

CITY OF HAYWARD

PERSONNEL RULES

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GENERAL PROVISIONS

1.00 AUTHORITY FOR RULES

These rules are adopted under the authority of Article 4, Chapter 2 of the Hayward Municipal Code.

1.10 APPLICATION OF RULES

Unless apparent by their context, these rules shall apply to all full-time positions of employment in the City of Hayward except those created under federally-funded employment programs and occupied by persons appointed in Work Experience status. (As amended by Resolution 75-024 C.S., adopted January 21, 1975.)

1.15 APPLICATION OF RULES - MEMORANDA OF UNDERSTANDING

In the event provisions of these rules contradict those included in Memoranda of Understanding accepted by the City Council and currently in effect between the City and formally recognized employee organizations, the terms of the Memoranda of Understanding shall prevail. (As added by Resolution No. 71-012 C.S., adopted January 5, 1975.)

1.20 VIOLATION OF RULES

Violation of these rules shall be grounds for rejection of application, removal from an eligible register, dismissal, or other disciplinary action deemed appropriate under the circumstances.

1.30 AMENDMENT TO PERSONNEL RULES

Recommendations for amendments to these rules shall be made to the City Council by the Personnel Board after holding a public hearing thereon. Proposed amendments shall be posted on regular City bulletin boards for at least five (5) days, together with notice of the time, place, and date of hearings by the Board.

PERSONNEL BOARD

2.00 PERSONNEL BOARD MEETINGS

Procedures for scheduling and giving notice of regular and special meetings shall be established by resolution of the Personnel Board.

2.10 RULES OF ORDER

The proceedings of the Board shall be governed under "Robert's Rules of Order" on all matters pertaining to parliamentary law; however, no action of the Board shall be invalidated or the legality thereof otherwise affected by the failure or omission to observe or follow said rules.

CLASSIFICATION OF POSITIONS

3.00 PREPARATION OF CLASSIFICATION PLAN

The Personnel Director, or a person or agency employed for such purpose, shall ascertain and record the duties and responsibilities assigned to all positions in the classified service.

The classification plan shall consist of individual class specifications, including title, definition, illustrative examples of typical duties and responsibilities, and the training, experience, and other qualifications required. The classification plan shall be so developed and maintained that all positions substantially similar with respect to

duties, responsibilities, and employment standards shall be included within the same class. The City Manager, department heads, and employees shall be consulted in developing recommendations for the classification plan or its revision.

3.10 CLASSIFICATION PLAN – ADOPTION AND REVISION

The classification plan shall become effective upon adoption by the Personnel Board after holding a public hearing thereon. The proposed classification plan shall be posted on regular City bulletin boards for at least five (5) days, together with notice of the time, place, and date of hearing by the Board. At the time of consideration, an interested person may appear and be heard. The classification plan may be revised as changing conditions require. Such revisions may consist of the addition, abolishment, consolidation, division or amendment of existing classes, and shall be made effective in the same manner as the adoption of the plan.

3.20 ALLOCATION OF POSITIONS TO CLASSES

Subject to approval of the City Manager, each position in the classified service shall be allocated by the Personnel Director to one of the classes established by the plan. In determining the class to which any position should be allocated, the specification for each class shall be considered as a whole. Consideration shall be given to general duties, specific tasks, responsibilities, minimum qualifications, and the relationships to other classes.

3.30 INTERPRETATION OF CLASS SPECIFICATIONS

The specifications for the various classes of positions are hereby declared to have the following definition and scope:

The "specifications" are descriptive only and are not restrictive. They are intended to indicate the kinds of positions that should be allocated to the respective classes, as determined by their duties, responsibilities, and qualification requirements. Use of a particular expression shall not be interpreted as excluding others not mentioned, if such others are similar in kind or quality.

The duties statement shall be construed as a general description of a kind of work performed by the incumbent of a position that is properly allocated to the class. They should not be interpreted as necessarily limiting the authority of the appointment power to prescribe or alter the duties of any particular position.

The typical tasks shall be construed as examples only, illustrative of the duties as outlined by the definition. These examples are not intended to be complete or exclusive. The fact that the actual task performed by the incumbent of a position does not appear therein shall not be taken to mean that the position is necessarily excluded from the class, provided that the tasks constituting the main work or employment are duly covered by the definition of duties. On the other hand, any one example of a typical task, taken without relation to the definition of duties and all other parts of the specifications, shall not be construed as determining whether a person should be allocated to the class.

3.40 MAINTENANCE OF CLASSIFICATION PLAN

The City Manager, in accordance with his overall responsibility for efficient municipal operations, may change specific duty assignments and propose the reorganization of departments. In this connection, administrative officials shall report to the City Manager contemplated changes in the duties of any position. Whenever feasible, such changes in duties shall be accomplished when positions are vacant.

3.50 CLASSIFICATION OF NEW OR ADDITIONAL POSITIONS

When a department head proposes the creation of a new or additional position, he shall submit the following information to the City Manager for process by the Personnel Director in order to provide for the classification of such position:

(1) a full description of the proposed duties and responsibilities; (2) recommendations as to education or training, experience, physical and other requirements; (3) a suggested title and salary range; (4) a statement of the manner in which the duties and responsibilities of other positions in the department may be affected by creation of the new position.

The Personnel Director shall report his preliminary allocation to the City Manager and department head concerned.

No new or additional position shall be created until it has been allocated to its proper class.

3.60 OFFICIAL COPIES OF CLASSIFICATION PLAN

The Personnel Director shall maintain an official copy of the classification plan available for public inspection. Each department head shall also be furnished a copy of the classification plan and any changes for his reference.

SALARY ADMINISTRATION

4.00 SALARY ADMINISTRATION POLICY

The policy governing preparation of a compensation plan shall be that of salary standardization, or like pay for like work. (Sections 4.10 through 4.40 deleted by Resolution No. 76-023 C.S., adopted January 20, 1976.)

4.50 SALARY AT TIME OF EMPLOYMENT

The plan may provide a flat salary rate or a salary range for each classification with a minimum, maximum, and one or more intermediate steps. The beginning or normal hiring rate shall usually be at the first step of the range. Every new employee shall be paid the first step on employment except that the City Manager or other appointing authority may authorize employment at a higher step if the labor supply is restricted or the person to be hired is unusually well qualified.

4.60 ELIGIBILITY FOR ADVANCEMENT IN PAY

Employees may be advanced to higher steps as merited by progressive improvement in job skills and work performance. The following time-in-step requirements shall apply before an employee gains eligibility for advancement in pay.

| <u>Step</u> | <u>Time-in-Step</u> |
|-------------|---------------------|
| A | 6 Months |
| B | 6 Months |
| C | 1 Year |
| D | 1 ½ Years |

If warranted for the good of the service or when an employee demonstrates outstanding capacity in performing his duties, he may be advanced prior to completion of the above time-in-step requirements. When a pay range

consists of less than five steps the range shall be established at the higher steps within the above time schedule. In determining time-in-step, it shall begin on the first day of the payroll period if employment occurs during the first five days of the period, otherwise time shall begin on the first day of the next payroll period. If an employee is on leave without pay for more than one month, the period shall be deducted from his accumulated time-in-step.

