



CITY OF SAN PABLO

PERSONNEL RULES

Adopted

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City Council

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PERSONNEL RULES

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PERSONNEL RULES

PERSONNEL SYSTEM RULES AND REGULATIONS OF THE CITY OF SAN PABLO

WHEREAS, the City Council is authorized and directed under the provisions of Ordinance No. 82-012 to adopt rules and regulations for the administration of the personnel system created in said Ordinance; now, therefore, be it

RESOLVED that the City Council of the City of San Pablo does hereby adopt the following rules:

1. PURPOSE OF RULES

The purpose of these Rules is to facilitate efficient and economical services to the public and to provide for a fair and equitable system of personnel management in the municipal government. These Rules set forth in detail those procedures which insure similar treatment for those who compete for original employment and promotion, and define the obligations, rights, privileges, benefits and prohibitions which are placed upon all employees in the competitive service of the City.

Provisions in an employee's Memorandum of Understanding or Council-Adopted Terms and Conditions of Employment, and state law, shall supersede any section of these Rules if they are in conflict therewith.

2. GENERAL POLICY

2.01 APPLICATION OF RULES

The provisions of the Personnel Rules shall apply only to incumbents of full-time positions in the competitive service, unless otherwise stated herein.

2.01.1 Competitive Service. The Competitive Service includes all offices, positions and employments in the service of the City except:

- a) Elected Officers.
- b) Members of appointive Boards, Commissions and Committees.
- c) Persons engaged under contract to supply expert, professional or technical services for a definite period of time.
- d) Volunteer personnel who receive no regular compensation from the City.

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- e) Officials appointed directly by the City Council, and other employees whose appointments, tenure or removal are governed by the Municipal Code.
- f) Department Heads.
- g) Part-time and seasonal employees.
- h) Any employee serving a probationary period, other than a promotional probationary period, or whose appointment is temporary in nature.
- i) Any person or employee performing work at City offices, whose work principally involves services to a Joint Powers Authority and whose total salary and benefits are directly or indirectly paid for by such Joint Powers Authority. Such employees shall not be subject to these Personnel Rules, but shall be subject to any rules and regulations of the Joint Powers Authority for whom they perform work.
- j) Emergency employees who are hired to meet the immediate requirements of an emergency situation, such as extraordinary fire, flood, or earthquake which threatens life or property.

Employees not included in the competitive service under this section shall serve at the pleasure of the appointing authority, and shall not be entitled to any rights set forth under these rules, unless otherwise formally determined by the City Council. The administrative extension of any such rights to an otherwise exempt employee shall not operate to waive this provision or estop the City from denying that such employee is not subject to these Rules.

2.02 POWERS OF THE CITY MANAGER

In accordance with the Personnel System established by Ordinance of the City of San Pablo, the City Manager, or his or her designee, as appointing power, has general control and supervision over the affairs of the City; the authority to establish, when not in conflict with these Rules or any existing memorandum of understanding, such other policies, procedures, rules and regulations as deemed necessary for the control and supervision of City activities; the power to appoint and remove all Officers, Heads of Departments and employees of all City departments, other than those directly appointed by the City Council, subject to these Rules and those rules reserved to the Council by Ordinance.

The City Manager shall be Personnel Officer. The City Manager may delegate to a Personnel Administrator or Director or any officer or employee of the City, permanently or on a case-by-case basis, any or all of the powers and duties conferred upon the Personnel Officer, or may recommend that such powers and duties be performed under contract in accordance with procedures established by the City Council.

PERSONNEL RULES

2.03 PERSONNEL OFFICER

The Personnel Officer, or such person as has been delegated the responsibilities thereof, shall be responsible for the following:

2.03.1 Administration. Administer all the provisions of these Rules and any City Ordinance or policy pertaining to the Personnel function.

2.03.2 Amendments. Prepare and recommend to the City Council amendments and revisions of these Rules.

2.03.3 Forms and Records. Maintain all required personnel forms, records, folders, documents and operating procedures as may be necessary for the accomplishment of these Rules and any City Ordinance or policy pertaining to personnel administration.

2.03.4 Classification Plan. Prepare a classification plan, including class specifications and revisions of the plan.

2.03.5 Budget. Prepare and submit an estimate for the annual budget for personnel operations.

2.04 PERSONNEL POLICY

2.04.1 Fair Employment Practice. The California Fair Employment and Housing Act shall govern all City employment and employment practices. No person in the Competitive Service, or seeking admission thereto, shall be discriminated against in the terms, conditions, or privileges of employment, including compensation, hiring, training, promotion, transfer, discipline, or termination, because of political opinions or affiliations or because of race, religion, color, sex (including, but not limited to, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth), gender, gender identity, gender expression, physical or mental disability, medical condition, genetic information, marital status, sexual orientation, age, national origin or ancestry, opposition to practices forbidden under the California Fair Employment and Housing Act, association with a person with any protected characteristics listed herein or a perception that the person has any protected characteristics listed herein, except as permitted by law.

2.04.2 Departmental Rules. Department Heads and Division Managers may create rules and regulations more specific to the department's operation. Such rules shall be posted. None of the department's rules or regulations shall be in conflict with any provisions of these Rules or policies established by the City Manager or Personnel Officer, or with any existing memorandum of understanding. Any conflict shall be resolved in favor of these Rules or any existing Memorandum of Understanding. All departmental rules established

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by the Department Head or Division Manager shall be subject to approval or ratification by the City Manager.

2.04.3 Employee Agreement. In accepting employment with the City, each employee subject to these rules agrees to be governed by and to comply with these Rules and any other rules, policies or ordinances as may be established by the City Council, City Manager, Division Manager or Department Head under whom the employee is employed. Each employee's personnel file shall contain a signed statement that he or she has received a copy of the Rules.

3. AMENDMENT AND REVISION OF RULES

3.01 POWER TO AMEND

The City Council shall have the authority to amend, revise or repeal these Personnel Rules by resolution. The City Manager and/or Personnel Officer may, as deemed necessary, present to the Council for its consideration amendments or revisions to all or part of these Rules.

Only such matters required by the Myers-Milias-Brown Act, the City's Employer-Employee Ordinance, or matters as mandated by court of law are subject to the meet and confer process.

3.02 HEARING

Any amendments or revisions of these Personnel Rules shall be implemented by resolution at a regular or special meeting of the City Council, at which any interested party may appear and be heard.

If such hearings are to be held to amend or revise the Personnel Rules, the City shall notify affected employee's bargaining representatives at least five (5) days prior to the City Council meeting.

4. DEFINITION OF TERMS

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

4.01 Acting Pay. See Temporary Detail.

4.02 Advancement or Step Advancement is a salary increase of one or more steps within the limits of the pay range established for a class. (See normal advancement and special advancement).

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

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- 4.04 Anniversary Date is the employment or promotion date of an employee and the date upon which he/she becomes eligible for salary advancement. For salary advancement purposes, the anniversary date shall be the first day of the month of those employed on or before the fifteenth (15th) day of the month and the first day of the following month for those employed after the fifteenth (15th). General salary increases shall not operate to change an anniversary date.
- 4.05 Appointing Power or Appointing Authority means the City Manager, or such other officer or employee of the City to whom the City Manager has delegated the appointing authority; provided, however, the City Manager may not delegate the final decision following final appeal hearings in disciplinary matters or grievance appeals.
- 4.06 At-Will Positions and Employment are those which may be terminated with or without notice at any time by the employee, City Manager or his/her designee, or City Council. Offices, positions and employments listed in Section 2.01.1 are considered at will. Nothing in these personnel rules and regulations or in any document or statement shall limit the right to terminate employment at will.
- 4.07 Break in Service shall occur when an employee is separated from the service by resignation, change in status from full-time to part-time, discharge, or other type of separation. Lay-off or approved unpaid leave of absence shall not constitute a break in service as long as the pertinent lay-off list is active. PERS rules governing break in service for “classic” and “new” employees shall apply.
- 4.08 City means the City of San Pablo.
- 4.09 Class or Classification means all positions sufficiently similar in duties, authority, responsibility and working conditions to permit grouping under common titles and the application with equity of common standards of selection, transfer, promotion and salary.
- Classification Plan is defined as the City’s official/approved system of grouping positions into appropriate classes.
- Classification Study means an audit of the classification plan which will ensure the periodic coverage of all classified positions. Such audit shall include verification of 1) current duties of positions 2) accuracy of their allocation and 3) the accuracy and completeness of the class specifications or job descriptions.
- 4.10 Competitive Service means the positions and employments which are included or which may hereafter be included under the personnel system, in accordance with the Personnel Ordinance.
- 4.11 Continuous Examination is a competitive examination for a particular class which is administered on a periodic basis regardless of whether an immediate vacancy exists.
- 4.12 Council is the City Council of the City of San Pablo.

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- 4.13 Day is a calendar day unless otherwise indicated.
- 4.14 Demotion is the movement of an employee from one class to another having a lower maximum rate of pay, for disciplinary reasons. The layoff of an employee from a particular position or class and reassignment to a lower position or class shall not be considered a demotion.

Voluntary Demotion is a demotion at the request of the employee or in lieu of layoff. A voluntary demotion is a movement to a class with a lower salary range upon the request or concurrence of an employee. This is distinguished from an involuntary demotion, which is not at the concurrence of the employee and which may occur due to a rejection during probation, in lieu of layoff, or disciplinary action.

- 4.15 Disability Separation is the non-disciplinary separation of an employee from further employment with the City because of a mental or physical condition which renders such employee inefficient or incapable in the performance of the essential functions of his/her duties, with or without reasonable accommodation.
- 4.16 Dismissal is the disciplinary separation of an employee.
- 4.17 Disqualification is the rejection of any application for City employment for reasons stated in these Rules.
- 4.18 Eligible is a person whose name is on an employment list.
- 4.19 Employment List is a list of names of persons who may be considered for future appointments. An employment list may be designated as a reinstatement list, a promotional list or an open competitive list.
- 4.20 Examination is either:

Assembled Examination, an examination conducted at a specific time and place at which applicants are required to appear for competitive examination under the supervision of an examiner or examiners, or;

Unassembled Examination, an examination consisting of any appraisal of training, experience, work history, or any other relative qualifications of applicants without the necessity for their personal appearance at a specified place.

- 4.21 Grievance, subject to the exclusions listed herein, a grievance is defined as any dispute or misunderstanding, that: (1) is job related; (2) is wholly or partially within the province of the City to rectify or remedy; (3) concerns terms and conditions of employment; (4) involves the interpretation, application, or alleged violation of any provisions of the Personnel Ordinance, Personnel Rules, current Memorandum of Understanding between the City and a recognized employee organization representing City employees, administrative policy, or Resolution or Ordinance of the Council pertaining to personnel matters and terms and conditions of employment; and (5) is not subject to any other City dispute resolution process or procedure that is provided by statute, ordinance, resolution, or agreement. If a

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valid Memorandum of Understanding applicable to the current employee or recognized employee organization contains a grievance procedure, than that procedure will govern the grievance. In addition to matters not covered by the above definition, the following matters are also not subject to the grievance procedure: performance evaluations or ratings; disability retirement and separation issues; layoffs; denial of reinstatement; denial of a reclassification; issuance of reclassification and any issue arising therefrom; denial of a merit increase; separation from probationary status; appointment to positions; or as otherwise indicated in these rules. Disciplinary actions are subject to the appeal procedures set forth in Section 12 of these Rules.

- 4.22 Lateral Entry is the hiring of a sworn officer currently working for another public agency who meets the minimum qualifications established for the particular classification, possess the required certificates and experience as designated by the Personnel Officer in writing and who are found satisfactory with regard to other requirements.
- 4.23 Lay-off is the non-disciplinary separation of an employee because of material change in duties or organization or shortage of work or funds or for any reason which serves the public interest. In some situations in lieu of a lay-off, an employee may be assigned to a lower-paying position.
- 4.24 Lay-Off List is a list of persons ranked in order of lay-off priority.
- 4.25 Limited Service mean those types of positions which are part-time or provisional or temporary in nature.
- 4.26 Normal Advancement is a salary increase from one step to another step within the limits of a particular pay range and is in accordance with an advancement schedule as provided in these Rules.
- 4.27 Open Competitive List is an employment list which resulted from open, non-promotional examination.
- 4.28 Open Examination is an examination given to a particular class for all applicants who meet the classification requirements, regardless of whether they are employed by the City.
- 4.29 Part-time Appointment is the appointment of a person who continuously or intermittently is assigned to less than the normal hours of work per week designated for the particular classification.
- 4.30 Pay Plan is a plan which assigns each class to a particular pay range with corresponding pay rates and steps.
- 4.31 Pay Range is the series of salary steps assigned to each position or class.
- 4.32 Permanent Employee is an employee who has successfully completed his/her probationary period and has been retained as hereafter provided in these Rules.
- 4.33 Personnel Officer is the person with the powers and duties as described in the Personnel Ordinance, and as delegated to him/her by the Appointing Power.

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- 4.34 Personnel Ordinance is Ordinance No. 389 of the City of San Pablo which creates a Personnel system for the City and which is now codified as Chapter 2.48 of the San Pablo Municipal Code, as it now reads or may hereafter be amended.
- 4.35 Position is a grouping of duties and responsibilities requiring the full-time or part-time employment of one person.
- 4.36 Probationary Employee is an employee who is in his/her probationary period. Probationary employees serve at the pleasure of the appointing authority, meaning they can be separated from duty for any reason or no reason, without recourse to the disciplinary process or any appeal process.
- 4.37 Probationary Period is a working test period during which an employee is required to demonstrate his/her fitness for the duties to which he/she is appointed by actual performance of the duties of the position.
- 4.38 Promotion is the movement of an employee from one position to another existing position, which is allocated to a class with a higher rate of pay and more responsible duties.
- 4.39 Promotional Examination is an examination for a particular admission to the examination being limited to permanent employees in the competitive service.
- 4.40 Promotional List is an employment list resulting from a promotional examination.
- 4.41 Provisional Appointment is an appointment acquired by 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 eligible.
- 4.42 Reclassification is a change in allocation of a position from an existing class to another class that is assigned a salary range or rate which can be equal, higher, or lower.
- 4.43 Reduction is a salary decrease within the limits of the pay range for a class.
- 4.44 Reemployment is the appointment of a former employee (from a reemployment list), who had been laid off from a permanent position.
- 4.45 Rehire is the appointment of a former employee who does not qualify for either reinstatement or reemployment.
- 4.46 Reinstatement is the appointment, without examination, of a former employee who filed an application for reappointment within one (1) year of the date he/she left the City service.
- 4.47 Rejection is the separation of an employee from the City service during his/her probationary period.

