, not to

exceed a total of one year. No leave will be granted except upon written request of the employee and the leave must state specifically the reason for the request, the date when the employee desires to begin the leave and the probable date of return.

9.3.2.2 An employee shall not be entitled to a leave of absence as a matter of right, except as provided by state or federal law. Such leaves will normally be granted to permit the employee to engage in activities that will increase the employee's value to the City upon return or because of sickness, injury, or personal hardship. To qualify for leave without pay, the employee must first utilize all accrued vacation, compensatory time and sick leave, if medically based. Leave of absence without pay is not a break in service or employment, and rights accrued at the time the leave is granted are retained by the employee; however, vacation credits, sick leave credits, increases in salary, all other paid leaves, holidays and fringe benefits and other similar benefits shall not accrue to a person granted such leave during the period of absence. During the period of such leaves, all service and leave credits shall be retained at the levels as of the effective date of the leave.

9.3.2.3 During the leave of absence without pay, the City will pay the City's portion of the "Employee Only" premium for the City's Group Health Insurance Program in effect at the time the leave of absence status is initiated. The employee will be responsible for paying all premiums related to dependent health coverage and for any portion of the employee only premium not covered by the City.

9.3.2.4 Upon expiration of a regularly approved leave, the employee may be reinstated in the position held at the time leave was granted or to a comparable one if the former position is abolished during the period of leave, with all benefits intact. A leave of absence without pay totaling eighty (80) consecutive hours or more will result in an adjustment to the employee's performance evaluation schedule commensurate with the length of the leave period. Failure of the

employee to return to his or her employment upon the termination of any authorized leave of absence will, except under extraordinary circumstances, constitute the employee's separation from City employment.

9.3.3 Administrative Leave

The City has the right to place an employee on leave at any time with full pay. An employee may be placed on administrative leave pending investigation of misconduct, potential disciplinary action, or other reasons that the City Manager, Department Head or Human Resources/Risk Director, in his or her discretion, believes warrant such leave. The employee has no right to appeal the decision to place the employee on administrative leave. While on paid administrative leave, the employee shall be subject to all lawful orders imposed by the City.

9.3.4 Jury Duty Leave

9.3.4.1 An employee must notify his or her Department Head immediately upon notification of jury duty and must furnish the City with a copy of the jury duty summons. Compensation for jury duty leave will be as outlined in these Rules in Section [7.14 Compensation - Jury Duty](#).

9.3.4.2 If the jury duty assignment is not for an entire day, as verified by the Court's time clock record, the employee must report back to the City to complete his or her normal shift after being released by the Court.

9.3.4.3 If there are still two and one-half* hours left to the employee's shift when he or she is released from jury duty, he or she should report back to the City if assigned to the Vista Court House. If the employee is assigned to the downtown San Diego Court House, he or she should report back to the City if there are still three* hours remaining to his or her work shift at the time of release. If the employee is assigned to jury duty in an adjoining County, he or she should report back to the City if there are still four* hours remaining to his or her work shift at the time of release. The Court's time card must be turned in to the employee's supervisor

at the completion of jury duty in order for the employee to receive payment for the time spent serving as a jurist.

- 9.3.4.4 If the employee is placed by the Court on “phone standby,” the employee should report to work at the beginning of his or her normal work shift. The supervisor will make sure that the employee can make the phone call and that the employee is released from work to report to the Court at the required time.
- 9.3.4.5 If the employee is required to report to the Vista Court House at least two and One-half* hours after his or her scheduled start time, then the employee should report to work at the beginning of his or her normal work shift. If the employee is required to report to the downtown San Diego Court House at least three* hours after his or her scheduled start time, then the employee should report to work at the beginning of his or her normal work shift. If the employee is required to report to jury duty in an adjoining County at least four* hours after his or her start time, then the employee should report to work at the beginning of his or her normal work shift. The supervisor will make sure that the employee is released from work to report to the appropriate Court at the required time.

*NOTE: The times indicated above would be extended 20 minutes for employees who are required to wear a uniform.

- 9.3.4.6 An employee subpoenaed to appear in court in a matter unrelated to his or her City job duties or because of civil or administrative proceedings that he or she initiated does not receive compensation for time spent related to those proceedings. An employee may request to receive time off without pay, or may use accrued vacation time (or other eligible time) for time spent related to those proceedings. The time spent in these proceedings is not considered work time.

9.3.5 Industrial (Work-Related) Disability Leave

- 9.3.5.1 An employee absent from work as a result of injury or illness shall be covered by the City’s Workers’ Compensation program.

9.3.5.2 At the employee's option, the employee may supplement the Workers' Compensation benefit with accrued paid leave, i.e. sick leave, vacation, compensatory time, etc. up to but not to exceed 100% of the employee's gross salary. During the period of disability, the employee will be entitled to weekly benefits in accordance with prevailing California Workers' Compensation law.

9.3.5.3 Documentation of Industrial Disability Leave

All City employees who lose time from work as a result of injury or illness covered by the Workers' Compensation shall receive a medical examination and, when required, treatment. The City Manager may approve industrial leave without medical examination on the day of the injury. Medical treatment documentation forms prescribed by the Director of Human Resources/Risk shall be returned to the Human Resources/Risk Department whenever an employee loses time from work as a result of an industrial disability injury or illness.

9.3.5.4 Termination for Medical Reasons

If any employee is determined, through review of medical evidence, to be physically or psychologically disabled to perform the duties of his or her position due to industrial injury/illness, the employee may be terminated from inability to perform the duties of his or her position. Such termination may occur after twelve (12) months of cumulative industrial disability leave or earlier if the medical evidence indicates that the disabling medical/psychological condition is unlikely to improve to a level which would allow the employee to perform the duties of his or her position to a satisfactory level.