4.65 ATTAINING ADVANCEMENT

An employee must demonstrate that his advancement is merited on the basis of job performance. Advancements shall not be made solely because employees are eligible according to time-in-step requirements. Good attitude and personal conduct, work accomplished, conscientious attendance, safety alertness, efforts at self-improvement, and other factors of individual achievement must be evident as appropriate to the position. Department heads shall be notified by the Personnel Director of an employee's approaching eligibility for step advancements.

4.70 USE OF PERFORMANCE RATINGS IN DETERMINING WHETHER STEP ADVANCEMENT IS MERITED

Performance ratings shall guide supervisors and department heads in determining whether step advancements have been earned and should be recommended to the City Manager.

4.75 WITHHOLDING STEP ADVANCEMENTS

Department heads have the authority and responsibility to recommend withholding step advancements by the City Manager if they are not merited. Department heads shall keep their employees informed about their job performance, giving good work its proper recognition and any deficient work all possible guidance and assistance toward improvement. Department heads shall notify the employee as to the reasons for withholding step advancements.

4.80 CHANGE IN PAY UPON PROMOTION

When an employee is promoted, he shall normally receive the first step in the salary range for the new position. However if such step is equal to or less than his present salary, or he would be eligible for step advancement shortly in his previous position, he may receive the next step in the salary range of the new position which is immediately above his present salary. When no advancement in salary is granted on promotion, the employee may be allowed to carry forward his time-in-step accumulation.

4.81 CHANGE IN PAY UPON DEMOTION

When an employee is demoted he shall be placed in a salary step in his new class which is the same as or above the step held prior to demotion providing said demotion is not the result of disciplinary action.

4.82 CHANGE IN PAY UPON RECLASSIFICATION

When a position is reallocated to a classification with a higher pay range, and the incumbent employee retains the position, he shall normally be placed at the first step in the new range. If no increase in pay results, advancement may be made to the next step immediately above his present salary. When recommended by the department head and approved by the City Manager, additional advancement may be granted. If no change in salary is granted, the employee may be allowed to carry forward his time-in-step accumulation.

When a position is reallocated to a classification with a lower salary range, the incumbent employee shall not be reduced in pay while he continues to occupy the position. If his current rate is below the maximum step of the new range, he shall continue at his present salary and carry forward his time-in-step accumulation. If his current

rate exceeds the maximum step of the new range, his salary shall be frozen at its current level. When the incumbent leaves the position, his replacement shall normally be hired at the beginning rate.

4.90 PAY FOR EMPLOYEES IN AN "ACTING" CAPACITY

Any employee who is assigned to and performs the duties of a higher level position on an "acting" basis for longer than one month shall receive the salary step of the assigned position. If the employee is already receiving that or more, he shall be paid one step above his current salary, but in no case in excess of the maximum salary rate for the position.

4.95 SPECIAL ASSIGNMENT POSITIONS

Special assignment positions within a classification may be established where duties and responsibilities are of a specialized nature by comparison to other positions in the class. Said positions may be established by the City Council following a report and recommendation thereon by the City Manager and the Personnel Board. Special assignment positions so established will be reviewed annually by the Personnel Board. Selection of employees to said positions and removal therefrom shall be made by the City Manager upon recommendation of the department head. An employee so assigned shall receive a salary increment not to exceed five (5) percent of his present salary. (As added by Resolution No. 63-035 C.S., adopted January 22, 1963.)

PERSONNEL RECORDS

5.00 PERSONNEL RECORDS

The Personnel Director shall maintain a roster card for each employee, showing his name, title, department, salary, changes in employment status, leave record, and other pertinent information. Personnel files shall also be maintained by the Personnel Director for each employee, to include his application, copies of personnel actions, accident reports, training courses completed, commendations, reprimands, and other pertinent documents.

5.10 CONFIDENTIAL NATURE OF PERSONNEL RECORDS

All personnel records including applications, examination papers, and eligible lists; shall be considered confidential, and shall be made available only to the employee or to a department head concerned. A candidate in an examination may review only his own test papers when test material is open for inspection.

5.20 DESTRUCTION OF RECORDS

Roster cards shall be considered permanent. All other records relating to personnel, including correspondence, examinations, and reports may be destroyed after five years. Test papers and applications of persons who do not pass examinations may be destroyed fifteen (15) months after the time for review of test material by applicants has passed. Applications on file for more than two (2) years since submitted or renewed may be destroyed.

APPLICATIONS AND APPLICANTS

6.00 ANNOUNCEMENT OF EXAMINATIONS

All examinations for classified positions of employment shall be announced by posting notices on City bulletin boards, and through such other publicity media as the Personnel Director deems advisable. The notice shall specify the title and pay range for the class for which an examination is planned; the nature of the work to be performed; minimum qualifications required; the date, time, place, and manner of making applications; and other pertinent information.

6.10 APPLICATION FORMS

Applications shall be made on forms provided by the Personnel Department. Such forms shall require information covering training, experience, character, and other pertinent information and may include references, and fingerprinting. All applications must be signed by the person applying. (As amended by Resolution No. 76-328 C.S., adopted November 23, 1976.)

6.20 DISQUALIFICATION

The Personnel Director may reject any application which indicates on its face that the applicant does not possess the minimum qualifications required for the position. The Personnel Director may also reject an applicant during the examination, or after the examination shall disqualify a successful candidate and remove his or her name from the employment register for any one of the following reasons:

1. Physical unfitness to perform the duties of the position.
2. Addiction to the use of narcotics, or to the excessive use of intoxicating liquors.
3. False statement of material fact or actual or attempted deception, fraud, or misconduct in connection with the filing of an application or participation in an examination.
4. Conviction, including pleas of guilty and nolo contendere of a felony or misdemeanor. The Personnel Director, in making a determination of disqualification, shall consider the following factors:
 - a. The relevancy of the offense to the employment classification for which the candidate is making application or has been certified to,
 - b. The nature and seriousness of the offense,
 - c. The recency and frequency of the offense(s),
 - d. The age of the individual at the time of conviction,
 - e. Contributing social or environmental conditions and other relevant circumstances pertaining to the offense,
 - f. The presence or absence of rehabilitation or efforts at rehabilitation.
5. Record of dismissal from public or private employment for any of the above considerations, or resignation to avoid such dismissal.

Whenever an application is rejected, notice of such rejection with statement of reason shall be mailed to the applicant. Defective applications may be returned to the applicant with notice to amend same. (As amended by Resolution No. 76-328 C.S., adopted November 23, 1976.)

6.30 AGE LIMITS

Age limits shall be observed in recruitment of the following positions of employment:

Firemen: Not less than 21 years nor more than 29 years at time of examination.

Policemen: Not less than 21 years at time of examination, nor more than 35 years at time of appointment.

No other age limits shall be required except as provided by child labor and mandatory retirement age laws.

EXAMINATIONS

7.00 TYPES OF EXAMINATIONS

In examining persons for positions in the classified service, promotional, open, and continuous examinations may be used. When practical and consistent with the best interests of the service, promotional examinations shall be used; however, when considered desirable, an open examination may be given to include both promotional and outside applicants.

7.01 PROMOTIONAL EXAMINATION

Candidates for promotional examinations must possess minimum employment standards required for the new position. In addition to the types of tests listed in Section 7.10, evaluations of actual performance, appraisals of promotional potential, seniority, and accomplishments in special training courses may be included.

7.02 OPEN EXAMINATION

Any person meeting requirements of the examination announcement may apply for an open examination.

