



# PERSONNEL RULES

CITY OF CERES

# PERSONNEL RULES

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## RULE I - DEFINITION OF TERMS

### SECTION 1.1 Definition of Terms:

The following terms, whenever used in these Rules, shall be defined as follows, unless the context clearly indicated otherwise.

### SECTION 1.2 "Administrative Leave":

The temporary assignment of an employee to a status of leave with or without pay.

### SECTION 1.3 "Advancement":

A salary increase within the limits of a pay range established for a class.

### SECTION 1.4 "Allocation":

The assignment of a single position to its proper class in accordance with the duties performed, and the authority and responsibilities exercised.

### SECTION 1.5 "Appointing Authority":

The City Manager, or his/her designee designated within the City who has final authority to make appointments to positions in the City service.

### SECTION 1.6 "Certification":

The referral of eligible candidates from an appropriate employment list to a department head for appointment consideration pursuant to the provisions of these personnel rules.

### SECTION 1.7 "Class or Classification":

All positions sufficiently similar in duties, authority, and responsibility, to permit grouping under a common title for the application of equitable common standards for selection, transfer, demotion, and salary.

### SECTION 1.8 "Class Series":

A set of two or more classes within a job family which are closely related in terms of work performed and distinguished primarily by the level of responsibility and scope of duties assumed.

### SECTION 1.9 "Classified or Competitive Service":

All positions of regular, full-time, or regular, part-time employment in the service of the city except those excluded by the personnel ordinance. Specifically excluded are elective officers; city attorney; members of appointive boards, commissions, and committees; City Manager; all department heads as stated in the City Municipal Code, Chapter 2.12; and seasonal, reserve and city volunteers.



#### SECTION 1.10 “Days”:

Means calendar days unless otherwise stated.

#### SECTION 1.11 “Demotion”:

The movement of an employee from one class to another class having a lower maximum base rate of pay, or to a lower step within the same class.

#### SECTION 1.12 “Department Head”:

The duly appointed head of a department, or the individual designated to act on behalf or in place of the department head.

#### SECTION 1.13 “Disciplinary Action”:

The discharge, demotion, reduction in pay, suspension or other personnel action intended to discipline a regular employee for corrective or punitive reasons.

#### SECTION 1.14 “Eligible”:

A person whose name is on an employment list.

#### SECTION 1.15 “Employment List”:

- (a) Open employment list: A list of names of persons who have taken an open competitive examination for a class in the competitive service and have qualified.
- (b) Promotional employment list: A list of names of persons who have taken a promotional examination for a class in the competitive service and have qualified.

#### SECTION 1.16 “Examinations”:

A test or a combination of tests which assist in determining the relative capacity of candidates to discharge the duties and responsibilities of the class in which they seek appointment.

Examinations shall be in one of the following forms:

- (a) Open-competitive examinations: An examination for a particular class which is open to all persons meeting the qualifications for the class.
- (b) Promotional examinations: An examination for a particular class which is open only to regular non-probationary employees of the city meeting the qualifications for the class.
- (c) Continuous examination: An open competitive examination which is administered periodically and as a result of which names are placed on an employment list, in order of final scores.

#### SECTION 1.17 "Lay-Off":

The separation of employees from the active work force due to lack of work or funds in the judgment of the City Council, or due to the abolition of a position by the City Council due to organizational changes.

#### SECTION 1.18 "Leave of Absence":

Written permission to be absent from duty with or without pay for a specified period of time, with the right to return to the same classification at the expiration of the approved leave period.

#### SECTION 1.19 "Non-Competitive Service":

Positions exempted from the competitive service by ordinance.

#### SECTION 1.20 "Paid Status":

Period in which an employee is receiving compensation from the City for work performed; or receiving compensation from accrued vacation, sick, or (CTO) leave.

#### SECTION 1.21 "Personnel Ordinances":

Title 2, Chapter 2.10 of the City of Ceres Municipal Code which authorizes the establishment of a personnel system for the city.

#### SECTION 1.22 "Position":

A group of duties and responsibilities in the competitive service requiring the full-time or part-time employment of one person.

#### SECTION 1.23 "Probationary Employee":

An employee in the competitive service appointed to an authorized full-time or part-time position, serving a probationary period for the position.

#### SECTION 1.24 "Probationary Period":

A period to be considered an integral part of the examination, recruiting, testing and selection process during which an employee is required to demonstrate fitness for the position to which the employee is appointed by actual performance of the duties of the position, and during which time the employee may be terminated without cause/or right to appeal.

#### SECTION 1.25 "Promotion":

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

#### SECTION 1.26 "Regular Employee":

An employee in the competitive service who has successfully completed the probationary period and has been retained as hereafter provided in these rules.

#### SECTION 1.27 “Regular Part-Time Employee”:

An employee covered by these Personnel Rules who is working at least 50% of the hours but less than 100% of the hours for the typically assigned position and who has successfully completed the probationary period and has been retained as hereafter provided in these rules.

#### SECTION 1.28 “Reinstatement”:

The restoration, without examination, of a former regular employee to a classification in which the employee formerly served in a regular non-probationary capacity.

#### SECTION 1.29 “Re-Employment”:

A list of employees who have been laid off or demoted in accordance as hereafter provided in these rules and have requested re-employment.

#### SECTION 1.30 “Suspension”:

The temporary separation from service of an employee without pay for disciplinary purposes.

#### SECTION 1.31 “Temporary/Seasonal Employee”:

An employee who is appointed to a position for a limited period of time, generally not to exceed six (6) months, and who may or may not have been selected from a current employment list.

#### SECTION 1.32 “Transfer”:

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

## **RULE II - GENERAL PROVISIONS AND ADMINISTRATION**

#### SECTION 2.1 Fair Employment Practices:

The City shall not discriminate against any employee or applicant for employment or promotion because of race, color, religion, sex, national origin, ancestry, disability medical condition, marital status, or age. Any technique or procedure used in recruitment and selection of employees shall be designed to measure only the job-related qualifications of applicants. No recruitment or selection technique shall be used which is not justifiably linked to successful job performance.

#### SECTION 2.2 Administration:

The City Manager, or designee under the direction of the City Manager, shall be responsible for the administration of all matters relating to employer-employee relations including, but not limited to, these Rules; and is hereby authorized to issue such policies and administrative procedures as necessary in implementing the provisions of these Rules.

### SECTION 2.3 Personnel Records:

- (a) The Director of Human Resources shall maintain the service or personnel records for each employee in the service of the City showing the name, title of position held, the department to which assigned, salary, changes in employment status, and such other information as may be considered pertinent by the Director of Human Resources and in accordance with applicable state and federal laws.
- (b) Personnel records are considered confidential records, and access to official employee records is restricted. Department heads may view the official personnel records of individuals assigned to their department upon request to the Director of Human Resources. An employee may view their personnel record during business hours by contacting Human Resources. Personnel records are not to be removed from the Human Resources Department without the express permission of the Director of Human Resources and are to be reviewed only under supervision of designated Human Resources employees. Documents may be copied from the personnel file by the employee, or by a representative of the employee upon receipt of an authorization originally signed by the employee. Documents are not to be removed without prior notice and approval of the Director of Human Resources.

### SECTION 2.4 Change-of-Status Request:

Every appointment, transfer, promotion, demotion, change of salary rate, or any other temporary or permanent change in status of employees shall be reported to the Human Resources Department in such manner as may be prescribed by its Director.

## **RULE III - CLASSIFICATION PLAN**

### SECTION 3.1 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 shall recommend a classification plan for such positions. The classification plan shall consist of classes of positions in the competitive service defined by class specifications, including the title. The classification plan shall be so developed and maintained so that all positions substantially similar with respect to duties, responsibilities, authority, and character of work are included within the same class.

### SECTION 3.2 Adoption, Amendment and Revisions of Plan:

The classification plan shall be approved by the City Council and may be modified by recommendation to the City Council by the City Manager. The classification plan may be amended, new classes created, classes combined, or existing classes abolished in the same manner. Amendments and revisions of the plan may be suggested by any interested party, including any recognized employee organization, and shall be submitted in writing to the City Manager for consideration.

### SECTION 3.3 Allocation of Positions:

Following the adoption of the classification plan, the City Manager shall allocate every position in the competitive service to one of the classes established by the plan.

### SECTION 3.4 New Position:

New positions shall not be filled until the classification plan has been amended to provide therefore. A temporary appointment may be made for a new position until an appropriate employment list is established.

### SECTION 3.5 Reclassification:

A position may be reclassified to a different or a new classification when the assigned duties, responsibilities, or conditions of employment of the position have been materially changed by the City. The City Manager may allocate the position to a more appropriate class in the manner as originally classified and allocated. 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.

### SECTION 3.6 Class Titles:

Class titles adopted in the classification plan, are to be used in all City correspondence, personnel, accounting, budget, and financial records. No person shall be appointed to or employed in a position in the competitive service under a title not included in the Classification Plan.

## **RULE IV – RECRUITMENT**

### SECTION 4.1 Announcements:

All examinations for classes in the competitive service shall be publicized by such methods as posting job announcements in conspicuous places in the City and by means of such other notice or publicity as in the judgment of the Director of Human Resources will bring the examination to the attention of qualified persons. Special recruiting shall be conducted, if necessary, to ensure that all segments of the community are aware of the forthcoming examinations. 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 nature of the examination, whether open-competitive or promotional; last day for accepting applications; the manner of making application; and other pertinent information.

### SECTION 4.2 Final Filing Dates:

There shall be a reasonable period during which applications for positions may be officially received. Announcements shall be posted for a period of at least five (5) calendar days prior to the final date to file an application for open competitive or closed promotional examinations. Final filing dates may be extended by the Director of Human Resources.

#### SECTION 4.3 Applications:

Applications shall be made as prescribed on the examination announcement and shall be signed by the signed by the applicant. Application forms shall require pertinent information as to experience, training, and other qualifications for the position applied for. The burden shall be on the applicant to submit correct and complete information as to qualifications and required certifications or licenses for the position(s) applied for. Failure to provide accurate or complete information or submit an application on the prescribed form shall be ground for rejection of the application. Applications must be submitted in person or by mail on or before the final filing dates established for recruitment. Applications postmarked on or before the final filing date, but received thereafter, may be considered if it is administratively feasible to process them.

