

**PERSONNEL RULES AND REGULATIONS  
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## **RULE 1**

### **GENERAL PROVISIONS**

#### **1.1 AUTHORITY**

The following rules, policies, and procedures are promulgated under the authority of Chapter 2.16 of the Poway Municipal Code of the City of Poway. The Personnel Rules shall be adopted and amended by resolution of the City Council.

#### **1.2 PURPOSE**

The purpose of these Rules is to establish a system of personnel administration based on merit principles. These merit principles include:

- A. Recruiting, selecting, and advancing employees on the basis of their relative ability, knowledges and skills, including open consideration of qualified applicants for initial appointment.
- B. Providing equitable and adequate compensation.
- C. Training employees as needed, to assure high quality performance.
- D. Retaining employees on the basis of the adequacy of their performance, correction of inadequate performance and separating employees whose inadequate performance cannot be corrected.
- E. Assuring impartial treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, religion, color, sex, age, marital status, national origin, or handicap and with proper regard for their privacy and constitutional rights as citizens.

#### **1.3 APPLICATION**

The provisions of these rules shall apply to all offices, positions, and employments in the services of the City, except:

- A. Elective officers.
- B. Members of appointive boards, commissions and committees.

C. City Manager, City Attorney, City Clerk, and City Treasurer.

D. Persons engaged under contract to supply expert, professional, or technical services for a definite period of time.

E. Volunteer and temporary personnel.

1.4 APPLICABILITY OF RULES TO CERTAIN EXEMPT POSITIONS

The provisions of the Personnel Rules relating to attendance and leaves (Rule 6) shall apply to the City Manager, City Clerk and City Treasurer.

1.5 SCOPE

This chapter is a compilation of rules, policies and procedures which govern and affect personnel administration for all employees of the City of Poway, pursuant to the purposes outlined in Rule 1.2 herein, unless specified otherwise. The rules, policies, and procedures incorporated herein shall not preclude the development of internal rules, policies, and operating procedures within specific departments of the City nor the development of personnel or administrative policies and procedures governing the implementation of these rules, policies, and procedures.

1.6 SEVERABILITY

If any provision of these rules, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of the rules, 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.

1.7 APPOINTING AUTHORITY

As used in these Rules, the Appointing Authority shall be the City Manager, or his/her designee(s).

1.8 DEFERRAL

In cases where these Rules conflict with memoranda of understanding duly agreed upon between authorized employee organizations and the City, the provisions of the memoranda of understanding shall govern. In all other cases, the Rules shall apply.

**RULE 2**  
**DEFINITION OF TERMS**

Terms used in these rules are defined as follows:

2.1 ALLOCATION

The assignment of an individual position an appropriate classification on the basis of the type, difficulty, and responsibility of the work performed in the position. As used in these personnel rules, employees are appointed to positions; positions are allocated to classes.

2.2 ANNIVERSARY DATE

The date recurring yearly upon an employee's regular appointment or date of hire. This date is used principally in matters regarding vacation, sick leave and other related personnel actions.

2.2.1 Anniversary Date Following Promotion

Without changing the date or anniversary of an employee's regular appointment, for purposes of salary administration and salary- related personnel actions an employee will have an additional anniversary date recurring yearly upon the date of promotion.

2.3 APPOINTING AUTHORITY

The City Manager is the appointing authority. Department directors may recommend appointments to the City Manager.

2.4 APPOINTMENT

The employment of a person in a position. Types of appointment include:

2.4.1 Original Appointment

The person's first appointment as a City employee.

2.4.2 Provisional Appointment

The employment of a person to a vacant position for no more than a six (6) month period for emergency or in interim conditions. The City Manager may extend a provisional appointment for an additional six (6) month period.

2.4.3 Probationary Appointment

The probationary employment of a person in a regular position. A probationary appointment is for a specified period during which job performance is evaluated as the basis for consideration for regular appointment.

2.4.4 Regular Appointment

The employment of a person in a regular position, following the successful completion of a probationary period.

2.4.5 Promotional Appointment

The probationary employment of an employee in a regular position following a promotion.

2.4.6 Temporary Appointment

An employee hired into a position of limited duration or for completion of a specific task or project without following the rules regarding recruitment and selection. Temporary employees serve at the pleasure of the appointing authority and may be removed at any time without cause, notice or any right of appeal. Temporary employees are not eligible for benefits other than those required by state or federal law.

2.5 CERTIFICATION

The process whereby the Personnel Officer identifies for an Appointing Authority eligible individuals who have successfully completed all qualifying requirements for appointment and appear on an employment list.

2.6 CLASS

A group of positions sufficiently similar in duties, responsibilities, authority, and qualifications for employment to permit combining them under a single title and equitable application of common standards of selection and compensation.

2.7 CLASSIFICATION PLAN

The designation of a title for each class together with the specification for each class as prepared and maintained by the Personnel Manager.

2.8 CLASS SPECIFICATION

A written description of a class setting forth factors and conditions which are essential characteristics of positions in that class.

2.10 CONTINUOUS SERVICE

The employment without break or interruption of an employee having a probationary or regular appointment.

2.11 DATE OF HIRE

The date of an employee's original appointment to the City service. This date is used principally in matters regarding vacation, sick leave, and other related personnel actions.

2.12 DEMOTION

The voluntary or involuntary reduction of a regular employee from a position in one class to a position in another class having a lower maximum salary rate.

2.13 DISCHARGE

The involuntary separation of an employee from the service of the City.

2.14 ELIGIBLE APPLICANT

A person whose name is on an employment list.

2.15 EMPLOYEE

A person occupying a position.

2.15.1 Provisional Employee

An employee who has a provisional appointment to a vacant position pending the selection process as provided in Rule 5 for no more than a six (6) month period or, upon specific action by the City Manager, a second six (6) month period for a total provisional appointment of twelve (12) months.

2.15.2 Temporary Employee

An employee in a position of limited duration. (Section 2.4.6)

2.15.3 Probationary Employee

An employee who has a probationary appointment.

2.15.4 Regular Employee

An employee who has successfully completed the probation period.

2.15.5 Part-Time Employee

An employee who works less than full-time on a daily, weekly, monthly, or annual basis.

2.15.6 Full-Time Employee

An employee who works on a full-time basis on a daily, weekly, monthly, or annual basis, as defined by departmental working schedules.

2.15.7 Exempt Employee

An employee who has been determined to be exempt from the overtime requirements of the Fair Labor Standards Act.

2.16 EMPLOYMENT LIST

2.16.1 Open Employment List

A list of names of persons who have taken an open competitive examination for a class and have qualified.

2.16.2 Promotional Employment List

A list of names of persons who have taken a promotional examination for a class and have qualified.

2.16.3 Reinstatement List

A list of names of probationary and regular employees who have been laid off or demoted in lieu of layoff.

2.17 EXAMINATION

Any device or procedure used in the selection process to measure applicant abilities and suitability for a position including, but not limited to, oral interviews, written tests, performance tests, evaluation of performance during probation, and an evaluation of education and experience.

The types of examination processes include the following:

2.17.1 Open Competitive Examination

An examination for a particular class which is open to all persons meeting the minimum qualifications for the class.

2.17.2 Promotional Examination

An examination for a particular class which is open to any regular employees meeting the minimum qualifications for the class.

2.17.3 Continuous Examination

An open competitive examination which is administered continuously and as a result of which names are merged on an employment list, in order of final scores, for a period of not more than one year.

2.18 HOURLY RATE

The amount paid an employee for each hour worked. The hourly rate may be any amount within a specific hourly wage range.

2.19 IMMEDIATE FAMILY

For the purposes of these Rules, immediate family consists of an employee's mother, father, spouse, and children.

2.20 LAYOFF

The abolishment of a position or positions due to reorganization, reassignment, lack of work to be accomplished, or lack of funds.

2.21 LEAVE

Authorized or unauthorized absence from an employee's place of work.

2.22 NONSAFETY EMPLOYEE

Any employee not defined by State law as a sworn public safety employee.

2.23 OVERTIME

Overtime is time worked in excess of the established work period, or hours of work, for the classification as authorized by the employee's supervisor.

2.24 PERSONNEL ACTION

Any action taken with reference to appointment, compensation, promotion, transfer, layoff, dismissal, discipline, commendations, or any other action affecting the status of employment.

2.25 PERSONNEL MANAGER

The position so designated by the City Manager within the City's classification system.

2.26 POSITION

A combination of current duties and responsibilities requiring the full-time, part-time, or temporary services of an employee.

2.27 PROBATIONARY PERIOD

A trial period during which an employee is required to demonstrate his/her fitness for the actual performance of the assigned duties of the position.

2.28 PROMOTION

The advancement of an employee from a position in one class to a position in another class having a higher maximum rate of pay.

2.29 REASSIGNMENT

The change of an employee from one class to another class which is not due to a significant change in, kind, difficulty or responsibility of the work performed in the position.

2.30 RECLASSIFICATION

A change in the classification level of an individual position by raising it to a higher class, reducing it to a lower class, or by moving it to another class at the same level on the basis of significant changes in kind, difficulty, or responsibility of the work performed in the position.

