

City of Milpitas

**PERSONNEL RULES AND  
REGULATIONS**

Amended by City Council Resolution No. 5947, February 5, 1991

GENERAL	1.00		5
	1.01	Purpose	5
	1.02	Definition of Terms	5
	1.03	Fair Employment	8
	1.04	Violation of Rules	8
	1.05	Amendment	8
	1.06	Severability	8
	1.07	Other Employment	9
	1.08	Notification of Address	9
CLASSIFICATION	2.00		9
	2.01	The Preparation of Plan	9
	2.02	Adoption of Plan	10
	2.03	Reclassification	10
	2.04	Amending the Plan	10
	2.05	Working Job Titles	10
	2.07	Flexible Staffing	10
COMPENSATION	3.00		11
	3.01	Preparation of Plan	11
	3.02	Adoption of Plan	11
	3.03	Compensation Range	11
	3.04	Advancement	12
	3.05	Y-Rate	12
	3.06	Basis of Compensation	12
	3.07	Salary Following Promotion	13
RECRUITMENT	4.00		13
	4.01	Announcement	13
	4.02	Application Form	13
	4.03	Disqualification	13
	4.04	Promotional Recruitments	13
	4.05	Open Recruitments	14
EXAMINATIONS	5.00		14
	5.01	General	14
	5.02	Types	14
	5.03	Scoring and Rating	14
	5.04	Notification of Results	14
	5.05	Review of Examination Papers	14
EMPLOYMENT LISTS	6.00		15
	6.01	Establishment	15
	6.02	Duration	15
	6.03	Re-Employment Lists	15
	6.04	Removal of Names from List	15
FILLING OF VACANCIES	7.00		16
	7.01	Type of Appointment	16
	7.02	Order of Lists	16
	7.03	Consideration of Eligibles	16
	7.04	Appointment	16
	7.05	Temporary Appointment	16
	7.06	Emergency Appointments	17
	7.07	Nepotism	17
PROBATIONARY PERIOD	8.00		17
	8.01	Duration	17
	8.02	Permanent Status	17
	8.03	Objective	17
	8.04	Rejection of Probationer	18
	8.05	Rejection Following Promotion	18

ATTENDANCE AND LEAVE	9.00		18
9.01	Attendance		18
9.02	Hours of Work		18
9.03	Overtime		18
9.04	Worker's Compensation Leave		19
9.05	Holidays		20
9.06	Annual Vacation Leave		21
9.07	Sick Leave		22
9.08	Family Illness		22
9.09	Compensation Leave		23
9.10	Military Leave		23
9.11	Jury Leave		23
9.12	Administrative Leave		23
9.13	Management Leave		23
9.14	Administrative Suspension		24
9.15	Leave of Absence		24
9.16	Employee Assistance Leave		24
9.17	Failure to Return After Leave		24
TRAINING	10.00		24
10.01	Intent		25
10.02	Responsibility		25
10.03	General Provisions		25
10.04	Types		25
REPORTS AND RECORDS	11.00		25
11.01	Change of Status Report		26
11.02	Employee Personnel Files		26
11.03	Access to Employee Records		26
11.04	Employees' Access		27
11.05	Destruction of Records		27
11.06	Performance Reports		27
PERSONNEL ACTIONS	12.00		28
12.01	Scope		28
12.02	Transfer		28
12.04	Disciplinary Action		28
12.05	Predisciplinary Procedures		28
12.06	Written Reprimand		29
12.07	Demotion		30
12.08	Suspension		30
12.09	Discharge		30
12.10	Layoff		30
12.11	Resignation		30
12.12	Retirement		31
GRIEVANCE PROCEDURE	13.00		31
13.01	Definitions		31
13.02	General Provisions		31
13.03	Procedure		32
EQUAL EMPLOYMENT OPPORTUNITY COMPLAINT PROCEDURE	14.00		35
EMPLOYER-EMPLOYEE RELATIONS	15.00		35
15.01	Purpose		35
15.02	Definitions		35
15.03	Employee Rights		37
15.04	City Rights		38
15.05	Meet and Confer in Good Faith		38
15.06	Declaration of an Impasse		39
15.07	Advance Notice		39

15.08	Petition for Recognition	39
15.09	Appropriate Bargaining Unit	40
15.10	Recognition Elections	41
15.11	Municipal Employee Relations Officer	42
15.12	Grievances	42
15.13	Memorandum of Understanding	42
15.14	Construction	42
15.15	Open Door Policy	42

## PERSONNEL RULES AND REGULATIONS OF THE CITY OF MILPITAS

### GENERAL 1.00

#### 1.01 Purpose

The objective of these rules is to facilitate efficient and economical services to the public and to provide for a fair and equitable system of personnel management in the municipal government.

These rules set forth in detail those procedures which insure similar treatment for those who compete for original employment and promotion, and define the obligations, rights, privileges, benefits and prohibitions which are placed upon all Employees in the City, except where specifically superseded by a Memorandum of Understanding.

At the same time, within the limits of administrative feasibility, recognition shall be given to the fact that individuals differ, that no two individuals react alike to reward and discipline or to uniform motivation and encouragement. For this reason, considerable latitude shall be given to the Personnel Officer and Department Heads in the execution of duties and responsibilities relating to employee morale and discipline.

#### 1.02 Definition of Terms

1. Advancement: A salary increase within the limits of the compensation range established for a Class.
2. Allocation: The assignment of a single position to its proper class in accordance with the duties performed, and the authority and responsibilities exercised.
3. Anniversary Date: The date the Employee successfully completes the required Probationary Period for either original or promotional Appointment. In the case of demotion, the anniversary date will change with the effective date of demotion. In case of transfer, the anniversary date will not change.
4. Applicant: A person who has completed an application for a position that is currently being recruited for.
5. Appointing Authority: The Employees who have final authority to make an Appointment. Appointing authorities include Department Heads and the Personnel Officer.
6. Appointment: The hiring of an eligible on a probationary basis. (See Section 7.04)
7. Candidate: An applicant in the process of examination and testing.
8. City: The City of Milpitas.
9. City Council: The duly elected governing body of the City.
10. City Manager: The individual appointed by the City Council to manage all City operations, departments, policies and rules.
11. Class: All positions sufficiently similar in duties, authority, responsibility and working conditions to permit grouping under a common title and the application with equity of common standards of selection, transfer, promotion and salary.

12. Classification or Reclassification: The allocation of position to job classes and pay ranges which reflect the value of the duties performed and the responsibilities exercised.
13. Compensation: Any salary, fee, or allowance paid to an employee for performing the duties and exercising the responsibilities of a position.
14. Compensation Range: A fixed range that sets the minimum and maximum pay for each position in the City.
15. Day: Any day in which the City Hall is open for business.
16. Demotion: The movement of a non-probationary employee from one class to another class having a lower maximum rate of pay. (See Section 12.06)
17. Department: A division of City government as defined by City Ordinance.
18. Department Head: Those positions reporting to the City Manager and responsible for managing a City Department.
19. Eligible: A person whose name is on an Employment List.
20. Employee: A Permanent or Probationary Employee of the City.
21. Employment List: A list of names of persons who have taken and passed an examination for a class, listed alphabetically or in order of the score or rating received.
22. Entry Level: The initial position in a class series usually denoted by I/II, Junior or similar designations.
23. Examination: The process utilized to evaluate the relative talents and skills of an applicant for prospective employment or promotion with the City in conformance with Section 5.00.
24. Exempt: Those positions in the municipal service as specified in the personnel ordinance to which the provisions of the personnel ordinance and rules pertaining to selection and overtime compensation do not apply. Exempt Employees include Council appointees, Department Heads, Division Heads, and positions with significant responsibility for formulating and implementing City policies and programs.
25. Flexible Staffing: Positions designated by the Personnel Officer for promotion from the entry level to the journey level according to Section 2.07.
26. Memorandum of Understanding: A binding agreement on wages, hours, benefits and other conditions of employment for designated classes that has been adopted by the City Council.
27. Non-represented Employees: Classes not part of a recognized appropriate bargaining unit per Section 15.08.
28. Permanent Employee: An individual who has successfully completed an initial probationary period.
29. Personnel Officer: The designee of the City Manager who is responsible for administration of all Personnel Rules not specifically reserved to the City Council or City Manager.

30. Personnel Ordinance: Municipal Code Section VI-101 which creates a personnel system for the City.
31. Position: A specific office or employment, whether occupied or vacant calling for the performance of certain duties and the carrying of certain responsibilities by one individual, either on a full-time or part-time basis.
32. Probationary Employee: An individual serving in a Probationary Period according to Section 8.00. This includes those serving an original Probationary Period upon initial employment with the City and those serving a Probationary Period as a result of a Promotional Appointment.
33. Probationary Period: A working test period during which an employee is required to demonstrate fitness for the position to which appointed by actual performance of the duties of the position (see Section 8.00).
34. Promotion: The movement of an employee from one class to another class with a higher maximum rate of pay per Section 12.03.
35. Promotional Examination: An examination for a particular class limited to employees who have completed an initial probationary period.
36. Promotional List: An employment list resulting from a promotional examination.
37. Reduction: A salary decrease within the limits of the pay range established for a class.
38. Rejection: The termination of an Employee's Probationary Period, resulting in termination from City employment or return to the last permanent position held per Section 8.04.
39. Rules: The Personnel Rules and Regulations of the City of Milpitas as contained in this document (Resolution 792, as amended).
40. Seasonal Employee: Temporary Employees appointed to positions of limited duration and so designated by the City Council. Seasonal Employees are in addition to permanent positions.
41. Suspension: The temporary separation from the City of an employee without pay, for disciplinary purposes (see Section 12.07).
42. Termination: The ending of any employment relationship between a Permanent, Probationary, Temporary or Seasonal Employee and the City.
43. Temporary Appointment: An appointment of limited duration in the absence of available eligibles (see Section 7.05).
44. Transfer: A change of an employee from one position to another position in the same class or another class having essentially the same maximum salary limits, involving the performance of similar duties and requiring substantially the same basic qualifications (see Section 12.02).