Recruitment for qualified applicants may be a continuing process in order that, where possible, the City will have available applications of interested, qualified persons for possible employment. The City shall not pay any fee or service charge for any applicant who is referred to I by any employment agencies.

#### SECTION 4.4 Disqualification:

An applicant may be rejected by the Director of Human Resources based on the following considerations:

- (a) The applicant, by the application, does not possess the minimum qualifications for the position;
- (b) Indicates facts that show that the applicant is physically or psychologically unable to perform the job applied for, and no reasonable accommodation can be made for such disability;
- (c) Is addicted to the habitual, excessive use of drugs or intoxicating liquor;
- (d) Has made false statement of any material fact, or practiced any deception or fraud in an application;
- (e) Is engaged in and would refuse to discontinue employment, activity, or an enterprise which, if continued while a city employee, would be a direct conflict of interest with City duties;
- (f) Has failed to notify the Director of Human Resources of a change of address and cannot be located with reasonable effort after filing an application;
- (g) Has not met the filing requirements or provided necessary information as stated in the job announcement

The above considerations are illustrative and not intended to be inclusive of all considerations given to determining the acceptance of an applicant for the position applied for.

Whenever an application is rejected, notice of such rejection shall be mailed to the applicant by the Director of Human Resources.

#### SECTION 4.5 Criminal Conduct – Ineligibility for Employment:

Conviction, including pleas of guilty and nolo contendere, of a felony shall be prima facie disqualification of an applicant for employment; provided, however, that the Director of Human Resources may disregard such conviction if it is found and determined by such Director of Human Resources that mitigating circumstances exist. In making such determination, the Director of Human Resources shall consider the following factors:

- (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. Such appeal shall be in writing and filed with the City Manager within ten (10) days of the date of the notice of disqualification. The City Manager shall hear and determine the appeal within ninety (90) days after it is filed. The determination of the City Manager on the appeal is final.

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

#### SECTION 4.6 Special Qualifications:

The Director of Human Resources may demand evidence of a satisfactory degree of education, training, or experience, and may demand certificates of competency, or the possession of such license(s) as the law may provide as necessary for the practice of the profession, art or trade involved for applications for examinations for positions which are scientific, professional, or technical, or for positions, the duties of which require special qualification. Applicants may be excluded who fail to give such evidence or certificates, or who do not possess such licenses. All such requirements or evidence of education or license shall be prescribed in the public notice of the examination.

### **RULE V – EXAMINATIONS**

#### SECTION 5.1 Examination Process:

The Director of Human Resources, after consultation with appropriate individuals, shall designate the examination type for a position. The selection techniques used in the examination process shall be impartial and relate to those subjects which fairly measure the relative capacities of the persons examined to execute the duties and responsibilities of the class to which they seek to be appointed. Examinations shall consist of selection techniques which will

test fairly the qualifications of candidates such as, but not necessarily limited to, review of applications for appropriate filing and review of qualifications, achievement and aptitude tests, other written tests, personal interview, performance tests, physical aptitude tests, evaluation of daily work performance, work samples, medical tests, psychological tests, successful completion of prescribed training, or any combination of these or other tests. Application of physical, psychological and/or medical assessment tests will be limited only to ascertain job-related fitness for duty and shall not be used to discriminate against any applicant. The Probationary period shall be considered as a portion of the examination process. Examinations shall be designed to provide equal opportunity to all candidates by being based on an analysis of the essential requirements of the class, covering only factors related to such requirements.

#### SECTION 5.2 Types of Examination:

- (a) Open-Competitive Examination: Applicants who demonstrate by the applications the necessary qualifications established for the class and who also comparatively demonstrate by application to best fit the needs of the City may be invited to compete in an open-competitive examination.
- (b) Promotional Examination: Promotional examinations may be conducted whenever, in the opinion of the department head and the Director of Human Resources, the needs of the service require. Promotional examinations may include any of the selection techniques mentioned in Section 5.1 of this Rule, or any combination of them. Only regular employees who meet the requirements set forth in the promotional examination announcement may compete in promotional examinations. Promotional opportunities will be posted on employee bulletin boards at least five (5) working days before the final filing date for the examination.
- (c) Continuous Examination: Open 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 Rule VI.
  - a. Promotional examinations shall be competitive; but this requirement shall not be construed to require that there be more than one person eligible to take the examination. Candidates who attain the required standard in a promotional examination shall have their names placed on an employment list, and appointments therefore shall be made in the same manner as original appointments, except as otherwise provided herein.
  - b. The provision of Rule IV, Section 4.2, 4.3, 4.4 and 4.5 shall apply to promotional examinations.

#### SECTION 5.3 Conduct of Examination:

The City may contract with any competent agency or individual for the preparing and/or administering of examinations. In the absence of such contract, the Director of Human Resources shall see that such duties are performed. The Director of Human Resources shall arrange for the use of public buildings and equipment for the conduct of examinations.



#### **SECTION 5.4 Interview Boards:**

Whenever an examination includes, as part thereof, a panel interview, the Director of Human Resources shall be charged with the responsibility of organizing and convening such a board of examiners for this purpose. This board shall be selected on the basis of their impartiality and their knowledge of the position for which the examination is conducted. Ratings of the candidate by the interview board members shall be on the prescribed forms.

Employees of the City of Ceres may be appointed to serve on such boards, provided that said employees shall not constitute the majority membership of any such board.

No member of the City Council, nor any member of their household, nor any business partner of a councilmember shall be appointed to serve upon such examining board.

#### **SECTION 5.5 Notification of Examination Results and Review of Papers:**

Each candidate in an examination shall be given notice of the results thereof, and if successful, of the final rank on the employment list.

All candidates shall have their right to inspect their own test score sheet within five working days after the notification of examination results. Any error in mathematical computation, if called to the attention of the Director of Human Resources within this period, shall be corrected. Such corrections shall not, however, require invalidation of appointments previously made.

#### **SECTION 5.6 Examination Scores:**

The Director of Human Resources shall establish the minimum passing score for each test and the lowest total score on an examination required to qualify the applicants to be considered for appointment. The final score of an applicant shall be based upon the scores of all the tests and evaluations included in the examination unless otherwise specified in the published selection process for each recruitment. Failure of the applicant to pass one part of the examination shall disqualify the applicant from taking other parts of the examination.

A five (5) point credit shall be given to applicants for police officer who have been reserve police officers in the service of the City for a minimum of one year and are in active employment, good-standing status with the department and who have attained a passing score in all phases of the examination process.

### **RULE VI – EMPLOYMENT LISTS**

#### **SECTION 6.1 Employment Lists:**

As soon as possible after the completion of an examination, the Director of Human Resources shall prepare and maintain an employment list consisting of the names of candidates who qualified in the examination.

Candidates shall have their names placed on the employment list for such examination in the order of their relative final scores, the candidate having the highest final grade being placed in the highest order on the list.

#### SECTION 6.2 Duration of List:

All employment lists, other than those resulting from a continuous examination, shall be in effect from the date on which it is promulgated for a period of six (6) months until exhausted or abolished sooner by the Director of Human Resources. An employment list may be extended to a specified date by the Director of Human Resources, but the extension shall not exceed an additional six (6) months.

- (a) Where there are fewer than three eligible remaining on a list, the Director of Human Resources may declare a list to be exhausted. An employment list may also be abolished by the Director of Human Resources upon a finding that the needs of the City would be best met by a new examination.
- (b) Competitive examination lists created as a result of continuous examinations shall remain in effect for not more than six (6) months after the administration of the examination, unless sooner exhausted or abolished. Names placed on such lists may be merged with any others already on the list according to score, but in no event shall a name be on an open-competitive examination list for more than six (6) months.

#### SECTION 6.3 Removal of Names from List:

The name of any person appearing on an employment, re-employment, or promotional list may be removed by the director of Human Resources for the following reasons:

- (a) As set forth in Rule IV, Section 4.4;
- (b) If the eligible request in writing that his/her name be removed;
- (c) Upon appointment of the eligible from the employment list;
- (d) After the second refusal of an eligible to accept an appointment to the position
- (e) Failure to continue to meet any of the minimum standards established for the class for which the employment list was prepared;
- (f) The names of persons on promotional employment lists who resign from the service shall automatically be dropped from such lists.

#### SECTION 6.4 Change of Address:

It is the responsibility of the applicants whose names are placed on an employment list to notify the Director of Human Resources in writing of any change of address while their names remain on the list. Failure on the part of an eligible to notify the Director of Human Resources in writing of any change in address while on an employment list may result in removal from the list. Such eligible will not be given further consideration unless reasons presented for failure to comply with the requirements of this section meet with the approval of the Director of Human Resources.

## RULE VII – METHOD OF FILLING VACANCIES

### SECTION 7.1 Types of Appointment:

All vacancies in the competitive service shall be filled either by transfer, demotion, re-employment, reinstatements, or from eligible certified by the Director of Human Resources Services from an appropriate employment list, if available. The method of filling the vacancy shall be determined by the department head after consultation with the Director of Human Resources. In the absence of person eligible for appointment in these ways, temporary appointments may be made in accordance with these personnel rules.

### SECTION 7.2 Request to Fill Vacancy:

A vacancy in the competitive service shall be filled in the manner prescribed herein. If there is no re-employment list available for the class, the Department Head, after consultation with the Director of Human Resources, may decide to fill the vacancy by reinstatement, transfer, demotion, appointment from a promotional employment list, or appointment from an open-competitive examination employment list.

### SECTION 7.3 Certification of Eligible:

If it is not considered in the City's best interest to fill a vacancy by reinstatement or demotion, or if it not possible to fill the vacancy by reemployment, certification shall be made from an appropriate employment list, provided eligibles are available. When a Department Head requests a vacancy be filled by appointment from an employment list, the Director of Human Resources shall certify from the list the names of the top three individuals willing to accept appointment.

### SECTION 7.4 No Employment List:

In the absence of an appropriate employment list for a specific class, names may be certified by the Director of Human Resources from an appropriate current employment list which has been established for a lower, equally high or higher class having similar duties, responsibilities, skills, and knowledge.

