

RESOLUTION NO. 93-73

A RESOLUTION OF THE RIDGECREST
CITY COUNCIL RESCINDING RESOLUTION
NO. 123 ADOPTING PERSONNEL RULES
AND REGULATIONS FOR THE CITY OF
RIDGECREST

WHEREAS, the City Council is authorized and directed under the provisions of Ordinance No. 54 to adopt rules for the administration of the personnel system created in said Ordinance; and

WHEREAS, Resolution No. 123 adopting the Personnel System Rules and Regulations was originally adopted in 1966 and is hereby rescinded; and

WHEREAS, it is the desire of the Council to update these procedures which insure similar treatment for those who compete for original employment and promotion, and define many of the obligations, rights, privileges, and prohibitions which are place upon all employees in the competitive service of the City.

NOW, THEREFORE THE RIDGECREST CITY COUNCIL RESOLVES as follows:

1. The Personnel Rules and Regulations for the City of Ridgecrest attached hereto as Exhibit "A", are approved and adopted.
2. Resolution No. 123 is hereby rescinded.

APPROVED AND ADOPTED THIS 3rd day of November 1993, by the following vote:

Ayes: Mayor Corlett, Council Members Auld, Bitney, Bryan, and Parode.

Noes: None.

Abstain: None.

Absent: None.



Kevin S. Corlett, Mayor

ATTEST:


Pamela Snyder, City Clerk

PERSONNEL RULES AND PERSONNEL POLICIES



CITY OF
RIDGECREST, CA

ADOPTED NOVEMBER 03, 1993

CITY OF RIDGECREST

PERSONNEL RULES AND PERSONNEL POLICIES

RULE I. PURPOSE AND APPLICATION

These rules establish the personnel system for the City of Ridgecrest. These rules shall apply to all employees of the City except those employees who are designated as exempt including the City Council members, City Administrator, City Attorney, Police Chief, Director of Finance, Community Development Director, City Treasurer, City Clerk, Director of Public Works, Director of Parks and Recreation, volunteers, emergency workers, part-time employees, part-time covered employees, and employees employed under a special state or federal grant. Exempt employees hold their positions at the will of the City Council or City Administrator.

The Personnel Policies apply to every employee, volunteer and officer of the City, as named above, regardless of their status.

RULE II. DEFINITION OF TERMS

The terms listed below whenever used in these rules shall be defined as follows:

SEC. 1. **"Advancement"**: A salary increase within the limits of a pay range established for a class.

SEC. 2. **"Allocation"**: The assignment of a single position to its proper class in accordance with the duties performed, and the authority and responsibilities exercised.

SEC. 3. **"Appointing Power"**: The City Council or the City Administrator.

SEC. 4. **"Class"**: A group of positions sufficiently similar in the duties performed, authority, and responsibility, to permit grouping under the same title, applying the same tests for fitness for qualification, the same compensation range and applying the same minimum qualifications.

SEC. 5. **"Class Specifications"**: A written description of a class which distinguishes it from any other class.

SEC. 6. **"Competitive Service"**: All positions of employment in the service of the City except volunteers, emergency workers, part-time employees, part-time covered employees, the City Administrator, City Attorney, Police Chief, Director of Finance, Community Development Director, City Treasurer, City Clerk, Director of Public Works, Director of Parks and Recreation and employees working under a special federal or state grant program. Only members of the Competitive Service may be covered by an applicable Memorandum of Understanding.

SEC. 7. "Day": Calendar days unless specified otherwise.

SEC. 8. "Demotion": The movement of an employee from one class to another class having a lower maximum rate of pay.

SEC. 9. "Discharge": Dismissal from the competitive service for cause.

SEC. 10. "Eligible": A person whose name is on an eligibility list as a result of having successfully completed the examination process.

SEC. 11. "Eligibility List":

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

SEC. 12. "Examination": The process of testing, evaluating and/or investigating to determine the fitness and qualification of applicants for a position.

- (a) Open-competitive examination: An examination for a particular position within a class, admission to the examination not being limited to permanent employees in the competitive service who meet the qualifications for the class.
- (b) Promotional examination: An examination for a particular position within a class, admission to the examination being limited to permanent or probationary employees in the competitive service who meet the qualifications for the class.
- (c) Continuous examination: An open-competitive examination which is administered periodically and as a result of which names are placed on an eligibility list, in order of final scores, for a period of not more than one year.

SEC. 13. "Lay-Off": Termination of employment of an employee because of lack of work, lack of funds or reorganization.

SEC. 14. "Non-competitive Service": Those positions exempted from the Personnel Rules. Positions in the "Non-competitive Service" serve at the will of the City Administrator or City

Council and include the City Administrator, Police Chief, Director of Finance, Community Development Director, City Treasurer, City Clerk, Director of Public Works, Director of Parks and Recreation, volunteers, emergency workers, part-time employees, part-time covered employees and employees employed under a special state or federal grant. Such employees may be terminated without cause at any time, subject to provisions of RMC 2-4.102 and 2-3.202 (a).

SEC. 15. "Part-time Employees": An employee who works less than 1040 hours per applicable 12-month period. These employees shall not receive any benefits except those mandated by law.

SEC. 16. "Part-time Covered Employees": An employee who works more than 1040 hours but less than 2080 hours per applicable 12-month period. These employees will be members of PERS and pay into Social Security and FICA.

SEC. 17. "Personnel Officer": The City Administrator or his/her designee shall serve as the Personnel Officer.

SEC. 18. "Probationary Employee": An employee who has been appointed to a position who has not completed the probationary period of at least one year of continuous service as defined in Rule VIII and serves at the will of the appointing authority.

SEC. 19. "Probationary Period": A period after appointment of at least one year of continuous service as defined in Rule VIII (eighteen months for police officers) during which an employee is required to demonstrate fitness for the position to which appointed by actual performance of the duties of the position.

SEC. 20. "Promotion": The movement of an employee from one class to another class having a higher maximum rate of pay.

SEC. 21. "Provisional Appointment": An appointment of a person who possesses the minimum qualifications established for a particular class and who has been appointed to a position in that class in the absence of available eligibles.

SEC. 22. "Reclassification": Change of classification of positions where the duties have changed materially to a more appropriate class, whether new or already created. Reclassifications shall not be used for the purpose of avoiding restrictions concerning demotions and promotions.

SEC. 23. "Reduction in Pay": A decrease in base pay for disciplinary reasons.

SEC. 24. "Regular Employee": A competitive service employee who has satisfactorily served a probationary period of one year of continuous service (eighteen months for police officers) after appointment and has been retained.

SEC. 25. "Reinstatement": The re-employment without examination of a former permanent or probationary employee.

SEC. 26. "Suspension": The temporary separation from the service of an employee without pay, for disciplinary purposes.

SEC. 27. "Transfer": A change of an employee from one position to another position in the same class or in a comparable class.

RULE III. CLASSIFICATION

SEC. 1. Preparation of Plan. The Personnel Officer, or a person or agency employed for that purpose, shall ascertain and record the duties and responsibilities of all positions in the competitive service, and, after consulting with appointing authorities and head of departments affected, shall recommend a classification plan for such positions. The classification plan shall consist of classes of positions in the competitive service defined by class specifications, including the title. The classification plan shall be so developed and maintained that all positions substantially similar with respect to duties, responsibilities, authority, and character of work are included within the same class, and that the same schedules of compensation may be made to apply with equity under like working conditions to all positions in the same class.

SEC. 2. Adoption, Amendment and Revision of Plan: The classification plan shall be adopted by the City Council and may be amended from time to time. During the process of consideration, any recognized employee organization affected shall be advised. Amendments and revisions of the plan may be suggested by an interested party, including any recognized employee organization and shall be submitted to the City Administrator.

SEC. 3. Allocation of Positions: Following the adoption of the classification plan, the Personnel Officer shall allocate every position in the competitive service to one of the classes established by the plan. Each class shall have class specifications.

SEC. 4. New Positions: When a new position is created, before the same may be filled, the appointing authority shall notify the Personnel Officer, and, except as otherwise provided by Ordinance or these Rules, no person shall be appointed or employed to fill any such position until the classification plan shall have been amended to provide therefor and an appropriate employment list established for such position.

RULE IV. APPLICATIONS AND APPLICANTS

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SEC. 1. Announcement: All examinations for classes in the competitive service shall be publicized by posting an announcement in the City Hall, on official bulletin boards, and by such other methods as the Personnel Officer deems advisable. The announcements shall specify the title and pay of the class for which the examination is announced; the nature of the work to be performed; that the position is in the competitive service; preparation desirable for the performance of the work of the class; the manner of making applications; and other pertinent information. Successful completion of a drug test may be required as a part of the pre-employment physical.