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- 4.48 Reprimand is a written or oral notification to an employee that there is cause for dissatisfaction with the employee's service or actions.
- 4.49 Special Advancement is a salary increase made to reward an employee for outstanding achievement and performance or to correct gross inequities.
- 4.50 Step is one of several salary designations assigned to each pay range.
- 4.51 Step Change is the movement of an employee to a different step of his/her designated pay range.
- 4.52 Suspension is the temporary separation from the service of an employee, without pay, for disciplinary purposes. Suspension - Short-term is a suspension of five (5) days or less. Suspension - Long-term is a suspension of more than five (5) days. Vacation, sick leave and other accrual benefits will not accrue during suspensions.
- 4.53 Temporary Appointment is an appointment of a person to a position of limited duration.
- 4.54 Temporary Detail is the temporary appointment of an employee to a higher grade position.
- 4.55 Transfer is the change of an employee from one position to another existing position in the same class or another class having: 1) essentially the same maximum salary; 2) involving the performance of similar duties; and 3) requiring the same basic qualifications.
- 4.56 Veteran means any person who has been on active duty in any branch of the Armed Forces of the United States for a period of one hundred eighty days or more, and who has been discharged or released under conditions other than dishonorable.
- 4.57 Volunteer is any person allowed by an appointing authority to perform any service, activity or duty in the name of the City of San Pablo without regular compensation.
- 4.58 Y Rate is the freezing of an employee's salary when such salary exceeds the maximum rate established for the employee's classification or when an appropriate step does not exist per the requirements for reclassification in these Rules.

5. POSITION CLASSIFICATION

5.01 CLASSIFICATION PLAN

The City Council shall create and maintain by resolution a Classification Plan consisting of class titles and specifications for all positions in the competitive service.

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- 5.01.1 Class Titles. The class title shall be the official designation of a position. All positions in the City service shall be identified by class title and such class title shall be utilized in all official personnel and budget records and transactions.
- 5.01.2 Class Specifications. The Personnel Officer shall maintain written specifications for each class adopted by the City Council. Each written class specification shall include a title of the class, a definition of the duties encompassed, a description of the typical duties and responsibilities involved, distinguishing characteristics, if necessary, and a statement of the training, experience and other qualifications required for proficient performance of work. A class specification may include other pertinent information as deemed necessary by the Personnel Officer.
- 5.01.3 Revision of Specifications. After considering the interest of the employees, division managers and department heads, the City Manager may revise the content of an existing class specification to reflect changes in class content, changes in labor market conditions, and for other valid reasons. The City will first meet and confer with affected employee organizations prior to any such changes that impact terms and conditions of employment.
- 5.01.4 Allocation of Positions. The Personnel Officer shall review the duties and responsibilities of the existing positions in the competitive service and shall allocate each position to one of the classes established by the Plan. Such allocation of a position to a class shall be based upon the principle that positions shall be included in the same class if:
- a) the positions are sufficiently similar, with respect to duties, responsibilities, authority and character of work that the same class title may be used; and that
 - b) the positions demand essentially the same requirements for education, experience and ability; and that
 - c) the same salary range may be made to apply to each position with equity under like working conditions.
- 5.01.5 Availability of Plan. Written copies of all class specifications, which together shall be referred to as the "Classification Plan", shall be maintained by the Personnel Officer. Duplicate copies of each class specification shall be made available to any person upon request, subject to any established policies governing information dispersal.

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5.02 AMENDMENT AND MAINTENANCE OF PLAN

It shall be the responsibility of the Personnel Officer to recommend to the City Council, for their adoption by resolution, the creation of new classes or the dividing, combining, revising or abolishing of existing classes to ensure the efficient and equitable operations of Personnel Division. The Personnel Officer shall have the right to initiate and conduct studies of any position in the competitive service to determine if such position is properly classified.

All changes or amendments to the Classification Plan involving the addition or deletion of class specifications from the Plan must first be adopted by resolution by the City Council in a public meeting.

5.02.1 New Position. Whenever a position is under consideration for possible establishment and amendment to the Classification Plan, the significant facts relating to the possible change may be reported in writing to the Personnel Officer by the appropriate Division Manager or Department Head. Facts submitted may include:

- a) A suggested position and/or class title.
- b) A description of duties and responsibilities of the position.
- c) Suggested qualifications.
- d) Suggested salary range.
- e) Such other information as may be necessary to determine the need for the new class.

Upon receiving written facts, the Personnel Officer shall undertake a study of the significant facts and with the concurrence of the appropriate Division Manager or Department Head shall recommend to the City Council either the establishment of a new class, with a corresponding salary range, or the allocation of the position to an existing class.

5.02.2 Reclassification. When a Division Manager or Department Head believes a position is not properly classified, or when significant changes have occurred in the duties, responsibilities or qualifications of such position, the Division Manager or Department Head may request that a study of positions and classes involved be performed by the Personnel Officer. A request for a classification study shall include all the pertinent facts needed to enable the Personnel Officer to perform such duties.

Upon completing a classification study, the Personnel Officer shall report his/her recommendations to the appropriate Division Manager or Department Head - that the position(s) be reallocated to the proper class; that the position(s) be reallocated to a new

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classification; that the appropriate class specification be amended; or that no changes be made.

Upon making such recommendations, the Personnel Officer shall implement such changes by recommending the Classification Plan amendments and/or the position reclassification to the City Council.

No position reclassification shall be made without approval by the City Council.

When a position is reclassified to a higher classification, the Division Manager or Department Head shall make a determination whether or not an incumbent is qualified to advance to the higher class.

An employee occupying the position shall be retained in the position after it has been reclassified without competitive recruitment provided that:

- a) The reclassification results from an official recognition of a change of duties and responsibilities which has already occurred.
- b) The performance of the duties and responsibilities of the incumbent has been satisfactory.
- c) The incumbent possesses the knowledge, skills, abilities, and qualifications of the different class.

Employees placed in a position which has been reclassified to higher class must complete a probationary period for that class. Appointment of an employee to a new or vacant reclassified position is not automatic; the Personnel Officer may utilize competitive recruitment.

Upon reclassification of a position to a lower class, the incumbent in the position shall not lose his/her permanent status if already earned. Re-classification shall not be utilized to circumvent the requirements affecting the promotion or demotion of an employee.

6. PAY PLAN

6.01 PREPARATION AND ADOPTION OF PAY PLAN

The Personnel Officer shall prepare a pay plan which shall include pay rates and ranges, salary steps and hourly rate equivalents covering all employees. Each class shall be assigned to a salary range consisting of a number of salary steps, showing the minimum through the maximum rates of pay.

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In arriving at such salary ranges, consideration shall be given to prevailing rates of pay for comparable work in other similar cities in the Bay Area, including consideration of conditions of work as well as basic pay. The Personnel Officer shall thereafter make such further studies of the compensation plan as may be requested by the City Council.

The City Council shall review the proposed pay plan, and shall amend and adopt it by resolution. Thereafter no position shall be assigned a salary higher than the maximum or lower than the minimum salary provided for that class or position, unless the salary schedule for the class is amended in the same manner as herein provided for its adoption.

The Personnel Officer shall prepare any amendment or revision of the plan and present it to the City Council whenever deemed necessary, or upon the request of the City Council.

6.02 NORMAL ADVANCEMENT

The pay plan prepared by the Personnel Officer shall be guided by the following rules and procedures:

6.02.1 Normal Advancement Schedule. Normally, except in cases of special advancement, the following schedule shall guide the movement of individual employees from step to step for the respective positions. For these purposes, the initial advancement or anniversary date shall be the first day of the month for those employed on or before the fifteenth (15th) day of the month, and the first day of the following month for those employed after the fifteenth (15th).

a) The first step (Step A) is the minimum rate and shall normally be the hiring rate for the class. In cases where it is difficult to secure qualified personnel or a person of unusual qualifications is engaged, the City Manager may hire at a higher step, normally Step B.

b) The second step (Step B) is a rate to which an employee may expect to advance, following completion of six (6) months satisfactory service at the first step and upon written recommendation of the Department Head or Division Manager and approval by the City Manager.

c) The third step (Step C) is the rate to which an employee may expect to advance, following the completion of six months satisfactory service at the second step, and upon written recommendation of the Department Head or Division Manager and approval by the City Manager.

d) The fourth step (Step D) is the rate to which an employee may expect to advance, following the completion of one year's satisfactory service at the third step, and upon written recommendation of the Department Head or Division Manager and approval by the City Manager.

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e) The fifth (Step E) and/or following steps is the rate to which an employee may expect to advance, following the completion of one year's completely satisfactory service at the fourth and/or preceding step, and upon written recommendation of the Department Head or Division Manager and approval by the City Manager.

6.02.2 Break in Service. Notwithstanding any provisions to the contrary in these Rules, any time spent in a break in service as defined in Section 4, Definitions, in excess of six (6) months, shall operate to (1) reset the effective date of any periodic step increase, longevity pay or any other employee benefit; (2) reset any probationary period and anniversary date.

6.02.3 Maximum Rate. No salary advancement shall be made so as to exceed the maximum rate established in the pay plan for the class to which the employee's position is allocated.

6.02.4 Advancement Not Automatic. Advancement shall not be automatic, but shall depend on increased service value of an employee to the City as exemplified by recommendations of the employee's supervisor, length of service, employment record, special training undertaken, or other pertinent evidence. Advancement may be denied or revoked as provided herein and in Section 15.04.3. Advancement shall not be denied arbitrarily or capriciously.

6.02.5 Advancement Procedures. Prior to any normal advancement, the Division Manager or Department Head shall send a recommendation of such to the Personnel Officer for approval. The Personnel Officer must approve in writing all advancements before an advancement may be effectuated. Upon approval by the Personnel Officer, copies of the approval notice shall be forwarded to the advanced employee, the Division Manager or Department Head and the Finance Department, and the original retained in the employee's personnel file.

6.03 SPECIAL ADVANCEMENT

In order to correct gross inequities, or to reward outstanding achievement and performance, the City Manager and/or Personnel Officer may, on recommendation of the Department Head, advance the step of an individual employee to any step within the pay range for the class to which the position is allocated. No special advancement may be made to a salary above the top step of the class.

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6.04 APPLICATION OF RATES

The assignment of a salary range to a newly appointed employee shall be in accordance with the pay plan designated for the assigned position. The determination and assignment of a salary step to an employee shall be made by the Personnel Officer and shall be based upon the recommendation of the Division Manager or Department Head and the type of appointment in accordance with the following:

6.04.1 Original Appointment Rate. The minimum rate for the class shall generally apply to employees upon original appointment. However, the City Manager may, when circumstances warrant, appoint at other than the first step.

6.04.2 Promotion. In the case of a promotion of an employee in the City service, such employee shall start at the step which has a pay rate at least 5% above the pay rate received prior to the promotion. In such cases, the affected employee shall not begin with any accumulated time towards normal advancement to the next step. A reclassification shall not be considered a promotion.

6.04.3 Demotion. In the case of the demotion of an employee in the City service, such employee shall be assigned to a salary step in the lower pay range as follows:

a) If the demotion is for disciplinary reasons, the employee shall be assigned to a salary step which has a pay rate at least 5% lower than the pay rate received prior to the demotion. In such cases, the affected employee shall not begin with any accumulated time towards normal advancement to the next step.

b) If the employee's demotion is voluntary, such as a demotion in lieu of layoff, the employee shall be assigned to a salary step with a pay rate no higher than the pay rate received prior to the demotion. In such cases, the employee's accumulated time towards normal advancement to the next step shall not be recognized except as approved by the City Manager.

6.04.4 Transfer. In the case of the transfer of an employee from one department to another in the same class, the employee shall be assigned to the same step as held prior to the transfer. In such cases, the employee's accumulated time towards advancement to the next step shall not be affected.

6.04.5 Reemployment. In the case of an employee appointed from a reemployment list, such employee shall be assigned to a step equivalent to the step which the employee held just prior to layoff. In such cases, the employee's previous time accumulated towards normal advancement to the next step just prior to layoff shall not be affected.

6.04.6 Reinstatement. In the case of the reinstatement of a former employee which is not reemployment, the following shall apply to such employee:

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- a) If the employee is reinstated into the same class as formerly occupied prior to separation, such employee shall be assigned to the same salary step in the pay range received prior to separation.
- b) If the employee is reinstated into a lower class than formerly occupied, the employee shall be assigned to a salary step which has a pay rate no higher than the pay rate of the step in salary range received prior to separation.
- c) If the employee is reinstated into a higher class than formerly occupied, the employee shall be assigned to a salary step in accordance with the rule regarding application of rates for reclassification.
- d) In all such cases of reinstatement, the affected employee shall not begin with any accumulated time towards normal advancement to the next step.

6.04.7 Rehire. In the case of rehire of a former employee, the provisions of this rule for original appointment shall apply.

6.04.8 Reclassification. In the case of an employee whose position has been allocated to a different class and the employee is retained in the position reclassified, such employee shall be assigned to a position in the pay range which has a pay rate closest to the pay rate received by the employee just prior to reclassification, provided that the pay rate is neither lower than the previous rate nor more than 5% higher than the previous rate. If there is no appropriate salary step, such employee shall retain the same pay rate as received just prior to reclassification. Such amount shall be designated a 'Y' rate. In such cases, the employee's accumulated time towards normal advancement to the next step shall not be affected.

6.04.9 Acting Pay/Out of Class. In the case of an employee assigned on a temporary basis to a higher grade position, the employee shall be compensated in accordance with the employee's Memorandum of Understanding, Terms of Employment or Schedule of Benefits.

6.05 RATE ADJUSTMENT FOLLOWING PAY RANGE CHANGES

6.05.1 Range Decreases. If the pay rates of a salary range are revised downwards, the employees in the affected class may retain their same pay rate received prior to the revision, and such amount shall be designated a 'Y' rate. In such cases, the employee's accumulated time towards normal advancement to the next step shall not be affected.