1.03 Fair Employment

The City of Milpitas will not discriminate in employment practice in regard to race, color, ancestry, national origin, religious creed, sex, sexual preference, age, medical condition (cured or rehabilitated cancer), physical handicap, marital status, or political opinion or affiliation or union activity, unless such factor shall be a bona fide occupational qualification for the position, or such action is required to comply with federal or state law.

1.04 Violation of Rules

Violation of the provisions of these rules may be grounds for disciplinary action up to and including termination.

1.05 Amendment

Recommendations for amendment and revisions of these rules may be made by the Personnel Officer. All amendments will require the approval of the City Council. Prior to consideration, any amendment or revisions shall be publicly posted for at least five (5) consecutive days together with notice of the time, place and date of the City Council meeting. No amendment to these Rules affecting working conditions may be made without advance notice to City employee organizations per Rules 15.06. At the time of consideration, any interested person may appear and be heard. Amendments and revisions shall become effective upon adoption by the City Council.

1.06 Severability

If any section, subsection, sentence, clause or phrase of these rules is for any reason held illegal, invalid or unconstitutional by decisions of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The City Council hereby declares that it would have passed this chapter and each section, subsection, sentence, clause, and phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared illegal, invalid or unconstitutional.

1.07 Other Employment

1.07.1 Employees may engage in other employment or business activity that is not inconsistent, incompatible or in conflict with the Employee's duties and which does not involve time demands that would reduce the Employee's efficiency.

1.07.2 An employee's outside employment, activity or enterprise may be prohibited if it:

- (a) Involves the use for private gain or advantage of City time, facilities, equipment and supplies; or the badge, uniform, prestige or influence of the City office or employment.
- (b) Involves receipt or acceptance by the Employee of any money or other consideration from anyone other than the City for the performance of an act which the Employee, if not performing such act, would be required or expected to render in the regular course of hours of City employment or as a part of regular duties.
- (c) Involves the performance of an act which may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement of any other Employee of the City.
- (d) Involves such time demands as would reduce the Employee's efficiency.



1.07.3 Employees must notify the Personnel Officer of other employment or business activities in writing prior to engaging in such activities. Unless such notice is impossible or impractical; in such cases, notice shall be submitted on the Employee's next working day. Disapproval of other employment may be appealed to the City Manager whose decision shall be final. Other employment shall be kept in the Employee's personnel file and maintained according to Section 11.00.

1.08 Notification of Address

Employees shall notify the Personnel Officer of any change of address and telephone number within ten (10) days or as soon as reasonably possible.

CLASSIFICATION 2.00

2.01 The Preparation of Plan

The Personnel Officer shall ascertain and record the duties and responsibilities of all positions in the City and, after consultation with Appointing Authorities and Department Heads affected, shall recommend a Classification Plan. The Classification Plan shall consist of classes of positions defined by Class specifications, including title, a description of typical duties and responsibilities and a statement of minimum training/experience and other qualifications to be required of Applicants for positions in each Class. The Classification Plan shall be so developed and maintained that all positions substantially similar with respect to duties, responsibilities, authority and character of work are included within the same Class, and that the same schedules of compensation may be made to apply with equity under like working conditions to all Positions in the same Class.

2.02 Adoption of Plan

Before the Classification Plan shall become effective, it shall be approved by the City Council. Upon adoption, the provisions of the Classification Plan shall be observed in the administration of all personnel actions.

2.03 Reclassification

Positions, the duties of which have changed materially so as to necessitate Reclassification, shall be allocated to a more appropriate Class, whether new or already existing. When an incumbent has been performing substantially the duties of the Classification to which the Position is being Reclassified for a period of six (6) months or longer, the Personnel Officer shall waive Examination requirements and approve the incumbent for Appointment to the Position provided that the Employee meets the minimum qualifications for a new or existing Class. Reclassification shall not be used for the purpose of avoiding restrictions surrounding demotions and promotions.

2.04 Amending the Plan

The City Manager may approve new Classes, and revise or abolish existing Classes as recommended by the Personnel Officer consistent with Section 2.01 if these changes do not involve a change in a Compensation Range. Any of these actions that result in a change in a Compensation Range shall be approved by the City Council.

2.05 Working Job Titles

As approved by the Department Head and Personnel Officer job-related titles different from the Classification Plan can be utilized that accurately reflect responsibilities and the chain of command.

## 2.06 Position Specification

Position Specifications for City Classes are updated and submitted by the Personnel Officer as necessary for approval by the City Manager.

## 2.07 Flexible Staffing

Classification series may be flexibly staffed where the same examination process is used at each level in the series. The Personnel Officer shall designate flexibly-staffed classification series in the Classification Plan. Flexible staffing typically includes entry level and journey level classifications. There are no flexible staffing positions in represented public safety classes in the Fire Department.

2.07.1 An Employee may be promoted from entry level to journey level in a flexibly-staffed series provided that the Employee meets requirements for the journey level, has performed at least satisfactorily at the entry level and is recommended for promotion by the Department Head.

2.07.2 There are no restrictions on when an Employee can be promoted in a flexibly-staffed class series provided that the Employee meets requirements for the journey level, has performed at least satisfactorily at the entry level and is recommended for promotion by the Department Head.

2.07.3 A Department Head shall submit a performance appraisal and written recommendation for promotion to the Personnel Office. The Personnel Officer will review the Employee's file to ensure all necessary qualifications are met and will process the promotion.

2.07.4 A Department Head shall submit a performance appraisal and written recommendation for promotion to the Personnel Office. The Personnel Officer will review the Employee's file to ensure all necessary qualifications are met and will process the promotion.

2.07.5 Failure to perform successfully at the journey level:

If the employee had already completed a probation with the City, the Employee will demote to the entry-level in that flexibly-staffed Class series in a permanent status. If the Employee had not completed a previous probation and is rejected on probation, (i.e., hired at journey-level or was promoted while still on probation at entry-level), the employee will either be terminated from City employment or demoted to entry-level in a new probationary status at the discretion of the Department Head.

## COMPENSATION 3.00

### 3.01 Preparation of Plan

The compensation plan shall show the compensation range of all City Classes, and shall be updated periodically by the Personnel Officer.

Ranges shall be based on compensation for similar work in other public agencies, desirable internal pay relationships, the City's financial conditions and policies and applicable Memorandums of Understanding.

3.02 Adoption of Plan

The Personnel Officer shall submit the proposed compensation plan to the City Council for adoption. The City Manager shall set all Compensation Ranges for all Non-Represented Employees.

3.03 Compensation Range

Employees shall be paid a salary or wage within the range established for that Class. The minimum rate for the class generally shall apply to Employees upon original appointment. However, when circumstances warrant, Appointment may be made at a higher level upon approval of the City Manager.

3.04 Advancement

All Employees shall be eligible for salary advancement on their anniversary date, provided that they have not reached the maximum of their compensation range. Advancement shall be based on satisfactory performance documented in a performance report completed per Section 11.06.

Advancement for Represented Employees shall be one step (5%). Advancement for Employees in Classes without designated salary steps shall be an amount recommended by the Department Head and approved by the City Manager.

3.05 Y-Rate

Whenever an Employee would sustain an actual decrease in salary as a result of downward Reclassification or reorganization within an existing Department unit, without fault or inability on the part of the Employee, the City Council shall adopt a "Y-Rate" to apply only to the Employee, so affected. A "Y" rate is defined as a monthly salary rate for an individual employee, which is greater than the established range for the Employee's Class. An Employee who accepts a reassignment to a lower paid position in-lieu of layoff, shall not be "Y" rated.

3.06 Basis of Compensation

The following is the basis of compensation for Employees on a five-step range.

3.06.1 Step "A" is the minimum rate for a position and shall be the hiring rate for said position. Initial appointment at a rate higher than step "A" may be made in the case of an unusually well qualified person or where other special conditions warrant, but only with the approval of the City Manager.

3.06.2 Step "B" represents an incentive adjustment. An employee shall be eligible for step "B" only after completion of one year from the date of employment on recommendation from the Department Head and approval of the City Manager.

3.06.3 Step "C" represents the rate at which a qualified and experienced employee should be paid after a reasonable period of service. An employee shall become eligible for step "C" only after he/she has proven himself/herself satisfactory in the given classification for a period of at least one year after completion of his/her probationary period, upon recommendation of the Department Head and approval of the City Manager.

3.06.4 Step "D" represents an incentive adjustment for satisfactory performance and increased effectiveness. An employee shall become eligible for step "D" after completion of one year at step "C," upon recommendation of the Department Head and approval of the City Manager.

- 3.06.5 Step "E" represents an incentive adjustment for increasingly satisfactory performance. An employee shall be eligible for step "E" after completion of one year at step "D," upon recommendation of the Department Head and approval of the City Manager.
- 3.06.6 A merit increase prior to the normal anniversary date may be granted to a Permanent Employee for outstanding performance or unusual employment conditions at any time, on the recommendation of the Department Head and the approval of the Personnel Officer or City Manager.

3.07 Salary Following Promotion

Employees receiving a promotion shall receive at least a 5% increase in salary unless limited by the maximum salary range.

RECRUITMENT 4.00

4.01 Announcement

All Examinations for Classes shall be published by posting announcements in the City Hall, on official bulletin boards, and in such other places as may be necessary. The announcements shall specify the title and compensation Range of the Class for which the Examination is announced; the nature of the work to be performed; minimum qualifications for the performance of the work of the Class; the dates, times, place and manner of making applications; and other information consistent with the class specification as determined by the Personnel Officer.

