

CITY OF MANTECA

Personnel Rules and Regulations



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CITY OF MANTECA – RULES AND REGULATIONS

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1. PERSONNEL SYSTEM – RULES AND REGULATIONS

1.01 PURPOSE

The purpose of these rules and procedures is to establish a high degree of understanding, cooperation, efficiency, and unity for employees in the City service, and to establish systematic and uniform procedures for the handling of personnel matters.

1.02 ADOPTION, AMENDMENT AND REVISION OF PERSONNEL RULES AND REGULATIONS

Personnel Rules and Regulations shall be established by resolution adopted by the City Council. Proposed amendments to/or revisions of the Personnel Rules shall be submitted to the City Council in writing by the Director of Human Resources after approval of the City Manager.

Any employee or employee organization may suggest amendments in writing to the City Manager. A copy of any proposed change shall be given to each recognized employee organization before submittal to the City Council. A copy of the council agenda and agenda materials will be on file in the city clerk's office, and available during regular office hours for review. Nothing in these rules shall be construed to require meeting and conferring in good faith concerning additions, deletions, or changes to these rules or their administration, if such is not required under applicable state law.

1.03 ADMINISTRATION OF PERSONNEL MATTERS

The City Manager is responsible to the City Council, pursuant to the Manteca Municipal Code Section 2.08.070, to appoint, remove, and demote any and all employees of the City subject to these Personnel Rules and Regulations, except the elected officials.

1.04 DISSEMINATION OF THE PERSONNEL RULES AND REGULATIONS

Copies of this Personnel Rules and Regulations shall be provided to all full time, at-will, and probationary employees upon initial employment. Copies shall be on file in the Human Resources Department and in each Department Manager's office. Where departmental rules and regulations are in force, copies of such rules will also be available to employees of that department.

1.05 POWERS OF THE PERSONNEL OFFICER

The City Manager is the Chief Administrative Officer and the head of the administrative branch of the City Government. The City Manager may delegate any of the powers and duties conferred upon him/her as the Personnel Officer to any other officer or employee of the City. Whenever the term "City Manager" or "Personnel Officer" is used in these Rules, it shall include the City Manager or any person designated by him/her to carry out any function required by these Rules. When any officer or employee other than the City Manager is assigned a duty or responsibility under these Rules, such assignment is subject

to the direction and control of the City Manager, and the City Manager shall have the right to perform such duty or responsibility or to assign it to any other officer or employee.

Subject to Sections 2.08.070 of the Manteca Municipal Code, the City Manager's power and authority includes, but is not limited to, the right to:

1.05.1 *Establish, when not in conflict with these Rules, such other policies, procedures, rules and regulations necessary for the efficient administration of all the affairs of the City which are under their control;*

1.05.2 *Appoint, remove, promote, demote, discipline and transfer any and all officers and employees of the City, except members of the City Council, appointed boards and commissions;*

The City Manager shall interpret, apply, administer and enforce the provisions of these Rules, any ordinances or resolutions relating to personnel matters, the Employer-Employee Relations Resolution, Memoranda of Understanding, and any other pertinent regulations, directives and policies which relate to the City's personnel system.

1.06 DEPARTMENT RULES AND REGULATIONS

Department Managers may develop, implement and revise as necessary any departmental policies, procedures, rules and regulations pertaining to unique operational requirements and their effect upon departmental personnel as are needed for the full performance of duties and responsibilities and which are not contrary to these Rules, the City's Council/Administrative Policies, other official rules, policies and procedures of the City, provisions of applicable memoranda of understanding, state and or federal law, or direction of the City Manager. Departmental policies, procedures, rules and regulations are subject to review by the City Manager or designee.

1.07 CONFLICT OF PERSONNEL RULES

In the event that one or more provisions of these Rules contradicts provisions included in any memorandum of understanding ratified by the City Council and currently in effect between the City and a formally recognized employee organization, the terms of the memorandum of understanding shall prevail. If there is a conflict between these Rules and a Council/Administrative Policy, these Rules prevail. If there is a conflict between these Rules, a memorandum of understanding or Council/Administrative Policy and a state or federal law, that law prevails.

1.08 VIOLATION OF PERSONNEL RULES

Each employee is responsible for knowledge of and complying with these Rules and any amendments hereto. Violation of the provisions of these Rules shall be grounds for disciplinary action, up to and including, dismissal.

1.09 EQUAL OPPORTUNITY EMPLOYER

The City is committed to the goal of equal employment opportunities. It is the policy of the City to ensure that the application of these Rules and the recruitment, employment, training, advancement, layoff, salary level, termination, and all other personnel actions for all positions, classes and individual employees are made on the basis of qualifications and performance without regard to race, color, religion, age, creed, national origin, sex, political affiliation, sexual orientation, marital status, gender identity, gender expression, genetic information, protected veteran status, family caregiver status, physical or mental disability, or any other basis prohibited by federal or state law.

1.10 EMPLOYMENT OF RELATIVES

Relatives of Regular and Probationary employees may not be hired by the City as a Regular employee if:

- a) the individuals concerned will work in a direct supervisory relationship.*
- b) the employment will pose difficulties for supervision, safety, security or morale, as determined by management.*

Relatives are those persons defined as Immediate Family in Section 10.04.

In the event that a change in status occurs (as by marriage, promotion, job assignment, demotion, adoption) with respect to present employees, then the present employees will be permitted to continue employment with the City only if they do not work in a direct supervisory relationship with one another. If employees whose status changes do work in a direct supervisory relationship with one another, the City will attempt to reassign one of the employees to another position for which he or she is qualified, if such a position is available. If any such transfer results in moving to a classification with a lower salary, then the employee's current salary will be maintained as described in Section 3.03, if no such position is available, then one of the employees will be required to leave City employment. The decision as to which employee will leave is left solely to the City Manager's discretion and shall not constitute discipline and shall not be subject to any administrative appeal.

2. CLASSIFICATION

2.01 PERSONNEL ORGANIZATION

The City is organized into a number of departments. Each department includes one or more job classifications. Authorized positions within each job classification must be approved by the City Council. The City Manager has authority to approve department position changes to the classification plan non-inclusive of monetary increases, new job classifications, or increasing the total positions for that department. Each classification action of the City Manager shall be submitted to the City Council and shall become effective upon approval by said Council

2.02 PREPARATION OF PLAN

The Director of Human Resources or a person or agency employed for that purpose shall ascertain and record the duties and responsibilities of all positions in the competitive service and, after consulting with the Department Director, shall recommend a classification plan for such positions. The plan shall consist of classes of positions in the competitive service defined by specification and title. The plan shall be so developed and maintained that all positions with substantially similar 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.

2.03 ADOPTION, AMENDMENT, AND REVISION OF PLAN

The classification plan shall be adopted by the City Council and may be amended from time to time. The City Manager has authority to approve department position changes to the classification plan non-inclusive of monetary increases, new job classifications, or increasing the total positions for that department. The City Manager has the authority to replace one authorized budgeted position with another already authorized position.

The classification plan shall be kept current by continual investigation and review of positions. Such investigation and review may include the survey of a single position or an occupational grouping. The investigation and review of position or positions may be initiated by the City Council, City Manager or upon the request of a Department Director or an employee.

Department Directors and employees shall make available to the City Council or its authorized representatives all pertinent information required to properly maintain the classification plan, including new statements of duties and responsibilities as needed.

Before such revisions, amendments, and/or changes discussed herein may be implemented, the City Council must approve all of the items noted above and/or that are relevant to this Section 2, including, but not limited to job descriptions, salary schedule, any bargaining unit implications, and any and all requisite budgetary, financial, and benefit matters.

2.04 ALLOCATION OF POSITIONS

Following approval by the City Council of the classification plan, the Director of Human Resources shall allocate every position in the competitive service to one of the classes established by the plan.

2.05 RECLASSIFICATION

Upon the recommendation of the Director of Human Resources, the City Manager shall allocate a position to a more appropriate class when the assigned duties of a position have been materially changed so as to necessitate reclassification. A reclassification shall not be used for the purpose of avoiding restrictions concerning demotions and promotions, nor

to effect a change in salary in the absence of a significant change in assigned duties and responsibilities.

A Department Director, or an employee through the Department Manager, may request that a position be reclassified. The Department Director shall forward such requests to the Director of Human Resources along with their recommendation. The Director of Human Resources shall, after review recommend to the City Manager the reclassification of any position determined to be improperly classified.

When an incumbent occupies a position which is reclassified the employee occupying the position may be retained in the position if the Director of Human Resources in consultation with the Department Director determines that: (a) the reclassification results from an official recognition of a change in duties or responsibilities which has already occurred; (b) the incumbent has the knowledge, skills and abilities, or other qualifications, of the new class; (c) the incumbent has demonstrated a high level of performance in the changed duties and responsibilities for at least one year; and (d) the incumbent has had regular status in the former position.

When an employee is retained in a position which is reclassified to a higher salary range, the employee is subject to a probationary period the same as if the employee had been promoted.

2.06 EMERGENCY OR TEMPORARY POSITIONS

Whenever, in the judgment of the City Manager, it is necessary for a department to employ a person or persons on an emergency or temporary basis in a type of position for which there is no classification provided in the Classification Plan, then the City Manager may authorize such positions and shall fix the amount of compensation, and may determine the minimum qualifications for such additional employees, and shall limit in advance the period of time the position may be allowed up to a maximum of six (6) months.

2.07 LAYOFF AND RECALL

When the City decides it is necessary to reduce the work force from lack of funds, lack of work, or change in responsibilities, employees in positions targeted for elimination are subject to layoff.

2.07.1 Order of layoffs.

Temporary employees in affected classifications will be laid off first whenever possible unless programs rely on them solely to operate. Laid off employees will be given the option of accepting part-time temporary jobs in their same classifications if those positions exist. Positions to be eliminated shall be determined within City departments. Layoffs shall be based on an employee's seniority within the classification, i.e. those with least seniority shall be laid off first. In the event of a tie, then total City seniority shall be determined.

2.07.2 Bumping rights.

Affected employees may demote to a job which is vacant in their classification series. Employees may bump/displace a person in the same or a lower level classification if the “bumping” employee has greater city seniority and has previously held the classification or the classification is within the affected employee's classification series. Due consideration will be given to reclassification and title changes in positions previously held.

2.07.3 Reinstatement.

The names of employees who are laid off or who have bumped will be maintained on a re-employment list for the classification they were laid off or bumped from and those classifications within their classification series which are of equal or lesser salary for 24 months. When using the re-employment list to fill a position in a classification from which layoffs have occurred, the city shall re-employ laid off employees from the list in reverse order of layoff. During the 24 month period, no employee shall be hired nor shall any employee be promoted to a classification from which layoffs have occurred until all employees on layoff status in that classification have had the opportunity to return to work.

With the recommendation of the Department Manager and the approval of the City Manager, a permanent or probationary employee who has resigned in good standing may be reinstated within one year of the effective date of resignation, to a vacant position in the same or comparable class. Upon reinstatement, the employee for all purposes, shall be considered as though he/she had never left service and with no loss of seniority less the amount of time the employee was separated from city service for purposes of section 2.07.

3. COMPENSATION

3.01 PREPARATION AND ADOPTION OF PLAN

The Director of Human Resources shall prepare pay plans for all classes of positions in the classified service and such other classes of positions as are authorized by the City Council or City Manager. The City Manager shall submit the proposed pay plans to the City Council which shall adopt the plan as submitted or amended.

