ITEM NO. 16

STAFF REPORT

CITY OF OCEANSIDE

DATE: February 27, 2013

TO: Honorable Mayor and City Councilmembers

FROM: Human Resources Department

SUBJECT: **ADOPTION OF A RESOLUTION IMPLEMENTING THE PERSONNEL RULES AND REGULATIONS DATED FEBRUARY 2013**

SYNOPSIS

Staff recommends that the City Council adopt a resolution implementing the Personnel Rules and Regulations dated February 2013.

BACKGROUND

The previous Personnel Rules and Regulations were dated January, 2007. The Human Resources Director has revised the Rules and Regulations to more accurately reflect current process and bring them current with State and Federal laws. The Human Resources Director has met with and presented the proposed changes to all unions, and there is no opposition to the proposed changed from any union.

These changes include:

- Adding definition of Designated Disaster Worker in accordance with State law;
- Adding council-adopted Disaster Evacuation Leave language;
- Adding state mandated Fact-Finding process regarding negotiations which result in an impasse;
- Reducing Reemployment Rights from twenty-four (24) to twelve (12) months;
- Clarifying Reinstatement Rights of eighteen (18) months;
- Clarifying Transfer Requests are valid for twelve (12) months;
- Clarifying changes in the method of notifications to candidates resulting from the on-line application system;
- Clarifying the Return-To-Work process for non work-related injuries and illnesses;
- Clarifying impacts on citywide seniority calculations resulting from the dates on which a merger or division of departments and divisions are under the Human Resources Director's sole discretion;

- Clarifying Acting Appointments are limited to a duration of eighteen (18) months or less;
- Clarifying language to reflect Memoranda of Understanding language;
- Allowing eligible lists to be created for six (6) or twelve (12) months instead of only six (6) months;
- Changes the number of eligible list names provided to departments to fill vacancies from open and promotional lists from a minimum of five (5) to three (3) plus the number of vacancies; and
- Making various clean-up changes.

ANALYSIS

There is no economic impact to these changes; therefore, no financial analysis is required.

FISCAL IMPACT

There will be no fiscal impact as a result of this action.

COMMISSION OR COMMITTEE REPORT

Does not apply.

CITY ATTORNEY'S ANALYSIS

The resolution has been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

Staff recommends that the City Council adopt a resolution implementing the Personnel Rules and Regulations dated February 2013.

PREPARED BY:

Patricia Nunez
Human Resources Director

SUBMITTED BY:

Peter A. Weiss
City Manager

REVIEWED BY:
Michelle Skaggs Lawrence, Deputy City Manager
Teri Ferro, Financial Services Director

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE ADOPTING PESONNEL RULES AND REGULATIONS PURSUANT TO CHAPTER 23 OF THE OCEANSIDE MUNICIPAL CODE.

WHEREAS, Chapter 23 of the Oceanside Municipal Code provides for the establishment of equitable and uniform procedures for dealing with personnel matters in the City of Oceanside; and

WHEREAS, Section 23.2 empowers the City Council to adopt such rules and regulations necessary and proper to implement such procedures; and

WHEREAS, the City Manager, after consultation with all employee groups has prepared a set of rules and regulations which the City Council finds appropriate for the City of Oceanside;

NOW, THEREFORE, the City Council of the City of Oceanside does resolve as follows:

SECTION 1. That all items contained in said personnel rules prevail over inconsistent provisions of prior resolutions adopted by the Council.

SECTION 2. That the City Council does hereby adopt as the "City of Oceanside Personnel Rules and Regulations" the rules and regulations set forth on Exhibit A attached hereto and incorporated by reference herein.

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PASSED AND ADOPTED by the City Council of the City of Oceanside, California, this _____day of _____, 2013, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

_____
MAYOR OF THE CITY OF OCEANSIDE

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

CITY OF OCEANSIDE

PERSONNEL RULES AND REGULATIONS

FEBRUARY 2013

CITY OF OCEANSIDE

PERSONNEL RULES AND REGULATIONS

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RULE 1.0 – GENERAL PROVISIONS

1.1 Scope & Purpose of Rules

The purpose of these Rules is to implement a merit system of personnel management in accordance with Chapter 23 of the Oceanside Municipal Code in order to:

A. Facilitate efficient, economical and effective service to the public.

B. Attract, employ, develop, promote and retain employees based on merit and job performance.

C. Insure fair, equitable and uniform treatment of applicants and employees in municipal service.

D. Define the rights, privileges, benefits, obligations and prohibitions placed upon all employees in the service of the City.

If a provision of these rules conflicts with any provision of an applicable collective bargaining agreement entered into by the City of Oceanside and a recognized employee organization, to the extent of such conflict, the provision of the collective bargaining agreement shall be deemed controlling.

The policies and procedures contained in this manual supersede any and all previously issued City policies, procedures, rules or instructions related to matters discussed herein.

Nothing in the manual shall be deemed to supersede applicable state or federal law or administrative regulations related to personnel matters.

These rules do not create any contract of employment, express or implied, or any rights in the nature of a contract.

1.2 Application

The Personnel Rules and Regulations/merit system shall apply to all positions and employees in the Classified Service of the City as defined in Chapter 23 of the Oceanside Municipal Code.

1.3 Responsibility of City Council

It is the responsibility of the City Council to:

A. Adopt regulations and personnel rules establishing specific procedures to govern the personnel programs.
B. Provide direction to the City's Employee Relations Officer in his/her conduct of employer-employee relations and the meet-and-confer process.

1.4 Responsibility of City Manager

It is the responsibility of the City Manager to:

A. Control, order and direct all appointive deputy city managers and department directors (other than those specifically excepted by the City Council or by law) and subordinate officers and employees of the City through the department directors; to transfer employees from one department to another; and to consolidate, combine or reorganize offices, departments or work units under his/her direction.
B. Appoint, remove, suspend, promote and demote any appointive officer or employee of the City in accordance with the Personnel Ordinance and Personnel Rules and Regulations of the City, except those officers excepted by the City Council or by law.

1.5 Responsibility of the Human Resources Director

It is the responsibility of the Human Resources Director to:

A. Be the chief administrator of the Human Resources Department, reporting to the City Manager, and responsible for the day-to-day operations of the human resources programs, labor relations, workers' compensation and risk management investigation activities of the City.
B. At the direction of the City Manager, shall have jurisdiction to investigate working conditions of City employees as they affect health, welfare, efficiency, service and morale.
C. Be accessible to any employee who desires to complain of any matter incident to his/her employment.

1.6 Responsibility of Department Directors

Department Directors shall be responsible for effective supervision of department employees as well as for compliance with the provisions of these Rules. Department Directors will endeavor to inform employees of these Rules and make copies available.

Department Directors may adopt and carry out administrative regulations and procedures applying to employees in that department which are supplementary to and not inconsistent with the Personnel Rules, City Council ordinances and resolutions, current labor relations agreements or existing laws.

1.7 Amendment and Revision of Rules

Suggested amendments or revisions to these Rules shall be reviewed by the Human Resources Director for appropriateness and consistency. Proposed modifications shall be reviewed by the City Attorney for legality. The City Manager or his/her designee shall notify the exclusively recognized Employee Organization(s) in writing of the proposed modifications and consult with employee representatives for their suggestions and comments.

Following notice and consultation (if desired by the employee organization(s)), the City Manager shall schedule the proposed amendment or revision as a resolution for consideration by the City Council at their regular public meeting. The City Manager

shall make recommendations to the City Council as to action which may be taken on the proposed modification. Any interested person may appear before the City Council and be heard prior to Council action on the City Manager's recommendation. The City Council may reject or adopt the amendment as submitted or refer proposed modifications to consultation with the employee organization(s). Approved resolutions shall become effective immediately unless a different effective date is specified.

1.8 Violation of Rules

Violation of the provisions of these Rules may constitute grounds for rejection of application, suspension, dismissal or other disciplinary action. Disciplinary action shall depend upon the nature of the violation, the circumstances surrounding the violation, the employee's prior work record, and other relevant information and shall be carried out in accordance with Rule 6.0, Discipline.

1.9 Harassment / Discrimination / Retaliation

It is the City's intent to provide all employees, applicants and contractors with an environment free from any form of discrimination, harassment or retaliation. Administrative Directive 43 (AD-43) prohibits harassment or discrimination in employment on the basis of an individual's race, religion, color, sex, gender identity, sexual orientation, national origin, ancestry, citizenship status, uniformed service member status, marital status, pregnancy, age, medical condition, familial status, genetic information, and physical and mental disability. The City has a "zero-tolerance" policy for conduct which violates AD-43. Protection from discrimination also includes protection from retaliation for having taken action either as a complainant, or for assisting a complainant in taking action, or for acting as a witness or advocate on behalf of an employee in a legal or other proceeding to obtain a remedy for a breach of the City's policy. Employees, applicants and contractors who believe they have witnessed or experienced any form of discrimination, harassment or retaliation should report the matter to the Human Resources Department or City Attorney immediately.

1.10 Job Abandonment

An employee is deemed to have resigned if the employee is absent for three (3) consecutive work days without prior authorization and without notification during the period of the absence. Only regular employees will receive notice of intent to terminate. No employee has any right to evidentiary appeal for separation due to job abandonment.

1.11 Management Rights

1.11.1 The City shall retain, whether exercised or not, solely and exclusively, all express and inherent rights and authority pursuant to law with respect to determining the level of, and the manner in which, the City's activities are conducted, managed, and administered, and the right to establish and maintain departmental rules and procedures for the administration of its departments.

1.11.2 The City has the exclusive right and authority to schedule work and/or overtime work as required in the manner most advantageous to the City of Oceanside.

1.11.3 Every incidental duty connected with operations enumerated in job descriptions is not always specifically described; nevertheless, it is intended that all such duties shall be performed by the employee.

1.11.4 The City shall determine assignments, and establish methods and processes by which assignments are performed.

1.11.5 The City shall have the exclusive right to transfer employees within departments and to positions outside a department in a manner most advantageous to the City.

1.11.6 The City shall have the authority, without prior meeting and conferring, to effect reorganizations and reallocation of work of the City.

1.11.7 The inherent and express rights of the City, including those herein specifically referred to that are not expressly modified or restricted by a specific provision hereof, are not in any way, directly or indirectly, subject to meeting and conferring or the Grievance Procedures contained in any Memorandum of Understanding or Compensation Plan.

1.12 Records and Reports

1.12.1 Service Record: A record of all employees shall be maintained in the Human Resources Department and shall include the name, title of position, department, employment status, salary and other employment information as may be considered pertinent.

1.12.2 Change of Status: Each appointing authority shall report promptly to the Human Resources Director in writing or on the prescribed form all changes in the status of employees.

1.12.3 Employee Access: Employees or their designees (with written authorization from employee) may review their own official Human Resources Department personnel files under the supervision of the Human Resources Director or his/her designee at a mutually convenient time. Copies of documents contained therein may be provided to the employee/designee. An employee shall be allowed access to his/her individual personnel files maintained in the employee's department upon request of the employee or his/her designee at a mutually convenient time.

1.12.4 Disclosure of Information: The Human Resources Department shall not disclose any privileged or confidential information contained in personnel files or collected in the course of conducting City business to any person not specifically authorized access to that information and only in accordance with

the provisions of applicable law. The City Manager, Deputy City Manager or Department Directors may review employee personnel files on a need-to-know basis as determined by the Human Resources Director.

1.12.5 Destruction of Records: Service records, examination results and all records necessary to determination of authority shall be retained permanently. All other Human Resources Department records, such as applications, examinations and correspondence and reports may be destroyed in accordance with the Citywide Records Retention Schedule after consultation with the City Attorney.