SEC. 2. Application Forms: Application shall be made as prescribed on the examination announcement. Application forms shall require information covering training, experience, and other pertinent information, and may include certificates of one or more examining physicians, references and fingerprinting. All applications must be signed by the person applying.

SEC. 3. Disqualification: The Personnel Officer or designee may disqualify any applicant either before or after the examination process for any of the following reasons:

- (a) The applicant is applying for a position within the same department or administrative unit as a member of his/her immediate family. Immediate family is defined as wife, husband, son, daughter, mother, father, brother, sister, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, step-parent, and step-child.
- (b) The applicant is the husband or wife of an employee and is applying for a position where there is a potential for creating adverse impact on supervision, safety, security or morale.
- (c) Failure to possess the necessary requirements stated in the announcement or bulletin.
- (d) The applicant is physically or psychologically unfit for the performance of the essential duties of the position and the City could not reasonably accommodate the applicant.
- (e) He or she has been adjudged guilty within the preceding ten (10) year period of a serious crime or a less serious crime involving moral turpitude which has a relationship to the job to be applied for.
- (f) The applicant has previously been dismissed from employment with the City of Ridgecrest.

- (g) The applicant has had his/her privilege to operate a motor vehicle in the State of California suspended or revoked by the California Department of Motor Vehicles, if driving is essential for the performance of job duties.
- (h) The applicant has made any false statement of any material fact or practiced any deception or fraud in his/her application.
- (i) For any material cause which, in the judgement of the Personnel Officer or designee, would render the applicant unfit for the particular position for which the application is filed.

SEC. 4. Notice of Rejection: Whenever an application is rejected, notice of such rejection shall be mailed to the applicant by the Personnel Officer. Defective applications may be returned to the applicant with notice to amend same, providing the time limit has not expired.

SEC. 5. Appeal Procedure: If the application is rejected, the applicant can appeal the rejection to the Personnel Officer within five (5) working days of notice. The Personnel Officer shall review the appeal and the rejection or reinstate the application. The Personnel Officer's decision is final.

RULE V. EXAMINATIONS

SEC. 1. Nature and Types of Examination: The selection techniques used in the examination process shall be impartial, of a practical nature and shall relate to those subjects which, in the opinion of the Personnel Officer, fairly measure the relative capacities of the persons examined to execute the duties and responsibilities of the class to which they seek to be appointed. Examinations shall consist of selection techniques which will test fairly the qualifications of candidates such as, but not necessarily limited to, achievement and aptitude test, other written tests, personal interviews, performance tests, physical agility tests, evaluation of daily work performance, work samples, medical tests, or any combination of these or other tests. Such tests may include drug and alcohol screening.

SEC. 2. Promotional Examinations: Promotional examinations shall be conducted whenever, in the opinion of the Personnel Officer, the needs of the service require. Promotional examinations may include any of the selection techniques mentioned in Section 1 of this Rule, or any combination of them. Only regular or probationary employees who meet the requirements set forth in the promotional examination announcements may compete in promotional examinations.

SEC. 3. Continuous Examination: Open-competitive examinations may be administered periodically for a single class as the needs of the service require. Names shall be placed on employment lists, and shall remain on such lists, as prescribed in Rule VI.

SEC. 4. Conduct of Examination: The City Council may contract with any competent agency or individual for the preparation of and/or administration of examinations. In the absence of such a contract, the Personnel Officer shall see that such duties are performed. The Personnel Officer shall arrange for the use of public buildings and equipment for the conduct of examinations.

SEC. 5. Scoring Examinations and Qualifying Scores: A candidate's score in a given examination shall be the average of his/her scores on each competitive part of the examination, weighted as shown in the examination announcement. Failure in one part of the examination may be grounds for declaring such applicants as failing in the entire examination or as disqualified for subsequent parts of an examination. The Personnel Officer may in his/her discretion, include as a part of the examination tests which are qualifying only.

SEC. 6. Notification of Examination Results and Review of Papers: Each candidate in an examination shall be given notice of the results thereof, and if successful, of his/her final earned score and rank on the employment list.

Any candidate shall have the right to inspect his/her own examination papers and a keyed copy only of the examination within five (5) working days after the notices of examination results were mailed. Inspection keys will not be provided for form, standardized or copyrighted tests, or essay or problem tests not subject to scoring by an absolute standard. Any error in the computation, if called to the attention of the Personnel Officer within this period, shall be corrected. Such corrections shall not, however, invalidate appointments previously made.

RULE VI. ELIGIBILITY LISTS

SEC. 1. Eligibility Lists: As soon as possible after the completion of an examination, the Personnel Officer shall prepare and keep available an eligibility list consisting of the names of candidates who qualified in the examination, arranged in order of final scores, from the highest to the lowest qualifying scores.

SEC. 2. Duration of Lists: Eligibility lists other than those resulting from a continuous examination shall remain in effect for one (1) year, unless sooner exhausted or unless the Personnel Officer or designee determines that the list should be extinguished. The list may be extended, prior to the expiration

date, by action of the Personnel Officer or designee for additional periods, but in no event shall an employment list remain in effect for more than two (2) years.

Open-competitive lists created as the result of continuous examinations shall remain in effect for not more than one (1) year after the last administration of the examination, unless sooner exhausted. Names placed on such lists shall be merged with any other already on the list in order of final scores and shall remain on the list for not more than one (1) year.

SEC. 3. Re-Employment Lists: The names of the probationary and permanent employees who have been laid off shall be placed on appropriate re-employment lists in the order of total continuous cumulative time served in probationary and regular status. Such names shall remain thereon for a period of one year unless such persons are sooner re-employed.

When a re-employment list is to be used to fill vacancies, the Personnel Officer or designee shall certify from the top of such list the number of names equal to the number of vacancies to be filled, and the appointing power shall appoint such persons to fill the vacancies.

SEC. 4. Removal of Names from List: The name of any person appearing on an eligibility, re-employment or promotional list shall be removed by the Personnel Officer or designee if the eligible requests in writing that his/her name be removed, if he/she fails to respond to a notice of certification mailed to the last known address, or for any of the reasons specified in Rule IV, Section 3, of these Rules. The person affected shall be notified of the removal of his/her name by a notice mailed to his/her last known address. The names of persons on promotional employment lists who resign from the service shall automatically be dropped from such lists.

RULE VII. METHOD OF FILLING VACANCIES

SEC. 1. Types of Appointment: All vacancies in the competitive service shall be filled by transfer, demotion, promotion, re-employment, reinstatement, or from eligibles certified by the Personnel Officer or designee from an appropriate list, if available. In the absence of persons eligible for appointment in these ways, provisional appointments may be made in accordance with the Personnel Ordinance and these Rules.

SEC. 2. Notice to Personnel Officer: Whenever a vacancy in the competitive service is to be filled, the appointing power shall notify the Personnel Officer or designee in the manner prescribed. If there is no re-employment list available for the class, the appointing power shall have the right to decide whether to fill the vacancy by reinstatement, transfer, demotion, appointment from a

promotional eligibility list, or appointment from an open eligibility list.

SEC. 3. Certification of Eligibles: If the appointing power does not consider it in the City's best interest to fill the vacancy by reinstatement, transfer, or demotion, or if it is not possible to fill the vacancy by re-employment, certification shall be made from an appropriate eligibility list, provided eligibles, are available.

When the appointing power requests a vacancy be filled by appointment from a promotional eligibility list or from an open eligibility list, the Personnel Officer or designee should certify from the specified list the name of all individuals willing to accept appointment. Whenever there are fewer than three (3) names of individuals willing to accept appointment on a list, the appointing power may make an appointment from among such eligible or may request the Personnel Officer or designee to establish a new list. When so requested, the Personnel Officer or designee shall hold a new examination and establish a new eligibility list.

SEC. 4. Appointment: After interview and investigation, the appointing power shall make appointments from among those certified, and shall immediately notify the Personnel Officer of the persons appointed. The appointing power can select any eligible on the list regardless of rank or score. The person accepting appointment shall present himself/herself to the Personnel Officer, or his/her designated representative, for processing on or before the date of appointment. If the applicant accepts the appointment and presents herself or himself for duty within such period of time as the appointing authority shall prescribe he/she shall be deemed to be appointed; otherwise, he/she shall be deemed to have declined the appointment.

SEC. 5. Provisional Appointment: In the absence of there being names of three (3) individuals willing to accept appointment on appropriate eligible lists, a provisional appointment may be made by the appointing authority of a person meeting the minimum training and experience qualifications for the position. An eligibility list shall be established within six (6) months for any permanent position filled by provisional appointment. The City Administrator with the approval of the City Council, may extend the period for any provisional appointment for not more than six (6) months by any one (1) action. When a provisional appointment is to be extended, the City Council shall direct the City Clerk to record such action in the minutes of the meeting of the Council.