A schedule of pay rates and ranges, salary steps, and hourly rate equivalents shall be established by resolution adopted by the Council. The classes in the Classified Service shall be assigned by resolution adopted by the Council to a pay rate, pay range and salary steps, or hourly rate equivalents which shall become the basic compensation for each class.

The adopted plan shall be applied to all positions. No position may be assigned a rate either lower or higher than the minimum or maximum established by the adopted plan.

3.02 ADMINISTRATION

The Director of Human Resources shall implement the pay plan. The City Manager establishes pay periods and the method and time of distributing payroll. Deductions from employees' wages are made in accordance with prevailing laws, contracts, rules and regulations. Certain deductions are made on the written authorization of each employee (for example, group health, credit union, recognized employee organizations). Changes in deductions or in salary take effect during the next pay period unless otherwise authorized by the Human Resources Director.

3.02.1 OVERPAYMENT RESOLUTION

In the event an employee receives overpayment by the City, the employee shall reimburse the City for the total overpayment, and the City may obtain reimbursement by payroll deduction(s). Typically, such repayment shall occur over a schedule equal to the amount of time over which the overpayment occurred. However, at the employee's request, the City may extend such repayment over a longer period, to be determined by mutual agreement of the employee and the Director of Human Resources. An employee has the option of utilizing leave banks that have cash value to cover all or part of the overpayment obligation.

In cases of a hardship, the City Manager may approve extended time periods to repay the City or commute the repayment. Should employment be terminated prior to the final repayment period, the City may seek any legal means of reimbursement, up to and including any civil action or lien.

3.02.2 UNDERPAYMENT COMPENSATION ADJUSTMENTS

Complaints which allege the employee is not being compensated in accordance with the salary, additional pay or incentive provisions of the Rules and Regulations or respective bargaining unit memorandum of understanding must be reported directly to Human Resources and/or Payroll with a copy to their direct supervisor in writing (such as e-mail); such complaints will be processed according to grievance procedure steps if necessary and not resolved directly by Human Resources and Payroll.

Base Salary/Merit adjustments are automatic in accordance with section 3.03.03.

No adjustment shall be retroactive for more than one hundred and twenty (120) calendar days from the date upon which the complaint was filed.

This does not include Fair Labor Standards Act (FLSA) violation adjustments; pursuant to FLSA, if an employee is not paid overtime hours correctly, the City may owe up to two (2) years retroactive overtime pay, and up to three (3) years if it is considered a willful violation.

All adjustments will be paid as soon as administratively possibly by Payroll.

3.03 APPLICATION OF SALARY RANGES AND RATES

The authorized pay ranges for the respective classes of positions with such amendments as may be adopted by the Council from time to time by resolution shall be applied as follows:

3.03.1 Appointments

New employees shall be appointed at the designated pay rate or the first salary step of the pay range to which their classification is assigned. When a pay range exists for a classification and it appears that the education and previous training or experience of a proposed employee are substantially superior to those required of the classification and justify a beginning salary in excess of such minimum compensation, upon recommendation of the Appointing Authority and the Director of Human Resources, the City Manager may authorize an appointment to a position at a higher salary step in the pay range.

3.03.2 Salary Advancement *Review Dates*

The review date for considering salary advancement corresponds to the employee evaluation process set forth in Section 4. The review date is established as follows.

The first review date for an employee appointed at the A step is at the end of six months of actual service and each year thereafter based on that six month date.. For an employee appointed at step level B or higher, the review date is at the end of 1 year of actual service, or from the date of the last step increase.

3.03.3 Advancement Within Salary Range (*Step Increases*)

At the completion of six months of satisfactory employment, employees appointed at Step A are eligible for consideration to receive a merit increase, effective the first day of the pay period following eligibility. Additional merit increases will be considered as part of the performance evaluation system on an annual basis, effective the first day of the pay period following eligibility thereafter until the attainment of Step E. If the date falls on the pay period start date that will be the effective date of the merit increase.

All merit increases shall be automatic based on satisfactory performance as shown from written performance evaluations completed by the employee's Supervisor and approved by the Department Director. The only time the merit increase will not be automatic and may be withheld is in cases wherein the supervisor and/or Department Director notify Human Resources regarding unsatisfactory performance and a documented performance evaluation must be completed to follow such notification.

3.03.4 Special Salary Adjustments

The City Manager may at their discretion, upon recommendation of the Department Manager and upon receipt of verification that funds are available in the affected department's budget, adjust the salary step of an

incumbent in a particular position to any step within the pay range for the classification in order to correct gross inequities or to reward outstanding achievement and performance. When a pay range for a given class is revised upward, the incumbents of positions in classes affected shall have their existing salary adjusted to the same relative step in the new pay range (Step B to Step B, Step C to Step C, etc.) and their next step advancement date shall not be changed. Annual merit increases will remain scheduled as outlined in Section 3.03.3 or Section 3.03.6 if promoted.

3.03.5 Equity Adjustments

When equity adjustments are considered to bring a classification in line with market value the equity adjustment will be made and equal to the same step in the higher pay grade (e.g. Range 41-C to 44-C). The pay grade will remain the same as the range increases.

3.03.6 Temporary Assignment in a Higher Paid Classification

Employees represented by bargaining units shall receive additional compensation for working temporarily in a higher paid classification according to the provisions contained in the MOU. For all other regular, full-time employees specifically assigned to perform the majority of the duties of a higher classification for more than five (5) consecutively scheduled working days and who are both qualified and required to perform at least a substantial portion of the tasks of the higher classification shall be compensated five (5%) percent above the salary which he/she is currently receiving beginning on the first day of such schedule. Any break in consecutive scheduled working days shall then require the employee to re-qualify for the five percent (5%) adjustment as provided above. In the event that an employee is temporarily assigned for more than three consecutive calendar months, the limitation on the pay differential shall be negotiated. Whenever an amount greater than five (5%) percent is recommended by the Department Manager, or an exception to the five (5) consecutive days, it will require approval by the City Manager or their designee.

3.03.7 Promotions

When employees are promoted, they shall normally receive the first step in the salary range for their new position. However, if such step results in a salary increase of less than 5 percent, they shall receive the next step in the range so that the increase is equal to at least 5 percent.

In the event that a pay range change becomes effective on the date an employee is promoted to a higher classification, the employee shall first

receive any corresponding step adjustment to which entitled in the lower classification, and then the next higher step promotional adjustment.

In some cases employees receive pay at a rate other than their normal pay due to provisional appointment or out-of-classification pay. In the event of a promotion, the employee shall be placed on the salary range at the step nearest to their normal base pay rate prior to the out of class assignment.

3.03.8 Demotion

Employees demoted from one classification to another classification having a lower maximum rate of pay shall be assigned to a salary step in the lower paying classification. For a disciplinary demotion, the new salary step placement in the lower paying classification shall be at least one (1) step less than the dollar amount received in the pay range for the classification from which demoted.

3.03.9 Transfers

Employees transferring from one position to another in the same classification, or another classification to which the same pay range is applicable, shall remain at the same salary step.

3.03.10 Retention of Salary and “Y” Rates

When a pay range is adjusted downward, incumbents may, on approval of the City Manager, retain their same dollar amount of salary within the lower pay range, or if their present rate exceeds the maximum of the lower range, may continue to receive the same dollar amount and said amount shall be designated a “Y” rate. A “Y” rate ends, and the employee is eligible for available pay increases, when the new salary range exceeds the “Y” rated pay through adjustment of the compensation plan due to cost of living or other adjustment approved by the City Council. Any such “Y” rate shall be indicated by a capital “Y” following the salary each time it appears on personnel records or transactions. Said “Y” rate shall be canceled on vacancy of the position.

3.03.11 Reemployment

Upon the rehire of a former employee into the same classification as the employee occupied prior to separation, such a person shall receive the same salary step in the pay range for the classification as was received prior to separation. If rehired into a related lower classification, credit shall be given for prior service in determining the salary step for employment in the lower classification. If rehired into a higher classification than previously occupied, the rules regarding pay upon promotion shall apply.

3.03.12 Anniversary Date

In the event that an employee receives a promotion to a higher range, their anniversary date in their new range will be the effective date of their promotion. The employee's original anniversary date (original employment date with the City) will remain the anniversary date for vacation leave, sick leave and retirement entitlements.

4. PERFORMANCE EVALUATIONS

4.01 PROBATIONARY EMPLOYEE PERFORMANCE EVALUATION

Performance evaluations for probationary employees are conducted upon the completion of the sixth and twelfth month of service. Newly sworn Police Officers and Firefighters are also evaluated after eighteen months of service. In addition to annual evaluations, Fire personnel will receive an evaluation each November during shift change.

Appointment Type:	Probationary Performance Evaluations and Corresponding Eligible Step/Merit Increase:
Non-Sworn New Hires	6 month Evaluation (Periodic)– eligible for step increase if appointed at Step A/Step 1 12 month Evaluation – end of Probation Eligible for Step increase if appointed above Step A/Step 1.
Sworn New Hires (e.g. Police Officer, Firefighter)	6 month Periodic Evaluation – eligible for step increase if appointed at Step A/Step 1 12 month Periodic Evaluation Eligible for Next Step increase 18 month Evaluation – end of Probation
Sworn Lateral Hires (e.g. Police Officer Lateral Hire)	6 month Periodic Evaluation 12 month Evaluation – end of Probation Eligible for Step increase if appointed above Step A/Step 1.

4.02 ANNUAL PERFORMANCE EVALUATION

An employee's supervisor will prepare at least once per year, preferably on the employee's job or salary anniversary date, a written performance evaluation for each regular employee.

The first review date for an employee appointed at the A step is at the end of six months of actual service and each year thereafter based on that six month date. For an employee appointed at step level B or higher, the review date is at the end of 1 year of actual service, or from the date of the last step increase.

4.03 EVALUATION FORM AND EFFECT OF PERFORMANCE EVALUATION

The Director of Human Resources or designee shall prescribe forms for such performance evaluations and shall be responsible for assuring that such evaluations are adequate to provide information to both the employee and the City for the purposes set forth in this section.

An employee must have a performance evaluation with an overall "satisfactory" rating to be eligible for a merit salary increase or promotion; such merit increase shall be effective on the first payroll date of that month if the hire date or promotion occurs between the first and fifteenth of the month and on the first payroll date of the proceeding month if the hire date or promotion occurs between the 16 and 31st of the month.

Employees receiving less than an overall "satisfactory" rating on their performance evaluation will not be entitled to a merit increase in salary. Deficiencies in performance by an employee may result in a decrease in salary, suspension, demotion, or dismissal. Should the evaluation show deficiencies in performance, the party conducting the evaluation will specify a time for an additional formal review not to exceed six months from the date of said evaluation.

4.04 DISCUSSION OF PERFORMANCE EVALUATION

Upon the completion of any performance evaluation, a meeting shall be held between the employee and the supervisor to discuss the employee's performance and to assist in developing the employee's maximum potential within City service.

4.05 PERFORMANCE EVALUATIONS PART OF PERSONNEL FILE

All performance evaluations become a permanent part of a regular employee's personnel file. All regular employees shall have the option of filing a written rebuttal to the evaluation within 90 days of the evaluation and prior to having it become part of their personnel file.

5. RECRUITMENT, APPLICATIONS AND APPLICANTS

5.01 ANNOUNCEMENT

All examinations for classes in the competitive service shall be publicized by position announcements on official City bulletin boards. The Human Resources Director may use such other methods the Director deems advisable to publicize the position. The

announcements shall specify the title and pay of the class for which the examination is announced, the nature of the work to be performed, preparation desirable for the performance of the work of the class, the manner of making application, minimum requirements and qualifications for the class, conditions of employment, if any, and other pertinent information.