2.31 REDUCTION IN PAY

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

2.32 REGULAR POSITION

A full time or part-time position authorized and funded in the City's budget.

2.33 REINSTATEMENT

The reemployment without examination from a reinstatement list of eligibles of a laid-off employee into the same or lower class from which the employee was laid off.

2.34 REHIRE

The reemployment, without examination, within one (1) year of separation, of a former regular or probationary employee into the same or lower classification from which the employee separated.

2.35 RETIREMENT

Service -- The voluntary separation of a regular employee from a regular position after becoming eligible for and applying to the Public Employee's Retirement System for retirement benefits.

Disability -- The separation of an employee due to physical or mental inability to perform the duties of the position after an employee has become eligible for benefits under the Public Employees Retirement System.

2.36 SALARY RANGE

The minimum, maximum, and intermediate salary rates or hourly wage rates which may be paid to an employee within a class.

2.37 SEPARATION

The termination of an employee's employment with the City because of retirement, resignation, death, or dismissal.

2.38 SUPERVISOR

An employee with the responsibility of organizing, directing, and evaluating the work of other employees.

2.39 SUSPENSION

The temporary and involuntary separation for a specified period of time of an employee from a position for disciplinary purposes.

2.40 SWORN EMPLOYEES

Public safety employees in the fire service of the City as defined by State law.

2.41 TIME CARD

The document accounting an employee's actual work and leave hours in a payroll or work period.

2.42 TRANSFER

A change of an employee from one position to another position in the same class or in a comparable class.

2.43 VACANCY

An unoccupied regular position of non-limited duration for which funds have been authorized by the City Council.

2.44 Y-RATE

A salary paid above the maximum salary of a range. A Y-rate may be used when an incumbent employee is reassigned or reclassified to a lower class but retains the higher salary rate of the former class. This Y-rate salary may be retained until the newly assigned class has a maximum rate equal to or higher than the Y-rate.

## **RULE 3**

### **POSITION CLASSIFICATION**

#### **3.1 PURPOSE**

The purposes of the classification plan are to provide a complete and continuous inventory of all classifications, to provide accurate job specifications and, therefore, to ensure that each position is allocated to the appropriate classification.

#### **3.2 CLASSIFICATION OF POSITIONS**

All positions in the City are grouped into classes. Each class includes those positions sufficiently similar in duties and responsibilities to require similar education, experience, knowledge, skills, abilities, and personal characteristics.

#### **3.3 PREPARATIONS AND CONTENT OF CLASS SPECIFICATIONS**

The Personnel Manager is responsible for preparing and maintaining class specifications for all positions. The specifications include, but are not limited to, a list of examples of duties and a statement of qualifications required for appointment.

#### **3.4 INTERPRETATION OF CLASS SPECIFICATIONS**

All class specifications describe typical duties that employees occupying positions in the class may properly be required to perform. Class specifications are explanatory but not restrictive. The listing of particular tasks does not preclude the assignment of other tasks of related kind or character, or requiring lesser skills.

#### **3.5 AMENDMENT**

Notice of consideration of the proposed classification plan amendments or revisions shall be provided to appropriate employees and employee organizations at least five (5) calendar days before change. The classification plan may be amended or revised as occasion requires in accordance with Section 2.16.020(c) of the Poway Municipal Code.

#### **3.6 ALLOCATION OF POSITIONS**

The City Manager will assign each position to one of the classes established by the classification plan.

#### **3.7 NEW POSITIONS**

When a new position is created, the classification plan shall be amended to include a class specification for the position if it is not allocated to an existing classification. The new position will be filled in accordance with Section 5.7.

3.8 RECLASSIFICATION

When the duties of the position have changed materially, the Personnel Manager may recommend to the City Manager the allocation of the position to a more appropriate class.

3.9 REQUEST FOR RECLASSIFICATION

An employee holding a regular position may submit a written request for a classification review to his/her supervisor. Such requests for reclassification shall be forwarded to the Personnel Manager, who will acknowledge receipt of the request in writing to the employee, and will indicate when the request will be considered.

3.10 CONTENT OF REQUEST FOR REVIEW

Requests for review shall be made in writing and shall contain the reasons the employee believes the classification to be in error and any further documentation in support of the request.

3.11 REVIEW OF REQUEST FOR RECLASSIFICATION

The Personnel Manager will review all formal written requests for reclassification and respond to the employee within 90 days advising of status. The results of such a review will be forwarded to the City Manager for final disposition. Any changes approved by the City Manager may be held for implementation until the preparation of the next annual City budget. If it is determined that the position should be reclassified the following budget year, the employee will not be required to perform the higher level duties until the effective date of the reclassification.

## **RULE 4**

### **COMPENSATION**

#### 4.1 PURPOSE

The purpose of the compensation plan is to provide equitable and adequate compensation for all employees.

#### 4.2 PREPARATION OF PLAN

The City Council may periodically modify the City's compensation plan. The compensation plan includes, for each class, a minimum and maximum salary rate and such intermediate rates as are considered necessary, as well as supplemental, retirement, insurance, and related fringe benefit provisions. Flat rates may be used instead of salary ranges where appropriate. The rate or pay range assigned to each class shall reflect fairly the differences in the duties and responsibilities among classes, and will take into account rates paid by other public employers for comparable work, the City's policies and financial condition, unusual problems of recruitment and turnover, and other relevant factors.

#### 4.3 ADMINISTRATION OF PLAN

##### 4.3.1 Rates of Pay

Each employee is paid a rate of pay within the salary range for the class in which employed, except in cases of reclassification to a lower salary range when a Y-rate may be used (Rule 2.44).

##### 4.3.2 Entrance Salary

An employee is appointed at the minimum rate for the class, except when the City Manager approves an appointment or reinstatement above the minimum rate. Authorization for appointment above the entrance rate must be obtained from the City Manager. In reviewing such requests, consideration will be given to the candidate's unusually high qualifications, salary history, outstanding experience, availability of other qualified candidates, and the resulting salary relationships with similar positions.

##### 4.3.3 Merit Salary Adjustments

Employees may receive merit salary adjustments within the salary range applicable to their class. The purpose of the merit salary increase is to recognize individual employee performance.

4.3.4 Movement To A Higher Classification

When an employee is promoted or reassigned to a class having a higher salary range, the employee shall be paid at the entrance step of the assigned range. If the entrance step is the same or lower than the employee's current salary, the employee shall be paid at an intermediate rate within the range to be determined by the Department Director, with the concurrence of the City Manager, that will result in at least a 5% pay increase.

4.3.5 Movement To A Lower Classification

When an employee is demoted or reassigned to a class having a lower salary range, the employee shall be placed in the step of the lower salary range nearest to the employee's rate of pay. When an employee's position is reclassified to a class having a lower salary range, the employee shall retain the same rate of pay until such time that the assigned class has a maximum salary rate which is equal to or higher than the Y-rate (Rule 2.42). Employees demoted, reassigned, or reclassified to a lower position shall have no change made in their anniversary date.

4.3.6 Transfer

When an employee is transferred from one position to another, or from one classification to another classification having the same salary range, the employee's pay and anniversary date shall remain unchanged.

4.3.7 Part-Time And Temporary Employees

Whenever an employee works for a period less than the regular number of hours in a day, days in a week, weeks in a month, or months in a year, the amount paid shall be on an hourly basis unless otherwise provided for in the Compensation Plan.

4.3.8 Acting Pay

Acting for an uninterrupted period in a higher classification or rank will be compensated at the rate of pay for that higher classification or rank according

to the provisions of appropriate salary and benefits plan or memorandum of understanding.

4.3.9 Provisional Employees

Provisional employees shall be paid salary pursuant to their position's classification as outlined in the compensation plan. Provisional employees shall receive benefits as determined by the City Manager.

4.4 SALARY ADMINISTRATION

4.4.1 General Policy

It is the policy of the City of Poway to provide a systematic method for employees to become eligible for advancement through salary schedules.

4.4.2 Merit Increases -- Part-Time Employees

Part-time employees shall be eligible for normal merit increases based upon satisfactory performance following completion of an equivalent amount of service as required for full-time employees as shown in Section 4.4.3.

4.4.3 Merit Increases -- Full-Time Employees

A full-time employee shall be eligible for a merit increase in accordance with the appropriate steps in their classification pay range as follows:

Full-time employees are eligible for a compensation advancement to the next step upon becoming a regular employee after the completion of a minimum of six months of service in the new position, and upon the recommendation of the Department Director and the approval of the City Manager. Eligibility for subsequent step advancement shall occur thereafter upon completion of 12 calendar months of employment until the employee reaches the top step for his/her classification.

The normal progression through the salary range shall be as follows:

Step A plus 6 months	employee	becomes	eligible	for	<u>Step B</u>
Step B plus 1 year	"	"	"	"	<u>Step C</u>
Step C plus 1 year	"	"	"	"	<u>Step D</u>
Step D plus 1 year	"	"	"	"	<u>Step E</u>

Safety employees hired in as probationary firefighters are eligible for a compensation advancement to the next step after six months of service and for a subsequent step advancement following an additional six months of service and successful completion of their twelve-month probationary period upon the recommendation of the Department Director and the approval of the City Manager. Eligibility for subsequent step advancement shall occur every twelve months thereafter as defined above.