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6.05.2 Range Increases. If the pay rates of a salary range are revised upwards, the employees in the affected class shall have their pay rates adjusted to the pay rates of the same relative step (i.e. Step A to Step A) in the revised salary range. In such cases, the employee's accumulated time towards normal advancement shall not be affected.

7. RECRUITMENT, APPLICATIONS, AND APPLICANTS

7.01 EMPLOYMENT ELIGIBILITY

Employment shall be open to all persons who meet the minimum qualifications for a particular class and who are citizens of the United States and to qualified persons who are not citizens of the United States but have complied with applicable laws defining eligibility of non-citizens for employment in State or Local government. (See, e.g., Immigration Reform and Control Act, 8 U.S.C. Section 1324).

7.02 ANNOUNCEMENTS

All vacancies for classes in the competitive service shall be published at City Hall, and in such places as the Personnel Officer deems advisable. For open-competitive examinations, announcements shall be published not less than two (2) calendar weeks before the application filing deadline, while for promotional examinations, announcements shall be posted not less than one (1) calendar week before the application filing deadline. Filing deadlines in such announcements may be extended, postponed or canceled by the Personnel Officer if such action is in the best interests of the City. The announcement shall specify the title and pay range of the class for which the examination is announced; qualification requirements; the nature and duties of the work to be performed; whether the position is at-will or permanent; whether a background investigation is required; whether a medical and/or psychological examination, including a drug and/or alcohol screen, will be required post-offer of employment; preparation desirable for the performance of the work of the class; the dates, time, place and manner of making applications, and other pertinent information as seems desirable in the discretion of the Personnel Officer or designee.

7.03 APPLICATION

All applicants for employment shall file an official application form with the City of San Pablo Personnel Office on or prior to the designated filing deadline. Electronic applications (e.g. PDF files, etc.) shall be allowed. All persons desiring to apply for a vacant position shall be given the appropriate application form for such position. Applicants must complete in sufficient detail and submit the official application form and other required supporting documents. Resumes may be attached to the completed official application form but will not be accepted in lieu of a completed form. A separate application is required for each position desired. All official applications must be signed (can be electronic signature) and dated by the applicant.

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The form and content of the official application shall be prescribed by the Personnel Officer and shall require only that information which is pertinent to determining if said applicant is qualified and capable of undertaking the duties of the particular position.

7.04 DISQUALIFICATION

The Personnel Officer may at any time reject or disqualify an applicant from consideration for appointment if such an appointment would not serve the best interests of the City. No person shall be disqualified arbitrarily or capriciously. Reasons for disqualification shall include, but not be limited to the following:

- 7.04.1 Request. At the request of the applicant that his/her name be withdrawn from consideration.
- 7.04.2 Qualifications. If an applicant does not possess the minimum qualifications required for the position as established in the Classification Plan.
- 7.04.3 Narrowing. If it becomes necessary, because of a high number of applicants or because of limited examination space, to narrow the field of applicants to eliminate the lesser qualified.
- 7.04.4 Unfit. If an applicant is physically or mentally unfit to perform the essential duties of the position for which he/she seeks appointment, with or without reasonable accommodation.
- 7.04.5 Drugs and Alcohol. If an applicant is a current user of illegal drugs, or abuser of intoxicating liquor.
- 7.04.6 Conviction. If an applicant has been convicted of a felony or a misdemeanor that relates to the position duties that the applicant would perform, unless satisfactory evidence is presented to show that the applicant's conduct, over a considerable period of time since the offense, has been beyond reproach.
- 7.04.7 False Statements. If an applicant is found to have made incomplete or false statements or material omissions, deception or fraud in making the application, or has directly or indirectly obtained confidential information regarding examinations.
- 7.04.8 Response. If an applicant fails to respond to a written inquiry within a reasonable period of time, or fails to notify the Personnel Officer of a change of address.
- 7.04.9 Police. Applicants for the Police Department who have arrests other than minor violations, or arrests from which they were not fully exonerated by the arresting authority or by a competent court of law.

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- 7.04.10 Incomplete Application. If an applicant fails to complete the application form in sufficient detail, **or** indicates “see resume,” or fails to submit the application within the prescribed time limits.
- 7.04.11 Incomplete Submission. If an applicant fails to submit required submissions such as responses to a supplemental questionnaire, licenses, certifications, and other job related requirements.
- 7.04.12 Absence of Signature on Application. If an applicant fails to sign the completed official job application form.
- 7.04.13 Driver’s License. If an applicant has had his or her privilege to operate a motor vehicle in the State of California suspended or revoked, if driving is job related.
- 7.04.14 Anti-Nepotism Policy. If the applicant is a relative of an employee, and is subject to the anti-nepotism policy set forth in Section 20 of these Rules.
- 7.04.15 Evidence of Unfitness. For any material cause which in the judgment of the Personnel Officer or designee would render the applicant unfit for the position, including but not limited to a prior resignation or termination from the City, or a significant disciplinary action against the applicant.

7.05 NOTICE OF DECISION

The Personnel Officer shall notify all unsuccessful applicants by mail or email as soon as feasible.

8. EXAMINATIONS

8.01 RESPONSIBILITY AND NEED FOR EXAMINATIONS

- 8.01.1 Need for Examinations. The Personnel Officer shall schedule examinations as needed. If a vacancy occurs or one is anticipated in the City service, and such vacancy is not to be filled by transfer, demotion, and no active employment list exists, or if a provisional appointment has been made, the Personnel Officer shall conduct the appropriate examination as soon as is practical, to establish or supplement an employment list.
- 8.01.2 Responsibility and Conduct of Examinations. The Personnel Officer shall be responsible for the conduct of examinations for positions within the City service. The Personnel Officer shall determine the manner, methods of examinations, the types of examinations given for a particular classification and by whom such examinations are to be administered. The Personnel Officer may appoint any qualified person(s) or may contract with any responsible personnel agency to conduct and score the examination.

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8.02 TYPE OF EXAMINATIONS

The type of examination given to fill a vacancy in the City service shall be decided by the City Manager and/or Personnel Officer after receiving a recommendation by the Department Head concerned. Such examinations shall be used to establish an employment list in accordance with the provisions of these Rules and shall be one of the following:

8.02.1 Open Competitive Examinations. Open competitive examinations shall be those competitive examinations in which any persons, as defined in Section 7.01 of these Rules, who meet the requirements as set forth in the examination announcement, shall be allowed to compete. Open competitive examinations shall be scheduled for entry level classes and for such other classes as required to ensure a competitive examination process and the selection of the most qualified person available.

8.02.2 Promotional Examinations. Promotional examinations shall be those competitive examinations in which only current employees of the City, who are appointed to permanent status and who meet the requirements set forth for the classification and examination announcement, shall be allowed to compete. Promotional examinations shall be conducted whenever in the opinion of the Personnel Officer, the needs of the service require, and provided there are sufficient numbers (two or more) of qualified employees to ensure a competitive examination process.

8.02.3 Continuous Examinations. The Personnel Officer may implement continuous testing on a regular basis for a particular classification whenever the needs of the City warrant such testing.

8.02.4 Other Examinations. A combination of the above examinations may be used as the Personnel Officer deems advisable (i.e., open and promotional examination).

8.03 SUBJECT AND CONTENTS OF EXAMINATION

The Personnel Officer shall determine the subjects and contents of each examination for a particular classification. The examinations shall be impartial, of a practical nature, and shall relate only to those areas which, in the opinion of the Personnel Officer, will fairly and adequately measure the relative capabilities of the persons examined to execute the duties and responsibilities of the particular class to which they seek to be appointed. The Personnel Officer may examine applicants by any one or combination of the following techniques, or any other impartial testing method:

8.03.1 Written.

8.03.2 Interview. Interview with Department Head/ Division Manager or City Manager/ Personnel Officer or his/her designee

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8.03.3 Oral Board. Where appropriate, the education, skills, personal qualifications and other pertinent information about the candidate may be evaluated by an oral board. Each candidate must have met the minimum requirements with regard to education, training, and experience for the particular classification and, if applicable, have passed other appropriate examinations designated by the Personnel Officer prior to appearing before the oral board.

The oral board shall be composed of a number of persons who are either experienced in the field of work being considered, are technically familiar with the character of the work or would be able to adequately ascertain to what degree an applicant's qualification and personal fitness meet those required for the position for which the applicant is being considered. The oral board may be composed entirely of City employees provided that none of the oral board members are either the appointing authority for the position(s) being examined, or will be the anticipated immediate supervisor of such a candidate. Names of oral board members shall not be given out to the candidates in advance of the oral interviews.

8.03.4 Demonstration. Any evaluation of education, experience, training, or skills that can be demonstrated in an assessment center, or any tests of manual skills (e.g. computer proficiency, typing, etc.), or physical or mental fitness which fairly evaluate the relative capacities of the applicant to perform the essential functions of the job.

8.04 APPLICANT SELECTION

In the case of open-competitive examinations, the Personnel Officer may limit the number of applicants to be examined for any position in the cases of limited time, facilities, budgeting reasons or as deemed necessary. If examinations space is to be limited, the applicants examined may be selected by one of the following methods:

8.04.1 Most Qualified Applicants. Only the most qualified applicants are to be invited to the examinations. The preliminary applicant evaluation shall be done by the Personnel Officer or such qualified persons as designated.

8.04.2 Order Received. Applicant selection may be determined by the order in which applications are received. Employment announcements may state that applications will be accepted until a sufficient number are received.

8.05 NOTICE OF EXAMINATIONS

The Personnel Officer shall have prepared a notice announcing the time, date and place of any scheduled examinations. Any notice of examination shall be mailed or delivered (via telephone, e-mail or fax) to

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all applicants to be examined far enough in advance of the examination date to allow the applicants a reasonable time to attend.

8.06 LATERAL ENTRY

When it is determined that it is in the best interests of the City to hire by lateral entry, all or parts of the provisions for participating in the competitive examination process may be waived.

In order to be classified a lateral entry, the applicant must meet the minimum qualifications established for the particular classification; must possess the required certificates and experience as designated by the Personnel Officer in writing; and must be found satisfactory with regard to other requirements, such as physical fitness to perform the essential functions of the job, with or without reasonable accommodation, and background investigation.

8.07 RATING OF EXAMINATIONS

Sound measurement techniques such as the State Personnel Board examinations or other standardized tests and procedures as determined by the Personnel Officer shall be used in rating the results of the examinations and in calculating the relative rankings.

The Personnel Officer shall establish a minimum score by which eligibility may be achieved on an examination or part of an examination. A candidate's final rating in a given examination may be the score or combination of scores attained on each competitive part of the examination process, with relative weights as prescribed by the Personnel Officer. Failure in one part the examination may be grounds for disqualifying an applicant from participating in subsequent parts of the examination.

The Personnel Officer may, at his/her discretion, include as a part of the examination tests which are qualifying only.

8.08 INSPECTION AND PROTEST OF EXAMINATIONS

8.08.1 Inspection of Results. Candidates may inspect and review their answers on a written examination against a certified list of correct answers within thirty (30) calendar days after the examination has been scored, in order to assure that papers have been correctly scored.

8.08.2 Protest of Examination and Scoring. Protests to the content of the examination should be submitted by the candidate to the Personnel Officer, in writing, within ten (10) calendar days of the examination date. Protests shall include the reasons for the challenge and shall include sufficient detail to enable the Personnel Officer to understand the objection and conduct any necessary research.

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Candidates may submit to the Personnel Officer protests on the accuracy of scoring within thirty (30) calendar days after the examination has been scored and posted.

Within ten (10) working days of the receipt of such an appeal, the Personnel Officer shall commence to review the issue. When the Personnel Officer has reached a decision, the appellant shall be notified by mail, email or fax.

8.09 STATUS OF EXAMINATIONS BEING PROTESTED OR APPEALED

Tests may be scored and other parts of the examination, certification, and appointment process completed prior to receipt of or answer to protests, where the needs of the service require that vacancies be filled immediately from employment lists. Appointments so made are not subject to legal deficiency even if subsequent test rescoring should alter the established order of the employment lists.

9. EMPLOYMENT LISTS

9.01 ESTABLISHMENT OF EMPLOYMENT LISTS

The Personnel Officer shall establish appropriate employment lists when needed. If no such list exists when a vacancy occurs, the Personnel Officer shall begin procedures to establish one. There are three (3) types of employment lists: open competitive lists; reemployment lists; and promotional lists, or a combination thereof.

9.01.1 Open Competitive Lists. Following the completion, tabulation and weighing of the open competitive examination as provided for in these Rules, the Personnel Officer shall enter the names of all the successful candidates on an eligibility list for the position. Successful candidates shall be deemed as applicants who score 70% or higher during the recruitment process. The eligible names on the list shall be ranked in the order of final scores, with the highest score ranking first and the lowest last. In case of identical final scores, the names shall be placed in alphabetical order.

9.01.2 Reemployment Lists. The names of all employees who have been laid off shall be placed upon an appropriate reemployment list by the Personnel Officer for each different class(es) in the City service. The listing of eligible names on the reemployment list shall be ranked in reverse order of lay-off, in accordance with the provisions of these Rules pertaining to order of lay-off, (i.e. the person last laid off being ranked first on the list).

9.01.3 Promotional Lists. Following the completion, tabulation, and weighing of a promotional examination as provided for in these Rules, the Personnel Officer shall enter the names of all the successful employees on a promotional list for the relevant position. The listing of eligible names shall be ranked in order of final scores, with the highest score ranking first and the lowest last.

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9.02 DURATION OF EMPLOYMENT LISTS

Open competitive and promotional employment lists shall become effective when established by the Personnel Officer, and shall remain in effect for a period of up to two (2) years from the date of establishment. The names on a reemployment list shall remain eligible for reemployment for a period of two (2) years from the effective date of lay-off.

9.03 RENEWAL OF EMPLOYMENT LISTS

On any active employment list, whenever there exists less than five (5) eligibles or in the case of continuous testing, the Personnel Officer may establish another employment list in accordance with these Rules. The eligibles on the old list shall still remain eligible for appointment. Equal consideration shall be given to eligibles on both lists.