The Notice shall contain a statement that the City is an equal opportunity employer and shall also contain information relevant to the position including whether the examination is open to the general public, a promotional recruitment only, and whether the recruitment will close on a date certain or is continuously open. Continuously open recruitments may be closed at the discretion of the Human Resources Department in concurrence with the affected department(s).

5.02 APPLICATION FORMS

Applications shall be submitted electronically through Government Jobs and shall require information covering training, experience, and other pertinent information. Upon request, the City will make reasonable accommodations to persons with disabilities to accept alternative methods of a completed application.

5.03 DISQUALIFICATION OF APPLICANT

The Director of Human Resources or their designee may disqualify any applicant from consideration whose appointment would be contrary to the best interests of the City. Reasons for disqualification may include, but shall not be limited to, the following as consistent with law:

- 5.03.1** *Lack of any of the minimum qualifications established for the examination or positions for which the applicant applies;*
- 5.03.2** *Physical or mental inability to perform the essential functions of the job, with or without reasonable accommodation;*
- 5.03.3** *Making any false statement, omitting any significant fact, or practicing or attempting to practice any deception or fraud in his/her application, examination, or appointment;*
- 5.03.4** *Current or recent use of illegal narcotics or drugs;*
- 5.03.5** *Dismissal from any position for cause, or resignation from any position to avoid dismissal for cause;*
- 5.03.6** *Failure to comply with any application requirements or deadlines;*
- 5.03.7** *Failure to reply within a reasonable time, as specified by the Director of Human Resources or their designee, to communication concerning availability for employment;*

- 5.03.8** *Is a relative of an employee subject to the policy on "Employment of Relatives" in Section 1.10;*
- 5.03.9** *Has had his or her privilege to operate a motor vehicle in the State of California suspended or revoked, if driving is job related;*
- 5.03.10** *Request by the applicant that their name be withdrawn from consideration; and/or*
- 5.03.11** *For any material cause which, in the judgment of the Director of Human Resources or designee and consistent with the law, would render the applicant unfit for the particular position, including prior resignation from the City, termination from the City, or significant disciplinary action.*

5.04 DISQUALIFICATION FOR CRIMINAL CONDUCT

Conviction by any state or the federal government for a crime, the punishment for which could have been imprisonment in a federal penitentiary or a state prison; or conviction of any crime involving moral turpitude; provided, however, that the Personnel Officer may consider any mitigating circumstances that may exist, including, but not limited to:

- a) The classification, including sensitivity, to which the person is applying or being certified and whether the classification is unrelated to the conviction;*
- b) The nature and seriousness of the offense;*
- c) The circumstances surrounding the conviction;*
- d) The length of time elapsed since the conviction;*
- e) The age of the person at the time of conviction;*
- f) The presence or absence of rehabilitation or efforts at rehabilitation;*
- g) Contributing social or environmental conditions.*

An applicant who is disqualified for employment under this section may appeal the determination of disqualification. The City will follow the requirements under the State of California Civil Rights Department Fair Chance Act. Such appeal shall be in writing and filed with the City Manager within five (5) days of the date of the notice of disqualification/rescission of a conditional job offer.

Notwithstanding the foregoing, an applicant for a peace officer position shall be disqualified, without right of appeal, from consideration for employment if the applicant shall have been convicted of a felony to include a plea of nolo contendere.

5.05 NOTICE OF REJECTION OF APPLICATION

Defective applications may be returned to the applicant with notice to amend and re-file, provided that the time limit for receiving applications has not expired. Whenever an application is rejected, notice of such rejection shall be mailed to the applicant by the Human Resources Department or designee, who shall, upon applicant's request, state the reason for such rejection.

5.06 APPEAL PROCEDURE

If an application is rejected, the applicant may appeal the rejection to the Director of Human Resources or designee within 10 days of the rejection notice. The Director of Human Resources or designee shall review the appeal and either affirm the rejection or reinstate the applicant in the selection process. The decision of the Director of Human Resources or designee shall be final.

6. SELECTION PROCESS

6.01 EXAMINATIONS

Written, oral, manual, and/or other job-related examinations may be required for eligibility for any position with the City, including promotions, as determined by the Director of Human Resources. Examinations shall be authorized and/or scheduled by the Human Resources Department, as necessary.

6.02 NATURE OF EXAMINATIONS

The selection techniques used in the examination process shall be impartial and relate to those subjects which, in the opinion of the Director of Human Resources after consultation with the Department Manager, fairly measure the relative capacities of the persons examined to execute the duties and responsibilities of the class in which they seek to be appointed. Examinations shall consist of selection techniques which attempt to test fairly the qualifications of the candidates such as, but not necessarily limited to, written tests, personal interviews, performance tests, physical agility tests, evaluation of daily work performance, work samples, evaluation of qualifications, medical and psychological tests, successful completion of prescribed training, or any combination of these or other tests. Reference checks, background investigations, medical and psychological tests, and the probationary period are considered an extension of and a part of the examination process.

6.03 TYPES OF EXAMINATIONS AND INTERNAL/LIST PROMOTIONAL OPPORTUNITIES AND CREDITS FOR CURRENT EMPLOYEES

Promotional and/or internal examinations may be conducted when, in the opinion of the Director of Human Resources (or designee), the Department Director (or designee), and the City Manager (or designee), the needs of the City require such an internal process. Such an examination may include any of the selection techniques mentioned in Section

6.01 and 6.02 of this chapter, and further set out below. Employees who meet the requirements set forth in the examination announcements may compete in promotional examinations. If the internal recruitment does not yield candidates who pass the examination process, an external recruitment may then be conducted.

To the extent any of these policies conflict with recruitments and/or personnel procedures strictly controlled by state and/or federal law, state and/or federal law shall control.

PROMOTIONAL EXAMINATIONS

All promotional examinations shall be competitive and shall be conducted in the same manner as open examinations except that admission to a promotional examination shall be restricted to persons in the employ of the City of Manteca, and who meet the published requirements for the examination. The City Manager (or designee), the Department Director (or designee), and Director of Human Resources (or designee) shall determine whether an examination shall be held on a promotional (internal) or open (external) basis. For promotion within their department of employment, an employee who attains a passing grade in a promotional examination shall be given a preferential credit as set out below.

PREFERENTIAL PROMOTION CREDITS FOR CURRENT CITY EMPLOYEES

In order to encourage promotion in a particular classification and in accordance with the principles set forth in the City of Manteca Rules and Regulations, each employee of the City who attains a passing score in an open competitive examination (including an internal or external examination) shall be given a preferential promotion credit of three (3) percent (%) of the maximum rating for such examination, which credit shall be added to their total score to constitute their final rating; provided, however, that such employee shall have at least six months of continuous service (after probation) following regular appointment to a position (and that the employee meets the minimum qualifications for the position as reviewed and determined by the Human Resources Department).

In addition, for promotion within their department of employment, an employee who qualifies for preferential promotion credits as set forth immediately above shall be given an additional preferential credit of two percent (2%) of the maximum rating for such examination (again, internal or external examination), at the time of certification to the promotional position, and provided that at that time they shall have at least six months service in their current department of employment, thus an overall total of five percent (5%) credit (3% + 2%) from the maximum rating.

CLASSIFICATION LIST PROMOTIONS

The City Manager (or designee), the Department Director (or designee), and the Director of Human Resources (or designee), may appoint a qualified and ranked candidate from an active, higher classification list to a lower classification opening upon which the

candidate meets the minimum qualification criteria and job requirements, provided, however that the lower classification opening was budgeted for and approved by the City Council during the same fiscal year prior to the examination of the higher classification position.

6.04 OPEN-CONTINUOUS EXAMINATIONS

Open-competitive examinations may be administered periodically for a single class, as the needs of the service require. Names shall be placed on employment lists, and shall remain on such lists, as prescribed in these Rules and Regulations.

6.05 SCORING OF EXAMINATIONS

The Director of Human Resources (or designee), with written approval by the City Manager (or designee), shall establish the scoring of any test and the minimum rating for qualifying on an examination, or any part of it, and consistent with Section 6.03, above. Such scoring criteria shall be used on all examinations, including those conducted by an outside consultant. The failure of a candidate on an examination, or any part of it, is grounds for the candidate's failure and/or disqualification from further parts of that examination.

6.06 NOTIFICATION OF EXAMINATION RESULTS

Each candidate in an examination shall be given notice of his or her success or disqualification. Notification will be sent to the candidate's last known address. Candidates that appear on the eligibility list may be contacted for additional interviews when another employment opportunity arises for the same classification for which they were initially interviewed. Candidates on the eligibility list for one classification may be contacted to interview for a lower-level classification in the same classification series.

6.07 ESTABLISHMENT OF ELIGIBILITY LISTS

After completion of an examination, the Director of Human Resources, or their designee, shall prepare and keep available an eligibility list consisting of the names of candidates who qualified in the examination. The department must interview (and shall only be able to interview) the top five (5) candidates for external recruitments, and the top three (3) candidates for internal recruitments for one vacancy. Following the interviews, the department may select from one (1) of the top candidates (list of 5 for external or list of 3 for internal) on the eligibility list. Tie scores shall be given equal ranking, provided, however, that if there is a tie among the first or second place candidates, the department will still be limited to the maximum number of candidates; should a tie occur only for the fifth-place (external) or third-place (internal) candidate, the department can (only in that instance) interview one (1) additional candidate. In the event the department has multiple positions open, they shall receive one (1) additional candidate for each additional vacancy from the eligibility list in rating order to interview for that specific classification

(i.e., if the department has two vacancies for the same classification, the department will interview the top six rated candidates; if there are three vacancies, the department will interview the top seven rated candidates, etc.). Eligibility lists shall be valid for one (1) year.

For entry level Firefighter recruitments, candidates are scored within A, B and C eligibility lists. The Department will interview all candidates on list A until the list is exhausted or expired, whichever occurs first. Once list A is exhausted, the department will interview all candidates on list B until the list is exhausted or expired, whoever occurs first. Once list B is exhausted, the department will interview all candidates on list C until the list is exhausted or expired. All eligibility list must be expired before Human Resources will launch another recruitment.

6.08 DURATION OF ELIGIBILITY LISTS

Employment lists shall remain in effect for one year unless exhausted sooner. Said lists may be extended, prior to their expiration dates, by action of the Director of Human Resources for additional periods, but in no event shall an employment list remain in effect for more than two (2) years from the date of its creation.

Open-competitive lists created, as the result of continuous examinations shall remain in effect for not more than one (1) year from the initial examination unless exhausted sooner. Names placed on such lists shall be merged with any others already on the list in order of final scores and shall remain on the list for no more than two (2) years.

6.09 REEMPLOYMENT LISTS

The names of regular employees laid off shall be placed on a reemployment list in the order of total continuous accumulative time served in probationary and regular status or, if laid off at different times, in the reverse order in which they were laid off. Such names shall remain thereon for a period of two (2) years unless such persons are sooner reemployed. The names of probationary employees shall be placed on said reemployment list only if they were laid off in good standing.

6.11 REMOVAL OF NAMES FROM THE ELIGIBILITY LIST

The name of any person appearing on an employment, reemployment, or promotional list shall be removed by the Human Resources Director if the eligible person requests that their name be removed, if the person fails to respond to a notice mailed to their last known physical address or last known e-mail address, or for any of the reasons specified in Section 5 of these rules. The person affected shall be notified in writing of the removal of their name by a notice mailed to their last known address. The names of persons on promotional employment lists who resign from the service shall automatically be dropped from such lists.