4.02 Application Form

Applications shall be made on the standard form provided by the Personnel Officer. Such forms shall require information covering training, experience and other pertinent information. All applications must be signed by the Applicant.

4.03 Disqualification

Any application which indicates on its face that the Applicant does not possess the minimum qualifications required for the Position shall be rejected.

Applications also shall be rejected if the Applicant is physically unfit for the performance of duties of the Position to which they seek appointment, is addicted to the habitual excessive use of drugs or intoxicating liquor; has been convicted of a crime involving moral turpitude; has made any false statement of any material fact, or practiced, or attempted to practice, any deception or fraud in an application.

In addition, Applicants must be native or naturalized citizens of the United States, or lawfully immigrated aliens domiciled or residing in this country: Citizenship may be required in cases demonstrating a compelling state interest (i.e. police).

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

#### 4.04 Promotional Recruitments

Promotional Recruitments may be conducted upon the approval of the Personnel Officer. Promotional recruitments are limited to Employees who have completed an initial Probationary Period.

#### 4.05 Open Recruitments

Open Recruitments may be conducted if in the judgement of the Personnel Officer there are an insufficient number of qualified Applicants in current City employment for a promotional Position. Any person may submit an application for an Open Recruitment.

### EXAMINATIONS 5.00

#### 5.01 General

The conduct of Examinations is the responsibility of the Personnel Officer. The City Manager may contract with any competent agency or individual for the preparation and administration of Examinations.

The selection techniques used in the Examination process shall be impartial, of a practical nature and which according to professional standards shall relate to those subjects which fairly measure the relative capacities of the persons examined to execute the duties and responsibilities of the Class to which they seek to be appointed. The City recognizes the applicability of the Uniform Guidelines on Employee Selection (EEOC 1978) in the development of Examinations.

#### 5.02 Types

Examinations may consist of, but are not limited to, such techniques as written tests, personal interviews, performance tests, assessment centers, review of performance evaluations, evaluation of daily work performance, evaluation of work samples, or physical examinations or agility tests or any combination thereof.

#### 5.03 Scoring and Rating

Scoring, rating and the establishment of the relative weights of Examination components for a Position shall be developed and announced prior to the administration of each Examination.

Scoring and rating systems may be numerical or non-numerical as determined by the Personnel Officer.

If an examination process is pass/fail, candidates shall be ranked in alphabetical order.

#### 5.04 Notification of Results

Each Candidate in an Examination shall be given written notice of the results and if successful, of the final rating and rank on the Employment List within thirty (30) days.

5.05 Review of Examination Papers

Candidates shall have the right to inspect their Examination papers within twenty (20) days after the notices of Examination results are mailed. Any error in computation, if called to the attention of the Personnel Officer within this period, shall be corrected. Such corrections shall not, however, invalidate appointments previously made. The Personnel Officer may, however, refuse candidates the review privilege for standardized tests. Any protests to the Examination process by the Applicant must be made during the review period. The ruling of the Personnel Officer on a protest shall be final.

EMPLOYMENT LISTS 6.00

6.01 Establishment

As soon as possible after the completion of an Examination, an Employment List consisting of the names of all Candidates who qualified in the Examination, arranged in the order of final scores, from the highest to the lowest qualifying score, or in the categories determined by the Personnel Officer per Section 5.04, shall be prepared and kept available.

6.02 Duration

Employment Lists shall become effective when the Personnel Officer signs the list indicating that it was legally prepared and represents the relative ratings of the persons whose names appear on it. Employment Lists shall remain in effect for one year, unless sooner exhausted and may be extended, prior to their expiration dates, upon approval of the Personnel Officer, but in no event shall an Employment List remain in effect for more than two (2) years.

With the approval of the Personnel Officer, a new Employment List can be established for a Class even if a current list has not expired. In that event, the lists may be merged or maintained separately at the discretion of the Personnel Officer.

6.03 Re-Employment Lists

6.03.1 Within one year of Terminating employment with the City, a former Permanent Employee can request to be placed on a Re-Employment List.

6.03.2 A former Permanent Employee may be on a Re-Employment List up to two (2) years from the date of termination. The names of Probationary and Permanent Employees who have been laid off may be placed on appropriate Re-Employment Lists with the approval of the Department Head and the Personnel Officer. Possible placement on Re-Employment Lists shall be in accordance with Ordinance No. 111.5 and Section 12.11.

6.04 Removal of Names from List

The name of any person appearing on an Employment, Re-Employment or Promotional List shall be removed if the Eligible so requests in writing, or fails to respond to a notice mailed to the last known address.

Names may be removed from Open Employment Lists if the Eligible has been interviewed and not hired upon recommendation of the Department Head and approval of the Personnel Officer. Names of Employees on Promotional Lists who resign shall automatically be removed from such lists. Upon appointment, an individual's name shall be removed from the list hired from.

## FILLING OF VACANCIES 7.00

### 7.01 Type of Appointment

Vacancies may be filled by re-employment, transfer, demotion, temporary appointment, or from Eligibles from an appropriate Promotional List or Open Employment List, if available.

### 7.02 Order of Lists

Existing Employment Lists shall be used in the following order: Re-Employment List, Promotional List, Open Competitive List. Whenever there are fewer than three (3) names on a Promotional List, the Appointing Authority may make an Appointment from among such eligibles or may request that a new list be established. When so requested and with the approval of the Personnel Officer, a new Examination shall be held and a new Promotional List established.

### 7.03 Consideration of Eligibles

If an Appointment is to be made from a Promotional List or Open Employment List, Eligibles shall be considered in order of score or rating received. The Personnel Officer may authorize selective certification based on the needs of the City.

### 7.04 Appointment

After a background investigation and interview, the Appointing Authority may Appoint an Eligible to a vacancy upon approval of the Personnel Officer that the Appointment is in compliance with these Rules. Appointment from an Open List that is at a higher compensation range to a position at a lower compensation range can be made with the Applicant's agreement and the Department Head's authorization as long as the Applicant meets the Position's qualifications.

### 7.05 Temporary Appointment

7.05.1 In the absence of appropriate Employment Lists, a Temporary Appointment may be made by the Appointing Authority of a person meeting the minimum training and experience qualifications for the Position. An Employment List shall be established within six (6) months for any Permanent position filled by Temporary Appointment. Temporary Appointments may also be made to replace Employees absent due to leaves of absence, vacations or other temporary absences regardless of the existence of an Employment List.

7.05.2 Temporary Employees shall be paid at an hourly rate based on the Class of the Position filled, and shall be eligible for no other employee benefits except those provided for by State or Federal law. Temporary Employees can be dismissed at any time without cause.

7.05.3 Temporary Appointments are limited to 1000 hours of employment per fiscal year, but may be extended with the approval of the Personnel Officer. The City Council may make a Permanent Appointment of any individual that had held a Temporary Appointment or longer than six (6) consecutive months if no Employment List has been established upon the recommendation of the Department Head and the Personnel Officer.

7.06 Emergency Appointments

To meet the immediate requirements of an emergency condition, such as extraordinary fire, flood or earthquake, which threatens public life or property, any legally competent officer or employee may temporarily employ such persons as may be needed for the duration of the emergency without regard to the Personnel Ordinance or Rules affecting Appointments. As soon as possible, such Appointments shall be reported to the City Manager.

7:07 Nepotism

No person shall serve in a position subject to supervision, evaluation, discipline, or decisions regarding compensation by a relative. No person shall serve in a department where the Department Head is a relative or in a division where the division head is a relative.

No person may be appointed who at the time of appointment is a relative of the City Manager, Mayor or of any City Council member.

For the purpose of this section, "relative" shall mean mother, father, spouse, brother, sister, son, daughter, niece, nephew, aunt, uncle, stepfather, stepmother, stepbrother, stepsister, stepson, stepdaughter, whether by marriage, blood or legal adoption as defined in Ordinance 101-25.1.

PROBATIONARY PERIOD 8.00

8.01 Duration

8.01.1 All original and promotional Appointments shall be tentative and subject to a Probationary Period of not less than twelve (12) months. Initial Patrol and Police Officer probationary periods shall be eighteen months service. Personnel Officer shall have the authority to extend Probationary Periods for absences greater than four (4) weeks, except for approved vacations.

8.01.2 Employees having satisfactorily served in a temporary capacity for three (3) months or longer, and selected for Permanent Appointment to the same Class may receive credit towards completion of the Probationary Period for the duration of the temporary assignment.

8.02 Permanent Status

Probationary Employees acquire Permanent status in their Classification on the first working day after conclusion of their Probationary Period if not sooner rejected.

8.03 Objective

The Probationary Period shall be a part of the testing process and shall be utilized for closely observing and evaluating the Probationary Employee's work and for securing the most effective adjustment of a Probationary Employee in a Position.

8.04 Rejection of Probationer

8.04.1 During the Probationary Period, a Probationary Employee may be rejected at any time by the Appointing Authority without the right of appeal or hearing. Notification of rejection in writing shall be served on the Probationary Employee and a copy filed with the City Manager and employee organization.



8.04.2 A Probationer rejected for misconduct which stigmatizes the Probationer's reputation, seriously impairs his or her chances for future employment, or seriously the Probationer's standing in the community shall be notified of the right to submit a request in writing to the Personnel Officer for an opportunity to be heard for the purpose of establishing a formal record of the circumstances surrounding Termination.

#### 8.05 Rejection Following Promotion

8.05.1 Any Permanent Employee rejected during or at the conclusion of the Probationary Period following a promotional Appointment, shall be reinstated to the Position from which promoted unless charges are filed and the Employee is discharged in the manner provided in these Rules.

