

CITY OF CLOVIS

PERSONNEL RULES AND REGULATIONS

REVISED

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City of Clovis

PERSONNEL RULES AND REGULATIONS

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RULE I. DEFINITION OF TERMS

The following terms, whenever used in these rules, shall be defined as follows:

1. "Advancement": A salary increase within the limits of a pay range established for a class.
2. "Allocation": The assignment of a single position to its proper class in accordance with the duties performed, and the authority and responsibilities exercised.
3. "Appointing Authority": The City Manager, pursuant to the authority delegated by the City Council, or designee.
4. "At Will Status": The status of an employee who is appointed to a position who serves at the will of the appointing authority or the City Council. At will employees may be terminated at any time, with or without cause, or advance notice. Such employees do not have appeal rights upon termination and are not subject to a probationary period.
5. "Class": All positions sufficiently similar in duties, authority, and responsibility, to permit grouping under a common title and the application with equity of common standards of selection, transfer, promotion and salary.
6. "Class Specification": The official description of a class that includes the title, a definition, a statement of duties and responsibilities and the employment standards such as education, experience, knowledge and skills.
7. "Classification Plan": The arrangement of positions in classes, together with the title and specifications describing each class.
8. "Competitive Service": A grouping of positions that have an established set of duties and requirements as outlined in published classification specifications that are filled through competitive examination. Positions that are not considered to be part of competitive service are identified in the Clovis Municipal Code.
9. "Continuous Employment": A period of time which begins with the date of hire and ends with the effective date of termination/resignation.
10. "Confidential Employee": Means an employee who, in the course of his or her duties, has access to confidential information relating to the City's formulation of financial, personnel, labor relations and administrative policies.
11. "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, for a period of no more than one year.

12. "Day": Is defined and used as calendar day throughout this document unless otherwise noted.
13. "Demotion": The movement of an employee from one class to another class having a lower maximum rate of pay.
14. "Eligible": A person whose name is on an employment list.
15. "Employee": A person employed by the City, excluding persons elected to office, volunteers or those appointed to serve on boards, commissions, or committees by the Mayor or Council.
16. "Employee Status": The condition of a person's present appointment such as probationary, regular, promotional probationary, transfer probationary, at will, or extra help. Employees may work on a full or part time-basis.
17. "Employment List": A list of names of persons who have taken a competitive examination for a class in the competitive service and have qualified.
18. "Exempt Employee": An employee who meets one or more of the duties test exemption from overtime under the Fair Labor Standards Act (FLSA) (e.g., executive, administrative, professional) and who is paid on a salary basis.
19. "Extra Help": An employee who is hired usually for an indeterminate period of time that maybe limited in duration and is classified as an intern, provisional or temporary worker. Extra help employees possess at will employment status, and are only paid for hours worked.
20. "Full Time Position": A position that normally works forty hours per work week, certain exceptions may apply in the police and fire departments.
21. "Interim Appointment": An appointment of a person who possesses the minimum qualifications established for a particular class and who has been appointed to a position in that class in the absence of available eligibles.
22. "Management Employee": An employee having responsibility for formulating, administering or managing the implementation of City policies and programs.
23. "Non-Exempt Employee": An employee who is entitled to FLSA overtime, regardless of whether paid on a salary or hourly basis.
24. Open-competitive Examination: An examination for a particular class which is open to all persons meeting the qualifications for the class.
25. "Part-Time Position": A position that normally works less than 40 hours per week.

26. "Personnel Commission": The Personnel Commission established in the ordinance creating a personnel system for the City.
27. "Personnel Ordinance": Article 2 of Chapter 2.2 of Title 2 of the Clovis Municipal Code which creates a personnel system for the City.
28. "Personnel Officer": The Personnel Officer is the City Manager or designee.
29. "Position": As authorized by the City Council, usually in conjunction with the adoption of a budget or budget amendment, a combination of duties and responsibilities requiring the full or part-time services of an employee.
30. "Probationary Period": The final phase of the selection process that is used by the Appointing Authority for the evaluation and effective adjustment of an employee. The usual duration of a probationary period is twelve months. This period must be completed satisfactorily before an employee is granted regular status in the assigned classification. Probationary employees can be released before completing the probationary period and the Appointing Authority may grant an extension of the probationary period. Personnel Actions subject to a probationary period of one year are appointment to a regular position, competitive promotion, reemployment, transfer to a different classification, or other change of classification where the employee has not previously completed a probationary period.
31. "Probationary Status": The status of an employee who is appointed to a regular position and who has not completed the required probationary period. An employee on probationary status serves at the pleasure of the Appointing Authority and has no appeal rights on termination.
32. "Promotion": The movement of an employee from one class to another class having a higher maximum rate of pay.
33. Promotional Examination: An examination for a particular class, admission to the examination being limited to regular and probationary employees in the competitive service who meet the qualifications for the class.
34. "Promotional Probationary Status": The status of an employee who has been appointed to a regular position who has completed an initial probationary period but is now in the process of completing a new probationary period due to a promotion within City service.
35. "Regular Position": A position authorized by the City Council in the budget or by resolution as a regular position and is paid from the regular salaries line item of the budget.
36. "Regular Status": The status of an employee appointed to a regular position who has completed the required probationary period.