For employees who are not eligible for disability retirement who are terminated for medical or psychological disability, termination shall be preceded by written notification to the employee of the intent to terminate and citing the medical/psychological reasons for termination. If within five (5) working days the employee so requests in writing, the City Manager, or his or her designee, shall

provide an opportunity for the employee to respond to the psychological/medical findings in writing or orally and such response shall be considered by the City Manager or designee. A written decision shall be provided to the employee within ten (10) working days following receipt of the employee's response. The decision of the City Manager or his or her designee shall be final.

9.3.6 Pregnancy Disability Leave

An employee who is disabled because of pregnancy, miscarriage, abortion, childbirth, or a related medical condition is entitled to an unpaid pregnancy disability leave for up to seventeen and one third weeks.

9.3.6.1 Notice and Certification Requirements

Notice and certification requirements are listed in the FMLA/CFRA Policy.

9.3.6.2 Compensation During Leave

Pregnancy Disability Leaves are without pay for the first 30 days, at which time, short term disability, (STD) will begin. However, an employee on pregnancy leave must first utilize all accumulated sick leave and may elect to use any available vacation and/or compensatory time before being placed on a leave without pay status. All Rules outlined in the above Section [9.3.2 Leave Without Pay](#) will apply for the period of pregnancy leave when the employee is on without pay status.

9.3.6.3 Reinstatement

Upon the expiration of pregnancy-related leave and the City's receipt of a written statement from the health care provider that the employee is fit to return to duty, the employee will be reinstated in her original or an equivalent position, so long as it was not eliminated for a legitimate business reason during the leave. If the employee's original position is no longer available, the employee will be assigned to an open position that is substantially similar in job content, status, pay, promotional opportunities, and

geographic location as the employee's original position. If upon return from leave an employee is unable to perform the essential functions of her job because of a physical or mental disability (whether perceived or actual), the City will initiate an interactive process with the employee in order to identify a potential reasonable accommodation. An employee who does not return after her granted leave period has expired forfeits her job and loses all reinstatement rights.

9.3.7 California and Federal Family Leave

The City will comply with the California Family Rights Act and the Federal Family and Medical Leave Act laws as outlined in [FAMILY AND MEDICAL LEAVE \(FMLA\) AND CALIFORNIA FAMILY RIGHTS ACT \(CFRA\) POLICY.](#)

9.3.8 School Related Leave

Per Labor Code Section 230.8, a regular employee who is a parent or guardian having custody of one or more children in kindergarten or grades 1 through 12 or attending a licensed day care facility shall be allowed up to forty (40) hours each school year, not to exceed eight (8) hours in any calendar month of the school year, without pay, to participate in activities of the school of their child. Such employee must provide reasonable advance notice of the planned absence. The employee may be required to use vacation and other accrued leave time off to cover the absence. The City may require the employee to provide documentation from the school as verification that the employee participated in school activities on a specific date and at a particular time. If both parents or guardian having custody work for the City, only the first parent requesting time off shall be entitled to leave under this provision.

9.3.9 Catastrophic Leave

The purpose of the Catastrophic Leave Program is to provide a means of reducing personal financial hardship for employees who are suffering from a long-term catastrophic illness or injury. The City Manager, upon a positive recommendation from the Department Head, may qualify an employee for participation in the Program, as outlined in the attached, [CATASTROPHIC LEAVE POLICY.](#)

9.3.10 Time Off for Victims of Violent Crime or Domestic Abuse

9.3.10.1 An employee who has been a victim of a violent crime or domestic violence may take time off to:

- 9.3.10.1.1 Appear in court to comply with a subpoena or other court order as a witness in any judicial proceeding.
- 9.3.10.1.2 Seek medical or psychological assistance.
- 9.3.10.1.3 Participate in safety planning to protect against further assault.

9.3.10.2 The affected employee must provide reasonable notice that he or she is required to be absent for a purpose stated above. In cases of unscheduled or emergency court appearances or other emergency circumstances, the affected employee must, within a reasonable time after the appearance, provide the City with written proof that the absence was required for any of the above reasons. Leave under this section is unpaid unless the employee desires and the City approves the use of paid accrued leave.

9.3.11 Military Leave

The City will comply with all applicable State and Federal laws regarding military leave. All employees entitled to military leave shall give the City written notice of the requirement for such leave and shall provide a copy of the documents ordering such military service.

9.3.12 Time Off to Vote

If an employee does not have sufficient time outside of working hours to vote at a statewide election, the employee may take up to two hours off without loss of pay at the beginning or end of the day. Prior approval for this time off by the employee's supervisor is required.

9.3.13 Voluntary Time Off (VTO) Without Pay Program Leave

9.3.13.1 The Voluntary Time Off (VTO) Without Pay Program if negotiated with represented employees, will be applied consistently to

unrepresented At Will employees. Refer to the current MOUs to confirm that the benefit is available.

9.3.13.2 It is agreed that relative to the Voluntary Time Off (VTO) Without Pay Program:

9.3.13.2.1 An employee may elect, on a voluntary basis, to take off up to a maximum of sixty (60) VTO hours without pay per fiscal year.

9.3.13.2.2 Granting of VTO is at the Department Head's discretion based upon departmental staffing needs.

9.3.13.2.3 Employees will record the VTO separately on their payroll records using the appropriate code.

9.3.13.3 Employees' benefits will not be impacted except those based on the employee's hourly rate. For example, contributions for retirement, social security, life insurance, LTD, etc. will continue to be paid on the employee's actual gross salary which will decrease due to the VTO; the City will continue to pay the agreed upon contributions for the City's health insurance premium for both the "Employee Only" and "Dependent" coverage; sick leave and vacation accruals, holidays, and number of floating holidays will continue to be earned while the employee is on VTO per the negotiated MOU and the City's Personnel Rules and Regulations.

