

**RESOLUTION NO. 95 – 23**

**A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF DUBLIN**

**AMENDING THE PERSONNEL SYSTEM RULES**

**WHEREAS**, the City Council is authorized to adopt rules for the administration of the City's personnel system; and

**WHEREAS**, the City Council adopted resolution No. 111-20 and subsequent amendments updating the Personnel System Rules; and

**WHEREAS**, the objective of these rules is to facilitate efficient and economical services to the public and provide for an equitable system of personnel management in municipal government; and

**WHEREAS**, the City periodically amends the Personnel Rules to be current with City practices, personnel law, benefit provisions, or conditions of employment; and

**WHEREAS**, the leave benefits for Management Employees Exempt from Competitive Service was last adopted by Resolution 110-15, and subsequent amendments, but is now being incorporated into the Personnel System Rules, for consistency and transparency purposes.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Dublin does hereby amend the Personnel System Rules, attached hereto as **Exhibit A**, which shall supersede the Personnel System Rules adopted by Resolution 111-20 and any subsequent amendments.

**BE IT FURTHER RESOLVED** that the leave benefits for positions exempt from competitive service previously outlined in Resolution No. 110-15, and subsequent amendments, will be incorporated into the overall Personnel System Rules adopted by this resolution.

**PASSED, APPROVED AND ADOPTED** this 5<sup>th</sup> day of September 2023, by the following vote:

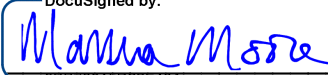
**AYES:** Councilmembers Hu, Josey, McCorriston, Qadri and Mayor Hernandez

**NOES:**

**ABSENT:**

**ABSTAIN:**

**ATTEST:**

DocuSigned by:  
  
9BB70815D22F40A...  
City Clerk

DocuSigned by:  
  
97C94F7A40A8401...  
Mayor

# City of Dublin



## Personnel System Rules

*Last Updated – September 5, 2023*



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## **I. INTRODUCTION**

- 1.1.** These Personnel Rules (hereafter "Rules") generally describe the employment relationship between the City of Dublin (City) and its employees. The Rules apply to all employees, except where otherwise indicated in these Rules, or where an applicable memorandum of understanding (MOU), or Resolution, specifically conflicts with a Rule. City Policies are in conjunction with the Rules. Each employee will receive a copy of these Rules and related City Policies and is responsible for reading and adhering to the Rules and Policies.
- 1.2.** These Rules may be amended from time to time. However, in order to be effective, the amendment must be in writing and approved by the City Council.
- 1.3.** The City Manager, or designee is vested with the responsibility to interpret these Rules in the event any provision of these Rules is deemed to be ambiguous.

## **2. EMPLOYER / EMPLOYEE RELATIONS**

- 2.1.** The City's labor relations policies are governed by the Meyers-Milias-Brown Act (MMBA), Government Code section 3500, et seq. The City has in place an Employer-Employee Relations Resolution, which specifies the City's local rules, rights and obligations regarding labor relations.
- 2.2.** Under the City's Employer-Employee Relations Resolution, and the MMBA, the City recognizes certain labor organizations as the exclusive representative for purposes of labor negotiations. For non-represented employees, the City consults in good faith with all employees regarding wages, hours, benefits, working conditions, and other items of mutual interest and provides advance notice of certain matters as specified in the City's Employer-Employee Relations Resolution. Such consultation shall be in accordance with the law.
- 2.3.** City Employee pay schedules and various health and welfare benefits are set forth in the City's Salary and Benefit Plans and are adopted by the City Council.
- 2.4.** Employees having questions concerning matters related to their classification, salary, or health and welfare benefits may contact City's Human Resources directly.

## **3. DEFINITION OF TERMS**

All words and terms used in this section and in any City Ordinance or Resolution dealing with personnel policies or procedures shall be defined as they are normally and generally defined in the field of personnel administration. For the purpose of convenience, however, the following words and terms most commonly used are hereinafter defined:

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

- 3.2. "Allocation": The assignment of a single position to its proper class in accordance with the duties performed, and the authority and responsibilities exercised.
- 3.3. "Appointing Authority": The appointing authority of employees in the Competitive Service is the City Manager. The City Manager shall either approve the appointment, removal, promotion or demotion of all City employees or authorize Department Heads to appoint, remove, promote or demote in certain classes of positions subject to all applicable personnel rules and regulations which may be adopted by Ordinance or Resolution by the City Council.
- 3.4. "Class": All positions sufficiently similar in duties, authority, and responsibility, to permit grouping under a common title with common standards of selection, transfer, demotion, and salary.
- 3.5. "Classification Plan": The designation by City Resolution of the City Council of a title for each class, together with the specifications for each class as prepared and maintained by the City Manager, or designee.
- 3.6. "Class Specifications": A written description of a job classification, setting forth the essential characteristics, knowledge, skills, abilities and the requirements of positions allocated to the classification. Such documentation may also be referred to as a Classification Description.
- 3.7. "Competitive Service": All positions of employment in the service of the City except those excluded as specifically set forth in the Dublin Municipal Code Section 2.20.040 (Personnel System) and Council Resolution 84-08 (and any amendments thereto) or its successor.
- 3.8. "Demotion": The movement of an employee from one class to another class having a lower maximum base rate of pay.
- 3.9. "Domestic Partner": "Domestic Partner" as defined by the State of California in an appropriate Code Section.
- 3.10. "Eligible": A person whose name is on an employment list.
- 3.11. "Employment List":
  - (a) Open employment list: A list of names of persons who have taken an open-competitive examination for a class in the Competitive Service and have qualified.
  - (b) Promotional employment list: A list of names of persons who have taken a promotional examination for a class in the Competitive Service and have qualified.
- 3.12. "Examination":
  - (a) Open-competitive examination: An examination for a particular class which is

open to all persons meeting the qualifications for the class.

- (b) Promotional examination: An examination for a particular class which is open only to employees meeting the qualifications for the class.

- 3.13. "Full-Time Position": A position in the Competitive Service requires at least forty (40) hours per week. A full-time position may be either temporary or regular.
- 3.14. "Immediate Family": Means parent, current spouse or domestic partner, child, current stepchild, grandparent, brother, current stepbrother, current brother-in-law, sister, current stepsister, current sister-in-law, current mother-in-law or current father-in-law.
- 3.15. "Part-Time Position": A position having a work week of fewer hours than the work week established for full-time positions. A part-time position may be either temporary or regular.
- 3.16. "Personnel Ordinance": Ordinance which creates a personnel system and rules for the City as codified in the Dublin Municipal Code Title 2.
- 3.17. "Position": A group of duties and responsibilities in the Competitive Service requiring the full-time or part-time employment of one person.
- 3.18. "Probationary Period": A period to be considered an integral part of the examination, recruiting, testing and selection process during which an employee is required to demonstrate fitness for the position to which the employee is appointed by actual performance of the duties of the position. During such period, an employee is considered at-will and may be terminated at any time without cause.
- 3.19. "Promotion": The movement of an employee from one class to another class having a higher maximum base rate of pay.
- 3.20. "Provisional Appointment": An appointment of a person who possesses the minimum qualifications established for a particular class and who has been appointed to a position in that class in the absence of available eligibles. In no instance shall a provisional appointment exceed six (6) months.
- 3.21. "Recruitment":
  - (a) Open: A recruitment for a particular class which is open to all persons meeting the qualifications for the classification.
  - (b) Promotional: A recruitment for a particular class which is open only to employees meeting the qualifications for the classification.
- 3.22. "Regular Employee": An employee in the Competitive Service who has successfully completed the probationary period and has been retained as provided in these Rules.

- 3.23. "Reinstatement": The restoration without examination of a former regular employee or probationary employee to a classification in which the employee formerly served as a regular non-probationary employee.
- 3.24. "Temporary Employee": An employee who is appointed to a temporary or a permanent position for a limited period of time.
- 3.25. "Temporary Position": A full-time or part-time position of limited duration.
- 3.26. "Transfer": A change of an employee from one position to another position in the same class or in a comparable class.
- 3.27. "Work Period": A normal work period shall begin at 12:01 a.m., Saturday and shall end at 12:00 midnight on the following Friday. Alternate work periods may be established in accordance with these rules.

#### **4. CLASSIFICATION PLAN**

- 4.1. The City maintains a set of job classification descriptions. Each job classification description includes a class title and a general written description of the duties and responsibilities. Classification descriptions are readily available electronically from the City's internet website, City's internal intranet website and are available upon request to City Human Resources.
- 4.2. Job classification descriptions may be abolished or amended from time to time. In addition, new job classification descriptions may be added to the City's classification plan.
- 4.3. When the assigned duties of a position have been materially changed by the City so as to necessitate reclassification, the affected employees(s) shall be allocated by the City Manager or designee to a more appropriate class, whether new or already created. Reclassifications shall not be used for the purpose of avoiding restrictions concerning demotions and promotions, nor to effect a change in salary in the absence of a significant change in assigned duties and responsibilities.
- 4.4. If employees believe they are performing work outside the scope of the classification description covering their position, they should report the information, in writing, to their immediate supervisor who will work with the Department Head and Human Resources to further evaluate the position.
- 4.5. The City may utilize temporary or emergency employees in such circumstances as the City deems appropriate. These employees may be assigned to regular or temporary full- or part-time positions during such periods.