8.05.2 An Employee rejected following Promotion may request a review by the City Manager within ten (10) days. The decision of the City Manager shall be final.

### ATTENDANCE AND LEAVE 9.00

#### 9.0.1 Attendance

Employees shall be in attendance at their work in accordance with the Rules regarding hours of work, holidays and leaves. All Department Heads shall keep regular attendance records of Employees which shall be reported as determined by the City Manager.

#### 9.02 Hours of Work

All offices of the City, except those for which special regulations are required, shall be kept open on all days of the year exclusive of Saturdays, Sundays and holidays, from 8:00 a.m. until 5:00 p.m. Full-time Employees shall be required to work a minimum of 40 hours per week or 37.5 hours per week. Any changes in work hours (including increases, decreases, starting/ending times, etc.) shall require the approval of the Department Head.

#### 9.03 Overtime

Where, in the course of performing their duties, it is necessary for a non-Exempt Employee to work more than a standard work week, the Employee shall be compensated as follows:

9.03.1 A minimum of two (2) hours pay or its equivalent in compensatory time off to be taken at the convenience of the City shall be guaranteed for any employee, at the rate of time and one-half, who after leaving the place of duty is required without prior notice to return.

9.03.2 All other overtime, scheduled and unscheduled, shall be compensated at the rate of time and one-half pay or the equivalent in compensatory time off taken at the convenience of the City.

9.03.3 Those Employees who hold highly responsible Positions as division heads or chief deputy Department Heads would be eligible for paid overtime only on holidays or in the case of emergency call back time as determined by their Department Head and approved by the City Manager.

9.03.4 Overtime occurring on a paid City holiday shall result in pay, exceed the amount allowed by state or federal law or any applicable Memorandum of Understanding, whichever is lower.

9.04 Worker's Compensation Leave

- 9.04.1 Employees unable to work because of a work-related illness or injury are eligible for worker's compensation leave, provided that the Employee has notified superiors of the illness or injury and the claim has not been denied by the Personnel Officer or worker's compensation insurance administrator authorized by the City.
- 9.04.2 Public Safety Employees shall be compensated according to California State Labor Code Section 4850.
- 9.04.3 For all other Employees, worker's compensation leave shall be two (2) work weeks leave with pay or the equivalent of 1/2 of the Employee's sick leave at the time of the injury, whichever is greater, subject to a medical verification of a work-related injury. This leave shall cover all time off from work related to the injury, including doctor's appointments and therapy treatments, provided that said hours do not exceed available worker's compensation leave.

In addition, any Employee incurring such an injury or disability shall be entitled to compensation to the extent provided in the State Worker's Compensation Insurance Act. An Employee who has exhausted eligible worker's compensation leave shall receive full salary to the extent the Employee's accrued sick leave or vacation time may be integrated. Charges to the Employee's leave accounts will be based on the ratio with Worker's Compensation Insurance temporary disability payments received by the City to the Employee's salary for the same time period, provided that such full salary payments are subject to the following conditions:

- (a) Compensation insurance payments received by the Employee, except for payments received for permanent total or partial disability, shall be deposited in the City Treasury for the period subject Employee continues to receive full salary from the City, and
  - (b) Upon expiration of available worker's compensation leave, all time lost (including doctors' appointments and therapy treatments less than one full workday) shall be charged to earned vacation and sick leave, if available.
  - (c) Upon expiration of available earned vacation and sick leave, payment of salary by the City shall be discontinued and compensation insurance payments shall be endorsed to the subject Employee.
- 9.04.4 An Employee returning from a work-related injury shall be reinstated to the position occupied at the time the injury occurred subject to written release by the attending physician.
- 9.04.5 Injured Employees designated permanent and stationary or accepted into a qualified rehabilitation program and unable to return to their prior occupations may be involuntarily terminated or retired.

9.05. Holidays

- 9.05.1 The following shall be paid holidays for Employees:
- (a) New Year's Day (January 1)
  - (b) Martin Luther King Day (Third Monday in January)
  - (c) Lincoln's Birthday (February 12)
  - (d) President's Day (Third Monday in February)
  - (e) The afternoon of Good Friday

- (f) Memorial Day (Last Monday in May)
- (g) Independence Day (July 4)
- (h) Labor Day (First Monday in September)
- (i) Admissions Day (September 9) or floating holiday
- (j) Veteran's Day (November 11)
- (k) Thanksgiving Day
- (l) The day after Thanksgiving
- (m) Christmas Eve
- (n) Christmas Day (December 25)
- (o) The Monday following any of the above that falls on a Sunday
- (p) The Friday before any of the above that falls on a Saturday

9.05.2 Where one of these holidays falls on a working day, all Employees shall be granted the day off with pay and City offices shall be closed except for such municipal services that must be maintained on an around the clock basis seven days a week. Personnel employed on a permanent basis for less than full-time shall be entitled to credit for paid holidays on a pro rata basis based on a full work week.

9.05.3 Employees, other than Exempt, required to perform their regular duties on a holiday shall be granted pay, or compensatory time off, at the rate if time and one-half in addition to base salary, except that Fire Department shift personnel, police officers, police dispatchers and patrol sergeants shall be paid a supplemental allowance as determined in Memoranda of Understanding in lieu of premium pay for holidays worked.

9.05.4 For the purposes of this section, a holiday shall be deemed to begin and end at 12 midnight.

9.05.5 A floating holiday is credited to an Employee, if eligible, on January 1 of each calendar year and must be used by December 31.

## 9.06 Annual Vacation Leave

Annual vacation leave is essential to employee welfare and allows employees relaxation and rest from their duties.

9.06.1 All eligible Employees shall earn vacation credits at a rate equivalent to eleven-twelfths (11/12) of a work day per month for each full month of service.

9.06.2 After completion of the fourth year of service, vacation shall be increased to the rate' of one and one-third (1-1/3) work days per month for each full month of service.

9.06.3 After completion of the ninth year of service, vacation credits shall be increased to the rate of one and three-quarters (1-3/4) work days per month for each full month of service.

9.06.4 All eligible Employees who work less than full time shall earn vacation credits on a pro-rated basis based on a full workweek.

9.06.5 Vacation credits for Fire Department shift personnel shall be accumulated in proportion to other employees so that they receive an equivalent amount of vacation time off when their shift schedule is taken into account.

9.06.6 Vacation leave may not be used until the completion of six (6) months of employment.

- 9.06.7 The times during a calendar year at which an Employee may take vacation shall be determined by the Department Head with due regard for the wishes of the employee and particular regard for the needs of the municipal service. If the requirements of the City are such that an Employee must defer part or all of their annual vacation in a particular calendar year, the Appointing Authority may permit the employee to take such deferred vacation during the following calendar year.
- 9.06.8 No Employee may accumulate more than 42 working days of vacation leave or as provided in an applicable Memorandum of Understanding, whichever is lower, without the approval of the Personnel Officer. No Employee shall be allowed to be on vacation for a period of over thirty (30) consecutive working days without the approval of the City Manager. Employees having accrued vacation in excess of these maximums shall have until December 31 of each year to take vacations or receive pay in lieu of vacation.
- 9.06.9 In the event one or more City holidays fall within an annual vacation leave, such holidays shall not be charged as vacation leave, and the vacation leave shall be extended accordingly.
- 9.06.10 Upon separation, an Employee shall be compensated for accrued vacation leave.
- 9.07 Sick Leave
- 9.07.1 All Employees shall be granted paid sick leave credits beginning with date of original employment at the rate of one (1) working day for each calendar month of municipal service. Employees become eligible to take accrued sick leave upon completion of one (1) full month of continuous service. Medical or dental appointments may be charged against sick leave but will be limited to a maximum of four (4) hours per appointment subject to the discretion of the Department Head. The Personnel Officer shall direct and enforce such administrative control as may be necessary to prevent abuse of the sick leave privilege. Abuse of sick leave shall be grounds for disciplinary action up to and including dismissal.
- 9.07.2 Personnel employed on a permanent basis for less than full time shall be entitled to sick leave after one month's service on a pro-rated basis based on a full workweek.
- 9.07.3 Fire Department shift personnel shall accrue sick leave at the rate of one 24-hour shift per month. In the event any single illness (or series of illnesses without return to duty for an entire shift) extends past three consecutive assigned shifts, the involved employee shall be charged accrued sick leave at the rate of one shift for each of the first three 24-hour shifts and two shifts for each succeeding 24-hour shift for which sick leave is requested.
- 9.07.4 Sick leave is a privilege, which shall be granted only by reason of necessity in actual sickness or injury of the Employee, or for illness in the Employee's Immediate Family per Section 9.08. In the event of illness to other relatives, sick leave may be granted by the Personnel Officer.
- 9.07.5 Sick leave shall be granted only if the Employee notifies the immediate supervisor or Department Head at the beginning of the shift. All absences shall be reported to the Personnel Officer in such a manner as prescribed by the Personnel Officer.

9.07.6 The Department Head shall be responsible for determining that only bona fide sick leave is taken, consistent with standards established by the Personnel Officer. At the discretion of the Department Head or Personnel Officer, a doctor's certificate, a written statement from the Employee, and/or written statement from the Employee's Department Head, shall be required to verify illness. The Department Head shall also have the authority to require all of these documents at any time and to arrange for an Employee to be examined by the City's doctor.

9.08 Family Illness

9.08.1 As defined for the purpose of this section, family medical purposes shall be construed to mean illness, accident, medical appointments, or other related occurrences.

9.08.2 Immediate family is defined to include: Mother, father, spouse, brother, sister, son, daughter, whether the immediate family member is of the Employee's or Employee's spouse's family, including step and adoptive relatives.

9.08.3 Each Employee will be allowed to use a maximum four (4) working days of sick leave per year for this purpose unless specified otherwise by a Memorandum of Understanding. Additional leave may be granted in unusual circumstances by the City Manager.