37. "Reinstatement": The re-employment without examination of a former permanent or probationary employee.
38. "Resignation": The voluntary action of an employee who separates from City employment. Typically, resignations are submitted in writing. Employees who do not provide at least two weeks notice may be ineligible for reemployment. After a resignation has been accepted it may not be withdrawn without the approval of the City Manager.
39. "Supervisory Employee": An employee who participates in recommendations regarding hiring, transfers, suspensions, lay offs, recall, promotions, discharges, assignments, rewards, or disciplining other employees, or responsibility to direct them, or to adjust their grievances, or to recommend such action if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.
40. "Suspension": The temporary separation from the service of an employee without pay, for disciplinary purposes.
41. "Temporary Employee": An employee appointed to a position which is not an authorized regular position or to a regular position for a limited period of time, either full-time or part-time.
42. "Temporary Status": The status of an employee who is hired to work temporarily in a regular or temporary position. An employee with temporary status may be released without cause or advance notice and has no appeal rights upon termination. Temporary employees are only paid for hours worked.
43. "Termination": Any involuntary separation, other than layoff, of an employee.
44. "Transfer": A change of an employee from one position to another position in the same class or in a comparable class.
45. "Transfer Probationary Status": The status of an employee who has been appointed to a regular position, completed an initial probationary period and is in the process of completing another probationary period due to a transfer to another classification with the same maximum salary.
46. "Vacant Position": Any position that has been authorized by the City Council and is not currently filled by an employee.

RULE II. GENERAL PROVISIONS

1. Fair Employment: The City will not discriminate in its employment practices in regard to race, color, ancestry, national origin, religious creed, sex, age, physical or mental disability, marital status or political opinion or affiliation.

RULE III. CLASSIFICATION

1. Preparation of Plan: The Personnel Officer, or a person or agency employed for that purpose, shall ascertain and record the duties, responsibilities and requirements of all positions in the competitive service and, after consulting with appointing authorities and heads of departments affected, 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 that all positions substantially similar with respect to duties, responsibilities, authority and character of work are included within the same class. The classification plan shall be adopted and may be amended from time to time by resolution of the City Council.
2. Allocation of Positions: Following the adoption of the classification plan, the Personnel Officer shall allocate every position in the competitive service to one of the classes established by the plan.
3. New Classifications/Positions: Notice will be provided to the applicable bargaining unit when a new classification is created advising the unit of the salary range assignment and the opportunity to meet and confer regarding the salary range assignment before adoption of the new classification. When a new classification/position is created, before the same may be filled, the Appointing Authority shall notify the Personnel Officer, and, except as otherwise provided by Ordinance or these Rules, no person shall be appointed or employed to fill any such position until the classification plan has been amended and an appropriate classification specification has been established for such position.
4. Reclassification: Positions, the duties of which have changed materially so as to necessitate reclassification, shall be allocated by the Personnel Officer to a more appropriate class, whether new or already created. The applicable bargaining unit will be advised of the reclassification action. Reclassification shall not be used for the purpose of avoiding restrictions concerning demotions and promotions.

RULE IV. COMPENSATION

1. Compensation Policy: The City Council shall, by resolution or Memoranda of Understanding, establish wage rates or salary schedules for each classification. The City

Manager is responsible for recommending such rates or schedules to the City Council and may use data from a variety of sources when developing such recommendations.