7.03 CONTINUOUS EXAMINATION

Continuous examinations for a given class may be announced by a single notice. Such examinations may be administered from time to time as applicants are available or as appointments are necessary. Applicants must wait a minimum of one (1) month prior to repeating a continuous examination by taking an alternate test form. A single eligible list shall be maintained, to which the names of candidates shall be added as they qualify in order of overall scores in the examination.

7.10 TYPES OF TESTS

Examinations may consist of any one or a combination of the following types of tests: written, oral, performance, physical, medical, evaluation of training and experience, or any other form designed to test fairly the qualifications of applicants.

7.11 WRITTEN

Written tests may be used to evaluate personal abilities, judgments, aptitudes, or alertness, insofar as such traits are related to ability to perform the work in a class.

7.12 ORAL

Oral interviews may be used to evaluate personal fitness, characteristics, training and experience, knowledge, capacity, or judgment. In considering personal fitness, it shall be appropriate to evaluate pertinent personality traits, but the evaluation shall be done on a basis which is as objective as possible.

7.13 PERFORMANCE

Performance tests may be used to evaluate the facility, speed, or accuracy with which typical tasks of the class are performed.

7.14 PHYSICAL

Physical tests may be used to measure agility, strength, coordination, or general physical fitness.

7.15 TRAINING AND EXPERIENCE

Evaluation may be made of the relevance, level, recency, progression, and quality of education and experience offered by candidates, which may be done in an oral interview or by a review of written statements by candidates. Reports of superiors, former employers, and educational institutions may be considered in this process.

7.16 MEDICAL

An examination by a licensed physician may be required before appointment or prior to completion of the probationary period.

7.20 SCORING EXAMINATIONS AND QUALIFYING SCORES

The Personnel Director shall establish the lowest qualifying score on individual tests or the entire examination in accord with the needs of the service. A candidate's score in a given examination shall be the average of his scores on each competitive part of the examination, weighted as shown in the examination announcement. Failure in one part of the examination may be grounds for declaring such applicants as failing in the entire examination or as disqualified for subsequent parts of an examination.

7.30 NOTIFICATION

Each candidate taking an examination shall be given written notice of whether or not he qualified in the examination.

7.40 REVIEW OF TEST MATERIALS

After notices of written tests results are mailed to competitors, each shall be afforded a maximum of five (5) working days to review his own test papers. Tests used in continuous examinations may be subject to review at the discretion of the Personnel Director. Candidates shall have the right to protest scoring, alleging inappropriateness of items or incorrectness of answers as keyed. Protests shall be submitted in writing to the Personnel Director who will render a decision in writing. In the event a candidate is not satisfied by the decision of the Personnel Director, he may appeal to the Personnel Board in writing within three (3) days after notice is mailed to him. The decision of the Personnel Board shall be final.

ELIGIBLE REGISTERS

8.00a ESTABLISHMENT OF ORIGINAL EMPLOYMENT REGISTERS

The Personnel Director shall prepare and maintain original employment registers consisting of the names only of persons successfully passing the entrance tests, arranged in order of final ratings received. (As amended by Resolution No. 74-257 C.S., adopted August 20, 1974.)

8.00b ESTABLISHMENT OF PROMOTIONAL REGISTERS

The Personnel Director shall prepare and maintain a promotional register consisting of the names only of persons successfully passing the promotional test, arranged in order of final ratings received. Any candidate whose name is on a promotional register shall be entitled to know the final scores of all other persons on the register.

8.00c ESTABLISHMENT OF REEMPLOYMENT REGISTERS

Employees who are separated by abolition of position, lack of work or lack of funds; and employees whose positions are allocated to a classification with a lower salary range for these reasons, or because of reclassification, shall be placed on a reemployment register for the class from which they were separated or demoted if certified as having given satisfactory service. Said employees shall be listed in the order of original

date of appointment to the classification previously held. (As amended by Resolution No. 71-012 C.S., adopted January 5, 1971.)

8.10 DURATION OF REGISTERS

All registers shall become effective when certified by the Personnel Board. Said registers shall remain in effect one (1) year and may be extended by the Personnel Board for additional periods, but in no event shall the same remain in effect for more than two (2) years.

8.20 ABOLISHMENT OF EMPLOYMENT REGISTERS

An employment register may be abolished prior to its expiration date upon recommendation of the Personnel Director and the City Manager and approval by the Personnel Board.

8.30 REMOVAL OF NAMES FROM REGISTERS

The name of an eligible may be removed from an employment register upon his request, or by the Personnel Director for any of the following:

- a. Inability of postal authorities to deliver first-class mail to the eligible within a reasonable time.
- b. Failure to respond to a written inquiry or to arrange for an interview within a reasonable time after requested to do so, or to appear for work after appointment.
- c. Refusal to accept an offer of appointment without reason satisfactory to the Personnel Director.
- d. Resignation of an employee whose name is on a promotional register.

The person affected shall be notified of this removal of his name by a notice mailed to his last known address.

METHOD OF FILLING VACANCIES

9.00 REQUEST FOR APPOINTMENT TO A VACANCY

Whenever a position of employment is to be filled, the department head shall submit an appointment request to the Personnel Director. The Director shall:

- a. Review the position for appropriateness of classification.
- b. Confirm availability of funds with the Finance Director.
- c. As appropriate, secure approval of the City Manager to proceed with selection consideration.

9.10 SELECTION PROCEDURES

Names of persons eligible for appointment shall be furnished by the Personnel Director to the department heads and selected for appointment in accordance with the following order of priority:

1. Former and present employees on a reemployment register for the specific classification in the order listed.
2. Regular employees considered appropriate for transfer, or demotion by the City Manager, or who have become disabled for their regular work.
3. Regular employees on an appropriate promotional register.
4.
 - a. Persons on an employment register for the specific classification resulting from open competitive examination including those persons whose names appear on an original employment register as a result of cooperative recruitment and testing efforts among the City and other governmental or private agencies; or
 - b. Regular employees who have filed a written request with the Personnel Director for transfer from a similar position in another office; or

- c. Former regular employees who have requested, and are eligible for reinstatement.
- d. Part-time employees currently employed in the specific classification, selected from an employment register resulting from competitive examination.

After consideration of eligibles, including any interview and investigation desired, the department head shall submit his recommendation for appointment to the City Manager or other appointing authority. No eligible who has previously been convicted of a felony shall be considered for appointment until such time as he produces satisfactory evidence of rehabilitation in a manner provided by law. (As amended by Resolutions No. 67-135 C.S., No. 69-045 C.S., No. 71-012 C.S., and No. 74-257 C.S., adopted April 25, 1967, February 18, 1969, January 5, 1971, and August 20, 1974.)

9.20 PROBATIONARY APPOINTMENT

Probationary appointment is appointment to a classified position from an eligible register for a specified working test period.

9.21 REGULAR APPOINTMENT

Regular appointment is the attainment of regular status in a classified position following satisfactory completion of the probationary period.

9.22 PROVISIONAL APPOINTMENT

Provisional appointment is appointment to a classified position, in the absence of an eligible register, of a person who meets the minimum employment standards for the position. The Personnel Director shall schedule an examination as soon as possible and establish an eligible register from which to make a probationary appointment. Provisional appointments shall not extend beyond six (6) months and shall not continue beyond two (2) pay periods after the establishment of an appropriate eligible register. Time spent on a provisional appointment shall not constitute part of the probationary period.