## **5. RECRUITMENT AND SELECTION**

### **5.1. Recruitment**

- 5.1.1. The City may utilize any legitimate recruitment procedure for attracting qualified applicants. Recruitments may be "promotional" or "open," depending on the City's needs.
- 5.1.2. Consistent with the best interests of the City, all vacancies in the Competitive Service shall be filled by promotion from within the Competitive Service, after a promotional examination has been given and a promotional list established. The City will give reasonable notice to all employees concerning the City's employment opportunities.
- 5.1.3. If, in the opinion of the City Manager or designee, it is in the best interest of the City, a vacancy in a position may be filled by an open-competitive examination instead of a promotional examination. In that event the City Manager or designee shall arrange for an open-competitive examination and for the preparation and certification of an open-competitive employment list.

### **5.2. Applications for Employment**

- 5.2.1. Each candidate shall complete those application forms designated by the City. An applicant's failure to provide complete, truthful and accurate information on all application materials shall be grounds for immediate disqualification in the application process and may result in dismissal from employment.
- 5.2.2. As part of the pre-employment procedure, applicants may be required to supply references, and a waiver, to enable a thorough background check, including fingerprinting, by the City. The City has the right to conduct a complete and exhaustive background investigation on all applicants seeking employment with the City of Dublin to the extent permitted by law.

### **5.3. Disqualification or Rejection**

- 5.3.1. The City may reject or disqualify applicants for any legitimate reason. In addition, the City may permanently disqualify applicants from future employment for good cause. In the event of permanent disqualification, the City shall notify the applicant of the action, include a brief description of the reasons, and permit the applicant to appeal pursuant to the procedure specified in these rules. The appeal submission will be maintained with the application file, if requested by the appellant. The appeal procedure is not available to applicants except in cases of permanent disqualification.
- 5.3.2. Criminal Conduct - Once a conditional job offer has been made, employers are permitted to conduct a criminal history check. However, the City cannot



rescind the job offer based on an applicant's criminal history without going through the following process:

- 1) Making an individualized assessment that justifies denying the applicant the position. In making such determination, the appointing authority may consider the following factors:
  - (a) the classification to which the person is applying or being certified and whether the classification is unrelated to the conviction;
  - (b) the nature and seriousness of the offense;
  - (c) the circumstances surrounding the conviction;
  - (d) the length of time elapsed since the conviction;
  - (e) the age of the person at the time of conviction;
  - (f) the presence or absence of rehabilitation or efforts at rehabilitation;
  - (g) contributing social or environmental conditions.
- 2) Notifying the applicant in writing of a preliminary decision to take back the offer;
- 3) Giving the applicant a chance to provide additional information; and
- 4) Notifying the applicant in writing of a final decision to take back the offer and informing the applicant of the right to complain to California's Civil Right Department (CRD).

5.3.3. An applicant who is disqualified for employment under this section may appeal the determination of disqualification. Such an appeal must be in writing and filed with the City Manager or designee within ten (10) days of the date of the notice of disqualification. The City Manager or designee will hear and determine the appeal within ninety (90) calendar days after it is filed. The determination of the City Manager or designee on the appeal is final.

#### **5.4. Testing / Assessment Process**

The City may utilize any legitimate method to determine the qualifications of applicants, including, without limitation, written tests, oral examinations, panel interviews, assessment centers and oral interviews. The City may list successful applicants on a "list of eligibles." The list of eligibles will be maintained for the duration specified by the City.

## **5.5. Appointment**

- 5.5.1. The City may appoint any qualified applicant from the list of eligibles to a regular position in the classification for which the applicant is qualified. Positions may be full-time, or part-time, depending on the needs of the City. In the absence of a list of eligibles, the City may make temporary appointments pending development of a new list. The City endeavors to provide notice to all City employees at least one week in advance of new employment opportunities.
- 5.5.2. The City in its discretion may permit lateral transfers to a vacant position. The transfer shall be subject to the rules governing transfers. The City endeavors to provide notice of vacant positions for at least one (1) week to ensure opportunities for transfer.
- 5.5.3. The City may in its discretion cause a new list of eligibles to be generated in the event the City believes that circumstances warrant a new list. Such circumstances include, but not limited to the age of the eligible list; an inadequate number of candidates; and changing job requirements.
- 5.5.4. In the absence of names of individuals willing to accept appointment from appropriate employment lists, a provisional appointment may be made by the appointing authority of a person meeting the minimum training and experience qualifications for the position. This appointment may be made during the period of suspension of an employee or pending final action on proceedings to review suspension, demotion or discharge of an employee. A provisional employee may be removed at any time without the right of appeal or hearing.
- 5.5.5. A provisional appointee accrues the same benefits as probationary employees. If a provisional appointee is selected for a full-time position with the City, the time served as a provisional appointee is counted as time toward the fulfillment of the required probationary period.
- 5.5.6. No special credit will be allowed in meeting any qualifications or in the giving of any test or the establishment of any open competitive/promotional lists, for service rendered under a provisional appointment.

## **5.6. Probationary Period**

- 5.6.1. Unless a different probationary period is specified in the employment announcement, application, appointment documents or job specification, upon beginning a job in a new classification of employment, employees in the Competitive Service who are not at-will must serve a probationary period of twelve (12) months. Periods of time during unpaid absences shall automatically extend the probationary period by the number of days of the absence. Further, periods of time on paid leave exceeding twenty (20) working days shall extend

the probationary period by that number of days the probationary employee is on such leave. Only employees in the Competitive Service who are not at-will employees are subject to probationary periods. If the service of the probationary employee has been satisfactory to the appointing authority, then the appointing authority shall file with the City Manager or designee a statement in writing to such effect and stating that the retention of such employee in the service is desired. If such a statement is not filed, the employee will be deemed to be unsatisfactory, and their employment terminated at the expiration of the probationary period. Where a statement of satisfactory service has not been filed, notice of the termination shall be served on the terminated employee by the City Manager or designee after the expiration of the selection period.

- 5.6.2. The City may establish probationary periods exceeding twelve (12) months in duration for positions involving duties and responsibilities that the City believes warrant an extended probationary period. In that event, the City will indicate the probationary period in the job announcement or other application-related materials. Further, with respect to existing classifications, the City must provide advance notice of the probationary period change to the City employees in those classifications.
- 5.6.3. During the probationary period, probationary employees may be released from City employment at any time, without cause, without right of appeal or hearing. The City is not required to explain the reasons underlying the release from probationary employment. If the City approves, the released probationary employee may be appointed to any vacant position in a classification in which the employee is qualified and performed satisfactorily for at least one (1) year, subject to a new probationary period.
- 5.6.4. Promotional Probationary Period. When a regular employee is promoted, a promotional probationary period shall begin on the effective date of the promotion. During the probationary period of a promoted employee, the Department Head may recommend that the employee be demoted to the former position, range, and salary if the employee's performance and/or conduct do not meet the standards of the position to which the employee was promoted. Such recommendation is subject to approval by the City Manager or designee. Employees on promotional probation have no rights to tenure in the promotional position and may be returned to their former position without cause, without notice and without right of appeal or hearing. If the former position is not vacant or not available, the employee on promotional probation shall be separated from employment without the right of appeal and placed on the eligibility list for the former position for a twelve (12)-month period. Placement on an eligibility list does not guarantee that the employee will be re-hired to the former position once that position becomes available.

- 5.6.5. Probationary periods do not apply to "at-will" employment as defined in these Rules, and can be terminated at any time, with or without cause and without right of appeal or hearing.

## **5.7. At Will**

Certain positions in the City are designated "at-will." At-will positions are not subject to the job protections described in these personnel rules, including processes and rules for recruitment, discipline, termination, probationary periods, testing, and appointment from eligible lists. At-will employees are subject to these rules only to the extent that the rules set forth certain benefits and terms and conditions of employment to which all employees are entitled pursuant to applicable law. Other rules applicable to at-will employees are set forth in applicable Council Resolutions. The employment of at-will personnel may be terminated at any time, for any legal reason, and without any requirement of demonstrating "good cause," and without right of appeal or hearing. Nothing in these Rules affects or changes the at-will nature of employment for the City.