1.13 Use of City Property and Equipment

City property is to be used only for conducting City business unless otherwise authorized by Department Director, Deputy City Manager, or the City Manager. City property includes, but is not limited to: telephones, desks, cell phones, computers (including hardware and software), communications stored or transmitted on City property (such as email and voice mail), vehicles and other City property used by City employees in the course of their work. Employees do not have a reasonable expectation of privacy in City property or equipment.

City property may be monitored and searched at any time and for any reason. Messages sent or received on City equipment may be saved and reviewed by others and are potentially subject to disclosure under the Public Records Act. As a result, City employees have no expectation of privacy in the messages sent or received on City property or equipment.

1.14 Workplace Security

The City is committed to providing a safe and secure workplace for employees and the public. The City will not tolerate acts or threats of violence in the workplace and has a "zero tolerance" policy in place. The workplace includes any location where City business is conducted, including vehicles and parking lots.

1.15 Disclaimer

These rules do not create any contract of employment, expressed or implied, or any rights in the nature of a contract.

1.16 Severability

If any section or portion of any section of these Rules is found to be illegal, the balance of these Rules shall not be affected and shall remain in full force and effect.

RULE 2.0 – CLASSIFICATION PLAN

The purpose of the classification plan is to provide a complete and continuous inventory of all classifications in the City service and to provide accurate descriptions and specifications for each class.

2.1 Composition
The classification plan shall consist of groupings of positions by classifications which are approximately equal in difficulty and responsibility, consisting of the same general qualifications and which can be compensated with the same range of pay for similar working conditions. Classes shall be arranged in series whenever possible.

2.2 Content of Class Specifications
Each class specification shall include the title, a description of the essential job duties and responsibilities of the work, and a statement of the minimum qualifications required of the person who is to perform the work.

2.3 Use of Class Titles
The class title shall be the official title of every position allocated to the class for the purpose of personnel actions and shall be used on all payrolls, budget estimates, official records, and reports relating to the position. Working Titles may be used if authorized by the City Manager, Deputy City Manager or Department Director.

2.4 Interpretation and Significance
The class specifications are not to be considered restrictive nor construed as limiting the duties and responsibilities of any position. They neither limit nor modify the authority of the City Manager, Deputy City Manager, Department Director or his/her designee to assign duties to direct and control the work of employees in the City service. The class specifications are descriptive and explanatory of characteristic duties and responsibilities of positions in a class and, as such, they are to be interpreted in their entirety and in relation to other classes in the classification plan.

2.5 Reclassification
Any employee in a job which is reclassified with a different salary range shall be compensated at the step in the new salary range which provides for a minimum increase of approximately 5%. The employee must meet the minimum qualifications of the reclassified position.

The salary of an employee whose position is reclassified to a classification with a lower salary range and whose salary is above the maximum of the new salary range shall be frozen at the salary of the old classification until the salary range of the new classification is equal to or exceeds the employee's salary. This shall be referred to as "Y-rate"

2.6 Maintenance of the Plan
The Human Resources Director shall be responsible for the maintenance of the classification plan. The Human Resources Director may allocate positions to the appropriate class and may make revisions in the classification plan which shall consist of additions, deletions, consolidations, or amendments to existing class specifications.

The Human Resources Director shall be responsible for conducting classification studies or having studies conducted by qualified persons or companies outside City service of proposed new or existing positions in the City service when:

A. Notified by the City Manager that new positions are being authorized.

B. Notified by a Department Head that the duties and responsibilities of a position or group of positions may be improperly classified or have undergone significant change.

C. Periodically or as a need arises, to review a certain position or group of positions in the City service.

D. When an incumbent has reason to believe that his or her position has evolved because of a gradual accretion or erosion of duties to an assignment that may be outside the regular classification, he or she may initiate a request for review through the Human Resources Director via his or her department director. This review may also be initiated by the City. Requests for classification studies for classifications represented by the Oceanside City Employees Association (OCEA) shall be submitted in accordance with Section IV (G) no later than January 1 of each year for consideration during the budget process. All requests from non-OCEA members should be submitted between December and January annually.

E. Reclassification requests can only be submitted by permanent city employees who have passed their probationary period.

F. Reclassification relates to the position and its proper class and not to the incumbent's qualifications for appointment to the reclassified position. Should the incumbent not meet the minimum qualifications for the reclassified position, a lay off may occur if a reassignment or transfer to a vacant position cannot be accommodated.

If the reclassification is approved by the Human Resources Department, the reclassification and new pay range will be in effect the first pay period after approval of the reclassification study if the reclassification results in a higher salary or fringe rate and the Finance Director confirms the department has sufficient budget funding to support the new classification for the remainder of the fiscal year otherwise it will be effective the following July 1 through the budget process. There will be no retro pay.

RULE 3.0 – ELIGIBILITY LISTS AND CERTIFICATION

All appointments and promotions to permanently funded positions in the Classified Service shall be made from an appropriate eligibility list. No permanent appointment in the Classified Service may be made of a person not on an eligibility list. A temporary appointment to a vacant permanent position shall be terminated within a reasonable period when an eligibility list containing five (5) or more names is established.

3.1 Promulgation of Eligibility Lists

The Human Resources Director shall administer the preparation and maintenance of lists of persons eligible for appointment to specific classes or subdivisions thereof. Lists shall be either banded or in order of the candidates' final score on the exam process. If listed by candidates' final score, starting with the highest score, the names of eligibles passing the examination shall be placed on the list in order of their total final examination scores based upon the relative weight assigned to each test of the examination. In instances determined by the Human Resources Director in advance of the job announcement where the examination process does not result in a final score and/or the number of candidates warrants, the eligibility list shall be banded into appropriate subgroups (e.g., highly qualified, qualified, and minimally qualified).

3.2 Duration of Eligibility Lists

3.2.1 The eligibility list established from an examination shall be in effect from the date on which it is approved by the Human Resources Director.

3.2.2 Promotional eligibility lists shall remain in effect for one year and may be approved by the Human Resources Director to be extended up to twelve (12) additional months by written notice to the eligibles remaining on the list.

3.2.3 Open eligibility lists shall be valid and in effect for a period of six (6) months or one (1) year. Open eligibility lists may be extended to a maximum duration of eighteen (18) months, at the discretion of the Human Resources Director, prior to expiration. Eligibles remaining on the list shall be notified in writing of any extension of their eligibility period.

3.2.4 Names of candidates not chosen from an open eligibility list may be merged with names on a newly established list for the same classification but such names shall not remain on the new open list for more than six (6) months or one (1) year from the date of their original examination unless the list is extended under these rules. The names of individuals placed on an eligibility list as the result of a continuous recruitment shall remain on the list for a period of six (6) months or one (1) year unless the list is extended under these rules. Names on such lists shall be merged with others already on the list. The existence of an eligibility list prepared from an open recruitment shall not preclude the City from recruiting to establish a promotional list. The names of employees on promotional eligibility lists who resign, terminate or

are discharged from the service shall automatically be dropped from such lists.

3.3 Confidentiality of Eligibility Lists

Eligibility lists are confidential and the relative ranking and scores of eligibles on a list shall not be disclosed except that a specific individual's score may be disclosed to the eligible him/herself, the eligible's designated representative or the appointing authority of a department in which they may be considered for appointment.

3.4 Subdivision of Eligibility Lists

Where the duties of positions or efficiency of recruitment require, eligibility lists may be subdivided or separate lists established by the order of the Human Resources Director.

3.5 Correction of Eligibility List

Upon discovery that an omission or error has occurred in the preparation of an eligibility list, a corrected list shall be prepared by the Human Resources Director. Written notice shall be provided to any eligible whose relative standing on the list has been changed by the correction.

3.6 Removal of Names from Eligibility List

The Human Resources Director shall direct the removal from the eligibility list the name of any eligible who:

A. Is found to lack the minimum qualifications for the position or the examination;

B. Requests in writing that his/her name be removed;

C. Fails to respond to a communication from the Human Resources Department;

D. Fails to notify the Human Resources Department of a change in address, e-mail address or telephone number;

E. Waives certification from the list three (3) times (by declining interviews, declining job offers and/or similar actions resulting in a delay of their certification). Exceptions may be made when duly noted that an applicant is interested only in a specific department/division.

F. In the case of promotional examinations, termination (by resignation or discharge) from City employment.

G. Accepts appointment to a permanent position in the class for which the eligible list was established.

H. If the eligible person has made any false statement of material fact or willful omission of information in the application process.

3.7 Limit on Certification from Eligibility List

When a candidate has been certified for appointment from an eligibility list three (3) times under the same examination number, each of which has resulted in the appointment of another eligible, the candidate will continue to be certified; however the ranking of that candidate will not count or be included as part of the total number of candidates to be certified under paragraph 3.12 of these rules.

3.8 Veterans' Credit

3.8.1 Veterans honorably discharged or released from active military service under honorable conditions, not more than ten (10) years prior to application, and who served at least one-hundred-eighty (180) days active duty shall be entitled to an additional credit of five (5) points to be added to their final examination scores in determining their standing on a non-promotional eligibility list.

3.8.2. Veterans' credit shall be available only for the first employment with the City.

3.8.3 "Veteran" as used herein is defined as any person who served in the U.S. Army, Navy, Marine Corps, Coast Guard, Air Force or Army or Navy Nurse Corps in time of war and received an honorable discharge, release or certificate of honorable active service. Proof of such service must be presented prior to time of promulgation of the eligibility list.

3.8.4 Veterans' Credit shall be added to final examination scores of said veterans who have attained a passing grade in the examination without the addition of such credit.

3.9 Certification of Names from Eligibility List

3.9.1 When a vacancy occurs in the Classified Service, the appointing authority shall request from the Human Resources Director the certification of names from the appropriate eligibility list. Upon receipt of such request, the Human Resources Director may review the work of the position, if necessary, to determine if it is properly classified.

3.9.2 The appointing authority shall indicate whether it is desired to fill the vacancy by reinstatement, transfer or demotion, or whether certification from an open-competitive or promotional list is preferred.

3.10 Types of Eligibility Lists

3.10.1 Re-employment Lists - shall consist of the names of employees who have been laid off from the same class or a higher class in the series within the most recent two years. The candidates shall be ranked in the order of their layoff date. When a vacancy occurs for which a re-employment list exists, the names on the list shall be considered for appointment prior to the certification of other names from an eligibility list. In addition, employees who have been laid off may

submit Reinstatement Requests for comparable eligible positions as set forth below.

3.10.2 Reinstatement Lists - shall consist of names of eligible former employees who have requested reinstatement to the same class or a lower class to which, considering the qualification requirements of the job and not the qualifications of the individual, the regular employee would have been qualified to voluntarily demote. Eligible former employees are those employees who have passed probation and are rehire eligible. Upon request of the eligible former employee, and approval by the Human Resources Director, the name of each such candidate shall be placed on the reinstatement eligible list as an additional eligible and shall not count as a score or rank in determining the number of names which are to be certified. Former regular employees are eligible for reinstatement to a classification in which they held permanent status for an eighteen (18)-month period beginning at the date of separation.

3.10.3 Transfer Lists - shall consist of the names of regular employees who have requested transfer and meet the employment standards for another comparable position in the same class series or a lower position in the same or lower class series (voluntary demotion), or a position for which the qualification requirements of the job are comparable to, or lower than, the employee's current classification. Employees on the Transfer List will not have rights to interview, however, he transfer list will be provided to all departments simultaneously with the promotional or eligibility list. Additional eligibles shall not be considered as scores or ranks in determining the number of names to be certified. A Transfer Request must be filed with the Human Resources Department by a current, regular employee and shall remain valid for twelve (12) months from the date of approval by the Human Resources Department staff.

3.10.4 Promotional Lists - shall consist of the names of eligible qualified current employees, ranked in the order of their competitive scores or grouped into bands as determined before the recruitment opens.