2. Five Step Salary Range Plan: Regular employees in the competitive service, except for management employees, shall be placed within a five step salary range as follows:
 - a. The first step shall be the minimum rate and shall normally be the hiring rate for the class. In cases where it is difficult to secure qualified personnel, or if a person of unusual qualifications is engaged, appointment may be made by the Appointing Authority at the second or third step. Initial appointments above step three must be authorized by Council action.
 - b. The second step is an incentive advancement to encourage an employee. An employee may be advanced to the second step by the Appointing Authority after the completion of one year actual and continuous satisfactory service.
 - c. The third step represents the middle value of the salary range and is the rate at which a fully qualified, experienced and ordinarily conscientious employee may expect to be paid after a reasonable period of satisfactory service. The Appointing Authority may advance an employee to the third step after the completion of not less than one year of actual and continuous satisfactory service at the second step.
 - d. The fourth step is for an employee whose work is above standard for the classification/position. The Appointing Authority may advance an employee to the fourth step at the completion of not less than one year of actual and continuous service at the third step upon satisfactory evidence that the employee's work is above standard.
 - e. The fifth step is for an employee whose work is consistently above standard service. The Appointing Authority may advance an employee to the fifth step after completion of not less than one year of actual and continuous service at the fourth step upon satisfactory evidence that the employee's work has been consistently above standard.
 - f. In any case where, by reason of unusual circumstances, rigid adherence to the foregoing principles relating to salary adjustments would cause a manifest injustice, the Appointing Authority may make a salary adjustment based upon the unique qualifications/experience of the employee and the circumstances.
 - g. Notwithstanding the foregoing provisions of this Section, when an employee is promoted or reclassified from one class to another having a higher overlapping salary range, or when a given classification is assigned to a new salary range, such employee shall be adjusted to the minimum of the new range or to the next higher rate than that attained in the former position, whichever is higher, but thereafter shall be governed by this Section; provided, however, that such adjustment made by assigning a given classification to a new salary range shall not alter the anniversary

date or the eligibility of the employee for consideration for a regular increase under this Section unless the employee is required to complete a probationary period in the new classification.

- h. Rates of compensation provided for by this Section or Memorandum of Understanding, unless otherwise shown, are fixed on the basis of dollars per month for full time service in full-time positions. If any position provided for is by appropriate language specified or indicated as being for less than full time service, the rate of compensation provided for such position shall be proportionately reduced.
 - i. A permanent employee filling a position in a higher classification on a temporary basis shall be paid the minimum rate of the new pay range of the position being filled temporarily or the next higher rate above his/her regular salary, whichever is higher.
3. Management Employees: The first through third steps are considered entry level dependent upon experience and qualifications. The fourth step is considered the mid range representing a highly qualified and experienced level. The remaining steps require sustained above standard or better performance for advancement to and maintenance of these levels.
 4. Temporary Employees: Temporary employees shall be appointed and compensated in accordance with administrative directives issued by the City Manager.
 5. Performance Evaluations: It is the responsibility of the immediate supervisor to observe and evaluate the job performance of assigned staff as well as to provide appropriate orientation to the job. The purpose of the performance evaluation is to encourage open communication between the employee and immediate supervisor regarding expectations and performance, identify opportunities for professional development and establish goals and objectives for future progress and development.

After successful completion of a probationary period, the performance evaluation is conducted on an annual basis, or more frequently, if appropriate. The anniversary of a personnel action, such as promotion, demotion, transfer to a different class, or reclassification, determines the due date of the performance evaluation.

RULE V. APPLICATIONS AND APPLICANTS

1. Job Announcements: All notices for vacant positions in the competitive service shall be publicized by posting announcements for five (5) days on official bulletin boards in City Hall and by such other methods as the Personnel Officer deems advisable. The announcements shall specify the title and pay of the class for which the examination is announced; the nature of the work to be performed; preparation desirable for the performance of the work of the class; the manner of making application; and other pertinent information.

2. Application Forms: Applications shall be made as prescribed on the examination announcement. Application forms shall require information covering training experience, and other pertinent information.
3. Disqualification: The Personnel Officer may reject an application which indicates that the applicant does not possess sufficient qualifications required for the position. An application may be rejected or the applicant may be disqualified from the examination if the application is not complete; if the application indicates facts showing that the applicant is unable to perform the job applied for; if the applicant uses illegal drugs, or uses alcohol habitually and excessively; if the applicant has been convicted of a crime that is related to the job applied for and future job performance; if the applicant has made any false statement of a material fact or practiced any deception or fraud in an application. Whenever an application is rejected, the Personnel Officer shall mail notice of the rejection to the applicant. A defective or incomplete application may be returned to the applicant with notice to amend it, if the time limit for receiving applications has not expired.
4. Nepotism: In order to ensure that relatives of employees or elected official are not given preferential employment treatment, minimize the potential for adverse impact on supervision, safety, security or morale, the following shall apply:
 - a. No person shall be assigned, appointed, promoted or demoted to a position in any department in which such person's relative already holds a position when such employment would result in any of the following: (1) a regular and reoccurring supervisor-subordinate relationship; or (2) both employees having the same immediate supervisor. For the purpose of this Section, a supervisor-subordinate relationship shall be defined as one in which one person exercises the right to control, direct, reward or discipline another person by virtue of the duties and responsibilities assigned to his or her position. For purposes of this section a distinction is made regarding the length of the supervisor-subordinate relationship to note that an exception is made for short term acting assignments of a few shifts.
 - b. For purposes of this Section, "relative" means spouse, registered domestic partner, child/step, parent/step, grandparent, grandchild, brother/step, sister/step, aunt, uncle, niece, nephew, parent-in-law, brother-in-law or sister-in-law and legal dependents of the employee.
 - c. If a City employee marries another person employed by the City within the same department, both employees shall be allowed to retain their respective positions provided that a supervisory relationship does not exist at the time of marriage between these two positions. During the period of employment, no supervisor subordinate relationship shall exist between the two employees.