## **6. PERFORMANCE EVALUATION PROGRAM**

- 6.1. The City requires employees in the Competitive Service to undergo performance evaluations periodically throughout their employment. The City shall prescribe appropriate forms for completing performance evaluations.
- 6.2. The purpose of performance evaluations is to communicate to employees regarding their work performance, and to provide employees an opportunity to discuss their concerns regarding the same.
- 6.3. Each employee shall receive a written performance evaluation six (6) months following the date of hire or promotion. Thereafter, within thirty (30) days of each anniversary date, a written employee performance evaluation will be completed. The employee may also be requested to complete a written self-evaluation of their performance, for discussion with the employee's supervisor. In addition, a performance evaluation may be prepared at any time, at the discretion of the employee's supervisor.
- 6.4. Each performance evaluation will be discussed with the employee to identify areas of successful performance and those which require improvement. The employee may comment regarding their work performance, either in an attached written statement or orally to the supervisor. Written statements submitted by the employee will be included in the final evaluation document and filed.

The employee must sign the evaluation, which will signify that they are aware of the contents. The employee's signature does not imply agreement with the contents of the evaluation. If the employee refuses to sign the evaluation, a witness will sign as acknowledgment the employee's refusal to sign the evaluation. All employee evaluations will be signed by the employee's direct supervisor, the employee's Department Head, and the City Manager, or designee.

- 6.5. Performance evaluations are kept in employee personnel files. Employees may submit comments or rebuttals to their performance evaluations within thirty (30) calendar days of issuance, and these documents will also be maintained in the personnel files with the performance evaluations.

## **7. FITNESS FOR DUTY EVALUATIONS**

All employees must be physically and mentally capable of performing the essential functions of their jobs. The City, at its expense and selection, may require an employee to undergo a fitness for duty evaluation based on any reasonable cause.

## **8. PERSONNEL FILES**

- 8.1. The City maintains an official personnel file for each of its employees. Personnel files contain personnel records deemed necessary for the administration of human resources in the City.
- 8.2. Personnel files are available for inspection by employees within a reasonable time after an employee's request and without loss of pay, provided that employees make arrangements with their supervisor if the inspection occurs on duty. Upon written request, employees may obtain copies of the materials subject to inspection. The City may preclude inspection of certain information in accordance with the law, such as background and other pre-employment information, and materials relating to investigations.
- 8.3. The City maintains injury reports and confidential medical records in separate files. No information contained within an employee's personnel file will be released to a third party unless a waiver has been signed by the employee, except as required by law. Only those documents which have been specifically released by the employee as shown in the waiver will be shown to the third party.

## **9. WAGE AND HOUR BENEFITS**

### **9.1. General Provisions**

- 9.1.1. Wages and benefits are subject to approval by the City Council. Wages and benefit schedules are contained in the City's Salary and Benefit Plans covering the City's classifications. Employees having any questions about employment classifications, wages and benefit schedules should contact City Human Resources.
- 9.1.2. The City is committed to observing all its obligations under the Fair Labor Standards Act ("FLSA"). These rules, as well as all applicable provisions in memoranda of understanding, Council Resolutions, and all City pay practices, shall comport with, and shall be interpreted to ensure the minimum

requirements of, the FLSA.

- 9.1.3. The City Manager or designee will designate a workweek for employees in accordance with the law. The usual working hours for City employees shall be 8:00 a.m. to 5:00 p.m. (including a one-hour unpaid lunch break) and a normal workweek consists of forty (40) hours. Some departments may require a different work schedule developed by the Department Head and approved by the City Manager or designee. Alternative or flexible schedules that result in a regular schedule of more than forty (40) hours in a workweek are not permitted. Any flexible day(s) must be taken within the same workweek, must be scheduled as not to interfere with assigned duties, and are subject to approval by the Department Head and/or City Manager. All alternative or flexible schedules must be reviewed prior to the effective date to ensure compliance with FLSA.
- 9.1.4. Except when necessary to address an emergency or special circumstance, employees who *are* entitled to overtime compensation under the law may not work outside of regularly scheduled working hours or during unpaid meal periods without the prior authorization of a supervisor. In any emergency event, employees must report overtime work as soon as possible after the work is performed. Violations of this rule may result in discipline, up to and including termination of employment.
- 9.1.5. Overtime for eligible employees is any hours worked in excess of forty (40) hours during a single workweek.
- 9.1.6. Non-exempt employees, working in excess of the normal forty (40) hour workweek, shall be paid at an hourly rate of one and one-half times the regular hourly rate. Non-exempt employees may choose to be compensated for overtime work through compensatory time off (CTO) at the rate of one and one-half hours CTO per overtime hour worked instead of receiving cash payment. The decision to receive overtime pay or CTO credit shall be made at the end of the pay period in which the overtime is worked, provided the employee has not accrued the maximum CTO allowed. Employees may not convert CTO to overtime pay except at termination of employment or change in eligibility for CTO accrual. CTO may be accrued up to a maximum as established by these Rules.
- 9.1.7. For purposes of calculating overtime pay, holidays count as hours worked within a workweek. Paid leaves do not count as hours worked within a workweek. Employees eligible for overtime who take minutes at a City Council, Commission or Committee meeting shall be compensated at one and one-half times their hourly rate for the time they are attending the meeting, regardless of the hours worked in the corresponding workweek.

- 9.1.8. The City designates as "FLSA Exempt" those employees who work in professional, executive or administrative capacities and who are therefore not entitled to overtime compensation under the FLSA.
- 9.1.9. In the case of civil disaster, state of extreme emergency or local peril, all employees have the duty and obligation to perform emergency works upon request of proper authority declaring such emergency. The overtime procedures herein established shall not be in effect and compensation procedures shall be determined at the time of such conditions by the City Manager.

## 9.2. Compensation

### 9.2.1. Market Rate Adjustments:

All Market Rate Adjustments shall be based on changes in the Consumer Price Index (CPI) or a total compensation salary survey, as determined by the City Manager and approved by the City Council.

- (a) As provided for in the salary and benefit plan, the City Manager is authorized to assign salaries within a range. The range is adopted by the City Council in the Salary Plan.
- (b) The Market Rate Adjustments are established on an annual basis, pursuant to the Benefit Plan, and subject to approval by City Council.
- (c) Market Rate Adjustments shall be effective July 1<sup>st</sup> annually.
- (d) The Market Rate Adjustment shall be noted on the Personnel Action Form that must be approved by the City Manager or designee.

### 9.2.2. Merit Adjustments:

Merit Adjustments are separate from Market Rate Adjustments and shall be based entirely on employee performance.

- (a) Each fiscal year, the City Manager or designee will determine the maximum Merit Adjustment percentage based on the Council-authorized Salary Plan for all regular employees regularly scheduled to work twenty (20) or more hours per week.
- (b) The City Manager or designee will notify all regular employees prior to the start of the fiscal year the amount available for Merit Adjustments.
- (c) Any recommendation for a Merit Adjustment shall include a written performance evaluation.

- (d) An employee's performance is reported on a form designated by the City Manager or designee. Where applicable, this evaluation also includes input and observations from the employee's supervisor.
- (e) Based upon the performance evaluation, the City Manager or designee may authorize an additional Merit Adjustment, provided that adjustment will not create a salary that is greater than the range authorized in the adopted Salary Plan. The amount of the adjustment shall be based on the evaluation presented and any other factors indicating the employee's work performance.
- (f) The effective date of any Merit Adjustment shall be noted on the Personnel Action Form that must be approved by the City Manager or designee.

9.2.3. Performance Pay Adjustments:

Performance Pay Adjustments are separate from Merit Adjustments and are intended to provide limited pay adjustments given an employee's salary position within the adopted pay range.

- (a) An employee shall be eligible for a Performance Pay Adjustment annually, provided the other criteria in this section have been met. This is to allow for a Performance Pay Adjustment in conjunction with an employee's annual review related to the employee's anniversary date.
- (b) A Performance Pay Adjustment shall be a one-time wage increase, which will not alter the pay range adopted pursuant to the adopted Salary Plan.
- (c) This adjustment may be granted to a regular employee scheduled to work twenty (20) or more hours per week, if the evaluation process followed under provisions for Merit Increases (Section 9.2.2) indicates that the employee's performance is at a satisfactory level or above, which would warrant a Performance Pay Adjustment beyond the adopted salary range.
- (d) A Performance Pay Adjustment shall be at the discretion of the City Manager or designee and will be based on a written performance evaluation and any other factors indicating the employee's work performance.
- (e) Performance Pay Adjustments shall be a one-time lump sum payment, based on the score received on the performance evaluation. In exceptional cases, the City Manager may authorize a Performance Pay



Adjustment which shall not exceed 9% of the employee's annual salary. For purposes of this section, the employee's annual salary shall be twelve (12) times the employee's monthly salary prior to the adjustment.

- (f) The effective date of any Performance Pay Adjustment shall be noted on the Personnel Action Form that must be approved by the City Manager or designee.

9.2.4. Salary Following Promotion:

When an employee is promoted to a position allocated to a classification with a higher salary range, such employee shall generally be placed in the new salary range 5.0% above the previous salary level. Upon recommendation of the Department Director, the City Manager may approve assignment to any other salary within the higher salary range, but never outside the salary range.