6.12 DEPARTMENT HEAD RECRUITMENTS AND APPOINTMENTS

Per Section 2.08.070 et seq. of the Municipal Code, the City Manager has the duty and authority to appoint department heads, except for the City Attorney. This inherently includes the authority to conduct an external or internal recruitment for the position; or to appoint a department head internally.

Per the definitions contained in Section 15 of these Rules, department heads are not considered members of the Classified Service or Competitive Service.

7. METHOD OF FILLING VACANCIES

7.01 APPOINTMENTS

All vacancies in the classified service shall be filled by re-employment, transfer, demotion, reinstatement, or appointment from an eligibility list certified by the Director of Human Resources from an appropriate employment list. In the absence of persons eligible for appointment, the City Manager may authorize a provisional appointment.

7.02 REGULAR APPOINTMENT

An appointment from an established employment list to a position that has been created for an indefinite period of time is a regular appointment. The individual appointed will become a regular employee after satisfactory completion of a probationary period; provided, however, that the probationary period for an appointment from a reemployment list shall not exceed the time that was remaining when the employee had been placed on said list.

7.03 TEMPORARY APPOINTMENT

An appointment is temporary when it is for the duration of a leave of absence or for a defined period of time in a fiscal year. Service under temporary appointment shall not confer on the appointee any credit toward a probationary period or the privileges or rights conferred on any regularly appointed employee. Refer to Section 2.06 of these rules.

7.04 VOLUNTARY DEMOTION APPOINTMENT

An appointment by voluntary demotion is the demotion of an employee in the competitive service at the employee's written request and with the approval of the Department Manager, Director of Human Resources and the City Manager. A demoted employee who had completed the probationary period in the position from which the employee was demoted shall not be required to serve another probationary period.

7.05 REEMPLOYMENT

An appointment by reemployment is the appointment of an employee from a reemployment list. Upon appointment from a reemployment list, the employee shall receive credit for former probationary and regular employment in the computation of salary, vacation, sick leave, or other benefits.

7.06 EMERGENCY APPOINTMENT

An emergency appointment is made by the Department Manager, with approval from the City Manager, without recourse to an eligible list under conditions necessitating immediate action. An emergency appointment shall not continue longer than thirty (30) days and two (2) successive emergency appointments shall not be made to the same position. The position is not permanent. Service under an emergency appointment shall not confer upon the appointee any credit toward a probationary period or any of the privileges or rights conferred on regularly appointed employees.

7.07 NOTICE TO DIRECTOR OF HUMAN RESOURCES

Whenever a vacancy in the competitive service is to be filled, the Department Manager shall notify the Director of Human Resources. If there is no reemployment list available for the class, the Director of Human Resources shall have the right to decide upon the recommendation of the Department Manager, whether to fill the vacancy by transfer, appointment from a promotional employment list or appointment from an open employment list.

8. PROBATIONARY PERIOD

8.01 ORIGINAL APPOINTMENTS

Unless otherwise provided in an applicable memorandum of understanding, or law, any person appointed to an authorized position in the Classified Service shall complete a probationary period at the time of appointment of twelve (12) months of continuous service, with the exception of the probationary period for the position of sworn new Police Officers and Firefighters which shall be eighteen (18) months of continuous service. The probationary period shall be regarded as a part of the examination process and shall be utilized for closely observing the employee's work, for securing the most effective adjustment of a new employee to his or her position, and for rejecting any probationary employees whose performance or personal qualifications do not meet the required standards of work for the particular position. In exceptional cases, the original probationary period may be extended with the approval of the City Manager, for a total probationary period extension not to exceed an additional six (6) months, where the Department Manager finds justification for such extension, unless otherwise provided in an applicable memorandum of understanding or law.

8.02 PROMOTIONS

The probationary period for all promoted non-sworn employees in the Classified Service shall be six (6) continuous months of service in the employee's new position, unless otherwise provided in an applicable memorandum of understanding or by law. The probationary period for all promoted sworn employees in the Classified Service shall be twelve (12) continuous months of service in the employee's new position, unless otherwise provided in an applicable memorandum of understanding or by law. If a promotion occurs

prior to the completion of the original probationary period, the employee will serve another twelve (12) month probation in the new classification.

From time to time, an employee may transfer to a different bargaining unit due to a promotion. When the old and the new bargaining unit offer the same benefit, the employee will switch to the greater of the two benefits for the remainder of the fiscal year. For example, an employee moving from OE3 (receives three floating holidays per year) to MMA (receives four floating holidays per year) would have one additional floating holiday added to their leave bank for use before the end of the fiscal year. In this example, the additional floating holiday brings the employee's total floating holidays to four during the fiscal year. The added benefit is incremental change only. When the old and the new bargaining unit offer different benefits, then the employee will receive a prorated amount of the new benefit based on the remaining time in the fiscal year from the employee's promotion date to the new bargaining unit.

Appointment Type:	Promotional Probationary Performance Evaluations and Corresponding Eligible Step/Merit Increase:
Non-Sworn Promotion	6 month Evaluation – End of Probation. Eligible for Salary Step/Merit increase 12 months from date of appointment.
Sworn Promotion	12 month Evaluation – End of Probation Eligible for Salary Step/Merit increase

8.03 TRANSFERS

Full time employees who are transferred from one position to another position which is equivalent to the duties, knowledge, skills and abilities of the classification held prior to the transfer, will not serve a probationary period in the new position, unless approved by the City Manager. Probationary employees who are transferred to a new classification continue to serve the remainder of their probationary period in the new classification. A probationary period may be extended with the approval of the City Manager, for a probationary period not to exceed an additional six (6) months, where the Department Manager finds justification for such extension, unless otherwise provided in an applicable memorandum of understanding or law.

8.04 CALCULATION OF PROBATIONARY PERIOD

A probationary period shall date from the time of appointment to the authorized position in the Classified Service. Leaves of absence, that when combined total more than thirty (30) calendar days during the probationary period, for any reason, shall not be counted toward completion of the probationary period and shall shift the evaluation schedule accordingly.

8.05 REJECTION OF PROBATIONER

During the original probationary period, an employee may be released from employment by the Department Manager or City Manager for any legal reason, without any right of appeal. Written notice of the release will be furnished to the probationer and a copy filed with Human Resources.

8.06 REJECTION OF PROBATIONER FOLLOWING PROMOTION

An employee rejected during the probationary period following a promotional appointment or a transfer appointment in which a new probationary period was started, shall be reinstated to the position (or a like position) from which promoted unless discharged in the manner provided in these rules. If no vacancy exists in such position or like-position, the employee may request to be placed on a re-employment list.

9. HOURS, ATTENDANCE, AND OVERTIME

9.01 HOURS OF BUSINESS

All City offices shall be open from 7:30 a.m. to 6:00 p.m. Monday through Thursday, unless otherwise established and authorized by the City Manager in writing.

9.02 ATTENDANCE

Each employee shall be in attendance at work in accordance with the rules regarding hours of work, holidays, and leaves. During the employee's scheduled hours of work, each employee shall devote his or her full time, attention and efforts to the city business.

Willful failure on the part of the employee absent without leave, to return to duty within seventy-two (72) hours, unless physically unable to report, shall be deemed by the city as a voluntary resignation without rights of appeal and such employee automatically waives all rights under the Personnel Rules and Regulations.

9.03 LUNCH PERIODS

A thirty (30) minute or one (1) hour non-compensated meal period shall be provided to full-time employees, depending on their work schedules. A fifteen (15) minute compensated rest period shall be provided all employees for each four (4) hour period of service. The rest period shall be taken at times designated by the employee's supervisor.

9.04 OVERTIME

It is the policy of the City to discourage non-exempt employees from working in excess of their regular schedule. Overtime may be required of any non-exempt employee to take care of operating emergencies; to handle peak workloads or to finish incomplete work when it is not possible or practical to employ additional personnel; to meet temporary conditions where the City is unable to secure qualified personnel to fill authorized

positions; and on other occasions as deemed necessary in the judgment of the responsible supervisor or other management officials.

Non-exempt employees shall not be allowed to accrue overtime to perform work, unless such work has been expressly authorized by their supervisor.

Overtime shall be paid for in accordance with the Federal Fair Labor Standards Act. Employee work periods shall be defined in the applicable memorandums of understanding or other policies. Compensatory time off (CTO) will be granted to employees under specific circumstances with prior approval from the Department Manager or supervisor, in-lieu of overtime pay, in accordance with the specific MOU. Employees who transfer, reclassify or promote from an FLSA non-exempt to FLSA exempt classification who have CTO balances will have those balances paid out and shall not carryover CTO balances into their FLSA exempt classification; balances paid out will be based on the non-exempt classification rate of pay.

9.05 ALTERNATE WORK SCHEDULE/FLEX TIME/MAKE UP TIME

The City may operate alternate work schedules which include, but are not limited to, variable daily work hours, flex time, adjusted weekly work schedules, 9-80 and/or 4-10-40. Any alternate work schedule contemplated under this section by its nature shall not constitute, nor create, overtime. An employee working an alternative weekly work schedule will not be allowed to take an additional day-off or change their flex day. If a holiday occurs on their flex day, the employee will be compensated for the holiday pay.

Employees may request an alternate work schedule which will first be considered by the Department Manager. Should the Department Manager determine that such alternate work schedule is feasible as recommended and does not adversely affect departmental operations, such proposal may be forwarded to the City Manager for consideration. Upon approval or modification by the City Manager, such alternate work schedule may be initiated.

Upon recommendation of the Department Manager to the City Manager, such alternate work schedules may be terminated or modified. The employee shall be given five (5) work days prior notice of the cancellation or modification of an alternate work schedule. Extensions not to exceed five (5) days may be granted with City Manager approval. The City Manager reserves the sole authority to terminate or modify alternate work schedules.

MAKE UP TIME (FLSA Non-Exempt Employees) – Pursuant to California Code of Regulations, section 11170, sub section 8, an employee may voluntarily request “make up time”, subject to the approval of their Department Head. The City shall not require an employee to use make up time, this is only allowed based solely on a voluntary employee request and to the benefit of the employee. The request must be made in writing from an employee to make up work time that is or would be lost as a result of personal obligation of the employee, the hours of that make up work time, if performed in the same workweek in which the work time was lost, may not be counted toward computing the total number of hours worked in a work period for purposes of overtime requirements. For example, an employee may request to leave work 2 hours early one work day (e.g.

Monday) for a personal appointment (no use of leave accruals such as vacation or sick leave), and make up the 2 hours on another work day (e.g. Wednesday) within the same work period; overtime would then not be owed to the employee. These requests should not be made on a regular occurrence and are not to be used as a substitute to an alternate work schedule as described above. These requests are not to be used as a substitute for other qualified and approved leave of absences or intermittent leaves (e.g. FMLA/CFRA).

9.06 TIME SUBMISSION PROCEDURE

Employees are responsible for the accurate and timely submission of their time through clock in and out procedures or through time sheets, and other supporting documentation, to their supervisor for approval.

Time sheets must be submitted to Payroll twice a month for the payment of wages and the tracking of accrued and used time off, benefits and other compensation. The Payroll Division determines time sheet due dates and methods of reporting time worked.

Supervisors should approve their employees time, each pay period, prior to payroll processing.

Any overpayment or underpayment issues due to time submission errors will be addressed according to sections 3.02.1 and 3.02.2 of the Rules and Regulations.