9.09 Compassionate Leave

Employees are granted leave of not to exceed the equivalent of one work week (56 hours for Fire Department shift personnel) when death occurs to the Employee's spouse, mother, stepmother, mother-in-law, father, stepfather, father-in-law, sister, stepsister, sister-in-law, brother, stepbrother, brother-in-law, son, stepson, son-in-law, daughter, stepdaughter, daughter-in-law, grandmother, spouse's grandmother, grandfather, spouse's grandfather or grandchildren. Additional leave be granted beyond the one work week period and may be extended beyond the Employee's immediate family with the approval of the City Manager. Compassionate leave is not chargeable to any paid leave balance.

9.10 Military Leave

Military leave shall be granted in accordance with the provisions of State law. All Employees entitled to military leave shall give the Appointing Authority an opportunity within the limits of military regulations to determine when such leave shall be taken.

9.11 Jury Leave

Full-time, Probationary or Permanent Employees, when called to serve on a jury shall be given leave with pay to do so subject to these conditions:

- (a) The Employee shall notify the Department Head immediately upon receipt of the notice to serve; and
- (b) Any payment other than mileage received by the Employee for serving on the jury shall be remitted to the City.

9.12 Administrative Leave

The City Manager may authorize leave, normally limited to those positions that do not receive overtime, in recognition of uncompensated extra hours worked on regular City business. The approvals, recording, and mechanics to be utilized will be at the City Manager's discretion.

9.13 Management Leave

Permanent Employees designated by the City Manager may be granted up to an additional days compensated leave annually. If an Employee does not take the Management Leave, compensation for the leave at the end of the fiscal year shall be given in a manner prescribed by the Personnel Officer. Employees terminated or employed during a fiscal year shall receive a pro-rated amount of the Management Leave they were entitled to for that fiscal year.

9.14 Administrative Suspension

With the approval of the Personnel Officer, a Department Head, at their discretion, may give compensated leave to an Employee undergoing a disciplinary action, pending any hearings or meetings related to the disciplinary action.

9.15 Leave of Absence

9.15.1 The Personnel Officer may grant a Permanent Employee leave of absence without pay not to exceed one year. Leave shall be considered upon written request of the Employee.

9.15.2 In evaluating Employee requests, the Personnel Officer shall consider the recommendation of the Department Head, departmental workload, the best interests of the City, the Employee's duration of employment, the Employee's performance record, and the reason for the leave.

9.15.3 Any Permanent Employee with a non-work-related injury or medical condition who has exhausted all sick leave may request a leave of absence with a doctor's certificate. At the City's discretion and expense, the City at any time may require a medical exam at a facility selected by the City.

9.15.4 An Employee who is on leave without pay status shall not earn any employment benefits (including, but not limited to, such benefits as vacation leave, medical benefits, sick leave, retirement benefits, credit for time employed or seniority entitlements of any kind) for the period of such status. It is the intent of this subsection that one on leave without pay status is deemed unemployed for the period of such status in terms of earning benefits.

9.16 Employee Assistance Leave

Where in the course of job duties an Employee is placed under serious emotional strain, such as cases of death or serious injury of a human being, the Department Head, with the approval of the Personnel Officer, shall have the authority to place an employee on Employee Assistance Leave without loss of pay and for a period not to exceed thirty (30) calendar days.

9.17 Failure to Return After Leave

Failure of an Employee without notice and approval by the Department Head to report to duty at the expiration of any leave may be cause for disciplinary action up to and including dismissal.

## TRAINING 10.00

### 10.01 Intent

It is the intent of the City to recognize the future growth of the City and its Employees and to adopt a training policy which will encourage Employees to avail themselves of job-related educational opportunities that will advance their knowledge and interests in the direction of their career with the, City and by so doing to improve the municipal service. This is with the realization that such a policy must be within the financial ability of the City, that the work for which an Employee was appointed must be given first preference and that the City does not intend to expend training funds for the primary purpose of enabling an Employee to secure a position with other agencies or firms or pursue alternative careers.

### 10.02 Responsibility

Responsibility for developing training programs for Employees shall be assumed jointly by the Personnel Officer and the Department Heads. Such training programs may include college or university courses, lectures, demonstrations, assignment of reading matter or such other devices as may be available.

### 10.03 General Provisions

10.03.1 Preparation for classes is to be on the Employee's own time.

10.03.2 Only elected and appointed officials and Permanent Employees shall be eligible for reimbursement of training costs.

10.03.3 To be eligible for reimbursement, an Employee must have received advance written recommendation by his Department Head and approval by the Personnel Officer.

10.03.4 No Employee will be reimbursed for participation in more than six (6) college semester units at any given time.

10.03.5 Reimbursement to an Employee of the registration cost of such course shall be predicated upon the successful completion of the course by said Employee.

10.03.6 Participation in and successful completion of special training courses may be considered in making advancements and promotions. Evidence of such training must be submitted by the Employee for filing in their personnel file.

### 10.04 Types

10.04.1 Department Head and Personnel Officer approval of Employee training requests shall be based on the following determinations of the degree of value to the City. This, in turn, determines the extent to which the City will participate in the cost of training.

10.04.2 Assigned Training: This is training of an immediate, direct and tangible benefit to the performance of specific City responsibilities, such as instruction on new techniques; equipment or procedures, etc. City participation will consist of payment of regular wages for time away from the job (if during working hours), full reimbursement of tuition or registration costs, reimbursement for the cost of books and manuals desired by the City and which become the property of the City, transportation costs and payment of overtime or compensatory time off if actual class time not including homework nor transportation time if after working hours.

- 10.04.3 Recommended Training: Training offered by the City or other agencies or institutions which is generally desirable in order to enable an Employee to improve job-related performance, such as general course work clearly applicable and pertinent to job duties. This training is not assigned but follows the same conditions end procedure as 10.04(2).
- 10.04.4 Mutual Benefit Training: Training of generally equal benefit to the City and the Employee, such as general course work (which would be toward a degree) related to the Employee's present position or possible promotion within the City. City participation to consist of reimbursement for tuition, registration, costs, for any course(s) approved by the Department Head to a maximum annual cost as determined by the City Manager or applicable Memorandum of Understanding.
- 10.04.5 Desired Training: Training deemed to be more benefit to the Employee than to the City, such as general course work toward a degree in a field other than the Employee's current career assignment or courses not directly related to the Employee's job. No City participation other than consideration for advancement as contained in 10.03.3.

## REPORTS AND RECORDS 11.00

### 11.01 Change of Status Report

Every appointment, transfer, promotion, demotion, change of salary rate, and any other temporary or permanent change in status of Employees shall be reported in such manner as the Personnel Officer may prescribe.

### 11.02 Employee Personnel Files

11.02.1 Official personnel files shall be maintained by the Personnel Officer for each Employee, and shall document the Employee's work record. Departments may keep working files, however, adverse comments in such files may not be used in a disciplinary action unless the City has notified the Employee of such adverse comments within a reasonable time to permit the Employee the opportunity to respond.

11.02.2 No Employee shall have any adverse comment entered into his or her personnel file without his or her knowledge. An Employee shall have thirty (30) days to file a written response to any adverse comment.

### 11.03 Access to Employee Records

The City Attorney, the City Manager, and the Personnel Officer shall have access to all departmental records, documents, and papers pertaining to Employees, the examination of which will aid in the discharge of their duties. Department Heads shall have access to all records, documents, and papers pertaining to Employees in their department. Access by any other persons shall require the approval of the Personnel Officer or City Attorney. All records shall be maintained in a manner which will preserve their confidentiality.

### 11.04 Employees' Access

At a time which is reasonable to City and Employee, the City shall, upon the request of the Employee, provide the opportunity to the Employee to inspect and obtain a copy of any materials, records, etc., in his/her personnel file. This rule does not apply to records confidential to the Employee, such as records relating to the investigation of a possible criminal offense or pre-employment background information.



## 11.05 Destruction of Records

Roster and payroll records shall be kept permanently. All other records relating to personnel, including correspondence, applications, examinations and reports may be destroyed in accordance with applicable laws or regulations with the consent of the City Attorney.

## 11.06 Performance Reports

- 11.06.1 It is the responsibility of Department Heads to prepare or have prepared for their review periodic evaluations of performance results to measure and record the Employee's performance. Strengths, weaknesses and recommended courses will be documented for improvement. Evaluations may be used to develop career plans for the Employees to encourage them to reach their ultimate potentials.
- 11.06.2 It shall be the duty of the Personnel Officer to administer a rating plan or program as may be approved by the City Manager for the purpose of measuring the job performance of Employees in the City. Such rating plans shall attempt to measure, as objectively as possible, both quantity and quality of work, the manner in which the service is rendered, and the observance of regulations and procedures properly governing the performance of duties.
- 11.06.3 Department Heads shall be required by the Personnel Officer to submit periodic ratings of individual Employees upon forms prescribed. Ratings shall be based upon the independent judgments of one more supervisory personnel, including the immediate supervisor of the Employee whose services are being rated. The factors in the method of scoring shall be the same for all Employees in the same class. The completed performance report shall be presented to the Employee for review and signature, and then forwarded to the Personnel Officer for review and any appropriate action. The Employee's signature on the form is not required and shall only mean that, an actual interview between the Employee and the supervisor has taken place but does not necessarily constitute agreement by the Employee with the content of the form.
- 11.06.4 Reports of performance shall be filed with the Personnel Officer for all Permanent Employees at least once a year. For all Probationary Employees, a performance evaluation report shall be submitted by the end of the sixth and twelfth month.
- 11.06.5 Performance ratings shall be taken into consideration for purposes of permanent status, promotion, transfer, salary advancement, demotion, rejection and discharge.