3.10.5 Open Lists - shall consist of the names of eligible persons who have successfully completed the application/examination process required for the class.

3.11 Inactive Eligibles

3.11.1 Upon request of the eligible, the name of an eligible that is temporarily not available for appointment may be placed in an inactive status. The eligible may be restored to active status upon request by the eligible provided the eligible list has not expired.

3.11.2 An eligible may also request to be placed in an inactive status regarding certification to specific departments.

3.11.3 If the Human Resources Department is notified of the eligible's desire not to be certified to any or some vacancies prior to certification, such request shall not be considered as a waiver of certification in determining cause for removal of the name from the eligibility list.

3.12 Number of Names to be Certified

3.12.1 Open Eligibility List: The Human Resources Director shall certify a minimum number of candidates per each vacancy to be filled. If the list is ranked by final examination score, a total of three (3) names plus one (1) name for each vacancy being filled will be provided to the hiring authority. If the eligibility list was banded, all candidates within a band shall be certified. If there are less than four (4) candidates available to be certified, the department director requesting the names shall have the option to request the Human Resources Director approve that interviews may be conducted with less than four (4) candidate names or request that the exam process be opened to provide more candidate names.

3.12.2 Promotional Eligibility List: The Human Resources Director shall certify a minimum of candidates per each vacancy to be filled. If the list is ranked by final examination score, a total of three (3) names plus one (1) name for each vacancy being filled will be provided to the hiring authority. If the eligibility list was banded, all candidates within a band shall be certified. Department directors or his/her designee shall offer an interview to each candidate from a promotional eligibility list that is certified. If additional openings result in the same names being provided to the department director a second time within six (6) months, department directors are not required to reinterview candidates each time their name is recertified. This is contingent upon the Department Director having notified candidates at the time of the first interview that the interview process is good for six (6) months if there are any additional openings in the next six (6) months.

3.12.3 At the discretion of the Human Resources Director, an Eligibility List may be "banded" when candidate's qualifications and skill sets are comparatively similar within groups of the applicant pool. In the case of a banded list, a minimum of three (3) names plus one (1) name shall be certified, and all candidates within a band shall be certified. If a band does not include the required minimum number of candidates, the next band will be added to the certification.

3.12.4 Department appointing authorities must interview all candidates certified from an Open or Promotional Eligibility List, unless the candidate waives or fails to respond to the certification.

3.13 Alternate List

3.13.1 The Human Resources Director may certify names from an eligibility list for a higher classification in order to fill a vacancy in a lower classification, when job duties are of a similar nature. In no case shall names be certified from an eligibility list for a lower classification to fill a vacancy in a higher classification. In the event a person does not satisfactorily complete his/her probationary period in a lower level classification, his/her name shall be removed from the eligibility list for the higher level classification from which he/she was appointed.

3.13.2 A waiver of certification from a related eligible list shall not affect the standing of an eligible on the primary list.

3.14 Objection and Substitution

An objection to any eligible certified may be stated in writing by an appointing authority to the Human Resources Director. If the objection is sustained upon investigation by the Human Resources Director, the name of that eligible shall be withdrawn from certification and another name substituted, if required. Notice of withdrawal of certification shall be sent by the Human Resources Department to the eligible against whom the objection was sustained, giving the reasons therefore.

3.15 Insufficient Names on an Eligibility List

When an eligibility list contains fewer than four (4) available names, the appointing authority may elect to:

A. Make an appointment from those eligible.

B. Accept additional names from an eligible list in a senior classification within the job class of the vacancy, if applicable;

C. Temporarily assign an employee to the position in accordance with applicable Memorandum of Understanding provisions;

D. Call for a new examination. The eligibles remaining on the current eligibility list shall continue to be certified along with those from the new list until the expiration of their eligibility period.

3.16 Selective Eligibility

Candidates may elect to limit distribution of their name for hiring consideration to certain specified positions, shift assignments, departments, or areas.

RULE 4.0 – RECRUITMENT AND EXAMINATIONS

4.1 Filling Vacancies

All vacancies in the competitive service shall be filled by reinstatement, transfer, demotion, reemployment, or by appointment from an eligibility list established by an open competitive, or internal promotional recruitment. In the absence of persons eligible for appointment in these ways, temporary or acting appointments may be made in

accordance with these rules. Acting appointments shall be limited to 180 days, but may end at any time without advance notice or right-of-appeal.

4.2 Fair Employment Practices

Any technique or procedure used in recruitment and selection of employees shall be designed to measure only the job-related qualifications of applicants. No recruitment or selection technique shall be used which, in the opinion of the Human Resources Director, is not justifiably linked to successful job performance.

4.3 Types of Recruitment: The determination of the type of recruitment to be conducted shall be made by the Human Resources Director. Recruitments may be conducted in any of the following manners:

A. Open Competitive

Open competitive recruitments shall be those in which any individual may apply.

B. Internal Promotional

Internal recruitments shall be those in which any regular City employee who has passed the original probationary period may apply (excluding Temporary/Extra-Help Employees).

C. Continuous Filing or Open-Until-Filled Recruitments

An open competitive recruitment may be conducted on a "continuous filing" or "open until filled" basis, when deemed necessary by the Human Resources Director. A Continuous Filing or Open-Until-Filled recruitment does not have a specified filing period, but continues at the discretion of the Human Resources Director. Examinations may be given repeatedly and names placed on eligibility lists on a continuous basis. The names of all eligibles who took the same test on different dates shall be ranked by score on one (1) eligible list until the expiration of their individual eligibility periods.

4.4 Job Announcements

All examinations shall be announced on the City's website or in a bulletin which shall specify at least the title and pay of the class for which the examination is announced, the nature of the work to be performed, the preparation desirable for the performance of the work of the class, the manner of making applications, the date for deadline of filing applications, and other pertinent information. Job announcements shall be posted in the Human Resources Department. Special recruiting methods shall be utilized if necessary to ensure that all appropriate segments of the labor market available to the City are utilized.

4.5 Applications

4.5.1 Application shall be made as prescribed on the examination announcement. If prescribed by the Human Resources Director, application for employment with the City of Oceanside shall be made on-line via the City's website. Additional documentation such as supplemental questionnaires, certificates,

licenses, records, etc., may be required at time of application. Failure to submit all required documentation shall make the application incomplete and candidates' names shall not be considered complete unless all requested documents are submitted before the close of the application period.

4.5.2 Applicants shall submit a complete, electronically signed application for each examination. Applicants shall complete applications on line in sufficient detail to allow comprehensive review and evaluation and shall certify the truth of all statements contained on the application.

4.5.3 Any false statement or willful omission of information on the application forms may be grounds for rejection of the application or subsequent discharge of the employee.

4.5.4 4.5.5 Electronic applications must be submitted only via the City's online internet application program available on the City website. Such applications must be submitted via the application program by the close of business on the final filing date.

4.5.6 Accurately completed application packets are the sole responsibility of the applicant. Applicants submitting defective/incomplete applications will be provided with notice to amend the same within a determined timeframe, providing the time limit for receiving applications has not expired, subject to the discretion of the Human Resources Director. Minor defects or omissions in an application on file may be corrected at the discretion of the Human Resources Director.

4.5.7 Applications submitted to the Human Resources Department shall become the property of the City and will not be returned to applicants.

4.6 Disqualification of Applicants.

4.6.1 The Human Resources Director may reject an application, disqualify an applicant in any phase of the examination, or refuse to place a name on an eligibility list for any of the reasons listed:

A. Indicates on its face that the applicant does not possess the minimum requirements established for the examination or position for which application has been made.

B. Failure to file the application correctly or within the prescribed time limits.

C. False statement or omission of any material fact or attempted deception or fraud in the examination process.

D. Physical inability to perform the essential duties of the class.

E. Conviction of a crime which renders the applicant unsuitable for a position in the class.

F. Directly or indirectly obtaining information regarding the examination to which the applicant is not entitled.

G. Has failed to submit a complete and/or signed application within the specific time limits.

H. Has failed to reply to communications concerning availability for employment.

I. Has made himself/herself unavailable for employment by requesting that his/her name be withheld from consideration.

4.6.2 If an applicant is deemed disqualified for any of the above reasons, the Human Resources Director will notify the applicant or eligible in writing at his/her last known address, of the action taken. Notification by e-mail shall be an acceptable method of notification of disqualification if the applicant has provided an e-mail address on their application. An applicant has the right to respond orally or in writing within five (5) working days from the date of mailing/e-mailing to the Human Resources Director, with no further right of appeal.

4.7 Criminal Convictions. Convictions (including pleas of guilty and nolo contendere) *may* disqualify an applicant from employment by the City. Criminal convictions *do not necessarily* disqualify individuals from employment with the City. In determining whether an individual with a conviction is disqualified, the Human Resources Director will consider the following factors:

A. The employment classification to which the person is applying, including its sensitivity;

B. Nature and seriousness of the conduct;

C. The length of time since the conduct;

D. The age of the individual at the time of conduct;

E. Circumstances surrounding the conduct;

F. Contributing social or environmental conditions; and

G. The presence or absence of rehabilitation or efforts at rehabilitation.

4.8 Qualification Appraisal Devices. The Human Resources Director shall determine the manner, methods and by whom qualification appraisal devices (examinations) shall be prepared and administered. All examination devices shall be job-related, impartial and developed from job information. Examinations shall test for the relative fitness of candidates to execute the duties and responsibilities of positions within the class.

Examinations shall consist of one or more recognized personnel selection techniques: application review, training and experience evaluation, written tests, personality assessments, qualification appraisal boards, skills assessment centers, performance demonstrations, psychological evaluations, physical ability tests, evaluations of work samples, medical examinations, background investigations, or any combination of these or other tests. The probationary period, which may include the evaluation of daily work performance and work samples and the successful completion of prescribed training, shall be considered as an extension of the examination process.

4.9 Modification or Suspension of Examination. The Human Resources Director or designee may modify the examination process as announced, by notifying eligible applicants of the modification.

4.10 Scoring. The Human Resources Director or his/her designee shall establish a procedure for scoring each examination. When a review of the scoring indicates an adjustment can be justified, the Human Resources Director or his/her designee may adjust scoring or the pass point to minimize the adverse effect. Portions of the examination may be qualifying only, and not calculated into the final score. Failure in one (1) portion of the examination may be grounds for declaring the candidate as failing the entire examination or as disqualified for subsequent parts of the examination.

4.11 Notification of Scores. Each candidate in an examination shall be given written notice of the results thereof. The Human Resources Director may, at his/her discretion, withhold subset scores of a test until all portions of the test have been completed.

4.12 Examination Review. For a period of five (5) working days immediately following the date of scoring results notification from any non-standardized test, candidates may inspect a keyed copy of the test in the Human Resources Department. Manifest errors in test keys called to the attention of the Human Resources Director during this period shall be corrected and rankings on the eligibility list revised, if necessary. Such revisions shall not, however, invalidate appointments previously made.

If the test is copyrighted or provided through other jurisdictions which require confidentiality of materials, candidates shall not be permitted to review the examination. Rating records of interviews or performance demonstrations such as assessment centers or qualification appraisal boards are confidential and may not be reviewed by candidates, but verbal feedback regarding rating records may be provided upon request to individual candidates, provided such request is made according to the timeline indicated above for examination review. Candidates shall not copy any examination materials.

4.13 Disclosure of Examination Results: Final scores, or subset test results of candidates whose names are certified from an eligibility list, may be provided to appointing authorities upon request. Scores of candidates failing examinations will not be provided to appointing authorities.

RULE 5.0 – APPOINTMENTS AND PROBATIONARY PERIODS

All vacancies, other than temporary and provisional vacancies, in the Classified Service shall be filled by reemployment, reinstatement, transfer, demotion, or from eligibles certified by the Human Resources Director from an eligibility list. Temporary appointments may be permitted in accordance with these rules.