9.23 TEMPORARY APPOINTMENT

Temporary appointment is appointment to a position created for a special or temporary purpose for a period of not longer than six (6) months. Such appointment may be made from appropriate eligible registers if available. Service in a temporary appointment may be recognized in determining whether an applicant meets minimum employment standards for a class. Temporary appointees hired on an hourly basis shall not receive vacation holiday pay, sick leave, or other fringe benefits.

9.24 PART-TIME APPOINTMENT

Part-time appointment is appointment to a position in which the employee will be regularly scheduled to work fewer hours than an employee appointed to a full-time position.

Part-time appointees hired on an hourly basis shall become eligible to receive partial vacation leave, holiday pay, and sick leave provided that they have current membership in the State Employees' Retirement System and that they have worked twelve (12) consecutive months of regularly scheduled half-time employment or more. Furthermore, this eligibility will continue only so long as a part-time employee's work schedule consistently requires at least half-time work. (As added by Resolution No. 67-018 C.S., adopted January 10, 1967.)

9.25 WORK EXPERIENCE APPOINTMENT

Work Experience appointment is appointment to a position created for a specified period of time under federally-funded employment programs for the purpose of providing training and work experience in selected public service occupations. Persons appointed to Work Experience status shall not attain probationary or regular status and shall not be eligible for any vacation, sick leave or other fringe benefits provided by these rules, other than Holiday Pay. (As added by Resolution No. 75-024 C.S., adopted January 21, 1975.)

9.30 REINSTATEMENT

At the discretion of the City Manager, a former regular employee who held a status in good standing at the time of resignation, and who has requested such reinstatement may be considered for reinstatement within two (2) years from the date of resignation to the class of position from which he resigned.

9.40 TRANSFER

Upon approval of the City Manager, vacancies may be filled by transfer of an employee disabled for his regular work, or by transfer of an employee in the same or comparable classification from another department. Transfers shall not be used to evade rules governing promotion, demotion, advancement, or reduction. Employees considered for transfer must meet the minimum employment standards for the classification. In the case of a disabled employee who does not meet minimum employment standards, a probationary transfer may be requested by the City Manager and approved by the Personnel Board if there are reasonable grounds for finding that the employee is competent to learn and perform the duties of the position satisfactorily within a reasonable period of time.

9.50 PLACEMENT BY VOLUNTARY DEMOTION

Upon request of an employee with regular status and with approval of the City Manager, demotion may be made to a vacant position. Demotion may be used as a substitution for layoff. No employee shall be demoted to a position for which he does not possess the minimum qualifications.

PROBATIONARY PERIOD

10.00 APPOINTMENTS SUBJECT TO PROBATIONARY PERIOD

All appointments to positions in the classified service shall be subject to a probationary period. The regular period of probation shall be six months, but longer periods may be specified in individual classification descriptions and shall apply to all positions in the classification. Extension of probationary periods up to a maximum of six months may be approved by the City Manager in individual cases.

10.10 REPORTS ON PROBATIONERS

Department heads shall be responsible for the preparation and submission of performance appraisals as required by the City Manager. Prior to the termination of the probationary period, the Personnel Director shall notify the department head. The department head shall recommend retention or rejection of the probationer prior to the expiration of the probationary period.

10.20 RELEASE OF PROBATIONER

During the probationary period an employee may be released at any time without a right of appeal. Written notice of release designating the effective date of such action shall be furnished the probationer.

10.30 RELEASE FOLLOWING PROMOTION

Any employee released during the probationary period following promotion shall be reinstated at his former salary step to his former position or a position in the class from which he was promoted unless the reason for his release is cause for dismissal. If no vacancy exists in this class, the employee with the least amount of time in this class shall be demoted to the most recent class in which he has satisfactorily served. If any employee is caused to be released by such action he shall be placed on a reemployment register for the classification from which he was released. Any employee who is released during a probationary period following promotion shall retain his rights to appeal his dismissal from the City but not the right to appeal his release from the position from which demoted.

10.40 EFFECTIVE DATE OF REGULAR STATUS

Upon attaining regular status, the effective date shall revert to the date of initial probationary appointment.

DISCIPLINARY ACTIONS AND APPEALS

11.00 GENERAL PROVISIONS

The City Manager may suspend, demote, reduce in pay fine, or dismiss all officers and employees of the City under his jurisdiction and control; however, disciplinary action taken against an employee holding regular status in the classified service shall be subject to appeal and review in the manner hereinafter provided. (As amended by Resolution No. 71-012 C.S., adopted January 5, 1971.)

11.10 GROUNDS FOR DISCIPLINARY ACTION

An employee may be subject to suspension demotion, reduction in pay, fine, dismissal or other disciplinary action for grounds constituting misconduct, incompetency or failure to perform his duty including, but not limited to any of the following:

1. Conduct unbecoming an employee in the public service.
2. Inability to manage personal financial affairs without subjecting the City to repeated attachment of wages.
3. Incompetence or inefficiency.
4. Dishonesty or immorality.
5. Engaging in outside employment which has a detrimental effect on attendance or ability to perform work.
6. Insubordination.
7. Neglect of Duty.
8. Misuse or misappropriation of City property, equipment or supplies for personal or private business.
9. Damage to or waste of public equipment, property or supplies due to negligence or willful acts.
10. Negligence or failure to observe safety rules or precautions of a superior.
11. Conviction of a felony or of any act involving moral turpitude.
12. Unauthorized absence from duty or abuse of sick leave.
13. Inexcusable violation of any federal, state, county, and city laws, regulations or rules.

11.20 PROCEDURE FOR DISCIPLINARY ACTION

Department heads shall make a written report and recommendation to the City Manager Of all incidents which appear to warrant disciplinary action. Employees shall be given an opportunity to present in writing their position in the matter. If the City Manager determines that disciplinary action is warranted, he shall send the employee and the Personnel Board notice of such action and the reasons therefor. If possible, notice of such action shall be sent prior to its effective date.

11.30 PROCEDURE ON APPEAL TO PERSONNEL BOARD

If an employee having the right to appeal desires to appeal a disciplinary action, he shall file a written notice of appeal with the Personnel Board and the City Manager within seven (7) calendar days after receiving notice of such action. The Personnel Board shall set a hearing of appeal not later than the next regular meeting of the Board after the appeal is received.

The employee's service record shall, in addition to the subject matter on appeal, be considered by the Board as evidence in the case.

11.40 APPEAL - REVIEW BY COUNCIL

Any employee dissatisfied with the action taken by the City Manager after receipt of the recommendations of the Personnel Board may request review of such action by the City Council. Such request shall be submitted in writing to the City Clerk within seven (7) calendar days after receipt of final decision by the City Manager.

Review by Council shall be made within fifteen (15) calendar days after the request for review is received.

The Council may approve, modify or reverse the action of the City Manager, and its decision shall be final.

RESIGNATIONS AND LAY-OFFS

11.50 LAY-OFF

The appointing power may lay-off an employee because of lack of work or lack of funds requiring a reduction of the work force of the City as provided in Section 2-4.90 of the Municipal Code. Ten (10) working days before the effective date of lay-off the City Manager shall notify the Personnel Director of the intended action with reason therefor. A copy of such notice and statement shall be sent to the employee affected ten working days before the effective date of said action. The name of any employee so released shall be placed on an appropriate reemployment register.