The normal total time to advance from Step A to Step E would be 3-1/2 years. This period may be modified in conjunction with the performance appraisal recommendations and if approved by the Department Director and the City Manager.

4.4.4 Merit Increases -- Exceptional Performance

An employee may be advanced from Step B to Step C or any subsequent step in the salary range sooner than the normal progression if the employee's performance has been exceptional and the employee's supervisor and Department Director recommend, and the City Manager approves, of the early advancement.

4.5 SALARY RANGE ADJUSTMENTS

Salary range adjustments are effective on the date specified by the City Council. Salary range adjustments are to be distinguished from merit salary increases, as they are not intended to give recognition to length and quality of service. The salary rate of an employee whose salary range is adjusted will be adjusted to the same relative position in the revised salary range.

4.6 PARTIAL PAY PERIOD PAY

Salaries for employees working less than a complete schedule in a pay period shall be computed by multiplying the number of hours actually worked during the pay period by the employee's hourly pay rate.

4.7 OVERTIME

4.7.1 Authorization

All overtime is to be authorized by the appropriate supervisor and recorded on the employee's time card in accordance with appropriate employee agreements and state and federal law.

4.7.2 Eligibility For Overtime

The Personnel Manager shall determine which classifications are considered eligible for overtime in accordance with state and federal law.

4.7.3 Overtime Compensation

Overtime compensation shall be paid in accordance with state and federal law and according to the provisions of the appropriate salary and benefit plan or memorandum of understanding.

4.7.4 Use of Compensatory Time-Off

Compensatory time off can be taken only with the supervisor's approval and in accordance with the provisions of appropriate memorandum of understanding between the City and employee groups. When cashed out, it will be paid off at the rate of time-and-one-half.

4.7.5 Compensation For Overtime At Termination

Any employee who terminates employment shall be paid at the employee's regular rate of pay for all accrued overtime.

## **RULE 5**

### **RECRUITMENT AND SELECTION**

#### **5.1 PURPOSE**

The purpose of the recruitment and selection process is to ensure that all position vacancies are filled with qualified, competent persons who are well suited to perform in the position for which they are employed. In that regard, all vacancies will be filled as provided in these Rules.

#### **5.2 NATURE OF SELECTION PROCEDURES**

The methods used in the selection of City employees shall be impartial and of a relevant nature so as to fairly measure the relative capacity of job applicants to execute the duties and responsibilities of the class to which they seek to be appointed.

#### **5.3 SELECTION AND APPOINTMENT**

All vacancies in the City shall be filled as provided in these Rules and Regulations. Appointments shall be made with the objective of obtaining for the City the best qualified person or persons available as recommended by the Department Director and approved by the City Manager.

#### **5.4 APPLICATIONS AND APPLICANTS**

##### **5.4.1 Announcements**

All examinations shall be publicized in the City Hall and at other City work sites, and by such methods as the Personnel Manager deems appropriate. Special recruiting shall be conducted, if necessary, to ensure that all segments of the community are aware of the forthcoming examinations. The announcements shall specify the title and pay of the class for which the examination is announced, the nature of the work to be performed, the preparation desirable for the performance of the work of the class, the manner of making applications, the date of filing, and other pertinent information.

##### **5.4.2 Application Forms**

Applications shall be made as prescribed on the examination announcement. If prescribed by the Personnel Manager, application forms shall require information covering training, experience, and other pertinent information.

#### 5.4.3 Disqualification

The Personnel Manager may reject any application which indicates on its face that the applicant does not possess the minimum qualifications required for the position. Whenever an application is rejected, notice of such rejection shall be mailed to the applicant by the City. Defective applications may be returned to the applicant with notice to amend the same, providing the time limit for receiving applications has not expired, subject to the discretion of the Personnel Manager.

### 5.5 EXAMINATIONS

#### 5.5.1 Nature And Types Of Examination

The selection techniques used in the examination process shall be impartial and related to those subjects which, in the opinion of the Personnel Manager, fairly measure the relative capacities of the persons examined to execute the duties and responsibilities of the class to which they seek to be appointed. Examinations shall consist of selection techniques which will test fairly the qualifications of candidates such as, but not necessarily limited to, written tests, personal interviews, performance tests, physical agility tests, medical examinations, 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. Examinations shall be designed to provide equal opportunity to all candidates by being based on an analysis of the essential qualifications for the class and covering only factors related to such qualifications.

#### 5.5.2 Open Competitive Examination

Open competitive examinations may be administered for a single class as determined by the Personnel Manager. Names shall be placed on employment lists, and shall remain on such lists, as prescribed in Section 5.6 of this Rule.

#### 5.5.3 Promotional Examination

Promotional examinations may be conducted whenever, in the opinion of the Personnel Manager, the needs of the City require. Promotional examinations

may include any of the selection techniques mentioned in Section 5.5.1 of this Rule, or any combination of them. Promotional examinations are open to City employees only. Employees who meet the requirements set forth in the promotional examination announcements may compete in promotional examinations.

5.5.4 Continuous Examination

Continuous examinations may be administered periodically as the needs of the City require. Names shall be merged on employment lists according to final scores, and shall remain on such lists, as prescribed in Section 5.6 of this Rule.

5.5.5 Scoring Examinations And Qualifying Scores

A candidate's score in a given examination shall be the average of scores on each competitive part of the examination on which the candidate qualified, weighted as shown in the examination announcement. The Personnel Manager may, at his/her discretion, include as a part of the examination, tests which are qualifying only.

5.5.6 Notification Of Examination Results, Review Of Papers, and Examination Appeal

Each candidate in an examination shall be given written notice of the results thereof. Any candidate shall have the right to inspect his/her own examination answer sheets within five working days after the notices of examination results were mailed. Oral interview rating sheets, test booklets, and related examination materials are not open to candidate inspection. Any error in computation, if appealed to the Personnel Manager within this period, shall be corrected. Such corrections shall not, however, invalidate appointments previously made.

5.6 EMPLOYMENT LISTS

5.6.1 Preparation And Availability

As soon as possible after the completion of an examination, the Personnel Manager shall prepare and keep available an employment list consisting of the names of candidates who qualified in the examination, arranged in order of final scores, from the highest to the lowest qualifying score.

#### 5.6.2 Duration Of Lists

Employment lists other than those resulting from a continuous examination shall remain in effect for six (6) months, unless sooner exhausted or abolished by the Personnel Manager upon the recommendation of a Department Director. A Department Director may request the abolition of an employment list after the employment list has been in effect for three (3) months. Employment lists may be extended, prior to their expiration dates, by action of the Personnel Manager for additional periods. Open competitive lists created as the result of continuous examinations shall remain in effect for not more than one year after the last administration of the examination. Names placed on such lists shall be merged with any others already on a list in order of final scores and shall remain on the list for not more than one year.

#### 5.6.3 Reinstatement Lists

The names of probationary and regular employees who have been laid off shall be placed on appropriate reinstatement lists in accordance with Rule 13.2. Such names shall remain thereon for a period of one year unless such persons are sooner reinstated or such persons refuse two (2) offers of reinstatement. When a reinstatement list is to be used to fill vacancies, the Personnel Manager shall certify all of the names on the list for consideration by the Department Director.

#### 5.6.4 Removal Of Names From List

The name of any person appearing on an employment, reinstatement or promotional list may be removed by the Personnel Manager if the eligible person requests in writing that his/her name be removed, if he/she fails to respond to a notice of certification mailed to his/her last known address, or for any of the reasons specified in Section 5.4.3, of this Rule. The person affected shall be notified of the removal of his/her name by a notice mailed to his/her last known address. The names of persons on promotional employment lists who resign from the service shall automatically be removed from such lists.

### 5.7 METHODS OF FILLING VACANCIES

#### 5.7.1 Types Of Appointments

All vacancies shall be filled by transfer, demotion, rehire, reinstatement, or from eligibles certified by the Personnel Manager from an appropriate employment list. In the absence of persons eligible for appointment from these means,

provisional appointments may be made in accordance with the Personnel Ordinance and these Rules.

5.7.2 Notice To Personnel Officer

Whenever a vacancy is to be filled, the Department Head shall notify the Personnel Officer in the manner prescribed.

5.7.3 Reinstatement Policy

If a reinstatement list is in effect for the classification in which a position is to be filled, the Department Director shall first consider an appointment from this list in accordance with appropriate memorandum of understanding. If the Department Director is unable to make the appointment with an individual from the reinstatement list, or if no reinstatement list exists for the classification, the Department Director with the concurrence of the City Manager shall have the right to decide whether to fill the vacancy by rehire, transfer, demotion, appointment from a promotional employment list, or appointment from an open employment list.