5.1 Types of Appointments:
Appointments to City service are divided into the following categories:

5.1.1 Probationary - Shall be the appointment of a person to an authorized position which the employee must serve a probationary period of a certain designated time span to demonstrate fitness for the position.

5.1.2 Regular - Shall be the appointment of a person who has satisfactorily completed his/her probationary period to an authorized position.

5.1.3 Acting - Shall be the temporary assignment of a regular or probationary employee to a higher level classification to fill a vacant position or to provide a replacement for an employee who remains on a leave of absence. Employees placed in an Acting appointment must meet the minimum qualifications of the Acting position. Acting appointments shall be limited to one hundred eighty (180) days, but may end at any time without advance notice or right of appeal.

5.1.4 Temporary - Shall be the appointment in one of the categories listed below of a person to a position intended to be occupied on an intermittent basis to cover increased workloads of limited duration, necessary vacation relief and other situations involving fluctuating staff:

Employees, whose appointments are temporary, except as required by the California Public Employee's Retirement System (CalPERS) or as specified in these rules or by City Resolution or Ordinance, shall not be covered by the City's group insurance, disability, retirement, or other benefit programs; nor do they accrue vacation, holiday or sick leave benefits. Provisional appointments are also temporary and may be made to fill a temporary vacancy created when the incumbent is on long-term leave that is approved by the City Manager. The provisional employee will be temporary and shall not gain permanent status in this position through this appointment. Temporary employees are exempt from the competitive service except as noted herein.

A. Extra Help Appointment - Any appointment not exceeding 1,000 hours per fiscal year.
B. Emergency - To meet immediate needs of an emergency (e.g., civil disaster).

5.1.5 Provisional – A grant funded appointment to fill positions created through special government programs for which the City is fully or partially reimbursed may be made of persons who have not been certified from an eligible list. These persons may receive benefits such as vacation, sick leave, retirement, and insurance if required by the government program. Upon completion or cancellation of the program, these appointments shall be terminated.

5.1.6 Voluntary Demotions – An employee who has successfully completed the probationary period in his/her present class may request a voluntary demotion to a lower classification for which he/she meets the minimum qualifications with the approval of the Human Resources Director. An employee wanting to return to his/her former class after accepting a voluntary demotion shall not have any absolute right to return to the former class, but may request reinstatement to the former classification within a twelve (12) month period from the date of the voluntary demotion.

The salary of an employee who is voluntarily demoted to a position of a job classification with a lower salary than the job classification from which the employee was demoted shall be reduced to the salary step in the range for the new classification.

5.1.7 Reinstatement – Appointment of an eligible former employee to a regular position, comparable to, or lower than, his/her previously-held position.

5.2 Probationary Period.

5.2.1 The probationary period shall be regarded as a part of the selection process and shall be utilized for the purpose of determining the employee's ability to satisfactorily perform the duties prescribed for the position and determining the employee's ability to work with other employees.

5.2.2 The first six (6) months worked after an employee has been hired shall be a probationary period during which he or she will be considered as in training, except that Police Officers', Firefighters', and other designated classes' probationary periods shall be one calendar year of actual service (for Firefighters' the one year shall commence at the successful completion of the Fire Academy). The probationary period is an extension of the examination process and the employee's performance shall be carefully observed. Periods of time on paid or unpaid leave (excluding holidays), exceeding fourteen (14) days (consecutive or not) shall automatically extend the probationary period by that number of days the employee is on leave.

5.2.3 Probationary appointments may be terminated at any time without the right of appeal or hearing. Notification of termination shall be in writing and shall be given to the probationary employee with a copy to the Human Resources Director.

5.2.4 Probationary periods may be extended, under certain circumstances upon recommendation of the Department Head and approval of the Human Resources Director. Such extension shall be for no longer than six (6) months. If the Department Head or designee determines that the probationary period should be extended, the probationary employee shall be given notice in writing prior to the expiration of the original probationary period.

5.3 Probationary Period for Promotions and Demotions

5.3.1 When an employee is promoted to a higher classification or demoted, the probationary period shall be six (6) months. A new probationary period need not be served when demoting to a classification in which an employee previously held regular status, or to a lower classification in the same classification series when the employee has held regular status in a higher classification in that classification series. When a Public Safety Employee is promoted to a higher classification, unless defined differently in the respective Memorandum of Understanding, the probationary period shall be twelve (12) months. All other provisions of Personnel Rule 5.1 shall apply to probationary periods which result from a promotion.

5.3.2 If an employee is serving his or her initial probationary period and is promoted by either reclassification or a competitive exam, the employee shall obtain regular status in the position from which he or she promoted. The employee shall be required to serve a promotional probationary period in accordance with these rules.

5.3.3 An employee rejected during the probationary period following a promotional appointment shall be reinstated to a position in the former classification from which the employee was promoted. Provided, however, that if the cause for not passing probation was sufficient grounds for termination the employee shall be subject to termination without reinstatement to the lower position. Such termination shall be subject to discipline procedures as contained in these Rules.

5.3.4 While serving a probationary period an employee may be promoted to a position in a higher class provided the employee is certified from the appropriate eligibility list in accordance with these rules. If an employee is promoted during a probationary period, the employee shall serve a new complete six (6)-month probationary period for the new class beginning with the date of appointment to the new class.

5.3.5 If a probationary employee is reverted to his/her prior lower position because of a rejection following promotion, the employee shall be subject to probation at the lower classification for the balance of the previous probationary term as of the date of promotion.

5.4 Designated Disaster Service Worker

Upon appointment to employment by the City of Oceanside, all public employees are designated as "disaster service workers" pursuant to Government Code Section 3101.

RULE 6.0 - DISCIPLINE

An employee in the classified service who has regular status shall be subject to disciplinary action only for reasonable cause. Disciplinary action shall mean written reprimand, suspension with or without pay, reduction in pay, demotion or terminations. Disciplinary action shall be in compliance the Firefighters Procedural Bill of Rights Act and the Public Safety Officers Procedural Bill of Rights Act).

6.1 Causes for Disciplinary Action

Employee misconduct may be cause for disciplinary action. Such misconduct shall include, but not be limited to, any of the following:

A. Conviction of a felony or a misdemeanor involving moral turpitude.
B. Misuse, misappropriation, or negligent handling of City property or funds.
C. Falsification of City records.
D. Unexcused or excessive absence from duty.
E. Abandonment of position (defined as an unauthorized absence of three consecutive working days).
F. Excessive tardiness or failure to stay at work in accordance with the scheduled hours of assignment.
G. Fraud in securing appointment.
H. Wrong doing, misconduct, or failure to carry out the duties of office or employment.
I. Dishonesty or theft.
J. Asking for, agreeing to accept, or accepting any bribes, favors, or gratuities.
K. Discourteous treatment of the public or other employees.
L. Incompetence, inefficiency or negligence in the performance of duties.
M. Insubordination.
N. Unauthorized soliciting on City property or while on duty.
O. Engaging in inconsistent, incompatible or conflicting employment, activity, or enterprise.
P. Gambling on City property or while on duty.
Q. Being in the unauthorized possession of alcoholic beverages or controlled substances, or being intoxicated, while on duty.
R. Violation of any of the provisions of the City Code, Personnel Rules and Regulations, Memoranda of Understanding, Unrepresented Compensation Plan, safety rules, or departmental rules and regulations.
S. Other serious or socially reprehensible conduct either during or outside of duty hours which is of such a nature that it causes public discredit to the employee's department or employment.

6.2 Pre-disciplinary Procedures

Prior to making the final decision to discharge, suspend, demote, or reduce in pay any permanent employee in the classified service, the Department Director or his/her designee shall follow the steps outlined below:

6.2.1. Prior to proposing that disciplinary action be taken, the Department Director or his/her designee shall discuss proposed discipline with the Human Resources Director and City Attorney. The Department Director or his/her designee shall first conduct a complete investigation and gather all of the facts and materials upon which the proposed charges are to be based.

6.2.2 The employee shall be notified, in person if possible, and provided with a written statement of the proposed action, the charges on which the action is based, the rules, regulations or policies violated, and the employee's right to respond to the charges.

6.2.3 The employee shall be provided with a copy of any materials to be used to support the charges, if practical. If provision of these documents is not practical, the notice shall list such documents and describe how they may be reviewed by the employee.

6.2.4 The employee shall be provided with an opportunity to respond to the charges either orally or in writing. The amount of time allowed should be commensurate with the complexity of the charges, the severity of the proposed action and urgency of the situation. Appeal process guidelines are defined in the appropriate memorandum of understanding or compensation plan.

6.2.5 Following the response period and any subsequent fact finding or investigation, the appeal officer shall notify the employee in writing of the final decision. This notice shall put any disciplinary action into effect and will include a statement of charges upon which the action is based and notice of the employee's right to appeal, if any.

6.2.6 Notice of discipline should be handed to the employee, whenever feasible, before the employee has left the work premises. In any event, proof of delivery and the date of delivery are mandatory so there will be no doubt as to the beginning of any appeal period. If the notice cannot be given to the employee before leaving the work premises a postal return receipt for certified mail must be used.

Note: If the employee should refuse to sign such receipt, a signed notation to that effect by the employer on official copies of the notice shall suffice.

6.2.7 Written notice must be signed by the Department Director or his/her designee, and should note that copies are to be distributed to the Human Resources Director.

6.3 Disciplinary Actions

The procedure for, and appeal of, a disciplinary action as outlined below shall conform to the applicable, ratified Memorandum of Understanding, if any. Department Directors or his/her designee should first discuss personnel matters with the Human Resources Director and City Attorney prior to issuance of any written discipline.

If the employee to be disciplined is a "peace officer" as defined by Government Code § 3301, the disciplinary action must also comply with Government Code § 3300 et seq., commonly referred to as the "Public Safety Officers Procedural Bill of Rights Act."

6.3.1 Written Reprimand - A Department Director or his/her designee may reprimand an employee by furnishing him/her with a written statement of the specific reasons for the reprimand and notification that unless improvement occurs immediately, further disciplinary action will result. Pre-disciplinary actions described in Section 6.2 above are not required for Reprimands.

6.3.2 Suspension Without Pay - As a disciplinary action, a Department Director or his/her designee may temporarily remove an employee from his/her duties without pay.

6.3.3 Immediate Suspension Without Pay - When the Department Director or his/her designee deems necessary to immediately remove an employee from the worksite for the remainder of the work shift, the pre-disciplinary procedures described above shall be carried out within five (5) working days after the action to remove the employee.

6.3.4 Demotion - A Department Director may reduce the salary of an employee for reasons of unsatisfactory performance. This is appropriate where the employee is incapable of doing his/her job satisfactorily. Reductions in pay should not be used in cases of misconduct.

6.3.5 Discharge – A Department Director may terminate an employee's employment with the City. This is the final and last resort step in the progressive discipline process.

RULE 7.0 – LAY OFF AND REEMPLOYMENT

Whenever it becomes necessary, in the judgment of the City, due to lack of work, lack of funds, contracting out of the duties of the position or other legitimate economic reasons, or because the necessity for a position no longer exists, the City may abolish any position or employment, and the employee holding such position or employment may be laid off without disciplinary action and without the right to appeal the concept of the lay off, except as provided herein. This procedure shall not be used for disciplinary reasons.

7.1 Lay Off Procedure

Layoff of any employee within a City Department shall be made in the following order:

A. Employees shall be laid off by classification in the reverse order of classification seniority in the Department, with temporary, then probationary employees being laid off before regular employees.

B. In the event there is more than one employee in the Department with the same classification seniority, then lay off shall be made on the basis of departmental seniority.

C. In the event there is more than one employee in the Department with the same classification and departmental seniority, then lay off shall be made on the basis of City seniority.