Rule 10.0 – CHANGES IN EMPLOYMENT STATUS

10.1 Promotion

10.1.1 When it is practicable and consistent with the best interest of the City, vacancies in the competitive service may be filled by promotion, after a closed promotional examination has been given and a promotional list established.

Promotions will be conducted in accordance with the City's merit system policy.

10.1.2 Regular employees who have completed their initial twelve (12) month probationary period with the City may participate in a closed promotional examination for the promotion. At-will employees who have completed twelve

(12) months of continuous service may participate in a closed promotional examination for the promotion. Such employees must meet the minimum qualifications for the applicable position.

- 10.1.3 All regular employees who are promoted will undergo a six (6) month probationary period in their new position.
- 10.1.4 The City Manager may exempt a certain class series from the promotional exam process. Employees may be promoted based solely on above average to outstanding performance evaluation and recommendation of the Department Head.

10.2 Demotion

- 10.2.1 The City Manager may demote an employee for any of the following reasons or conditions:
 - 10.2.1.1 When an employee's work performance falls below acceptable standards.
 - 10.2.1.2 For disciplinary reasons, as set forth in [MOU ARTICLE VI-DISCIPLINARY ACTION.](#)
 - 10.2.1.3 When the need for a position that an employee fills no longer exists.
 - 10.2.1.4 When an employee requests such position and has the consent of both the current and prospective supervising Department Heads.
- 10.2.2 Written notice of the demotion will be given to the employee no later than ten working days before the effective date of the demotion.
- 10.2.3 All employees who are demoted under this paragraph will be paid at the rate of pay for the lower position, unless approved otherwise by the City Manager.

10.3 Suspension

Subject to the approval of the City Manager, the Department Head may suspend an employee from his or her position, with or without pay, at any time for the good of the service for disciplinary purposes. Suspensions without pay shall not be less than one full

day nor to exceed sixty (60) calendar days at one time, nor shall any employee be penalized by suspension for more than sixty (60) calendar days in any fiscal year.

10.4 Transfer

After approval by the City Manager, an employee may be transferred by his or her Department Head at any time from one position to another position in the same or comparable class. Transfer will not be used to effectuate a promotion, demotion, advancement, or reduction, each of which must be accomplished only as provided in these Rules. No person will be transferred to a position for which he or she does not possess the minimum qualifications.

Rule 11.0 – SEPARATION FROM THE SERVICE OF THE CITY

11.1 Resignation

An employee wishing to leave the service in good standing shall file with their Department Head at least ten (10) working days before leaving the service, a written resignation stating the effective date and reasons for leaving. Resignations will be forwarded to Human Resources/Risk. The Human Resources/Risk Director, or his or her designee, shall conduct an exit interview with employees who have submitted a written resignation prior to their termination date. The purpose of the exit interview will be to discuss the cause of resignation and explain any benefits after termination. Once a resignation has been accepted it cannot be withdrawn.

11.2 Layoff

Under the direction of the City Manager, the City retains the right to abolish any position, reduce the work force and lay off employees when it becomes necessary due to economic conditions, organizational changes, lack of work, or because the necessity for a position no longer exists. The decision to abolish a position is not subject to the right of appeal or grievance.

11.2.1 Order and Scope of Layoff

When layoffs occur, they will be made within each employee classification in the following order:

11.2.1.1 Temporary/part-time employees;

11.2.1.2 Probationary employees;

11.2.1.3 Regular employees who within twenty four (24) months prior to the layoff were subject to one or more of the following disciplinary actions:

- extension of probationary period;
- 90 day reevaluation within the past 24 months;
- suspension without pay extending beyond five (5) days;
- demotion; or
- reduction-in-salary.

11.2.1.4 Other permanent employees in reverse order of seniority within the particular classification as defined in the City's Personnel Rules and Regulations.

11.2.2 Written Notice

11.2.2.1 Affected employees will be provided written notice at least twenty (20) working days prior to the effective date of the layoff. If personal delivery is not possible, the notice will be sent by certified mail to the last known address.

11.2.2.2 At the City Manager's discretion, payment of regular wages may be made in lieu of all or part of the actual days worked. The written notice shall contain the following:

- the effective date of the layoff;
- the reason for the layoff;
- the job classification, if any, within the employee's present department or division into which the employee may revert or bump back to as described in Section [11.2.3 Reversion or Bumping Rights in Lieu of Layoff](#); and
- the rules governing re-employment as described in Section [11.2.5 Re-employment List](#) and [11.2.6 Restoration of Benefits Upon Re-employment](#).

11.2.3 Reversion or Bumping Rights in Lieu of Layoff

An employee affected by layoff may revert or bump back to a lateral or lower level position providing that he or she:

- 11.2.3.1 Formerly held or supervised the lateral or lower level position within the classification series; or can reasonably meet the qualifications of the lateral or lower level position as determined by the appropriate Department Head; and
- 11.2.3.2 Possesses greater seniority to replace the lateral or lower level employee staffing the position (seniority for purposes of this section will be the length of time the employee has been employed with the City. A tie will be determined by using the flip of a coin); and
- 11.2.3.3 Requests in writing a reversion to the lateral, lower level previously held or supervised position within seven (7) working days of receiving the written notice of layoff; and
- 11.2.3.4 Has not been subject to the following disciplinary actions within twenty four (24) months prior to the layoff:
 - suspension without pay extending beyond five (5) days;
 - 90 day reevaluation within the past 24 months;
 - demotion; or
 - reduction in salary
- 11.2.3.5 For purposes of this section, a lateral position would be considered one of the same pay range in the same or similar classification series as determined by the City Manager. A demotion will result in the employee's pay being placed within the lower position's pay range at their existing rate of pay, or the maximum of the lower pay range, whichever is less, unless otherwise approved by the City Manager.