5.7.4 Certification Of Eligibles

If it is not possible to fill the vacancy by reinstatement, and the Department Director, with the concurrence of the City Manager does not consider it in the City's best interest to fill the vacancy by rehire, transfer, or demotion, certification shall be made from an appropriate employment list, provided eligibles are available. When the Department Director requests a vacancy be filled by appointment from a promotional employment list or from an open employment list, the Personnel Manager shall certify from the specified list the names of five (5) persons with the highest examination scores and willing to accept appointment. Whenever there are fewer than five names of individuals willing to accept appointment on a promotional employment list or on an open employment list, the Department Director may recommend an appointment from among such eligibles or may request the Personnel Manager to establish a new list. When so requested, the Personnel Manager may hold a new examination and establish a new employment list.

5.7.5 Appointment

After interview and investigation, the Department Director shall recommend appointments from among those certified and shall immediately notify the City Manager of the persons recommended. The person recommended for

appointment shall present himself/ herself to the City Manager, or his/her designated representative, for processing, including any required medical examination, on or before the date of appointment. If the applicant accepts the appointment and presents himself/herself for duty within such period of time as the Department Director and City Manager shall prescribe, he/she shall be deemed to be appointed; otherwise, he/she shall be deemed to have declined the appointment.

5.7.6 Provisional Appointment

In the absence of there being names of individuals willing to accept appointment pursuant to Rule 5.7.3, a provisional appointment may be recommended by the Department Director, with the concurrence of the City Manager, of a person meeting the minimum training and experience qualifications for the position. A provisional employee may be removed at any time without the right of appeal. A provisional employee may be employed as such for up to six (6) months duration.

The City Manager may extend the period for any provisional appointment for not more than an additional six (6) month period. (Also see 4.3.9)

5.7.7 Probationary Appointment Following Temporary Service

A full-time temporary employee who has served six months or more and who accepts a probationary appointment with the City with no break in service will be given up to six months credit for the temporary service for purposes of eligibility for merit increases, time in the position for eligibility for promotion, and for calculation of leave accruals. A part-time temporary employee who has served 12 months or more and who accepts a part-time probationary appointment with the City with no break in service will be given credit for the temporary service for purposes of eligibility for merit increases, time in the position for eligibility for promotion and for calculation of leave accruals.

5.8 PROBATIONARY PERIOD

5.8.1 Objective of Probationary Period

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

5.8.2 Regular Appointment Following Probationary Period

All original and promotional appointments shall be tentative and subject to a probationary period of not less than six months actual service for nonsafety and one year for safety employees. The Personnel Manager shall notify the Department Director one month prior to the termination of any probationary period. The Department Director shall file with the Personnel Manager a statement in writing to the effect that the retention of such employee with the City is desired or undesired. If an unsatisfactory performance statement is filed, the employee's employment may be immediately terminated.

5.8.3 Rejection Of Probationer

During the probationary period, an employee may be rejected at any time by the Department Director, with the concurrence of the City Manager, without cause and without the right of appeal. Notification of rejection in writing shall be served on the probationer and a copy filed with the Personnel Manager.

5.9 PERFORMANCE EVALUATION

5.9.1 Evaluations of the daily work performance of employees shall be periodically conducted in accordance with procedures and time periods as determined by the Personnel Manager. The purpose of employee performance evaluations is to help achieve the following:

- A. Assist individual employees in achieving maximum work capacity by establishing work standards and objectives, reviewing progress towards achieving designated results, and planning the employee's future development.
- B. Provide a basis for employee selection and advancement, and to identify those employees whose performance needs improvement, is marginal, or unsatisfactory and to recognize employees with above standard work performance.

**RULE 6**  
**ATTENDANCE AND LEAVE**

6.1 LENGTH OF SERVICE/VACATION AND SICK LEAVE

6.1.1 General

For the purpose of computing entitlement to vacation and sick leave, an employee's length of service is counted from the employee's date of hire.

6.1.2 Rehired Employees

For employees rehired into City service, entitlement to vacation and sick leave shall be determined by length of service beginning from the employee's date of rehire.

6.2 VACATION LEAVE

6.2.1 Application

The following sections of Rule 6.2 shall apply to all those positions specified in Section 1.3 of these Rules except elected officials, members of boards, commissions and committees, contractual employees and volunteer and temporary personnel (See also Rule 1.4)

6.2.2 Vacation Accumulation

Regular full-time and part-time employees earn and accumulate vacation with pay in accordance with the schedules specified in the salary and benefits plan or the appropriate memorandum of understanding.

6.2.3 Scheduling Of Vacations

The time at which an employee takes vacation leave is determined by the prior approval of the supervisor with due regard to the wishes of the employee and particular regard for the needs of the City.

6.2.4 Leave Of Absence

An employee continues to accrue vacation during any authorized and compensated leave. The employee does not accrue vacation during any leave without pay.

6.2.5 Illness During Vacation

If an employee becomes ill while on vacation, the time ill is charged to accumulated sick leave of the employee provided that the employee can satisfactorily demonstrate that he/she was under the direct care of a medical doctor such as in a hospital.

6.2.6 Holiday During Vacation

If a City holiday occurs while an employee is on vacation, such holiday time is not deducted from the amount of vacation to which the employee is entitled.

6.2.7 Accounting For Vacation Used

Each employee has one (1) hour deducted from his/her accrued vacation for each hour of vacation taken.

6.2.8 Separation Vacation Pay

Upon separation, an employee receives compensation at his/her current salary rate for all unused earned vacation up to and including the date of separation provided that he/she has served six (6) continuous months with the City and successfully completed the required probationary period.

6.3 SICK LEAVE

6.3.1 Sick Leave Accumulation

Regular full-time employees earn and accumulate sick leave with pay in accordance with the schedules specified in the salary and benefits plan or the appropriate memorandum of understanding with employee organizations. An employee continues to earn sick leave while on any paid leave. Regular part-time employees earn sick leave at a rate determined by the number of hours worked as a ratio of full-time hours.

6.3.2 Accounting Of Sick Leave Used

Each employee has one (1) hour deducted from the employee's accrued sick leave time for each hour of sick leave taken.

6.3.3 Holiday During Sick Leave

In the event that a paid holiday occurs during a period when the employee is on sick leave, the holiday is not charged against the employee's accrued sick leave.

#### 6.3.4 Use Of Sick Leave

An employee eligible for sick leave is granted such leave for the following reasons:

- A. Non-service-related illness or injury to the employee or physical or mental incapacity of the employee due to non-service-related illness or injury.
- B. Medical or dental office or hospital visits for examinations, diagnosis, or treatment.
- C. Maternity-related disabilities as provided in Rule 6.4.
- D. To make up the difference between an employee's regular salary and workers' compensation benefits as stated in Section 6.8.
- E. In accordance with the appropriate salary and benefit plan or memorandum of understanding.

#### 6.3.5 Exclusions

No employee is entitled to sick leave while absent from duty on account of any of the following causes:

- A. Sickness or injury sustained while on leave of absence without pay.
- B. Sickness or injury sustained from improper employee conduct as defined in Rule 14.2 herein.

Sick leave shall not be considered as a right which the employee may use at his or her discretion, but shall be allowed only in accordance with Section 6.3.4.

#### 6.3.6 Proof Required

The supervisor will approve sick leave only after having ascertained that the absence was for an authorized reason. When absence is for more than three

work days or if abuse of sick leave is suspected, the Department Director may require the employee to submit substantiating evidence including, but not limited to, a physician's certificate. If the Department Director requires the employee to submit substantiating evidence, the Department Director shall make this requirement known to the employee as soon as possible. If the Department Director does not consider the evidence adequate he/she will disapprove the request for sick leave, and such time off will be considered a leave of absence without pay. In order for the employee to be eligible for paid sick leave, the City reserves the right to verify the reason for the use of sick leave by whatever means the City deems appropriate.

#### 6.3.7 Exhaustion Of Sick Leave

In the event an employee uses all of the sick leave the employee has accrued, the employee may have any other paid leave days which the employee has accrued deducted for each day or portion thereof he/she is absent due to illness upon the approval of the supervisor. This deduction will continue until the employee either returns to work or uses all his/her accrued leave time. With the concurrence of the Department Director, the supervisor may, pursuant to Rule 6.11, allow the employee to take a leave of absence without pay if the employee does not have any paid leave time or sick leave remaining to his/her credit.

#### 6.3.8 Separation/Sick Leave Pay After Five Years Continuous Employment

Employees may be entitled to partial payment upon retirement for unused sick leave as specified in the memoranda of understanding with the employee organizations, provided that agreements with employee organizations contain such provisions.

### 6.4 MATERNITY LEAVE

Absence caused or contributed to by pregnancy, miscarriage, abortion, childbirth and recovery there from, are, for all job related purposes, to be considered temporary inability to work. Accrued sick leave may be used prior to birth for childbearing or related circumstances (e.g. miscarriage, abortion or recovery there from) as needed. Following birth, accrued sick leave may be used for a period not to exceed six (6) weeks.