If an employment list is not available, temporary appointments may be made from temporary employment agencies, student or other work programs, or such other sources as best meet the needs of the City.

### SECTION 7.5 More Than One Vacancy:

Whenever a department head requests certification for more than one vacancy in the same class, the "Rule of Three" shall apply and two names in addition to the number of vacancies shall be certified. The department head may fill the first vacancy by the selection of one of the highest three (3) eligible so certified if one of those three best suits the needs of the

department. The second, and any succeeding vacancy, may be filled in a like manner by selection in turn from the highest three remaining names.

#### SECTION 7.6 Reinstatement List:

The reinstatement list will contain names of regular employees who have voluntarily resigned in good standing and have formally requested to be re-employed in their same classification. In order to be placed on an reinstatement list, such request must be made within six (6) months of the date of separation; the period of separation shall not be longer than twelve (12) months, and the request for re-employment must be approved by the former employee's department head.

#### SECTION 7.7 Waivers:

Eligibles may waive their right to certification or appointment without detrimentally affecting their status on the employment list. After the second such waiver, the Director of Human Resources may remove the name of the eligible from the employment list. An eligible may become inactive on a reinstatement or employment list by submitting a written request to the Director of Human Resources to not certify his/her name for a specified period of time, but not longer than the term of the list.

#### SECTION 7.8 Acceptance of Positions in Lower Class:

An eligible candidate on an employment list may, with the approval of the Director of Human Resources, accept certification to a class of position lower than that for which examined, provided such position is one having similar duties and responsibilities, skills, knowledge, and for which there is no existing employment list. The acceptance of such a position by an eligible shall not forfeit the right to be certified to the class of position for which originally examined in the event of a vacancy. Such certification must occur within the first six (6) months of employment.

#### SECTION 7.9 Objection and Substitution:

A department head may object to a certified eligible candidate by presenting reasonable objections to the Director of Human Resources. If the objections to the eligible candidate are deemed as being reasonable and in accord with the merit principles, the next highest name on the employment list shall be certified. The eligible candidate not considered shall be given written notice of the withdrawal of certification of his/her name. Such withdrawal of certification will not affect the eligible candidate's place on the list, or consideration for future appointment for the position qualified for.

#### SECTION 7.10 Appointments:

After interview and any background investigation, appointment will be made from among those certified, subject to final approval by the City Manager. Appointments shall be made using one or more of the following designations:

- (a) Probationary: Unless otherwise provided, all appointments shall be made from among those eligibles certified. Appointments filling authorized, full-time or regular, part-time positions in the competitive service shall be considered probationary appointments.

- (b) Temporary: In the absence of there being names of individuals willing to accept appointment from an appropriate employment list, a temporary appointment may be made of a person meeting the minimum training and experience qualifications for the position. A temporary appointment may be made during the period of suspension of a regular employee or pending final action on proceedings to review suspension, demotion or discharge of an employee, and such vacancy may be filled subject to the provisions of these personnel rules. A temporary employee may be removed at any time without cause and without the right of appeal or hearing. A temporary appointment shall not exceed an initial period of six (6) months. A ninety (90) day employment extension may be granted upon request by the department head to the Director of Human Resources, subject to the City Manager's approval. A temporary appointee is not eligible for City benefits which include retirement, health and welfare, vacation, holidays, and sick leave accruals. If a temporary appointee qualified according to these personnel rules and is selected for an authorized full-time position with the City, the time served as a temporary appointee may be counted as time toward the fulfillment of the required probationary period, or paid leave time accrual.

No special credit shall be allowed in meeting any qualifications or in the giving of any test or the establishment of any employment lists for service rendered under a temporary appointment.

- (c) Part-time: Part-time employees are paid on an hourly basis and hired for less than the established standard work week. Part-time employees shall work no more than 32 hours per week nor less than minimum of 20 hours per week. Part-time employees may qualify for pro-rated benefits, depending upon the nature and requirements of the position, as determined by the City Manager.
- (d) Emergency: When the necessity of making a short time appointment exists in order to preserve the public peace, health or safety, or to prevent the stoppage of public business, an emergency appointment may be made by the appointing authority. The Director of Human Resources and City Manager shall be notified of such appointment as soon as practicable. Emergency appointments shall be terminated when the emergency has been alleviated.
- (e) Seasonal: Appointments which are made for the purpose of conducting a special program or for specified period of time. Seasonal employees are not eligible for benefits.

## RULE VIII – PROBATIONARY PERIOD

*Absent specific provisions concerning probationary periods in recognized labor agreements, the following shall apply:*

### SECTION 8.1 Probationary Period:

All initial appointments shall be tentative and subject to a probationary period of not less than twelve (12) months of service for regular, full-time and regular, part-time employees

commencing on the first day of actual service. The City Manager may, in his sole discretion and for such reasons as he may deem appropriate, extend the probationary period for a period not to exceed six (6) additional months. Such extension of probation may be made at the time of initial appointment or at any time thereafter provided such action is taken prior to the expiration of the twelve (12) month probationary period. The probationary period shall be deemed to have expired at 5:00 P.M. on the last day of the probationary period, or any extension thereof.

During the probationary period, or any extension thereof, the employment of a probationary employee may be terminated by the City Manager without any showing of cause, notice of hearing or appeal rights of the terminated employee.

Notice of the failure to meet probation shall be served on the terminated employee by the City Manager or the terminated employee's department head prior to the expiration of the probation period, or any extension thereof. Such notices shall be in writing and shall be deemed served when given personally to the employee or at the date and time that the notice is deposited in the U.S. mail addressed to the employee at the employee's last known address. Upon completion of the probationary period, or any extension thereof, the employee shall be deemed to be regular employee and shall be vested with all rights applicable to such regular employees. No period of absence in excess of 20 calendar days, paid or unpaid, during the probation period, or any extension thereof, shall be credited towards the completion of the probationary period, or any extension thereof.

#### SECTION 8.2 Probationary Upon Promotion:

- (a) Any person receiving a promotional appointment to any classification in the competitive service shall serve a probationary period of six (6) months, commencing on the first day of service under such appointment. The City Manager may, in his sole discretion and for such reasons as he may deem appropriate, extend the probationary period for a period not to exceed three (3) additional months. Such an extension of this probationary period for an employee receiving a promotional appointment may be made at the time of the initial appointment or at any time thereafter provided such action is taken prior to the expiration of the six (6) month probationary period.
- (b) During the probationary period, or any extension thereof, the employee may be terminated from employment in the promotional-appointed position by the City Manager without any showing of cause, notice of hearing or appeal. Notice of such action shall be served upon the employee by the City Manager or the employee's department head prior to the expiration of the probationary period, or any extension thereof. Such notice shall be given in writing and shall be deemed served when given personally to the employee or at the date and time that the notice is deposited in the U.S. mail addressed to the employee at the employee's last known address. The probationary period shall be deemed to have expired at 5:00 P.M. on the last date of the probationary period, or any extension thereof.

If any employee who has received a promotional appointment is terminated during the employee's probationary period, such employee shall be reinstated to the position from which the employee was promoted if a vacancy then exists in such position, unless charges are filed and the employee is discharged in the manner as prescribed in these rules for positions in the competitive service. If there is no vacancy in such position at the time of termination, the employee may request to be placed on a re-employment list.

## RULE IX – COMPENSATION

### SECTION 9.1 The Compensation Plan:

- (a) An employee compensation plan shall be established to provide salary schedules, salary ranges, salary steps, and time intervals for salary review. Each class in the City's classification plan shall be assigned a salary schedule and range established in the compensation plan. All persons employed by the City and covered under these personnel rules shall be compensated in accordance with the compensation plan currently in effect at the time of appointment, or currently in effect as the result of a duly recognized and properly signed labor agreement. Absent specific provisions concerning compensation salary ranges, salary steps and time intervals for salary review in recognized Memorandum of Understanding, the following shall apply:
  - 1) Each salary range consists of five steps, namely 1, 2, 3, 4 & 5.
  - 2) The increase from one step to the next step in each salary range is an approximate 5%.
  - 3) An approximate difference of two and one-half percent (2.5%) exists between each salary range.
- (b) The steps of the salary range shall be interpreted and applied as follows and in conjunction with Section 9.1 of this Rule.
  - 1) **Step 1:** The first salary step is in the minimum rate and will normally be the hiring rate. Appointment may be made to other than the normal entering salary step upon the recommendation of the department head and the approval of the City Manager.
  - 2) **Step 2:** The second salary step: Six (6) months of satisfactory performance evaluation at Step 1 and the recommendation of the department head or authorized designee and upon approval by the City Manager shall make an employee eligible.
  - 3) **Step 3:** The third salary step: Twelve (12) months of satisfactory performance evaluation at Step 2 and the recommendation of the department head or authorized designee and upon approval by the City Manager shall make an employee eligible.
  - 4) **Step 4:** The fourth salary step: Twelve (12) months of s satisfactory performance evaluation at Step 3 and the recommendation of the immediate supervisor with approval from the department head and City Manager shall be required for advancement to this step.

- 5) **Step 5:** The fifth salary step: Twelve (12) months of satisfactory performance evaluation at Step 4 and the recommendation of the immediate supervisor and approval of the department head and City Manager shall be required for advancement to this step.
  - 6) **Step 5: Maintenance:** Continued satisfactory or higher performance evaluation at Step 5 for twelve (12) months and the recommendation of the immediate supervisor and approval of the department head and City Manager shall be required to maintain Step 5 salary.
- (c) For purposes of determining time requirements as specified herein, time will commence on the first day of entrance into a classification or onto a salary step.
  - (d) Service for purposes of salary administration shall include periods of actual performance of regular duties; periods of any approved paid leave of absence; periods for which worker's compensation is paid; and military leave. The following periods of time shall be disregarded and not counted; all leaves of absence without pay and lay offs in excess of 20 calendar days; all periods of service performed with an overall service rating of less than satisfactory.
  - (e) All rates shown, and conditions set forth herein, are in full payment for services rendered and are intended to cover full payment for the number of hours regularly worked in each class. Employees engaged for less than full time will be paid an hourly rate of pay that is within the range for the position occupied or as established upon hire.
  - (f) The provisions of this rule are based upon the salary schedules adopted by resolution of the City Council. The City Council shall administer compensation for the City Clerk, City Treasurer, City Attorney, and City Manager. The City Manager shall administer compensation for all other employees, including those exempt from these Rules, subject to ratification by the City Council. Hourly rates are based on 2,080 hours per year, except for sworn fire service employees which may be calculated on 2,920 work hours per year.