10. HOLIDAYS, VACATION, AND LEAVES OF ABSENCE

10.01 HOLIDAYS OBSERVED

The City observes the following holidays, and all regular and probationary employees shall have the specified days off with pay in accordance with this Rule, except as otherwise provided in applicable memoranda of understanding, Council/Administrative Policy, or other official City policy applicable to the employee:

*New Year's Day
Martin Luther King's Birthday
Presidents Day
Cesar Chavez Day
Memorial Day
Independence Day
Labor Day
Veterans Day
Thanksgiving Day
Day after Thanksgiving
Christmas Eve
Christmas Day*

When an employee gives adequate notice, the City will make reasonable accommodation for the employee to observe all traditionally recognized religions, beliefs and practices. Such release time may be charged to available leave banks at the discretion of the employee.

10.02 HOLIDAYS FALLING ON WEEKENDS

Unless otherwise covered by an MOU when a holiday falls on a Saturday, it shall be observed on the preceding Friday. When a holiday falls on a Sunday, it shall generally be observed on the following Monday. If the preceding Friday or succeeding Monday is also a holiday, then the holiday is observed on the next preceding or succeeding work day as determined by the City.

10.03 VACATION

For the purposes of this section, employees include all the following as eligible: permanent full-time and probationary. The City provides benefits to eligible employees to enable them to take paid time off for rest and recreation. The City believes this time is valuable for employees in order to enhance their productivity and to make their work experience with the City personally satisfying.

10.03.1 Vacation Accrual

Each eligible employee shall accrue vacation for continuous service performed in a paid status. Except as otherwise required by law, if an eligible employee is on an unpaid leave of absence, as defined in the definition section of these rules and regulations, the employee will not accrue any vacation while on such leave. Refer to the memorandum of understandings for the accrual rates.

10.03.2 Use of Vacation

The time at which an employee may use their accrued vacation leave and the amount to be taken at any one time shall be determined by their Department Manager, with particular regard for the needs of the City, but also, insofar as reasonable, considering the wishes of the employee.

10.03.3 Vacation at Termination

A permanent or probationary employee whose employment with the City terminates shall be paid for that part of their vacation accumulation that remains unused at the time of termination. Payment for unused vacation shall be made at the rate of pay in effect for such employees at time of termination.

When termination is caused by the death of the employee, said pay for unused vacation shall be paid to the beneficiary the employee has designated.

10.04 SICK LEAVE

10.04.1 Policy

Sick leave shall not be considered a privilege which an employee may use at their discretion, but shall be used only upon approval of the appropriate Department Manager or supervisor. Sick leave shall be allowed and used only as permitted in these Rules, or an applicable memorandum of understanding.

10.04.2 Eligibility

All permanent and probationary full-time employees shall be eligible to accrue sick leave benefits. Part-time employees will be eligible for 40 hours of sick leave after 90 days of employment. Refer to Part-time sick leave policy.

10.04.3 Accrual

Sick leave shall be accrued at the rate of eight (8) hours per calendar month for each calendar month that an employee has worked regularly scheduled hours. Regular and probationary employees receive a pro-rated accrual based on their regularly scheduled hours. Refer to the specific MOU's for sworn personnel accrual rates, if different than stated. Except as otherwise required by law, eligible employees on an unpaid leave of absence, as defined in the definition section of these rules and regulations, do not accrue sick leave while on such leave.

Employees that are off work due to illness or injury shall not accrue sick leave once they begin to receive Disability benefits and no longer receive wages (including sick pay and vacation pay) through payroll, beginning with the first full pay period that they are off payroll, unless otherwise required by law.

10.04.4 Use

Sick leave shall be requested only in cases of actual personal sickness or disability, medical or dental treatment, or as otherwise authorized by these Rules, any applicable memorandum of understanding and/or state or federal law. Annual sick leave accrual may be used for the employee to attend to the illness or injury of a member of the employee's immediate family as defined in the memorandum of understanding. Immediate family shall mean the employee's spouse, children, registered domestic partner, children of registered domestic partner, or

parent, grandparent ,grandchild, or a designated person as defined under AB 1041 An employee shall have their accumulated sick leave balance reduced by an amount equal to the number of hours of sick leave for which pay is received. Abuse of sick leave privileges may result in disciplinary action, up to and including termination from employment.

10.04.5 Notification

The employee requesting sick leave shall notify their Department Manager or supervisor at least one hour prior to their scheduled start time for reporting to work as soon as they are aware that they will be unable to report to work. Failure to reasonably do so, or otherwise comply with this Rule, may be grounds for denial of such leave with pay.

10.04.6 Proof of Illness/Injury

The employee may be required by their Department Manager or their designee or the Personnel Officer or their designee to submit a statement/certificate from the attending physician or dentist stating the cause of the absence, that the employee is or was incapacitated and unable to perform their duties, and attesting to the employee's ability to resume work. In the event that the employee is not released to full duty, a written statement is required that specifically defines the employee's limitations. The City has the right to determine by reasonable means, including a fitness for duty examination, consistent with state and/or federal law, the validity of any sick leave usage by any employee at any time and/or the employee's ability to resume work. Refer to the Sick Leave Policy and the specific MOU for clarification.

10.04.7 Release to Return to Work

The City, when consistent with state and/or federal law, may require employees utilizing sick leave to remain off duty until released to full duty by a City designated physician.

10.04.8 Deductions

Deductions from accrued sick leave will be made consistent with these Rules, official City policy, any applicable memorandum of understanding, and/or federal or state law.

10.04.9 Accumulation

Sick leave may be accumulated without limit, subject to these Rules, official City policy, and/or applicable memorandum of understanding.

10.04.10 Sick Leave Use During Vacation

Employees who take vacation leave and become injured or sick may change the appropriate portion of their vacation leave to sick leave providing that they submit a statement/certificate from the attending physician or dentist supporting the days they were sick.

10.04.11 Forfeiture Upon Termination

Employee's leaving the City service shall not be paid for accumulated sick leave, except as provided in the memorandum of understanding.

**10.04.12 Reinstatement of Unused Sick Leave –
Reemployment within 12 months**

The California paid sick leave law requires that your accrued and unused sick leave be restored to you if you return to the same employer within 12 months from the previous separation.

10.05 NON-INDUSTRIAL ILLNESS/INJURY/ACCIDENT MEDICAL LEAVE

Upon depletion of any accumulated sick leave for an injury or illness and upon the recommendation of the employee's Department Manager, an employee may be placed on medical leave of absence without pay for a period not to exceed twelve (12) weeks. If the employee is unable to return to work at the end of this period, he/she may request further medical leave which will be subject to approval by the City Manager. Such request must be supported by medical certification from the employee's treating physician. If further leave is granted, the employee must submit additional certification from a health care provider notifying the City of their status and intent to return to work every thirty (30) days. The City has the right to determine by reasonable means, including a fitness for duty examination, consistent with state and/or federal law, the need for such leave at any time and/or the employee's ability to resume work. Unpaid medical leave under this section may run concurrently with any FMLA/CFRA Leave, Pregnancy Disability Leave, or Workers' Compensation Leave to which the employee may be entitled. This section will be applied consistent with state and federal law.

10.06 INDUSTRIAL ILLNESS/INJURY/ACCIDENT MEDICAL LEAVE

10.06.1 Employees Not Covered by Labor Code Section 4850 – Non-Sworn Employees

Employees, other than those covered by Labor Code section 4850, who are absent from work by reason of an injury or illness covered by Workers' Compensation, shall continue in pay status under the following provisions:

10.06.1.1 *The difference between the amount granted pursuant to such Workers' Compensation and the employee's regular rate of pay*

shall be deducted from the employee's accumulated sick leave, and when authorized by the employee, vacation days, personal holidays and compensatory time, if any.

10.06.1.2 *Such an employee will continue in pay status and receive their regular rate of pay until their accumulated sick leave, and authorized compensatory time, personal holidays and vacation days, have been depleted to the nearest hour.*

10.06.1.3 *During the time the employee is in paid status while absent from work by reason of injury or illness covered by Workers' Compensation, he/she shall continue to accrue sick leave and vacation benefits as though he/she were not on leave of absence, but shall not receive credit for holidays, including personal holidays.*

10.06.1.4 *Any employee subject to this Rule who depletes his/her accumulated sick leave, compensatory time, personal holiday time and vacation days to maintain pay status while absent from work by reason of an injury or illness covered by Workers' Compensation may be granted unpaid leave of absence and continuation of healthcare benefits consistent with these Rules, official City policy, and state and/or federal law.*

10.06.1.5 *Disability retirement may be requested by the City consistent with state and/or federal law.*

10.06.2

Workers Compensation Salary Continuation Pay

Salary continuation pay for a workers compensation injury per fiscal year has been established for non-sworn employees not covered by Labor Code 4850. This benefit is not carried over from year to year. The below benefits shall be paid for full or partial days of absence from duty necessitated by the employee's attendance at a medical examination or treatment in connection with a work related injury, provided there is verification from the medical provider and outlines the date and nature of the service provided. In addition, the following breakdown represents the maximum number of days per fiscal year to be granted under this process:

- a) An employee having from 0 to 5 years of service shall be eligible for 10 working days per fiscal year without change of their accumulated sick leave or unused vacation.*
- b) An employee having 5 to 10 years of service shall be eligible for 15 working days of salary continuance per fiscal year without charge to their accumulated sick leave or unused vacation.*

- c) *An employee having 10 years or more of service shall be eligible for 20 working days of salary continuance per fiscal year without charge to their accumulates sick leave or unused vacation.*

The above salary continuance does not apply to part-time or temporary employees; those employees are eligible for statutorily required Workers Compensation benefits only.

10.06.3

Employees Covered by Labor Code Section 4850 – Sworn Employees

Employees covered by Labor Code Section 4850 et seq will be allowed up to one year leave of absence for an industrial injury or illness without loss of salary in lieu of disability payments, consistent with state law.

10.06.3.1 *An employee covered by Labor Code Section 4850 who is absent from work by reason of an industrial injury or illness will continue to accrue sick leave and vacation benefits, as well as receive consideration for normal salary increases as though he/she was not on leave of absence. However, no credit for holidays will be given the employee. If an employee returns to modified or full work duty, labor code 4850 does not cover follow up doctor visits, therefore an employee would be required to use accrued personal leave to cover absences.*

10.06.3.2 *Whenever the injury or illness continues beyond the one-year period, the employee will be continued on a leave of absence with pay until the expiration of their accrued sick leave, and any vacation time, personal holiday and compensatory time authorized by the employee, calculated to the nearest hour. Thereafter, the employee may be granted unpaid leave of absence and continuation of healthcare benefits consistent with these Rules, official City policy, and state and/or federal law. Benefits including accruals of sick leave, vacation, or wellness leave benefits will cease after paid leave benefits have exhausted and the employee is on unpaid time.*

10.06.3.3 *Disability retirement may be requested by the City consistent with state and/or federal law.*

10.07 FAMILY AND MEDICAL LEAVE ACT AND CALIFORNIA FAMILY RIGHTS ACT

The City provides FMLA/CFRA leaves of absence consistent with state and/or federal law. Refer to the Family and Medical Leave Act Policy. Refer to City FMLA/CFRA Leave Policy.

10.08 PREGNANCY DISABILITY LEAVE (PDL)

The City provides Pregnancy Disability Leave consistent with state law. Refer to the Pregnancy Disability Leave Policy.