No special credit shall be allowed in meeting any qualification or in the giving of any test or the establishment of any open-competitive promotional lists, for service rendered under a provisional appointment. All employees appointed to provisional positions serve at the will of the Personnel Officer.

RULE VIII. PROBATIONARY PERIOD

SEC. 1. Regular Appointment Following Probationary Period: All original and promotional appointments shall be tentative and subject to a probationary period of not less than one year actual and continuous service (eighteen months for police officers). The City Council may, by resolution, establish a longer probationary period for specified classes. Periods of time on paid or unpaid leave exceeding twenty (20) days shall not be counted toward completion of the probationary period. The probationary period shall be automatically extended by the number of days the employee is on leave.

If the service of the probationary employee has been satisfactory to the appointing authority, then the appointing authority shall file with the Personnel Officer or designee, prior to the expiration of the probationary period, a statement in writing to such effect and stating that the retention of such employee in the service is desired. If such a statement is not filed, the employee will be deemed to be unsatisfactory and his/her employment terminated prior to the expiration of the probationary period.

SEC. 2. Objective of Probationary Period: The probationary period shall be regarded as a part of the testing process and shall be utilized for closely observing the employee's work and for securing the most effective adjustment of a new employee to his/her position.

SEC. 3. Rejection of Probationer: During the probationary period, an employee may be rejected at any time by the appointing power without cause and without the right of appeal except a sworn police officer discharged for misconduct. Notification of rejection in writing shall be served on the probationer and a copy filed with the Personnel Officer or designee.

SEC. 4. Rejection Following Promotion: Any employee rejected during the probationary period following a promotional appointment, or at the conclusion of the probationary period by reason of failure of the appointing power to file a statement that his/her services have been satisfactory, shall be reinstated to the position from which he/she was promoted or a position of similar responsibility and at the same salary unless charges are filed and he/she is discharged in the manner prescribed in the Personnel Ordinance and these Rules for positions in the competitive service.

RULE IX. ATTENDANCE AND LEAVES

SEC. 1. Annual Vacation Leave: The purpose of annual vacation leave is to enable each eligible employee annually to return to his/her work mentally and physically refreshed. All City employees shall be entitled to take annual vacation leave with pay except the following:

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- (a) Employees who have served the City less than one (1) year.
- (b) Employees who work on a provisional basis and all employees who work less than two thousand-eighty (2080) hours a year, except permanent employees who are filling a provisional appointment.
- (c) Elective officers.
- (d) Members of appointive boards, commissions and committees.
- (e) Persons engaged under contract to supply expert, professional, technical or other services.
- (f) Volunteer personnel, such as volunteer police reserve officers.
- (g) City Treasurer.

Commencing with the first anniversary of each eligible employee, the employee may take annual vacation leave up to the amount accumulated when the leave is initiated, provided adequate coverage will be maintained by the department.

Each eligible employee, employed with the City of Ridgecrest prior to October 1, 1982, shall earn annual vacation at the rate indicated in Table 1, set forth below. Each eligible employee employed by the City of Ridgecrest after October 1, 1982, shall earn annual vacation at the rate indicated in Table 1, set forth below, but may earn a maximum of one hundred-sixty (160) hours per year.

TABLE 1

<u>No. of Years Employed</u>	<u>Rate of Accrual in Hours Per Pay Period</u>	<u>Total Hrs./Year</u>
0-4	3.08	80
5-9	4.62	120
10-14	6.16	160
15	6.47	168
16	6.77	176
17	7.08	184
18	7.39	192

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19	7.70	200
20	8.00	208

Annual vacation shall be taken during the succeeding year earned and shall not be cumulative except as follows:

The times during the succeeding year at which an employee may take his/her vacation shall be determined by the department head with due regard for the wishes of the employee and with particular regard for the needs of the service.

If the requirements of the service are such that an employee cannot take all of his/her annual vacation in a particular year, such vacation may be taken in part that year and part the succeeding year, or the entire vacation may be paid for at the discretion of the appointing power.

The department head shall obtain the approval of the City Administrator in writing before deferring any employee's vacation to a succeeding year.

In the event that one (1) or more municipal holidays fall within an annual vacation leave, such holiday shall not be charged as vacation leave, and the vacation leave shall be extended accordingly.

All vacation pay earned shall be paid off at the time of termination.

SEC. 2. Sick Leave: Sick leave with pay shall be granted to all probationary and regular employees who have served the City continuously for six (6) months except those who work less than two thousand-eighty (2080) hours per year. Sick leave shall accrue at the rate of four (4) hours per pay period for each pay period worked.

Sick leave shall not be considered as a right which an employee may use at his/her discretion but shall be allowed only in case of necessity and actual personal or family sickness or disability.

Not more than five (5) days sick leave each calendar year may be taken in case an employee's presence is required elsewhere because of sickness or disability of a member of the employee's immediate family. The immediate family shall consist of the wife, husband, son, daughter, mother, father, brother, sister, brother-in-law, sister-in-law, son-in-law, daughter-in-law, aunt, uncle, niece, nephew, step-parent, step-child, or other individual whose relationship to the employee is that of a dependent or near dependent. In each such case, the City Administrator shall grant

such sick leave only when, in the City Administrator's opinion, the relationship of the sick or disabled person to the employee warrants such use of sick leave.

Eligible employees shall be able to accumulate unlimited sick leave for the purpose of actual physical illness or disability. However, if an employee is terminated by resignation or removal for any reasons prior to the completion of five (5) years of continuous service, such accumulation is forfeited. The terms of sick leave cash out upon leaving City employ are specified by separate City Council Resolution.

In order to receive compensation while absent on sick leave, the employee shall notify his/her immediate superior or the Personnel Officer prior to or within two (2) hours after the time set for beginning his/her daily duties, or as may be specified by the head of the department.

The employee may be required to file a physician's certificate or a personal affidavit with the Personnel Office, stating the cause of the absence.

An employee receiving temporary disability payments under the worker's compensation laws may use accumulated sick leave in order to continue to maintain his/her regular income. However, all employees receiving full salaries in lieu of temporary disability payments pursuant to Section 4850 of the Labor Code are entitled to accumulate sick leave during such periods of disability.

An employee receiving State Disability Insurance payments may also use accumulated sick leave, vacation leave or compensation time in order to maintain his or her regular income. But the employee is responsible for providing a copy of all SDI checks to the Payroll Officer on a weekly basis so that the correct check amount may be calculated.

SEC. 3. Extended Family Care Leave

Eligible employees may take up to three months leave in a 12-month period, in accordance with the California Family Rights Act of 1991 and the Family and Medical Leave Act of 1993, for the following purposes:

- (1) In connection with the birth of the employee's child, the adoption of a child by the employee, or the serious illness of the employee's child; or
- (2) To care for the employee's parent or spouse who has a serious health condition.
- (3) The employee's own serious health condition that makes it impossible to perform essential job functions.

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In order to be eligible to take family care leave, an employee must have one year of service with the City, have worked a minimum of 1250 hours in the previous 12 months, and must be eligible for other benefits.

An employee is not eligible to take family care leave in connection with the birth, adoption or serious illness of the employee's child if (1) the child's other parent is unemployed; (2) the child's other parent will be taking family care leave during the same period of time; or (3) the total amount of family care leave taken by both parents of the child will exceed three months in a 12-month period.

The employee should, where possible, provide reasonable advance written notice, at least 30 days, of the need for a family care leave. Such a notice should include the date the leave will commence and the estimated duration of the leave.

An employee who requests family care leave must provide a written certification from the doctor treating the child, parent or spouse who requires care. The certification must contain the following information:

- (A) The date on which the serious health condition commenced.
- (B) The probable duration of the condition.
- (C) An estimate of the amount of time that the health care provider believes the employee needs to care for the child, parent or spouse.
- (D) A statement that the serious health condition warrants the participation of the employee to provide care during a period of the treatment or supervision of the child, parent or spouse.

In addition, when an employee takes family care leave in connection with the birth, adoption or serious illness of the employee's child, the City reserves the right to require the employee to certify in writing that (1) the child's other parent is not unemployed; (2) the child's other parent will not be taking family care leave during the leave period requested by the employee; and (3) the total amount of family care leave taken by both parents of the child will not exceed three months in a 12-month period.

The City may refuse a request for family care leave if granting the request would cause "undue hardship" to the City's operations.

Family care leave is unpaid except that five (5) days may be charged to sick leave. An employee also has the right to substitute accrued vacation pay or other accrued time off for family care leave. However, neither leave nor seniority will

continue accruing during the period of absence.

An employee who takes family care leave is entitled to continue participating in employee benefit plans provided that both the employee and employer continue to pay the same share of the cost they normally pay.

At the conclusion of the family care leave, the employee will be returned to the same or a comparable position. However, if layoffs or reductions in force occur while an employee is on Family Care Leave, and the employee would have lost his or her job had he or she remained, then he or she would lose the right of reinstatement.