Note: A lateral move, reversion or bumping situation will not jeopardize an employee's status on the re-employment for his or her original position.

11.2.3.6 Department and Division Heads and any other at-will employee do not have bumping rights

11.2.4 Payoff of Accruals Upon Layoff

Laid off employees shall be considered as separated from the City and all accrued vacation and sick leave will be paid in accordance with current City policy. All compensatory time accrued will be paid off at layoff. Upon layoff, vested employees may elect to withdraw their California Public Employees' Retirement System (CalPERS) retirement contributions, or leave the money in for later withdrawal. Employees who are not vested in the CalPERS system shall be reimbursed for the employee-only contributions under the procedure established by CalPERS for all standard employment separations. Also, upon layoff, the City will support the employee's application to close out their 457 deferred compensation accounts and retiree health savings accounts, if applicable.

11.2.5 Re-employment List

Regular employees in good standing who are laid off or revert (bump) to a lower level City position shall have their names placed on a City-wide re-employment list for the job classification previously held. Employees will be placed on the list in inverse order of seniority (last released; first rehired). Departmental vacancies will be offered first to eligible individuals on the re-employment list.

Names of qualified individuals shall remain on the re-employment list for a period not to exceed one (1) year from the date of layoff. Individuals who qualify for rehire but do not respond to written notification to the last known address on file within seven (7) working days or who refuse a job offer shall have their names removed from the re-employment list.

11.2.6 Restoration of Benefits Upon Re-employment

Following rehire off the re-employment list, employees will have the following benefits restored:

11.2.6.1 Seniority at the time of layoff for purposes of determining continuous City service, eligibility for merit increases and vacation accrual rates; and

11.2.6.2 Salary that is commensurate with the same step or range held at the time of layoff.

Any layoffs and reversions which result from a required reduction in the City's work force shall be made without regard to an employee's race, color, age, ancestry, national origin, citizenship status, marital status, pregnancy, political or religious affiliation, sex, gender, gender identity, sexual orientation, any physical or mental disability (whether perceived or actual), medical condition, genetic information or other functional limitation or any other basis protected by applicable State and Federal law.

11.3 Dismissal

An employee may be dismissed from his or her position by the Department Head for disciplinary purposes. At will employees or employees on probationary status who are dismissed for disciplinary purposes may be dismissed without right of appeal. Dismissal of employees who have completed their probationary period must be conducted in accordance with the City's disciplinary procedure. Employees who have completed their probationary period have the right of appeal. (See [MOU SECTION VI.](#))

11.4 Abolition of Position

Whenever, in the judgment of the City Manager, it becomes necessary in the interest of economy, efficiency or because the necessity for the position or employment involved no longer exists, the City Manager may abolish any position, and the City Manager shall layoff, demote, or transfer an employee holding such position of employment. The action of the City Manager is final and conclusive.

11.5 Job Abandonment

An employee is deemed to have resigned if the employee is absent for three (3) consecutive workdays without prior authorization and without notification during the period of absence. Regular employees will be given an opportunity to explain the absence and failure of notification before final action is taken. An employee separated for job abandonment will be reinstated upon proof of justification for such absence, such as severe accident, severe illness, false arrest, or mental or physical impairment which prevented notification. No employee who was separated for job abandonment has the right to a post-separation appeal.

11.6 Non-Discrimination Policy

Layoffs, demotions and abolition of positions will be made without regard for an employee's race, color, age, ancestry, national origin, citizenship status, marital status, pregnancy, political or religious affiliation, sex, gender, gender identity, sexual orientation, job-related physical or mental disability (whether perceived or actual), genetic information, medical condition, or other functional limitation or any other basis protected by applicable State and Federal law.

11.7 Re-employment After Layoff

Employees re-employed within one (1) year after layoff shall receive a rate of pay for that position in effect at time of reinstatement.

11.8 Re-employment After Separation

A regular employee who has separated while in good standing, and has a history of good performance evaluations may be considered for future re-employment to a vacant position for which he or she is qualified. Such action must have the recommendation of the department head and approval of the City Manager. The employee's new anniversary date will be the first date of employment upon reinstatement. The employee, if applicable, will serve a new probationary period.

Rule 12.0 – JOB RELATED CONDUCT

12.1 Personal Conduct

All City employees shall cooperate at all times with other members of the staff and with the public. Discourteous treatment of the public or co-workers will be cause for disciplinary action. The conduct of all employees will be governed by reasonable rules of behavior of law-abiding citizens and shall not reflect unfavorably upon the City.

12.2 Discrimination and Sexual Harassment Policy

The City of San Marcos is committed to maintaining a workplace for all employees, applicants, and contractors that is free from all types of discrimination, harassment and retaliation. Therefore, the City has established a [DISCRIMINATION AND SEXUAL HARASSMENT POLICY](#). This policy prohibits discrimination or harassment on the basis of any of the following protected classifications, including but not limited to an individual's

race, color, age, ancestry, national origin, citizenship status, marital status, pregnancy, political or religious affiliation, sex, gender, gender identity, sexual orientation, any physical or mental disability (whether perceived or actual), genetic information, medical condition, or other functional limitation or any other basis protected by law. It sets forth the types of conduct that will not be tolerated under any circumstances and outlines the procedures for reporting, investigating and acting upon complaints.

12.3 Anti-Violence Policy

The City of San Marcos is committed to maintaining a work environment that minimizes the risk of violence to employees and members of the public. In consideration of the health and safety of others, the City has established an ANTI-VIOLENCE POLICY, stating its “Zero Tolerance” position relative to threats or acts of violence in the workplace. This policy sets forth the types of conduct that will not be tolerated under any circumstances and outlines the procedures for reporting, investigating and acting upon complaints.