10.09 BEREAVEMENT LEAVE

Bereavement leave is protected leave that includes five days of leave for the death of a family member including a registered domestic partner or extended family members. Bereavement leave is typically unpaid unless specified in the memorandum of understanding. Employees must complete their leave within three months of the family member's death. Refer to the memorandum of understanding for specifics.

10.10 MILITARY LEAVE

Military leave shall be granted in accordance with the provisions of federal and state law. All employees entitled to military leave shall give the Personnel Officer an opportunity, within the limits of the law, to determine when such leave shall be taken. Whenever possible, the employee involved shall notify their department of such leave request at least ten (10) working days in advance of the beginning date of such leave. Refer to the Military Leave Policy for specifics.

10.11 SUBPOENAED WITNESS DUTY

Regular or probationary non-police employees who are subpoenaed to appear as witnesses as a result of their City employment, shall be granted a leave to attend, upon presentation of the subpoena to the Department Manager. Such employees shall receive full pay for such appearances, provided the employee presents the subpoena to the City Attorney for review to determine if properly served. Money received by the employee as a witness must be deposited with the Finance Department. Compensation for expenditures of the employee for mileage or subsistence allowances, shall not be considered as a fee and shall be retained by the employee.

10.11.1 Witness Duty – Not Employment-Related

An employee required by court order to serve as a witness, who is not a party to the action, will be granted leave and can charge their accrued leave balance to receive full pay upon providing documented evidence to the Human Resources Department of notice to serve and of service. Reimbursement for mileage or subsistence expenses by the court may be retained by the employee.

10.11.2 JURY DUTY

Employees who are called for jury duty or subpoenaed to testify as a witness will be given leave to fulfill their civic obligations. Upon receipt of a proposed jury summons, employees must notify their supervisor. If an employee is called as a juror during a particularly busy time in the office, the City may ask the employee to request the court to postpone their jury duty to a more convenient time, as permitted by law. Regular or probationary employees required to report for jury duty shall be granted paid leave for such purpose. Regular or probationary employees shall receive full pay for the time served on a jury, provided the employee remits to the City all fees as soon as received by the employee for such duties. Compensation for mileage or subsistence allowances shall not be considered as a fee and shall be retained by the employee. If an employee is required to report to jury duty within 2 hours of the scheduled start of the workday, the employee is not required to report to work at the start of the workday, but shall report directly to jury duty. If an employee is released from jury duty with more than 2 hours of their workday remaining, the employee is required to report to work to complete the regularly scheduled workday. If an employee is serving on a jury, that employee shall report to work during all non-court days, or when the court is not in session for that day. Jury duty leave is unpaid for part time employees. Subject to MOU provisions.

10.12 LEAVE OF ABSENCE WITHOUT PAY

Leave of absence without pay (LWOP) for other than medical and family leave reasons (FMLA/CFRA/PDL, etc.) may be granted in cases of emergency or where such absence would not be contrary to the best interests of the City. Such leave is not a right, but a privilege. Employees on authorized leave of absence without pay may not extend such leave without express approval of the City Manager. Leave of absence without pay for one (1) work week duration or less may be granted by the Department Manager, depending on the merit of the individual case. Leave of absence without pay in excess of one (1) work week's duration may be granted by the City Manager at their discretion, but such leave shall not normally exceed a total of twelve (12) months duration. No such leave shall be granted except upon written request of the employee, setting forth the reason for the request, and the recommendation and approval will be in writing. Such approval shall be granted only if the employee's absence does not materially affect the physical or economical operation of their department. Upon expiration of a regularly approved leave, the employee shall be reinstated in the position held at the time leave was granted. Employees have no greater rights to reinstatement, benefits and other conditions of employment than if the employee had been continuously employed during the period of time they were away from the workplace. The employee is responsible for the payment of all medical premiums and other employee paid benefits if these continue through the period of absence.

10.13 EFFECT OF AUTHORIZED LEAVE OF ABSENCE WITHOUT PAY

Authorized leave of absence without pay shall not be construed as a break in service for the purpose of calculating employment seniority. Unless specified otherwise, rights accrued at the time the leave is approved shall be retained by the employee. However, for all non-military leaves of absence without pay, unless required by law, vacation credits,

sick leave credits, holidays, health benefits, cash in-lieu of health benefits, and retirement benefits, increases in salary, and other similar benefits shall not accrue to a person that is on authorized leave of absence without pay. Time spent on such leave without pay shall not count toward service within the pay range and the employee's salary anniversary date shall be set forward a period of time equal to the employee's total absence as adjusted to the beginning of the closest pay period.

Leave Accruals during Leave Without Pay – Leaves accrued on a per pay period basis shall cease during a period of Leave Without Pay. Other leave benefits such as floating holidays, wellness leave that are allotted once per year shall continue and only available for use once the employee returns to work after LWOP.

10.14 UNAUTHORIZED ABSENCE – AUTOMATIC TERMINATION

Any employee absent from their position for more than three (3) working days without prior permission of the appointing authority may be considered to have automatically terminated their employment with the City. Such termination shall be final and without right of appeal or hearing unless said employee furnishes reasons satisfactory to the appointing authority for not having obtained prior permission.

11. DISCIPLINARY ACTION

11.01 AUTHORITY FOR DISCIPLINARY ACTION

The City Manager, Assistant City Manager, Department Director other person designated by the City Manager may take disciplinary action as specified in this Rule. Disciplinary Action may include any one or any combination of actions, and the actions need not be applied in any particular order.

11.02 CAUSES FOR DISCIPLINARY ACTION

Causes for Disciplinary Action against any employee may include, but shall not be limited to, the following:

- 11.02.01** *Fraud or deceit in securing employment;*
- 11.02.02** *Incompetence;*
- 11.02.03** *Inefficiency in performance of work which results in a failure to properly perform duties required of an employee within his or her position;*
- 11.02.04** *Inexcusable neglect of duty;*
- 11.02.05** *Insubordination or insubordinate conduct;*
- 11.02.06** *Dishonesty related to employment;*

- 11.02.07** *Drunkness, intoxication, consuming or possessing an open container of, or being under the influence of, an alcoholic beverage, while on duty;*
- 11.02.08** *Illegally using, consuming, injecting, possessing, being under the influence of, selling or offering for sale, while on duty, any controlled substance as that term is defined in the California Health and Safety Code;*
- 11.02.09** *Inexcusable absence without leave;*
- 11.02.10** *Failure to return from an authorized leave of absence;*
- 11.02.11** *Abuse of sick leave;*
- 11.02.12** *Conviction of a felony or conviction of a misdemeanor which is of such a nature as to adversely affect the employee's ability to perform the duties and responsibilities of his or her position. A plea of guilty or conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. Notwithstanding any further proceedings in the case or any appeal or appellate decision, a conviction shall be deemed to be complete upon the date the court imposes judgment and sentence;*
- 11.02.13** *Conviction of a felony or any crime involving moral turpitude. A plea of guilty or a plea of nolo contendere is deemed to be a conviction for purposes of this section;*
- 11.02.14** *Discourteous treatment of any member of the public or fellow employee;*
- 11.02.15** *Conduct unbecoming a City employee;*
- 11.02.16** *Willful disobedience of a lawful rule, order, or direction;*
- 11.02.17** *Negligence which causes damage to City or public property;*
- 11.02.18** *Intentional misconduct which causes damage to City or public property;*
- 11.02.19** *Unauthorized possession, use, or removal from City facilities, of City or public property;*
- 11.02.20** *Any conduct related to employment which impairs, disrupts or causes discredit to the employee's employment or the public service;*
- 11.02.21** *Violation of the provisions set forth in these Rules and Regulations;*
- 11.02.22** *Habitual absence or tardiness;*
- 11.02.23** *Failure to perform assigned work in an efficient manner;*
- 11.02.24** *Being wasteful of materials, property or working time;*

- 11.02.25** *Violation of any of the provisions of the ordinances, resolutions or any rules, regulations or policies which may be prescribed by the City;*
- 11.02.26** *Acceptance from any source of a reward, gift or other form of remuneration in addition to regular compensation to any employee for the performance of his or her official duties; (Refer to Administrative Policy for Police and Fire)*
- 11.02.27** *Breach of confidentiality;*
- 11.02.28** *Improper political activity. Example: Those campaigning for or espousing the election or non-election of any candidate in national, state, county or municipal elections while on duty and/or during working hours or in a City uniform on or off duty; or the dissemination of political material of any kind while on duty and/or during working hours or in uniform.*
- 11.02.29** *The refusal of any office or employee of the City to testify under oath before any grand jury having jurisdiction over any then-pending cause of inquiry in which the investigation of government bribery or misconduct in City office is involved shall constitute of itself sufficient ground for the immediate discharge of such officer or employee, unless such refusal is based on rights conferred by the Fifth Amendment of the United States Constitution.*

11.03 EXTENT OF DISCIPLINARY ACTION

The extent of the disciplinary action taken shall be commensurate with the offense, provided that the prior employment history of the employee may also be considered pertinent. The progressive disciplinary actions that may be taken are verbal reprimand, written reprimand, suspension without pay, reduction in pay, demotion without consent, dismissal, or any appropriate combination of these.

- 11.03.01** *Verbal Reprimand: as a disciplinary action verbally notifies the employee that their performance or behavior must be improved. Oral warnings are given by supervisors when counseling has failed to produce the desired changes. The warning defines the areas in which improvement is required, sets up goals leading to this improvement, and informs the employee that failure to improve will result in more serious action. Although the supervisor makes a note of the date, time, and content of the warning in a log or documentation notebook, or sends a confirming memo to the employee, no record is placed in the employee's permanent personnel file unless subsequent action is necessary. Oral reprimands (whether written or not) are not subject to the discipline appeal procedure.*
- 11.03.02** *Written/Letter of Reprimand: as a disciplinary action means official notification to the employee that there is cause for dissatisfaction with the employee's services and that further disciplinary measures may be taken if*

said cause is not corrected. Written reprimands shall be given in the manner and on forms prescribed or accepted by the Personnel Officer. Written reprimands shall be made a part of the employee's official personnel record and may be considered as pertinent evidence or information in any hearing. Written reprimands are not subject to the discipline appeal procedure set forth in these rules.

Written Reprimand Expungement Request – Upon evidence of sustained corrective performance, behavior, or attendance deficiency, after five (5) years from the date of a written reprimand, it shall be the employee's sole responsibility to request the purging of the written reprimand from their official City personnel file and department and division files. The request must be submitted in writing to the Director of Human Resources to approve or deny the written reprimand expungement.

11.03.03 *Suspension*: A temporary removal of an employee from the service of the City without pay for disciplinary purposes. A suspension of this type does not include suspension pending an investigation of alleged misconduct. Suspensions of five (5) days or three (3) work shifts or less are not subject to the discipline appeal procedure set forth in these rules, but can be appealed to the City Manager or their designee.

11.03.04 *Demotion*: Demotion as a disciplinary action shall be a reduction in classification to a classification having a lower maximum salary with reduction in salary. Demotion may be made to the classification having the lowest maximum salary in the classification series or a classification series comparable to that within which the employee's position is located. Demotion may be made on a permanent or temporary basis.

11.03.05 *Discharge/dismissal*: means the termination of an employee from City service.