SEC. 4. Military Leave: Military leave shall be granted in accordance with the provisions of State law. All employees entitled to military leave shall give the appointing power an opportunity within the limits of military regulations to determine when such leave shall be taken.

SEC. 5. Leave of Absence Without Pay: The City Administrator may grant a regular or probationary employee a leave of absence without pay or seniority accrual for not to exceed six (6) months. No such leave shall be granted except upon written request of the employee, setting forth the reason for the request, and the approval shall be in writing. Upon expiration of a regularly approved leave or within a reasonable period of time after notice to return to duty, the employee shall be reinstated in the position held at the time leave is granted. Failure on the part of an employee on leave to report promptly at its expiration, or within a reasonable time after notice to return to duty, shall be cause for discharge.

Department heads may grant a regular or probationary employee leave of absence without pay for not to exceed one (1) calendar week. Such leaves shall be reported to the Personnel Officer or designee on a change of status report form along with the written request for the leave of absence.

SEC. 6. Jury Duty Leave: Every employee of the City who is called or required to serve as a trial juror shall be entitled to absent himself or herself from his/her duties with the City during the period of such service or while necessarily being present in court as a result of such call. Under such circumstances, the employee shall be paid the difference between his/her full salary and any payment received by him/her except travel pay, for such duty.

SEC. 7. Attendance: Employees shall be in attendance at their work in accordance with the rules regarding hours of work, holidays, and leaves. All departments shall keep daily attendance records of employees which shall be reported to the Personnel Officer in the form and on the dates he/she shall specify. Failure

on the part of any employee, absent without leave, to return to duty within twenty-four (24) hours after notice to return shall be cause for immediate discharge.

SEC. 8. Maternity Leave: Maternity leave shall be treated like any other sick leave or non-industrial disability leave.

SEC. 9. Holidays: The holidays to be observed in the City are specified in each negotiating group's memorandum of understanding. Employees employed prior to October 1, 1982 shall have one (1) floating holiday per year.

Every regular and every probationary employee in the competitive service shall not be required to be on duty on holidays unless the employee's services are needed and required in the interests of the public health, safety, or general welfare, in which latter event such employee shall be entitled to compensatory time off (at such time as in the discretion of the department head his/her services are not needed and required).

When a holiday falls on a Sunday, the following Monday shall be observed. When a holiday falls on a Saturday, the preceding Friday should be observed. If a holiday falls on an employee's regularly scheduled time off, compensatory time off shall be granted.

RULE X. PAY ADJUSTMENTS

SEC. 1. Application of Rates: Employees occupying a position in the competitive service shall be paid on salary or wage established for that position's class. The minimum rate, if provided, for the class generally shall apply to employees upon original appointment. However, the City Administrator may, when circumstances warrant it, authorize original appointment or reinstatement at other than the minimum rate.

SEC. 2. Advancement: No salary advancement shall be made so as to exceed any maximum rate established in the pay plan for the class to which the advanced employee's position is allocated. Advancements shall not be automatic but shall depend upon increased service value of an employee to the City as exemplified by recommendations of his/her supervising official, length of service, performance record, special training undertaken, or other pertinent evidence. Step and longevity increases will take effect on the first day of the pay period in which the anniversary date falls.

RULE XI. REPORT OF PERFORMANCE

SEC. 1. Responsibility for Preparation of Reports: It is the policy of the City that regular reports be made as to the efficiency, competency, conduct and performance of its employees.

To this end, it is declared to be the responsibility of the Personnel Officer or designee, the department heads and their subordinate supervisors that these ratings be made. It is also declared that it is the responsibility of the Personnel Officer or designee to provide and prescribe the forms and procedures to be used in such reports of performance and to assist in the training of supervisory personnel of the City so that the program of performance reporting will be carried on in a sound and effective manner.

SEC. 2. Time for Reporting:

- (a) Reports shall be prepared for probationary employees at least at the six and twelve month anniversary during the probationary period.
- (b) A report for a regular employee shall be prepared at least once a year at a time determined by the Personnel Officer provided that the employee may in addition be given a report of performance at any other time during the year upon his/her own request and/or at the discretion of the reporting supervisor and provided further that any employee who has been rated "below standard" or "unsatisfactory" overall shall be reported on again six (6) months from receiving such rating.

SEC. 3. Authority to Make Reports: The Department Head shall have the authority to prepare reports of performance. He/she may, however, delegate said authority to such subordinate supervisory employees as are most familiar with the work of the employees to be reported on, provided that he/she shall review and approve all performance reports of personnel under his/her jurisdiction.

SEC. 4. Distribution of Reports: Reports shall be prepared in three (3) copies. After review and approval of the Department Head, one (1) copy shall be retained for the Department Head's files, one (1) copy shall be returned to the employee, and one (1) copy shall be transmitted to the Personnel Officer. Such copy shall be made a part of the employee's employment history in the personnel file.

SEC. 5. Effects of "Below Standard" and "Unsatisfactory" Ratings:

- (a) Any employee who receives an overall "unsatisfactory" or "below standard" rating will not be eligible to participate in any promotional examination until an overall satisfactory rating is established.
- (b) Any employee who receives an overall "unsatisfactory" rating will not receive any merit or length of service

increment during the period following the report in which the "unsatisfactory" rating is effective. The same shall apply for any employee upon receipt of a second consecutive "below standard" rating.

- (c) An overall rating of "unsatisfactory" or "below standard" shall be grounds for disciplinary action.

RULE XII. REPORTS AND RECORDS

SEC. 1. Roster Cards: The Personnel Officer shall maintain a service or roster card for each employee in the service of the City showing the name, title of position held, the department to which assigned, salary, changes in employment status, and such other information as may be considered pertinent.

SEC. 2. Change-of-Status Report: Every appointment, transfer, promotion, demotion, change of salary rate, and any other temporary or permanent change in status of employees shall be reported to the Personnel Officer in such manner as he/she may prescribe.

RULE XIII. TRANSFER, PROMOTION, AND REINSTATEMENT

SEC. 1. Transfer: No person shall be transferred to a position for which he/she does not possess the minimum qualification. Upon notice to the Personnel Officer or designee, an employee may be transferred by the appointing power at any time from one position to another position in a comparable class. For transfer purposes, a comparable class is one with the same maximum salary, involves the performance of similar duties and requires substantially the same basic qualifications.

If the transfer involves change from one department to another, both department heads must consent thereto unless the City Administrator orders the transfer for purposes of economy or efficiency. Transfer shall not be used to effectuate a promotion, demotion, advancement, or reduction, each of which may be accomplished only as provided in these rules.

An employee may also initiate a transfer to another position for which they are qualified in the same or lower classification at the same or a lower salary. To accomplish such a transfer, the employee must file a request to transfer with the Personnel Officer or designee. Such request will be held for one (1) year. With the approval of the Department Head for whom the employee now works and the Department Head for whom the employee requests to work, the employee shall be transferred when the first vacancy occurs, provided that no change in salary will occur.

SEC. 2. Promotion: Insofar as consistent with the best interests of the service, all vacancies in the competitive service

shall be filled by promotion from within the competitive service, after a promotional examination has been given and a promotional list established.

If, in the opinion of the Personnel Officer, a vacancy of the position could be filled better by an open-competitive examination instead of promotional examination, then he/she shall arrange for an open-competitive examination and for the preparation and certification of an open-competitive employment list.

SEC. 3. Reinstatement: With the approval of the appointing power and the Personnel Officer, a permanent or probationary employee who has resigned with a good record may be reinstated within one (1) year of the effective date of resignation, to a vacant position in the same or comparable class. Upon reinstatement, the employee, for all purposes, shall be considered as though he/she had received an original appointment.

RULE XIV. SEPARATION FROM THE SERVICE

SEC. 1. Lay-off: The appointing power may lay off an employee in the competitive service because of change in duties or organization or shortages of work or funds. The order of lay off is within the sole discretion of the Personnel Officer. Two (2) weeks before the effective date of lay-off, the appointing authority shall notify the Personnel Officer or designee of the intended action with reasons therefore, and a statement certifying whether or not the services of the employee have been satisfactory. A copy of such notice shall be given the employee affected. If certified as having given satisfactory service, the employee may bump down to another position, or the name of the employee laid off shall be placed on the appropriate re-employment list as provided by these Rules. The affected employee has the right to assume the position of a less senior employee in their current job classification or in any other former job classification in which the employee has worked. The salary of an employee who moves into the position of a less senior employee shall be the range of the job classification into which the senior moves and the step held in the eliminated position or the step attained while in the job classification they are assuming, whichever is higher.

If not certified as having given satisfactory service, the employee laid off may interpret the action as a discharge and request a hearing as provided by these Rules. Employees placed on the re-employment list may be re-employed from the list for a period of one (1) year if their position is reinstated.