The Personnel Officer may establish another employment list if he/she determines that there are no acceptable candidates on any employment list. (If there are no acceptable candidates on any employment list, such list shall be deemed inactive.) Documentation shall be kept in a file of inactive lists, with notes on why candidates are unacceptable.

9.04 REMOVAL OF NAMES FROM LISTS

The name of any person appearing on an employment list may be removed by the Personnel Officer. Reasons for removal shall include, but not be limited to the following:

- 9.04.1 Request. If the eligible requests that his/her name be removed from the list.
- 9.04.2 Failure to Respond. Failure to respond to a written inquiry within a reasonable period of time; failure to notify the Personnel Officer of a change of address.
- 9.04.3 Interview. Failure to appear at a scheduled interview.
- 9.04.4 Rejection of Appointment. If the eligible declines an appointment for full-time employment in the same class for which the employment list was established.
- 9.04.5 Failure to Report to Work. If the appointed eligible fails to report for work at the time agreed upon.
- 9.04.6 Medical. Failure to satisfactorily pass a post-offer medical or psychological examination.
- 9.04.7 Background Check. If the eligible receives an unsatisfactory background check report.
- 9.04.8 Disqualification. For any reasons stipulated in Section 7.04 of these Rules.

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9.04.9 Promotional. If an eligible listed on a promotional list resigns or is dismissed from service with the City.

9.05 EMPLOYMENT LIST PRIORITY

When vacancies are not to be filled by transfer or demotion, employment lists shall be used in the following order: reemployment list; promotional list; open competitive list. No former employee shall be rehired or reinstated to a position if an active reemployment list or promotional list exists for the position being filled.

9.06 SELECTION

The City Manager and/or Personnel Officer may select for appointment off the employment lists as follows:

9.06.1 Rule of List. For non-promotional appointments, all names appearing on the employment list shall be eligible for appointment without regard to ranking on said list.

9.06.2 Rule of Three. For promotional appointments, only the top three names appearing on the employment list shall be eligible for appointment.

9.06.3 Veterans Preference. Veterans who have successfully completed all phases of the testing process and whose names have been placed on the employment list for any of the entry level positions listed herein will be given preference in the selection process as outlined herein. Any veteran whose final score is within five (5) percentage points of the top scoring candidate on the employment list will automatically be given further consideration for employment. Such further consideration shall typically consist of an interview with the appointing authority, or background processing or some other “next step” in the selection process depending upon the position. The entry level permanent positions to which this veterans preference applies are: Police Officers, Police Officer Trainees, Maintenance Worker I, and Administrative Clerk I.

10. APPOINTMENTS

10.01 VACANCIES

Whenever a vacancy exists or will shortly exist in the competitive service, the Department Head or Division Manager shall notify the Personnel Officer of such. The Personnel Officer shall determine the proper classification of the position to be replaced and the manner in which to fill the vacancy, or whether such vacancy shall be filled. If the vacancy is to be filled, and no appropriate employment list exists and

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the vacancy is not to be filled by transfer or demotion, the Personnel Officer shall establish an employment list in accordance with these Rules.

10.02 CERTIFICATION

Following the establishment of an employment list, the Personnel Officer shall certify the names of any or all eligibles on the list who have successfully completed the examination process.

10.03 PRE-APPOINTMENT ACTIONS

Background Investigation and Drug and/or Alcohol Testing. The City of San Pablo desires to hire persons who do not use illegal drugs, who are of good character and integrity, who are responsible, and who have demonstrated the capability to make sound judgments and act appropriately in their relationships and interactions with members of the public and with other employees. The City Council has determined that the citizens of San Pablo deserve city employees who possess such qualities, and that such traits are therefore part of the essential requirements for every city job.

The City Council further determines that the Personnel Officer may require that a background investigation be conducted for final candidates for all city positions. Such investigation may inquire into the applicant's criminal history as authorized by Resolution 89-98, and personal, financial and work history to ensure that such candidates have demonstrated a sense of responsibility and good judgment that will preserve and enhance the City's reputation as a public agency representing its citizenry. The City shall conform to the requirements of the Federal Credit Reporting Act in conducting Background Investigations. All positions involving contact with minors shall have a background investigation in accordance with state and federal law, even if not otherwise subject to these rules.

All final candidates for city employment, whether or not otherwise subject to these rules, shall be informed and shall be required to undergo a fingerprint check and background investigation. Successful candidates shall be required to take a post-offer physical and/or psychological examination as set forth in Section 16.01, and may be required to successfully pass a drug and/or alcohol test as set forth in Section 22 of these Rules.

10.04 NORMAL APPOINTMENT

All appointments shall be made by the City Manager. Should the City Manager determine that a vacancy shall be filled, he or she shall fill such vacancies occurring in the competitive service by transfer, demotion, promotion, reinstatement, or from a reemployment, promotional, or open competitive list.

10.04.1 Transfer. The City Manager may transfer an employee from one position to another position in the same or a comparable class at essentially the same maximum salary level. Any employee desiring to transfer to another department may inform the City Manager of his/her interest, in writing; and, upon the approval of the City Manager and the transferring and receiving Division Managers and Department Heads, the employee shall

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be given consideration in filling future vacancies. Transfers shall not be used to effectuate a promotion, demotion, advancement or reduction, each of which may only be accomplished as provided in these Rules. No person shall be transferred to a position for which he/she does not possess the minimum qualifications. Any employee being considered for a transfer shall be notified of such proposed action within a reasonable period of time prior to the effective date of the transfer. The wishes of such employee shall be taken into consideration to the extent which is reasonably consistent with purposes of economy and efficiency.

- 10.04.2 Voluntary Demotion. The City Manager may demote an employee to a vacant position which has a lower maximum salary than the employee's present position as a substitution for lay-off only upon the consent of the employee and the Division Manager or Department Head. No employee shall be voluntarily demoted to a position for which he/she does not possess the minimum qualifications.
- 10.04.3 Reinstatement. The City Manager may reinstate an employee, without examination, to his/her former position upon the recommendation of the Division Manager or Department Head, provided that the person's application for reinstatement has been filed within one year of his/her resignation. No person shall be reinstated if there is an active reemployment or promotional list in effect for the position for which reinstatement is being sought.
- 10.04.4 Reemployment List. If a vacancy is not to be filled by transfer or demotion, the City Manager may appoint a person from a lay-off or reemployment list in the same order in which the names are ranked on the list. If an employee is hired from a reemployment list, seniority accrued prior to lay-off shall continue to his/her credit.
- 10.04.5 Promotional List. The City Manager may appoint an employee from a promotional list to a position in a class which has a higher maximum salary than the employee's previous position. Insofar as is practicable and consistent with the best interests of the service, all vacancies in the competitive service shall be filled by promotion from within the competitive service. No employee shall be promoted to a position which he/she does not possess the minimum qualifications. Participation in approved training programs may be considered in making promotions.
- 10.04.6 Promotional Appointment. If any new or vacant position represents a promotional opportunity for an existing employee and such employee meets the minimum qualifications for the new or vacant position and has been satisfactorily performing in his/her current position, the City Manager may authorize the promotion of the employee to the new or vacant position. The City shall notify employees of the new or vacant position. If there is a minimum of two (2) qualified and interested employees within the City, an in-house promotional recruitment shall be conducted. Requirements of employees who will be able to participate in a promotional examination shall be in

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accordance with Section 8.02.2. If the process does not provide an appointee, an open competitive examination shall be conducted.

10.04.7 Open Competitive List. If a vacancy is not to be filled by other means or if another active employment list does not exist or if, in the opinion of the City Manager, a vacancy could be filled best by an open competitive examination, the City Manager may appoint a person from an open competitive list.

10.05 LIMITED SERVICE APPOINTMENTS

10.05.1 Provisional Appointments. In the absence of appropriate employment lists and if it is not desirable to delay an appointment until a new list can be established and certified, a provisional appointment may be made by the City Manager of a person meeting the minimum training, experience, and qualifications for the position. An employment list shall be established within six (6) months for any permanent position filled by provisional appointment. No provisional appointment shall exceed 6 months; provided, however, that the City Manager may extend the period of any provisional appointment not more than ninety (90) days by any one (1) action. No special credit shall be allowed in meeting any qualification or in giving any test or in establishing any employment lists, for services rendered under a temporary appointment. The failure to extend a provisional appointment period in a timely manner, or to establish an employment list in a timely manner, shall not operate to bestow permanent status on a provisional employee.

10.05.2 Emergency Appointments. To meet the requirements of an emergency condition, any competent Department Head or Division Manager may employ such persons as may be needed for the duration of the emergency without regard to the Personnel Ordinance or Personnel Rules affecting appointments. For these purposes, the City Manager shall determine if an emergency condition exists.

10.05.3 Part-Time or As-Needed Appointments. Appointments to positions in the City service which are on a part-time or as-needed basis may, but need not be, made from an employment list; and, such appointments may be made by the Division Manager or Department Head with the approval of the City Manager without following the appointment procedures.

Any person on an employment list who accepts employment on a part-time or as-needed basis, shall still retain his/her place on the list.

10.05.4 Temporary Assignment. An employee may be assigned upon written approval of the Department Head, on a temporary basis to a higher grade position than that normally covered by his/her classification. Such assignment shall be limited to a period of six (6) months at the higher rate of pay. If the assignment is less than one (1) month, no salary increase shall be given unless required by an applicable MOU.

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10.06 OFFICIAL APPOINTMENTS

No appointment shall be deemed official by the City Manager until the eligible has fulfilled the following requirements:

- 10.06.1 Medical Examination. The eligible candidate shall successfully complete a post-offer physical and or psychological examination by a City designated physician in accordance with these Rules.
- 10.06.2 Loyalty Oath. The eligible candidate shall sign a loyalty oath as prescribed by the California Government Code.
- 10.06.3 Background Investigation. The eligible candidate shall successfully complete a post-offer background investigation by a City designated investigator in accordance with these rules.

10.07 NOTICE OF APPOINTMENT

Following any appointment to service with the City, written notice of such appointment shall be given to the appointee and a copy filed with the Personnel Officer. Such notice shall indicate the type of appointment which has been made and the conditions to which the appointee is subject.

11. PROBATIONARY PERIOD

11.01 OBJECTIVE OF PROBATIONARY PERIOD

All employee appointments to positions in the competitive service shall be tentative for a period of time known as a probationary period prior to appointment to permanent status. The probationary period shall be regarded as part of the examination and selection process and shall be utilized for closely observing the employee's work performance, for securing the most effective adjustment of a new employee to his/her position, for rejecting any probationary employee whose performance does not meet the acceptable standard of work for the particular class, and for rescinding the appointment of any probationary employee based on newly-discovered information that was not known to the appointing authority during the examination process, which information if known would have prevented such appointment.

Upon successful completion of the probationary period, the employee shall gain permanent status in a class, which shall be retained as long as such employee holds a position in that class, unless a disciplinary action warrants a probationary period status to be instituted by the City Manager and/or Personnel Officer.

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11.02 PROBATIONARY PERIODS

Any person appointed to a full-time position in the competitive service shall be subject to a probationary period, beginning from the date of appointment. The probationary period shall be twelve (12) months for all non-police department employees, eighteen (18) months for new entrant Sworn Police Officers, and twelve (12) months for all other police department employees in the competitive service.

The City Manager, upon recommendation of the Department Head, may grant an extension of the probationary period up to a maximum of six (6) months for all non-police department employees, eighteen (18) months for new entrant Sworn Police Officers, and twelve (12) months for all other police department employees in the competitive service.

Time served under any limited service appointments or any leaves of absence or assignments out of the class, totaling more than thirty (30) calendar days, for any reason, shall not be counted towards the completion of an employee's probationary period.

11.03 STATUS FOLLOWING APPOINTMENT

11.03.1 Original Appointment. A person appointed from an open-competitive list must successfully complete a probationary period, beginning from the original date of hire, prior to being appointed to permanent status.

11.03.2 Reemployment. A former employee appointed from a reemployment list to a class with a pay range less than or equal to the pay range of the class held prior to being laid off and provided that permanent status had been previously attained, shall assume permanent status in the assigned class.

A former employee appointed from a reemployment list with a pay range higher than the pay range of the class held prior to being laid off and provided that permanent status had been previously attained, must successfully complete a probationary period, beginning from date of reemployment, prior to being appointed to permanent status. In such cases, an employee who does not successfully complete the probationary period may return to the position and class held prior to being laid off, and permanent status shall be assumed.

A former employee appointed from a reemployment list where such employee had not attained permanent status prior to being laid off, must successfully complete a probationary period, beginning from the date of reemployment, prior to being appointed to permanent status.

11.03.3 Reinstatement. A former employee who has been reinstated to a position held previously, must successfully complete a probationary period, prior to being appointed to permanent status.

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11.03.4 Transfer and Demotion. An employee with permanent status, transferred or demoted to another position, shall assume permanent status in the assigned class.

An employee transferred or demoted to another position while still serving a probationary period must successfully complete the probationary period. In such cases, previous service time shall count towards the completion of probationary period.

11.03.5 Promotion. An employee promoted to another position in the competitive service, must successfully complete a new probationary period, beginning from date of promotion, prior to being appointed to permanent status. In such cases, an employee who does not successfully complete the probationary period may return to the position and class held prior to being promoted, and permanent status shall be assumed.

11.03.6 Reclassification. An employee whose position has been reclassified to a lower class or equal class shall retain the same status held prior to the reclassification. An employee whose position has been reclassified to a higher class must complete a probationary period as provided for in Section 11.02 of these Rules. If the employee is rejected during the probationary period in the position with a higher classification, the employee, in lieu of termination, shall be placed back to the former position in which permanent status was held.

11.04 PERFORMANCE REPORTS

Performance reports for probationary employees shall be in accordance with the provisions of Section 15 of these Rules.

In the final performance report of the designated probationary period, the Division Manager or Department Head shall make a recommendation that: the employee be appointed to permanent status; the employee's probationary period be extended; or the employee be rejected for failure of the probationary period.

The City Manager shall make the final determination on the future status of all probationary employees.