#### **SECTION 9.2 Revision of Compensation:**

In the absence of any contrary orders by the City Council for reasons of economy, the following method shall be observed in determining the step at which each employee shall be paid beginning the effective date of a change of the maximum salary for a position.

- (a) If the salary range is raised, the step at which the employee will be paid shall not be affected thereby.
- (b) If the salary range is lowered, the employee will be paid at the step in the new range which is as close to the step at which paid in the former range. If the maximum rate of the new range is lower than the employee's salary in the former range, the employee may be paid at the "Y" rate pursuant to Section 9.3

#### **SECTION 9.3 "Y" Rate:**

- (a) Step Y of the salary range for any class is hereby defined as any rate of pay in excess of Step 5 of the range for the class. An employee is paid at Step Y solely under one of the following two conditions:



- 1) Upon the reduction of the maximum salary rate for a class, an employee having regular status, who, immediately prior to such time, was paid at a higher rate for such class than the new maximum rate, shall, in the absence of any contrary orders by the City Council for economic reasons, have their pay frozen at the former rate.
  - 2) Any employee who is reclassified from a class in which regular status has been acquired, to a class with a lower maximum rate of pay, may, at the discretion of the City Manager, have their pay frozen at the same rate of pay or many have the salary reduced.
- (b) In the event of an increase in the salary rate applicable to class, regardless of the method by which such increase is accomplished, any employee who immediately prior thereto has been at step Y shall receive no increase unless the increased salary for employees at Step 5 for the class exceeds the salary already being paid the employee; in which case the salary be at step 5, or the step which closely approximates the employee's Y rate.

#### SECITION 9.4 Compensation at Appointment:

- (a) Appointment shall be made at Step 1 of the salary range prescribed for the class, with the following exception:
- 1) **Entrance to Service:** The first salary step shall normally be the hiring rate. The City Manager may authorize appointments to be made to other than the normal entering salary step within the prescribed salary range upon the written recommendation of the department head when it is decided that such action is in the best interest of the City. Determination of such hiring rate shall take into consideration the salaries being paid to those persons presently employed in the same classification in which the new employee is to work; the present salary of the person being considered for employment; the training, work experience, knowledge, abilities and skills the employee will bring to the job; the recruitment problems of the particular job; and such other pertinent factors as related to the individual problems. The recommendation of the department head, together with the reasons therefore, shall be written form and a copy shall be placed in the employee's personnel file.
  - 2) **Promotion:** Each promotion shall carry with it an approximate 5% salary increase and the procedure covering the normal minimum hiring rate shall not necessarily apply. No person who is receiving compensation at a "Y" rate immediately prior to such promotion shall have the salary reduced by reason of the appointment to the new class.
  - 3) **Different Class at Same Level:** Upon appointment to a class which has the same maximum salary rate as the class in which the employee is already employed, an appointee may, on the recommendation of the department head, and with the approval of the City Manager, be paid at the same salary rate as that which would have been paid if the employee had remained in the former class.
  - 4) **From Re-employment List:** An employee who is appointed from a re-employment list after having been laid off through no fault of the employee

because of lack of work or funds, or abolition of position, shall be paid at the step paid when their employment ended.

- 5) **Demotion:** In all cases of demotion; whether voluntary, disciplinary, or in lieu of a layoff, the City Manager, upon considering the recommendation from the department head, shall prescribe the salary rate to be paid.
- 6) **Former Non-Regular Employees:** The salary step for any person newly appointed from an employment list who has, within the immediately preceding two-year period, served in the same or equivalent class under any appointment other than a regular appointment may be paid at the step at which most recently paid, subject to the exceptions and conditions prescribed in the Rule and subject to approval by the City Manager.

#### SECTION 9.5 Conditions for Eligibility to Advance Within Range:

- (a) Every employee who holds a probationary or regular appointment to a position, advances to the next step within the salary range for the class on the first day immediately following completion of the time periods and pursuant to the conditions as indicated in Section 9.1 of this Rule.
- (b) The following periods of time shall be disregarded and not counted:
  1. All leaves of absences without pay and lay-offs in excess of 20 calendar days;
  2. All periods of service performed with an overall service rating of less than satisfactory;
- (c) Salary adjustments resulting from an employee's promotion or demotion become effective on the first day of the employee's promotion or demotion.

#### SECTION 9.6 Special Advancement Within Range:

Upon recommendation of the department head and the sole approval of the City Manager, an employee may be granted a merit salary advancement prior to the normal time intervals established in Section 9.1 of this Rule. Salary advancement is effective on the first day the merit advancement was approved.

#### SECTION 9.7 Temporary Employment Above Regular Entrance Step:

Upon the request of the department head, the City Manager may authorize the salary of a temporary employee at any step within a salary range for the class, comparable to the duties assigned.

#### SECTION 9.8 Pay Period:

- (a) The pay period for all employees will be bi-weekly. When the regular pay day coincides with a holiday, pay will be issued on the workday immediately preceding the holiday.
- (b) Except for employees being terminated, compensation will be paid only on regular pay days, unless early payment is approved by the City Manager. Employees voluntarily leaving the municipal service will normally be paid on the regular pay day following the

date of termination and upon written clearance by their respective department that said employee has returned all City-owned property, including, but not limited to I.D. cards, tools, clothing, keys and equipment.

- (c) The method of distributing payroll checks shall be established by the City Manager.
- (d) Employees terminated shall be paid compensation earned to the effective date of the termination only, and shall be paid for accrued compensatory time off, unused accrued holidays, and if eligible, accumulated vacation.

## **RULE X – ATTENDANCE AND LEAVES OF ABSENCE**

### **SECTION 10.1 Attendance:**

Employees shall be in attendance at their assigned work locations in accordance with the rules regarding hours of work, holidays, and leaves. All departments shall keep daily attendance records of employees which shall be reported in the form and on the dates specified.

### **SECTION 10.2 Leave Eligibility and Procedure:**

- (a) Eligible employees are entitled to paid holidays, vacations, paid sick, industrial injury time off, and other paid and unpaid leaves of absences as provide in these rules and negotiated MOU's. All requests for time off or leaves of absence, whether with or without pay, shall be submitted as designated by departmental procedures and these rules and must be approved by the department head, or designated individual.
- (b) The type of absence shall be indicated on the designated payroll time reporting form submitted at the end of each designated payroll period. Failure of an employee to report or contact the department to which assigned at the expiration of an approved leave shall be considered as absent without leave and subject the employee to the provisions of discipline or discharge as provided in these rules.
- (c) Absence without approval will be considered to be without pay, and reductions in the employee's pay may be made accordingly. Absence without approval for more than three (3) calendar days per year may result in disciplinary up to and including termination.

### **SECTION 10.3 Evidence of Cause of Absence:**

In cases of absence because of illness or off-the-job injury of the employee, or illness or death in the immediate family, the employee may be required to furnish to the department head satisfactory evidence substantiating the facts justifying such leave. The employee may also be requested to provide a doctor's release to assume full, unrestricted duty, after an extended illness or injury. Failure to furnish such evidence upon request may be sufficient reason for denying the leave of absence with pay.

### **SECTION 10.4 Holidays with Pay:**

Paid holidays are granted to probationary and regular employees only. The holidays to which an employee may be entitled are determined in individual labor agreements. Part-time and

temporary employees, depending upon the nature of their agreement with the City, may be eligible for holidays with pay. Seasonal employees are not eligible for paid holidays.

#### SECTION 10.5 Vacations:

- (a) Employees in the competitive service are entitled to vacation leave with pay in the amount of accrued vacation or compensatory time after satisfactory completion of 30 calendar days of service with the City. Vacation accrual rates are determined in individual employee bargaining unit agreements approved by the City Council, and bargaining unit members.
- (b) Unused vacation benefits may be accumulated from prior anniversary years. Maximum vacation accruals are established in various respective memorandum of understanding.
- (c) Upon separation from employment for any cause, an employee who has completed at least 30 calendar days of active service is entitled to pay for accumulated vacation days.
  - 1) If, in the case of retirement, the employee elects to be placed on vacation leave prior to the effective retirement date, the period of vacation shall be considered in computing currently earned vacation.
  - 2) Regular and probationary employees who terminate employment will be paid in a lump sum for all vacation earned up to the effective date of termination. Payment will be made with the employee's final payroll earnings. Vacation termination pay will include payment for all earned and unused vacation leave based upon the employee's time records and according to the maximums which may apply in individual labor agreements and will be at the employee's current base rate of pay. A regular employee who terminates employment with the City prior to the completion of an anniversary year will be entitled to a pro-rated payment of vacation.
  - 3) An employee who terminates employment within the first twelve (12) months (one year) of service after initial appointment, shall receive compensation only for accrued vacation up to the date of termination/resignation, per the terms of paragraph (2) above.
- (d) Temporary and part-time employees may receive pro-rated vacation leave, dependent upon the terms of their employment agreement with the City. Termination pay to temporary and part-time employees who receive pro-rated vacation will be in accordance with paragraphs (2) and (3) above.

#### SECTION 10.6 Sick Leave with Pay:

- (a) The intent of this Section is to offer a continuity of full salary to those employees who are unable because of illness or injury to perform the duties of their positions. Sick leave will be allowed and used in case of the employee's personal sickness, or disability, medical care, or dental treatment. Sick leave may be granted in cases of illness in the employee's immediate family and in compliance with applicable state and federal laws.
- (b) Sick Leave Defined. Sick leave is defined as the necessary absence from duty of an employee because of illness from either non-work or work-related injury; the serious disability of the employee while on a scheduled vacation; or absence authorized for

medical or dental care. Sick leave may also be granted to an employee confronted with illness or injury in the immediate family in compliance with Federal and State Family Medical Leave laws.