#### 6.4.1 Pregnancy Disability Leave Without Pay

A pregnant employee shall be entitled to unpaid leave for up to four months where the employee is disabled by pregnancy, childbirth or related medical conditions, or up to six weeks of leave for a normal pregnancy so long as the employee's attending physician certifies that she is physically unable to work due to pregnancy or a pregnancy-related condition. Leave may be taken intermittently or on a reduced work schedule when medically advisable, as determined by the employee's health care provider. During said leave of absence, the employee must first use accumulated sick leave. Upon request, and at the discretion of the employee, vacation or other earned undifferentiated paid leave may be used during pregnancy disability leave. Employees receiving long-term disability may use such leaves at the employee's option to make up the difference between long-term disability benefits and the employee's regular pay.

6.4.2 Notice-Date Of Departure/Return

A female employee shall give her supervisor two weeks' notice, if possible, of her anticipated date of departure and date of return.

6.4.3 Work During Pregnancy

Female employees may continue working during pregnancy as long as the individual, her physician, and the Department Director concur in her ability to work, and the demands of the job are satisfied. Proof of the physician's concurrence must be submitted at regular intervals during the employee's pregnancy when requested by the supervisor.

6.4.4 Return From Maternity Leave

Upon expiration of the approved leave, the employee shall be reinstated to her former position or to a comparable one if the former position is abolished during the period of leave and the employee would otherwise not have been laid off. The comparable position is one having similar terms of pay, location, job content and promotional opportunities. Prior to the employee being reinstated, the department head may require a statement from the attending physician that the employee is physically capable of resuming the regular duties of her position.

Time off on pregnancy disability leave without pay by a probationary employee shall not be counted as part of the probation period. Failure to return to work

after the authorized four-month period, causes the pregnant employee to have no reinstatement rights.

6.5 FAMILY/MEDICAL LEAVE ACT

Family/Medical Leave (FML) shall be in accordance with the Federal Family and Medical Leave Act (FMLA) of 1993, together with the federal regulations promulgated pursuant to the FMLA, and the California Family Rights Act (CFRA) of 1991, as amended, together with state regulations promulgated pursuant to the CFRA. The City shall adopt FML policy which shall be consistent with federal and state provisions.

6.6 HOLIDAYS

The City shall observe holidays as specified in the salary and benefits plan or appropriate memorandum of understanding.

6.7 LEAVES OF ABSENCE WITH PAY

6.7.1 Bereavement - Bereavement Leave With Pay

In the event of a death in the employee's immediate family, a regular full-time employee shall be entitled, at the discretion of the Personnel Manager, to 1-5 working days off with pay to attend the funeral.

The relatives designated shall include father, mother, wife, husband, brother, sister, daughter, son, grandparents, brothers and sisters having one parent in common, and those relationships generally called "step", providing persons in such relationships have lived or have been raised in the family home and have continued an active family relationship.

To be eligible for bereavement leave, the employee must attend or make a bona fide effort to attend the funeral.

Bereavement leave is not compensable when the employee is on leave of absence, bona fide layoff, or for days falling outside the employee's regular work period.

Bereavement leave is not chargeable against sick leave.

6.7.2 Jury or Court Leave

While on jury duty or while appearing as a legally required witness, except in private cases not related to the employee's job, an employee will receive full pay from the City. For purposes of payroll, an employee must obtain validation from the Jury Clerk of time spent on jury duty.

6.8 MILITARY LEAVE

Military leave shall be granted in accordance with the provisions of state law. All employees entitled to military leave shall give the Department Head an opportunity within the limits of military regulations to determine when such leave shall be taken.

6.8.1 Employees who are called or volunteer for services with the armed forces of the United States or the California National Guard shall be entitled to be considered for reinstatement in accordance with the provisions of these rules.

6.8.2 An employee promoted to fill a vacancy created by a person serving in the armed forces shall hold such position subject to the return of the veteran. The employee affected by the return shall be restored to the position he or she held previously or any other equivalent position.

6.8.3 A new employee hired to fill a vacancy created by a person serving in the armed forces shall hold such position subject to the return of the veteran. The employee affected by the return shall be placed in as nearly equal a vacant position as may exist, or if no such position exists, may be subject to layoff.

6.8.4 Reserve Duty: Employees who participate in Reserve unit of the armed forces shall attempt to arrange time off for two-week assignments with the Department Director in advance of the scheduled drill. Such employees shall receive their normal compensation during a two-week drill assignment.

Weekend drills shall also be scheduled in advance if the employee is scheduled to work on weekends. An employee participating in weekend drills which are "ordered military duty" as defined in the Military and Veterans' Code is entitled to his/her City compensation for the weekend drill period.

## 6.9 WORKERS' COMPENSATION

All employees of the City will be covered by the workers' compensation laws of the State. Any nonsafety employee who is eligible for temporary disability payments under the workers' compensation law, shall, for the duration of such payments, receive only that portion of his/her regular salary which, together with said payments, will equal his/her regular salary. Unless otherwise advised in writing by the employee within a five-day period, such salary payments made during a period of temporary disability payments shall be charged against the employee's accumulated sick leave or vacation leave. Should the employee's accumulated sick leave and vacation leave be exhausted, the employee shall be subject to a leave of absence without pay. In order not to work an undue hardship on the employee caused by the time lag involved in temporary disability, the employee, at the discretion of the Personnel Officer, may be paid his/her full salary to the extent of accumulated sick leave or vacation leave. Upon receipt of temporary disability payments, the employee shall endorse such payments to the City.

After exhausting sick leave and vacation benefits and while the employee continues to receive workers' compensation benefits, the City may collect from the employee the employee's costs of insurance and the City may pay the employer's cost of insurance. After the employee has exhausted sick leave and vacation benefits, the City will make no contributions to the retirement plan.

## 6.10 WORK HOURS

### 6.10.1 Hours Of Work

The work period for all employees shall be as defined by City operating policies in accordance with state and federal laws. The Department Head may establish work schedules which vary employee workday and hours according to the best interests of the City.

### 6.10.2 Meal And Rest Periods

Meals and rest periods shall be recognized as a privilege and will be permitted insofar as practicable and consistent with operational interests and in accordance with the appropriate memorandum of understanding or salary and benefit plan.

## 6.11 LEAVE OF ABSENCE WITHOUT PAY

6.11.1 Employee Requested Leave of Absence Without Pay

The City Manager may grant a regular or probationary employee leave of absence without pay or seniority not to exceed three (3) months. No such leave shall be granted except upon written request of the employee, setting forth the reason for the request, and the response shall be in writing. An employee must first use all accrued vacation and comp time credits, and the remaining approved leave of absence will be without pay. Sick leave may not be taken.

Upon expiration of a regularly approved leave of absence without pay, or within a reasonable period of time after notice to return to duty, the employee shall be reinstated in the position held at the time the leave was granted. Failure on the part of an employee on leave of absence without pay to report promptly at its expiration, or within a reasonable time after notice to return to duty, shall be cause for discharge. The City Manager may review and extend leaves of absence at his/her sole discretion. Department Directors may grant a regular or probationary employee leave of absence without pay not to exceed two (2) calendar weeks. All leaves of absence without pay shall be reported to the City Manager. A leave of absence shall be considered an interruption in the probationary period. Time off on a leave of absence without pay by a probationary employee shall not be counted as part of the probation period.

6.11.2 Medical Leave Of Absence

An employee who is mentally or physically incapacitated to perform his/her duties may, upon the written request of the employee or upon the recommendation of the Department Head and with the approval of the City Manager, be placed on leave of absence without pay or seniority for a period not to exceed six months. An employee must first use all accrued sick, vacation and comp time credits, and the remaining approved medical leave of absence will be without pay, inclusive of time allowed under the Family Medical Leave Act. After six months the leave may be extended if recommended by the Department Director and approved by the City Manager. During the period of approved leave an employee may, upon

written request, continue certain group benefits. Payments for such benefits shall be paid by the employee to the City on or before the due date, as required. Upon the expiration of the approved leave and resolution of his/her disability, the employee shall be reinstated in the position held at the time leave was granted, provided the position is available.

A leave of absence without pay shall be considered an interruption in the probationary period. Time off on a leave of absence without pay by a probationary employee shall not be counted as part of the probationary period.

**RULE 7**  
**MEDICAL EXAMINATIONS**

7.1 MEDICAL EXAMINATIONS REQUIRED

Medical examinations may be required under the following circumstances.

- A. In order to be eligible for employment or reemployment with the City.
- B. In order to be eligible for promotion or transfer to a job classification requiring greater physical qualifications than his/her present job classification.
- C. Any employee may be required to undergo a medical examination at any time designated by the Personnel Manager.

7.2 PHYSICIAN

All medical examinations will be performed by a licensed physician approved by the Personnel Manager.

7.3 COST OF EXAM

The City will pay the cost of any medical examination required under this Rule.

**RULE 8**  
**OUTSIDE EMPLOYMENT**

8.1 OUTSIDE EMPLOYMENT

8.1.1 General Provisions

A City employee shall not engage in any outside employment that is detrimental to, or in conflict with his/her duties or service with the City. An employee must notify the City Manager in writing of any outside employment together with sufficient information regarding such outside employment as may be requested. A Department Director shall be privileged to inquire as to an employee's off-duty employment when the Department Director believes that such a condition may exist and may require an employee to file notice to the City Manager. The City Manager shall determine if an employment conflict exists and shall notify the employee of his/her decision and reasons therefore in writing.