12.4 Physical and Mental Fitness

It is the policy of the City of San Marcos that physical and mental fitness of City employees are reasonable requirements to perform the duties of the job and instill public confidence. The City, when consistent with legitimate business reasons, may require medical and psychological assessment(s) of employees provided the City pays for such assessment(s) and provides time off without loss of pay for same. Appropriately qualified health care professionals shall conduct all such assessments. The City may require certain types of physicals as required by applicable State and Federal laws of employees engaged in specific job duties in the course of their employment, i.e. respirator physicals as required by OSHA for employees utilizing respirators, DMV physicals for employees driving certain City vehicles, etc.

12.5 Reasonable Accommodation Policy

The City provides employment-related reasonable accommodations to qualified individuals with disabilities within the meaning of the California Fair Employment and Housing Act and the Americans with Disabilities Act.

12.5.1 Request for Accommodation

An employee who desires a reasonable accommodation in order to perform essential job functions should make such a request to the Human Resources/Risk

Department. The request may begin the interactive process. The City may require documentation sufficient to substantiate that the employee has an ADA disability that needs reasonable accommodation.

12.5.2 Reasonable Documentation of Disability

Following receipt of the request, the Human Resources/Risk Director may require additional information, such as reasonable documentation of the existence of a disability.

12.5.3 Fitness for Duty Examination

The City may require an employee to undergo a fitness for duty examination to determine whether the employee can perform the essential functions of the job with or without accommodation. The City may also require that a City-approved physician conduct the examination.

12.5.3.1 Interactive Process Discussion With regards to qualified individuals with a disability who require a reasonable accommodation to perform the essential functions of his/her position, the City will conduct an interactive process with the employee.

12.5.4 Case-by-Case Determination

The City determines whether reasonable accommodation(s) can be made, and the type of accommodation(s) to provide. The City will not provide accommodation(s) that would pose an undue hardship upon City finances or operations, or that would result in a direct threat to the employee or others. The City will inform the employee of its decision as to reasonable accommodation(s) in writing.

12.6 Substance Abuse Policy

12.6.1 It is the policy of the City that no employee shall be intoxicated or under the influence of drugs or alcohol while on the job. The purchase, use or possession of alcohol while driving a City vehicle, whether on duty or off, is prohibited. In addition, no employee shall have at the work site, to include all City facilities, any alcohol, illegal substance, or illegal drug for which he or she does not have a prescription.

12.6.2 When an employee shows behavior which creates a “reasonable suspicion” that the employee is intoxicated or under the influence of drugs or alcohol while on the job, the City may require that the employee undertake a test to determine if he or she is intoxicated or under the influence of drugs or alcohol while on the job. The type of test administered, i.e. blood, urine, breath, etc., will be determined by the attending physician at the City approved industrial medical center. Any employee who is involved in a work related injury is subject to drug testing at the discretion of the City Manager.

12.6.3 “Reasonable suspicion” is a belief based on objective facts sufficient to lead a reasonable, prudent supervisor to suspect that an employee is intoxicated or under the influence of drugs or alcohol, so that the employee’s ability to perform the functions of the job is impaired or so that the employee’s ability to perform his or her job safely is reduced.

12.6.4 Examples of such behavior* which alone or in combination may constitute “reasonable suspicion” include slurred speech, alcohol odor on breath, unsteady walking and movement, an accident involving City property, physical altercation, verbal altercation, unusual behavior, possession of alcohol or drugs, information obtained from a reliable person with personal knowledge, inability to perform work properly, behavior that creates a safety hazard, blank stare or glassy eyes.

**It is recognized that some medical problems may have similar symptoms as those identified above.*

12.6.5 The use of, being under the influence of, or being in possession of illegal drugs, illegal substances or alcohol by the employee on the job will be grounds for discipline.

12.6.6 In [RESOLUTION # 91-3761 DRUG FREE WORKPLACE, EXHIBIT I](#), the City stated its intent to provide a safe working environment in accordance with the Drug-Free Work Place Act of 1988 by formalizing a policy to address substance abuse and its effects in the work place.

12.7 Department of Transportation Drugs and Alcohol Testing Program

The City is committed to compliance with the Federal Omnibus Transportation Employee Testing Act of 1991, the Department of Transportation Federal Highway Administration Regulations of 1994 and Senate Bill 2034, which became applicable to the City January 1,

1996. Therefore, the City established the [DRUG AND ALCOHOL TESTING POLICY FOR EMPLOYEES WITH COMMERCIAL DRIVERS' LICENSES](#), to outline how the various requirements will impact applicable City employees.

12.8 Use of City/Personal Vehicles

An employee may be required to use a City vehicle while on City business or at times they may be permitted, upon approval of their Department Head, to use their own vehicle while conducting City business. Since City vehicles are easily identified as such, employees should be aware that the way in which they interact with other motorists and pedestrians while operating City vehicles can result in both positive and negative public relations for the City. [THE USE OF CITY/PERSONAL VEHICLES POLICY](#), establishes guidelines to be followed for all employees assigned a City vehicle or permitted to use their own vehicle while conducting City business.

12.9 Use of City Property and Equipment

- 12.9.1** City property is to be used only for conducting City business unless otherwise authorized by the City Manager or designee. City property includes, but is not limited to: telephones, desks, computers (including hardware and software), communications stored or transmitted on City property (such as e-mail and voice mail), vehicles and other City property used by City employees in the course of their work. Employees do not have a reasonable expectation of privacy in City property or equipment.
- 12.9.2** City property may be monitored and searched at any time and for any reason. Messages sent or received on City equipment may be saved and reviewed by others. As a result, City employees have no expectation of privacy in the messages sent or received on City property or equipment.
- 12.9.3** Every City employee is required to adhere to all City Rules while on City property or using City property or equipment.