11.04 DISCIPLINARY PROCEDURES

Whenever a disciplinary action is to be taken against an employee (except for oral or written reprimands, which require no notice except as specified in applicable law), the employee shall be notified in writing of the disciplinary action to be taken. Such written notification will include:

11.04.01 **Notice of Intent**

- a) A statement of the disciplinary action to be taken against the employee;
- b) Factual summary of the grounds upon which the charges are based;
- c) The specific charges upon which the action is based;

- d) *Notice of the employee's right to be represented and to respond to the charges either orally or in writing to the appropriate authority; and*
- e) *The written materials, reports and documents upon which the disciplinary action is based.*

11.04.02 Right to Respond

The employee shall have the right to respond to the appropriate authority verbally or in writing. The employee shall have a right to be represented at any meeting set by the appropriate authority to hear the employee's response. In cases of suspensions, demotion, reduction in pay or dismissal, a "Skelly Hearing" may be conducted by a designee of the City Manager. The hearing will be informal. The skelly officer will determine whether or not the meeting will be recorded. The skelly officer will be authorized to deny, modify, or sustain the proposed action. The employee's response will be considered before final action is taken. The "Skelly Hearing" is not an evidentiary hearing and the employee does not have the right to subpoena witnesses or documents.

11.04.03 Final Notice

After the response or the expiration of the employee's time to respond to the notice of intent, the appropriate authority shall: (i) dismiss the notice of intent and take no disciplinary action against the employee, (ii) modify the intended disciplinary action, (iii) prepare and serve upon the employee a final notice of disciplinary action, or (iv) a supplemental notice of intent to discipline. The final notice of disciplinary action shall include the following:

- a) *The disciplinary action taken;*
- b) *The effective date of the disciplinary action;*
- c) *Specific charges upon which the action is based;*
- d) *A factual summary of the grounds upon which the charges are based;*
- e) *The written materials, reports and documents upon which the disciplinary action is based; and*
- f) *The employee's right to appeal, if any.*

The written notice of disciplinary action may be personally served, or mailed to the employee by certified mail, return receipt requested, addressed to the last address which such employee has furnished to the

Human Resources Department. Service is deemed complete upon personal service, or on the date the certified mail is deposited in the mail.

11.05 SUSPENSION PRIOR TO DISCIPLINARY ACTION OR DISMISSAL

Prior to the effective date of any disciplinary action or dismissal, the City Manager or Department Manager may place an employee on paid administrative leave, if the City Manager or Department Manager determines such suspension is necessary to protect the health, safety, and welfare of the residents or other employees of the City. The rights and benefits provided to an employee so suspended shall not otherwise be affected.

11.06 DISCIPLINARY APPEALS

Any regular, full-time employee may appeal their notice of discipline of a suspension over five (5) days or three (3) shifts, by filing an appeal for advisory hearing. Such appeal must be filed within ten (10) working days after receipt of written notice of the listed disciplinary action; failure to file any appeals within such period constitutes a waiver of right to appeal. The appeal must be in writing and must specifically state the reasons upon which it is based.

11.06.01 Selection of Hearing officer.

An impartial hearing officer may be selected jointly by the parties within ten (10) working days of receipt of the written demand. In the event the parties are unable to agree within the time stated, a list of seven (7) hearing officers shall be requested from the State Mediation and Conciliation Service. The parties shall either stipulate to a hearing officer on the list or alternately strike names and the remaining name shall be the hearing officer. The party to strike first shall be determined by lot.

11.06.02 Conduct of Hearing

The hearing officer shall determine the procedures under which the hearing will be conducted. Such procedures shall comply with the provisions of these Rules. Both the City and the employee may call witnesses and present evidence that they deem necessary and appropriate. The hearing shall be closed to the public.

11.06.03 Advisory Findings

The findings of the hearing officer shall be rendered within thirty (30) calendar days of the hearing, or within a reasonable time thereafter, and shall be advisory only to the City Manager. In the event that the discipline was imposed by the City Manager, the hearing officer's findings shall be advisory to the City Council. The City Council shall make the final decision. Nothing in these Rules shall be construed as to bind the City, City Manager or City Council to any findings of the hearing officer.

11.06.04 Decision

11.06.04.1 City Manager

The City Manager shall render a written decision after receiving the advisory findings of the hearing officer. The City Manager's decision shall be final and conclusive. A copy of such decision shall be forwarded to the appellant.

11.06.05 Costs

The fees and expenses of the hearing officer and court reporter shall be shared equally by the parties.

11.06.06 Witnesses

The City agrees that employees shall not suffer loss of compensation for time spent as a witness at a hearing held pursuant to this appeal during work hours. The number of employees required to be a witness at a hearing shall be limited to one at a time off of work with prior notification of the employee's supervisor when two or more such employee witnesses are from the same department and are both on duty at the same time.

12. GRIEVANCE PROCEDURE

12.01 DEFINITION OF GRIEVANCE

The term "Grievance" shall mean any dispute, between the City and an employee or employees, or between the City and a Certified Employee Organization concerning the interpretation, application, breach, or violation of any provisions of the Memoranda of Understanding, Personnel Rules and Regulations, Council Policy, other City Policy and Procedures, City Ordinances, resolutions of the Council, or Administrative Procedures dealing with personnel matters which have been adopted. Exceptions that have been specifically prescribed in these Rules, such as in the matters of suspension, dismissal, demotion, or reduction in step within range are not subject to the grievance procedure.

The grievance procedure is not to be used to request changes in wages, hours, or working conditions; to challenge the content of employee evaluation or performance reviews; to challenge a reclassification, layoff, transfer, or denial of reinstatement, and any disciplinary action.

12.02 REPORTING TIME LIMITATION

An employee who wishes to initiate the grievance process must bring the grievance to the attention of their supervisor within ten (10) days after the grievant knew, or reasonably should have known, of the circumstances which form the basis for the grievance. Failure to do so will render the grievance null and void.

12.03 PRESENTATION OF THE GRIEVANCE

An employee may present a grievance while on duty, provided such use of on-duty time is kept to a reasonable minimum as determined by the City Manager. The written grievance shall set forth the specific factual and other bases for the employee's complaint and shall identify the rule or issue allegedly being violated by the City.

12.04 EMPLOYEE REPRESENTATION

At any step in the grievance procedure, the employee concerned may choose to represent himself/herself; or by that certified employee organization which has been recognized by the City for that representation unit to which the employee's classification is assigned; or by legal counsel. The employee concerned shall be personally present at all stages unless that employee specifically waives the right in writing.

12.05 GRIEVANCE RESOLUTION –FIRST STEP/ INFORMAL RESOLUTION

To initiate informal discussion of a grievance, the employee shall provide their immediate supervisor with a written description of the circumstances causing the grievance within the timeframe set forth in Section 12.02. Within ten (10) days after the receipt of the grievance, the supervisor and the employee shall discuss the grievance collaboratively and attempt to mutually identify a resolution of the problem. Within ten (10) days after the meeting, the supervisor shall provide the grievant with a written memorandum of the meeting, stating the resolution identified, if any. Employees must complete the informal resolution process prior to submitting a formal grievance.

12.06 GRIEVANCE RESOLUTION –SECOND STEP/FORMAL RESOLUTION

If a grievance is not resolved at Step One to the satisfaction of the grievant, the grievant may appeal the grievance to the next level of management. The Step Two grievance shall be initiated within fifteen (15) working days of the decision rendered at Step One of the grievance procedure. A formal written grievance shall state the date and nature of the grievance, and shall state all specific facts or omissions upon which the grievance is based. The formal grievance shall be filed with the Department Director with a cc to the Human Resources Director. Within ten (10) working days after the filing of the formal grievance, the Department Director shall give his or her decision in writing to the grievant.

12.07 GRIEVANCE RESOLUTION – THIRD STEP/CITY MANAGER APPEAL

If the grievant is not satisfied with the decision rendered by the Department Director, the grievant may appeal the decision in writing within ten (10) working days to the City Manager or his/her designee. The appeal shall state the date and nature of the grievance, and shall state all specific facts or omissions upon which the appeal is based.

In grievances where the second step involves taking the grievance to the City Manager, the third step (appeal) shall be waived.

If no appeal has been submitted within ten (10) days from the date of receiving the formal decision, the Department Manager's formal decision shall be considered as final.

12.08 CITY MANAGER DECISION

Upon receipt of an appeal of a formal grievance, the City Manager or designee shall discuss the grievance with the employee, the supervisor or Department Director, and any other involved parties, if any. The City Manager or designee shall render a formal decision in writing to the employee within ten (10) days after receipt of the appeal. Such a decision shall be considered final.

12.09 TIMELINE

Any timeline provided for this procedure may be extended upon the mutual consent of the parties.

13. TERMINATION/SEPARATION/LAYOFF

13.01 RESIGNATION FROM CITY SERVICE

Employees are expected to provide reasonable written notice (usually a minimum of two weeks) of their intent to resign and to be physically present and actively at work up through their date of resignation. The written notice shall state the effective date and reasons for leaving and shall be submitted to the Department Manager, to be forwarded to the Human Resources Department for processing and filing. Failure to provide such reasonable notice shall be noted in the personnel file and may be cause for denying future employment by the City. Such notice is final when given and may not be rescinded absent approval of the City Manager.

13.02 RETIREMENT FROM CITY SERVICE

Retirement from the City service shall be subject to the terms and conditions of the City's contract with the Public Employees' Retirement System (CalPERS), and consistent with state and federal law.

An employee planning to retire from the City shall provide a written notice to the Department Manager, to be forwarded to the Human Resources Department for processing. Such notice should be provided, whenever possible, at least sixty (60) calendar days prior to the effective date of retirement. Such notice is final when given and may not be rescinded absent approval of the City Manager.

13.02.1 Sick Leave Conversion to Deferred Compensation/Cash at Retirement

Refer to the Memorandum of Understanding.

13.03 TERMINATION – ABSENCE WITHOUT LEAVE

Absence without leave for more than three (3) consecutive work days or shifts, may be deemed to be a resignation, and may result in automatic termination of employment. The employee will be given written notice and an opportunity to be heard by the City Manager, or other neutral decision maker designated by the City Manager, prior to any termination taking effect. Such termination shall be final and without right of appeal or hearing, unless the employee furnishes reasons satisfactory to the City Manager for not having obtained prior permission.

Additionally, any unauthorized absence may be cause for Disciplinary Action as provided in Rule 11.

13.04 TERMINATION -- DISCIPLINARY

An employee may be terminated based on Disciplinary Action pursuant to Rule 11.

13.05 RELEASE OF PROBATIONARY EMPLOYEES

With approval of the City Manager, employees who are serving a probationary period before obtaining “regular” status may be released from their probationary and have no right to appeal. However, these employees may not be released for an illegal reason.

13.06 RELEASE OF LIMITED SERVICE EMPLOYEES

Part time limited Service employees may be terminated by the Department Director or City Manager for any legal reason, at any time, with or without notice, and without any right of appeal or the right to submit a grievance.

13.07 SEPARATION -- NON-DISCIPLINARY

Regular employees may be terminated by the Personnel Officer for reasons other than cause for disciplinary action, including but not limited to, physical and/or mental inability to perform the essential functions of the employee’s job, with or without reasonable accommodation. Regular employees terminated pursuant to this section shall be given a notice of intent for such termination, the right to respond either orally or in writing to the individual imposing the termination prior to the termination taking effect, and may appeal such action in the manner provided in Rule 11.

13.08 RETURN OF CITY PROPERTY

Upon notice of the departure of an employee, the Human Resources Department will attempt to provide the employee with an Exit Checklist form. Notwithstanding the Exit Checklist form, the employee shall return all City-issued property to the appropriate department. Such returned City-issued property may include, but is not limited to: keys, key fobs, identification cards, equipment, credit cards, gas cards, cell phones, pagers, personal protective equipment, and other City-owned property. As stated on the Exit

Checklist form, all equipment must be returned and signatures obtained by the appropriate department with the completed form submitted to the Human Resources Department prior to departure from employment or within 24 hours of departure from City employment.