- (c) Immediate family for purposes of sick leave use is limited to the son, daughter, spouse and parents of the employee as defined in Federal and State Family Medical Leave statutes and City policy implementing FMLA provisions.
- (d) Sick leave rules apply to employees who are off work because of accidents, sickness or injuries not incurred in the line of duty. An employee absent from work for reasons that will entitle the employee to compensation under the State Disability Compensation law or covered under a policy of long term disability will receive for the duration of such compensation, only that portion of the regular salary paid first from accrued sick leave and subsequently from vacation and then earned CTO, and holiday time (if applicable), that will, together with disability compensation, equal the employee's regular salary. When all accrued leave credits are exhausted, the employee may request additional unpaid leave under the Family Medical Leave Act and pursuant to City policy implementing the act. Determination on continuation of employment as a result of an extended illness or non-work injury will be considered after a review of each individual circumstance, and in compliance with State and Federal law.
- (e) Sick leave will accrue monthly, beginning with the first month of employment, provided the employee has been in paid status for 50% or more of the first month or any month thereafter. Sick leave is earned at the rate of eight (8) hours per month (3.69 hours per pay period) for all regular, full-time, and probationary employees. Part-time employees may earn a pro-rated amount depending on the agreement with the City. No paid sick leave will be granted in excess of the employee's sick leave credit. Unused sick leave may be accumulated in an unlimited amount.
- (f) Absences of employees due to illness must be reported when the department head files the payroll report.
- (g) Medical Leave Without Pay. Upon depletion of accumulated sick leave, vacation time, available CTO, and holiday time (if applicable), for a non-industrial injury or illness, and upon the recommendation of the employee's department head, an employee may request to be placed on Family Medical Leave of absence in accordance with City policy implementing federal and state Family Medical Leave statutes. If the employee is unable to return to work at the end of the Family Leave period, further medical leave must be requested and is subject to approval of the City Manager. If further leave is granted, the employee must notify their supervisor, in writing, of the status of his/her condition every thirty (30) days during the term of the extension.
- (h) When it appears an employee cannot return to normal duties because of illness or injury, either non-industrial or industrial and the City determines that accommodations cannot be made to meet the employee's limitations, the City may terminate the employee after 30 days notification of its intent to do so. The employee may apply for the appropriate retirement from the Stanislaus County Employees Retirement Board. The Retirement Board which administers the City's retirement program is the final authority on the granting of retirement, and the City has no control over granting or disallowance of any retirement request.

#### SECTION 10.7 Worker's Compensation:

- (a) Those employees who are absent from duty because of a temporary disability which is defined as industrial under the Worker's Compensation Act may use accrued sick leave, compensatory time off, vacation for pay and holiday time (if applicable); provided, however, that the amounts paid by the City, when added to the temporary disability benefits, will not exceed the employee's regular rate of pay. An employee may request that accrued leave accounts not be used as stated herein. Such a request will place the employee on a leave without pay status which may affect benefit accruals.
- (b) Employees who are placed on worker's compensation temporary disability continue to accrue hospital, medical, and dental benefits, sick leave and vacation benefits as long as the employee is considered to be in a paid status. Paid status is defined herein as receiving compensation from the City in the form of accumulated sick, vacation, compensatory time off, or accrued holidays (if applicable).
- (c) Upon depletion of all accumulated leave for an individual injury or illness, a non-sworn employee may request leave under the Family Medical Leave Act. At the end of the 12-week period allowed under law and City policy, and upon the recommendation of the employee's department head, an employee may be placed on medical leave of absence without pay for a period not to exceed sixty (60) days. If the employee is unable to return to work at the end of this period, further medical leave must be requested. Continued employment as the result of an industrial injury will be determined after applicable statutes regarding worker's compensation and ADA have been met.
- (d) Safety Employees. Sworn employees injured in the line of duty are covered under Section 4850 of the Labor Code as it related to administration of Worker's Compensation benefits.
- (e) When it appears an employee cannot return to normal duties because of illness or injury, either non-industrial or industrial and the City determines that accommodations cannot be made to meet the employee's limitations, the City may terminate the employee after 30 days notification of its intent to do so. The employee may apply for the appropriate retirement from the Stanislaus County Employees Retirement Board. The Retirement Board which administers the City's retirement program is the final authority on the granting of retirement, and the City has no control over granting or disallowance of any retirement request.

#### SECTION 10.8 Military Leave:

Military leave shall be granted as paid leave in accordance with the provisions of federal and state laws. All employees entitled to military leave shall give the department head or designee an opportunity, within the limits of military regulations, to determine when such leaves shall be taken.

#### SECTION 10.9 Bereavement Leave:

Bereavement leave will be granted at full pay and shall not be charged against the employee's accrued vacation or sick leave when death occurs to a member of an employee's immediate

family. Request for bereavement leave with pay up to three (3) scheduled working days, or five (5) scheduled working days if the employee is required to travel beyond a radius of five hundred miles (500), may be granted. The immediate family for purposes of this Section is the husband or wife of employee, mother, father (including stepparents), grandparents, grandchildren, son, daughter, brother, sister, stepchild or foster child of the employee or spouse.

#### SECTION 10.10 Leave of Absence Without Pay:

- (a) The City Manager, without restriction, may grant a regular or probationary employee leave of absence without pay or seniority for other than medical or family leave reasons and not to exceed nine (9) months (270 calendar days) within a consecutive 12-month period. After nine (9) months, the leave of absence may be extended for a period not to exceed three additional months if so authorized by the City Manager. No such leave shall be granted except upon written request of the employee setting forth the reason for the request. The approval will be in writing. Upon expiration of a regularly approved leave or within three (3) working days after notice to return to duty, the employee may be reinstated in the position held at the time leave was granted. An employee who fails to report promptly at the expiration of the leave, or within three (3) working days after notice to return to duty, will be deemed to have abandoned the position and may be discharged upon reasonable notice. Reasonable notice will have been served by depositing in the United States mail a first-class letter, postage paid, addressed to the employee's last known place of address, indicating that the employee is being discharged for abandonment of the position.
- (b) Leaves of absence without pay for other than medical or family leave for 30 calendar days or less may be granted by a department head to regular or probationary employees. Any such approved leave will be included as time granted pursuant to paragraph a in this section.
- (c) Vacation and sick leave will not accrue during any period of leave without pay. Employees on leave without pay will not receive credit or be paid for holidays observed during the period of leave without pay. Employees on leave without pay, and who are not on family medical leave, may elect to pay insurance premiums by the first of the month in which coverage is requested on insurance plans for coverage they wish to continue. Failure to pay premiums by the first of the month may subject the employee to cancellation of insurance coverage.
- (d) Probationary employees granted a leave of absence without pay will have an extended probation period equal to the number of days granted leave without pay.
- (e) Regular employees granted a leave of absence without pay will extend their anniversary date by the number days of leave without pay for purposes of salary administration, performance evaluation, and vacation accruals.

#### SECTION 10.11 Court Leave:

- (a) Employees who are called or required to serve as a trial juror will be granted leave for such purpose upon notification and appropriate verification of the period of required absence submitted to his/her supervisor. The employee will be paid regular salary for the

time served as a juror provided the jury fee paid to the employee is deposited with the City. The employee may keep mileage fees paid by the courts.

- (b) Employees who are called or required to serve as a witness under subpoena on a matter which involves the City, and where the employee as a result of his/her job responsibilities may be required to testify as an “expert witness”; will be granted leave for such purpose upon notification and appropriate verification of the period of required absence submitted to his/her supervisor. The employee will be paid regular salary for the time served as a witness pursuant to this section provided the employee requests and is paid the applicable witness fee and deposits same with the City. The employee may keep mileage fees, if any.
- (c) Employees who are called or required to serve as a witness in a matter in which the City is not the defendant or plaintiff, or to appear in court on a personal matter, may be granted time off for such purpose using applicable accrued leave, and upon notification and appropriate verification of the period of required absence submitted to his/her supervisor.

#### SECTION 10.12 Required Leave of Absence:

- (a) An employee may be required to be relieved of duty for a period not to exceed two (2) days, if, in the opinion of the department head, the employee is incapacitated for work due to non-work related illness or injury. If said incapacity may reasonably be expected to extend beyond two (2) working days, the department head may require the employee to submit to a fitness for duty examination by a physician or other health care provider designated or approved by the City Manager.
- (b) If the report of the physician or other health care provider shows the employee to be in an unfit condition to work, the department will have the right, subject to approval by the City Manager, to compel such employee to take sufficient leave of absence, not to exceed one year of leave without pay and subject to the provisions of Section 10.10 of this Rule, so as to be able to properly perform the regularly assigned duties of the position currently held by the employee. Expenses in connection with the fitness for duty examination will be borne by the City.

## RULE XI – TRANSFER, PROMOTION, DEMOTION, SUSPENSION AND REINSTATEMENT

#### SECTION 11.1 Transfer:

- (a) No person will be transferred to a position for which that person does not possess the minimum qualifications and who has not completed the stated probationary period for the position currently held. Upon written notice to the Director of Human Resources, an employee may request to be transferred from one position to another position in the same or comparable class when a vacancy exists. The employee requesting the transfer will be considered with certified eligibles, if available, for the position. The transfer must



be approved by the appropriate department head. For transfer purposes, a comparable class is one with the same maximum salary, involves the performance of similar duties and requires substantially the same minimum qualifications.

- (b) If the transfer involves a change from one department to another, both department heads must consent thereto. A transfer will not be used to effectuate a promotion, demotion, advancement, or reduction in pay, each of which may be accomplished only as provided in these Rules. Employees who transfer into another department or comparable classification may be required to serve a new probationary period of at least six months as a condition of transfer.
- (c) Salary upon all transfer will be determined by the City Manager. The City Manager may order any employee transfer as deemed necessary for operational, economic or personnel considerations.