Examples of work that would be detrimental to or in conflict with duties or service with the City include, but are not limited to, the following:

- A. Work requiring the use of City vehicles or equipment.
- B. Work for a contractor who is performing work in conflict with the City.
- C. Work which would cause a work schedule incompatible with assigned City work schedule.
- D. Work which would present a health hazard to the employee.
- E. Work which could create a cause for disciplinary action, (see Rule 14).
- F. Work which would provide undue liability for the City.

**RULE 9**  
**NEPOTISM**

9.1 GENERAL PROVISIONS

There is no bar to relatives in City positions except where one of them would exercise a supervisory or evaluative role in relation to the other or one relative might be in a position to exert influence on the hiring, promotion, transfer, or performance evaluation of another.

9.2 EMPLOYMENT OF RELATIVES - ELECTED OFFICIALS

No relative by blood or marriage, within the third degree of kinship, of an elected official of the City of Poway, shall be appointed to fill any vacancy in the City service during that official's term of office.

**RULE 10**  
**REPORTS AND RECORDS**

10.1 OFFICIAL RECORDS

The Personnel Office keeps all official personnel records necessary for transactions and reference and for making reports showing administrative actions including records of employment history of each employee, classification plan, performance evaluation records, compensation plan, files, books, and correspondence.

10.2 CHANGE OF STATUS REPORT

Every appointment, transfer, promotion, demotion, change of salary rate and other temporary or permanent changes in status of employees must be –documented on forms prescribed by the Personnel Manager. The City Manager must approve all personnel transactions.

10.3 PERSONNEL FILE

10.3.1 Content Of Personnel Files

The Personnel Office will maintain a file on each employee which will contain all records and documents pertinent to his/her employment status and history.

10.3.2 Access To Personnel Files

The confidential information in personnel files will not be revealed to outside sources except as required by law, or with the written consent of the employee. The Personnel Office may reveal the following information regarding an employee, or ex-employee, in response to outside inquiries:

- A. Employee's name.
- B. Classification title and department.
- C. Status.
- D. Salary Range.
- E. Hire date and/or termination date.

This information is a matter of public record and is available to anyone. An employee, his/her immediate supervisor and/or Department Director, may inspect his/her personnel file at any time during the normal working hours of the Personnel Office. Upon request, the employee shall receive a copy of any

materials in the personnel file provided that the cost for such copies is paid by the employee. An employee shall be furnished a copy of any statement written for inclusion in the employee's personnel file concerning the employee's conduct or performance. An employee may prepare material for insertion in his/her personnel file in response or rebuttal to any derogatory material in that file.

An employee's representative, with the written consent of the employee, may also review that employee's file during normal working hours in the Personnel Office.

**RULE 11**  
**TRAINING**

11.1 GENERAL POLICY

It is the policy of the City to encourage and promote training and educational opportunities for all City employees to the end that the services they render to the City may be made more effective.

11.2 ORIENTATION OF NEW EMPLOYEES

Within a reasonable period of time following initial employment, the Personnel Manager and Department Heads shall familiarize a new employee with the employee's obligations and rights and also inform the employee about the functions and operations of the City. The Personnel Manager shall assist Department Heads and supervisors with the orientation of new employees.

11.3 TIME OF TRAINING PERIODS

Authorized training periods may be conducted either during or after normal working hours. Training sessions conducted during normal working hours shall be arranged so as to minimize interference with scheduled work.

11.4 TYPES OF TRAINING

For the purpose of administration, the following categories of training are recognized.

11.4.1 In-Service Training

Any formal employee training or development program that is sponsored by the City and conducted during an employee's regular hours of work. Such programs are designed and conducted to meet job related needs of City employees.

11.4.2 Out-Service Training

Any formal employee training or development program that is sponsored and conducted by any agency or organization other than the City. Assignment to such a program is for the purpose of meeting the needs of the City, for continuing employee training development, and the upgrading of employee's skills. Conferences and seminars that are conducted primarily for training and educational development purposes are considered out-service training.

11.4.3 Required Out-Service Training

Required out-service training is directly related to improving the employee's performance of present duties and is required by the City.

11.4.4 Career-Related Elective Out-Service Training

Career-related, elective, out-service training is related to improving the employee's performance of present or future assignments in the City, and is not required by the City.

11.5 PAYMENT OF TRAINING EXPENSES

11.5.1 Approval Of Department Director

No out-service training may be authorized or expenses paid without the prior approval of the Department Director.

11.5.2 Required Out-Service Training

When assigned to required out-service training, the employee receives his/her regular salary and is reimbursed for tuition, travel, meals, and lodging.

11.5.3 Career-Related Out-Service Training

When an employee desires to participate in career-oriented out-service training, the Department Director may, within budgetary limits and in accordance with Departmental policies, recommend the payment of regular salary and reimbursement up to 100% for tuition, travel, meals and lodging. Prior to the commencement of training, approval of the City Manager is required.

11.5.4 Uncompleted Assignment

An employee who does not satisfactorily complete an out-service training or educational assignment according to standards determined by the Personnel Manager is not eligible for reimbursement of tuition and other necessary expenses and shall return any advance payment received. The employee may also be subject to disciplinary action as provided in these Rules.

The employee or his/her estate will receive reimbursement for tuition and other necessary expenses if the training assignment is terminated prior to completion either:

- A. At the convenience of the City.
- B. Because of death, prolonged illness, disability or other eventuality beyond the control of the employee as determined by the Department Director and approved by the City Manager.

## **RULE 12**

### **TRANSFER, PROMOTION, DEMOTION AND REHIRE**

#### **12.1 TRANSFER**

No person shall be transferred to a position for which he/she does not possess the minimum qualifications. Upon notice to the City Manager, an employee may be transferred by the Department Director at any time from one position to another position in a comparable class. For transfer purposes, a comparable class is one with the same maximum salary and benefits, involves the performance of similar duties and requires substantially the same basic qualifications.

If the transfer involves a change from one Department to another, both Department Heads must consent thereto unless the City Manager directs the transfer for purposes of economy and efficiency.

#### **12.2 PROMOTIONS**

Insofar as consistent with the best interests of the City, as determined by the City Manager in consultation with the Department Head, vacancies may be filled by promotion from within, after a promotional examination has been given and a promotional list established.

If, in the opinion of the City Manager in consultation with a Department Director, a vacancy in the position could be filled better by an open-competitive examination instead of promotional examination, then he/she shall arrange for an open competitive examination and the preparation and certification of an open competitive employment list, as provided in these Rules.

#### **12.3 DEMOTION**

A Department Director, as provided for in these Rules, may propose demotion of an employee for disciplinary purposes. Disciplinary procedures as described in Rules 14.4 through 14.7 shall be followed in the case of a disciplinary demotion. Upon request of the employee, and with the consent of the Department Director, voluntary demotion may be made. No employee shall be demoted to a position for which he/she does not possess the minimum qualifications.

#### **12.4 REHIRE**

A Department Director with the concurrence of the City Manager may rehire a regular or probationary employee who has completed at least six months of probationary service and who has resigned with a good record, to a vacant position in the same or comparable classification from which the employee resigned. Upon rehire, the employee shall be subject to the probationary period prescribed for the class. No credit for former employment shall be granted in computing salary, vacation, sick leave, or other benefits. If an employee has previously resigned twice from regular positions the employee may not be considered for rehire (See Rule 13.3).

**RULE 13**  
**SEPARATION FROM SERVICE**

13.1 DISCHARGE

An employee may be recommended for discharge at any time by a Department Director as provided for in Rule 14. Whenever it is the recommendation of a Department Director to discharge an employee, the concurrence of the City Manager is required.

13.2 LAYOFF

13.2.1 General Policy

An employee may be laid off because of either the abolition of his/her position or a determination by the City that there is a shortage of work or funds. The City Manager shall determine when and in what position classifications layoffs are to occur. The Personnel Manager shall be responsible for the implementation of a layoff order of the City Manager in accordance with the procedures described herein.

13.2.2 Scope And Order Of LayOff

Layoffs shall occur in inverse order of seniority within a job classification in the following order of employee status:

- A. Provisional
- B. Temporary Part-Time
- C. Temporary Full-Time
- D. Probationary
- E. Regular Part-Time
- F. Regular Full-Time

The Personnel Manager shall make an effort to transfer an employee who is affected by a layoff to a vacant position for which the Personnel Manager determines the employee is qualified, subject to approval of the City Manager.

13.2.3 Notice of Layoff To Employee Organizations

When layoffs are to occur, the City Manager shall notify the appropriate employee organizations whose members would be affected thereby.

13.2.4 Notice of Layoff To Employees

An employee to be laid off shall be notified in writing of the impending action at least ten (10) calendar days in advance of the effective date of the layoff, or in accordance with the appropriate salary and benefit plan or memorandum of understanding. The notice shall include the following information:

- A. Reason for layoff.
- B. Effective date of layoff.
- C. Employee rights as provided in these rules.