9.2.5. Temporary Upgrade/Special Assignment Pay:

- (a) Temporary Upgrade Pay

Employees assigned to perform duties of an assignment, in writing by the City Manager or designee, who pursuant to such assignment, assumes and performs all of the ordinary day-to-day duties of a position of a higher classification for at least thirty-one (31) consecutive work days shall be paid an additional 5% of the regular pay of their own classification, or the first step of the higher classification in the classification plan whichever is greater, for all time worked in the assigned higher classification

Temporary Upgrade Pay will be limited to 960 hours a fiscal year for assignments in vacant positions qualifying for temporary upgrade pay. Temporary Upgrade Pay is reportable to the California Public Employee Retirement System (CalPERS), as defined by CCR 571(a)(3) for classic CalPERS members, to the extent allowed by law.

Work assignments shall not be changed for the sole purpose of evading the requirement of providing temporary upgrade pay to an employee who would otherwise be eligible. The effective date of any change in assignment under this section shall be noted on a Personnel Action Form that must be approved by the City Manager or designee. A Personnel Action Form shall be generated upon the completion of the acting pay status identifying regular pay of an employee's classification prior to the acting pay authorization.

(b) Special Assignment Pay

An employee who is temporarily assigned for a at least thirty-one (31) consecutive workdays to perform significant additional duties outside the scope of the job specification of the employee's classification, in addition to the employee's regular job duties, will receive Special Assignment Pay at a rate of five percent (5%) above the employee's base salary. This pay is not reportable to CalPERS.

**10. WORKWEEK, CALL-BACK PAY, MEAL PERIODS, AND LACTATION BREAK**

**10.1. Workweek**

10.1.1 The City's standard workweek for full-time employees is forty (40) hours per week, in a seven (7) day period. The workweek generally commences at 12:01 a.m. every Saturday and is a regularly recurring seven (7) day period ending at 12:00 midnight every Friday.

10.1.2 The workweek for employees on an alternative work schedule may be modified based on individual schedules to accommodate forty (40) hours in a seven (7) day work period. For employees assigned to the 9/80 work schedule, each employee's designated FLSA workweek shall begin exactly four (4) hours after the start of the employee's regularly scheduled eight (8) hour shift on the day of the week that corresponds to the employee's alternating regular day off. The same day of the week shall be permanently designated as the employee's alternating regular day off.

10.1.3 The City shall establish and may modify regular working hours for its employees. The City may require employees to work overtime and to perform standby responsibilities. Employees shall be responsible for reporting to work on time and observing the work schedule established for their department.

**10.2. Call-Back Pay**

When an employee, considered non-exempt for the purposes of the Fair Labor Standards Act (FLSA), has completed a normal shift for the day, is on a regular day off, or is on paid leave, and is called back to work, the employee will, upon reporting, receive a minimum of two (2) hours work at the overtime rate (time and one-half), or if two (2) hours of work is not furnished, a minimum of two (2) hours of pay at the overtime rate. Subsequent hours worked under this section will be paid according to the overtime provision in Section 9 of these Rules. This provision does not apply to instances in which the employee is called to report before the regular starting time and is furnished work until the end of his/her normal shift. The first two (2) hours of call back pay, per occurrence, cannot be taken as compensatory time off and will be paid to the employee as a cash payment.

### **10.3. Meal Periods**

Unless otherwise established for a department or particular employees, employees shall receive a thirty (30) or sixty (60) minute meal period that shall not be compensated. During the meal period, the non-exempt employee must be completely relieved of duties. If the employee is authorized in advance and performs work during the meal period, the employee shall be compensated. Meal periods may not be used to shorten the workday.

### **10.4. Lactation Break**

An employee who wishes to express breast milk for her infant child during her scheduled work hours will receive a reasonable amount of additional unpaid time beyond any compensated rest period. Those desiring to take a lactation break must notify a supervisor prior to taking such a break. Breaks may be reasonably delayed if they would “seriously disrupt” the City’s operations as those terms are used in Labor Code section 1032. Once a lactation break has been approved, it should not be interrupted except for emergency or exigent circumstances.

For additional information concerning lactation accommodation, see the Lactation Accommodation Policy.

## **11. LEAVES**

### **11.1. Leave Overview**

- 11.1.1. Employees are expected to be at work at scheduled times. To ensure public accountability and the integrity of public service, all employees are expected to account for their absences from work. Leave time is chargeable in increments of one-quarter of an hour (1/4) or fifteen (15) minutes.
- 11.1.2. Scheduled leaves are subject to approval by the Department Head and scheduled two (2) weeks in advance whenever possible, with due regard for the City’s service needs.
- 11.1.3. The City may employ any reasonable measure to ensure employees are properly accounting for leaves, including requiring reasonable proof that the basis for the leave is legitimate. Employees may be required to submit a medical certification of sickness supporting a request for sick leave use pursuant to these Rules and City policy. The City may require a fitness for duty certification from any employee returning from leave. Abuse of leave privileges, including working for a secondary employer while on sick leave, may subject an employee to disciplinary action, up to and including termination of employment.
- 11.1.4. Leave benefits are available only to regular, or probationary, employees regularly scheduled to work more than 1,040 hours on an annual basis, but not temporary part-time or "extra help" personnel unless otherwise noted.

## 11.2. General Leave

11.2.1. A General Leave Plan has been established for all employees regularly scheduled to work more than 1,040 hours on an annual basis, in lieu of traditional vacation and sick accrual programs. The City's General Leave Plan conforms with the Healthy Family Act of 2014 (CA Paid Sick Leave). General leave may be used for any leave purpose; however, the following sections govern its use.

11.2.2 General leave falls into two categories:

- (a) **Scheduled Leave:** Any leave which can be reasonably forecast or anticipated (i.e., vacation leave), scheduled medical/dental appointments, extended weekends, personal leave, etc. Scheduled leave requires the approval of the City Manager or designee prior to the absence. A request for scheduled leave should be submitted on a form designated by the City Manager. The employee shall be given due regard in selecting a convenient period to take scheduled leave, provided it is not in direct conflict with the best interest of the City. Every effort should be made to submit requests two weeks prior to the requested leave.
- (b) **Unscheduled Leave/Paid Sick Leave:** Any leave that is genuinely of an unanticipated nature (i.e., leave due to illness); Unscheduled Leave exceeding five (5) days may require a certificate indicating that the employee was unable to work and may also be required to specify whether the employee can return to work with or without restrictions.

The use of unscheduled leave shall be reported on a form and manner designated by the City Manager. In appropriate or excessive use of unscheduled leave may be grounds for disciplinary action.

11.2.3. Employees accrue General Leave at the following rates:

- (a) Full-Time employees in the Competitive Service accrue general leave for each bi-weekly period of service, based on the years of service with the City according to the schedule below. General leave shall be accrued based on actual hours paid during the pay period. For example, if an employee begins work on any date other than the first working day of a bi-weekly pay period, or an employee takes any time leave without pay, the amount of general leave earned in that period is proportionate to the number of hours/days worked. The accrual of general leave begins on the first day of work. The bi-weekly period coincides with the payroll period established by the City.

<b>Length of Service</b>	<b>Leave Accrued Each Bi-weekly Pay Period (Based on 40 Hrs. Paid)</b>	<b>Leave Accrued Each Year</b>
Beginning with the first month through 5 <sup>th</sup> year (60 <sup>th</sup> month)	6.77 Hours	22 days
Following the 5 <sup>th</sup> year through the 10 <sup>th</sup> year (61 <sup>st</sup> – 120 <sup>th</sup> month)	8.31 Hours	27 days
Following the 10 <sup>th</sup> year through the 15 <sup>th</sup> year (121 <sup>st</sup> month – 180 <sup>th</sup> month)	8.92 Hours	29 days
Following the 15 <sup>th</sup> year (181 <sup>st</sup> month)	9.54 Hours	31 days

- (b) For employees in the Competitive Service scheduled to work between 20 and 40 hours per week, the pro-rata share to be accrued will be the percentage of a regular 40-hour work week which they are scheduled to work, multiplied by the leave accrued per month, as shown in Subsection (a) above. For example, an eligible employee scheduled to work 20 hours per week will accrue 50% of the accrual rate in Subsection (a) above, and an employee scheduled to work 30 hours per week will accrue 75% of the accrual rate shown in Subsection (a) above.
- (c) Designated Management (i.e., At-will) Employees accrue general leave for each bi-weekly period of service, based on the years of service with the City according to the scheduled below, except that the City Manager shall be granted the authority to assign general leave accrual rates for at-will employees outside the denoted length of service. Exceptions to the standard accrual rate will be considered based on length of service in other organizations. General leave shall be accrued based on actual hours paid during the pay period. For example, if an employee begins work on any date other than the first working day of a bi-weekly pay period, or an employee takes any leave without pay, the amount of general leave earned in that period is proportionate to the number of hours/days worked. The accrual of general leave begins on the first day of work. The bi-weekly period coincides with the payroll period established by the City.