#### SECTION 11.2 Demotion:

- (a) The department head or supervisor may recommend demotion of an employee due to a reorganization which results in a lesser level of responsibility for the incumbent. Demotions arising from an organizational change must be approved by the City Manager.
- (b) Upon request of the employee, and with the consent of the department head and approval of the City Manager, a demotion may be made to a vacant position within the City. An employee may not be demoted to a position for which he/she does not possess the minimum qualifications.
- (c) Written notice of a non-disciplinary demotion will be given to the affected employee two (2) weeks prior to the effective date of the demotion.

#### SECTION 11.3 Salary Reduction Upon Demotion:

After consultation with the appropriate department head, the City Manager may make salary reductions within the allowable salary range of the new position of the demoted employee.

#### SECTION 11.4 Suspension:

A department head, after consideration of due process and in accordance with Rule XIII, may suspend an employee from a position not to exceed 20 working days for a disciplinary purpose.

#### SECTION 11.5 Reinstatement:

With the approval of the City Manager, a regular employee who has resigned with a good record and who has requested reinstatement according to the terms of Article VII, Section 7.6 of these rules, 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 will be subject to the probationary period prescribed for the class. Credit for former employment, at the time of reinstatement, may be granted in computing salary, vacation accrual, sick leave, or other benefits on the specific recommendation of the department head and approval of the City Manager.

## RULE XII – EMPLOYEE PERFORMANCE REPORTS

### SECTION 12.1 Performance Reports:

Performance evaluations will be given to employees on a period basis recording the employee's performance. While on probation, performance reports will be prepared as management deems necessary. All performance evaluations will be retained in the personnel record of each employee.

### SECTION 12.2 Performance Evaluation Procedure:

- (a) The supervisor most directly familiar with the employee's performance during the rated period is charged with the evaluation responsibility. If the employee has had more than one supervisor during the evaluation period, the other supervisor(s) should be consulted by the evaluator before making an evaluation.
- (b) The following steps are to be followed in the rating procedure:
  - i. Preliminary evaluation by the supervisor;
  - ii. Evaluation interview with the employee;
  - iii. Review and certification of the written performance evaluation by department head;
  - iv. Filing of evaluation with the City Manager with final routings to Human Resources Office;
  - v. A copy of the evaluation will be given to the employee and rating supervisor by the Human Resources Office;
  - vi. Original evaluation will be placed in the employee's personnel file located in the Human Resources Office.

## RULE XIII – DISCIPLINARY ACTION

### SECTION 13.1 Policy:

Prior to the suspension, demotion, reduction in pay, discharge, or other disciplinary action of a regular employee for disciplinary purposes, the procedures set forth in this Rule will be complied with.

### SECTION 13.2 Causes for Disciplinary Action:

The following types of employee conduct are examples of activities which may result in disciplinary action up to and including termination. These types of conduct are listed only as examples and are not intended to be all inclusive or represent the only issues which may lead to disciplinary action:

- (a) Omission or willful misrepresentation of material fact or other fraud in securing employment;
- (b) Substandard performance of work duties and responsibilities;
- (c) Neglect of duties;

- (d) Insubordination, or willful disobedience;
- (e) Improper use of drugs, including drunkenness on duty; use of illicit drugs while on duty; improper use of prescription medication which can affect performance and judgement while on duty; inability to properly perform work duties as a result of prior drug or alcohol use as defined in and under compliance with ADA regulations;
- (f) Unexcused absence from duty, including but not limited to, participation in unlawful strikes or other job actions, such as sick-ins, blue flu, etc;
- (g) Conviction of a felony or misdemeanor involving moral turpitude where the conviction will impair the employee's ability to perform regular job duties. A plea or verdict of guilty, or a conviction following a plea of nolo contendere to a charge of felony or any offense involving moral turpitude is deemed to be a conviction within the meaning of this subsection;
- (h) Discourteous treatment of the public or other employees;
- (i) Continued inability to work effectively and amicably with other employees of the department or those contacted in the course of business, which conduct adversely impacts the operations of the department;
- (j) Misuse or theft of city property;
- (k) Inconsistent, incompatible, or conflicting outside employment activity, or enterprise which the employee fails to relinquish after notice to cease;
- (l) Violation of an established department rule;
- (m) Other failure of good behavior either during or outside of duty hours which is of such a nature that it causes discredit to the employee's department or employment;
- (n) Proven instances of sexual, racial, or other forms of harassment;
- (o) Excessive absenteeism or tardiness;
- (p) Violation of safety rules or regulations.

### SECTION 13.3 Written Notice:

Written notice of the proposed disciplinary action will be served on the employee either by personal service or by U.S. Mail, addressed to the employee at his/her last known address. Such notice will include a statement of the reason(s) for the proposed action, the charge(s) being considered, and the proposed discipline. Service shall be deemed complete on the day the employee is personally served, or if service is by mail, two (2) days after the notice is deposited in the U.S. Mail. Written notice of proposed disciplinary action is not necessary for oral or written warning.

### SECTION 13.4 Employee Review:

The employee will be given an opportunity to review the documents or materials upon which the proposed disciplinary action is based, and, if practical, the employee will be supplied with a copy of the documents, at the time the written notice of the proposed disciplinary action is served on the employee.

### SECTION 13.5 Employee Response and Decision of Department Head:

Within five (5) working days after service of the notice of proposed disciplinary action, the employee will have the right to respond orally or in writing, at the employee's option, to their respective department head or the department head's designee concerning the proposed disciplinary action. The employee may have a representative of his/her choice present at the time such response is made. The department head or designee, shall consider the employee's response, and shall affirm, modify, or suspend the proposed disciplinary action. The decision of the department head or designee shall be served on the employee in the same manner as provided in Section 13.3 for the service of the notice of proposed disciplinary action within five (5) working days of receipt of the employee's written response or oral presentation.

### SECTION 13.6 Administrative Leave:

Notwithstanding the provisions of this Rule, should it be necessary to complete an investigation, a department head may order the employee being investigated on a paid leave status (administrative leave). When a determination is made regarding the discipline to be imposed, the employee may be removed from administrative leave.

### SECTION 13.7 Appeal:

The following procedures will apply:

- (a) The employee may appeal a disciplinary action to an administrative hearing before the City Manager by filing a written request with the City Manager within five (5) working days after the decision of the department head has been served upon the employee as provided in Section 13.5. The appeal must be in writing and state specifically the reason(s) upon which the appeal is based and the restitution being sought. Failure to file an appeal within such time period constitutes a waiver of the right to appeal.
- (b) The City Manager will conduct an administrative hearing on the appeal filed in accordance with Section 13.7a within thirty (30) days after receipt thereof. The hearing may be continued either for the convenience of City Manager or the employee, for a period not to exceed an additional thirty (30) days from the receipt of the appeal. Written notice of the time and place of the hearing, or any continuance thereof, will be given to the employee either personally or by U.S. Mail. Such hearings will be conducted in accordance with the provisions set forth in Section 13.8.
- (c) Upon the request of the employee, or at the discretion of the City Manager, the hearing may be conducted in private.

### SECTION 13.8 Appeal Procedure:

The following procedure will be followed at the appeal hearing:

- (a) The City Manager or his designee shall convene a three-member appeal board to hear the appeal and render a final decision in written form. The board shall consist of one (1) department head or mid-manager, one (1) first line supervisor, and one (1) regular employee not in a supervisory position. All board members shall be from departments not affected by the appeal.
- (b) The appeal hearing shall be attended by the following persons:

- 1) The employee, and if the employee elects to have representation at the hearing, one representative chosen by the employee.
  - 2) An attorney or representative designated by the City.
  - 3) Other city personnel requested by the City or the employee, subject to the approval of the City Manager.
- (c) The City Attorney shall act as a hearing officer.
- (d) The hearing officer shall conduct the hearing in such a manner as to insure that each side to the dispute has a fair opportunity to present their case. The hearing officer shall make all decisions relating to the admissibility of evidence and all other procedural aspects of the hearing. The hearing officer shall also be charged with the duty and responsibility of determining all of the facts related to the matter and shall, at the conclusion of the hearing, render a written decision regarding the appeal.
- (e) The hearing officer shall conduct the hearing in accordance with the following rules of evidenced and procedure:
- 1) Oral evidence shall be taken only on oath or affirmation.
  - 2) Each party shall have these rights: to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him or her testify; and to rebut the evidence against him or her. If the employee does not testify in his or her own behalf he or she may be called and examined as if under cross-examination.
  - 3) The hearing need not be conducted according to technical rules relating to evidence and witnesses, except as hereinafter provided. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions.
  - 4) Hearsay evidence may be used for the purposes of supplementing or explaining other evidence but over timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. An objection is timely if made before submission of the case or on reconsideration.
  - 5) The hearing office has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.
- (f) The Appeal Board will render a written decision to the City Manager within fifteen (15) days after concluding the hearing. The Board's decision will be final and conclusive. A copy of such decision will be forwarded to the employee and his/her representative, if any, and to the department head. If the disciplinary action taken against the employee is reversed or modified by the Appeal Board the employee may be compensated, in whole, in part, or as determined by the Appeal Board for any time lost.

#### SECTION 13.9 Representation:

Any city employee other than those appointed to a management, mid-management or confidential classification will be permitted to represent another city employee or group of city employees at the hearing of the appeal. The appellant will appear in person and may be represented by counsel or labor representative in place of a city employee as stated in this Section. Such notice of representation must be submitted in writing by the appellant to the City Manager at least five (5) days prior to the scheduled appeal hearing.

#### SECTION 13.10 Notices of Witnesses:

The Director of Human Resources will issue notices for the appearance of witnesses for the appellant upon appellant's written request and at appellant's cost. The City Manager may require such cost to be prepaid. Failure to respond to a notice to appear as a witness by a city employee will constitute an act of insubordination and may subject such employee to disciplinary action.

#### SECTION 13.11 Failure to Employee to Appear at Hearing:

Failure of the employee to appear at the hearing will be deemed a withdrawal of the appeal and the prior decision of the department head or designee shall be final.

#### SECTION 13.12 Release of Information:

No information will be released relative to disciplinary action against municipal employees without prior approval of the City Manager and in accordance with applicable state law.

#### SECTION 13.13 Provision Not Applicable:

The provisions of this section do not apply to reductions in force, reductions in pay or reassignments to other classifications which are each part of a general plan to reduce or adjust salaries or positions as the result of budgetary or lack of work considerations which are not the result of a disciplinary action.