13.2.5 Seniority Date

The seniority date of an employee shall be based upon the original date of hire for regular City employment or, in cases where there has been a break in continuous employment, the most recent date of hire for regular City employment. Periods of military service or approved leaves of absence under Family Medical Leave or California Pregnancy Act shall be credited as continuous service with the City. Any other unpaid leaves of absence shall not be added into the seniority calculation.

13.2.6 Seniority List

When the City Manager has determined that layoffs shall occur, the Personnel Manager shall prepare a list of seniority for employees in affected classifications. The list shall place the employee with the most recent seniority date first, the employee with the next most recent seniority date second, and so forth. A copy of the list shall be made available to affected employees and their employee organization. Regular employees demoted due to nondisciplinary reasons shall be placed on the seniority list for both their original classification and for the classification to which they were demoted.

13.2.7 Reinstatement Following Layoff

For a period of twelve (12) months from the date an employee is laid off or demoted due to nondisciplinary reasons, the name of the employee shall be placed on a reinstatement list for the job classification held by the employee at the time of the layoff or demotion. Placement on the reinstatement list shall be in order of seniority and prior performance as determined by the City Manager.

Any vacancy occurring in a classification for which such a list has been developed shall be filled by the most senior person on the list provided that the following conditions are met:

- A. The most senior person listed is still qualified for the classification.
- B. The most senior person listed is available and accepts the reinstatement offer.
- C. The City is not prohibited by law or court ruling from making the reinstatement on this basis.

A regular employee who has been laid off may request that his/her name be placed on the reinstatement list for a lower class in his/her current job series. Such requests shall be made to the Personnel Manager within ten (10) calendar days of the employee's date of layoff and shall be made in writing.

#### 13.2.8 Removal Of Names From Reinstatement Lists

The Personnel Manager may remove an employee's name from a reinstatement list if any of the following occur:

- A. The individual indicates in writing that he/she will be unable to return to employment with the City during the life of the list.
- B. The individual cannot be reached by certified mail after reasonable efforts have been made to do so.
- C. The individual refuses two (2) reinstatement offers as confirmed by certified mail. It is the employee's responsibility to keep the Personnel Manager advised of any changes in mailing address or availability.

#### 13.2.9 Employee Rights And Responsibilities

In addition to others identified herein, employees affected by these procedures shall have the following rights:

- A. Through prior arrangement with his/her immediate supervisor, an employee who has been notified of his/her impending layoff shall be

granted reasonable time off without loss of pay to participate in a prescheduled interview or test for other employment within the City. In addition, through prior arrangement with his/her immediate supervisor, an employee may also use accrued vacation leave time to seek and apply for other employment.

- B. An employee who has been laid off shall be paid as provided for in these Rules for his/her unused accrued vacation leave on the effective date of the layoff.
  
- C. An employee who has been laid off may be allowed to continue health insurance coverage in the group at his/her own cost as provided under federal COBRA regulations. This provision of health insurance will cease if the employee finds other employment. To have this coverage the employee must notify the Personnel Manager in writing within ten (10) days after the receipt of the notification of layoff.
  
- D. An employee who receives a notice of layoff may displace an employee in the same classification or an employee holding a lower classification in the laid off employee's current job series provided that:
  - 1. He/she has more City seniority than the employee to be displaced.
  - 2. He/she is willing to accept the reduced level of compensation, if any.
  - 3. He/she meets the minimum qualifications for the other classification which are in effect on the date of the layoff.
  - 4. He/she requests displacement action to the Personnel Manager within ten (10) days after receipt of the notification of layoff in the manner prescribed by the Personnel Manager.
  
- E. When an individual is reinstated he/she shall be entitled to:
  - 1. Retain his/her seniority date.

2. Accrue vacation leave at the same rate on which it was accrued at the time of the layoff.
3. Have any unused or uncompensated sick leave reinstated.

An individual reinstated into the job classification from which he/she was laid off shall be assigned to the same salary range and step he/she held at the time of the layoff. An individual reinstated into a job classification other than the classification from which he/she was laid off, shall be assigned to the salary range of the new classification at the amount closest to the salary he/she earned at the time of the layoff. An individual reinstated into the classification from which he/she was laid off while still a probationary employee shall complete, upon return to the job, the remaining portion of his/her probationary period, if any, in effect at the time of the layoff and in addition he/she shall complete one (1) month of probation for each month laid off, not to exceed a total probationary period of six (6) months. Similarly, an individual who is reinstated shall complete upon return to the job the same work time he/she would have had to work at the time of the layoff to attain a higher vacation leave accrual rate or to become eligible for a salary step increase, if such changes are possible. An individual who is rehired is not eligible for the provisions of this subsection (13.2.9e) of this Rule.

#### 13.2.10 Appeals

An employee aggrieved by actions taken or interpretations made pursuant to the procedures described in this Rule may exercise the appeal procedures as hereinafter provided in Rule 15. Determinations by the City Manager relative to when and in what classification layoffs are to occur shall not be matters subject to the appeal procedures.

### 13.3 RESIGNATION

An employee wishing to leave City employment in good standing shall file with the Department Head, a written resignation stating the effective date at least two weeks before leaving, unless such time limit is waived by such official. The City will pay an employee for all hours worked within 72 hours after termination and all accumulated reimbursable benefits no later than the nearest payday following termination of the employee. Failure to give notice as required by this Rule may be cause for denying future employment by the City. An employee who resigns from employment with the

City from two regular positions may not be considered for a third position with the City at the discretion of the City Manager.

## RULE 14

### CONDUCT AND DISCIPLINE

#### 14.1 EMPLOYEE CONDUCT GENERALLY

It is expected that all City employees shall render the best possible service and reflect credit on the City, and therefore high standards of conduct are essential.

#### 14.2 IMPROPER EMPLOYEE CONDUCT

The term "improper conduct" means not only any improper action by an employee in the employee's official capacity, but also conduct by an employee not connected with the employee's official duties which brings discredit to the City, or which affects the ability to perform the employee's duties officially, or any improper use of the position as an employee for personal advantage. Improper conduct may be cause for disciplinary action. In addition, improper conduct includes, but is not limited to, the following:

- A. Violation of any Federal, State or local law.
- B. Possession, use or being under the influence of intoxicating beverages or nonprescribed narcotics or drugs while on duty.
- C. Failure or refusal to comply with a lawful order or to accept a reasonable and proper assignment from an authorized supervisor.
- D. Inefficiency, or inexcusable neglect of duty; i.e., failure to perform duties required of an employee within his/her position.
- E. Inattention to duty, tardiness, indolence, carelessness, or damage to or negligence in the care and handling of City property.
- F. Improper or unauthorized use of City vehicles or equipment or misappropriation of supplies.
- G. Claim of sick leave under false pretense or misuse of sick leave, or abuse of sick leave; i.e., establishing a pattern of use of sick leave.
- H. Furnishing false information to secure appointment or making a false statement on an application for employment.

- I. Absence from duty without leave, failure to report after leave of absence has expired or after such leave of absence has been disapproved, revoked, or canceled.
- J. Willful violation of these Rules and Regulations, Departmental Rules and Policies, or any written policies which may be prescribed by the City.
- K. Acceptance by an employee of any bribe, gratuity, kickback, or other items of value when such is given in the hope or expectation of receiving preferential treatment.
- L. Any action which reflects discredit on the City or is a direct hindrance to the effective performance of City functions.
- M. Outside work which creates a conflict of interest with City work, causes discredit to the City, or detracts from the efficiency of the employee in the employee's City work.
- N. Failure to obtain and maintain a current license or certificate as a condition of employment.
- O. In competency; i.e., inability to comply with the minimum standard of an employee's position for a significant period of time.
- P. Inexcusable absence without leave.
- Q. Discourteous treatment of the public or other employees.
- R. Excessive absenteeism.
- S. Any other conduct of equal gravity to the reasons enumerated above.

#### 14.3 DISCIPLINARY ACTION

The purpose of disciplinary action is to correct deficiencies in employee performance, to assure improvement to meet appropriate standards, and/or to correct for violation of these Rules.

The following sections apply only to regular full or part-time employees. Probationary employees and employees excluded under Rule 1.3 of these rules shall not be subject to Sections 14.3 through 14.9. (See Rule 5.8.3 for Rejection during Probation.)

14.3.1 Oral Or Written Reprimand

When the Department Director or immediate supervisor determines more severe action is not immediately necessary, he/she may orally or in writing communicate to the employee the deficiency or problem observed. If the reprimand is put in writing, a copy is filed in the employee's personnel file after being signed by and a copy given to the employee. Refusal to sign shall be noted before filing. Failure to correct deficiencies and improve to meet standards may result in further discipline including suspension, reduction in pay, demotion, and discharge.

14.3.2 Suspension

A Department Director may suspend an employee for cause and without pay for up to thirty (30) calendar days after the appropriate disciplinary proceedings and with the concurrence of the City Manager. A Department Director may authorize immediate suspension with pay in an emergency situation or when the seriousness of a matter warrants, pending disciplinary procedures. The disciplinary proceedings shall determine whether the immediate suspension shall be with pay or whether the pay for that period shall be forfeited. No employee shall be suspended without pay for more than thirty (30) calendar days in any consecutive twelve (12) month period.