RULE VI. EXAMINATIONS

1. Nature and Types of Examination: The selection techniques used in the examination process shall be impartial, of a practical nature and shall relate to those subjects which, in the opinion of the Personnel Officer, 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 achievement and aptitude tests, other written tests, personal interviews, performance tests, physical agility tests, evaluation of daily work performance, work samples, medical tests, or any combination of these or other tests.
2. Promotional Examinations: Promotional examinations may be conducted whenever, in the opinion of the Personnel Officer, the needs of the service require. Promotional examinations may include any of the selection techniques mentioned in Section 1 of this Rule, or any combination of them.
3. Continuous Examination: Open-competitive examinations may be administered periodically for a single class as the needs of the service require. Names shall be placed on employment lists, and shall remain on such lists, as prescribed in Rule VII.
4. Conduct of Examination: The Personnel Officer shall administer, delegate or contract with any competent agency or individual for the preparation and/or administration of examinations.
5. Scoring Examinations and Qualifying Scores: A candidate's performance in a given examination shall be scored on each competitive part of the examination, weighted as shown in the examination announcement. Failure in one part of the examination may be grounds for declaring such applicants as failing in the entire examination or as disqualified for subsequent parts of an examination. The Personnel Officer, may, include as a part of the examination tests which are qualifying only.
6. Notification of Examination Results and Review of Papers: Each candidate in an examination shall be given written notice of the results thereof, and if successful, of his final earned score on the employment list. Any candidate shall have the right to inspect their own examination papers within five (5) working days after the notice of examination results were mailed. Any error in computation, if called to the attention of the Personnel Officer shall be corrected. Such correction shall not, however, invalidate any previously made appointments.
7. Veterans Preference Points: In any open competitive examination a veteran shall be allowed an additional credit of five (5) percentage points on the eligibility list after having attained the passing mark(s) established for the examination. Veterans Preference Points will not be given for positions recruited through a promotional process.

For the purposes of this section, "veteran" shall mean any person who has served full time for thirty (30) days or more in the armed forces in time of war or in time of peace, in a campaign or expedition for service in which a medal has been authorized by the government of the United States, or during the period of September 15, 1940 to January 31, 1955 and who has been discharged or released under conditions other than dishonorable. It does not include any person who served only in auxiliary or reserve components of the armed forces whose services therein did not exempt him or her from the operation of the Selective Training Act of 1940.

RULE VII. EMPLOYMENT LISTS

1. **Employment Lists:** As soon as possible after the completion of an examination, the Personnel Officer shall prepare and keep available an employment list consisting of the names of the candidates who qualified in the examination, arranged in order of final scores, from the highest to the lowest qualifying score.
2. **Duration of Lists:** Employment lists other than those resulting from a continuous examination shall remain in effect for one (1) year, unless sooner exhausted, and may be extended, prior to their expiration dates, by action of the Personnel Officer, but in no event shall an employment list remain in effect for more than two (2) years. Employment lists created as the result of continuous examinations shall remain in effect for not more than one (1) year after the last administration of the examination, unless sooner exhausted. Names placed on such lists shall be merged with any others already on the list in order of final scores and shall remain on the list for not more than one year.
3. **Re-employment Lists:** The names of probationary and regular employees who have been laid off shall be placed on appropriate re-employment lists in the order of total continuous cumulative time served in probationary and permanent status. Such names shall remain thereon for a period of one (1) year unless such persons are sooner re-employed. When a re-employment list is to be used to fill vacancies, the Personnel Officer shall certify from the top of such list the number of names equal to the number of vacancies to be filled, and the appointing authority shall appoint such qualified persons to fill the vacancies.
4. **Removal of Names From List:** The name of any person appearing on an employment, re-employment or promotional list shall be removed by the Personnel Officer if the eligible requests in writing that their name be removed, if the person fails to respond to a notice of certifications mailed to the last known address, or for any of the reasons specified in the Disqualification section of Rule V, of these Rules. The names of persons on promotional employment lists who resign from the service shall automatically be dropped from such lists.