## PERSONNEL ACTIONS 12.00

### 12.01 Scope

This section shall outline personnel actions that are undertaken on the authority of Department Heads and the Personnel Officer; provided, however, that Section 12.02-12.09 shall not apply to employees who are exempt from the competitive service pursuant to the Municipal Code Section VI-101-3.01.

- (a) With respect to employees who are exempt from the competitive service pursuant to the Milpitas Municipal Code, the City may impose any of the following levels of discipline, as the City deems appropriate under the circumstances presented: oral reprimand; written warning; written reprimand; demotion; unpaid suspension; reassignment or involuntary transfer; termination.

- (b) These rules shall be interpreted to comply with applicable limitations or requirements of the Fair Labor Standards Act (FLSA). With respect to employees who are exempt from the overtime provisions of the FLSA, and must be paid "on a salary basis," no discipline shall be imposed that causes an impermissible weekly salary reduction

## 12.02 Transfer

- 12.02.1 After review with the Personnel Officer, an Employee may be transferred by the Department Head, at any time, from one Position to another Position in a comparable Class.
- 12.02.2 A transfer from the jurisdiction of one Department Head to another Department Head, requires the consent of both Department Heads unless the City Manager orders the transfer.
- 12.02.3 Department Heads may transfer Employees from one assignment to another at any time provided the scope of the reassignment is within the same classification.
- 12.02.4 Employees who are transferred by request between Departments or between different Classifications shall be subject to a new six-month Probationary Period. Employees failing to complete Probation following such a transfer shall be reinstated to the Position from which transferred unless charges are filed and the Employee is discharged in the manner provided in these Rules.
- 12.02.5 An Employee involuntarily transferred and as a result whose base salary is reduced less than the equivalent of three (3) days or one and one-half (1-1/2) 24-hour shifts, wages may within ten (10) days file an appeal in writing to the City Manager. The decision of the City Manager shall be final.

## 12.04 Disciplinary Action

The City may take disciplinary action against any Employee for cause. The City recognizes, the practice of progressive discipline.

## 12.05 Predisciplinary Procedures

- 12.05.1 Prior to taking any disciplinary action, as defined in Section 12.05.6, against a Permanent Employee, the Department Head shall notify the Employee in writing of the following:
  - (a) The proposed disciplinary action;
  - (b) The nature of the charges and/or violation of City ordinances, resolutions, written procedures, municipal code, or departmental regulations and policies;
  - (c) The reasons for the proposed action;
  - (d) The materials upon which the action is based;
  - (e) The opportunity of the Employee to appear before the Department Head and respond to the charges at a specified place and time;
  - (f) The right of the Employee to be represented by an attorney or other representative at any disciplinary conferences or proceedings.

- 12.05.2 If the Department Head determines that they cannot be impartial, or upon timely written request by the Employee, the Personnel Officer or designee may hear the Employee's response.
- 12.05.3 Any Employee notified pursuant to 12.05.1 above who desires an opportunity to respond may do so by appearing at the appointed place and time. Said response may be oral or in writing. The Employee is not entitled to an evidentiary hearing, and the sole purpose of the meeting shall be to hear the response of the Employee to the charges. The Employee shall be entitled to representation, but shall not be entitled to present witnesses, unless the Department Head, or other person designated in Section 12.05.2, determines that the presentation of witnesses is necessary.
- 12.05.4 In the event that the Employee is unable to respond to the charges within the time permitted, and demonstrates the reasonableness of a continuance, the Department Head or Personnel Officer may grant a continuance.
- 12.05.5 As soon as practicable after the Employee has had an opportunity to present a response, the Department Head will notify the Employee in writing of the nature and extent of the discipline, if any, and the time of commencement thereof. Said notification will also advise the Employee of any right of appeal.
- 12.05.6 For the purposes of this Section 12.05, a disciplinary action shall be defined as a suspension of three (3) working days or one and one-half (1-1/2) twenty-four hour or the equivalent reduction in salary, a demotion, or a discharge. Discipline of another character (e.g. written reprimand) shall not require a predisciplinary conference or any of the above predisciplinary procedures.

12.06 Written Reprimand

- 12.06.1 A supervisor may issue a written reprimand to an Employee for disciplinary purposes. A copy of the reprimand shall be placed in the Employee's personnel file.
- 12.06.2 The Personnel Officer shall remove a letter of reprimand from a personnel file upon written request by the Employee provided there have been no additional disciplinary actions during the subsequent twelve (12) months.

12.07 Demotion

The Department Head, after review with the Personnel Officer, may demote or reduce the salary of an Employee whose ability to perform the required duties for the position falls below minimum performance requirements as established by the Department, or for disciplinary purposes. Demotion for one Class to a lower Class shall be made in accordance with the provisions of Section 12.05. No Employee shall be demoted to a position for which the Employee does not possess the minimum qualifications. Upon request of the Employee, with the consent of the Department Head, and the approval of the Personnel Officer, a voluntary demotion may be made to a vacant position.

12.08 Suspension

A Department Head, after review with the Personnel Officer, may discharge a Permanent Employee for cause. Said discharge will be effective on the date set by the Department Head and the Employee shall be paid to said date. Discharges shall be handled in conformance with Section 12.05.

## 12.09 Discharge

A Department Head, after review with the Personnel Officer, may suspend an Employee from a position for disciplinary purposes. Suspension without pay shall not exceed thirty (30) calendar days. Suspensions shall be made in conformance with Section 12.05.

## 12.10 Layoff

Any layoff shall be according to seniority and the procedures defined in Municipal Code Section VI-102 et seq.

12.10.1 The City Manager, after review with the Department Head and the Personnel Officer, may lay off an Employee because of material change in duties, organization, or shortage of work or funds in the department or the City.

12.10.2 The Personnel Officer shall notify the affected Employee(s) in writing at least thirty (30) days in advance of the intended layoff and of their option to accept a voluntary demotion in lieu of layoff.

12.10.3 Employees laid-off or accepting demotions in lieu of layoff shall be placed on a Re-Employment List in inverse order of displacement for an appropriate Class for three (3) years.

## 12.11 Resignation

An Employee wishing to resign in good standing shall file with the Department Head a written resignation at least two calendar weeks before the effective date of termination, stating the reasons for leaving. The resignation shall be forwarded to the Personnel Officer. Failure to comply with this requirement shall be entered in the service record of the Employee and may be cause for denying future employment with the City.

## 12.12 Retirement

Mandatory retirement rules shall be in accordance with the provisions of the Public Employees' Retirement System and State and Federal law.

## GRIEVANCE PROCEDURE 13.00

### 13.01 Definitions

13.01.1 A "grievance" is any dispute concerning the interpretation or application of the Personnel Rules or a Memorandum of Understanding, or appeal of a formal disciplinary action. For the purpose of arbitration, a disciplinary action shall mean a suspension of at least three (3) days or one and one-half (1-1/2) 24-hour shifts or the equivalent reduction in salary. Complaints or disputes in which a specific review is provided for by law (i.e. OSHA, EECO) or by these Rules (i.e. Other Employment, Examinations) or reserved as City rights (except as provided in Sections 15.05, 15.07 and G.C. Section 3500 et. seq.) shall not be subject to this grievance procedure.

13.01.2 A "grievant" is any Employee adversely affected by an alleged violation of the specific provisions of a Memorandum of Understanding or the Personnel Rules or a formal disciplinary action.

13.01.3 A "day" is any day in which the City Hall is open for business.

13.01.4 "Employee organization" is an employee organization recognized to represent employees of the City per Section 15 02.12.

13.01.5 All other definitions per Section 1.02 shall apply to this section.

## 13.02 General Provisions

13.02.1 Every effort will be made by the parties to settle grievances at the lowest possible level.

13.02.2 Until final disposition of a grievance, the grievant shall comply with the directions of the grievant's immediate supervisor.

13.02.3 All documents dealing with the processing of a disciplinary grievance shall be filed in the personnel file of the grievant.

13.02.4 No party to a grievance shall take any reprisals against the other party to the grievance because the party participated in an orderly manner in the grievance procedure.

13.02.5 Failure of the grievant to adhere to the time deadlines shall mean that the grievance is settled. The grievant and the City may extend any time deadline by mutual agreement.

13.02.6 Every effort will be made to schedule meetings for the processing of grievances at times, which will not interfere with the regular workday of the participants. If any grievance meeting or hearing must be scheduled during duty hours, any Employee required by either party to participate as a witness or grievant in such meeting or hearing shall be released from regular duties without loss of pay for a reasonable amount of time. Overtime is not provided for off-duty time except for witnesses requested to testify by the City.

13.02.7 Either the City or the grievant may be represented at any step of the grievance procedure by an individual of the party's choice.

13.02.8 Any Employee may at any time present grievances to the City and have such grievances adjusted without the intervention of the Union or Association, as long as the adjustment is reached prior to arbitration and is not inconsistent with the terms of a Memorandum of Understanding or the Rules; provided that the City shall not agree to a resolution of the grievance until the Employee Organization has received a copy of the grievance and the proposed resolution and has been given the opportunity to file a response.

13.02.9 The City and the employee organization may agree to consolidate grievances to any level.

## 13.03 Procedure

### 13.03.1 Informal Resolution

An Employee who has a problem or complaint may first try to get it settled through discussion with the employee's immediate supervisor without undue delay. Any decision rendered shall be consistent with the authority to do so. If, after this discussion the employee is satisfied, he/she shall have the right to attempt to resolve it with that supervisor's immediate exempt supervisor, if any.

Every effort should be made to find an acceptable solution by informal meetings at the lowest level of supervision. Nothing shall preclude an employee from seeking resolution of his/her grievance directly with the Department Head.