D. In the event there is more than one employee in the Department with the same classification, departmental and City seniority, then lay off shall be made on the basis of the employees' job performance as determined by the City Manager or his/her designees.

E. In the event the department has been merged or split into different departments in the past, the dates of departmental assignment for purposes of determining seniority (after receiving input from the Exclusively Recognized Employee Organization representing the classification) shall be determined by the Human Resources Director whose determination shall be final.

F. The only exception to the above described order shall be where an employee within an affected classification has an identified exceptional skill, knowledge or ability particular to the work being performed and which more senior employees do not possess. The determination that such an employee has such particular skill, knowledge or ability may be made only by the City Manager or Human Resources Director. Any employee, who would not have been laid off, but for such a determination by the City Manager/Human Resources Director, may appeal the validity of such determination beginning with Step 4 of the Grievance Procedure.

7.2 Notice to Lay Off

The City shall give all affected employees and their Exclusively Recognized Employee Association, if any, at least thirty (30) calendar days written notice of any impending lay off, except in the event of an emergency situation, the City shall give no less that ten (10) calendar days notice. If the City fails to give an affected employee the required notice, the employee shall be entitled to payment of regular wages in lieu of such notice for each additional day the employee would have been in a paid status had he or she received the required notice. In no case will an employee receive in excess of one (1) calendar month (ten (10) calendar days in case of emergency) of regular wages. The notice shall include the following:

A. The effective date of the lay off.

B. The reason for the lay off.

C. The job classification, if any, within the employee's present department into which the employee may retreat as otherwise provided in this procedure.

D. The vacancies in job classification, if any, in other departments into which the employee may retreat as otherwise provided in this procedure.

E. The rules governing recall/reemployment.

F. The availability of the Human Resources Department staff to assist the employee in seeking other employment.

7.3 Transfer to Avoid Lay Off

Prior to implementing any lay off, the City will transfer an affected employee to a vacancy in an equivalent job classification in the same department or another department, provided the affected employee meets the minimum qualifications and possesses the skills necessary to perform the new job.

7.4 Lay Off Due to Contracting for Service

If a regular City employee is laid off due to the City's contracting for the services performed by said employee, the City agrees to notify the employee and the employee's Association representative at least thirty (30) days prior to the effective date of the lay off.

7.5 Retreat

7.5.1 An employee affected by lay off shall have retreat rights to displace an employee in the same department who has less seniority in a lower class in the same class series, or in a lower classification in which the affected employee once had permanent status. In order to retreat to a lower or former class, an employee must have satisfactory performance and request such retreat action in writing to the Human Resources Department within ten (10) calendar days of receipt of the notice of lay off. Employees retreating to a lower or former class shall be placed at the salary step representing the least loss of pay. In no case shall the salary be increased above that received in the class from which the

employee was laid off. Employees retreating to a lower or former class shall serve a probationary period in the new class unless they have previously successfully completed a probationary period in the class.

7.5.2 An employee who is not eligible for retreat rights within the same department in which he/she is currently employed, as described above, and, who has previously served in another City department and has satisfactory performance, may displace an employee of such previous department who has less seniority in that department. Any such displacement shall only take place in the same classification that the affected employee currently holds, in a lower class in the same class series as that one currently held, or in a lower classification in which the affected employee once had permanent status. In order to retreat to a lower or former class, an employee must request such retreat action in writing to the Human Resources Department within ten (10) calendar days of receipt of the notice of lay off. Employees retreating to a lower or former class shall be placed at the salary step representing the least loss of pay. In no case shall the salary be increased above that received in the class from which the employee was laid off. Employees retreating to a lower or former class shall serve a probationary period in the new class unless they have previously successfully completed a probationary period in the class.

7.5.3 Any retreat right exercised under this procedure shall establish a new Evaluation Date for the affected employee.

7.6 Reemployment

7.6.1 The names of persons laid off in accordance with this procedure shall be entered upon a Reemployment List. Such lists shall be on the basis of job classification. If the affected job classification is utilized in only one department, then former employees shall be placed upon the Reemployment List for that job classification in the inverse order of their lay off date. If the affected job classification is utilized in more than one (1) department, then former employees shall be placed upon the Reemployment List for the job classification according to descending City seniority first and then descending classification seniority in the event that two (2) or more employees have identical City seniority. If two (2) or more employees have identical City and classification seniority, then the employees shall hold the same position on the Reemployment List. The list shall contain the name of the former employees; the former employees' departmental, City and classification seniority; and the former employees' date of lay off. Names of persons laid off from different departments or different lay off dates shall be combined into a single list.

7.6.2 In the event that the job classification from which a former employee has been laid off no longer exists, then the former employee shall have the opportunity to qualify for other reemployment lists for different job classifications. A former employee's eligibility for any particular reemployment list in such circumstances shall be determined by the City's standard hiring practices for

that position. A laid off employee shall notify the Human Resources Department within ten (10) calendar days of his/her lay off to which positions, if any, for which he/she desires to attempt to qualify.

7.6.3 The Reemployment List shall be made an addendum to any existing regular eligible list for each affected job classification for a period of twelve (12) months from the date of lay off. If no regular eligible list exists, the Reemployment List shall be used to establish a new eligible list. Such Reemployment List shall be considered by any appointing authority in filling a vacancy which arises in the same or lower job classification before consideration of an eligible list.

7.6.4 When a vacancy arises in a job classification for which a Reemployment List exists, the Human Resources Department shall notify those former employees whose names appear on the list. It shall be the responsibility of the former employee to keep the Human Resources Department informed of any address changes. Within ten (10) calendar days after receipt of the notice of vacancy, a former employee must inform the Human Resources Department of his/her availability and intention to accept re-employment, if offered. The names of all former employees on a Reemployment List willing to accept employment shall be certified to the appropriate appointing authority for consideration for re-employment. Such names shall be certified in the order in which they appear on the Reemployment List. No other applicant on any other eligible list shall be considered for appointment to the vacancy until all former employees on the reemployment list have been considered for appointment.

7.6.5 Upon reemployment, the former employee's salary shall be established at the salary step level held at the time of lay off, and the evaluation date for use in accordance with the salary step plan shall be the date on which reemployment begins. A reemployed employee shall be entitled to credit for all unpaid sick leave accrued prior to lay off (if employee has not previously cashed out sick hours at time of layoff) and shall accrue vacation leave at the same rate and maximum limitation such accruals were made at the time of the lay off.

RULE 8.0 – EMPLOYER-EMPLOYEE RELATIONS

The purpose of this rule is to implement Sections 3500 et seq. of the Government Code of the State of California (also know as the Meyers-Milias-Brown Act, hereinafter referred to as the Act) by providing for the administration of employer/employee relations.

8.1 Employee Rights.

Employees shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer/employee relations including, but not limited to, wages, hours and others terms and conditions of employment. Employees of the City shall also have the right not to join or participate in the activities of employee organizations. No employee shall be interfered with, intimidated, restrained, coerced or discriminated against by the City or by an employee organization because of his/her exercise of these rights.

8.2 City Rights.

Except as otherwise specifically provided in this rule, and subject to the right of an affected employee, personally or through his/her authorized representative, to dispute the actual application and impact of City actions, and of a Exclusively Recognized Employee Organization to claim that the exercise thereof violates the express provisions of an existing Memorandum of Understanding between the City and said Organization, the City has and retains the sole and exclusive rights and functions of management, including, but not limited by this enumeration intended to be limited to, the following:

A. To determine the merits, necessity, nature or extent of services to be performed, as well as the right to determine and implement its public function and responsibility, and the mission of its constituent departments, commissions and boards; and to determine budgets and appropriations of funds.

B. To determine the procedures and standards of selection of employment and promotion.

C. To direct its employees.

D. To take disciplinary action for just cause.

E. To relieve its employees from duty because of lack of work or for other lawful reasons.

F. To maintain the efficiency of governmental operations.

G. To determine the methods, means and personnel by which government operations are to be conducted.

H. To take all necessary actions to carry out its mission in emergencies.

I. To exercise complete control and discretion over its organization and the technology of performing its work.

J. To control and determine the use and location of City facilities, property, material, machinery and equipment.

K. To establish, implement and use employee performance standards, including, but not limited to quality and quantity appraisal standards, the frequency and criteria of employee performance appraisal, and the application and results of said appraisals.

L. To determine and establish measures to promote safety and to protect health and property.

8.3 Petition for Recognition Petition by Employee Organization

8.3.1 An employee organization which desires to be formally accredited as a Recognized Employee Organization, representing employees in any one of the employee groups for representation purposes, shall submit to the Employee Relations Officer a written request for recognition containing the following information:

A. Name of the employee organization and its status (e.g., corporate or otherwise).

B. Names and titles of each of the officers and directors of such employee organization.

C. The names and addresses of the members of such employee organization who are designated to accept, for all purposes, written notice on behalf of such employee organization.

D. A designation of the employee group for which such organization desires to represent.

E. A statement that the employee organization has proof of employee support to establish that a majority of employees in the employee group for representation purposes desires to be represented by the employee organization. Such written proof shall be submitted concurrently with the request for recognition in the form of a signed petition, certified election results or other proof satisfactory to the Employee Relations Officer and shall be subject to confirmation by him/her.

F. A copy of the Constitution and/or By-Laws, or Articles of Incorporation or documentation of any other organization existence, purposes and policies shall accompany the request. If a copy of the Constitution, by-Laws or Articles of Incorporation has been submitted in a request for recognition in the previous twelve (12) months, only the changes in such documents which have occurred since need be submitted.

8.3.2 After receiving acknowledgment of its status as a Recognized Employee Organization, as set forth in Rule 8.4, an employee organization's representative

shall immediately advise the Employee Relations Officer of any change with reference to the information required by Rule 8.3.1 of this Rule.

8.4 Recognition Procedures: City Response to Recognition Petition

8.4.1 Qualification of Organization: The Employee Relations Officer shall formally acknowledge and certify an employee organization as a Recognized Employee Organization as to a designated employee group for the purpose of representation specified in the request, only if he/she finds:

A. Such organization has complied with all of the requirements in Rule 8.3 and 8.4 hereof; and

B. The proposed representation unit is in an appropriate unit in accordance with Rule 8.7.

8.4.2 If an affirmative determination is made on the foregoing two matters, the Employee Relations Officer shall so inform the petitioning employee organization, shall give written notice of such request for recognition to the employees in the unit and shall take no action on said request for thirty (30) days thereafter. If either of the foregoing matters are not affirmatively determined, the Employee Relations Officer shall offer to consult thereon with such petitioning employee organization and, if such determination thereafter remains unchanged, shall inform that organization of the reasons therefore in writing. The petitioning employee organization may appeal such determination in accordance with Rule 8.9.

8.4.3 Open Period for Filing Challenging Petition

Within thirty (30) days of the date written notice was given to affected employees that a valid recognition petition for an appropriate unit has been filed, any other employee organization may file a competing request to be formally acknowledged as the exclusively recognized employee organization of the employees in the same or in an overlapping unit (one which corresponds with respect to some but not all the classifications or positions set forth in the recognition petition being challenged), by filing a petition evidencing proof of employee support in the unit claimed to be appropriate of at least thirty percent (30%) and otherwise in the same form and manner as set forth in Rule 8.3. If such challenging petition seeks establishment of an overlapping unit, the Employee Relations Officer shall call for a hearing on such overlapping petitions for the purpose of ascertaining the more appropriate unit, at which time the petitioning employee organizations shall be heard. Thereafter, the Employee Relations Officer shall determine the appropriate unit or units in accordance with the standards of these Rules. The petitioning employee organizations shall have fifteen (15) days from the date notice of such unit determination is communicated to them by the Employee Relations Officer to amend their petitions to conform to such determination or to appeal such determination pursuant to Rule 8.9.