12.10 Information Systems Policy

The purpose of the [INFORMATION TECHNOLOGY POLICY, THE ELECTRONIC MAIL \(E-Mail\) POLICY, and the MOBILE DEVICE POLICY](#), are to establish guidelines governing the use of electronic communications media by City employees in the performance of their duties. To that end, the Policy has been created to advise all users regarding the use of, access to and

the disclosure of information created, transmitted, received and stored via the use of the City's electronic communications equipment and software.

12.11 City Functions

Those employees required to be in attendance at municipal functions may be reimbursed for the actual expenses incurred, with the City Manager's prior approval.

12.12 Political Activity

Political activity of employees will be restricted in accordance with State law as currently provided in the State Government Code, Chapter 9.5, Sections 3201 through 3209, including (but not limited to) the following:

12.12.1 City officers and employees are prohibited from soliciting political funds or contributions from City employees. This does not mean, however, that officers and employees are not allowed to communicate through the mail (or by other means) for requests for political funds or contributions to a significant segment of the public, which may include employees of the City.

12.12.2 City officers and employees are prohibited from engaging in political activity during work hours and/or on City Hall premises.

12.12.3 Examples of prohibited conduct include the following:

- Participate in political activities of any kind while in uniform;
- Participate in political activities during working hours;
- Participate in political activities on City worksites;
- Place or distribute political communications on City property;
- Use equipment to make political communications;
- Solicit a political contribution from an officer or employee of the City, or from a person on a City employment list, with knowledge that the person from whom the contribution is solicited is a City officer or employee;
- Favor or discriminate against any employee because of political opinions or affiliations;
- Interfere with any election; or
- Attempt to trade job benefits for votes.

12.12.4 Examples of permitted conduct include:

- Express opinions on all political subjects or candidates;
- Become a candidate for any local, state, or national election;
- Contribute to political campaigns;
- Join and participate in the activities of political organizations;
- Request, during off-duty time, political contributions, through the mail or other means from City officers or employees if the solicitation is part of a solicitation made to a significant segment of the public which may include City officers or employees;
- Solicit or receive, during off-duty time, political contributions from a City employee organization if the funds, when collected, were not earmarked for a clearly identifiable candidate for a federal, state or local office; or
- Solicit or receive, during off-duty time, political funds or contributions to promote the passage or defeat of a ballot measure which would affect the rate of pay, hours of work, retirement, or other working conditions of City officers or employees.

12.13 Conflict of Interest/Outside Employment

A conflict of interest in outside employment, in outside business interests, or personal transactions will not be permitted and may be grounds for dismissal.

Prior to an employee accepting outside employment, approval will first be received from the applicable Department Head and Human Resources/Risk. . The employee must ensure that a conflict of interest will not develop from outside employment. The employee is also expected to keep the Department Head apprised of any changes to the approved outside employment. The Outside Employment Form must be completed and signed by the employee and the Department Head and placed in the employee's personnel file. Each request for outside employment must be renewed annually. Prior approval of outside employment will not be cause for abusing hours or failing to perform assigned City duties.

12.14 Employee Conduct Policy

The purpose of this policy is to establish guidelines for employee conduct that the City sees as essential in maintaining a good public image. The public has a right to expect a level of service, which is not compromised by unacceptable employee conduct.

It is the policy of the City of San Marcos that:

- 12.14.1 Employees shall perform their assigned duties to the best of their ability at all times.
- 12.14.2 The public interest shall take precedence in the performance of job duties except where an employee's safety would be jeopardized.
- 12.14.3 Employees shall treat the public and their co-workers courteously and impartially at all times.
- 12.14.4 Employees shall not grant or permit any consideration, treatment, advantage or favor to any member of the public beyond that which is general practice, in accordance with City rules, regulations and procedures.
- 12.14.5 City owned or supported property; equipment, vehicles, labor or services shall be used for City purposes only.
- 12.14.6 No unauthorized private business of any kind shall be conducted while on City time.
- 12.14.7 Employees shall conduct all business and personal affairs within the legal limits of the law.
- 12.14.8 Political activity of employees shall be restricted in accordance with State law as currently provided in the State Government Code, Chapter 9.5, Section 3201 through 3209, and as outlined in Section [12.12 Political Activity](#).
- 12.14.9 Employees shall not allow their position with the City to be used for the personal gain of themselves or others.
- 12.14.10 Employees shall not make recommendations to members of the public relative to any individuals or businesses they regulate, or come in contact with, in the scope of their duties for the City.
- 12.14.11 Employees shall not engage in any employment, activity, or enterprise, whether compensated or not, which is inconsistent or in conflict with their duties as employees. Besides their assigned City responsibilities, employees shall not perform any work, service, or counsel, whether compensated or not, that is not first approved by the employee's immediate supervisor or the appropriate Department or Division Head.

12.14.12 Employees shall neither disclose nor use for their personal interest any confidential information acquired by them in the course of their official duties.

12.14.13 Gifts, gratuities, loans of money or materials, and bribes shall be refused. All information relating to the above offerings shall be reported to the employee's immediate supervisor or the appropriate Department or Division Head.

12.14.14 Employees shall record and maintain a true and accurate account of their hours worked on time sheets, overtime logs, or other reasonable accounting or work hours.