RULE VIII. METHOD OF FILLING VACANCIES

1. Types of Appointment: All vacancies in the competitive service shall be filled by transfer, demotion, re-employment, reinstatement or from eligibles certified by the Personnel Officer from an appropriate employment list, if available. In the absence of persons eligible for appointment in these ways, interim appointments may be made in accordance with the Personnel Ordinance and these Rules.
2. Certification of Eligibles: If the Appointing Authority does not consider it in the City's best interest to fill the vacancy by reinstatement, transfer, or demotion, or if it is not possible to fill the vacancy by re-employment, certification shall be made from an appropriate employment list, provided eligibles are available. When the Appointing Authority requests a vacancy filled by appointment from a promotional employment list or from an open employment list, the Personnel Officer has discretion to certify sufficient numbers of names to fill the vacancies. Whenever there are fewer than three (3) names of individuals willing to accept appointment on a promotional employment list or an open employment list, the Appointing Authority may make an appointment from among such eligibles or may request the Personnel Officer to establish a new list. When so requested, the Personnel Officer shall hold a new examination and establish a new employment list.
3. Appointment: After interview and investigation, the Appointing Authority shall make appointments from among those certified. The person accepting appointment shall appear before the Personnel Officer, for processing on or before the date of appointment. If the applicant accepts the appointment and reports for duty within such period of time as the appointing authority shall prescribe, the applicant shall be deemed appointed; otherwise, the applicant shall be deemed to have declined the appointment.

RULE IX. PROBATIONARY PERIOD

1. Probationary Period: All original and promotional appointments shall be tentative and subject to a probationary period of not less than one (1) year's actual paid service. The Appointing Authority may extend the probationary period for not more than an additional six (6) months. Department heads shall seek approval from the Appointing Authority and notify the probationer concerned prior to the termination or extension of a probationary period.
2. Objective of Probationary Period: The probationary period shall be regarded as a part of the testing process and shall be utilized for closely observing the employee's work and for securing the most effective adjustment of a new employee to his/her position.
3. Rejection of Probationer: During the probationary period, an employee may be rejected at any time by the Appointing Authority without cause and without the right of appeal. Notification of rejection in writing shall be served on the probationer and a copy filed with the Personnel Officer.

4. Rejection Following Promotion: An employee rejected during the probationary period following a promotional appointment shall be reinstated to the position, or a like position, from which promoted, unless discharged in the manner provided for by these Rules.

RULE X. ATTENDANCE AND LEAVES

1. Annual Vacation Leave: Annual vacation leave shall be provided in accordance with the respective Memoranda of Understanding and in accordance with administrative policies.
2. Sick Leave: Sick leave shall be granted in accordance with the respective Memoranda of Understanding and in accordance with administrative policies. A department head may require, at any time, an employee who reports sick to submit a written statement by a physician certifying the length of the employee's absence and specific limitations or restrictions, if any, for the employee. The department head also may require a written physician's statement to verify that an employee is able to resume normal duties or may require an employee to participate in a fitness for duty examination/evaluation.
3. Family and Medical Leave: Family and medical leave will be administered and granted in accordance with federal and state law and in accordance with administrative policies.
4. Military Leave: Military leave shall be granted in accordance with the provisions of state and federal law. All employees entitled to military leave shall give the Appointing Authority an opportunity within the limits of military regulations to determine when such leave shall be taken.
5. Leave of Absence Without Pay: The City Manager may grant a regular or probationary employee leave of absence without pay or accrual of seniority, based on the totality of the circumstances. No such leave shall be granted except upon written request of the employee, setting forth the reason for the request, and the approval shall be in writing. Upon expiration of a regularly approved leave or within a reasonable period of time after notice to return to duty, the employee shall be reinstated in the position held at the time leave was granted. Failure on the part of an employee on leave to report promptly at its expiration, or within a reasonable time after notice to return to duty shall be cause for discharge. A department head may grant a permanent or probationary employee a leave of absence without pay for not to exceed one (1) calendar week. Such leaves shall be reported to the Personnel Officer.
6. Jury Leave: Every employee of the City who is called or required to serve as a trial juror shall be entitled to be absent from their duties with the City during the period of such service or while necessarily being present in court as a result of such call. Under such circumstances, employees shall be paid the difference between their full salary and any payment received by them, except travel pay, for such duty.
7. Bereavement Leave: Bereavement leave shall be granted in accordance with respective Memoranda of Understanding and in accordance with administrative policies.

8. Attendance: Employees shall be in attendance at their work in accordance with the rules regarding hours of work, holidays, and leaves. All departments shall keep daily attendance records of employees, which shall be reported to Payroll on the form and on the dates specified by the Finance Director.
9. Holidays: The holidays to be observed are set forth in the respective Memoranda of Understanding and in the administrative policies.