### **RULE XIV – EMPLOYEE GRIEVANCE PROCEDURE**

#### SECTION 14.1 Definition:

A grievance is defined as an employee-initiated allegation that a term or condition of employment established by a Memorandum of Understanding, the personnel rules, or other written city or departmental policy or procedure has been violated; provided however, that the matter grieved is not one which is excluded from the grievance procedure as provided in Section 14.2

#### SECTION 14.2 Matters Excluded from the Grievance Procedure:

The grievance procedure shall not apply to any of the following types of matters:

- (a) All matters involving the imposition of any type of employee discipline.

- (b) All matters involving changes in job title, classification, or salary.
- (c) All matters involving work performance evaluation and any actions resulting therefrom.
- (d) All matters involving Personnel Rules examinations.
- (e) Any matter which is not within the scope of representation as defined in Section 3500 et seq. of the Government Code or the City Employee-Employer Relations Ordinance.
- (f) Reductions in pay or reassignments to other classifications which are part of a general plan to reduce or adjust salaries or positions as the result of budgetary or lack of work considerations.

#### SECTION 14.3 Special Provisions of the Grievance Procedure:

Except as to those instances where grievances procedures are established pursuant to formally adopted, current Memorandum of Understanding or labor agreement, the following procedures will apply:

- (a) The employee will follow the sequence and the procedure outlined in Section 14.4 of this Rule is presenting a grievance or set of grievances.
- (b) The employee must discuss the grievance with the employee's immediate supervisor in a timely manner after the act or omission causing the grievance. A timely manner is defined as a period of not more than five (5) working days unless circumstances prohibit otherwise.
- (c) The written grievance must be submitted with the grievant's name, department/division, date of act or omission, the specific act or acts complained of and being grieved, the inequity or damage suffered, and the relief sought.
- (d) The employee may choose an individual to provide representation at any step in the procedure. No person hearing a grievance need recognize more than one representative for any employee at any one time, unless the hearing individual so desires.
- (e) Whenever possible, grievances will be handled between the working hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. Exceptions may be granted for compelling reasons.
- (f) The time limits within which actions must be taken or a decision made as specified in this procedure may be extended by mutual written consent of the parties involved, not to exceed five (5) working days. A statement of the duration of such extension of time must be signed by both parties involved at the step to be extended.
- (g) If the grievance involves a group of employees or if a number of employees file separate grievances on the same matter, the grievances may be handled as a single grievance by the reviewer of the grievance(s).
- (h) Any grievance will be considered settled at the completion of any step if all parties are satisfied or if neither party presents the matter to a higher authority within the prescribed time.
- (i) The grievance procedure is intended to assure a grieving employee the right to present a grievance without fear of disciplinary action or reprisal by a supervisor, superior, or department head, provided provisions of this grievance procedure are properly observed.

#### SECTION 14.4 Grievance Procedure Steps:

The following procedure will be followed by an employee submitting a grievance pursuant to policy:

- (a) The employee will informally discuss the grievance with the immediate supervisor. Within two (2) working days, the supervisor will verbally give the decision to the employee.
- (b) If the employee and supervisor cannot reach an agreement as to a solution of the grievance, or the employee has not received a decision within the two (2) working days limit, the employee may, within five (5) working days present the grievance in writing to the next level of designated management in the department. The supervisor will provide comments, if any, on the written grievance and present such commentary, within two (2) working days to the designated management in the department. The grievance will be heard by the designated management employee and a written decision given to the employee within five (5) working days after hearing the grievance.
- (c) If the employee and the next level of designated management fail to reach an agreement as to a solution of the grievance, or the employee has not received a written decision within the five (5) working days limit, the employee may within five (5) working days present the written grievance to the department head. The department head will hear the grievance and give a written decision to the employee within five (5) working days after receiving the grievance. In those instances where the department head was the second level to hear the grievance, the grievance process shall follow Section 14.4.d.
- (d) If the employee and department head cannot reach an agreement as to a solution of the grievance or the employee has not received a decision within five (5) working days limit, the employee may, within five (5) working days, present the grievance in writing to the City Manager. The City Manager or designee shall convene a three (3) member Board of Review within fifteen (15) days after receipt of the grievance to hear the grievance and render a final decision in written form. The board shall consist of one (1) department head or mi-manager, one (1) first line supervisor, and one (1) regular employee not in a supervisory position. All board members shall be from departments not affected by the appeal. The hearing may be continued for up to an additional thirty (30) days for either the convenience of the City Manager or the written application of the grievant. Written notice of the time and place of the hearing or any continuance thereof, shall be given to the grievant.
- (e) In cases where one or more of the above levels of supervision do not exist, the employee will submit the grievance to the next highest level of supervision. The amount of time to submit a grievance shall be consistent with the appropriate level of supervision.

#### SECTION 14.5 Grievance Hearing Procedure:

The following procedure will be followed at the grievance hearing:

- (a) The hearing shall be attended by the employee initiating the grievance and may be attended by one representative of the employee's choice, the city's representative, the city attorney, or designee. Other requested personnel upon the approval of the City Manager may attend the hearing.
- (b) The City Attorney, or other city designee, shall serve as mediator at the grievance hearing.
- (c) The Mediator shall ensure that all sides are presented as fairly as possible.



- (d) After all evidence and/or pertinent comments have been made, the Board of Review will deliberate in private and render a decision by majority vote in writing. The decision shall be submitted in writing to the City Manager, who shall in turn distribute copies of the decision to the involved parties of the grievance. Individuals votes of Board members shall be held in confidence. The decision of the Board of Review will be final.

## **RULE XV – SEPARATION FROM SERVICE**

### **SECTION 15.1 Discharge:**

An employee in the competitive service may be discharged at any time by the City Manager. Whenever it is the intention of the department head to discharge an employee in the competitive service, the Director of Human Resources will first be notified. Disciplinary discharge action shall be taken in accordance with Rule XIII.

### **SECTION 15.2 Resignation:**

An employee wishing to leave the competitive service in good standing will file a written resignation with the department head or designated individual stating the effective date and the reasons for leaving at least two weeks before leaving the service, unless such time limit is waived by the department head or designated individual. A statement as to the resigned employee's service performance and other pertinent information will be forwarded to the Director of Human Resources. Failure to give notice as required by this Rule may be cause for denying future employment by the City.

### **SECTION 15.3 Reemployment After Resignation:**

- (a) Any person in good standing who has resigned after having attained regular status in a class may, within six months of resignation, requests reinstatement through the Director of Human Resources and pursuant to Section 7.6 herein. Upon recommendation by the resigned employee's prior department head and upon approval by the City Manager, the employee's name will be added to the appropriate employment list, if one exists, for such class. The former employee may be considered for the vacancy, if an employment list does not exist for the class, the position is still vacant, and recruitment has not been conducted.
- (b) Eligibility on such employment list will continue only for the duration of the employment list. Such resigned employees will be placed on the employment list as of the date the City Manager approves reinstatement. The names of resigned employees on an employment list will be certified to department heads in the same manner as for any other applicant and will be certified as the fourth name. Prior to re-employment, the employee may be required to requalify through physical examination. Any former employee who was discharged, or who resigned under charges, will not be eligible for reinstatement to any eligible list.

#### **SECTION 15.4 Dismissal During Probation:**

- (a) Any employee dismissed while serving a probationary period has no right of appeal for review of such action.
- (b) A probationary employee separated from the service or reduced in rank because of lack of work or funds, or because the class has been abolished, and who was considered in good standing, will be recertified for six (6) months to the employment list for the classification from which last certified for employment for the duration of the list.

### **RULE XVI – LAYOFF POLICY AND PROCEDURE**

#### **SECTION 16.1 Statement of Intent:**

Whenever, in the judgment of the City Council, it becomes necessary to abolish any position or employment, the employee holding such position or employment may be laid off or demoted without disciplinary action and without the right to appeal.

#### **SECTION 16.2 Notification:**

Employees to be laid off will be given, whenever possible, a minimum of 14 calendar days prior to notice.

#### **SECTION 16.3 Vacancy and Demotion:**

Except as otherwise provided, whenever there is a reduction in the workforce, the City Manager will first demote an employee who is the latest to be laid off in accordance with Section 16.5 to a vacancy, if any, in a lower class for which the employee has qualified. All persons so demoted will have their names placed on a reemployment list for the position last held.

#### **SECTION 16.4 Employee Rights:**

An employee affected by layoff will have the right to displace an employee in the same department or division who has less seniority in a lower or similar class in the same class series, or in a lower classification in which the affected employee once had regular status. For the purpose of this section and Section 16.5, seniority includes all periods of full-time paid service at or above the classification level where layoff is to occur. Any periods of leave without pay or time off because of disciplinary action will not be counted for seniority purposes for this section.

#### **SECTION 16.5 Seniority:**

- (a) In order to revert to a former or lower classification, an employee must have more seniority than at least one of the incumbents in the affected class series within the department or division and request displacement action in writing to the Director of Human Resources within five (5) working days of receipt of notice of layoff.
- (b) Employees reverting to a lower or similar class will be placed at the salary step representing the least loss of pay. In no case will the salary be increased above that received in the class from which the employee was laid off.

- (c) Employees reverting to a lower or similar class will serve a probationary period in the new class unless they have previously successfully completed a probationary period in the class or a position in the class series.

#### SECTION 16.6 Employment Status:

- (a) In each class of position, employees will be laid off according to employment status in the following order: temporary, part-time, probationary, and regular.
- (b) Temporary, part-time, and probationary employees will be laid off according to the needs of the service as determined by the appointing authority.
- (c) In cases where there are two or more regular employees in the class from which the layoff is to be made, and seniority of the employee is equal, such employees will be laid off on the basis of their last evaluation rating in that class, providing such rating has been on file at least 30 days and no more than 12 months prior to layoff as follows:
  - 1) First, all employees having overall rating of “unsatisfactory or needs improvement”;
  - 2) Second, all employees having ratings of “standard”;
  - 3) Third, all employees having ratings of “superior”;
  - 4) Lastly, all employees with “outstanding” ratings.