SEC. 2. Resignation: An employee wishing to leave the competitive service in good standing shall file with the City Administrator a written resignation stating the effective date and reasons for leaving at least two (2) weeks before leaving the service, unless such time limit is waived by such official. A

statement as to the resigned employee's service performance and other pertinent information shall be forwarded to the Personnel Officer or designee. Failure to give notice as required by this rule may be cause for denying future employment by the City.

RULE XV. DISCIPLINARY ACTIONS

SEC. 1. Cause and Extent: Disciplinary action may be taken against any employee in the competitive service for cause. The extent of the disciplinary action taken shall be commensurate with the offense and the prior employment history of the employee. Non-competitive employees, outside the competitive service, serve at the will of the appointing authority and may be disciplined at any time without cause or rights of appeal.

SEC. 2. Kinds of Actions: The disciplinary actions that may be taken are dismissal, demotion, suspension without pay, reduction in pay, written reprimand, or any appropriate combination of these.

- (a) Dismissal means the discharge of an employee from the City service.
- (b) Demotion without consent as a disciplinary action shall be a reduction in classification or rank to a lower classification or rank, and reduction in salary. Demotion without consent may be made to the lowest classification or rank in the series of classes or related series to that within which the class is located. Demotion may be made on a temporary basis or a permanent basis.
- (c) Suspension without pay shall be a temporary separation from City service.
- (d) Reduction in pay as a disciplinary measure is a reduction in base pay. The maximum reduction in pay that may be given for any one (1) disciplinary action shall be an amount equal to two (2) steps within the range for that class. Reduction in pay shall become effective on the first of the pay period following the effective date of the disciplinary action. Reduction may be made on a permanent or temporary basis.
- (e) Written reprimand as a disciplinary action means an official notification to the employee that there is cause for dissatisfaction with the employee's performance and that further disciplinary action may be taken if said cause is not corrected. Written reprimand shall be made a part of the employee's official personnel record and may be considered as pertinent evidence of information in any appeal hearing.

SEC. 3. Grounds for Disciplinary Action: Disciplinary action may be taken for any cause, which may include, but not be limited to the following, insofar as they relate to the employee's ability to perform the functions required by employment with the City:

- (a) Fraud in securing employment or making a false statement on an application for employment.
- (b) Incompetency, i.e., inability to comply with the minimum standard of an employee's position for a significant period of time.
- (c) Inefficiency of inexcusable neglect of duty, i.e., failure to perform duties required of an employee within his/her position.
- (d) Willful disobedience and insubordination, a willful failure to submit to duly appointed and acting supervision or to conform to duly established orders or directions of persons in a supervisory position.
- (e) Dishonesty, involving employment.
- (f) Being impaired by or in possession of alcohol or illegal drugs or narcotics while on duty, on call for duty or on City premises, in accordance with the Substance Abuse Policy.
- (g) Excessive absenteeism.
- (h) Inexcusable absence without leave.
- (i) Abuse of sick leave, i.e., taking sick leave without a doctor's certification when one is required or misuse of sick leave.
- (j) The conviction of either a misdemeanor or a felony involving moral turpitude shall constitute grounds for dismissal of any employee. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The Personnel Officer may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline, or the determination if such conviction is an offense involving moral turpitude. Appeal or verdict of guilty, or a conviction showing a plea of nolo contendere made to charge of a felony or any offense within the meaning of this Section. The Personnel Officer may suspend or dismiss said employee when the time for appeal has elapsed or the judgement or conviction has been affirmed

on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code of the State of California allowing such person to withdraw his/her plea of guilty and enter a plea of not guilty, or setting aside a verdict of guilty, or dismissing the accusation or indictment.

- (k) Discourteous treatment of the public.
- (l) Improper or unauthorized use of City property.
- (m) Violation of the rules and regulations published in any department.
- (n) Refusal to subscribe to any oath or affirmation which is required by law in connection with City employment.
- (o) Any willful act of conduct undertaken in bad faith, either during or outside of duty hours which is of such a nature that it causes discredit to the City, the employee's department or division.
- (p) Inattention to duty, tardiness, indolence, carelessness or negligence in the care and handling of City property.
- (q) Mental or physical infirmity or disability which renders the employee unfit for the proper performance of the essential duties of the job if no reasonable accommodation can be made.
- (r) Outside employment not specifically authorized by the appointing authority or City Administrator.
- (s) Acceptance from any source of a reward, gift, or other form of remuneration in addition to regular compensation to an employee for the performance of his/her official duties.
- (t) The refusal of any officer or employee of the City to testify under oath before any Grand Jury having jurisdiction over any then pending cause or inquiry in which the investigation of government bribery or misconduct in City office is involved shall constitute of itself sufficient ground for the immediate discharge of such City officer or employee.
- (u) Willful violation of any of the provisions of the ordinances, resolution or any rules, regulations or policies which may be prescribed the City Council or City Administrator.

- (v) Improper political activity. Example: Those campaigning for or espousing the election or non-election of any candidate in nation, state, county or municipal elections while on duty and/or during working hours or in a city uniform on or off duty; or the dissemination of political material of any kind while on duty and/or during working hours or in uniform.

Activities not affected: Nothing in these rules and regulations shall be construed to prevent any officer or employee from becoming or continuing to be a member of a political club or organization, or from attendance at a political meeting, or from enjoying entire freedom from all interference in casting his/her vote or from seeking or accepting election or appointment to public office, providing however, that a person holding a position in the classified service must resign his/her position in the classified service upon being elected to the office of any elective office of the City.

- (w) Harassment of any other employee, including but not limited to: verbal, physical, visual or sexual harassment.

SEC. 4. Effective Date: A disciplinary action shall be effective as of the time designated by the person or persons authorizing the action, provided that no disciplinary action may be given an effective date which is prior to the date such action is taken.

SEC. 5. Disciplinary Action, Authority to Take: The City Administrator shall have authority to take disciplinary action.

Department Heads and their subordinates are authorized to issue written reprimands and verbal warnings of unsatisfactory service to an employee when indicated and recommend all other forms of disciplinary action.

The Personnel Officer or designee shall be notified of any contemplated disciplinary action prior to the time it is taken provided that in emergency situations or other instances when prior notification is not practicable, the Personnel Officer or designee may be notified as soon as possible subsequent to the time the action is taken.

SEC. 6. Notice: In cases of dismissal, demotion, suspension or reduction in pay, written notice of the intended action shall be given to the employee setting forth the following information:

- (a) Grounds for proposed discipline.
(b) Act or omission giving rise to intended discipline.

- (c) Effective date of the intended discipline.
- (d) All documents or records considered in recommending the proposed discipline.
- (e) The date by which the employee may respond and the person to whom the employee can respond.

SEC. 7. Employee Response: The employee shall have five (5) working days from the date the notice is served on him/her to respond to the notice. Response shall be made to the person indicated in the notice and may be written or oral.

SEC. 8. Final Action: After considering the employee's response to the notice of intended action, a final notice shall be given regarding the discipline, if any, to be imposed. If the final notice imposes discipline, it must set forth the effective date of the discipline.

RULE XVI. RULES OF APPEAL TO PERSONNEL BOARD

SEC. 1. Right of Appeal: Any employee in the competitive service shall have the right to appeal to the Personnel Board any disciplinary action involving dismissal, demotion, suspension and reduction in pay. The employee must file with the Personnel Officer within ten (10) days of the disciplinary decision.

SEC. 2. Method of Appeal: Appeals shall be in writing, subscribed by the applicant, and filed with the Personnel Officer or designee, who shall inform each member of the Personnel Board, the appointing power and such other persons or officers named or affected by the appeal of the filing of the appeal. The appeal shall be a written statement, addressed to the Personnel Board, explaining the matter appealed from and setting forth the ground for the appeal and the action desired by the appellant.

SEC. 3. Notice: Upon the filing of an appeal, the Personnel Officer or designee shall set a date for a hearing on the appeal not less than ten (10) days, nor more than sixty (60) days from the date of filing. The Personnel Officer or designee shall notify all interested parties of the date, time and place of the hearing at such places as the Personnel Board shall prescribe.

SEC. 4. Hearings:

- (a) All hearings shall be closed unless the employee requests in writing five (5) days before the hearing that the hearing be open.
- (b) Subpoenas and subpoenas duces tecum shall be issued at the request of either party, not less than five (5)

working days prior to the commencement of the hearing.