11.05 REJECTION OF PROBATIONARY EMPLOYEES

Except as set forth in Section 11.03.6, an employee may be dismissed at any time during the probationary period without cause and without right to grieve or appeal. Notification of any rejection pursuant to this Rule shall be served in writing to the probationary employee and a copy filed with the Personnel Officer. Written notice of rejection must be made effective not later than the last day of the probationary period and must be served on or before its effective date. The date of service shall be the first date the notice is personally served on or faxed to the employee or his or her legal representative, or deposited in the U.S. Mail.

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Probationary employees who are discharged for misconduct or under circumstances that are stigmatizing are entitled to a hearing with the City Manager at which they can attempt to clear their names. For sworn police officers, this hearing shall also constitute an “administrative appeal” within the meaning of Government Code §section 3304, at which they can attempt to refute the concerns behind the release from probation, introduce mitigating circumstances, and attempt to reverse the recommendation. This section shall not be construed to grant any rights to probationary employees additional to those rights required by applicable constitutional or statutory law.

12. DISCIPLINARY ACTION

12.01 CAUSES OF DISCIPLINARY ACTION

Disciplinary measures may be taken for any good and sufficient cause. Cause for disciplinary action shall include, but not be limited to, any of the following:

- 12.01.1 Fraud of any kind, or misstatements, untruths or omissions of any material fact in the application process or in securing appointment or promotion; or falsification or untruths concerning records, fellow employees or work performed.
- 12.01.2 Incompetency or inefficiency in the performance of required duties.
- 12.01.3 Neglect of job duties.
- 12.01.4 Insubordination.
- 12.01.5 Misconduct, willful disobedience, or failure to obey any proper direction made and given by a superior officer or supervisor.
- 12.01.6 Conduct unbecoming an officer or employee of the City, either on or off duty in matters of general conduct or behavior.
- 12.01.7 Any acts or omissions, on or off duty, which are either incompatible with or unfavorable to the public service, or which tend to bring reproach or discredit to the City.
- 12.01.8 Discourteous or non-cooperative treatment of the public, city officers or employees, either on or off duty.
- 12.01.9 Offensive or obscene language in public, or towards the public, City Officials or employees, either on or off duty.
- 12.01.10 Dishonesty or immorality on the job.

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- 12.01.11 Endangering self or others, or failure to follow adopted safety practices, or failure to properly use required personal protective gear or equipment.
- 12.01.12 Reporting for duty or being on duty under the influence of any intoxicant or absenting oneself from duty or rendering oneself unfit to perform fully one's duties for reasons attributable to or produced by indulgence in intoxicants.
- 12.01.13 Violation of the City's Administrative Policy for Controlled Substances in the Workplace, or failure to notify a supervisor, in writing, when the employee is taking prescription medication, that can impair judgment or performance.
- 12.01.14 Conviction of a crime, the nature of which has a direct bearing on continued employment.
- 12.01.15 Unauthorized absence without leave.
- 12.01.16 Misuse or misappropriation of City property or funds; carelessness or negligence with the moneys or other property of the City; appropriating to the employee's own use any property of the City; or loaning, selling or giving away such property without legal authorization.
- 12.01.17 Unfitness, or inability to perform the essential requirements of the position, with or without reasonable accommodation.
- 12.01.18 Using or attempting to use political influence in attempting to secure promotion, leave of absence, transfer, change of rate of pay or character of work.
- 12.01.19 Inducing or attempting to induce an officer or employee of the City to commit an unlawful act in violation of any lawful department or official regulation or order.
- 12.01.20 Taking for his/her personal use, from any person, a fee, gift or other valuable thing in connection with official work when such fee, gift or other valuable thing is given in the expectation of receiving favored treatment.
- 12.01.21 Improper political activity as defined in the pertinent sections of State and Federal Law.
- 12.01.22 Less than satisfactory performance evaluations pursuant to Section 15.04.4.
- 12.01.23 Commission of a wanton, unreasonable or negligent act of brutality or cruelty to an inmate or prisoner of a City institution or to a person in custody, provided the act committed was not necessarily or lawfully done in self-defense, or to protect the lives of others, or to prevent the escape of a person lawfully in custody.

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- 12.01.24 Violation of or failure to abide by any lawful rule, regulation, policy or order of the City or City department.
- 12.01.25 Abuse of sick leave privileges.
- 12.01.26 The conduct of personal affairs or business during working hours.
- 12.01.27 Failure or refusal to cooperate in an official inquiry or investigation into an alleged violation of these rules when ordered to do so.
- 12.01.28 Working overtime, unless otherwise permitted by MOU, written City policy or specific written authorization. Police officers who are subpoenaed or ordered by the court to appear, or who respond to emergency situations as required by department policy, are entitled to work overtime and shall notify their supervisors in a timely fashion.
- 12.01.29 Engaging in outside employment without authorization.

12.02 TYPES OF DISCIPLINARY ACTION

The type of disciplinary action taken shall be commensurate with the offense or violation of an employee, provided that the prior employment history of the employee shall also be considered. The disciplinary measures which can be taken are reprimands, suspensions, reduction in step, demotions, and dismissals.

- 12.02.1 Reprimands. A reprimand is an official notification to an employee that there is cause for dissatisfaction with the employee's service or actions, and that further disciplinary measures may be taken if the situation is not remedied. A reprimand may be issued by the Department Head, his or her designated representative, the City Manager, or the Personnel Officer. A reprimand may be issued either orally or in writing. If a reprimand is given orally, a documentation memo should be forwarded to the personnel file. If the reprimand is issued in writing, a copy shall be forwarded to the Personnel Office for inclusion in the employee's personnel file. Reprimands may be considered as pertinent evidence or information in any hearing.
- 12.02.2 Suspensions. A suspension is a temporary without pay status levied for a penalty for an offense, for the good of the service, for a disciplinary purpose, or for other just cause which is not sufficiently grave to warrant dismissal. An employee may be suspended for a period not to exceed thirty (30) days. Any suspension which results in the affected employee having a total suspended time in excess of thirty (30) days during any twelve (12) month period shall constitute a dismissal and shall be subject to all the procedures for dismissal.
- 12.02.3 Reduction in Step. A reduction in step within a pay range is the withdrawal of previous step advancements granted for merit, efficiency, and length of service. A reduction in

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step may be instituted for any employee for a disciplinary reason or any good and just cause.

12.02.4 Demotion (Without Consent). A demotion without consent is a reduction in classification to a classification having a lower maximum salary. Any employee may be demoted whose abilities to perform his/her required duties falls below standard, or for a disciplinary reason or for any just or good cause. As a matter of policy, a demotion rather than a suspension or dismissal for disciplinary purpose may be made when the employee renders unsatisfactory service in his/her position, yet is not so unsatisfactory as to deserve dismissal from the service and gives evidence of ability to perform work satisfactorily in a lower class of position. Such demotion shall usually be designated for a specific period of time; however, nothing in this section shall preclude a demotion being given for an indefinite or permanent period of time.

12.02.5 Dismissal. Dismissal is the termination of an employee from the City service. An employee in the competitive service may be dismissed at any time for any good and just cause. The term “dismissal” does not include release from probation.

12.02.6 Other. Other means of disciplinary action may be utilized, such as docking pay on an hour for hour basis, provided that such action is not unreasonable or unlawful and is commensurate with the offense.

12.03 AUTHORITY TO TAKE DISCIPLINARY ACTION

Any Division Manager or Department Head in the City shall have the authority to institute disciplinary action against an employee in his or her Department or Division.

12.04 DISCIPLINARY PROCEDURES

12.04.1 Notice of Intent To Discipline. When disciplinary action is contemplated against a permanent employee, other than oral or written reprimands, or docking pay on an hour for hour basis, or other minor discipline, the employee shall be notified of such intent to take action as set forth below:

(a) Such notice shall include:

1. A statement of intent to take disciplinary action against the employee.
2. The specific fact or facts against the employee.
3. The charge or charges upon which proposed disciplinary action is to be taken.

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4. All materials relied upon to date regarding the proposed action.
 5. Except in the case of oral or written reprimands, docking pay on an hour for hour basis, suspensions of five (5) days or less, or other minor disciplinary actions, a statement that the employee has the right to respond in writing to the City Manager or designee within ten (10) working days, or to attend a pre-disciplinary hearing before the City Manager, or the City Manager's designee. The notice may specify the date and time for such hearing.
 6. In the case of suspensions of five (5) days or less, a statement that the employee has the right to respond to the Department Head or designee, either orally or in writing, within ten (10) working days of the notice.
- (b) In the case of written reprimands, oral reprimands and documentation thereof, docking pay on an hour for hour basis, or other minor disciplinary action, there shall be no right to a notice of intent and no right to respond prior to institution of such action.

12.04.2 Pre-Disciplinary Hearing or Response.

- (a) For demotions, step reductions, dismissals, or suspensions of more than five (5) days, or other major disciplinary actions, a pre-disciplinary hearing with the City Manager or his or her designee shall be offered and arranged as soon as possible. The employee is entitled to have any designated representative appear at such hearing. The purpose of the hearing is to permit the employee to respond directly to the charges made against him/her. The hearing shall not be a formal Hearing with sworn testimony, verbatim minutes, or other elements normally associated with a formal Hearing.
- (b) In the case of suspensions of five (5) days or less, the employee has the right to respond to the Department Head or designee, either orally or in writing, within ten (10) working days of the notice.
- (c) No hearing shall be required for oral or written reprimands, docking pay on an hour for hour basis, or other minor discipline. However, the employee may attach a written response to the reprimand or other disciplinary action, which shall be placed in the personnel file.

12.04.3 Notice of Disciplinary Action.

- (a) Where the opportunity for a pre-disciplinary hearing before the City Manager or designee has been presented, the City Manager or designee shall consider all

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evidence presented at the hearing or by the employee in writing or orally, if any, and shall either revoke, modify, or affirm the disciplinary action. Such decision shall be reflected in a written Notice of Disciplinary Action.

- (b) In the case of a short-term suspension, where the employee has been afforded the right to respond to the Department Head or designee, the Department Head or designee shall consider the response and shall either affirm, revoke or modify the discipline. Such decision shall be reflected in a written Notice of Disciplinary Action.
- (c) In lieu of repeating the facts and conclusions upon which disciplinary action was based, the Notice of Disciplinary Action may refer to and incorporate the facts, findings and conclusions set forth in the Notice of Intent, or any part thereof which is appropriate. The Notice shall inform the employee of the right to appeal set forth in Section 12.07. Following service of such notice upon the employee, the discipline may take effect.
- (d) Copies of the notice shall be sent to the Department Head, the City Attorney, and the Personnel Officer. Except in emergency situations, the discipline shall not be effectuated before ten (10) working days have elapsed from the time the first notice of intent to take disciplinary action was first served on the employee.

12.05 EMERGENCY DISCIPLINARY PROCEDURES

Where an emergency situation exists, or where an employee by his/her continued employment constitutes a hazard to the public or other employees, or where such employee's conduct is disrupting the workplace, the pre-disciplinary procedures in these Rules need not be followed and a suspension may be imposed by the City Manager or Department Head against an employee effective immediately. In these cases, however, careful documentation of the reasons for such decision shall be made, the disciplinary procedures outlined in these Rules shall be utilized to an extent that is reasonable under the circumstances, and the post-disciplinary procedures shall be followed.

12.06 DOCUMENTATION

All written documentation pertaining to a disciplinary action shall be filed in the affected employee's personnel file.

12.07 RIGHT TO APPEAL

- (a) Following a final disciplinary action against a permanent employee, other than written or oral reprimands, suspensions of five (5) days or less, docking pay on an hour for hour basis, or other minor discipline, such employee shall have the right to appeal as provided herein. Notwithstanding anything to the contrary in these Rules or in any applicable MOU, the appeal

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rights in these rules and in such MOU shall not be cumulative. The employee shall have the right to choose one procedure, and such procedure shall be the employee's exclusive remedy.

- (b) Although not subject to the appeal procedure set forth below, an employee subject to a written or oral reprimand, suspension of five (5) days or less, docking of pay on an hour for hour basis, or other minor discipline may request an administrative review by the City Manager or his/her designee if prior efforts at resolution with the employee's division manager and department head prove unsuccessful. Such administrative review shall consist of a meeting at which the employee shall have an opportunity to present his/her arguments. The City Manager may review the minor discipline imposed and may either reverse, modify, or let the discipline stand. No findings are required.

12.07.1 Time Limit. Any appeal from a disciplinary action shall be filed and received in the City Manager's Office within ten (10) calendar days of service of the Notice of Disciplinary Action. Such Notice of Disciplinary Action shall be deemed served upon personal or faxed delivery on the employee, his or her legal representative, or by certified mail. Failure to file a timely appeal shall result in a waiver of the right to appeal, and shall be deemed a failure to exhaust administrative remedies.

12.07.2 Appeal Hearing. The appeal hearing shall be held before a neutral, third party hearing officer appointed by the City Manager. Such hearing officer shall not be an employee or official of the City, and shall have prior experience as a hearing officer or with a public agency. The hearing officer shall be chosen, in the City Manager's discretion, from a list established by the City Manager of potential hearing officers in disciplinary or grievance matters. Where the City chooses the hearing officer from such list, the City will pay the entire cost of the hearing officer and any daily court reporter fees. Alternatively, at the employee's option, a hearing officer will be appointed by mutual agreement or striking of names, in which case the parties will share equally in the costs of the hearing officer and court reporter. For this option, the City shall request from the State Conciliation Service, or similar entity, a list of 5 arbitrators qualified to hear the dispute. The parties shall select one individual from the list by the alternate strike method. Whichever process is used, each party will be responsible for ordering and paying for transcripts of the hearing if so desired.

Failure of the appellant to exercise his or her option to participate in the selection of the hearing officer shall constitute a waiver of the employee's right to object to the method of selection of the hearing officer on due process grounds.

The hearing shall be held not less than ten (10) work days, nor more than sixty (60) work days, from the date the appeal was filed. All interested parties shall be notified in writing of the date, time and place of the hearing at least five (5) work days prior to the hearing. The hearing officer, prior to or during a hearing, may grant a continuance for any reason he or she believes to be important to reaching a fair and proper decision.