<b>Length of Service</b>	<b>Leave Accrued Each Bi-weekly Pay Period (Based on 40 Hrs. Paid)</b>	<b>Leave Accrued Each Year</b>
Beginning with the first month through 5 <sup>th</sup> year (60 <sup>th</sup> month)	7.38 Hours	24 days
Following the 5 <sup>th</sup> year through the 10 <sup>th</sup> year (61 <sup>st</sup> – 120 <sup>th</sup> month)	8.31 Hours	27 days
Following the 10 <sup>th</sup> year through the 15 <sup>th</sup> year (121 <sup>st</sup> month – 180 <sup>th</sup> month)	8.92 Hours	29 days
Following the 15 <sup>th</sup> year (181 <sup>st</sup> month)	9.54 Hours	31 days

- 11.2.4. No employee shall accrue more than 480 hours of general leave. When an employee's unused leave balance reaches this limit, the employee shall no longer accrue general leave until the balance falls below the maximum accrual limit.
- 11.2.5. If, during the first twelve (12) months of employment, an employee exhausts all leave accrued, the City Manager may advance an employee up to forty (40) hours of general leave. An advance may only be provided when it is in the best interest of the City and the following conditions are met:
- (a) The request is in writing, stating the reason for the advance.
  - (b) The employee states the date of anticipated return.
  - (c) The advance of leave is part of a hiring process approved by the City Manager.
  - (d) Any leave that is advanced will be deducted from future accruals. If an employee terminates employment prior to repayment of the advanced leave, the employee is required to reimburse the City for paid salary and benefits which were not earned by the employee.
- 11.2.6. Any employee separating from City service who has accrued general leave is entitled to be cashed out of their accrued, but unused, general leave at the employee's hourly rate of pay at the time of separation. When separation is caused by death of an employee, payment will be made to the spouse or the estate of the employee or, in applicable cases, as provided by the Probate Code of the State. General leave will be paid out at the employee's current hourly rate at the time of termination for any unused general leave.

### **11.3. General Leave Cash Out**

Annually, employees may elect to convert up to eighty (80) hours of accrued general leave into a cash payment, at their base rate of pay in effect at the time of the cash-out. Opportunities for general leave conversion will occur twice a year (May and December). Eligibility is contingent on having at least one hundred (100) hours of general leave remaining after the conversion.

Management employees will only be permitted to cash out a total of eighty (80) hours of general leave and administrative leave, cumulatively, each calendar year. See Section 11.10 for information regarding administrative leave cash out.

### **11.4. Sick Leave**

11.4.1 Part-time temporary employees are eligible to accrued sick leave in accordance with the Healthy Family Act of 2014 (CA Paid Sick Leave).

11.4.2 Pursuant to the City's General Leave Plan, regular and probationary full-time employees may earn sick leave only if the employee is ineligible to accrue general leave due to reaching the maximum accrual limit. When a regular or probationary employee has reached the maximum general leave accrual, the employee accrues sick leave at the rate provided for general leave. Once a regular and probationary employee's general leave accrual is below the maximum accrual limit, the employee will no longer accrue sick leave and will begin accruing general leave.

11.4.3 Full-time regular and probationary employees may not accrue more than 360 hours of sick leave. When an employee's unused sick leave balance reaches this limit, the employee is no longer eligible to earn sick leave.

11.4.4 Use of accrued sick leave hours, pursuant to the City's General Leave Plan, are not considered a right that may be used at an employee's discretion. The use of sick leave hours is allowed only in case of necessity as defined herein. An employee shall only be eligible to use sick leave hours, as defined in by the General Leave Plan, in the following instances:

- (a) For an employee's illness or injury when the illness/injury prevents the employee from working. Leave exceeding five (5) days may require a doctor's certification indicating that the employee was unable to work.
- (b) For an employee's dental, eye, or other physical or medical examination or treatment by a licensed provider.
- (c) For family medical purposes when a member of the employee's immediate family is involved. This shall include the family member's illness, accident, medical appointments, or other related occurrences.

- (d) For victims of domestic violence, sexual assault, or stalking to:
  - i. To obtain or attempt to obtain a temporary restraining order or other court assistance to help ensure the health, safety, and welfare of the employee or employee's child.
  - ii. Obtain medical attention or psychological counseling; services from a shelter; program or crisis center; or participate in safety planning or other actions to increase safety. (Labor Code 2230(c); 233(b)(3)(A); 246.5(a)(2))

11.4.5 Employees who use sick leave hours, pursuant to the City's General Leave Plan, will be required to file a request form with the City Manager or designee stating the basis for the absence. The request must be on a form developed and implemented by the City Manager or designee. Once an employee has used half of the sick leave accrued, the City may, within its discretion, request medical certification for any further sick leave use. The medical provider may also be required to specify whether the employee can return to work with or without restrictions. Such release of medical information shall be in compliance with the law.

11.4.6 If a finding of industrial disability is made in connection with California Public Employees Retirement (CalPERS), employees may not be permitted to exhaust paid sick leave balances prior to retirement unless the City Manager, at sole discretion, approves.

11.4.7 Any employee separating from the City service who has unused sick leave hours, pursuant to the City's General Leave Plan, will not be compensated for any sick leave hours remaining at the time of termination, unless specified through an agreement.

### **11.5. Family Medical Leave (FMLA)/California Family Rights Act (CFRA)**

In accordance with the Family and Medical Leave Act of 1993 (FMLA), "California Family Rights Act" (CFRA), and Military Caregiving Leave, eligible employees may take up to a total of twelve (12) work weeks of family and medical leave during a twelve (12) month period for a qualifying event. Please reference the City's FMLA and CRFA policy for the administering of the leaves.

### **11.6. Pregnancy Disability Leave**

The City shall provide pregnancy disability leave to eligible employee in accordance with applicable law. The City will follow the City's FMLA and CFRA policy to administer Pregnancy Disability Leave.



### **11.7. Work Related Injury or Illness Leave**

Work related injury or illness leave shall be granted only after the City's Workers' Compensation administrator has declared the illness/injury to be compensable under the California Workers' Compensation law. The City may grant up to fifty (50) hours of paid time off (per incident) for an employee to attend ongoing medical care/treatment during work hours in conjunction with a work-related injury/illness. Use of work-related injury or illness leave hours shall not be considered as a right that may be used at an employee's discretion but shall be allowed only in case of necessity. Employees who use leave hours may be required to provide a written explanation to the City Manager or designee stating the cause of absence and report the hours as instructed on their timesheets. Said explanation shall be on a form developed and implemented by the City Manager or designee. Only regular employees or probationary are eligible for work related injury or illness leave. Employees suffering injuries in the course and scope of their work may be entitled to workers' compensation benefits. Employees having questions regarding this rule should contact Human Resources.

### **11.8. Catastrophic Illness Leave**

Upon approval of the City Manager or designee, a catastrophic sick leave bank may be established for the benefit of an employee incapacitated by an extreme or severe illness or injury. Employees may donate general leave and/or sick leave to another employee in accordance with the City's Catastrophic Leave Administrative Policy.

### **11.9. Military Leave**

Military Leave shall be granted in accordance with the provisions of state and federal law. An employee requesting leave for this purpose must, whenever possible, provide in advance to the City Manager or designee, with a copy of the military orders specifying the dates, site and purpose of the activity or mission. Within the limits of such orders, the City may determine when the leave is to be taken and may modify the employee's work schedule to accommodate the request for leave.

### **11.10. Jury Duty Leave**

Employees summoned by state or federal court to jury duty shall be entitled to full pay during the period of jury service. Employees must keep their supervisors informed of their court schedule and provide proof of jury service to the City with their timesheet. Employees pay any fees received for jury service to the City, except for mileage reimbursement. Jury duty leave does not count towards hours worked for the purpose of calculating overtime.

### **11.11. Administrative Leave**

Administrative leave is granted to employees in recognition of being required to work beyond their regular hours of work to fulfill their employment responsibilities. Employees in the Competitive Service, who are designated as FLSA Exempt under these Rules, will be granted forty (40) hours of administrative leave on July 1<sup>st</sup> of each year. Management employees will be

granted 64 hours of administrative leave.

- (a) On December 1<sup>st</sup> of each year, employees who receive administrative leave may choose to be paid a maximum of 50% of their unused administrative leave (i.e., 20 hours for exempt employees, 32 hours for Management). Payment for this administrative leave will be paid with the first pay period ending date after December 1<sup>st</sup> of each year.
- (b) The use of administrative leave requires the approval of the employee's Department Head and City Manager or designee prior to the absence. A request for scheduled administrative leave should be submitted on a form designated by the City. The employee who has available administrative leave and requests use of administrative leave is permitted to use time off within a reasonable period after making a request if use of leave does not unduly disrupt the operations of the City. Employees should make every effort to submit requests to take administrative leave two (2) weeks prior to the requested leave.
- (c) On June 30th of each year, any unused leave is forfeited. Administrative leave has no cash value at separation.