- (c) Five days prior to the hearing each side shall exchange a witness list and all exhibits. Failure to exchange the list of witnesses shall result in the Personnel Board refusing to hear their testimony unless there is good cause shown for the failure. Failure to exchange exhibits shall result in the Personnel Board excluding them unless there is good cause shown for the failure.
- (d) The hearing need not be conducted in accordance with technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rules which might make improper the admission of such evidence over objection 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 support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil and criminal actions and irrelevant and unduly repetitious evidence shall be excluded. The Board shall not be bound by technical rules of evidence. The Board shall rule on the admission or exclusion of evidence.
- (e) Each party shall have these rights: To be represented by legal counsel or other person of his/her choice; to call and examine witnesses; to introduce evidence; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him/her to testify; and to rebut the evidence against him/her. If the employee does not testify in his/her own behalf, he/she may be called and examined as if under cross-examination. Oral evidence shall be taken only on oath or affirmation.
- (f) The hearing shall proceed in the following order, unless the Board, for special reasons, otherwise directs:
 - (1) The party imposing discipline shall be permitted to make an opening statement;
 - (2) The appealing party shall then be permitted to make an opening statement;

- (3) The party imposing disciplinary action shall produce the evidence on his/her part; the City bears the burden of proof which is preponderance of the evidence and burden of producing evidence;
 - (4) The party appealing from such disciplinary action may then open his/her defense and offer his/her evidence in support thereof; the employee bears the burden of proof and the burden of producing evidence for any affirmative defenses asserted;
 - (5) The parties may then, in order, respectively offer rebutting evidence only, unless the Board for good reason, permits them to offer evidence upon their original case;
 - (6) Closing arguments shall be permitted and written briefs may be permitted at the discretion of the Board. The City shall have the right to open the closing arguments followed by the employee. The City then has a right to reply.
- (g) The Board shall determine relevancy, weight, and credibility of testimony and evidence. The Board shall base its findings on the preponderance of evidence. During the examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing unless the Board, for good cause, otherwise directs. The Board shall render judgment as soon after the conclusion of the hearing as possible and in no event later than thirty (30) days after conducting the hearing. The Board's decision shall set forth which charges, if any, are sustained and the reasons therefore. The opinion shall set forth findings of fact and the conclusion. The opinion shall be advisory only.
- (h) The Board may recommend sustaining or rejecting any or all of the charges filed against the employee. The Board may recommend sustaining, rejecting or modifying the disciplinary action invoked against the employee.

The Board's opinion and recommendation shall be filed with the City Administrator for transmission to the City Council, with a copy sent to the charged employee, and the Personnel Officer. It shall set forth the findings and recommendations. If it is a dismissal hearing and a dismissal is not the Board's recommendation, the opinion shall set forth the recommended date the employee is recommended to be reinstated and/or other recommended action.

- (i) Within thirty (30) days of the receipt of the Board's

recommendation, or a transcript (which is optional), whichever date is later, the City Council shall adopt, amend, modify or reject the recommended findings, conclusions, and/or opinions of the Board. The City Council may, at their opinion, allow limited oral arguments and/or may request and review written statements from either side. The decision of the City Council shall be final and conclusive. Copies of the

City Council's decision shall be filed where appropriate, including the employee's personnel file, unless no discipline is upheld by the City Council.

Each party shall bear the cost of the court reporter and transcripts. Each party shall bear its own witness and attorney fee.

- (j) The provisions of Section 1094.6 of the Code of Civil Procedure shall be applicable to proceedings under this section.

RULE XVII. GRIEVANCE PROCEDURES

SEC. 1. Purpose of Rule:

- (a) To promote improved employer-employee relations by establishing grievance procedures.
- (b) To afford employees individually or through qualified employee organizations a systematic means of obtaining further considerations of problems defined as grievable after every reasonable effort has failed to resolve them through discussions.
- (c) To provide that grievances shall be settled as near as possible to the point of origin.
- (d) To provide that appeals shall be conducted as informally as possible.

SEC. 2. Matters Subject to Grievance Procedures: Any employee in the competitive service shall have the right to appeal, under this Rule, a decision affecting his/her employment, which is not a disciplinary measure, over which his/her appointing power has partial or complete jurisdiction and for which appeal is not provided by other regulations or is not prohibited.

SEC. 3. Informal Grievance Procedures: An employee who has a problem or complaint should first try to get it settled through discussion with his/her immediate supervisor without undue delay. If, after this discussion, he/she does not believe the problem has

been satisfactorily resolved, he/she shall have the right to discuss it with his/her supervisor's immediate superior, if any, in the administrative service. Every effort should be made to find an acceptable solution by informal means at the lowest possible level of supervision. If the employee is not in agreement with the decision reached by discussion, he/she shall then have the right to file a formal appeal in writing within ten (10) calendar days after receiving the informal decision of his/her immediate superior. An informal appeal shall not be taken above the appointing power.

SEC. 4. Formal Grievance Procedure:

- (a) First Level of Review: The appeal shall be presented in writing to the employee's department head, who shall render his/her decision and comments in writing and return them to the employee within fifteen (15) calendar days after receiving the appeal. If the employee does not agree with his/her department head's decision, or if no answer has been received within fifteen (15) calendar days, the employee may present the appeal in writing to the City Administrator. Failure of the employee to take further action within ten (10) calendar days after receipt of the written decision of his/her department head, or within a total of twenty-five (25) calendar days if no decision is rendered, will constitute a dropping of the appeal.
- (b) City Administrator: The City Administrator receiving the appeal, or his/her designated representative, should discuss the grievance with the employee, his/her representative, if any, and with other appropriate persons. The City Administrator shall render his/her decision and comments in writing, and return them to the employee within fifteen (15) calendar days after receiving the appeal. If the employee does not agree with the decision reached, or if not answer has been received within fifteen (15) calendar days, he/she may present the appeal in writing to the City Council. Failure of the employee to take further action within ten (10) calendar days after receipt of the decision is rendered, will constitute a dropping of the appeal.
- (c) City Council: The City Council may designate a fact finding committee, officer not in the normal line of supervision, or Personnel Board to advise them concerning the grievance. The City Council shall render a decision in writing to the employee within twenty (20) calendar days after receiving the appeal.

SEC. 5. Conduct of Grievance Procedure:

- (a) The time limits specified above may be extended to a

definite date by mutual agreement of the employee and the reviewer concerned.

- (b) The employee may request the assistance of another person of his/her own choosing in preparing and presenting his/her appeal at any level of review.
- (c) The employee and his/her representative may be privileged to use a reasonable amount of work time as determined by the appropriate department head in conferring about and presenting the appeal.
- (d) Employees may not grieve disciplinary action as set forth in Rule XV.
- (e) EMPLOYEES SHALL BE ASSURED FREEDOM FROM REPRISAL FOR USING THE GRIEVANCE PROCEDURES.

RULE XVIII. TRAINING OF EMPLOYEES

SEC. 1. Responsibility for Training: The City Council encourages the training of employees. Responsibility for developing training programs shall be assumed jointly by the Personnel Officer and department heads. Such training programs may include lecture courses, demonstrations, assignment of reading matter or such other devices as may be available for the purpose of improving the effectiveness and broadening the knowledge of municipal officers and employees in the performance of their respective duties.

SEC. 2. Credit for Training: Participation in and successful completion of special training courses may be considered in making advancements and promotions. Evidence of such activity shall be filed by the employee with the Personnel Officer or designee.

RULE XIX. OUTSIDE EMPLOYMENT

SEC. 1. Policy: A City employee shall not engage in any employment, activity or enterprise which is inconsistent, incompatible, or in conflict with his/her duties, functions, or responsibilities as a City employee.

SEC. 2. Authorization:

- (a) Any officer or employee wishing to engage in any occupation or outside activity for compensation shall inform the department head of such desire, providing information as to the time required and the nature of such activity, and such other

information as may be required. The Department Head shall consider whether or not such activity is compatible with the employee's City employment.

- (b) If the Department Head determines such activity is compatible, he/she may authorize the activity in writing with a copy to the Personnel Officer.
- (c) Said authorization shall be valid only for the work and period prescribed therein.

SEC. 3. Determination of Inconsistent Activities: In making a determination as to the consistency or inconsistency of outside activities, the Department Head shall consider among other pertinent factors whether the activity:

- (a) 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 or,
- (b) involves receipt or acceptance by the officer or employee of any money or other consideration from anyone other than the City for the performance of an act which the officer or employee, if not performing such act, would be required or expected to render in the regular course of his City employment or as a part of his duties as a City employee or,
- (c) involves the performance of any act other than his/her capacity as a City officer or employee which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement by such officer or employee or the department by which he/she is employed or,
- (d) involves conditions or factors which would probably directly or indirectly lessen the efficiency of the employee in his/her regular city employment, or conditions in which there is a substantial danger of injury or illness to the employee.

SEC. 4. Revocation: Permits for outside employment may be issued for such length of time as noted in the permit and all permits are subject to revocation by the Department Head or the City Administrator, or the City Council.