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12.07.3 Evidence. The hearing shall not be governed by the formal rules of evidence, but shall be conducted in a manner conducive to determination of the truth. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Leading questions should not be allowed except as permitted in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to sustain a finding of fact unless it would be admissible over objection in civil actions. The rules of privileges shall be effective to the same extent that they may be now or hereafter recognized in civil actions, and irrelevant and unduly repetitious evidence may be excluded. Decisions made by the hearing officer shall not be invalidated by any informality in the proceedings, and the hearing officer shall not be bound by technical rules of evidence.

The hearing officer shall render his or her findings and recommendations as soon after the conclusion of the hearing as possible, and no later than fifteen (15) work days after conclusion of the hearing unless otherwise stipulated by the parties.

12.07.4 Reciprocal Discovery.

- (a) Either party shall have the right to demand in writing that the other party provide a list of all witnesses it intends to call, designating which witnesses will be called as expert witnesses and a list of documents it intends to introduce at the hearing, provided that the demanding party provides its own lists at the time of its demand. A copy of such demand and the demanding party's lists shall be served on the hearing officer.
- (b) Such lists shall be served personally, or by fax on the requesting party seven (7) days thereafter, or within five (5) days of the hearing, whichever is earlier. Copies thereof shall be served on the hearing officer.
- (c) Listed documents shall be made available for inspection and copying at reasonable times prior to the hearing.
- (d) The failure to list a witness or a document shall not bar the testimony of an unlisted witness or the introduction of an undesignated document at the hearing, provided that good cause for omission from the requirements of subparagraph (a) is shown, as determined by the hearing officer.

12.07.5 Decision is Advisory. The decision is advisory only, and shall be a recommendation to the City Manager, who may accept, reject or modify such recommendation.

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12.07.6 Reimbursement for Pay Loss. In the event an employee who has been cleared of charges or whose discipline has been modified has suffered loss of pay, such employee shall be paid for salary lost. Payment shall be limited to loss of salary and benefits only, and is not to include other costs, such as attorney fees, overtime or incentives for shifts not worked, or premium pay.

No reimbursement shall be made for any portion of the period during which the employee was not ready, willing, or able to perform the duties of his/her position (excluding actual sick leave).

13. GRIEVANCE PROCEDURES

13.01 POLICY AND PURPOSE

It is the objective of this rule to provide an orderly process by which City employees are provided adequate opportunities to bring forth views relating to any alleged violation of any provisions of the Personnel Ordinance, Personnel Rules, Memorandum of Understanding, administrative policy, or Resolution or Ordinance of the Council pertaining to personnel matters and terms and conditions of employment to assure prompt and fair discussion of the issues involved, and to seek corrections thereof within the lowest possible supervisory level.

It shall be the policy of the City to give careful consideration to any grievance or suggestion submitted, regardless of its apparent merit, since a grievance which proves to be imaginary may nevertheless be real to the person submitting it.

Use of this procedure shall not reflect unfavorably upon the employee, the supervisor(s), the Department Head(s), or the management of the City. Retaliatory or disciplinary action against an employee for using this procedure shall be a violation of City policy.

13.02 GRIEVANCE

A. Subject to the exclusions listed herein, a grievance is defined as any dispute or misunderstanding, that: (1) is job related; (2) is wholly or partially within the province of the City to rectify or remedy; (3) concerns terms and conditions of employment; (4) involves the interpretation, application, or alleged violation of any provisions of the Personnel Ordinance, Personnel Rules, current Memorandum of Understanding between the City and a recognized employee organization representing City employees, administrative policy, or Resolution or Ordinance of the Council pertaining to personnel matters and terms and conditions of employment; and (5) is not subject to any other City dispute resolution process or procedure that is provided by statute, ordinance, resolution, or agreement. If a valid Memorandum of Understanding applicable to the current employee or recognized employee organization contains a grievance procedure, than that procedure will govern the grievance. In addition to matters not covered by the above definition,

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the following matters are also not subject to the grievance procedure: performance evaluations or ratings; disability retirement and separation issues; layoffs; denial of reinstatement; denial of a reclassification; issuance of reclassification and any issue arising therefrom; denial of a merit increase; separation from probationary status; appointment to positions; or as otherwise indicated in these rules. Disciplinary actions are subject to the appeal procedures set forth in Section 12 of these Rules.

- B. If an employee has a dispute over any item not subject to, or excluded from, the grievance procedure, he or she may take advantage of an administrative review process. An application for administrative review should be made, orally or in writing, with the division head. If satisfaction is not received, the application may then be filed in writing, with the department head and/or the City Manager. This administrative review process is informal. There is no right to a hearing or to present or cross-examine witnesses. The City Manager's decision is final.
- C. Disciplinary actions are not referred to herein, and are subject to Section 12 of these rules.

13.03 GENERAL PROCEDURES

- 13.03.1 Employee Representation: At any time in the Grievance procedure, the employee concerned may choose to represent him or herself, or may choose to be represented by the recognized Employee Organization to which that employee's classification is assigned, or by legal counsel.

If a group of employees is directly involved with an issue, they may, at any time in the Grievance Procedure, name one employee to represent the group as a whole.

The employee(s) shall have the right to be personally present at all stages of the Grievance Procedure, unless such employee(s) waive(s) such right.

- 13.03.2 Time or Step Waivers: Any time limit or step specified in this section may be waived upon consent of all parties involved.

13.04 INFORMAL PROCEDURES

When any employee or group of employees may have a grievance, the following procedures shall apply to resolve such grievance:

- 13.04.1 Supervisor. The complainant(s) shall first discuss the grievance with the immediate supervisor concerned with a view to adjusting the matter satisfactorily. Should the employee(s) fail to bring the grievance to the attention of their supervisor within fifteen (15) calendar days of the date of the action or incident causing the complaint, it shall be considered a waiver by the employee of the right to submit the complaint. If the matter is one which can be adjusted by the immediate supervisor to the satisfaction of the employee(s), this shall terminate the grievance.

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13.04.2 Department Head. If the matter, as specified in the paragraph above, cannot be adjusted by the immediate supervisor with a mutually satisfactory solution, then within seven (7) calendar days of the discussion with the supervisor, the employee(s) may submit the grievance in writing to the Department Head for consideration. Failure to take action within the required time period shall terminate the grievance.

The Department Head shall promptly investigate the grievance facts and issues, shall confer with the complainant(s) and other interested parties in order to reach a solution to the grievance. If the grievance concerns matter which cannot be handled by the Department Head, he/she shall advise the complainant(s) in writing within seven (7) calendar days of receipt of the complaint, notifying the complainant(s) of the department action or decision.

13.04.3 City Manager. If the complainant(s) is dissatisfied with the Department Head's decision or the Department Head finds the matter to be outside the scope of his or her authority, the complainant(s) may, within seven (7) calendar days of receiving the Department Head's decision, forward said grievance, in writing, to the City Manager or his/her designated representative. Failure to take this action within the required time period shall constitute termination of the grievance.

The City Manager, or the designated representative, shall investigate the facts and issues of the grievance, and shall confer with appropriate persons in order to find a solution to the grievance. The City Manager or the designated representative shall render a decision in writing to the complainant(s) within fourteen (14) calendar days of receipt of the grievance statement. If further time is needed to investigate the complaint the City Manager may do so with the concurrence of the employee.

13.05 APPEAL

Following exhaustion of all preliminary and informal procedures, and if the employee(s) is dissatisfied with the written decision or action of the City Manager or designated representative, the complainant(s) may, within ten (10) calendar days of service of the City's written decision, submit a written request to the City Manager for a Hearing. If such appeal is filed, the appeal should state the reason(s) therefor and a statement of the issue. Failure to take this action within the required time period shall constitute termination of the grievance.

13.06 HEARING DATE AND NOTICE

If a request for a Hearing is received, the Personnel Officer shall schedule a hearing time and date to be held within sixty (60) work days after such request for a hearing was received. Written notice of the time, date and place of the Hearing shall be furnished to the complainant(s), to the representatives of the complainant(s), and to other interested officers and persons. The hearing date may be continued by the Personnel Officer or Hearing Officer for good cause.

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13.07 HEARING PROCEDURES

Appeal Hearing. The appeal hearing shall be held before a neutral, third party hearing officer appointed by the City Manager. Such hearing officer shall not be an employee or official of the City, and shall have prior experience as a hearing officer or with a public agency. The hearing officer shall be chosen, in the City Manager's discretion, from a list established by the City Manager of potential hearing officers in disciplinary or grievance matters. Where the City chooses the hearing officer from such list, the City will pay the entire cost of the hearing officer and any daily court reporter fees. Alternatively, at the employee's option, a hearing officer will be appointed by mutual agreement or striking of names, in which case the parties will share equally in the costs of the hearing officer and court reporter. For this option, the City shall request from the State Conciliation Service, or similar entity, a list of 5 arbitrators qualified to hear the dispute. The parties shall select one individual from the list by the alternate strike method. Whichever process is used, each party will be responsible for ordering and paying for transcripts of the hearing if so desired.

Failure of the appellant to exercise his or her option to participate in the selection of the hearing officer shall constitute a waiver of the employee's right to object to the method of selection of the hearing officer on due process grounds.

13.07.1 Complainant(s) Present. Unless incapacitated, the complainant(s) shall be personally present at the Hearing, along with any representatives selected. In the event that the complainant(s) and/or representatives shall choose not to appear in person at the Hearing, it shall constitute a waiver of his/her right to any hearing or future hearings as the case may be, and the grievance or appeal shall be dismissed. If the complainant(s) submits in writing to the Hearing Officer within four (4) hours before the hearing time and stating an acceptable reason for his/her absence, the Hearing Officer, at its discretion, may set a new time and place for the Hearing.

13.07.2 Conduct of Hearings. The hearing shall be conducted in accordance with Section 12.07.3 and 12.07.4 of these Rules.

13.08 FINDINGS AND CONCLUSIONS

The decision of the Hearing Officer is advisory only. The Hearing Officer shall cause findings and recommendations to be prepared in writing and shall certify the same. Such findings shall be filed as a permanent record by the Personnel Officer. The Personnel Officer shall deliver a copy of the findings and recommendations to the City Manager, the complainant(s) and the complainant(s) representative.

13.09 CITY MANAGER'S DECISION

Following receipt of the grievance findings and recommendations, the City Manager shall review such findings and may then affirm, revoke or modify the recommendations. The City Manager's decision shall be in writing and shall be final.

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The City Manager shall deliver a copy of such decision to the complainant(s), and the complainant's representative.

14. TERMINATION OF EMPLOYMENT

14.01 LAY-OFF

14.01.1 Authority and Purpose. The City Manager may lay off any employee in the competitive service at any time because of material change in duties or organization, or shortage of work or funds or for any good and sufficient reason which serves the public interest. No lay-off shall be made for a disciplinary reason.

14.01.2 Lay-off Procedure and Lay-off List. The City Manager shall notify the Personnel Officer of any intended lay-off action at least ten (10) working days prior to the effective date of the lay-off. The notice shall state the classification(s) in which the lay-off is to be made along with the reason or reasons for such lay-off.

When notified of a lay-off by the City Manager, the Personnel Officer shall cause to have made a list of all employees in the affected classification(s). In making the lay-off list, different classifications may be combined which are similar in nature and have comparable duties, responsibilities, and salaries as advised by the Personnel Officer.

The listing of names on the lay-off list shall be ranked in accordance with seniority as determined by the employee's service time with the City; that is, the employee with the greatest seniority shall be ranked first on the list.

The order of lay-off in a particular classification shall be determined by the lay-off list. The employee whose name is ranked last upon the lay-off list shall be laid off first.

The Personnel Officer shall notify in writing the affected employee of the intent to take lay-off action and the effective date. The notice shall be served to the affected employee at least ten (10) working days prior to the effective date of the lay-off. A copy of the lay-off notice shall be retained in the Personnel files.

The Personnel Officer shall place the names of all employees who have been laid off on the appropriate reemployment list in accordance with the provisions of these Rules. The Personnel Officer may change these rules on establishment of lay-off lists in the case of employees appointed by limited service appointments or in any unusual circumstances.

14.01.3 Voluntary Demotion or Reduction. The City Manager may demote or implement a pay reduction for an employee in lieu of lay-off upon the consent of the employee, and, in the case of a demotion, providing it is in accordance with these provisions of these Rules.

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14.02 RESIGNATION

14.02.1 Notification. An employee wishing to leave the competitive service in good standing should file with the supervising official, at least ten (10) working days before leaving the service, a written resignation stating the effective date of and reasons for leaving. The resignation shall be forwarded to the Personnel Officer. Resignation shall become effective upon receipt by the City, without the necessity of any acceptance, unless employee is notified otherwise. The resignation of an employee who fails to give notice shall be reported to the Personnel Officer by the Department Head immediately.

14.02.2 Failure to Notify. Failure of an employee to comply with this rule shall be entered on the service record of the employee and may be cause for denying future employment by the City.

14.03 NORMAL RETIREMENT

14.03.1 Notification. Any employee in the City service who is planning to retire should notify the Personnel Officer in writing of such intent and include the intended effective retirement date. Such notice should be filed no less than thirty (30) days prior to the employee's intended effective date of retirement.

14.03.2 Contract. Normal retirement of employees in the City service shall be in accordance with the contract provisions between the City of San Pablo and the Public Employee's Retirement System (PERS).

14.04 DISABILITY RETIREMENT AND SEPARATION

14.04.1 Definition and Determination. Following a report from a competent Medical Examiner indicating a permanent disability of an employee, the City Manager may make a determination of permanent disability of such employee.

Permanent disability is here defined as the inability of an employee to perform the essential functions and duties of his/her job, with or without reasonable accommodation, because of an illness or injury which is expected to be permanent or last for an indefinite period of time.

14.04.2 Application for Disability Retirement. If an employee is permanently disabled and eligible for disability retirement, such employee shall make application for disability retirement—or the City Manager, in place of such employee, shall make application for disability retirement.

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14.04.3 Contract for Disability Retirement. Disability retirement of employees in the City service shall be in accordance with the contract provisions between the City of San Pablo and the Public Employee's Retirement System (PERS).