11.60 RESIGNATION

Any employee wishing to leave the employ of the City in good standing shall file with the department head at least two (2) weeks before leaving the service a written resignation stating the effective date and reasons for leaving. The resignation shall be forwarded to the City Manager through the Personnel Director with a statement by the department head as to the resigned employee's service performance. Failure of the employee to submit his written resignation as provided herein shall be entered on the service record of the employee and may be cause for denying future employment by the City.

WORK SCHEDULES

12.00 ATTENDANCE RECORDS

Employees shall be in attendance at work in accordance with the rules regarding hours of work, holidays, and leaves. All departments shall keep daily attendance records of employees.

12.10 ABSENCE WITHOUT LEAVE

No employee shall be absent without leave except in case of sickness or emergency. Within twenty-four (24) hours of the time required to report for duty an employee shall notify his supervisor or department head of his

inability to report. Failure without cause to give proper notification or to report for duty as scheduled after a leave has expired or has been canceled shall be grounds for disciplinary action.

12.20 WORK WEEK FOR FIREMEN

Members of the Fire Department shall be on duty an average of sixty-three (63) hours per week. Upon approval of the City Manager the Fire Chief may direct certain uniformed members of the Fire Department to work a five (5) day, forty (40) hour week rather than the sixty-three (63) hour week.

12.30 WORK WEEK FOR OTHER EMPLOYEES

Employees of all other departments shall be on duty for forty (40) hours during each seven-day work period.

12.40 HOURS OF WORK

Police, Fire and Airport Departments shall render service continuously and without interruption. All other departments shall maintain office hours from 8:00 AM. to 5:00 P.M. daily, Monday through Friday, except that certain departments, with the approval of the City Manager, may operate at such other times as may be needed to serve the public or continue efficient operation of City services.

12.50 OVERTIME WORK

For employees in the classified service other than division heads and chief deputies to department heads, any work required in excess of their normal work day or work week shall be classed as overtime work. Overtime work shall be recognized only when directly ordered or required by the department head or City Manager. When the department head can anticipate the necessity of overtime work, he may authorize it only after securing permission of the City Manager.

12.60 COMPENSATION FOR OVERTIME WORK

Overtime work when directly ordered by the department head shall be compensated by pay at the rate of time-and-one-half the straight time rate or time off with pay at the rate of time-and-one-half the straight time rate.

Weed abatement in the Fire Department, extra holiday traffic work in the Police Department, and all other overtime work in these departments with the exception of emergency overtime shall be compensated by pay or time off with pay at the straight time rate. Emergency work in these departments shall be compensated by pay or time off with pay at the time-and-one-half rate.

Accrued compensatory time shall be used when requested by the employee and approved by the department head, or when scheduled by the department head, providing twenty-four (24) hours notice is given the employee concerned.

The City Manager shall establish Administrative Rules concerning the administration and control of overtime work and the accrual of overtime.

12.70 OVERTIME WORK DURING DISASTER

Overtime work required by reason of civil defense disaster shall not be compensable. All employees shall have the duty and obligation to perform emergency work upon request of proper authority declaring such emergency.

12.80 COMPENSATION FOR STANDBY TIME

When certain employees are required to be available on a standby basis for possible emergency call back on a Saturday, Sunday or holiday, they shall receive a standby allowance of two (2) hours pay or compensatory time at straight time rates for each of the aforementioned days. An employee's standby allowance for a given day shall be reduced by any time which is paid or credited for actual work performed on that day.

This provision shall apply only to employees in the Water Department; Streets & Sewer Division; the position of Fire Prevention Inspector in the Fire Prevention Bureau; and the position of Detective in the Police Department. No more than one employee from each of the above shall be entitled to receive a standby allowance on any given day. (As added by Resolution No.67-267, C.S., adopted August 1, 1967.)

HOLIDAYS

13.00 HOLIDAYS OBSERVED BY THE CITY

The following days shall be holidays for all full-time employees whose compensation is fixed on a monthly basis:

| | |
|---|--|
| New Year's Day (January 1) | Admission Day (September 9) |
| Lincoln's Birthday (February 12) | Columbus Day (2nd Monday in October) |
| Washington's Birthday (3rd Monday in February) | Veteran's Day (4th Monday in October) |
| Memorial Day (last Monday in May) | Thanksgiving Day (4th Thursday in November) |
| Independence Day (July 4) | Friday after Thanksgiving Day (Friday following 4th Thurs. in Nov.) |
| Labor Day (1st Monday in September) | Christmas Day (December 25) |

If any of said holidays fall on a Sunday, the following Monday shall be observed as a holiday. If a holiday falls on a Saturday, it shall be compensated for by an equivalent credit to vacation leave. If a holiday falls on an employee's regular day off he shall be entitled to equivalent time off at a later date. (As amended by Resolution 67-267 C.S., Resolution 69-327 C.S., and Resolution No. 71-012 C.S., adopted August 1, 1967, September 16, 1969, and January 5, 1971.)

13.01 HOLIDAYS FOR CERTAIN PART-TIME EMPLOYEES

Eligible part-time employees, as defined in Sec. 9.24 of these rules, shall be entitled to four (4) hours pay for each holiday observed by all full-time employees whose compensation is fixed on a monthly basis. (As added by Resolution No. 67-018 C.S., adopted January 10, 1967.)

13.05 COMPENSATION FOR HOLIDAYS WORKED

Prior approval for holiday work must be secured from the City Manager except in those departments and divisions listed below or in emergency situations where said approval cannot be obtained beforehand.

Work performed on a holiday (other than Saturday and Lincoln's Birthday) shall be compensated by pay at time-and-one-half the straight time rate or time off with pay at time-and-one-half the straight time rate. Work performed on Lincoln's Birthday or a Saturday holiday shall be compensated for by an equivalent credit to vacation leave, in addition to any overtime credit which may apply.

In the following departments or divisions where, as a condition of employment, holiday work is necessitated on a regularly scheduled basis all work performed shall be compensated for by equivalent time off at a later date with exceptions as noted in Sec. 13.10 of these rules:

Airport Department
Library Department

Fire Department
Plunge Division

Police Department
Sewage Treatment Division

(As added by Resolution No. 64-381 C.S., adopted September 8, 1964; As amended by Resolution No. 67-267 C.S. and Resolution No. 69-327 C.S. adopted August 1, 1967 and September 16, 1969.)

13.10 HOLIDAYS FOR CERTAIN POLICE AND FIRE EMPLOYEES

This section does not apply to employees of the Police and Fire Departments assigned to duties where work schedules permit the taking of holidays as they occur. Sworn or uniformed members of the Police and Fire Departments who are regularly required to work on holidays shall be entitled to five days' pay during each year in lieu of five holidays. The City Manager shall prescribe the method and time of payment for said five days' pay.

Such employees shall be entitled to time off with pay for each holiday worked in excess of these five paid holidays. In the case of Fire Department personnel, if time off for holidays worked is taken during the year and not coterminous with vacation leave, time will be taken off at the rate of twelve (12) hours per holiday worked.