### **11.12. Leave Without Pay**

The City in its discretion may permit employees to be on leave without pay (LWOP) not to exceed ninety (90) days. An extension of any leave of absence without pay beyond ninety (90) days may be granted upon approval of the City Manager when such extension of leave is in the best interest of the City. Employees in such status do not accrue benefits, or receive service credit, and may be required to pay for portions or all health and welfare benefits/premiums during the period of their leave without pay status. Employees may take personal leave without pay when required by law.

### **11.13. Bereavement Leave**

The City grants bereavement leave to include leaves of absence with pay up to five (5) workdays where a member of the employee's or spouse's or domestic partner's immediate family dies. The City in its discretion may require some proof that a death in the family has occurred. Bereavement leave is available only within thirty (30) days of a death in the family unless the employee has made arrangements with the City regarding its use at a later date.

### **11.14. Holidays**

11.14.1. The City observes the following legal holidays, which are available to those employed prior to or on the date of the holiday:

- (a) New Year's Day
- (b) Martin Luther King Jr. Birthday
- (c) Presidents Day

- (d) Memorial Day
- (e) Independence Day
- (f) Labor Day
- (g) Veteran's Day
- (h) Thanksgiving Day
- (i) Day After Thanksgiving
- (j) Day Before Christmas
- (k) Christmas
- (l) Day Before New Year's Day
- (m) See Benefit Plan for Floating Holidays

- 11.14.2. In the event that a holiday falls on a Saturday, the preceding Friday shall be a holiday. In the event a holiday falls on a Sunday, the following Monday shall be a holiday. In cases where one of two (2) consecutive holidays falls on a weekend day (e.g., the Day before Christmas and Christmas Day/the Day before New Year's and New Year's Day) a conflict may occur with the paragraph above. In such cases, the City Manager designates the day(s) to be observed as a holiday(s) in lieu of the holiday(s), which falls on Saturday and/or Sunday. The City Manager's designation shall not result in the observation of more total holidays than are approved in the Benefit Plan.
- 11.14.3. If a non-exempt employee is required to work on a holiday, the employee shall receive pay at time and one-half of their hourly rate for all hours worked, in addition to the holiday pay provided for in this section.
- 11.14.4. The floating holidays are subject to supervisory approval and may not be carried over to another calendar year and are lost unless used prior to the end of the calendar year.
- 11.14.5. Part-time employees who occupy authorized half-time or three-quarter time positions and are scheduled to work 20 hours or more per week on a continuous basis shall receive prorated holiday pay for each recognized holiday outlined in this Section, as follows: half-time employees shall receive 4 hours holiday pay; three-quarter time employees shall receive 6 hours of holiday pay.
- 11.14.6. If a holiday falls on an employee's regularly scheduled day off, the employee shall be credited eight (8) hours' time off with pay to either their general leave or compensatory time banks.
- 11.14.7. Designated and floating holidays are credited as eight (8) hours each. If the employee works a schedule with more than eight (8) hours in a workday, the employee must use accumulated vacation or compensatory time to provide the difference between eight (8) hours and the employee's normal workday. As an alternative, the employee may make up the difference by working the additional time, but only during the work week in which the holiday fell.

### **11.15. Compensatory Time Off (CTO)**

Non-exempt employees may choose to be compensated for overtime work through compensatory time off (CTO) at the rate of one and one-half hours CTO per overtime hour worked instead of receiving cash payment. CTO may be accrued up to a maximum of 100 hours for regular and probationary non-exempt employees. If an employee reaches the maximum limit, they shall be compensated for all overtime worked. If an employee has accrued any unused CTO at termination, the employee shall be paid for such unused CTO at their regular rate of compensation at termination.

### **11.16. School Leave**

Employees who are parents, guardians or grandparents of a child in kindergarten through grade 12 may take up to forty (40) hours per year, not exceeding eight (8) hours in a month, to participate in the child's school activities. The employee must use accrued general leave, floating holiday, administrative leave or compensatory time for this leave. Prior notice of the need for this leave must be given to the immediate supervisor.

If an employee who is the parent or guardian of a child facing suspension from school is summoned to the school to attend a portion of the school day in their child's classroom, the employee should alert their supervisor or manager as soon as possible before leaving work. In accordance with California Labor Code § 230.7, no adverse action will be taken against an employee who takes time off for this purpose.

### **11.17. Voting Time**

Employees will be granted time off with pay to vote in any general, direct primary or presidential primary election in accordance with the provisions of the Elections Code section 14000. Employees must give notice to their immediate supervisors of their need to take such time off as soon as practical.

### **11.18. Civic Service Leave**

Effective September 2023, civic service leave is being discontinued, in exchange for floating holiday. To convert from a leave type provided on a fiscal year to one given on a calendar year, employees will forfeit 4 hours of the civic service leave granted July 1, 2023, and the other 4 hours, if unused as the time of conversion, will be converted to additional floating holiday time to be used during the 2023 calendar year. Any employee who has used more than 4 hours of civic service leave at the time of conversion will have a reduction in floating holiday hours in 2024 that is proportionate to the excess civic service hours used prior to conversion.

### **11.19. Time Off for Immediate Family of Victims of Crime**

Employees who are the immediate family members (spouse, child, stepchild, brother, stepbrother, sister, stepsister, mother, stepmother, father, or stepfather) or registered domestic partner of a victim of a violent or serious felony may take time off from work in

order to attend judicial proceedings related to that crime. The crime must be an offense enumerated in Labor Code Section 230.5(a)(2).

### **11.20. Leave to Perform Emergency Duties or to Attend Related Training**

An employee may take leave to perform duty as a volunteer firefighter, a reserve peace officer, or emergency rescue personnel. However, the City does not have to provide this leave if the employee's absence would hinder the City's availability to provide public safety or emergency medical services.

### **11.21. Unauthorized Leave or Job Abandonment**

An unauthorized absence from the work site or failure to report to duty after a leave request has been disapproved, revoked, or cancelled by the appointing authority, or at the expiration of a leave, shall be without pay. Such absences may be grounds for disciplinary action, including termination.

### **11.22. Relocation Expenses**

The City Manager shall have the authority to negotiate on behalf of the City relocation expenses for designated management employees, as identified in the Management Positions Except from Competitive Service Resolution. Such expenses may include travel, interim housing, storage, and other relocation expenses as deemed appropriate by the City Manager.

## **12. TRANSFERS**

- 12.1.** A non-probationary City employee with at least satisfactory appraisal ratings may request a transfer to a lateral or other lower-level vacant position in the City. The transfer request may be initiated by submitting forms as prescribed by Human Resources. The employee requesting a transfer must meet the minimum qualifications for the vacant position and may be subject to interviews and other pre-employment processes specified by the City. Following reasonable notice to City employees, vacant positions may be filled through transfers rather than appointments from eligible lists.
- 12.2.** The City may initiate a transfer of a disabled employee who qualifies under applicable disability laws but cannot perform the essential functions of their job without reasonable accommodation. Such transfers will have priority over any eligibles on an existing eligible list.

## **13. LAYOFF AND RECALL**

- 13.1.** Whenever in the sole judgment of the City Council it becomes necessary to abolish any position that is held by a full-time regular employee due to a reorganization, or lack of work or funds, the employee holding that position may be laid off or demoted without disciplinary action and without the right of appeal. Whenever possible, employees will be given at least thirty (30) days' notice of any layoff.

- 13.2.** When a layoff involves a position classification held by more than one person, layoffs will be made in a reverse order of seniority. Seniority will be determined by including all periods of full-time regular service at or above the classification level where the layoff is to occur.
- 13.3.** Persons laid off or demoted in accordance with this Rule will have their names kept on a re-employment list for two (2) full years from the date of layoff or demotion. The re-employment list will be used by the City when a vacancy arises in the same or lower classification of position in the department where the layoff originally occurred before seeking promotional and/or general applications from others.
- 13.4.** This Rule does not apply to at-will, part-time or probationary employees.

#### **14. EMPLOYEE SAFETY/VIOLENCE IN THE WORKPLACE**

- 14.1.** The City is committed to providing a safe and secure workplace and will not tolerate acts or threats of violence in the workplace. (Labor Code § 6400.) The workplace includes any location where City business is conducted, including vehicles and parking lots.
- 14.2.** Safety is everyone's responsibility. All employees must use safe work practices and report any unsafe conditions that may occur. Please become familiar with the City's Workplace Violence Prevention policy.

#### **15. GRIEVANCE PROCEDURE**

- 15.1.** The grievance procedure is intended to provide an avenue only for redress of complaints that the City has in some manner violated any of the Personnel Rules.
- 15.2.** The grievance appeal must be initiated by the employee (appellant) within fifteen (15) calendar days of the facts giving rise to the appeal and must be submitted to Human Resources. Failure to initiate an appeal within this time frame will result in denial of the appeal as untimely and void. Human Resources may submit the appeal for response as the first step to a directly involved supervisor or another department representative.
- 15.3.** Appeals must be in writing, signed by the affected appellant(s) and allege that the City has violated a specific provision of these Rules. Appeals must contain the specific facts upon which they are based. Appeals that fail to include these elements may be rejected on that basis. An email may serve as a written appeal.
- 15.4.** Human Resources will review the appeal and shall serve notice of a written response within fifteen (15) calendar days of receipt of the appeal.
- 15.5.** If the appellant is dissatisfied with the City's first response, the appellant may submit an appeal to the City Manager. The appeal must be received by the City Manager within

fifteen (15) calendar days of Human Resources' decision.