RULE XI. TRANSFER, PROMOTION, LAY-OFF, RESIGNATION, SEPARATION AND REINSTATEMENT

1. Transfer: No person shall be transferred to a position for which they do not possess the minimum qualifications. Upon notice to the affected employee, the Appointing Authority may transfer an employee at any time from one position to another position in a comparable class. For transfer purposes, a comparable class is one with the same maximum salary, involves the performance of similar duties and requires substantially the same basic qualifications. Additional transfer procedures may be found in a Memorandum of Understanding with a recognized bargaining unit.
2. Promotion: Insofar as consistent with the best interests of the service, vacancies in the competitive service may be filled by promotion from within the competitive service, after a promotional examination has been given and a promotional list established. If, in the discretion of the Personnel Officer, a vacancy in the position could be filled better by an open-competitive examination instead of promotional examination, then such an examination shall be arranged.
3. Lay-Off: The Appointing Authority may lay-off an employee in the competitive service because of material change in duties or organization or shortage of work or funds. Ten (10) working days before the effective date of lay-off, the Appointing Authority shall notify the Personnel Officer of the intended action with reasons therefore, and a statement certifying whether or not the services of the employee have been satisfactory. A copy of such notice shall be given the employee affected. Additional layoff procedures may be found in a Memorandum of Understanding with a recognized bargaining unit.
4. Resignation: An employee wishing to leave the competitive service in good standing shall file with the Appointing Authority, a written resignation stating the effective date and reasons for leaving at least two (2) weeks before leaving the service, unless such time limit is waived by such official. A statement as to the resigned employee's service performance and other pertinent information shall be forwarded to the Personnel Officer. Failure to give notice as required by this Rule may be cause for denying future employment by the City. After a resignation has been accepted, it can not be withdrawn without the approval of the Personnel Officer and the City Manager.

5. Reinstatement: With the approval of the Appointing Authority and the Personnel Officer, a full-time permanent or probationary employee who has resigned with a good record may be reinstated within two (2) years of the effective date of resignation to a vacant position in the same or comparable class. Upon reinstatement, the employee, for all purposes, shall be in the status as a new employee without credit for any purpose for time previously served in the employment of the City.
6. Rehire: A former employee who has resigned with a good record may be rehired by the City pursuant to standard application and appointment procedures following the expiration of their reinstatement rights.

RULE XII. DISCIPLINARY ACTION

1. Authority to Impose Discipline: A department head may take disciplinary action against an employee under his/her authority for one or more of the causes for discipline specified below. A department head may delegate to a supervisory employee the authority to impose disciplinary action up to suspension without pay for up to five (5) days. Disciplinary action may include counseling, verbal warning, written reprimand, suspension without pay, reduction in pay, demotion, discharge, or other action.
2. Causes for Disciplinary Action: Causes for disciplinary action include but are not limited to the following:
 - a. Fraud in securing appointment, including falsifying or omitting information on the employment application.
 - b. Conviction of a felony or conviction of a misdemeanor involving moral turpitude. A plea or verdict of guilty, or a conviction following a plea of nolo contendere to a charge of a felony or any offense involving moral turpitude is deemed to be a conviction within the meaning of this Section.
 - c. Consumption of intoxicating beverages, use of controlled substances, or being intoxicated while on duty or while off duty if such consumption or use affects the City or an individual's ability to provide service when on call to provide service.
 - d. Insubordination, willful disobedience, dishonest, or failure to comply with a City policy, rule or regulation.
 - e. Discourteous or offensive conduct or language toward the public or another employee.
 - f. Other failure of good behavior, either during or outside of duty hours, that bears a rational relationship to the employee's employment, which is of such a nature that it:
 - (1) causes discredit to the City;
 - (2) causes discredit to the employee's employment;
 - (3) impairs or disrupts the employee's public service;

(4) impairs the employee's fitness to perform the employee's duties required by the position; or

(5) impairs the employee's fitness for efficient service.

The failure of good behavior need not be publicly known.

- g. Inefficiency or incompetence.
 - h. Inattention to or willful neglect of duty, excessive or repeated tardiness, indolence, carelessness, misuse of or damage to, or negligence in the care and handling of City property.
 - i. Inability to perform assigned duties due to failure to meet or retain job qualifications (including, but not limited to failure to possess required licenses or failure to pass required tests).
 - j. Unauthorized absence from duty or duty station.
 - k. Improper or unauthorized use of City vehicles or equipment.
 - l. Abandonment of position or excessive absenteeism.
 - m. Claim of sick leave under false pretenses, malingering or other misuse of sick leave.
 - n. Engaging in outside employment not specifically authorized by the Department Head and City Manager, or engaging in other employment that is incompatible with City employment or detrimental to the efficiency of his/her regular work with the City.
 - o. Absence from duty without leave, or failure to return to work after leave of absence has expired or has been disapproved, revoked or canceled.
 - p. Willful violation of any of the provisions of federal law, state law, City ordinances, these Rules, or any rules or regulations which may be prescribed by the City Manager or a department head.
 - q. Acceptance of a personal gift or other form of remuneration in addition to regular compensation, by an employee for the performance of his/her City duties in violation of City policy. Solicitation in an official capacity or as an employee of the City of the public for money, goods, or services not specifically authorized by the City Manager.
 - r. Violation of the Safety Policy.
 - s. Unsatisfactory work performance.
 - t. Behavior which constitutes unlawful discrimination or harassment.
3. Applicability: The procedures and appeal rights set forth in this Rule do not apply to the discipline of verbal or written warnings or reprimand or of discipline which results in a loss of salary of five (5) days or less except where the Memorandum of Understanding, Firefighters Procedural Bill of Rights or Police Officers Bill of Rights specify otherwise. This Rule applies only to regular employees in the competitive service.
4. Suspension or Relief of Duty: A department head may suspend or relieve from duty with pay an employee pending conduct or completion of an investigation of, or the opportunity to respond to, disciplinary action.