14.04.4 Disability Separation. If an employee in the City service is permanently disabled or suffers from a chronic or frequently recurring mental or physical condition that renders him/her inefficient or incapable of performing the essential duties of his/her position, with or without reasonable accommodation, and such employee is not eligible for disability retirement or waives the right to retire for disability, the City Manager may separate such employee for disability, provided that the City provisions on sick leave are followed. The City Manager shall not separate an employee believed to be permanently disabled and eligible for disability retirement, pending determination of the application for disability retirement by the appropriate body. A former employee receiving a disability retirement and under the age of voluntary service retirement under PERS shall be eligible for reinstatement upon the successful completion of a medical examination indicating the former employee is no longer incapacitated from the performance of the position held when he/she retired.

14.04.5 PERS Local Safety Members. For employees who are local safety members under PERS, and beginning upon receipt of request from PERS, the City Manager shall determine whether such employee qualifies for disability retirement. If the local safety member appeals the determination, the appeal shall be heard by an administrative law judge of the Office of Administrative Hearings, who will render a proposed decision to the local governing body.

14.05 DISCIPLINARY DISMISSAL

An employee may be dismissed by the City Manager at any time as disciplinary action in accordance with the provisions of these Rules.

14.06 RETURN OF PROPERTY

Upon leaving the City service, an employee shall return all City owned property.

15. PERFORMANCE EVALUATION

15.01 POLICY AND PURPOSES

15.01.1 Policy. It is the policy of the City that regular reports be made on all employees in the competitive service regarding efficiency, competency, conduct and merit. The responsibility shall be borne by the City Manager, the Department Heads and their subordinate supervisors. It shall be the responsibility of the Personnel Officer to provide and prescribe the forms and procedures to be used in such performance reports and to

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assist in the training of supervisory personnel, so that performance reporting will be carried out in a sound, effective and timely manner.

15.01.2 Purpose. It is recognized that performance rating reports can play an important part in the training of an employee and in the communication between employees and supervisors. The purpose and use of performance evaluation reports are: to help the supervisor improve the organization by increasing the employee's knowledge and opportunities for communication to help the employee being evaluated by letting him/her know where he/she stands and assuring him/her of the supervisor's interest in his/her performance and to assist the City Manager/Personnel Officer in decisions about salary increases, permanent status, separation, promotion, training needs and the organization's particular strengths and weaknesses.

15.02 FILING SCHEDULE

15.02.1 Permanent Employees. Performance evaluation reports shall be rendered at least once annually for all permanent personnel in the competitive service. An employee may be rated at more frequent intervals at the discretion of the City Manager, the Department Head, or at the employee's own request. Any employee who has received an overall rating of anything less than satisfactory shall be re-evaluated within three (3) months of receiving the original rating and then again at least three (3) months subsequent to that rating.

15.02.2 Probationary Employees. Performance evaluation reports of all probationary employees shall be rendered at least twice during the probationary period. Miscellaneous probationary employees shall be reviewed during the third and sixth month following their starting date. Police probationary employees shall be reviewed during the third, sixth, ninth, and twelfth month following their starting date. Any employee who has received an overall rating of less than satisfactory shall be reported on a monthly basis for at least two (2) months subsequent to receiving the original rating.

15.03 FILING PROCEDURES

15.03.1 Rater and Rating. The immediate supervisor of the employee being evaluated is expected to conduct the performance evaluation using the form prescribed by the Personnel Officer. Where an employee has worked under several supervisors, each supervisor should contribute to the evaluation. Whenever a supervisor is transferred or leaves the City, he/she shall prepare, prior to his/her leaving, a preliminary evaluation of employees working under him/her. Each performance evaluation report shall be discussed with the employee. The employee shall sign the report as a means of acknowledging its content and shall have the opportunity to make his/her own comments. Such signature shall not necessarily mean the employee agrees with the content of said report.

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15.03.2 Distribution of Reports. After the evaluation has been completed and signed, copies shall be retained by the employee and the department. The original is to be filed with the Personnel Office.

15.04 LESS THAN SATISFACTORY RATINGS

15.04.1 Rating Intervals. Any employee who receives an overall performance rating of less than "Satisfactory" shall be rated at a more frequent interval, as provided in these Rules.

15.04.2 Promotional Examinations. Any employee who receives an overall rating of less than "Satisfactory" shall not be eligible to participate in any promotional examinations until at least an overall "Satisfactory" rating has been established.

15.04.3 Step Advancements. Any employee who receives one overall "Unsatisfactory" rating or two consecutive overall ratings of "Improvement Needed" shall not be eligible for any normal step advancement until an overall rating of at least "Satisfactory" has been established.

If any employee receives an overall rating of "Improvement Needed" and is subsequently granted a normal step advancement, such step advancement shall be withdrawn if the employee's next overall report rating is not at least "Satisfactory," subject to the applicable disciplinary procedures set forth in Section 12 of these Rules.

15.04.4 Disciplinary Action. In the case of an employee who receives two (2) consecutive ratings of less than "Satisfactory," the City Manager may take disciplinary action against such employee in accordance with the provisions of these Rules. If the average of the employee's four (4) most recent efficiency ratings drops below satisfactory, the employee may be dismissed by the City Manager for inefficiency. If there are fewer than four (4) efficiency ratings on file for the employee at the time his/her average on such ratings drops below satisfactory, a fewer number of ratings shall be used in establishing an average to determine satisfactory service, provided that there are at least two (2) ratings on file.

A change in the system of rating or rating forms shall not result in the cancellation of previous ratings; such previous ratings shall be used in figuring rating averages in order to permit the use of a maximum of eight (8) ratings in computing averages.

15.05 CONSIDERATION FOR PROMOTION

In promotional examinations of employees, past performance evaluations shall be given consideration.

15.06 APPEAL OF RATINGS

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If an employee is dissatisfied with his/her rating, such employee shall confer successively with his/her immediate supervisor and Department Head on the matter. If the dissatisfaction is not resolved at this level and if, in the employee's opinion, the prescribed rating procedures have not been followed or the rating does not correspond to the facts, such employee may request an administrative review by the City Manager or his/her designee. The decision of the City Manager shall be final. Employee ratings and evaluations shall not be subject to the grievance procedure.

16. MEDICAL STANDARDS

16.01 POST-OFFER, PRE-EMPLOYMENT EXAMINATIONS

A post-offer, pre-employment examination is required for candidates for all full-time positions, and may be required for some part-time positions in the classified service. Hourly recreation employees who are not in the classified service are not required to take examinations unless they are assigned to a job which has physical requirements or other requirements regulated by local, State and Federal laws. Pre-employment examinations shall be scheduled by the personnel staff.

16.01.1 Evaluation. A pre-employment physical shall include a review of the individual's medical history. The prospective employee shall be evaluated in accordance with standards set forth in the Americans with Disabilities Act or other applicable law, to determine whether the employee can perform the essential functions of the position.

No appointment to City Service is official until a positive physician's report is received. Only under unusually extenuating circumstances will a new hire be allowed to report to work prior to successful completion of the medical examinations.

16.02 FITNESS-FOR-DUTY EXAMINATIONS

Any employee may be required to undergo a physical or mental evaluation to determine his or her capacity to perform the essential functions of his or her position. Whenever there is reasonable suspicion that an employee is physically or mentally unfit to perform the essential functions of his or her job, may subject other employees to infection, or may subject the employee or third persons to the risk of injury, an employee including those not otherwise subject to these Personnel Rules, may be required to submit to an examination by the City's Medical Examiner.

16.02.1 After Absence. A standard post-employment medical examination may be required before an employee may return to work following an absence due to illness or injury, of more than three (3) days, or after major surgery has been performed.

16.02.2 After Classification Change. A standard post-employment examination is required before an employee may change to a classification with more rigorous medical standards.

16.03 RESULTS AND DETERMINATION

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Following a medical examination, the physician shall judge if the candidate or employee is "fit" or "unfit" for the work in question, to be determined in light of his or her professional judgment, the applicable job description, and the standards contained in the Americans with Disabilities Act and other applicable state and federal laws.

If the results of a post-employment examination indicate that an employee is unable to perform his/her essential duties, or in the performance of said duties exposes others to infection or places the employee or third persons in a position of danger, the employee shall be placed on sick leave or other leave without privilege of reinstatement until adequate medical evidence is submitted that the employee is competent to perform duties or will not subject others to infection.

If the need for reasonable accommodation arises for a candidate or employee under the Americans with Disabilities Act, the Fair Employment and Housing Act, or other applicable state or federal law, the City shall engage in a timely, good faith, interactive process to determine, if any, an appropriate accommodation.

16.03.1 Inconclusive Results. If the basic examination proves inconclusive and the Medical Examiner believes additional tests are needed to determine whether the candidate or employee meets the medical standards, the physician should contact the Personnel Officer. Prior approval of the Personnel Officer shall be obtained before additional tests are conducted.

16.03.2 Employee Selection Right. Any employee examined shall have the right to submit the reports of a competent medical authority of his/her selection and at his/her expense, in addition to the report submitted by the City Medical Examiner. In the event a conflict of opinion and/or recommendation of the two (2) examiners, a third examiner shall be selected and a final decision shall be made by the City Manager based on the three (3) reports.

16.03.3 Medical Records. An employee's medical records shall be segregated from the rest of the personnel file and maintained in confidentiality and privacy in accordance with applicable state and federal law.

16.04 PHYSICIAN COST

16.04.1 Examination Cost. In general, the costs for pre-employment and post-employment examinations shall be paid by the City.

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17. LEAVES OF ABSENCE WITHOUT PAY

17.01 LEAVE OF ABSENCE POLICY

Except as provided by the Family Medical Leave Act (FMLA) and other applicable state or federal law, an employee shall not be entitled to a leave of absence as a matter of right, but upon request may be granted a leave of absence without pay in emergency cases or upon good and sufficient reason where such absence would not be contrary to the best interests of the City. It shall be the policy of the City not to grant a leave of absence to an employee to accept employment with another employer, provided, however, that an employee may be assigned to another public agency for a period of time to be approved by the City Manager.

17.02 AUTHORIZED LEAVES OF ABSENCES

Upon written request of an employee setting forth the reasons for the request, and upon the recommendation of the Division Manager or Department Head, the City Manager may grant such permanent or probationary employee a leave of absence for a period not to exceed three (3) months during any twelve (12) month period. Approval for leaves of absence shall be in writing.

17.02.1 Departmental Authorized Leaves of Absence. Division Managers or Department Heads may grant a probationary or permanent employee an authorized leave of absence without pay for a period not to exceed one (1) calendar week. Such leave shall be reported to the Personnel Office immediately.

17.02.2 Long Term Authorized Leaves of Absence. Authorized leaves of absence without pay in excess of one (1) calendar week may be granted upon written request of the employee and recommendation of the Division Manager or Department Head and approval of the City Manager.

17.02.3 Status During Authorized Leaves of Absence. Authorized leaves of absence without pay shall not be construed as breaks in service. Rights accrued at the time leave is granted shall be retained by the employee. However, vacation credits, sick leave credits, holidays, health benefits, retirement benefits, normal salary advancement and other similar benefits shall not accrue to an employee during such granted period for leave of absence.

Benefits for leaves of absence granted to an employee under the Family/Medical Leave Policy shall be regulated based upon the provisions of the standards set forth therein.

17.03 RETURN FROM AUTHORIZED LEAVES OF ABSENCE

Upon expiration of an authorized leave of absence, the employee shall be reinstated in the position held at the time leave was granted. Such employee shall retain the same status and shall be placed at the same salary step, with the same accumulated time towards advancement to the next step as obtained at the time leave was granted.

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17.03.1 Early Return from Authorized Leaves of Absence. An employee may request permission from the City Manager to return from an authorized leave of absence prior to expiration of such leave. Such a request may be approved at the discretion of the City Manager.

17.03.2 Failure to Return From Authorized Leaves of Absence. Failure on the part of an employee to report back to work promptly upon the expiration of an authorized leave of absence shall be cause for dismissal unless such leave was extended in accordance with the provisions of this section.

17.04 AUTHORIZED LEAVES OF ABSENCE FOR MILITARY DUTY

Authorized leaves of absence for military duty shall be granted in accordance with the provisions of State law. All employees entitled to military leave shall give the City Manager an opportunity within the limits of the military regulations to determine when such leave shall be taken. Extensions of leave beyond State law are to be determined by the City Manager.

Notwithstanding other provisions of this section, State law shall apply in determining benefits for those employees returning from an authorized leave of absence for military duty.

17.05 JURY DUTY

Permanent or probationary employees required to report for jury duty shall be granted leave for such purpose, upon presentation of jury notice to the Department Head. Said employee shall receive full pay for the time served on a jury, provided the employee remits to the City all fees as soon as received by the employee for such duties. Compensation for mileage or subsistence allowances shall not be considered a fee and shall be retained by the employee.

17.06 UNAUTHORIZED ABSENCE

Unauthorized absences shall be considered days, or portions thereof, not worked which are normal working days and will cause the deduction from employee's pay of an amount equivalent to the time absent. Any employee absent from his or her position for more than five (5) working days without prior permission of the Division Manager or Department Head may be considered to have automatically terminated his/her rights to employment with the City, subject to the disciplinary procedures in Section 12 of these Rules. With respect to employees considered exempt under the Fair Labor Standards Act (FLSA), deductions shall not be made except as allowed by federal regulations.

17.07 MATERNITY LEAVE

It shall be the City's policy to approve leaves of absence without pay for maternity purposes and in accordance with State and Federal law.

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- 17.07.1 Sick leave may be applied toward maternity leave. The employee must furnish a physician's certification of disability for the time requested. The decision reached by the physician must take into account job requirements. Should there be any question from the City on a doctor's certificate, Section 16.03.2 of the Rules shall be in effect.
- 17.07.2 Request for leaves of absence without pay for maternity shall be requested in writing at least thirty (30) days in advance of the beginning date. Those employees requesting maternity leave must include in their request a show of good faith for returning to work at the conclusion of their maternity leave.
- 17.07.3 An employee on leave without pay may not use sick leave for illness or disability during the period covered by the leave of absence without pay.
- 17.07.4 All vacation leave applied to maternity leave shall be in accordance with the City rules regarding vacation use.