SEC. 5. Use of City Equipment Prohibited:

- (a) No City-owned equipment, autos, trucks, instruments,

tools, supplies, machines, or any other item which is the property of the City shall be used by any officer or employee while said officer or employee is engaged in any outside employment or activity, for compensation or otherwise, except upon prior written approval of the City Administrator.

- (b) No officer or employee shall allow any unauthorized person to rent, borrow, or use any of the items mentioned in (a) above, except upon prior written approval of the City Administrator.

SEC. 6. Violations and Penalties:

- (a) Any violation of the provisions herein contained respecting outside employment or activity, and use of City property, shall constitute sufficient grounds for disciplinary action including dismissal of the employee guilty thereof from the City service.

RULE XX. AMENDMENT OF RULES

The City Council shall have authority to adopt, amend, or repeal the Personnel Rules at any time. To the extent that modification in the rules are within the scope of representation, the City will meet and confer with employee organizations prior to their adoption.

PERSONNEL POLICIES



CITY OF
RIDGECREST, CA

ADOPTED NOVEMBER 03, 1993

City of Ridgecrest

Nepotism Policy

1. Nepotism Defined. The term nepotism shall be a member of the immediate family including: wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece nephew, step-parent and step-child.
2. The City will prohibit employment of members of an immediate family in the same department or administrative unit. The City will not prohibit employment of members of an immediate family in different departments or administrative units, provided that one family member shall not participate in making recommendations or decisions specifically affecting the appointments, retention, work assignments, promotion, demotion, salary, or working conditions of another family member.
3. A spouse shall not be employed by the City or continued in employment by the City if his/her working relationship with his/her husband or wife has the potential for creating an adverse impact on supervision, safety, security or morale as determined by the Personnel Officer.
4. Whereas, there are permanent employees of the City who have relatives who also work for the City, these employees would be allowed to continue their service with the City. Upon termination of one, the terminated person would not be eligible for rehire, except under the terms defined in Section 2 above.
5. Special Cases. Exception or extraordinary circumstances may allow the City Council to waive the requirement of Section 3. The exceptional or extraordinary circumstances must be concurred with unanimously by the City Council.

City of Ridgecrest

Equal Employment Opportunity Policy and
Affirmative Action Plan

I. Policy Statement

It is the policy of the City of Ridgecrest to be fair and equitable in all its relations with its employees and applicants for employment without regard to race, color, religion, creed, sex, age, national origin, ancestry, handicap disability, medical condition, pregnancy or marital status.

The Ridgecrest City Council continues to be committed to the concepts of Equal Employment Opportunity as a necessary element of basic merit system principles, and that all persons shall be afforded equal access to positions in the public service, limited only by their ability to do the job. Equal opportunity can best be effected through definitive programmed Affirmative Action. If progress toward achieving equal employment opportunity is to be made, every citizen and City employee must realize that policies to remove inequalities cannot be merely passive. Positive steps must be taken to remove conditions which could result in unlawful employment discrimination.

The major emphasis of this Equal Employment Opportunity and Affirmative Action Plan is to continue to remove artificial employment practices that could operate disadvantageously for an identifiable protected group of persons, and to apply good faith efforts to seek out, employ, train, and promote under-represented protected group members within and into the City work force. The City Council believes that an effective Affirmative Action Plan not only benefits those who could have been denied an equal employment opportunity, but also will benefit those City departments, programs and service which could have underutilized useful talents, resources and skills among women, minorities, handicapped and other protected group persons.

The City Council, through adoption of the Equal Employment Opportunity Policy and Affirmative Action Plan commits the City and all its operating departments to a result-oriented personnel program aimed at achieving equal opportunity employment in all occupational levels of the City's service.

II. Objectives

A. To achieve and maintain employment levels for protected group members throughout the classes of positions in the City service in proportion to their availability in the qualified and relevant labor force. This will be achieved through targeted recruitment.

B. To prevent arbitrary, unnecessary and artificial practices affecting protected group members by examining personnel transactions and enforcing the use of validated employment practices.

C. To assign responsibility and accountability for Affirmative Action progress. The most crucial parts of policy implementation are at the Department Head and Supervisory levels where decisions affecting hiring, assignment, training, promotion, compensation and disciplinary action are made.

D. To promote harmonious employee relations by providing training regarding City personnel policies and fair employment practices to supervisory employees, increasing employee awareness and acceptance of race, cultural, sex and handicapped differences among employees and prohibiting unlawful harassment of employees in the workplace.

III. Notices

The City will provide appropriate Equal Employment Opportunity and Affirmative Action Notices to its employees and applicants for employment, through posters and appropriate notices and policy statements.

IV. Reports

The City shall keep on file for a period of three years, or for the period during which the relevant federal financial assistance is made available, whichever is longer, the necessary reports, records and affirmative action plans, if applicable, which will enable the Office of Civil Rights to determine if there has been compliance with this policy and with the requirements of Federal law.

The City shall annually prepare a statistical report on form EEO-4 of the Equal Employment Opportunity Commission, or any superseding EEO Form.

V. Appendixes

Appendix I - Definitions

As used in this policy:

AFFECTED CLASS -- Member of an applicant group who, by virtue of past societal discrimination, continue to suffer the present effects of that discrimination (race, religion, color, creed, national origin, age, handicap, sex, pregnancy and marital status).

AFFIRMATIVE ACTION -- A set of specific and result-oriented procedures, allied with commitment and good faith, designed to enlarge the opportunity for selection of candidates for hiring and

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upgrading to include members of the minority community and women. AFFIRMATIVE ACTION is a kind of "roadmap" to achieve the goal of Equal Employment Opportunity.

EQUAL EMPLOYMENT OPPORTUNITY -- A condition under which all employment practices including selection, transfer, promotion, termination, compensation, and other benefits are implemented on the basis of valid, job-related requirements without regard to race, creed, national origin, color, religion, age, physical handicap, sex, pregnancy or marital status.

JOB RELATED QUALIFICATIONS -- Requirements that are realistically related to the actual duties of the job. These requirements consist of the actual knowledge and skill required to perform those duties determined by a thorough job analysis.

City of Ridgecrest

Harassment Prevention Policy

PURPOSE:

To define and issue to all employees the City's policy on the prohibition of harassment in employment.

POLICY:

Harassment of an applicant or employee by a supervisor, management employee or co-worker on the basis of race, religious creed, color, national origin, ancestry, handicap, medical condition, marital status, sex, pregnancy, or age will not be tolerated.

Disciplinary action up to and including termination will be instituted for behavior described in the following definition of harassment.

DEFINITION:

Harassment includes, but is not limited to:

1. Verbal Harassment - For example, epithets, derogatory comments or slurs on the basis of race, religious creed, color, national origin, ancestry, handicap, medical condition, marital status, sex, pregnancy or age.
2. Physical Harassment - For example, assault, impeding or blocking movement, or any physical interference with normal work or movement when directed at an individual on the basis of race, religious creed, color, national origin, ancestry, handicap, medical condition, marital status, sex, pregnancy or age.
3. Visual Forms of Harassment - For example, derogatory posters, notices, bulletins, cartoons, or drawings on the basis of race, religious creed, color, national origin, ancestry, handicap, medical conditions, marital status, sex, pregnancy or age.
4. Sexual Favors - Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature which is conditioned upon an employment benefit, unreasonable interference with an individual's work performance or creates an offensive work environment.

COMPLAINT PROCEDURE:

(A) Filing: An employee or job applicant who believes he or she has been harassed should inform any of the following, preferably in

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writing:

1. Immediate supervisor
2. Any supervisor or manager within or outside of the department
3. Department Head
4. Director of Personnel (or Affirmative Action Officer)

Any supervisor or department head who receives a harassment complaint should notify the Personnel Director (or Affirmative Action Officer) immediately.

(B) Upon notification of a harassment complaint, the Director of Personnel (or Affirmative Action Officer) shall:

1). Authorize the investigation of the complaint and supervise and/or investigate the complaint. The investigation will include interviews with: a) the complainant; b) the accused harasser; and c) any other persons the Director of Personnel (or Affirmative Action Officer) has reason to believe has relevant knowledge concerning the complaint. This may include victims of similar conduct;

2). Review factual information gathered through the investigation to determine whether the alleged conduct constitutes harassment; giving consideration to all factual information, the totality of the circumstances, including the nature of the verbal, physical, visual or sexual conduct and the context in which the alleged incidents occurred;

3). Report the results of the investigation and the determination as to whether harassment occurred to appropriate persons including to the complainant, the alleged harasser, the supervisor, and the department head. If discipline is imposed, the discipline will not be communicated to the complainant;

4). If harassment occurred, take and/or recommend to the appointing authority prompt and effective remedial action against the harasser. The action will be commensurate with the severity of the offense;

5). Take reasonable steps to protect the victim and other potential victims from further harassment;

6). Every effort will be made to protect the privacy of parties involved in the complaint. Files pertaining to complaints will not be made available to the general public.