5. Notice of Proposed Discipline: The department head shall give written notice of the proposed disciplinary action to the employee. The notice shall include the action being considered; the reasons for the proposed action and the nature of the charges; copies of or reference to the materials upon which the action is based; notice of the opportunity to respond in writing or orally at a particular time and place; the right of the employee to be represented by an attorney or other representative at any disciplinary proceeding; and the fact that the failure of the employee to respond is conclusively presumed to be a waiver of his or her objection to the discipline and the procedure.
6. Employee Response: An employee notified of proposed disciplinary action may respond by submitting a written response and/or appearing at the appointed place and time. The meeting shall be held at least five (5) days after the notification of the proposed disciplinary action. The purpose of the meeting is to hear the response of the employee to the charges. It is an informal meeting. It is not an evidentiary hearing and the employee is not entitled to present witnesses. During this meeting, the employee may be represented by a person of their choosing.
7. Imposing Discipline: As soon as practicable after the employee has had an opportunity to respond, the department head shall notify the employee and the Personnel Officer in writing of the nature and extent of the discipline, if any, and the effective date. The notification will also advise the employee of the right of appeal.
8. Procedures for Appeal of Disciplinary Action: The following procedures shall apply unless the applicable Memorandum of Understanding, Firefighters Procedural Bill of Rights or the Peace Officer Bill of Rights specify different processes.
 - a. Method of Appeal. An appeal of imposed discipline shall be in writing, signed by the appellant, and filed with the Personnel Officer within five (5) calendar days of the effective date of the disciplinary action. The appeal shall set forth the matter appealed from, the detailed basis of appeal, and a statement of the action desired by the appellant with supporting reasons. The formality of a legal pleading is not required. The failure to file an appeal within the five (5) day period is deemed a waiver of the right to appeal.
 - b. Notice. Upon the filing of an appeal, the Personnel Officer shall set a date for a hearing on the appeal no more than thirty (30) days from the date of filing. The Personnel Officer shall notify the appellant in writing of the date, time and place of the hearing.
 - c. Hearings. The appellant shall appear personally before the Personnel Commission at the time and place of the hearing. The appellant may be represented by a person of his or her choosing and may produce relevant oral or documentary evidence at the hearing. The City's case shall be presented first. Cross-examination of witnesses shall be permitted. Rebuttal matter not repetitive may be allowed in the discretion of the Personnel Commission. The conduct and decorum of the hearing shall be under

the control of the Personnel Commission Chairman. The Commission in its discretion may continue the hearing from time to time. Hearings need not be conducted according to technical rules of evidence. Hearings shall be closed unless the appellant, in writing, requests an open hearing.

- d. Findings and Recommendations. The Personnel Commission shall, within thirty (30) days after the conclusion of the hearing, certify its findings and decision in writing to the appellant and to the City Manager. The Personnel Commission may recommend affirming, revoking, or modifying the discipline. Any member of the Personnel Commission may submit a minority or supplemental finding and recommendation. The City Manager shall review the findings and recommendations of the Personnel Commission and may then affirm, revoke or modify the action. The City Manager's decision shall be issued within sixty calendar days after receipt of the Commission's findings and recommendations. The City Manager's decision shall be final and binding.
- e. Any time limit or stage of procedure in this chapter may be waived for good cause and with the consent of both parties.

9. Effect of Disciplinary Actions:

- a. Suspension. An employee suspended from the City service forfeits all rights, privileges and compensation during the period of suspension.
- b. Discharge. An employee who has been discharged shall be paid salary accumulated to the effective date of termination; any compensatory time accumulated, and accrued vacation time.
- c. Reduction in Pay. Reduction in pay becomes effective at the beginning of the next payroll period following the effective date of the disciplinary action.
- d. Written Reprimand. An official reprimand is in the form of a written notice to the employee and is placed in the employee's personnel file. No employee shall have a written reprimand entered in his or her personnel file without the employee having first read and signed the document, indicating he or she is aware of the comment, except that the reprimand may be placed in the file if after reading the document, the employee refuses to sign it. In that case, the refusal shall be noted and signed by the employee or the supervisor.