18. TRAINING OF EMPLOYEES

18.01 PURPOSE OF TRAINING PROGRAM AND POLICY

For the purposes and goals of maximizing the effectiveness and efficiency in performance of City employees' respective duties; of assessing City employees in fulfillment of their responsibilities as well-informed citizens of the community; of furthering the City's commitment against discrimination and harassment in the workplace; and of enabling City employees to advance to the limits of their abilities within the organization, it is the policy of the City of San Pablo to provide for the training of City employees.

The responsibility for developing, supervising, controlling and evaluating training programs shall be assumed jointly by the City Council, the Personnel Officer, Division Managers and the Department Heads. The programs shall be designed to provide for improved public service; dollar savings; building and retention of a permanent organizational unit of skilled and efficient City employees; and fair and equitable treatment of City employees with respect to the availability of compensation for training and continued education.

- 18.01.1 Eligible Programs. Training programs may include, but shall not be limited to, lecture courses, seminars, demonstrations, assignment of reading matter or other available training devices, provided they are in accordance with the purpose and goals outlined above.
- 18.01.2 Continuous Program. The development of a continuous program of post-employment training as a part of the normal operations of City administration shall be encouraged.

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18.02 REGULATIONS

The Personnel Officer shall describe regulations containing the principles, standards and related requirements of the programs for training City employees. Such regulations shall contain all information necessary, so that the respective duties and responsibilities for the supervision, control and review of training programs by the City Council, Personnel Officer and Department Heads shall be discharged effectively.

Approval for City employee participation in training programs shall be made by the City Manager in order that consistent City-wide standards may be applied. The Personnel Officer is authorized to prescribe any regulation limitations on training programs in accordance with this Rule. From time to time and in accordance with this Rule, the Personnel Officer may revise, supplement or prescribe additional regulations to implement the policies herein.

18.03 CREDIT AND COMPENSATION

Reimbursement to City employees for tuition, costs, educational incentive payments or other expenses incurred in undertaking approved training programs will be made provided they are in accordance with the regulations prescribed by each employee's applicable MOU, Terms of Employment or Schedule of Benefits, and that the training was undertaken at an approved agency or institution.

18.04 SUCCESSFUL COMPLETION

Successful participation in and completion of approved training programs may be considered in making advancements and promotions. Evidence of such activity shall be reported on such forms and in such manner as the Personnel Office may prescribe.

19. REPORTS AND RECORDS

19.01 OBJECTIVES OF ADEQUATE RECORDS AND REPORTS MAINTENANCE

All necessary forms, records, documents, rosters and operating procedures shall be maintained by the Personnel Officer for the following reasons:

- 19.01.1 So that all legal, regulatory, and procedural requirements as well as any provisions of these Rules, any City Ordinance or policy pertaining to personnel administration may be accomplished;
- 19.01.2 To provide a basis for the decision making in personnel actions and operations;
- 19.01.3 To provide a basis for reports on personnel activities;
- 19.01.4 And to promote individual employee understanding and training development.

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19.02 EMPLOYEE RECORDS

The Personnel Officer shall maintain a current and complete record for each employee and officer of the City showing the name, address, class title, department to which assigned, salary, sick leave, vacation, changes in employment status, and such other information as may be considered pertinent.

19.03 MEDICAL RECORDS

An employee's medical records shall be segregated by the Personnel Officer or designee and stored separately from the rest of the personnel file and maintained in confidentiality and privacy in accordance with applicable state and federal law. The City's Risk Manager, City Manager, City Attorney and legal representatives are authorized to access such medical information on a case-by-case basis only as authorized by state or federal law. Department Heads and any other necessary persons are authorized to access such information only as allowed by the City Attorney and as authorized by state or federal law. All persons with such authorization shall maintain such information according to the same standards of privacy and protection from unauthorized access as maintained by the Personnel Division. Violations of this policy may result in discipline, up to and including termination.

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Nothing in this policy is intended to extend or expand the scope of employee or applicant privacy rights beyond the limits of existing law.

19.04 PAYROLL RECORDS

The Finance Officer shall maintain such records which are necessary for payroll and retirement system purposes. The Personnel Officer may inspect such records from time to time for the purpose of administering these rules.

19.05 CHANGE OF STATUS REPORT

Every appointment, transfer, promotion, demotion, change of salary rate, resignation, suspension, fine or vacancy, and any other temporary or permanent change in status of employment shall be reported to the Personnel Officer and the date thereof and a record of same shall be kept by the Personnel Office.

19.05.1 Employee Notice. All City employees shall notify in writing the Department Head and the Personnel Officer of any change of address, telephone, fringe benefit status, number of dependents, military status, and education.

19.06 DEPARTMENT RECORDS

Each department shall keep and maintain such personnel records as may be deemed necessary for the purpose of carrying out the provisions of these Rules and the functions of the department. The Division Managers and Department Heads and employees shall make available to the Personnel Officer all department reports, records and documents dealing with personnel matters as are appropriate.

19.07 ACCESS TO RECORDS

The employee shall be informed of and provided with a copy of all documents placed in his or her personnel file, except documents such as but not limited to confidential reference checks which are received in confidence or which are otherwise deemed confidential. Such confidential materials shall be segregated from the personnel files. Said file shall be open to inspection by the employee.

Neither the Personnel Office nor anyone in the City service shall make known the address or phone number as shown in the Personnel Office records, of any employee without the prior approval of that employee. The Personnel Office shall, however, have the authority to verify or confirm addresses or phone numbers unless otherwise notified in writing by the employee. An employee's salary shall be disclosed upon receipt of a request under the Public Records Act. Any such written request shall be provided to the employee.

19.08 DESTRUCTION OF RECORDS

All records relating to personnel, including correspondence, applications, examinations, reports, etc. may be destroyed pursuant to the laws of the State of California.

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20. ANTI-NEPOTISM POLICY

20.01 DEFINITION

For purposes of this policy, relative shall mean spouse, son, daughter, brother, sister, mother, father, aunt, uncle, niece, nephew, grandchild, grandparent, either by blood or present marriage. Hiring, reinstatement, promotion, transfer, or other job assignment, which will result in relatives of employees working in the same department, shall be permitted, except as provided below.

20.02 CITY RIGHTS

Notwithstanding the above provisions, the City of San Pablo retains the right:

- 20.02.1 To refuse to hire or appoint relatives of current employees or city officials.
- 20.02.2 To refuse to place one relative under the direct supervision of the other relative where such has the potential for creating adverse impact on supervision, safety, security or morale.
- 20.02.3 To refuse to place both relatives in the same department, division, or facility where such has the potential for creating adverse impact on supervision, safety, security or morale, or involves potential conflicts of interest, including, but not limited to situations where both employees would have the same immediate supervisor, or where the employees would have job duties requiring performance of shared duties on the same or related work assignments.

20.03 MARRIAGE OF CO-EMPLOYEES

If co-employees marry, or an employment relationship listed in Section 20.02 is created by any other means, the City shall make reasonable efforts to assign job duties so as to minimize problems of supervision, safety, security, morale, or potential conflicts of interest. Should reasonable efforts to assign job duties to minimize such problems fail, one of the following must occur:

- 20.03.1 The Personnel Division will attempt to arrange a transfer to a similar position in another department/division for one of the employees, usually the one in the most junior classification. While the wishes of the involved parties will be considered, the controlling factor in determining which spouse shall be transferred shall be the positive operation and efficiency of the City. There can be no guarantee that the new position will be within the same classification or at the same salary level.
- 20.03.2 One of the spouses must be separated from City employment if a transfer is not available or approval for retention is not authorized. If one of the spouses does not voluntarily resign, the most junior of the two will be discharged. This authorization for discharge is

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hereby incorporated into the City's personnel rules and applicable Memoranda of Understanding.

20.03.3 Neither the transfer of an employee nor the separation from service of an employee nor any other decision implemented pursuant to this policy shall be subject to any administrative appeal or the grievance procedure.

20.03.4 This section shall not apply to employees who are already married to each other at the time these rules go into effect.

21. MISCELLANEOUS PROVISIONS

21.01 INCOMPATIBLE ACTIVITY OF CITY EMPLOYEES

An employee shall not engage in any activity or enterprise which is inconsistent, incompatible or in conflict with their duties as a City employee. The City Manager shall determine and prescribe those activities which will be considered inconsistent, incompatible or in conflict with their duties as City employees. In making such determination, the City Manager shall give consideration to the activity or enterprise which:

21.01.1 Involves the use for private gain or advantage of City time, facilities, equipment and supplies, or the badge, uniform, prestige or influence of one's City office or employment.

21.01.2 Involves the soliciting or the acceptance by the employee of money, gift, gratuity, or other consideration from anyone other than the City for the performance of an act which the employee, if not performing such an act, would be required to render in the regular course of hours of his/her City employment, or as part of his/her duties as a City employee.

21.01.3 Involves the performance of an act other than his/her normal capacity as a City employee, in which act may later be subject to direct or indirect control, inspection, review, audit or enforcement by such employee or the agency by which he/she is employed.

21.02 OUTSIDE EMPLOYMENT

21.02.1 Power to Grant Requests. The City Manager shall have the power to approve the requests of a full-time employee to engage concurrently with his/her public service in outside employment or private business, provided such request meets conditions set out in these Rules.

21.02.2 Approval Criteria. A full-time employee may be permitted to engage in outside employment or private business, provided that:

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- a) Such activity does not affect the quality, the efficient performance or punctuality of his/her work; or
- b) Such activity does not cast discredit upon or create embarrassment to the City Government; or
- c) Such activity is part-time or occasion in nature;
- d) Such activity is not in conflict with Section 21.01 of these Rules.

21.02.3 Procedure for Requesting Approval. A full-time employee who seeks permission to hold outside employment or engage in private business concurrently with public service shall make such request in writing to his/her Division Manager or Department Head setting forth the following information:

- a) The exact nature of the proposed activity;
- b) The total weekly number of hours he/she proposes to spend in such activity;
- c) The name, address, and telephone number in which the activity is to be conducted, together with the name of the employer, if any.

21.02.4 Limitations on Approved Requests. The City Manager shall have the power to revoke permission to engage in outside activity at any time for cause. Every case of outside employment may be reviewed at least once annually by the Personnel Officer to determine whether or not permission should be extended or canceled.

21.02.5 Penalty for Violations. Failure to abide by this Rule shall be just cause for disciplinary action or dismissal.

21.03 GIFTS AND GRATUITIES

No officer or employee of the City shall solicit or accept any gift or gratuity in their capacity as a City employee that is in any way related to the performance of their regular duties.

21.04 POLITICAL ACTIVITIES

The political activities of City employees shall conform to pertinent provisions of State law.

21.05 COOPERATION

Every officer and employee of the City shall cooperate with the Personnel Officer in order to completely fulfill the objectives and purposes of the Personnel Ordinance and these Rules.

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21.06 CONFLICTS OF INTEREST

No officer or employee of the City shall be financially interested in any contract made by them in their official capacity, nor be purchasers at any sale or vendors at any purchase made by them in their official capacity, except as allowed by State law.

No officer or employee of the City shall make, participate in making, or in any way attempt to use his/her official position to influence a government decision in which he/she knows or has reason to know he/she has a financial interest, except as allowed by State law. Employees holding a designated position as defined by the City Conflict of Interest Code shall abide by all requirements of the City Conflict of Interest Code.

22. SUBSTANCE SCREENING

22.01 PERSONS SUBJECT TO TESTING

22.01.1 Job Applicants. Job applicants may be required to undergo drug and alcohol testing as a condition of employment with the City.

22.01.2 Employees. Current employees will be subject to testing if they:

- a) Either at work or while conducting or performing City business regardless of location, display objective symptoms of drug/alcohol use;
- b) Are involved in a work-related accident and display objective symptoms of drug/alcohol use;
- c) Are subject to federal or state regulatory requirements for random drug or alcohol testing, excluding sworn personnel;
- d) Are an employee subject to alcohol and testing requirements under the City's Policy on Alcohol & Drug Testing Requirements for Commercial Motor Vehicle Drivers, which excludes sworn personnel.

22.02 TESTING

The City may utilize each or all of the following testing methods: pre-employment testing; reasonable suspicion testing; post-accident testing (where the employee exhibits indicators of substance abuse); testing authorized or required by federal or state law or regulation, including Department of Transportation regulations; and testing authorized or required by the City's Policy on Alcohol & Drug Testing Requirements for Commercial Motor Vehicle Drivers.

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22.03 DISCIPLINARY ACTION

Violation of this rule by any employee may result in discipline, up to and including discharge, depending on the circumstances and at the discretion of the City Manager, and subject to the applicable disciplinary procedures set forth in Section 12 of these Rules. At a minimum, disciplinary mandates for sworn personnel, as required under title 13 of the California Code of Regulations and title 49 of the Code of Federal Regulations, will be followed for those individuals that are sworn personnel.

22.03.1 Effect of Criminal Conviction. An employee who is convicted under a criminal drug statute for a violation occurring in the workplace, while conducting or performing City business regardless of location, or during any City-related activity or event will be deemed to have violated this rule.

22.03.2 Refusal to Test. A refusal to test shall be treated as a positive test result for the purposes of administration of this rule and any resulting disciplinary action. Refusal to test includes circumstances or behaviors such as:

- a) Failure to appear at the collection site in the time allotted;
- b) Leaving the collection site before the testing process is completed;
- c) Failure to provide a urine, breath, or saliva specimen as required by part 40 of the Office of the Secretary of Transportation regulations (49 C.F.R. (2000));
- d) Failure to permit the observation or monitoring of specimen collection when it is required;
- e) Failure to provide a sufficient amount of urine or breath specimen without a valid medical explanation;
- f) Failure or refusal to take a second test when required;
- g) Failure to undergo a medical evaluation when required;
- h) Failure to cooperate with any part of the testing process (e.g., refusal to sign the testing form when required);
- i) Leaving the scene of an accident without just cause prior to submitting to a test;
or
- j) If the City-designated physician, technician, or laboratory reports a verified adulterated or substituted test result.

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- 22.03.3 First Violation. An employee who is not discharged for a first violation of this rule will receive a final written warning. The employee has a right to exhaust any applicable grievance procedures; after which, the City Manager may suspend the employee without pay for a period of up to five business days.
- 22.03.4 Second Violation. A second violation of this rule at any time will result in discharge. The employee has a right to applicable grievance procedures.