- 15.6.** The City Manager, or the City Manager's designee, will review the appeal and shall serve notice of a written response within fifteen (15) calendar days of receipt of the appellant's appeal. The City Manager's decision shall be final.
- 15.7.** No other grievance or appeal procedure may be used for matters within the scope of this appeal procedure.
- 15.8.** Exhaustion of this appeal procedure is intended to provide an informal avenue for redress of complaints relating to these rules, and to give the City an opportunity to investigate the complaint and correct any problems before they become more serious.

## **16. DISCIPLINE/GENERAL RULES OF CONDUCT**

### **16.1. General Rules of Conduct**

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

### **16.2. Disciplinary Actions**

The City of Dublin may invoke the following types of disciplinary actions:

- (a) Official Reprimand
- (b) Suspension Without Pay
- (c) Reduction in Pay
- (d) Demotion
- (e) Disciplinary Probation
- (f) Discharge/Termination

### **16.3. Grounds for Discipline**

- 16.3.1.** Disciplinary measures may be taken for any good and sufficient cause. City employees who are employed "at-will," or who are temporary or probationary, are not subject to the requirement of good cause, and are not entitled to pre-discipline procedures or appeals under these policies.
- 16.3.2.** Good cause exists not only when there has been an improper act or omission by an employee in the employee's official capacity, but when any conduct by an

employee brings discredit to the City, affects the employee's ability to perform assigned duties, causes other employees' inability to perform their duties, or involves any improper use of their position for personal advantage or the advantage of others. Good cause also exists if an employee is unable to perform the duties of their position for an extended period. The type of disciplinary action depends on the seriousness of the offense and the relevant employment history of the employee. Causes for disciplinary action against an employee may include, but are not limited to, the following:

- (a) Misstatements or omissions of fact in completion of the employment application or to secure appointment to a position with the City.
- (b) Dishonesty; furnishing knowingly false information in the course of the employee's duties and responsibilities.
- (c) Inefficiency, incompetence, carelessness or negligence in the performance of duties.
- (d) Violation of safety rules.
- (e) Violation of any of the provisions of these personnel rules and regulations, department rules and regulations, City policies, City ordinances or resolutions.
- (f) Inattention to duty.
- (g) Tardiness, overstaying lunch periods, or leaving early.
- (h) Being under the influence of an intoxicating beverage or non-prescription drug, or prescription drugs not authorized by the employee's physician, while on duty or on City property, or any other violations of the City's Drug and Alcohol-Free Workplace policy.
- (i) Disobedience to proper authority, refusal or failure to perform assigned work, to comply with a lawful order, or to accept a reasonable and proper assignment from an authorized supervisor.
- (j) Unauthorized soliciting on City property.
- (k) Unauthorized absence without leave; failure to report after leave of absence has expired or after a requested leave of absence has been disapproved, revoked or canceled; or any other unauthorized absence from work.
- (l) Conviction of a felony, or a misdemeanor involving moral turpitude, or a violation of a federal, state or local law which negatively impacts the



employee's ability to effectively perform their job or brings discredit to the City.

- (m) Discourteous and/or offensive treatment of the public or other employees.
- (n) Falsifying any City document or record.
- (o) Misuse of City property; improper or unauthorized use of City equipment or supplies; damage to or negligence in the care and handling of City property.
- (p) Theft or sabotage of City property.
- (q) Sleeping on the job, except as specifically authorized.
- (r) Accepting bribes or kickbacks.
- (s) Intimidation or interference with the rights of any employee.
- (t) Outside work or any other activity or conduct which creates a conflict of interest with City work, which causes discredit to the City, negatively impacts the effective performance of City functions or is not compatible with good public service or interests of the City service.
- (u) Failure to obtain and/or maintain the necessary license or certification specified for the position; failure to maintain minimum qualifications for a position including required licenses or certificates.
- (v) Abusive or intemperate language toward or in the presence of others in the workplace.
- (w) Gambling on the job.
- (x) Excessive absenteeism; inability to perform the duties of the position.
- (y) Conduct unbecoming a City employee.
- (z) Any other conduct of equal gravity to the reasons enumerated above as determined by the City.

The above reasons are indicative and not restrictive. Discharge, suspension, demotion, reduction in pay or other discipline may be based on reasons other than those specifically mentioned above.

## **16.4. Authority to Discipline**

- 16.4.1. Any authorized supervisory employee may institute disciplinary action for cause against employees under their control in accordance with the procedures outlined in these Rules.
- 16.4.2. The City, in its discretion, may place employees on paid administrative leave. Employees on such leave are subject to the City's instructions during their normal working hours.

## **16.5. Procedure for Disciplinary Action**

In the absence of a process in a Memorandum of Understanding (MOU), employees covered by this Rule are governed by the following provisions.

## **16.6. Written Notice/ Pre-Discipline Meeting/ Final Action**

### **16.6.1. Written Reprimands**

The employee may submit a written response to the reprimand which shall be placed in the employee's personnel file. There is no further right of appeal to a written reprimand. For other discipline, the City shall issue a written notice of intent to discipline (NOI), describing the intended discipline, the basis for the discipline, and attaching any documents upon which the discipline is based.

### **16.6.2. Minor Discipline**

For other discipline that is less severe than a reduction in pay or suspension of six (6) working days, the discipline may be imposed prior to providing the employee a right to respond to the discipline. Within a reasonable time after the discipline is imposed, or before the discipline is imposed, within the City's discretion, the City must provide the employee with NOI, which includes the reasons for the action, a copy of the charges including materials upon which the action is based, and notice of the employee's right to respond, orally or in writing, to the proposed action. If the employee chooses to respond orally, the City Manager, or designee, shall convene a meeting to review the employee's response and position. The employee is entitled to have a representative of choice to attend the meeting. If the City Manager (or designee) decides to reduce the discipline, and if the employee has already served a disciplinary suspension for the offense, the employee will be compensated commensurate with the reduction in discipline. The City Manager's (or designee's) decision is final and there is no further right of appeal.

### 16.6.3. Major Discipline

For discipline that is greater in severity than a reduction in pay or suspension of five (5) working days, the employee shall receive notice of the right to respond, either orally or in writing, before discipline is imposed. If the employee wants to respond orally, the City will set a pre-discipline meeting (Skelly meeting) approximately one (1) week from the date of the NOI, unless a different time and date is set by mutual agreement.

For discipline that is greater in severity than a suspension of five (5) working days, the City Manager, or designee, will convene a pre-discipline meeting (Skelly) to review the employee's response and position before imposing discipline. The employee is entitled to a representative of choice, provided, however, that the inability of a particular representative to attend the meeting is not the cause requiring a continuance of the meeting. At the meeting, the employee will have the opportunity to respond to the charges and to present any new information for consideration by the City.

For discipline that is greater in severity than a suspension of five (5) working days, at some reasonable time after the employee has been provided an opportunity to respond to the NOI, the City shall issue a final notice of decision to discipline (NOD). The NOD will include the final decision, the effective date of the discipline and the facts upon which the discipline is based and notice of the right of appeal.

## 16.7. Appeal

- 16.7.1. For discipline that is greater in severity than a suspension of five (5) working days, employees have the right to appeal the NOD. The employee's request for an appeal must be received within seven (7) calendar days from the date of the NOD, or the right to appeal is waived and the discipline becomes final. The request for an appeal of a NOD, does not inhibit the NOD from being implemented.
- 16.7.2. The appeal will be heard by an outside impartial independent hearing officer to be selected by the City. The costs of the hearing officer will be borne by the City. The hearing will be transcribed.
- 16.7.3. The hearing officer has the authority to convene the hearing, receive evidence through testimony and documents and to make findings of fact and recommendations about the discipline. The hearing officer may recommend an outcome, but the final authority rests with the City Manager. The hearing officer will make detailed findings of facts related to the disciplinary charges in writing and serve a recommended decision on the City and the employee. After consideration of the hearing officer's recommended decision, the City Manager will issue a final decision in writing. The City Manager's decision is

reviewable by administrative writ of mandamus.

## **17. RESIGNATIONS**

### **17.1. General Provisions**

Employees are free to resign from their employment but are encouraged to give at least two (2) weeks' notice. A resignation becomes effective upon the City's receipt of a written notice of resignation. If no written resignation is tendered, but a resignation is indicated orally, a resignation becomes effective upon the City's notice of acceptance of the resignation. Once a resignation becomes effective, it is irrevocable except that the City Manager may permit a resignation to be rescinded.