Example: Employees in the Administrative Clerk series within a department or division subject to layoff who are equal in seniority will have their performance evaluations compared. They will be grouped according to the above four categories. Employees in category 1 will be laid off first, without bumping rights, then employees in categories 2, 3, & 4 shall be laid off, all without bumping rights.

#### SECTION 16.7 Re-Employment List:

The names of persons laid off or demoted in accordance with these rules may be entered upon a re-employment list under the same terms as Section 11.5 herein. Lists created at different times for the same class of position will be combined into a single list. Such list will be used by every department when a vacancy arises in the same or lower class of position before certification is made from an employment list.

#### SECTION 16.8 Duration of Re-Employment List:

Names of persons laid off and approved for re-employment will be carried on a re-employment list for six months, except that persons appointed to authorized positions of the same level as that which laid off, will, upon such appointment, be dropped from the list. Persons who refuse re-employment will be dropped from the list. Persons re-employed in a lower class, or on a temporary basis, will continue on the list for the higher position for six months.

#### SECTION 16.9 Re-Employment After Layoff:

An employee laid off after acquiring regular status will, after reinstatement, regain the seniority credit possessed at the time of layoff. An employee laid off from a class may, if reappointed within six months, have reinstated any unused sick leave existing at the time of layoff.

#### SECTION 16.10 Re-Employment List for Seasonal Work:

Employees who have served satisfactorily in seasonal employment may have their names placed on the season re-employment list for the class of position in which they have served.

Seasonal re-employment list may be revised at the beginning of each calendar year. A seasonal employee will be removed from the re-employment list and have no further standing in such class of position if such employee fails to work for two consecutive seasons.

### **RULE XVII – VIOLATIONS**

#### SECTION 17.1 Violation of Rules:

Violations of any provisions of these Rules may be grounds for rejection, suspension, demotion, dismissal, or other disciplinary action.

### **RULE XVIII – CODES OF CONDUCT**

#### SECTION 18.1 Purpose:

The purpose of this section is to establish guidelines for ethical standards of conduct which shall govern City employees and public officials in the performance of City business and the duties of their respective jobs. This section is intended to provide proper focus to City employees in order to prevent potential conflicts of interest. This policy is not all-encompassing in its definition of conflict of interest. The “prudent person” theory can and will be applied: action deemed inappropriate by a reasonable person, whether specifically cited in this policy or not, will be subject to inquiry.

The ethics policy is intended to supplement all existing state laws pertaining to ethics. Compliance with this ethics policy does not ensure compliance with the Political Reform Act. Persons covered by that Act should consult with the proper authority regarding any question or issue covered by the Political Reform Act.

#### SECTION 18.2 Responsibilities of Public Office:

It is the policy of the City that each public official and employee shall observe in their official acts the highest standards of ethics and to discharge faithfully the duties of their offices regardless of personal considerations, recognizing that the public interest must be their primary concern. Public officials and employees should conduct their official and private affairs so as not to give a reasonable basis for the impression that any such official or employee can be improperly influenced in the performance of his/her public duties. Such officials or employees should so conduct themselves as to maintain public confidence in their performance and public trust in the

government they represent. They should avoid even the appearance of conflict between their public duties and private interests.

Public officials and employees should not exceed their authority or breach law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from doing so by law.

### SECTION 18.3 Statement of Policy:

1. Conflicts of Interest. No City employee shall engage in any act which is in conflict or creates an appearance of fairness or conflict with the performance of official duties. A conflict shall be deemed to arise if the employee:
  - a. Has any financial interest in any sale to the City of any goods or services when such financial interest was received with prior knowledge that the City intended to purchase the property, goods, or services.
  - b. Solicits, accepts, or seeks a gift, gratuity, or favor from any person, firm, or corporation involved in a contract or transaction which is or may be the subject of official action by the City.
    - i. Recognizing that personal friendships often precede and can evolve from official contact between employees and persons engaged in business with the City, reasonable exceptions to this section are permitted for those occasions which are social in nature and are not predicated on the employee's ability to influence, directly or indirectly, any matter before the City. The employee will be guided in interpretation of this section by the distinction between a gift, gratuity, or favor given or received which has significant monetary value and is offered or accepted in expectation of preferential treatment, and an expression of courtesy. Examples of acceptable courtesies include: a meal or social event; exchanges of floral offerings or gifts of food to commemorate events such as illness, death, birth, holidays, promotions; a sample of promotional gift of nominal value (\$25 or less).
  - c. Participates in his/her capacity as a City employee in the issuing of a purchase order or contract in which he/she has a private pecuniary interest, direct or indirect, or performs in regard to such contract some function requiring the exercise of discretion on behalf of the City.
  - d. Engage in, accepts employment from, or renders services for private interests for any compensation or consideration having monetary value when such employment or service is incompatible with the proper discharge of official duties or would tend to impair independence of judgment or action in performance of official duties, or give the appearance of the above. An employee should not make a unilateral decision; if there is any doubt about his/her private employment, the City Manager should be consulted.
  - e. Except for courtesies as provided in item "b" above, no employee shall, directly or indirectly, give or receive, or agree to receive any compensation, gift, reward,

commission or gratuity from any source except the City for any matter directly connected with or related to his/her official services as such employee with the City.

- f. Discloses or uses without authorization confidential information concerning property or affairs of the City to advance a private interest with respect to any contract or transaction which is or may be the subject of official action of the City.
  - g. Have a financial interest or personal interest in any legislation coming before the City Council and participates in discussion with or gives an official opinion to the City Council unless the employee discloses on the record of the Council the nature and extent of such interest.
- 2. No employee of the City shall request, use, or permit the use of City-owned vehicles, clothing, equipment, materials, or other property for unauthorized personal convenience, for profit, for private use, or as part of secondary employment. Use of such City property is to be restricted to such services as are available to the City generally and for the conduct of official City business.
  - a. Authorized personal uses may include taking an assigned City vehicle to local area lunch on workdays as needed, limited use of a City copy machine, stopping to run brief personal errands when the destination point is in conjunction with official or authorized business, and other nominal person uses as permitted by the City Manager on a case-by-case basis and as further described in City policy.
- 3. No City employee may use City time or property in any manner to promote any political issue or candidate, or to solicit funds for any political purpose or to influence the outcome of any election.
  - a. With the approval of the City Manager, an exception shall be allowed when the subject of an election has received the endorsement and support of the City Council (e.g. bond issue).
  - b. No City employee shall be eligible for appointment or election to any public office when the holding of such office would be incompatible or would substantially interfere with the discharge of official duties.

#### SECTION 18.4 Definitions:

##### Employee:

An employee is defined as any person holding a regularly compensated position for the City of Ceres, including regular full-time, part-time, temporary, seasonal or any other classification which is regularly compensated.

##### Interest:

Interest is any direct or indirect monetary or material benefit accruing to a City employee as a result of a contract or transaction which is or may be the subject of an official act or action by or with the City (except for such transactions which would confer similar benefits to all other person and/or property similarly situated).

Interests include:

- (a) Interest in an employee's family;

- (b) Any business entity in which stock or legal beneficial ownership is in excess of one percent (1%) of the total stock, or legal ownership is controlled or owned directly or indirectly by the employee;
- (c) Interest in any business entity in which the City employee is an officer, director, or employee;
- (d) Interest in any person or business entity with whom a contractual relationship exists with the employee; provided that a contractual obligation of less than \$500 or a commercially reasonable loan or purchase made in the course of ordinary business shall not be deemed to create a conflict of interest.

Immediate Family:

Family includes spouse, child, parent, parent-in-law, brother, sister, grandparent, son-in-law, daughter-in-law, and grandchildren. Family also includes other persons residing in the employee's residence or whom are financially dependent upon the employee.

Contract:

Contract shall include any contract or agreement, sale, lease, purchase, or purchase order.

SECTION 18.5 Procedure:

1. Where to Seek Advice:
  - a. City Employees: Employees who have questions about the ethics of an action or situation should discuss it with their supervisor, the Director of Human Resources, City Manager or City Attorney. It is frequently necessary to consult administrative regulations, personnel rules and departmental directives to determine whether a particular action is allowable.
  - b. Members of City Boards, Commissions, Committees, and the City Council: Members who are uncertain whether a conflict of interest or other ethical problems may exist should contact the City Attorney for advice.
2. What to do if You are Uncertain.  
The existence of an ethical issue may not arise until a situation is underway. In such cases, there may not be time to contact someone for advice. Rather than risk an inadvertent violation of the ethics policy, the safest course of action for the public official or employee is simply for him/her to declare that a conflict may exist that prevents him/her from participating.
3. How to Declare a Possible Conflict.
  - a. City Employee: Employees who believe they may have personal conflict should state it to their supervisor, Director of Human Resources, City Attorney or City Manager, and take the steps deemed appropriate given the specifics of the situation.
  - b. Appointed or Elected Officials: Officials who believe that a conflict may exist should immediately announce the potential conflict in the official records of the public agency, and abstain if so advised by the City Attorney.
4. How to Report Improper Behavior.

Public employees and officials have a duty to prevent and report unethical or illegal action. Hence, it is appropriate to be a “whistle blower” if another employee or official may be acting improperly.

- a. City Employees: Should report any observed problem or wrongdoing to their supervisor, Director of Human Resources, City Manager or City Attorney.
- b. Members of City Boards, Commissions, Committees, and the City Council: Should notify the City Manager or City Attorney.

Public employees and officials should never attempt to use their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any person with the intent of interfering with that person’s duty to disclose improper activity.

#### SECTION 18.6 Penalties:

Violations of the Ethics Policy and Guidelines may expose a public official or employee to a variety of penalties, including reprimand, removal from office, termination of employment and/or penalties as may be appropriate, depending on the specifics of the situation.

- (a) City Employees: Disciplinary action may be taken in conformance with the procedures established by personnel rules and regulations, and any applicable employment agreements. Additional penalties authorized by law may also be imposed.
- (b) City Board/Commission/Committee Members Appointed by the City Council: Such individuals may be removed from office by the City Council for a violation of Ethics Policy. Other penalties authorized by law may also be imposed.
- (c) Members of the City Council: Penalties authorized by law may be imposed.