The decision at the informal resolution step shall be rendered to the employee within ten (10) days from the presentation of the grievance to the exempt supervision or the Department Head.

#### 13.03.2 Level I - Department Head

If the Employee is not in agreement with the decision rendered OR waives the informal resolution step, he/she shall have the right to file a formal written appeal to the Department Head within ten (10) days after the time the informal resolution procedure has concluded. The written grievance shall include:

- (a) a description of the specific grounds of the grievance including names, dates, and places necessary for a complete understanding of the grievance;
- (b) a listing of the provisions of the Memorandum of Understanding or Personnel Rules which are alleged to have been violated;
- (c) a listing of the reasons why the immediate supervisor's proposed resolution of the problem is unacceptable;
- (d) a listing of specific actions requested by the grievant of the City which will remedy the grievance;
- (e) a statement declaring self-representation or the selection of Union or Association representation for said grievance.
- (f) The Department Head shall communicate the decision to the grievant in writing within ten (10) days after receiving the grievance. If the Department Head does not respond within the time limits, the grievant may appeal to the next level.
- (g) Within the above time limits, either party may request a personal conference.
- (h) For disciplinary actions, the procedure in 12.05 shall be used.

#### 13.03.3 Level II - Adjustment Board

- (a) If the grievant is not satisfied with the Department Head's written response, the grievant may submit a request to the Personnel Officer within ten (10) days that the grievance be submitted to an adjustment board.
- (b) The adjustment board shall be composed of four (4) Employees, two (2) to be selected by the City and two (2) by the grievant. There shall be no communication on substantive issues of the grievance between the City or grievant and members of the board prior to the hearing.
- (c) The hearing will be scheduled by the Personnel Officer within thirty (30) days of acceptance of the written request. Adjustment board hearings shall be informal. Each party shall have one (1) hour to present its case and the board shall have two (2) hours to attempt to reach a decision. A majority decision of the adjustment board shall be final and binding on the parties.

#### 13.03.4 City Manager

If the disciplinary action is not subject to Level III-Arbitration and no decision is reached by the adjustment board, the grievant may within ten (10) days submit a request in writing to the Personnel Officer that the grievance be reviewed by the City Manager. The decision of the City Manager shall be final.

#### 13.03.5 Level III - Arbitration

- (a) If no decision is reached at Level II and the grievance is not excluded by Section 13.01.1, the grievant or employee organization may within ten (10) days submit a request in writing to the Personnel Officer that the grievance be submitted to arbitration. The Employee or employee organization and the City shall attempt to agree upon an arbitrator. If no agreement can be reached, they shall request that the State Conciliation Service supply a panel of five (5) names of persons experienced in hearing grievances involving City workers. Each party shall alternately strike a name until only one (1) name remains. The remaining panel member shall be the arbitrator. The order of striking shall be determined by lot.
- (b) If either the City or the grievant so requests, the arbitrator shall hear the merits of any issue raised regarding the arbitrability of a grievance first. No hearing on the merits of the grievance will be conducted until the issue of arbitrability has been decided.
- (c) The arbitrator shall, as soon as possible; hear evidence and render a decision on the issue or issues. If the parties cannot agree upon a submission agreement, the arbitrator shall determine the issues by referring to the written grievance and the answers thereto at each step. A certified court reporter shall record the entire arbitration hearing unless the parties mutually agree otherwise.
- (d) The jurisdiction and authority of the arbitrator so selected and the opinions the arbitrator expresses will be confined exclusively to the interpretation of the express provision or provisions of the Memorandum of Rules. The arbitrator shall be without power or authority to make any decision that requires the City or the administration to do an act prohibited by law.
- (e) After a hearing and after both parties have had an opportunity to make written arguments, the arbitrator shall submit written findings and decision which are final and binding on all parties.
- (f) The fees and expenses of the arbitrator and the certified court reporter shall be shared equally by the City and the grievant, or employee organization, if the employee organization represents the grievant at the arbitration. Financial responsibility shall be established prior to selection of an arbitrator. All other expenses shall be borne by the party incurring them, and neither party shall be responsible for the expense of witnesses called by the other.
- (g) This grievance procedure is the exclusive remedy to resolve disputes arising over those matters described in Section 13.01.1. The decision of an arbitrator is final and binding on the grievant and the City and may not be challenged or subject to review by any court except as provided by law.

## EQUAL EMPLOYMENT OPPORTUNITY COMPLAINT PROCEDURE 14.00

Any Permanent, Probationary, Temporary or Seasonal Employee or Applicant who believes that he or she has been subject to discrimination on the basis of race, color, ancestry, national origin, religious creed, sex, sexual orientation, age, handicap, medical condition (cured or rehabilitated cancer), marital status, political opinion or affiliation, or subject to sex harassment may file a complaint with the City Affirmative Action Officer within thirty (30) days of the alleged incident.

The Affirmative Action Officer shall investigate and attempt to resolve the complaint within thirty (30) days of receipt. All complaints shall remain confidential at the request of the complainant.

Affirmative Action Officer: The City Manager or designee responsible for investigating and resolving complaints of discrimination and sex harassment.

## EMPLOYER-EMPLOYEE RELATIONS 15.00

### 15.01 Purpose

The purpose of this Section is to implement Chapter 10, Division 4, Title I of the Government Code of the State of California (Section 3500 et seq) "Public Employees Organization" by providing orderly procedures for the administration of employer-employee relations between the City, its Employees and its Employee organizations and for resolving disputes regarding wages, hours and other terms and conditions of employment.

### 15.02 Definitions '

15.02.1 "Appropriate Bargaining Unit" is a unit established pursuant to Section 15.08.

15.02.2 "Employee" means for Section 15.00 of the Rules only any person regularly employed by the City on a full time or part time basis except those persons elected by popular vote.

15.02.3 A "Confidential Employee" is an Employee who is privy to decisions of City management affecting employer-employee relations.

15.02.4 A "Management Employee" is any employee having significant responsibilities for formulating and administering City policies and programs including but not limited to the City Manager, Department Heads and Division Heads.

15.02.5 "Employee Organization" is any organization which includes Employees of the City and which has as one of its primary purposes representing such Employees in their employment relations with the City.

15.02.6 "Employer-Employee Relations" means the relationship between the City and its Employees and their Employee organization(s) or when used in a general sense, the relationship between city management and Employees or Employee organizations.

15.02.7 "Impasse" means a deadlock in the discussions between a majority representative and the City over any matters concerning which they are required to meet and confer in good faith, or over the scope of such subject matter except as follows: (1) As provided for in Section 15.04; (2) Any unresolved complaint by either an affected Employee or Employee organization concerning a decision of the Municipal Employee Relations Officer made pursuant to Sections 15.06, 15.07, and 15.08.



- 15.02.8 "Majority Representative" is an Employee organization, or its duly authorized representative, that has been granted formal recognition by the Municipal Employee Relations Officer as representing the majority of Employees in an appropriate unit.
- 15.02.9 "Mediation or Conciliation" means the efforts of an impartial third person, or persons, functioning as intermediaries, to assist that parties in reaching a voluntary resolution to an impasse, through interpretation, suggestion and advice. Mediation and conciliation are interchangeable terms.
- 15.02.10 "Meet and confer in good faith" means the mutual obligation of the duly authorized city representatives and duly authorized representatives of an Employee organization recognized as the majority representative to meet at reasonable times to discuss matters within the scope of representation, including wages, hours and other terms and conditions of employment, in an effort to: (1) Reach agreement on what will be recommended to the City Council on those matters within the authority of such representatives; and (2) In the event agreement is not reached, such matters may be implemented in accordance with California Government Code Section 3500 et seq.
- 15.02.11 "Municipal Employee Relations Officer" is the City's principal representative in all matters of employer-employee relations designated pursuant to 15.10, or the duly authorized representative.
- 15.02.12 "Recognized Employee Organizations" is an Employee organization which has been acknowledged by the Municipal Employee Relations Officer as an Employee organization that represents Employees of the City. The rights accompanying recognition include the right to meet and confer in good faith as the majority representative in an appropriate bargaining unit.
- 15.02.13 "Scope of Representation" means all matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours and other terms and conditions of employment as defined in Section 3504 of the California Government Code.
- 15.03 Employee Rights
- 15.03.1 Recognition of Right to Organize: Any Employee may join, organize or maintain membership in a labor organization if he or she so desires. The City government neither encourages or discourages non-membership in any labor organization affect the Employee's standing of right as a City Employee. The right to join, organize or maintain membership in a labor organization is also extended to any association of municipal Employees not identified with any labor organization.

The right to join a labor union or any association of municipal Employees also includes the right not to join. Any Employee desiring to join, remain a member, or become independent of any such organization or association must be free to exercise his or her right without undue influence, coercion, intimidation or pressure of any kind of any person. Any attempt by one City Employee to unduly influence or pressure another Employee regarding the Employee's status or attitude concerning any organization or association is contrary to these rules, and any offender shall be subject to disciplinary action. Undue influence or pressure for these purposes is an attempt to persuade an Employee to change his or her mind by any means other than written or verbal discussion of the pros and cons of membership or non-membership.