8.5 Election Procedures

8.5.1 The Employee Relations Officer shall arrange for a secret ballot election to be conducted by a party agreed to by the Employee Relations Officer and the concerned employee organization(s), in accordance with its rules and procedures subject to the provisions of this Rule. All employee organizations who have duly submitted petitions which have been determined to be in conformance shall be included on the ballot. The ballot shall also reserve to employees the right of being unrepresented. Employees entitled to vote in such election shall be those persons employed in regular permanent positions within the designated appropriate unit who were employed during the pay period immediately prior to the date which ended at least fifteen (15) days before the date the election commences, including those who did not work during such period because of illness, vacation or other authorized leaves of absence, and who are employed by the City in the same unit on the date of the election. A representation election shall be valid if at least sixty percent (60%) of those eligible cast a ballot in the election.

8.5.2 An employee organization shall be formally acknowledged as the Exclusively Recognized Employee Organization for the designated appropriate unit following an election or run-off election if it received a numerical majority of all valid votes cast in the election. In an election involving three (3) or more choices, where none of the choices receives a majority of the valid votes cast, a run-off election shall be conducted between the two (2) choices receiving the largest number of valid votes cast; the rules governing an initial election being applicable to a run-off election.

8.5.3 There shall be no more than one (1) valid election under this Rule pursuant to any petition in a twelve (12)-month period affecting the same unit.

8.5.4 In the event that the parties are unable to agree on a third party to conduct an election, the election shall be conducted by the State Conciliation Service.

8.5.5 Costs of conducting elections shall be borne in equal shares by the City and by each employee organization appearing on the ballot.

8.6 Procedure for Revocation or Decertification of Exclusively Recognized Employee Organization

8.6.1 The status of an employee organization as a Recognized Employee Organization shall be revoked or suspended only if the Employee Relations Officer finds:

A. The Recognized Employee Organization or any of its officers, employees, agents, representatives or other persons acting under color of authority thereof has interfered with, intimidated, restrained, coerced or discriminated

against any public employee who is exercising, or who desires to exercise their legal rights, or

B. That the Employee Organization by its actions has interfered or encouraged, aided or assisted its represented employees to interfere with the normal operations and services of the City.

8.6.2 When it is alleged that grounds exist for the revocation of recognition as to a Recognized Employee Organization, the Employee Relations Officer shall set a time and place for hearing upon the issue of revocation and shall give at least ten (10) calendar days written notice thereof of the Recognized Employee Organization.

8.6.3 At the time set for such hearing, the Employee Relations Officer or designee acting as the hearing officer, shall consider all relevant, competent evidence relating to such charge or charges and, based upon the evidence so presented, shall determine whether or not the recognized status of the organization should be revoked. The decision of the Employee Relations Officer shall be final and conclusive.

8.6.4 A Decertification Petition alleging that the incumbent Exclusively Recognized Employee Organization no longer represents a majority of the employees in an established appropriate unit may be filed with the Employee Relations Officer only during the months of January or February of any year following the first full year of recognition. A Decertification Petition may be filed by two or more employees or their representative, or an employee organization, and shall contain the following information and documentation declared by the duly authorized signatory under penalty of perjury to be true, correct and complete:

A. The name, address and telephone number of the petitioner and a designated representative authorized to receive notices or requests for further information.

B. The name of the established appropriate unit and of the incumbent Exclusively Recognized Employee Organization sought to be decertified as the representative of that unit.

C. An allegation that the incumbent Exclusively Recognized Employee Organization no longer represents a majority of the employees in the appropriate unit, and any other relevant and material facts relating thereto.

D. Proof of employee support that at least thirty percent (30%) of the employees in the established appropriate unit no longer desire to be represented by the incumbent Exclusively Recognized Employee Organization. Such proof shall be submitted for confirmation to the

Employee Relations Officer or to a mutually agreed upon disinterested third party within the time limits specified in the first paragraph above.

8.6.5 The Employee Relations Officer shall initially determine whether the Petition has been filed in compliance with the applicable provisions of this section. If the determination is in the negative, the Employee Relations Officer shall offer to consult thereon with the representative(s) of such petitioning employees or employee organization and, if such determination thereafter remains unchanged, shall return such Petition to the employees or employee organization with a statement of the reasons therefore in writing. The petitioning employees or employee organization may appeal such determination in accordance with the appeal procedures outline in Rule 8.9. If the determination is in the affirmative, or if the negative determination is reversed on appeal, the Employee Relations Officer shall give written notice of such Decertification or Recognition Petition to the incumbent Exclusively Recognized Employee Organization and to unit employees.

8.6.6 The Employee Relations Officer shall thereupon arrange for a secret ballot election to be held on or about fifteen (15) days after such notice to determine the wishes of unit employees as to the question of decertification and, if a Recognition Petition was duly filed hereunder, the question of representation. Such election shall be conducted in conformance with Rule 8.5.

8.6.7 During the "open period" specified in the first paragraph above, the Employee Relations Officer may on his/her own motion, when there is reason to believe that a majority of unit employees no longer wish to be represented by the incumbent Exclusively Recognized Employee Organization, give notice to that organization and all unit employees that an election will be arranged to determine that issue. In such event any other employee organization may within fifteen (15) days of such notice file a Recognition Petition in accordance with this section, which the Employee Relations Officer shall act on in accordance with this section.

8.6.8 If, pursuant to this section, a different employee organization is formally acknowledged as the Exclusively Recognized Employee Organization, such organization shall be bound by all the terms and conditions of any Memorandum of Understanding then in effect for its remaining term.

8.7 Policy and Standards for Determination of Appropriate Units

8.7.1 The policy objectives in determining the appropriateness of units shall be the effect of a proposed unit on (1) the efficient operations of the City and its compatibility with the primary responsibility of the City and its employees to effectively and economically serve the public, and (2) providing employees with effective representation based on recognized community of interest considerations. These policy objectives require that the appropriate unit shall

be the broadest feasible grouping of positions that share an identifiable community of interest. Factors to be considered shall be:

A. Similarity of the general kinds of work performed, types of qualifications required, and the general working conditions.

B. History of representation in the City and similar employment; except however, that no unit shall be deemed to be an appropriate unit solely on the basis of the extent to which employees in the proposed unit have organized.

C. Consistency with the organizational patterns of the City.

D. Number of employees and classifications, and the effect on the administration of employer-employee relations created by the fragmentation of classifications and proliferation of units.

E. Effect on the classification structure and impact on the stability of the employee-employee relationship of dividing a single or related classifications among two or more units.

F. Notwithstanding the foregoing provisions, management and confidential employees shall not be included in any unit. Professional employees shall not be denied the right to be represented in a separate unit from non-professional employees.

8.7.2 The Employee Relations Officer shall, after notice to and consultation with affected employee organizations, allocate new classifications or positions, delete eliminated classifications or positions, and retain, reallocate or delete modified classifications or positions from units in accordance with the provisions of this section.

8.8 Procedure for Modification of Established Appropriate Units

8.8.1 Requests by employee organizations for modifications of established appropriate units may be considered by the Employee Relations Officer only during the period specified in Rule 8.6. Such requests shall be submitted in the form of a Recognition Petition and, shall contain a complete statement of all relevant facts and citations in support of the proposed modified unit in terms of the policies and standards. The Employee Relations Officer shall process such petitions as other Recognition Petitions under this section.

8.8.2 The Employee Relations Officer may on his/her own motion propose during the period specified Rule 8.6 that an established unit be modified. The Employee Relations Officer shall give written notice of the proposed modification(s) to any affected employee organization and shall afford all affected employee organizations an opportunity to be heard. Thereafter the Employee Relations Officer shall determine the composition of the appropriate unit or units, and shall give written notice of such determination

to the affected employee organizations. The Employee Relations Officer's determination may be appealed as provided in Rule 8.9. If a unit is modified pursuant to the motion of the Employee Relations Officer hereunder, an organization other than the Exclusively Recognized Employee Organization may thereafter file a Challenging Petition seeking to become the Exclusively Recognized Employee Organization for such new appropriate unit or units in accordance with these Rules.

8.9 Appeals

8.9.1 An employee organization aggrieved by an appropriate unit determination of the Employee Relations Officer may, within ten (10) days of notice thereof, request the intervention of the California State Mediation and Conciliation Service pursuant to Government Code Sections 3507.1 and 3507.3, or may, in lieu thereof or thereafter appeal such determination to the City Council for final decision within fifteen (15) days of notice of the Employee Relations Officer's determination or the termination of proceedings pursuant to Government Code Sections 3507.1 and 3507.3, whichever is later.

8.9.2 Appeals to the City Council shall be filed in writing with the City Clerk, and a copy thereof served on the Employee Relations Officer. The City Council shall commence to consider the matter within thirty (30) days of the filing of the appeal. The City Council may, in its discretion, refer the dispute to a third party hearing process. Any decision of the City Council on the use of such procedure, and/or any decision of the City Council determining the substance of the dispute shall be final and binding.

8.10 Impasse Procedures

8.10.1 Initiation of Impasse Procedures

If the meet and confer process has reached impasse as defined in this Rule, either party may initiate the impasse procedures by filing with the other party a written request for an impasse meeting, together with a statement of its position on all disputed issues. An impasse meeting may then be scheduled promptly by the Employee Relations Officer. The purpose of such meeting shall be:

A. To review the position of the parties in a final effort to reach agreement on a Memorandum of Understanding; and

B. If the impasse is not resolved, to discuss arrangements for the utilization of the impasse procedures provided herein.

C. If a meeting is not scheduled, the parties may mutually agree to utilize the impasse procedures set forth herein below.

8.10.2 Impasse Procedures:

Impasse procedures are as follows:

A. If the parties agree to submit the dispute to mediation and agree on the selection of a mediator, the dispute shall be submitted to mediation. All mediation proceedings shall be private. The mediator shall make no public recommendation nor take any public position at any time concerning the issues.

B. If the parties agree to, and do participate in mediation, and if the mediator is unable to effect settlement of the controversy, the employee organization may present a request to the City and the Public Employment Relations Board (PERB) to submit the impasse to fact-finding. This request by the employee organization to submit the impasse to fact-finding must be made no sooner than 30 day, but no later than 45 days, following the selection of a mediator by the parties.

C. If the parties do not agree to participate in mediation, the employee organization may present a request to the City and (PERB) to submit the impasse to fact-finding no later than 30 days following the date that either party has provided the other a written notice of declaration of impasse.

D. Within five (5) working days after PERB's determination that the request for fact-finding is sufficient, a fact-finding panel of three (3) shall be appointed in the following manner: One (1) member of the panel shall be appointed by the Employee Relations Officer, and one (1) member shall be appointed by the Exclusively Recognized Employee Organization. PERB shall, within five (5) working days after making its determination that the request for fact-finding is sufficient, submit the names of seven (7) persons, drawn from the list of neutral fact-finders established pursuant to Government Code Section 3541.3(d). PERB shall thereafter designate one of the seven (7) persons to serve as the chairperson unless notified by the parties within five (5) working days that they have mutually agreed upon a person to chair the panel in lieu of a chairperson selected by PERB.