LEAVES AND VACATIONS

14.00 VACATION LEAVE POLICY

Vacation leave is a right; however, the use of same shall be approved by the department head, taking into account the desires and seniority of employees and, more particularly the workload requirements of the department. Employees shall take vacation leave regularly each year and shall be encouraged to take vacation at least a full week at a time. In order to give effect to this policy and to realize the greatest benefit from vacation leave for both employees and the City, limitations shall be placed upon the amount of unused vacation leave an employee is allowed to accumulate.

14.01 VACATION LEAVE ALLOWANCE

Except for members of the Fire Department who work a sixty-three (63) hour week, all full-time employees on a monthly salary shall be granted ten (10) working days or eighty (80) working hours, vacation leave after one year of service. Members of the Fire Department who work a sixty-three (63) hour week shall be granted equivalent vacation leave in terms of their tours of duty; namely, 5.3 workshifts of twenty-four (24) hours, or rounded off, 5-1/2 workshifts or one hundred thirty-two (132) working hours. No vacation shall be granted during the first six months of service. When an employee begins his seventh month of continuous, satisfactory service,

proportionate vacation leave for the entire calendar year shall be posted to the employee's credit from the initial date of employment.

When periods of less than a full month are involved, vacation leave credits shall be based on service computed to the nearest half month. Vacation leave records shall be maintained on an hourly basis, and leave shall be taken in periods of not less than one hour.

~~During and after the calendar year when an employee completes five (5) years of full-time service, such employee shall be granted fifteen (15) working days, or one hundred twenty (120) working hours vacation leave. During and after the fifth year of service, firemen who work a sixty-three (63) hour week shall be granted similar vacation leave proportionate to their tours of duty, namely 7.9 workshifts of twenty-four (24) hours, or rounded off 8 workshifts or one hundred ninety-two (192) working hours.~~

During and after the calendar year when an employee completes sixteen (16) years of continuous full time service, such employee shall be granted sixteen (16) working days, or one hundred twenty-eight hours (128) working hours vacation leave. During and after each subsequent year of continuous full time service one (1) additional working day, or eight (8) working hours vacation leave will be granted up to a maximum of twenty (20) working days, or one hundred sixty (160) working hours.

During and after the fifth year of service, firemen who work a sixty-three (63) hour week shall be granted similar vacation leave proportionate to their tours of duty, namely 7.9 workshifts of twenty-four (24) hours, or, rounded off, eight (8) workshifts or one hundred ninety-two (192) working hours. During and after the calendar year when a fireman completes sixteen (16) years of continuous full time service, he shall be granted 8.5 workshifts of vacation leave. During and after each subsequent year of continuous full time service one-half (1/2) additional workshift, or twelve (12) working hours vacation leave will be granted up to a maximum of 10.5 workshifts, or two hundred fifty-two (252) working hours.

On January 1st each year, employees who have completed at least six (6) months of satisfactory service shall be credited in advance with vacation leave allowance for the entire calendar year. Advance vacation leave credit shall also be provided for Lincoln's Birthday and for all recognized holidays falling on a Saturday during the year. These latter credits shall be considered as a part of an employee's yearly allowance for the purpose of determining maximum allowable accumulation of unused vacation leave. Vacation leave shall continue to be earned during other authorized leaves with pay. When a holiday falls during an employee's absence on vacation leave, it shall not be deducted from his accrued leave. If an employee leaves the employ of the City prior to the end of the calendar year, reconciliation of vacation leave earned and taken to date of termination shall be made. If the employee owes the City for unearned leave, the actual time shall be deducted from final pay. Leave time earned but unused at date of termination shall be added to final pay.

As of January 1st of each year, no employee shall be allowed to maintain a balance of unused vacation leave, earned or unearned, in excess of twice his yearly allowance for the forthcoming year. Exceptions may be permitted on approval of the department head and the City Manager. In granting such exceptions the City Manager may specify a time within which such excess vacation leave must be used. Failure to use such excess vacation leave within the time specified by the City Manager shall cause the same to be deducted from an employee's balance. It shall be the responsibility of each employee to insure the full use of vacation leave credits received by scheduling the necessary time off each year. (As amended by Resolution No. 65-346 C.S. and Resolution No. 69-327 C.S. adopted September 7, 1965 and September 16, 1969.)

14.02 VACATION LEAVE FOR CERTAIN PART-TIME EMPLOYEES

Eligible part-time employees as defined in Sec. 9.24 of these rules, shall be granted forty (40) working hours annual vacation leave during and following the calendar year in which they become eligible. (As added by Resolution No. 67-018 C.S., adopted January 10, 1967.)

14.10 SICK LEAVE POLICY

Sick leave shall be allowed in case of actual sickness of the employee. Sick leave shall be recommended by the employee's supervisor and approved by the City Manager or his designated representative.

A maximum of five (5) days of an employee's sick leave allowance may be used each calendar year in the event of illness on the part of a family member living in the employee's home. Use of sick leave for this purpose is intended to apply in serious and unforeseen conditions where the presence of the employee in the home is required. A certificate from an attending physician stating the nature and extent of the family member's illness is required in all cases before use of sick leave for this purpose can be authorized. Authorization to use additional sick leave for family illness beyond the five (5) day maximum may be granted by the City Manager when exceptional circumstances warrant the same.

14.11 SICK LEAVE ALLOWANCE

After completing three (3) months of continuous, full-time satisfactory service, all full-time employees other than temporary and provisional employees shall be eligible for sick leave at the rate of twelve (12) working days, or ninety-six (96) hours for each year of service. Sick leave shall be cumulative to a maximum of one hundred eighty (180) working days, or one thousand four hundred and forty (1440) hours.

Eligible part-time employees, as defined in Sec. 9.24 of these rules, shall accumulate sick leave allowance at the rate of forty-eight (48) hours per year during and after the calendar year in which they become eligible. Such employee's sick leave shall be cumulative to a maximum of seven hundred twenty (720) hours.

Firemen who work a sixty-three (63) hour work week shall be eligible each year for equivalent sick leave at the rate of six and three-tenths (6.3) workshifts of twenty-four (24) hours, or one hundred fifty-one (151) working hours after three (3) months of continuous, full-time, satisfactory service. Maximum accumulation for such Firemen shall be ninety-four and one-half (94.5) workshifts of twenty-four (24) hours, or two thousand two hundred sixty-eight (2268) hours.

Initial crediting of sick leave shall be based on service computed to the nearest half month. Sick leave records shall be maintained on an hourly basis. Sick leave shall be taken in periods of no less than one hour. No sick leave shall be earned during leaves of absence without pay. An employee unable to return to work after a further period allowed on sick leave without pay may be retired for disability or separated. (Sections 14.10 and 14.11 amended by Resolution No. 65-346 C.S., adopted September 7, 1965 - Section 14.11 amended by Resolution No. 67-018 C.S., and Resolution No. 69-327 C.S., adopted January 10, 1967 and September 16, 1969.)

14.12 SICK LEAVE NOTICE AND CERTIFICATION

In order to receive compensation while absent on sick leave, the employee or someone in his behalf, shall notify his immediate supervisor prior to or within two (2) hours after the time set for reporting to work. Department heads may waive this requirement upon presentation of a reasonable excuse by the employee. The employee shall file a personal affidavit or physician's certificate with his supervisor for forwarding to the Personnel Director, stating cause of absence. After five (5) working days' absence, the appointing authority may require a

physician's certificate. If an employee becomes ill while on vacation, his period of illness may be charged to sick leave upon presentation of a doctor's certificate stating the nature and extent of the illness. In case of frequent use of sick leave an employee may be requested to file a physician's statement for each illness, regardless of duration. An employee may also be required to take an examination by a physician designated by the City and to authorize consultation with his own physician concerning his illness. Sick leave shall not be granted for absences caused by intoxication or excessive use of alcoholic beverages.