12.14.15 While not all inclusive, the following provides examples of unacceptable conduct:

- 12.14.15.1 Possession or use of alcohol or controlled substances on City premises or while on duty* or while in City uniform. Exceptions may be made in the event of a City-sponsored function at which such beverages may be served.
- 12.14.15.2 Fighting, coercing, interfering with or threatening injury to other employees, the public or supervisors or causing harm to others.
- 12.14.15.3 Engaging in physical, sexual, or racial taunts, threats, or harassment.
- 12.14.15.4 Any form of harassment or discrimination in the workplace. This includes but is not limited to harassment or discrimination based on race, color, age, ancestry, national origin, citizenship status, marital status, pregnancy, political or religious affiliation, sex, gender, gender identity, sexual orientation, job-related physical or mental disability (whether perceived or actual), genetic information, medical condition, or other functional limitation or any other basis protected by law.
- 12.14.15.5 Possession of armaments, weapons, explosives or non-job related cutting instruments (other than pocket knives), on City premises or while on duty*, except items which may be authorized by the City in the specific performance of their job.

- 12.14.15.6 Falsification or misrepresentation of information in connection with the preparation of City records, documents, or correspondence including an application for employment.
- 12.14.15.7 Falsifying one's own time sheet or the time sheet of another employee.
- 12.14.15.8 Stealing, willful damage, willful abuse or willful destruction of City property or the property or equipment of another employee or the public.
- 12.14.15.9 Removing City property from City premises without authorization/ permission.
- 12.14.15.10 Reckless driving or illegal operation of a City vehicle.
- 12.14.15.11 Unauthorized use of City property or City vehicles.
- 12.14.15.12 Repeated documented personal use of City telephones.
- 12.14.15.13 Indecent or morally offensive behavior while on duty*, which is in violation of State, County and/or Federal law.
- 12.14.15.14 Careless, reckless or unsafe conduct, endangering the employee him or herself, fellow employees, the public or City or private property.
- 12.14.15.15 Discourteous treatment of the public, fellow employees or supervisors.
- 12.14.15.16 Unauthorized sleeping while on duty*.
- 12.14.15.17 Deliberately delaying or restricting services or work efforts or inciting others to do the same.
- 12.14.15.18 Selling, soliciting or distributing literature or goods on City premises and time without permission.
- 12.14.15.19 Posting unauthorized material on City bulletin boards or removing or defacing notices thereon without permission. City bulletin boards are considered to be those bulletin boards located on City premises in facilities furnished and maintained by the City.

- 12.14.15.20 Leaving regularly assigned work locations without supervisor's knowledge and permission except to take usual breaks and lunch periods or to perform assigned work duties.
- 12.14.15.21 Deliberate failure to observe scheduling rules regarding assigned workdays, starting and quitting times, breaks and lunch periods established by a supervisor.
- 12.14.15.22 Misuse of time on the job.
- 12.14.15.23 Unauthorized tardiness or excessive absenteeism.
- 12.14.15.24 Insubordination, including refusal to perform work as directed by a supervisor, except in such cases where the activity directed or the equipment involved is unsafe.
- 12.14.15.25 Unsatisfactory, negligent or incompetent work performance.
- 12.14.15.26 Political campaigning of any kind on City premises, while on duty or while in a City uniform or using one's official City title or position in connection with political campaign literature or activities.
- 12.14.15.27 Unauthorized absence.
- 12.14.15.28 Abuse of sick leave privileges.
- 12.14.15.29 Dishonesty.
- 12.14.15.30 Any acts which are incompatible with or contrary to the public service.
- 12.14.15.31 Other conduct described in these Personnel Rules and Regulations, [RULE 12.0 JOB RELATED CONDUCT.](#)

*Note: On duty time is considered to be the hours of each working day that employees are expected to be performing their duties, excluding lunch periods.

12.15 Receipt of Gifts

There are occasions (Holidays, birthdays, etc.) when private individuals, firms or organizations, for whatever reason, wish to provide gifts to the employees of the City. It is

the City's policy that acceptance of gifts by individual City employees is inconsistent with the best interest of the City and may create future conflicts for employees.

The following guidelines are provided to clarify the City's Gift Policy as it pertains to individual employees:

- 12.15.1 Employees shall not accept personal gifts or gratuities offered to them in their capacity as City employees from individuals, firms or organizations having occasion to do business with the City.
- 12.15.2 There shall be no exception to this general policy without specific approval of the City Manager, no matter how insignificant the gift or gratuity.
- 12.15.3 Personal gifts or gratuities provided to City employees, which cannot be refused or returned are the property of the City and not the individual employee. Said gifts shall be referred to the City Manager's Office for recordation, storage and disposition.
- 12.15.4 All gifts received by City employees per Section [12.15.3](#) above shall be distributed among all City employees in a random manner consistent with the intent of this policy throughout the year or at the annual employee recognition event, if held. The specific method of distribution will be left to the discretion of the Employee Engagement Committee.
- 12.15.5 Employees may accept on behalf of the City consumable, non-alcoholic food or drink that shall then be placed in a central location for consumption by the public as well as all City employees. This specifically relates to all consumable items provided to the City from various sources during holiday periods.

12.16 Dress Code Policy

The purpose of this policy is to establish specific guidelines regarding the appropriate professional appearance for City employees. These guidelines shall be consistently enforced on a City-wide basis.

12.16.1 Professional Dress

- 12.16.1.1 Employees are expected to maintain an appropriate and well groomed personal appearance at all times.

12.16.1.2 Employees should exercise good taste in choosing clothes appropriate for their work environment.

12.16.1.3 While conducting City business, employees shall not wear any of the following: Tube tops, tank tops, bare midriffs, halter tops, miniskirts, bathing suits, jeans (blue or designer), sweat shirts and pants, sandals or torn clothing.

12.16.1.4 Upon prior approval by the appropriate Department or Division Head, jeans, tee-shirts, and shorts may be worn for field work only.