- 15.03.2 Labor and Organization Activities: Employees participating in organizational or other labor union activities or similar activities of any Employee association are required to conduct such activities on their own time and not during regularly assigned working hours, with the following exceptions permitted:
- (a) A steward representing or assisting a fellow Employee in the presentation of a grievance may utilize such time as is essential for the presentation to management of the grievance during working hours; however, solicitation of grievances shall be on the Employee's own time.
  - (b) Officials of any organization representing City Employees may meet on City time with the City Manager or other City officials when such meeting times are approved by the City Manager.
  - (c) Business Agents or representatives of the union or other association, or their affiliates, having business (other than recruiting of members) with the officers or individual members of the union or association or other recognized Employee group may meet and confer with such officers or members during the course of the working day for a reasonable time provided that permission is first obtained from the Department Head if on duty and the Employee's immediate supervisor, and further provided that the conduct of such business will in no way conflict with the performance of City business.
- 15.03.3 Use of work place or premises for Organizational Activities: Use of the work place or premises for organizational activities other than the presentation of a grievance or the conduct of business as provided for in Section 2 and 3 above is allowed only after working hours, requires advance approval of the Department Head or City Manager and shall in no way interfere with the performance of official duties of on-duty personnel (for Fire Department personnel, between the hours of 8:00 a.m. and 10:00 a.m.). Official bulletin boards may be used only for notice of meetings of any Employee organizations and for no other organizational purpose. The City will, however, provide space upon request at any City facility for a union or Employee association furnished, installed and maintained bulletin board for posting of notices and bulletins and a magazine rack for the distribution of union or association literature.
- 15.03.4 Deduction of Dues: Solely as a convenience to City employees who may wish to belong to public employees' union or association, dues will be deducted where specifically authorized to do so by the Employee or under the terms of an organizational security agreement. The Employee may, at any time and for any reason, cancel authorization for such payroll deduction, unless the Employee is subject to an organization security agreement. The Employee's cancellation of such authorized deductions will in no way affect the Employee's job or standing as a City Employee.
- 15.03.5 Right to represent members: Recognized employee organizations shall have the right to represent their members in their employment relations with the City. Employee organizations may establish reasonable restrictions regarding who may join and may make reasonable provisions for the dismissal of individuals from membership. Nothing in these rules shall prohibit any Employee from appearing in his or her own behalf in employment relations with the City.

#### 15.04 City Rights

The rights of the City as exercised by the City Council and the City Administration include but are not limited to the exclusive right to determine the mission of its constituent departments, commissions and boards; set standards of service; determine the procedures and standards of selection for employment and promotion; direct its Employees; take disciplinary action; relieve its Employees from duty because of lack of work or other legitimate reasons; maintain the efficiency of governmental operations are to be conducted; determine the content of job classifications; to determine when an emergency exists and to take all necessary action to carry out its mission in emergencies, including the requirement that Employees work overtime; and exercise complete control and discretion over its organization and the technology of performing its work except as limited by specific provisions in these Rules or a provision in an applicable Memorandum of Understanding.

#### 15.05 Meet and Confer in Good Faith

The City, through its representatives, shall meet and confer in good faith with representatives of formally recognized Employee organizations with majority representative rights regarding matters within the scope of representation including wages, hours and other terms and conditions of employment within the appropriate unit, including actions taken under City Rights that affect wages, hours and other terms and conditions of employment.

#### 15.06 Declaration of an Impasse

An impasse shall be declared only after the matter has been thoroughly discussed and explored through the process of meeting and conferring. Matters on which an impasse has been reached shall be excluded from the memorandum of agreement and made the subject of a separate joint memorandum to the City Council. After a noticed public hearing on the matter involved in the impasse, the City Council may make a determination on the merits of the impasse or may submit the matter to mediation, or any other dispute resolving procedure to which the parties mutually agree or which the City Council may order.

Any party may initiate the impasse by filing with the other party affected a written request for an impasse meeting, together with a statement of its position on all disputed issues. Any impasse meeting can then be scheduled by the Municipal Employee Relations Officer with written notice to all parties affected. The purpose of such impasse meeting is twofold: (1) to permit a review of the position of all parties and a final effort to reach agreement on a disputed issue, and (2) if an agreement is not concluded; to prepare a memorandum to the City Council spelling out the matter(s) on which the parties have reached an impasse and giving the position of each of the parties involved.

Any expenses incurred by resolution of an impasse other than the public hearing before the Council shall be payable half by the City and half by the Employee Organization.

#### 15.07 Advance Notice

Except in cases of emergency as provided in this section, the City shall give reasonable written notice to each recognized employee organization affected by an ordinance, rule, resolution, or regulation directly relating to matters within the scope of representation including actions taken under City Rights that effect wages, hours and other terms and conditions of employment proposed to be adopted by the City and shall give such recognized employee organizations the opportunity to meet with City representatives.

In cases of emergency when the City determines that an ordinance, rule, resolution or regulation must be adopted immediately without prior notice or meeting with a recognized employee organization, the City shall provide such notice and opportunity to meet at the earliest practicable time following the adoption of such ordinance, rule, resolution, or regulation.

15.08 Petition for Recognition

15.08.1 An Employee organization that seeks formal recognition for purposes of meeting and conferring in good faith as the majority representative of Employees in an appropriate unit shall file a petition with the Municipal Employee Relations Officer containing the following information and documentation:

- (a) Name and address of the Employee organization.
- (b) Names and titles of its officers.
- (c) Names of Employee organization representatives who are authorized to speak on behalf of its members.
- (d) A statement that the Employee organization has, as one of its primary purposes, representing Employees in their employment relations with the City.
- (e) A statement whether the Employee organization is a chapter or local of, or affiliated directly or indirectly in any manner with, a regional or state or national or international organization, and if so, the name and address of each such regional, state or international organization.
- (f) Certified copies of the Employee organization's constitution and by-laws.
- (g) A designation of those persons, not exceeding two in number, and their addresses, to whom notice sent by regular United States mail will be deemed sufficient notice on the Employee organization for any purpose.
- (h) A statement that the Employee organization has no restriction on membership based on race, color, ancestry, creed, sex, sexual orientation, national origin, age, medical condition (cured or rehabilitated cancer)/ physical handicap, marital status, political opinion or affiliation, or union activity.
- (i) The job classification or titles of Employees in the unit claimed to be appropriate and the number of member Employees therein.
- (j) A statement that the Employee organization has in its possession written proof, dated within six months of the date upon which the petition is filed, to establish that Employees in the unit claimed to be appropriate have designated the Employee organization to represent them in their employment relations with the City. Such written proof shall be submitted for confirmation to the Municipal Employee Relations Officer or his designated representative.
- (k) A request that the Municipal Officer shall grant recognition, in writing, to all Employee organizations who have complied with 15.07.1 for the purposes of representing its members. Employee organizations seeking formal recognition as majority representative must, in addition, establish to the satisfaction of the Municipal Employee Relations Officer that it represents a majority of the Employees in the manner prescribed in 15.08.2.

No Employee may be represented by more than one recognized Employee organization for the purpose of this rule.

15.09 Appropriate Bargaining Unit

- 15.09.1 The Municipal Employee Relations Officer, after reviewing the petition filed by an Employee organization seeking formal recognition as majority representative, shall determine whether the proposed unit is an appropriate unit. The principal criterion in making this determination is whether there is a community of interest among such Employees. The following factors, among others, are to be considered in making such determinations:
- (a) Which unit will assure Employees the fullest freedom in the exercise of rights set forth under this rule.
  - (b) The history of Employee relations in the unit; or among other Employees of the City; or in similar public employment.
  - (c) The effect of the unit on the efficient operation of the City and sound employer-employee relations.
  - (d) The extent to which Employees have common skills, working conditions, job duties and/or similar educational requirements.

Provided, however, no unit shall be established solely on the basis of the extent to which Employees in the proposed unit have been organized.

15.09.2 In the establishment of appropriate units, professional Employees will not be denied the right to be represented separately from non-professional Employees. Management and confidential Employees included in the same unit with non-management or non-confidential Employees may not represent such Employees on matters within the scope of representation.

15.09.3 Appeals of unit determination of the Employee Relations Officer may within ten (10) days of notice thereof request the intervention of the California State Conciliation Service pursuant to Government Code Sections 3507.1 and 3507.3.

15.10 Recognition Elections

15.10.1 Where two or more Employee organizations petition to be designated as the majority representative of an appropriate unit, the Municipal Employee Relations Officer shall determine the majority representative of City Employees in an appropriate unit by arranging for a secret ballot election designed to ascertain the free choice of a majority of such Employees. The Employee organization found to represent a majority of Employees in an appropriate unit shall be granted formal recognition and is the only Employee organization entitled to meet and confer in good faith on matters within the scope of representation for Employees in such unit. This shall not preclude other recognized Employee organizations, or individual persons, from consulting with management representatives on employer relations matters of concern to them. Based on the recognition election, the Municipal Employee Relations Officer shall revoke the recognition rights to a majority representative, which has been found by secret ballot election no longer to be the majority representative.

15.10.2 The recognition rights of the majority representative designated in accordance with this rule shall not be subject to challenge for a period of not less than twelve months following the date of such recognition.

15.11 Municipal Employee Relations Officer

The City Council hereby designates the City Manager as Municipal Employee Relations Officer who shall be the City's principal representative in all matters of employer-employee relations with authority to meet and confer in good faith on matters within the scope of representation including wages, hours and other terms and conditions of employment.

The Municipal Employee Relations Officer is authorized to delegate this authority.

15.12 Grievances

Grievances shall be processed in accordance with procedures established under Section 13.00.

15.13 Memorandum of Understanding

If Agreement is reached by the representatives of the City and a recognized employee organization, they shall jointly prepare a written memorandum of such understanding, which shall not be binding, and present it to the City Council for determination.

15.14 Construction

15.14.1 Nothing in this rule shall be construed to deny any person or Employee the rights granted by Federal and State laws.

15.14.2 The rights, powers and authority of the City Council in all matters, including the right to maintain any legal action, shall not be modified or restricted by this rule.

15.14.3 The provision of this rule is not intended to conflict with the provisions of Section 3500 et seq.

15.15 Open Door Policy

The City Manager and Personnel Officer in the interest of preserving and promoting positive Employee Relations declare that any Employee wishing to discuss any work-related topic, may do so with the City Manager in confidence and without retribution.