14.13 SICK LEAVE RECORDS

Sick leave records shall be maintained on a calendar year basis by the Personnel Director. During January of each year employees shall have their records credited in advance with the annual allowance. After an absence is approved as sick leave, it shall be deducted from an employee's leave balance. If at time of separation an employee owes the City for unearned sick leave, the actual time shall be deducted from final pay. Upon separation of employees with less than twenty (20) years continuous service, sick leave balances shall be canceled, and shall not be restored if a former employee is reinstated. (As amended by Resolution No. 67-267 C.S., adopted August 1, 1967.)

14.14 MEDICAL AND DENTAL APPOINTMENTS

Employees shall whenever possible, make appointments for medical, dental, and similar purposes on Saturday or other non-work day. If this is not possible, sick leave may be used for these purposes for a minimum period of one hour and should not exceed four hours except in unusual circumstances.

14.15 PAYMENT FOR UNUSED SICK LEAVE

Any full-time employee leaving the employment of the City in good standing after having completed twenty (20) years of continuous service shall receive payment for a portion of that sick leave earned but unused at the time of separation. The amount of this payment shall be equivalent to one percent (1%) of sick leave earned but unused at the time of separation times the number of whole years of continuous employment times an employee's hourly rate of pay at the time of separation.

For the purpose of this computation, an employee's hourly rate of pay shall be his annual salary divided by 2080 hours. The hourly rate of pay for Firemen who work a sixty-three (63) hour work week shall be the annual salary divided by 3276 hours.

That portion of an employee's sick leave balance for which payment is not provided shall be canceled, and shall not be restored if said employee is reinstated. -(As added by Resolution No. 67-267 C.S. adopted August 1, 1967.)

14.20 FUNERAL LEAVE

All full-time employees except temporary and provisional employees shall be granted funeral leave with pay as necessary but not to exceed two (2) 24-hour workshifts for fire-fighting personnel and three (3) work days for other employees upon the occasion of the death of a close relative. When additional time is desired, employees may be allowed to take accumulated vacation leave or compensatory time due off. Close relatives are defined as mother, father, sister, brother, wife, husband, child, grandparent, mother-in-law, or father-in-law of the employee. Additional funeral leave for travel purposes not to exceed five (5) calendar days may be granted by the City Manager when circumstances warrant the same.

14.30 JURY LEAVE

An employee summoned to jury duty shall inform his supervisor and, if required to serve, may be absent from duty with full pay. Any jury fees received by an employee shall be remitted to the City.

14.40 MILITARY LEAVE

Military leave shall be granted in accordance with the provisions of State Law. All employees entitled to military leave shall give their department head and the City Manager an opportunity, within the limits of military requirements, to determine when such leave shall be taken.

14.50 DISABILITY LEAVE

For employee injury or disability falling within the provisions of the State Workmen's Compensation Disability Act, disability compensation at the rate allowed under said Act shall be the basic remuneration during the employee's period of disability. In the case of full-time employees other than temporary and provisional employees, additional compensation equal to the difference between said employee's regular pay and his disability compensation allowance shall be granted for not to exceed one (1) year for any one period of incapacity. In the event a waiting period is required before an employee's disability compensation allowance is payable, his regular pay shall be provided during said waiting period. (As amended by Resolution No. 67-267.)

14.60 LEAVE OF ABSENCE

The City Manager, upon written request of a full-time employee other than temporary and provisional employees, or a part-time employee eligible to receive certain leave and holiday pay benefits as defined in Section 9.24 of these rules, may grant for the good of the service a leave of absence without pay for a maximum period of one (1) year. Leaves hereby authorized shall include educational leaves, maternity leaves, and leave for any other purpose promoting the good of the service. Whenever granted, such leave shall be in writing and signed by the City Manager. Upon expiration of such a leave, the employee shall be reinstated to the position held at the time leave was granted. Failure of the employee to report promptly at its expiration or within a reasonable time after notice to return to duty, shall terminate his right to be reinstated. (As amended by Resolution No. 77-288 C.S., adopted July 19., 1977.)

TRAINING OF EMPLOYEES

15.00 FINANCIAL SUPPORT BY CITY

The City may participate in paying tuition fees, costs of textbooks, or other incidental training expenses.

15.10 CREDIT FOR TRAINING

Participation in and completion of special training courses may be considered in making salary increases and promotions. Evidence of such activity shall be filed by the employee with the Personnel Director.

EMPLOYEE SAFETY AND HEALTH

16.00 ACCIDENT REPORTS

Any employee involved in an accident while on the job which results in personal injury or property damage of any kind shall report the same promptly to his supervisor, and shall fill out required forms for reporting same.

16.10 EMPLOYEE HEALTH AND MEDICAL EXAMINATIONS

When in the judgment of the department head and the City Manager, an employee's health or physical condition may have an adverse effect on the performance of his duties, or affecting safety or health of fellow employees, he may be required to undergo a medical examination at City expense.

On the basis of authoritative medical advice, the City Manager shall determine whether an employee is physically incapacitated for the duties of his position, and may take whatever action he deems appropriate. The determination and resultant action may be the subject of appeal to the Personnel Board for its review and recommendation.

Those employees designated by the City Manager shall also undergo, at City expense, routine medical examinations. The frequency of these examinations and the examining physician shall also be designated by the City Manager. (As amended by Resolution No. 68-151, adopted May 28, 1968.)

EMPLOYER-EMPLOYEE RELATIONS

17.00 TITLE

This portion of the rules (Section 17.00 through 17.19) shall be known as the Employer-Employee Relations rules of the City of Hayward.

17.01 STATEMENT OF PURPOSE

The purpose of these Employer-Employee Relations rules is to promote full communication between the City and its employees by providing a reasonable method of resolving disputes regarding wages, hours, and other terms and conditions of employment between the City and its employees and their employee organizations. It is also intended by said rules to promote the improvement of personnel management and employer-employee relations within the City government by providing a uniform basis for recognizing the right of City employees to join employee organizations of their own choice and to be represented by such organizations in their employment relationships with the City. In the event of inconsistency with the City Charter or ordinance provisions regarding a personnel system, said Charter or ordinance provisions shall prevail.

17.03 DEFINITIONS

The following terms shall have the meaning indicated when used in connection with these Employer-Employee Relations rules:

- A. City - the City of Hayward, a municipal corporation, and where appropriate herein, "City" refers to the City Council, the governing body of said City, or any duly authorized management representative as herein defined.
- B. Confidential Employee - an employee who is privy to decisions of City management affecting employer - employee relations.
- C. Consult or Consultation in Good Faith - oral or written communications for the purposes of presenting and obtaining views or advising of intended actions on matters affecting employer-employee relations.
- D. Days - calendar days.