14.3.3 Reduction in Pay

A Department Director, after the appropriate disciplinary proceedings and with the concurrence of the City Manager, may reduce an employee's pay for cause to a lower step or range as a disciplinary action.

14.3.4 Demotion

A Department Director, after the appropriate disciplinary proceedings and with the concurrence of the City Manager, may demote an employee for cause as a disciplinary action.

#### 14.3.5 Discharge

An employee may be discharged for cause by a Department Director after the appropriate disciplinary proceedings and with the concurrence of the City Manager. Regular employees shall be discharged only after appropriate disciplinary proceedings, except in an emergency situation or serious incident. A Department Director may suspend the employee with pay immediately, as provided in Rule 14.3.2, pending the proper disciplinary process. Prompt disciplinary processing shall follow.

#### 14.3.6 Disciplinary Procedures

Whenever any of the above actions are to be recommended, a Department Director shall notify the Personnel Manager. The Personnel Manager shall be responsible for determining that the process outlined in Sections 14.4 through 14.7 of this Rule is followed and that the action to be recommended is in accordance with the provisions of Sections 14.3.1 through 14.3.5, Rule 4 (Compensation) and Rule 12.3 (Demotion).

#### 14.4 NOTICE OF PROPOSED DISCIPLINARY ACTION

Except in cases of emergency or when immediate action is required, written notice of proposed disciplinary action shall be given by the Department Head or immediate supervisor to the affected employee prior to the effective date of the proposed action. In cases of emergency or when immediate action is required, the affected employee shall be verbally informed of the reasons for the immediate action and shall be served with a written notice of proposed disciplinary action as soon as possible thereafter. The written notice shall contain:

- A. The disciplinary action intended.
- B. The specific charges upon which the action is based.
- C. A factual summary of the grounds upon which the charges are based.
- D. A copy of all written materials, reports, or documents upon which the discipline is based.
- E. Notice of the employee's right to respond to the charges, either orally or in writing, to the appropriate authority.

- F. The date, time, and person before whom the employee may respond within five (5) working days (Monday through Friday).
- G. Notice that failure to respond at the time specified shall constitute a waiver of the right to respond prior to final discipline being imposed.

#### 14.5 PRE-DISCIPLINARY MEETING

The employee shall have the right to respond to the appropriate authority orally or in writing. The employee shall have a right to be represented at any meeting set by the appropriate authority to hear the employee's response. In cases of suspensions for three (3) days or more, demotions, reductions in pay or dismissal, the employee's response will be considered before final action is taken.

The pre-disciplinary meeting is an informal meeting at which the employee has an opportunity to rebut the charges against him/her or to state any mitigating circumstances or additional information regarding the charges being considered. The Department Director will hear and consider the employee's response. The employee may also submit a written response in addition to appearing at the meeting. The Department Director shall consider the employee's response and shall either support or reject the recommended disciplinary action within five (5) working days of the meeting.

#### 14.6 NOTICE OF DECISION

After the disciplinary meeting or the expiration of the employee's time to respond to the notice of intent, the appropriate authority shall: (1) dismiss the notice of intent and take no disciplinary action against the employee, (2) modify the intended disciplinary action, or (3) prepare and serve upon the employee a final notice of disciplinary action. The final notice of disciplinary action shall include the following:

- A. The disciplinary action taken.
- B. The effect of the disciplinary action taken.
- C. Specific charges upon which the action is based.
- D. A factual summary of the grounds upon which the charges are based.
- E. The effective date of the action to be taken, which shall be at least five (5) working days after issuance of the notice of decision.
- F. The employee's right to appeal within five (5) working days of receipt of the notice of decision.

14.7 APPEAL OF DECISION

In the event that a disciplinary meeting was held and an affected employee is not satisfied with the decision of the Department Director, the decision may be appealed in writing to the City Manager within five (5) working days from the date of receipt of the notice of decision. Not less than five (5) days nor more than thirty (30) days from the date of receipt of such an appeal the City Manager shall hear the matter. After due consideration, the City Manager shall give his/her written final decision to the employee within ten (10) working days of the hearing date.

14.8 JUDICIAL REVIEW OF DECISION

The final decision is subject to judicial review only in accordance with Section 1.04.100 of the Poway Municipal Code and Section 1094.6 of the California Code of Civil Procedure.

14.9 EMPLOYEE REPRESENTATION

Employees may have a representative present at all stages of the disciplinary process provided that the representative is not a party to the action involved.

14.10 RETRIBUTION FOR APPEAL

No employee shall be penalized in any way for availing himself/herself of, or participating in, the appeal process.

## **RULE 15**

### **GRIEVANCE PROCEDURE**

#### **15.1 PURPOSE**

The purpose of the Grievance Procedure is to:

- A. Afford employees a systematic means of obtaining consideration of concerns or problems.
- B. Provide that grievances are settled as near as possible to the point of origin.
- C. Provide that appeals are conducted as informally as possible.

#### **15.2 MATTERS SUBJECT TO GRIEVANCE**

Any alleged violation of these Rules and Regulations, any alleged improper treatment of an employee, any decision affecting an employee's employment or any alleged violation of a provision of a current memorandum of understanding may be considered to be a matter subject to review through the grievance procedure.

#### **15.3 MATTERS NOT SUBJECT TO GRIEVANCE**

Employees may initiate a grievance and at the first or subsequent steps in the grievance procedure a decision may be made that the matter involved is not subject to grievance. Such matters may include, but are not limited to, merit increases, compensation, work methods, equipment, hours of work, services provided, staffing levels and allocation to classifications.

#### **15.4 GRIEVANCE PROCEDURE**

##### **Step One**

An attempt must be made to resolve all grievances on an informal basis between the employee and the immediate supervisor. It is the responsibility of the employee to initiate this process within seven (7) calendar days of the date when the aggrieved action or incident became known to the employee.

##### **Step Two**

If the grievance is not satisfactorily resolved on an informal basis, the grievance is submitted in writing to the employee's immediate supervisor within fifteen (15) calendar days after the informal decision of the immediate supervisor. The supervisor must deliver his/her answer in writing to the employee within fifteen (15) calendar days after receiving the appeal.

### Step Three

If the grievance is not satisfactorily resolved at the second step, the employee shall present his/her appeal to his/her supervisor's immediate supervisor within fifteen (15) calendar days after receipt of the written decision of his/her supervisor. The supervisor receiving the appeal shall render a decision, in writing, and return it to the employee within fifteen (15) calendar days after receiving the appeal.

### Step Four

If the grievance is not satisfactorily resolved at the third step, it is submitted in writing to the Department Director within fifteen (15) calendar days after the supervisor's decision is received. The Department Director must deliver his/her answer in writing to the employee within fifteen (15) calendar days after submission of the grievance to the Department Director.

### Step Five

If the grievance is not satisfactorily resolved at the fourth step, it is submitted in writing to the City Manager within fifteen (15) calendar days after the Department Director's answer is received. The City Manager shall render a decision in writing to the employee within twenty (20) calendar days after receiving the appeal.

## 15.5 CONDUCT OF GRIEVANCE PROCEDURE

- 15.5.1 Time limits specified above may be extended to a definite date by mutual agreement of the employee and the reviewer concerned.
- 15.5.2 The employee may request the assistance of another person of his/her own choosing in preparing and presenting his/her appeal to any level of review.
- 15.5.3 The employee and his/her representative may be privileged to use a reasonable amount of work time as determined by the appropriate Department Director or supervisor in conferring about and presenting the appeal.

15.5.4 Employee must be assured freedom from reprisal for using the grievance procedure.

## **RULE 16**

### **EQUAL EMPLOYMENT OPPORTUNITY**

#### **16.1 GENERAL POLICY**

It is the policy of the City of Poway to provide equal employment opportunity to all persons.

All City recruitment, hiring, training, promoting, and transferring shall be done without regard to race, color, religion, national origin, sex, marital status, political affiliation, age, or physical or mental disabilities not constituting bona fide occupational qualifications and all personnel policies, procedures, and practices shall be administered accordingly.

The City of Poway recognizes its moral and legal responsibility to provide equal employment opportunity, to take affirmative and direct action at all levels of City government regarding job classifications, salaries, training, fringe benefits, and other personnel policies and to improve employment and career opportunities for minority group persons and women according to affirmative action principles.

The City Manager is responsible for implementation of all equal employment opportunities and affirmative action programs adopted by the City. Department Directors are required to assure that equal employment opportunity concepts are supported by their organizations. Employee organizations must support and comply with adopted programs and the Personnel Manager shall maintain appropriate records and prepare status reports on implementation.

## INDEX TO PERSONNEL RULES

The purpose of this index is to facilitate the use and understanding of the rules and regulations. Index references in no way alter or interpret the rules and regulations.

This index makes reference to key words or terms used in the rules and regulations. The key word or term is shown in capital letters with subsequent listings of specific uses and page numbers.

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**CITY OF POWAY  
PERSONNEL RULES AND REGULATIONS**

**Adopted: September 10, 1996**