### **17.2. Job Abandonment**

A constructive resignation occurs when an employee has been absent from duty for three (3) consecutive workdays without prior authorization, or failed to notice the department of the absence, and did not respond to the City's inquires, if any, during the absence. The City shall give the employee notice of such constructive resignation. Except for at-will or probationary employees, regular employees who are separated from the City's service by constructive resignation may utilize the City's Grievance Appeal procedure.

## **18. NON-DISCRIMINATION AND HARASSMENT**

The City of Dublin is committed to providing an environment that is free from harassment and discrimination of any kind, including sexual harassment and harassment based on race, color, religion, creed, national origin, ancestry, age, citizenship status, physical or mental disability, medical condition, genetic characteristics or information, marital status, sexual orientation (including homosexuality, bisexuality, or heterosexuality), gender (including gender identity and gender expression), pregnancy (including childbirth, breastfeeding, or related medical conditions), military and veteran status, or membership in any other legally protected category. Therefore, it is important that the City maintain an atmosphere characterized by mutual respect in order to assure fair, courteous treatment for employees and the public. Employees are responsible for reading and understanding the City's Harassment, Discrimination, Retaliation, and Abusive Conduct Prevention policy.

## **19. ACCOMMODATIONS FOR EMPLOYEE DISABILITIES**

Employees with a disability may request a reasonable accommodation for that disability. Such requests should be submitted to the employee's Department Head, or Human Resources. If the employee has a disability as defined under the Fair Employment and Housing Act, the City will engage in an interactive process with the employee to determine an appropriate accommodation for the employee in accordance with applicable law if undue hardship does not result to the City's operations. To achieve the provisions of this section and the duties of the law, the City's efforts to reasonably accommodate the employee take precedence over and preempt any other conflicting provisions or limitations in these Rules, provided that the City

will not terminate or permanently reassign any regular employee to accommodate another employee. If the City determines that an employee is not able to perform the essential functions of the job, with or without reasonable accommodation, the City may remove the employee from their position and apply for disability retirement for the employee if the employee is eligible. The City will endeavor to retain the employee in an employed status until CalPERS has made its determination regarding the disability retirement application. However, the employee may be in an unpaid status during this period if applicable paid leaves have been exhausted. If the employee fails to cooperate in the disability retirement process, the City may separate the employee from employment.

## **20. OUTSIDE EMPLOYMENT**

City employees may not engage in any outside employment, enterprise or activity that the City determines is in conflict with their duties and responsibilities, or any aspect of City operations. An employee must submit a request for outside employment to their Department Head. The Department Head shall provide a written decision to the employee. The written decision will be provided to Human Resources.

## **21. VOLUNTEERS**

### **21.1. General Provisions**

21.1.1. The City may utilize volunteers for the delivery of City services. The use of volunteers is subject to approval by the City Manager or designee. Volunteers are subject to fingerprinting according to the City's Fingerprinting of Employees and Volunteers policy.

21.1.2. Volunteers are not eligible for salaries, benefits or other compensation unless specifically provided for by the City. Subject to approval by the Department Head or City Manager, necessary equipment or uniforms and reimbursement for approved actual expenses and mileage may be provided.

### **21.2. Employee Volunteers**

Subject to approval by the City Manager or designee, employees may volunteer to provide services to the City outside of their normal duties provided they are not performing the same or similar duties for which they are normally compensated, and the responsibilities are occasional and sporadic. Employees engaging in such volunteer assignments are not entitled to compensation. Volunteer time shall not be considered for the calculation of overtime.

## **22. DRUG AND ALCOHOL-FREE WORKPLACE**

The City's workplace is a drug and alcohol-free workplace. Employees may not be at work under the influence of alcohol or drugs, may not use or possess alcohol or drugs while on duty or while on paid standby time and may not sell, manufacture, distribute or provide drugs to any person while on duty. The City has no intention of interfering with the private lives of its employees unless involvement with alcohol and other drugs on or off the job affects job performance or public safety. The City encourages employees to voluntarily seek help with drug and alcohol problems and offers a confidential Employee Assistance Program. Employees are responsible for reading and understanding the City's Drug and Alcohol-Free Workplace policy.

## **23. NEPOTISM**

No employee, prospective employee, or applicant will be improperly denied employment or benefits of employment on the basis of a relationship as defined below with another employee or official of the City.

Nonetheless, the City retains the right to take appropriate steps to avoid inappropriate working relationships among relatives, including married persons. For administrative purposes, a relative is a spouse, domestic partner, child, stepchild, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, cousin, niece, nephew, parent-in-law, brother-in-law, sister-in-law or any other individual related by blood or marriage. The City retains its rights to:

- (a) Refuse to place one party under the direct or indirect supervision of the other party of a relationship.
- (b) Refuse to place both parties to a relationship in the same department, division, or facility when such action has the potential for creating adverse impact on supervision, safety, security, or morale, or involves potential conflicts of interest.
- (c) Exclude one party to a relationship from contributing to, or recommending promotions, assignments, performance evaluations, transfers or other personnel decisions of the other party.
- (d) Disqualify one party to a relationship for a position privy to confidential personnel matters who has a relative already in the City's employment when the relationship may compromise confidential information.
- (e) Effect a transfer in the event the City learns of circumstances described above.

## **24. GIFTS AND GRATUITIES**

No employee of the City may solicit or accept, for self or family, favors, benefits, gifts or gratuities under circumstances which might be construed by reasonable persons as influencing the performance of the employee's governmental duties.

## **25. USE OF INFORMATION AND ELECTRONIC SYSTEMS**

Electronic systems are all hardware, software, and other electronic communication or data processing devices owned, leased, or contracted for by the City of Dublin and available for official use by City employees. This use includes, but is not limited to, the Internet, E-mail, voice-mail, cellular telephones, pagers, personal digital assistants, smartphones, computers/laptops, telecommunications devices, video and audio equipment, wireless networks, data systems telecommunications equipment, global positioning equipment, location devices, transmission devices, data processing or storage systems, computer systems, servers, networks, input/output and connecting devices, software, agency hosted social media, and documentation that supports electronic communications services. Employees are responsible for reading and understanding the City's Electronic System and Information, Social Media, and Remote Computer Access policies.

## **26. DRESS CODE**

Employees of the City are required to dress appropriately for the jobs they are performing. Therefore, the dress regulations contained in this section shall be followed. The City reserves the right to direct any employee who is dressed inappropriately for work to go home and make appropriate changes to their work attire before returning to work.

- (a) All clothing must be neat, clean and in good repair.
- (b) Prescribed safety equipment must be worn or utilized where applicable.
- (c) Footwear must be appropriate for the work environment and functions being performed.
- (d) Hair, beards, mustaches and sideburns must be maintained in a neat and well-groomed fashion.
- (e) Jewelry is acceptable except in areas where it constitutes a health or safety hazard.
- (f) Good personal hygiene is required.
- (g) Dress must be appropriate to the work setting, particularly if the employee deals with the public.
- (h) Employees may be required to wear uniforms specified by the City. City uniforms shall be worn in a professional manner.
- (i) Employees should be mindful of other employees' sensitivity to perfume and other fragrances, and employees shall refrain from wearing fragrances that are offensive or harmful to others.

## **27. USE OF CITY EQUIPMENT**

No City-owned equipment, autos, trucks, instruments, tools, supplies, machines, or any other item that is the property of the City may be used by an employee other than for City business, unless the City Manager or designee approves in advance. No employee may allow any unauthorized person to rent, borrow, or use any City property, except upon prior written approval of the City Manager or designee. For further information, see the City's Vehicle Use policy.

## **28. TRAVEL AND TRAINING POLICY**

- 28.1. The City is committed to ensuring that its employees receive adequate training to perform their jobs. Training and travel are subject to department approval. Training opportunities that occur outside normal work hours require approval by the Department Head. Overnight travel also requires approval by the Department Head.
- 28.2. The City generally requires that training, and attendant travel, be scheduled in a way that will minimize the City's overtime liability. From time to time, the City issues policies that govern these areas. Employees must observe these policies.
- 28.3. City business travel shall be carried out in an efficient, cost-effective manner resulting in the best value to the City. Telecommunications instead of travel should be considered when possible. The City will pay or reimburse all business travel related expenses based on reasonableness and on the actual amount of expense incurred by the employee pursuant to the City's official Travel and Other Business and Reimbursement of Expenses policy as may be amended. Employees having questions about the City's travel and training policies should contact their supervisor or the Administrative Services Department.

## **29. MISCELLANEOUS**

### **29.1. City May Amend or Revise Rules and Policies**

From time to time the City may adopt new or amended Rules and policies, after appropriate consultation with the City employees.

### **29.2. No Contract**

These Rules do not create a "contract" of employment between the City and any employee. Public employment is statutory, not contractual.

### **29.3. Severability**

If any part of these Rules is determined to be unconstitutional or illegal, such part shall be severed from these Rules and the remaining Rules given full force and effect.



#### **29.4. Word Usage**

The term "City" as used in these Rules refers to the City of Dublin. Responsibilities and rights of the City under these Rules are exercised by the City Manager and may be delegated by the City Manager.