12.16.1.5 Employees who work primarily at the counter, or regularly deal with the public in a non-field capacity, are required to wear the following:

- Males: Shirt, tie or bolo tie, dress slacks, with socks and neat shoes.
- Females: Dress; or skirt and blouse/sweater; or dress slacks and blouse/sweater; suits or culottes-type outfit that resembles business attire (to be appropriate culottes must avoid the appearance of being shorts); and neat shoes, which may include dressy sandals.

12.16.1.6 Male employees who do not regularly work at the counter or deal with the public on an irregular basis are not required to wear a tie daily. However, they shall have one available at their work station because they may be required to assist the public without advance notice. Female employees who work occasionally at the counter and are not classified as "field personnel" shall dress according to the list provided in Section 12.16.1.5 above.

12.16.1.7 Field personnel are required to wear clothing as described in Section 12.16.1.5 whenever they are working in non-field capacity. Some situations where such attire would be appropriate include: serving on an interview panel; representing the City in Court; attending classes or meetings at other public agencies, etc.

- 12.16.1.8 Employees who are required to wear uniforms shall maintain a neat and clean appearance at all times. Complete uniforms shall be worn while on City time, unless a prior approval from the appropriate Department or Division Head is obtained. Torn garments shall not be worn, and shall be replaced as soon as possible.
- 12.16.1.9 Safety articles and protective clothing must be worn consistently as required by the classification. Although not inclusive, some safety articles include: Respirators, eye goggles, earplugs, and gloves.
- 12.16.1.10 Employees shall not report to work with visible piercing on the face, nose, tongue, etc. Emergency Medical Technicians and Recreational employees will also adhere to departmental policies which may be more restrictive than this policy. Due to safety concerns, earrings are not permitted to be worn by personnel involved in fire suppression and rescue operations, e.g. Emergency Medical Technicians, Recreational employees, etc. while on duty.
- 12.16.1.11 Employees shall not report to work with visible tattoos on the face. Tattoos that are exposed on other parts of the body, which depict pictures or words that would be considered offensive to the general public, must be covered from view when on duty. While not all inclusive, in general, this would include pictures of naked bodies or body parts, and vulgar or offensive language. Intentional scaring of the body commonly known as body branding "art" must be covered from view when on duty. While not all inclusive, in general, this would include intentional scarring of the body to show naked bodies or body parts, and vulgar or offensive language. Emergency Medical Technicians and Recreational employees will also adhere to departmental policies which may be more restrictive than this policy.

12.16.2 Casual Dress

The purpose of this policy is to establish guidelines regarding the appropriate appearance for City employees on Casual Dress Days. These guidelines shall be

consistently enforced on a City-wide basis. Violation of this policy will result, at a minimum, in the employee being asked to return home and change his or her attire and may result in disciplinary action, as appropriate.

It is the policy of the City of San Marcos that:

- 12.16.2.1 Employees will be authorized to dress in casual attire on Fridays.
- 12.16.2.2 Employees should exercise good taste in choosing attire appropriate for their work environment. Acceptable casual attire will include:
 - Males: Casual slacks, jeans (provided they are not faded or torn), tee shirts*, casual shirts (no tie required) and neat close-toed shoes (including athletic shoes or boots).
 - Females: Casual slacks, jeans (provided they are not faded or torn), tee shirts*, blouses, sweaters, sweat shirts, culotte-type apparel (provided they are not more than 4" above the knee), dress shorts (provided they are not more than 4" above the knee) and neat shoes (including dressy sandals, athletic shoes or boots).
- 12.16.2.3 While not all inclusive, the following provides examples of inappropriate casual attire that should not be worn while conducting City business: tube tops, tank tops, bare midriffs, halter tops, miniskirts, bathing suits (unless required due to the employee's specific assignment, e.g. at a City pool, etc.), denim shorts, faded jeans, torn jeans, sweat pants, jogging suits or other exercise clothing, any torn clothing, etc.
- 12.16.2.4 Some situations where casual attire would be inappropriate would include: serving on an interview panel; representing the City in Court, attending classes or meetings at other public agencies, etc.

*NOTE: Tee shirts with logos, sayings, pictures, etc. are not permitted. However, tee shirts with City's Logo may be available for purchase by an employee who wishes to wear this apparel on authorized casual days.

12.17 Illness and Injury Prevention Program

The City of San Marcos is committed to the health and safety of its employees and to providing a safe work environment. The City recognizes the need to comply with regulations governing accident, injury and illness prevention and to promote overall employee safety. It is City policy to fully comply with Labor Code Section 6401.7 (formerly referred to as Senate Bill 198) and General Safety Order Section 3203 (Injury and Illness Prevention Program). Employees shall not be expected under any circumstances to perform work that violates these regulations or any other occupational health or safety standards. The City has established a comprehensive, injury and illness program containing the following elements:

- Responsibilities of staff for program implementation
- Procedures for identifying hazards and inspection methodology
- Plans for correcting unsafe conditions or work practices
- Safety training by Department and/or similar City positions
- Employee communication of safety concerns
- System for adherence to program
- Safety recordkeeping

A copy of the City's most current [Injury and Illness Prevention Program](#) is provided to all employees on a regular basis.

12.18 Confined Space Protocol

At times, City employees are required to perform certain job duties in confined spaces. This program establishes policies and procedures to be utilized by employees in such situations and is geared to promote safe and effective work practices. [CONFINED SPACE PROTOCOL](#) is part of the City's Injury and Illness Prevention Program and complies with OSHA and CAL/OSHA (Title 8CCR, Article 108, Section 5156 (b)(1), 5157) regulations for confined space entry. A copy of the City's protocol is provided to applicable employees on a regular basis.