10. Management and Exempt Employees: Any employee in a management position, or any other position that is exempt from the overtime pay and/or minimum wage provisions of the Fair Labor Standards Act of 1938, may not be suspended without pay for less than one (1) full day.

RULE XIII. GRIEVANCE PROCEDURES

1. Purpose of Rule: The purpose of the grievance procedures is to promote improved employer-employee relations by establishing grievance procedures and to afford employees

individually or through qualified employee organizations a systematic means of obtaining further considerations of problems after every reasonable effort has failed to resolve them through discussions. Additionally, the procedure provides a mechanism that allows grievances to be settled as near as possible to the point of origin and to provide that appeals shall be conducted as informally as possible.

2. **Matters Subject to Grievance Procedure:** Any employee in the competitive service shall have the right to grieve, under this rule, a decision affecting their employment over which the Appointing Authority has partial or complete jurisdiction and for which appeal is not provided by other regulations or is not prohibited. The grievance procedures in this chapter do not apply to disciplinary actions, the determination of the contents of a job classification or a decision to reclassify a position, the determination of procedures and standards of selection for employment and promotion, the evaluation process and items which require capital expenditures, items subject to the meet-and-confer process as defined in the California Government Code and all City rights reserved in the City's employer-employee relations resolution.
3. **Form of Grievance:** An employee (the grievant) shall present his/her grievance in writing to his/her supervisor or department head. The supervisor, department head or Personnel Officer shall respond in writing.
4. **Grievance Procedure - Department Level:** A grievance should be considered within the department whenever possible. An employee should bring the grievance to the attention of the immediate supervisor as soon as possible. If the employee does not bring the grievance to the attention of the supervisor within fifteen (15) calendar days of the date of the action or incident causing the grievance, it is considered a waiver of the employee's right to submit the grievance (unless the action or incident is part of an on-going pattern of behavior). The supervisor shall consider the grievance and notify the grievant of the supervisor's action or decision in writing within fifteen (15) calendar days from the date the grievance was submitted. If the matter cannot be adjusted or settled by the immediate supervisor within fifteen (15) calendar days from the date of submission, or if the grievant is still dissatisfied after the supervisor's decision, the employee may submit the grievance in writing to the department head.
5. **Department Head Review:** The grievance shall be submitted to the department head within ten (10) calendar days from the date of the supervisor's decision if the employee is dissatisfied with the supervisor's decision. The department head shall confer with the grievant, the supervisor and such other persons as may be necessary to gather all the facts and to find a solution. The department head must take action and so notify the grievant in writing within fifteen (15) calendar days.
6. **City Manager Review:** If the grievant is not satisfied after informal discussion(s) and the department head's decision, he/she may, within ten (10) calendar days of the date of the department head's decision, submit a written grievance to the City Manager. If the grievant does not submit a written grievance within the ten (10) calendar days, the grievance

procedure ends. Upon receiving a written grievance, the City Manager or designee, shall within fifteen (15) calendar days discuss the grievance with the grievant, their representative, if any, and any other persons involved. The City Manager/designee may make any inquiry, investigation or compilation of facts deemed necessary in reaching a decision. The City Manager/designee shall render a decision in writing to the grievant, with a copy to the department head, within thirty (30) calendar days from the date the City Manager/designee met with the grievant to discuss the matter. The decision of the City Manager/designee is final.

7. Extension of Time Limit: Any time limit or stage of procedure in this Rule may be waived for good cause and with the consent of both parties.

RULE XIV

MEMORANDA OF UNDERSTANDING AND SAFETY OFFICERS' BILL OF RIGHTS

1. Memoranda of Understanding: In the event the terms of an applicable memorandum of understanding, entered into pursuant to the Meyers-Milias-Brown Act, conflict with the terms of these rules, the terms of the memorandum of understanding shall prevail.
2. Peace Officers' Bill of Rights: In the event the requirements of the Public Safety Officers' Procedural Bill of Rights Act (California Gov. Code, §§ 3300, et seq.) conflict with the terms of these rules, the requirements of the Public Safety Officers' Procedural Bill of Rights Act shall prevail.
3. Firefighters Procedural Bill of Rights: In the event the requirements of the Firefighters Procedural Bill of Rights (California Gov. Code, §§ 3250, et seq.) conflict with the terms of these rules, the requirements of the Firefighters Procedural Bill of Rights shall prevail.