E. The following constitute the jurisdictional and procedural requirements for fact-finding:

    a. The panel shall, within ten (10) days after its appointment (or as mutually agreed to by the parties in writing to extend the date), meet with the parties or their representatives, either jointly or separately, and make inquiries and investigations, hold hearings, and take any other steps it deems appropriate. The panel shall have subpoena power with regard to hearings, investigations and inquiries.

b. Subject to the stipulations of the parties, the fact-finders shall consider, weigh and be guided by the following measures and criteria in arriving at their findings and recommendations:
    i. State and federal laws that are applicable to the employer;
    ii. Local rules, regulations or ordinances;
    iii. Stipulations of the parties;
    iv. The interests and welfare of the public, and the financial ability of the public agency;
    v. Comparison of the wages, hours, and conditions of employment of the employees involved in the fact-finding proceeding with the wages, hours and conditions of employment of other employees performing similar services in comparable public agencies;
    vi. The consumer price index for goods and services, commonly knows as the cost of living;
    vii. The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays, and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received;
    viii. Any other facts not confined to those specified in paragraphs (i)-(vii), inclusive, which are normally or traditionally taken into consideration in making the findings and recommendations, including, but not limited to:
        1. Maintaining appropriate compensation relationships between classifications and positions within the City;
        2. Other legislatively determined and projected demands on agency resources (i.e., budgetary priorities as established by the governing body);
        3. Allowance for equitable compensation increases for other employees and employee groups for the corresponding fiscal period(s);
        4. Revenue projections not to exceed currently authorized tax and fee rates for the relevant fiscal year(s);
        5. Assurance of sufficient and sound budgetary reserves; and
        6. Constitution, statutory, and Municipal Code/ Charter limitations on the level and use of revenues and expenditures.

c. Within thirty (30) days after the appointment of the fact-finding panel, or, upon agreement by both parties within a longer period, the panel shall make written findings of fact and advisory recommendations for the resolution of the issues in dispute, which shall be presented in terms of the criteria and limitations specified above. Any member of a fact-finding panel shall be accorded the

right to file dissenting written findings of fact and recommendations. The fact-finder or chairperson of the fact-finding panel shall serve such findings and recommendations on the Employee Relations Officer and the designated representative of the Exclusively Recognized Employee Organization before they are made available to the public.

d. If the parties have not resolved the impasse within ten (10) days after service of the findings and recommendations upon them, the City shall make the findings and recommendations public by submitting them to the City Manager for consideration by the City Council in connection with the Council's legislative consideration of the impasse.

e. After any applicable mediation and fact-finding procedures have been exhausted, but no earlier than ten (10) days after the fact finders' written findings of fact and recommended terms of settlement have been submitted to the parties, the City Council may hold a public hearing regarding the impasse, and take such action regarding the impasse as it, in its discretion deems appropriate as in the public interest, including implementation of the City's last, best and final offer. Any legislative action by the City Council on the impasse shall be final and binding.

8.10.2 Costs of Impasse Procedures:

The costs for the services of the panel chairperson agreed upon by the parties shall be equally divided between the parties, and shall include per diem fees, if any, and actual and necessary travel and subsistence expenses. The per diem fees shall not exceed the per diem fees stated on the chairperson's resume on file with PERB. The chairperson's bill showing the amount payable by the parties shall accompany his or her final report to the parties and PERB. The parties shall make payment directly to the chairperson.

Any other mutually incurred costs shall be borne equally by the parties. Any separately incurred costs for the panel member selected by each party shall be borne by that party.

8.11 Miscellaneous Provisions

8.11.1 Construction

The Rule shall be administered and construed as follows:

A. Nothing in this Rule shall be construed to deny to any person, employee, organization, the City, or any authorized officer, body or other representative of the City, the rights, powers and authority granted by federal or state law or City Charter provisions.

B. Nothing in this Rule shall be construed as making the provisions of California Labor Code Section 923 applicable to City employees or employee organizations, or of giving employees or employee organizations the right to participate in, support, cooperate or encourage, directly or indirectly, any strike, sickout or other total or partial stoppage or slowdown of work. In consideration of and as a condition of initial and continued employment by the City, employees recognize that any such actions by them are in violation of their conditions of employment except as expressly otherwise provided by legally preemptive state or contrary local law. In the event employees engage in such actions, they shall subject themselves to discipline up to and including termination, and may be permanently replaced, to the extent such actions are not prohibited by preemptive law; and employee organizations may thereby forfeit any rights accorded them under City law or contract.

8.11.2 Severability

If any provision of this Rule or the application of such provision to any persons or circumstance, shall be held invalid, the remainder of this Rule or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

RULE 9.0 – ATTENDANCE AND LEAVES

This chapter sets forth the rules governing attendance and leave policies that apply to regular employees of the City. Appointing authorities may establish written policies and procedures for the implementation and administration of this Rule to facilitate the management of the personnel system within their employing units, provided that such policies and procedures do not conflict with the provisions of this Rule.

9.1 Attendance

9.1.1 Employees shall be in attendance at their work in accordance with the rules regarding hours of work, holidays and leaves and in accordance with the work schedule for each employee. All departments shall keep daily attendance records of employees which shall be reported to the Payroll Office (Financial Services Department) in the specified form and on the specified dates.

9.1.2 Unauthorized Leave of Absence
Failure on the part of an employee to report to duty as scheduled, or ordered within twenty-four (24) hours after notice to return, or to return to duty from an authorized leave, shall be cause for immediate discharge. Such notice to return shall have been made when the employee receives direct verbal notice to return to work from an authorized employee or when a written notice is personally delivered to the employee or when written notice with Return Receipt is requested by Certified Mail, addressed to the employee's last known place of address, and deposited in the United States Mail.

9.1.3 Current Address Records
It shall be the responsibility of the employee to provide the Human Resources and payroll offices with his/her most current mailing address.

9.2 Hours of Work
Daily hours of work (or shifts) for employees shall be assigned by Department Directors or designees as necessary to meet the operational requirements of said departments and in accordance with any existing Memoranda of Understanding.

9.3 Eligibility for Leaves
For the purpose of computing entitlement to leaves for illness and vacation, an employee's continuous service shall be based on the effective date on which he/she received initial probationary appointments in the City service.

9.4 Authorized Leave of Absence Without Pay (LWOP)

9.4.1 A Department Director may grant a regular employee a LWOP for a period of time not to exceed one (1) month. Requests for LWOP for periods of greater than one month must be approved by the City Manager. Under no

circumstances may LWOP be granted for a period that exceeds twelve (12) months.

9.4.2 Authorized LWOP shall only be approved in those cases where the employee can demonstrate a pressing need for such leave. LWOP will only be approved after the employee has exhausted all paid leave banks, with the exception of sick leave.

9.4.3 The request for LWOP must be in writing, signed by the employee and must set forth the reason for the request and the effective dates requested. The approval will also be in writing.

9.4.4 Failure on the part of the employee to return from such authorized LWOP promptly at its expiration date shall subject the employee to all provisions of Rule 9.1.1.

9.5 Effect of Leave of Absence Without Pay (LWOP)

Any LWOP which exceeds fourteen (14) calendar days shall result in a new salary anniversary date for the employee. Such date shall be based on his/her original salary date plus the number of calendar days of his/her leave in excess of fourteen (14) days.

Employees who are on an approved LWOP will be given their COBRA rights and shall be responsible for direct payment of all healthcare premiums. An employee may choose to continue those payments by his/her personal payment in accordance with procedures prescribed by the City's payroll office.

9.6 Administrative Leave

The City has the right to place an employee on leave at any time with full pay. An employee may be placed on administrative leave pending investigation of misconduct, potential disciplinary action, or other reasons that the Department Director or Human Resources Director, in his/her discretion, believes warrant such leave.

9.7 Bereavement Leave

A regular employee is eligible for three (3) days leave of absence on account of the death of a member of the employee's immediate family. In the case of employees whose normal work shift consists of a twenty-four (24)-hour duty assignment, he/she is entitled to two (2) twenty-four (24)-hour shifts' Bereavement Leave. An employee's immediate family shall consist of the employee's spouse, children, step-children and foster children; the employee's or spouse's grandparents, parents, step-parents, brothers or sisters; and other members of the employee's family residing in the employee's home.

Upon approval of the Department Director, additional bereavement leave may be granted in accordance with the applicable Memorandum of Understanding. These additional days shall be chargeable to sick leave.

9.8 Family Medical Leave Policy

9.8.1 In accordance with the Federal Family Medical Leave Act (FMLA) and the California Family Rights Act (CFRA), the City will grant FMLA/CFRA leave to eligible employees for up to twelve (12) weeks per twelve (12)-month period for any one or more of the following reasons:

A. The birth/adoption/foster care placement of a child. Such leave must be taken within the twelve (12)-month period following the child's birth or placement with employee.

If both husband and wife are employees of the City, a combined total of up to twelve (12) weeks per twelve (12) month period is allowed for leave for bonding with the child.

B. To care for an immediate family member (e.g., spouse, parent or child) if such family member has a serious medical condition.

C. To care for the employee's own serious medical condition.

9.8.2 Coverage and Eligibility

To be eligible for FMLA/CFRA leave an employee must:

A. Have worked for the City for at least twelve (12) months prior to the request for leave; and

B. Have worked at least twelve-hundred fifty (1250) hours over the previous twelve (12)-month period.

C. Have not previously exhausted FMLA/CFRA time eligible because of a previous request.

9.8.3 Administration of FMLA/CFRA Leave

FMLA/CFRA Leave shall be administered in accordance with the provisions of State and Federal Law and City guidelines, and shall be coordinated through the Human Resources Department.

9.9 Leave for Jury Duty

Regular employees called to serve as a juror shall receive compensation from the City for the difference between the pay received as a juror, except payment for mileage, and the employee's regular salary that would have been received but for jury duty.

If employee is released from jury duty mid-day where it is reasonable for him/her to return to work, he/she shall contact their supervisor to request to take leave time from their supervisor for the remainder of the work day or shall return to work.

9.10 Military Leave

Military leave shall be granted in accordance with the provisions of City, State and Federal Law. All employees entitled to military leave shall give the City written notice of the requirement for such leave and shall provide a copy of the documents ordering such military service.

9.11 School Related Leave

A regular employee who is a parent or guardian having custody of one or more children in kindergarten or grades 1 through 12 or attending a licensed day care facility shall be allowed up to forty (40) hours each school year, not to exceed eight (8) hours in any calendar month of the school year, without pay, to participate in activities of the school of their child. Such employee must provide reasonable advance notice of the planned absence. The employee may be required to use vacation and other accrued leave time off to cover the absence. The City may require the employee to provide documentation from the school as verification that the employee participated in school activities on a specific date and at a particular time. If both parents or guardian having custody work for the City, only the first parent requesting time off shall be entitled to leave under this provision.

9.12 Sick Leave

9.12.1 Regular employees shall earn sick leave in accordance with their representative Memorandum of Understanding or Compensation Plan. Sick leave may be granted because of illness, injury, exposure to contagious disease, necessary consultation with or treatment by a doctor or dentist, or necessary attendance to the illness or injury of a member of the employee's immediate family.

9.12.2 Employees may not utilize accrued sick leave for the sole purpose of extending employment with the City.

9.13 Time off for Victims of Violent Crime or Domestic Abuse

An employee who has been a victim of a violent crime or domestic violence may take time off to:

A. Appear in court to comply with a subpoena or other court order as a witness in any judicial proceeding;

B. Seek medical or psychological assistance; or

C. Participate in safety planning to protect against further assault.

The affected employee must provide reasonable notice that he or she is required to be absent for a purpose stated above. In cases of unscheduled or emergency court appearances or other emergency circumstances, the affected employee must, within a reasonable time after the appearance, provide the City with written proof that the

absence was required for any of the above reasons. Leave under this section is unpaid unless the employee desires and the City approves the use of paid accrued leave.

9.14 Time off to Vote

If an employee does not have sufficient time outside of working hours to vote at a statewide election, the employee may take up to two (2) hours off without loss of pay at the beginning or end of the day. Prior approval for this time off by the employee's supervisor is required.

9.15 Vacation Leave

9.15.1 All regular employees shall be entitled to annual vacation leave as provided in the representative Memorandum of Understanding or Compensation Plan.