7). Take reasonable steps to protect the victim from any retaliation as a result of communicating the complaint.

8). If appropriate, take action to remedy the victim's loss, if any, which resulted from the harassment.

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It should be reemphasized that the City wishes to know of any complaint alleging harassment as soon as possible after it occurs.

City of Ridgecrest

Substance Abuse Policy

1. POLICY

- 1.1 The City's function is to deliver municipal services safely, dependably and efficiently.
- 1.2 In fulfillment of that function, it is the City's policy to: (1) ensure employees are fit for duty, and conduct business in a safe, productive and healthy manner; (2) create an environment free from the effects of employees impaired by the use of prohibited material; (3) forbid the unauthorized, job related, possession, use, or distribution of prohibited material, and (4) make an assistance program available to employees whose personal problems affect their ability to perform their duties.
- 1.3 A City employee who thinks he/she may have an alcohol or drug usage problem is urged to voluntarily seek assistance. The City will be supportive of those who seek help voluntarily.

2. PURPOSE

- 2.1 The purpose of this policy is to protect the public, City property and employees, from risks which result from employee drug or alcohol-induced behavior.

3. APPLICABILITY

- 3.1 This policy applies to all City employees conducting City business on or off-site. Off duty arrests where prohibited material is implicated will trigger an evaluation by the City.

4. DEFINITIONS

- 4.1 Alcohol - Any beverage that has alcoholic content of more than 0.5% by volume.
- 4.2 Controlled Substance - A drug substance or immediate precursor which is listed in any schedule in the California Health and Safety Code.
- 4.3 Employee - Any person employed by the City.
- 4.4 Legal drugs - Includes prescribed drugs and over-the-counter drugs which have been legally obtained and are being used for the purpose for which they were prescribed or manufactured.

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- 4.5 Drug/Substance - any drug or substance which can negatively effect work performance.
- 4.6 Impaired/Intoxicated/Under the Influence - means a person is affected by any material so as to impair physical coordination, balance and control and/or to impair mental function of judgement, decision making, memory, concentration and cognitive problem solving in accordance with Health & Safety Code Section 11550 and Penal Code 647f. Under the influence shall mean a blood alcohol content of .05% or above.
- 4.7 Chain of Custody - The protocol to be followed when submitting specimens for chemical testing.
- 4.8 Chemical Testing - the examination of blood, breath, urine or any other generally accepted method used to determine if a person has used prohibited materials. The employee may choose the testing method if suspected of alcohol abuse.
- 4.9 For-Cause or Reasonable Cause - Facts, circumstances, physical evidence, physical signs and symptoms or a pattern of performance and/or behavior that would cause a trained person to reasonably conclude that an employee may be under the influence or intoxicated by a prohibited material.
- 4.10 Fitness for Duty - As regards this policy, an individual's ability to perform his/her assigned job free from impairments due to use of prohibited material.
- 4.11 Proof of Wellness - Statement by a City-approved treatment specialist that the employee/applicant is free from conditions that would adversely affect work performance.
- 4.12 Prohibited Material - Any alcohol, drug, or substance included in definitions 4.1, 4.2, 4.4, or 4.5 above.
- 4.13 Positive Results - The laboratory identification of a prohibited material in any test conducted per definition 4.8 above.
- 4.14 Evaluation - May include a range of any or all of the following:
- a. An investigation of the circumstances concerning a possible violation of this Policy;
 - b. Discussion/counseling with the employee's supervisor or other management staff;
 - c. Opportunity to participate in an Employee Assistance Program;
 - d. Proof of Wellness program planning; or

- e. Disciplinary actions up to and including termination.

5. GUIDELINES

5.1 General Requirements

- 5.1.1 All employees shall be notified of this policy and shall receive information on prohibited material abuse and its impact on the workplace. Supervisors shall receive training so as to fairly and effectively administer this policy.
- 5.1.2 If an employee believes he/she has been unjustly accused or implicated in prohibited material abuse, the employee may request an appropriate test at City expense.
- 5.1.3 Chemical testing shall be conducted in such a manner to assure a high degree of accuracy and reliability. The City also affirms the necessity to uphold a high regard for privacy and dignity in the sampling process. The procedure used shall include an unbroken chain of custody with a right to parallel controlled testing by the employee at the employee's expense. For each test, two samples will be sent. One will be used, the other held. If the test is positive, the other sample will be sent to a second facility for testing at the City's expense.
- 5.1.4 Simple personal possession of prohibited material without authorization on property, equipment or vehicle owned or leased by the City, or while on duty for the City, shall result in an evaluation, which includes the possibility of disciplinary action up to and including termination.
- 5.1.5 Sale of, negotiation for sale of, delivery of, and/or possession with the intent to deliver, prohibited material on property, equipment or vehicle, owned or leased by the City, or while on duty for the City, shall result in an evaluation, which includes the possibility of disciplinary action up to and including termination.
- 5.1.6 The City shall report evidence of suspected criminal activity, including manufacture, delivery, distribution and possession of prohibited material on City property or while on duty for the City, to appropriate law enforcement authorities.
- 5.1.7 Trained supervisors administering this policy who knowingly disregard the requirements of this policy shall be subject to disciplinary action up to and including termination.
- 5.1.8 Any malicious or false accusation relative to illegal use

or possession will be subject to immediate investigation and disciplinary action up to and including immediate termination.

5.2 Pre-Employment Evaluation

- 5.2.1 Applicants for employment shall be scheduled for chemical testing as part of the pre-employment medical evaluation.
- 5.2.2 All applicants for employment with the City will be given prior notification regarding chemical testing requirements.
- 5.2.3 Prior to the medical evaluation, applicants shall complete the current City prohibited material use and consent form.
- 5.2.4 All applicants with positive results shall be notified of those results.
- 5.2.5 Positive results without sufficient explanation on the current Prohibited Material Use and Consent form shall be considered grounds for disqualification from employment for a minimum of 90 days. Proof of wellness shall be required before reconsideration for employment.
- 5.2.6 Sample tampering during the pre-employment medical evaluation, falsification of the prohibited material use form or refusal to submit a sample shall be grounds for disqualification from employment with the City.
- 5.2.7 The City has the right to unilaterally modify Section 5.2.

5.3 Reasonable Cause Determination

- 5.3.1 An employee may be subject to an investigation and reasonable cause determination which may result in chemical testing as appropriate, if there is reason to believe that use of prohibited material is adversely affecting job performance.

Examples of reasonable cause may include:

1. Acceptable documentation of unsatisfactory performance related to use of prohibited material.
2. Physical symptoms consistent with use of prohibited material.
3. Evidence of illegal prohibited material use, or possession.

4. Reasonable cause will conform to accepted judicial standards applying to mandatory drug testing standards.

5.3.2 Employees believed to be under the influence or intoxicated while performing or conducting City business will be immediately placed on administrative leave and removed from their work assignment.

5.3.3 Employees, confirmed through chemical testing, to be under the influence or intoxicated while performing City business shall be subject to evaluation.

5.3.4 Employees believed to be intoxicated/under the influence will be provided transportation. If an employee insists on driving, law enforcement agencies will be notified.

5.3.5 Refusal to submit a sample for cause or sample tampering during chemical testing shall be subject to immediate termination. Provided said employee was given reasonable cause upon which the decision to test was made.

5.3.6 Employees re-entering the workforce as a result of having been terminated from the workforce based on disciplinary suspension or termination in accordance with this Policy, will agree to a re-entry contract. That contract may include:

1. A Release to Work statement from an approved certified treatment specialist.
2. An evaluation and release for duty by Management.
3. A negative test for prohibited material.
4. An agreement to periodic testing.
5. A statement of expected work-related behaviors.

5.3.7 Failure to successfully complete a treatment program, or to comply with a re-entry contract or a second violation of this policy shall be grounds for termination.

5.3.8 The authority to order a chemical test shall be at the department head level or above.

5.3.9 The employee shall be notified of any disciplinary actions taken as a result of this policy and the basis for such actions. An opportunity for the employee to appeal any such action shall be as provided by bargaining unit Agreement or other such appeal procedure.

5.4 Employee Assistance Program

- 5.4.1 A City employee who voluntarily seeks assistance in dealing with substance abuse problems shall be referred immediately to the City's Employee Assistance Program. all such interactions shall be confidential. Except that participation in such program shall require a written waiver from the employee to cause the EAP to provide written proof of attendance.
- 5.4.2 In no case will participation in the Employee Assistance Program shield an employee from disciplinary action.
- 5.4.3 An employee terminated in accordance with this policy may be eligible for re-employment provided that said employee demonstrates evidence of substance abuse rehabilitation.
- 5.4.4 Successful completion of the Employee Assistance Program, will result in the removal of related information from the personnel file.