13.09 JOB REFERENCES

All reference inquiries regarding current and former City employees shall be referred to and approved by the Human Resources Department, unless that department receives a written waiver signed by the City employee or former City employee, and then only the employee's dates of employment, positions held, and last salary rate will be disclosed to the person or entity making the inquiry.

14. MISCELLANEOUS

14.01 GIFTS AND GRATUITIES

City employees may not accept gifts and/or gratuities as a result of the position they hold or in anticipation of their performance of duties. Refer to Gifts and Gratuities Policy for specifics.

14.02 OUTSIDE EMPLOYMENT

An employee shall not engage in any outside employment activity which creates a conflict of interest or work incompatibility as determined by the Department Director or City Manager. No City employee shall engage in any outside employment activity or enterprise, except as approved by the Department Director and the Director of Human Resources. Refer to the Outside Employment Policy for specifics.

14.03 POLITICAL ACTIVITY

The political activity of City employees shall be governed by the appropriate provisions of state law. Refer to Political Activity Policy.

14.04 CONFLICT OF INTEREST

No City employee shall engage in any business transaction or shall have a financial interest, direct or indirect, which is incompatible with the proper discharge of their official duties in the public interest or would tend to impair their independence of judgment or action in the performance of their official duties.

14.05 SAFETY PROGRAM

A workplace safety program shall be established consistent with the City's legal obligations under state and federal law. An Injury and Illness Prevention Program has been developed and is in use by the City. The Human Resources Department shall be responsible for developing, implementing and administering the Injury and Illness Prevention Program. The IIPP will be available to all employees.

14.06 PERSONNEL FILES

The City provides access to employee personnel files consistent with state and federal law, and consistent with any applicable memorandum of understanding.

14.07 LICENSES/CERTIFICATIONS

Each employee required to maintain a license or certification as a condition of employment is responsible for renewing or otherwise maintaining its validity and shall notify the Department Manager immediately of its expiration, restriction, or withdrawal.

14.08 JOB DESCRIPTION/CLASSIFICATION REVISIONS

No City employee shall revise and/or edit a job description and/or classification with the intent to limit and/or preclude an individual and/or groups of employees from qualifying for the position.

15. DEFINITIONS

The following terms, whenever used in these Rules unless otherwise specified, shall be defined as follows:

15.01 ADVANCEMENT

A salary increase of one or more steps within the limits of the pay range established for a class.

15.02 ALLOCATION

The official assignment of an individual position to its appropriate class in accordance with the duties performed and the authority and responsibilities exercised.

15.03 APPLICANT

A person who has filed an application for an employment position.

15.04 APPOINTMENT

The offer to and acceptance by a person of a position in the municipal service in accordance with the provisions of these Rules.

15.05 APPOINTING AUTHORITY OR APPOINTING POWER

The City Manager is designated as having the power to make appointments to any position to be filled in any City Department. The City Manager may designate a City Department Director to make an appointment to any position within the Department Director's department.

15.06 CANDIDATE

Any person who has been accepted for participation in an examination.

15.07 CERTIFICATION

The submittal to an appointing authority of a listing of eligible applicants from an appropriate employment list, or names of those on a reinstatement or re-employment list.

15.08 CERTIFIED EMPLOYEE ORGANIZATION

An employee organization that has been certified by the City of Manteca as representing the majority of the eligible employees in an appropriately designated employee representation unit and shall be considered to represent all the employees of that unit.

15.09 CITY

The City of Manteca, California.

15.10 CLASS OR CLASSIFICATION

A category into which is placed a position or group of positions with duties and responsibilities so similar that the same descriptive title, example of duties, recruiting standards, and salary can be applied with equity.

15.11 CLASS SERIES

Two or more classification levels which have similar duties and responsibilities, but are distinguished from each other by degree of difficulty or level of responsibility.

15.12 CLASSIFICATION PLAN

A list of titles of the classes of all regular positions in the City service, including a written specification of each class title and general description of the work to be performed by each class, a summary statement of duties and responsibilities for each class, and desirable qualifications for appointment as adopted by resolution of the City Council.

15.13 CLASSIFIED SERVICE

All positions in the City service, except Elective Offices, special Positions, the City Manager, Assistant City Manager, and all Managers/Department Directors.

15.14 COMPENSATION

The salary, wage, allowances, and all other forms of valuable consideration earned by or paid to any employee by reason of said service in any position, but does not include any allowances authorized and incurred as incidents to employment.

15.15 COMPETITIVE EXAMINATION

One or more selection procedures used to assess the relative qualifications of a group of applicants or candidates.

15.16 COMPETITIVE SERVICE

All regular full-time positions in the City service to which appointments are to be made from an employment list, but does not include those designated as elective, appointive, special, temporary, part-time, project, student, or seasonal positions.

15.17 CONTINUOUS SERVICE

Service without an unauthorized break during the period for which the employee has been employed by the City. An unauthorized break in continuous service shall be construed as a deliberate severance of employment initiated by either the City or the employee for a period of more than five (5) working days, unless otherwise provided by law, these Rules, official City policy or applicable memorandum of understanding.

15.18 COUNCIL

The City Council of the City of Manteca, California.

15.19 DAYS

The work days the City's administrative offices are open, unless otherwise designated.

15.20 DEMOTION

The change in status of an employee from a position in one class to a position in a different class having a lower maximum rate of pay, for disciplinary or other reasons.

15.21 DEPARTMENT

An organizational unit with responsibility for carrying out a function under the supervision of a Department Manager/Director.

15.22 DEPARTMENT MANAGER/DIRECTOR

The head of an established office or department having supervision of such department and office and who reports to the City Manager or Assistant City Manager.

15.23 DISMISSAL OR DISCHARGE

The involuntary termination of an employee from the City service for disciplinary reasons.

15.24 DOMESTIC PARTNERS

Two adults who have satisfied all requirements of registration of domestic partnership under the California Secretary of State.

15.25 ELECTED OFFICIAL

A person who won a City office in a free election.

15.26 ELIGIBLE

A person who has earned a place on an active eligibility employment list established by a competitive examination.

15.27 EMPLOYEE

Appointive officers and those employed by the City, but does not include elected officials or those persons assigned to special positions in the Exempt Service.

15.28 EMPLOYMENT LIST

A list of names of persons who may be considered for employment with the City under specific conditions. Such lists may be designated as either a re-employment, reinstatement, promotion, or open employment list.

15.29 EXAMINATION

The selection procedures used to measure the relative capacities and fitness of the persons applying for positions within the Competitive Service.

15.30 EXEMPT EMPLOYEE

An employee who meets the qualifications for exemption from overtime compensation established by federal law.

15.31 FLEX STAFFING

Those classes that are within the same job family which, for example, contain journey positions that may promote to an advanced journey level position upon meeting specific job requirements or certification.

15.32 GRIEVANCE

Defined in Section 12.01 of these Rules.

15.33 INCUMBENT

A person legally occupying a position in the City Service.

15.34 LAYOFF

The separation of one or more employees from the active work force due to lack of work or funds, or to the abolition of positions by the Council for the above reasons, or due to organizational change.

15.34 LEAVE OF ABSENCE

“A leave of absence is time allowed away from work, generally requested by an employee to cover unusual circumstances occurring in the employee’s life.” It is to be distinguished from normal periods away from the workplace such as vacations and holidays. Examples of a leave of absence include (but are not limited to) disability as a result of an injury or accident, pregnancy, or periods of non-intermittent FMLA.

Leaves of absence may be paid or unpaid. Unless otherwise required by law, eligible employees on an unpaid leave of absence and those who only receive disability benefits in connection with an unpaid leave of absence, do not accrue sick leave and vacation. If an employee is on an approved leave of absence under the FMLA, CFRA, or another governing law, the employee will be granted all of the rights, protections and benefits allowed under the governing law(s).

15.35 LIMITED SERVICE

Those types of positions which do not provide full-time employment throughout a fiscal year. The kinds of positions assigned to the Limited Service include temporary, part-time, student, and seasonal positions. Appointment to such positions are noncompetitive and incumbents do not acquire status in the class to which assigned by virtue of such employment.

15.36 OPEN EXAMINATION

A competitive examination for a particular class in which applications are invited from all qualified persons, regardless of whether or not they are employed by the City.

15.37 PART-TIME POSITION

A type of limited service position to which a person is employed in a regularly budgeted position who works less than full-time.

15.38 PAY RANGE

A series of base salary steps to which a class may be assigned.

15.39 PERMANENT APPOINTMENT OR PERMANENT STATUS

The type of status granted an employee who has successfully completed an official probationary period for a particular class and in a regular position in the Competitive Service.

15.40 PERSONNEL OFFICER

The City Manager or someone appointed by him/her to that position.

15.41 POSITION

A combination of duties and responsibilities legally assigned to be performed by a single officer or employee or the equivalent and performed on a full-time basis. A position may be occupied or vacant.

15.42 PROBATIONARY APPOINTMENT OR PROBATIONARY PERIOD

A working test period during which an employee who has been selected from a reinstatement, promotional, or open employment list is required, by actual performance, to demonstrate fitness for the duties of the class to which appointed.

15.43 PROMOTION

The movement of an employee from one class to another class having a higher maximum rate of pay.

15.44 PROMOTIONAL EXAMINATION

A competitive examination of a particular class which is only available to current employees who meet the qualifications for the class or are otherwise permitted to take such an examination.

15.45 RECLASSIFICATION

A change in allocation of a position from an existing class to another existing or new class that is assigned to a salary range or rate in which the maximum salary is equal, higher, or lower.

15.46 RE-EMPLOYMENT

The reappointment of a former employee (from a layoff re-employment list) who had a permanent appointment with the City at the time of layoff.

15.47 REGULAR FULL-TIME EMPLOYEE

A person appointed to a regular position with the City who is scheduled to work 40 or more hours per week or other comparable full-time work schedule and who has successfully completed the probationary period. A regular full-time employee occupies an authorized budgeted position.

15.48 REHIRE

The reappointment of a former employee who does not have re-employment or reinstatement rights at the time of returning to the payroll.

15.49 REINSTATEMENT

The probationary appointment, without examination, or either a former permanent status employee who resigned in good standing not more than one (1) year previously, or the return of a non-disciplinary demotion of an employee to a class in which status was held not more than one (1) year previously.

15.50 SEASONAL POSITION

A type of limited service position to which an employee may be assigned where employment is not permanent but is recurrent in certain offices or departments because of particular duties to be discharged which occur periodically each fiscal year.

15.51 SELECTION PROCEDURE

The use of any device or method used to make employment decisions such as application screening, written tests, oral interviews, performance tests, background investigations, assessments of physical or emotional condition, and probation periods.

15.52 STATUS

The type of an employee's appointment, such as provisional, probationary, permanent, exempt, or limited service.

15.53 STEP ADVANCEMENT

A change to a higher salary step in the pay range to which a class is assigned.

15.54 SUSPENSION

An involuntary absence from duty imposed for disciplinary purposes or pending investigation or charges.

15.55 TEMPORARY POSITION

A type of limited service position to which a person is appointed to a position which is not an authorized regular position or to a regular position for a limited period of time, either full-time or part-time. Temporary employment is limited to not more than 1,000 hours in any fiscal year. This period is a combination of time spent in one or more positions.

15.56 TERMINATION

The separation of an employee from City service. Termination may include death, discharge, layoff, resignation, retirement, and work completion.

15.57 TRANSFER

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