9.15.2 Scheduling of employee vacation leave shall be at the discretion of the City with due regard to the wishes of the employee and the work requirements of the City.

9.15.3 Employees may not utilize accrued vacation for the sole purpose of extending employment with the City.

9.16 Disaster Evacuation Leave

When a disaster is declared that necessitates the mandatory evacuation of an employee from his or her home, or that necessitates the mandatory evacuation of an employee's immediate family member who needs the assistance of the employee and results in the employee's absence from work, the Disaster Evacuation Leave benefit may be used.

This section provides for up to three (3) days of paid administrative leave to cover such absences for employees.

The application of this benefit shall be on a case-by-case basis at the sole discretion of the City Manager, or his/her designee, who will review each situation for uniformity and consistency of application. The decision of the City Manager is final and binding.

9.17 Industrial Disability

Any employee suffering a duty-related injury or illness which prohibits that employee from the performance of regular job duties may request an absence from duty. Such request shall be submitted in the form of a Workers' Compensation claim. Upon the acceptance of any such claim by the City or the State Workers' Compensation Appeals Board, the employee shall be granted an absence from duty. Any employee granted a leave of absence for industrial injury/illness shall receive salary and fringe benefit compensation from the City for the duration of any such leave, as delineated in the State Workers' Compensation Laws.

Employees who are able to return to work with or without work restrictions will be assisted to do so in accordance with the "Stay at Work/Return to Work" Administrative

Directive AD-30. Reasonable Accommodations meetings will be provided for employees with doctor provided work restrictions.

9.18 Non-Industrial Disability

Any employee suffering a non-industrial injury or illness which prohibits that employee from the performance of regular job duties may request an absence from duty under State and Federal laws. Employees who are able to return to work with or without work restrictions will be assisted to do so in accordance with the "Stay at Work/Return to Work" Administrative Directive AD-30. Reasonable Accommodations meetings will be provided for employees with doctor provided work restrictions.

RULE 10 - DEFINITIONS:

Unless otherwise required by context and/or prevailing law, the following terms used in these rules are understood to have the following meanings:

Administrative Leave With Pay: Absence with full pay and benefits, ordered by a Department Head or the City Manager, when the City's interests require the employee to be away from the job.

Anniversary Date: (1) The date which signifies the completion of each year of service by a regular employee in a position. (2) The date an employee starts his/her probationary period for either original, promotional, or change in classification appointments.

Applicant: A person who has successfully completed and submitted an employment application for a position for which the City is currently recruiting.

Appointing Authority: City Manager, City Attorney, and Department Heads or designees authorized to make hiring decisions within a Department or Division. In the case of the City Manager and City Attorney, the City Council is the Appointing Authority.

Appointment: The selection of, and acceptance by, an applicant to a position in the City service in accordance with these rules.

Armed Forces: Armed Forces for the purposes herein shall include the United States Air Force, Army, Navy, Marine Corps and Coast Guard.

Authorized Position: A position funded and approved by the City Council in the current budget.

Break in Service: Severance of an individual's employment relationship with the City of Oceanside. For purposes of seniority and leave accrual only, a formal layoff with reemployment within the designated time period shall not be considered a Break in Service.

Candidate: A person who has applied for and meets the minimum qualifications of the position.

Certification: The action by which the authorized number of candidates from an eligible list are certified by the Human Resources Director to the appointing authority as eligible for appointment or promotion. This most often occurs through the Human Resources Department's scheduling of interviews and subsequent issuance of the interview schedule to the appointing authority. In certain circumstances a list of the names of the authorized number of candidates may be provided in lieu of an interview schedule.

City Seniority: A status determined by the length of an individual employee's continuous service as an employee in the City without a Break in Service. Only continuous classified service shall be considered in determining City Seniority.

Class/Classification: A group of positions with such similarity in respect to their duties and responsibilities that the same requirements as to education, experience, knowledge, and abilities are expected of incumbents and the same tests of fitness may be used to choose qualified employees.

Class Specification (also referred to as a job description): A written statement of the duties and responsibilities of the position(s) in the class, illustrated by examples of typical tasks, and of the qualification requirements of the position(s) in the class as determined by the Human Resources Director.

Classification Plan: The arrangement of classes, together with the titles and specifications describing each class.

Classification Seniority: A status determined by the total length of an individual employee's continuous service in the classification or an equal or higher ranking classification in the same class series without a Break in Service.

Classification Series: A group of classifications sharing similar functions but differing as to level of complexity, difficulty and responsibility.

Classified Service: All positions of employment in the service of the City, except those specifically included in the "Unclassified" service.

COBRA Rights: Consolidated Omnibus Budget Reconciliation Act of 1985 provides eligible employees and their family members the right to continue health care coverage at their cost after separation of employment.

Confidential Employee: An employee who in the course of his or her duties has access to information relating to the City's administration of employer-employee relations.

Continuous Examinations: An examination that is open on a continuous basis without a posted deadline for receipt of applications.

Continuous Service: A continuous period of regular (permanent) employment with the City, uninterrupted by termination or a Break in Service of such employment other than by lay-off.

Compensation: Any salary, additional pay, fee, or allowance paid to an employee for performing the duties and exercising the responsibilities of a position.

Days: Means calendar days unless otherwise stated.

Demotion: The placement of an employee from a position in one classification to a position in another classification that has a lower maximum salary.

Departmental Seniority: A status determined by the length of an individual employee's continuous service as a City employee within the affected department. Only continued

classified service shall be considered in determining department seniority without a Break in Service. In the event the department has been merged or split into different departments in the past, the dates of departmental assignment for purposes of determining seniority shall be determined by the Human Resources Director after consultation with Association. The Human Resources Director's determination shall be final.

Discharge or Dismissal: Separation from City service for cause.

Disciplinary Actions: Actions taken with the objective of obtaining employee compliance with rules, orders, procedures, standards of conduct and/or expected job performance when non-disciplinary corrective actions do not achieve compliance, or a particular event is serious enough to warrant disciplinary action on its own.

Eligibility List: A rank order, or banded order, list of the names of persons who have qualified in a merit system examination for the selection of employees for a specific class. In the event of tie scores, more than one name may hold the same rank.

Eligible: A person whose name is on an eligibility list.

Employee: Any person appointed to fill an authorized employment position in the City service. Elected officials, volunteers, unpaid interns, and those appointed to advisory boards, committees, and commissions are not employees.

Employee Relations Officer: The City Manager or his/her duty authorized representative in all matters of employer-employee relations.

Entry Level: The initial position in a class series.

Examination: The process utilized to evaluate the relative skills and knowledge of an applicant for prospective employment.

Exclusively Recognized Employee Organization: A labor organization which has been designated by the City to hold exclusive representation rights for a designated group of employees who have voted to have the organization represent them.

Exempt: An employee in a specific classification who, according to the Fair Labor Standards Act (FLSA) is exempt from the City's overtime policies and is compensated for overtime through Administrative Leave, accumulated per specifications outlined in the MOU's or Compensation Plans.

Fiscal Year: July 1 to June 30.

Fringe Benefits: Term used to encompass items such a vacations, holidays, insurance, medical benefits, pensions, and other similar benefits that are given to or provided for employees in addition to direct wages.

Grievance: A complaint by an employee relating to wages, hours, and working conditions.

Hourly Extra-Help Position: An at-will position which is intended to be occupied for a short term not to exceed 1,000 hours per year. Incumbents in such positions are not subject to any rights of continued employment or benefits. Typically used to cover seasonal, peak workloads; emergency extra workloads of limited duration; and other situations involving a fluctuating staff or workload.

Incumbent: An employee assigned to a position.

Layoff: Separation from a regular position because of lack of work, lack of funds, outsourcing of work or because the necessity for a position no longer exists.

Leave of Absence: An approved absence from duty, with or without pay, not counted against any accrued leave balances, for a prescribed period of time.

Memorandum of Understanding: A binding agreement on wages, hours, benefits, and other conditions of employment for designated classes between the Exclusively Recognized Employee Organization and the City that has been adopted by the City Council.

Minimum Qualifications: Mandatory requirements established for a specific classification which must be met in order to qualify to apply for the classification.

Open Recruitment: A competitive examination process which is open to all applicants who meet the minimum qualifications for the particular classification for which the examination is to be held.

Position: A specific office or employment provided by the budget, whether occupied or vacant, calling for the performance of certain duties. Positions may be regular full-time, regular part-time, seasonal, hourly, provisional, and/or temporary.

Probationary Employee: An employee serving a probationary period, following a probationary appointment to an authorized position.

Probationary Period: A working test period during which an employee is required to demonstrate fitness for the position to which appointed by actual performance in the position.

Promotion: The movement of a qualified employee from one classification to another classification with a higher maximum rate of pay and greater job responsibilities.

Provisional Employee: An employee who performs work created through a special government program for which the City is fully or partially reimbursed, or a limited term position that is approved by the City Council for a duration not to exceed a specified term. Upon cancellation of the special government program, completion of the work assignment or upon expiration of the term, the position shall be abolished.

Reassignment: Movement of an employee from one position to another position within the same classification.

Reclassification: The placement of a position or positions from one classification into another classification based on a change in duties, and/or responsibilities.

Reemployment: Return to duty of an employee who has been laid off within the eighteen (18) months immediately preceding reemployment.

Regular Employee/Status: A full-time or part-time employee who has successfully completed his or her probationary period and has received a regular appointment. An employee who has attained regular status retains that status during any probationary promotional periods.

Regular Full-Time Employee: An employee hired for an indefinite term into a budgeted position in which the employee is regularly scheduled to work forty (40) hours per week, 80 hours per pay period or 112 hours per pay period (firefighter classifications) and has successfully completed his or her probationary period and has been retained as provided in these Rules.

Regular Part-Time Employee: An employee in a permanent budgeted position who performs work in a regularly established schedule of at least twenty-four (24) hours per week, but less than thirty-three (33) hours per week; and is eligible to receive partial benefits.

Reinstatement: The re-employment of an employee who has regular status in a classification who has resigned in good standing and who is entitled to consideration for appointment to vacancies in that classification.

Resignation: A voluntary statement, preferably in writing, from an employee relinquishing employment.

Retreat Rights: The right of an employee, under certain conditions, to displace another employee with less seniority, either in his/her current classification or a previous classification in which he/she has gained permanency.

Salary Range: A series of consecutive salary steps that comprise the rates of pay for a classification.

Seasonal Employee: An employee who performs work during part of a calendar year that is seasonal in nature. The employee will work less than one thousand (1,000) hours or less than nine (9) months in a fiscal year, whichever occurs first.

Seniority: The total length of service since the most recent hire date as a regular employee with the City.

Suspension: A disciplinary action taken by the appointing authority to prevent an employee from working his/her normal number of hours and thereby exempting him/her from compensation for those hours. Persons under suspension shall not accrue sick leave or vacation during such suspensions.

Temporary Employee: An employee who performs work in order to cover unusual or peak workload situations, intermittent assignments, emergencies or to cover employee absences. Under no circumstances will any temporary employee be allowed to work more than one thousand (1,000) hours in a fiscal year. Once an employee has worked one thousand (1,000) hours within a fiscal year, the employee will be terminated and not allowed to work for the City in a temporary or seasonal category for a sixty (60) calendar day period.

Termination: The ending of any employment relationship between an employee and the City.

Transfer: The reassignment of an employee from one position to another position in the same classification.

Unclassified Service: Includes all elective positions, Department Director and provisional positions, and positions filled by appointment by the City Council, City Manager, City Attorney, and City Treasurer.

Veterans' Credit: Five (5) points for military service, which are to be added to the final passing score of such persons competing in an entrance examination. Veterans must be honorably discharged or released from active military service under honorable conditions not more than ten (10) years prior to application, and must have served at least one-hundred-eighty (180) days on active duty.