- E. Employee - any person regularly employed by the City except those persons holding elective office, and members of Boards and Commissions.
- F. Employee Organization - any lawful organization which includes as members employees of the City and which has as one of its purposes representation of such employees in their relations with the City; provided, however, that said organization has no restriction on membership based on race, color, creed, sex or national origin.
- G. Employer-Employee Relations - the relationship between the City and its employees and their employee organization, or when used in a general sense, the relationship between City management and employees or employee organizations.
- H. Grievance - any dispute which involves the interpretation or application of those rules, regulations and resolutions which have been, or may hereafter be, adopted by the City Council to govern personnel practices and working conditions, including such rules, regulations and resolutions as may be adopted by the City Council to effect Memoranda of Understanding which result from the negotiation process.
- I. Impasse - a deadlock in negotiations between a recognized employee organization and the City concerning matters about which they are required to negotiate.
- J. Management Employee - (1) any employee having significant responsibilities for formulating and administering City policies and programs, including but not limited to the City Manager, department heads, assistant department heads, deputies or other major assistants; (2) any employee having authority to exercise independent judgment or to effectively recommend any action to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or having the responsibility to direct them, or to adjust their grievances, or effectively to recommend such action if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, and constitutes a secondary responsibility.
- K. Management Representative - the City Manager or any person or organization so designated by the City Manager.
- L. Mediation - the efforts of an impartial third person, or persons, functioning as intermediaries, to assist the parties in reaching a voluntary resolution of an impasse, through interpretation, suggestion and advice.
- M. Negotiate - to meet and confer in good faith.
- N. Professional Employee - employees engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction, including, but not limited to, attorneys, physicians, registered nurses, engineers and architects.
- O. Proof of Employee Approval - that which employees or an employee organization when submitting a petition to the City Manager demonstrates proof of approval by the employees claimed to be represented. Such proof may be one or any combination of the following:
 - (1) Signed and dated signatures on a petition.
 - (2) Signed and dated employee authorization cards.

- (3) Documented evidence of current dues-paying employee organization membership, or payroll dues deductions using the payroll period immediately prior to the date the petition is filed.

For purposes of (1) and (2) above, only signatures of employees currently employed in positions within an existing or proposed representation unit on the date the petition is filed and whose signatures have been executed within ninety (90) calendar days prior to the date the petition is filed, shall be accepted as proof of employee approval.

The total number of employees in an existing or proposed representation unit shall be adjusted to reflect the positions occupied as of the date of the petition.

- P. Public Safety Employee - employees who are "safety members" of the Public Employees' Retirement System.
- Q. Recognized Employee Organization - an employee organization, or its duly authorized representative, that has been granted formal recognition by the City Manager as representing the majority of employees in an appropriate unit of employees.
- R. Representation Unit - a unit established pursuant to Section 17.08 hereof.
- S. Scope of Representation - all matters relating to employment conditions and employer-employee relations, including but not limited to wages, hours, and other terms and conditions of employment, except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order.

17.04 EMPLOYEE RIGHTS

Employees of the City shall have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employee relations. Employees of the City also shall have the right to refuse to join or participate in the activities of employee organizations; provided, however, that during negotiating sessions with the City, an employee filling a position allocated to a specific representation unit may be represented only by that recognized employee organization certified to represent that specific unit.

17.05 CITY RIGHTS

The rights of the City include, but are not limited to, the exclusive right to determine the mission of its constituent departments, commissions and boards; set standards of service; determine the procedures and standards of selection for employment and promotion; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or for other legitimate reasons; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; determine the content of job classifications; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work.

17.06 NEGOTIATIONS

Only recognized employee organizations in established representation units shall be entitled to negotiate with duly designated management representatives on wages, hours, and other terms and conditions of employment for the employees in such units.

- B. Negotiations shall not be required on any subject preempted by Federal or State Law or by City Charter, nor shall negotiation be required on Employee Rights or City Rights as herein defined. Proposed amendments to these rules are excluded from the scope of negotiation, but shall be subject to consultation in good faith after reasonable notice.
- C. Agreements reached as a result of negotiations shall be included in a memorandum of understanding signed by the City Manager as well as the duly designated representatives of the recognized employee organizations. Such memoranda of understanding shall not be binding unless approved by the City Council and the recognized employee organization.

17.07 SCOPE OF CONSULTATION IN GOOD FAITH

All matters affecting employer-employee relations, including those that are not subject to negotiations, are subject to consultation between management representatives and representatives of recognized employee organizations.

17.08 ESTABLISHMENT OF REPRESENTATION UNITS

Classifications of employment with the City for which recognition of an employee organization might be appropriate have been assigned to representation units. Whenever a new classification is adopted by the City, the City Manager may allocate it to an appropriate representation unit or not allocate it to any representation unit.

- A. An appropriate unit shall be that unit determined by the City Manager to be the largest feasible grouping of employees which have a community of interest.
- B. The following factors, among others, are to be considered in making such determination:
 1. Which unit will assure employees the fullest freedom in the exercise of rights set forth herein.
 2. The history of employer-employee relations in the unit, among other employees of the City, and in similar public employment; provided, however, that no unit shall be established solely on the basis of the extent to which employees in the proposed unit have organized.
 3. The effect of the unit on the efficient operation of the City and sound employer-employee relations.
 4. The extent to which employees have common skills, working conditions, job duties or similar educational requirements.
 5. Management and confidential employees shall not be included in a representation unit with non-management and non-confidential employees.
 6. No positions of employment shall be included in more than one representation unit.
- C. Notwithstanding any other provisions hereof there shall be one representation unit consisting of all public safety classifications in the Fire Department, excluding management and confidential employees; and one representation unit consisting of all public safety classifications in the Police Department, excluding management and confidential employees.

17.09 MODIFICATION OF REPRESENTATION UNITS.

- A. An employee organization may request the modification of an established representation unit by submitting to the City Manager a petition accompanied by proof of employee approval of the proposed modification signed by not less than 60% of those employees who, if the proposed modification should be granted, would be moved from one representation unit to another existing or proposed unit. A unit modification request may not be submitted until at least 36 months have elapsed from the most recent date of certification of the unit from which positions would be removed should the modification request be granted. No such request shall be processed unless it is filed no sooner than one-hundred fifty (150) calendar days and no later than ninety (90) calendar days before the expiration of the then current Memorandum of Understanding or agreement between the City and the employee organization which is then presently certified as the representative of the unit from which one or more positions would be removed if the request were granted. All petitions for modified units shall be accompanied by a list of all classifications to be included in the modified unit, the number of employees in each classification, as well as the divisions and department in which they are employed.
- B. The City Manager shall give notice of the petition to the employees who would be affected by the proposal, to the employee organization currently certified as the representative of the unit from which one or more positions will be transferred, and to any recognized employee organization that has filed a written request for such notice. Such notice shall be given within three (3) days following receipt by the City Manager of the request for modification, excluding Saturday, Sunday, and holidays.
- C. The City Manager shall make the final determination on the appropriateness of all units after consultation with employee organizations who request such consultation. In making such determination the City Manager shall not be limited to consideration alone of the unit or units requested to be established or modified.
- D. Should the decision of the City Manager result in the moving of some employees from one representation unit to another, such employees will continue to work at the rate of pay, and under the same terms and conditions of employment as provided in the current Memorandum of understanding for the unit until its expiration.
- E. Notwithstanding any other provisions to the contrary, the City Manager may modify any representation unit, when, in the City Manager's opinion, the present representation unit is no longer appropriate. In the event the employee organization currently recognized as the majority representative of the representation unit involved disagrees with the City Manager's opinion, the matter may be referred to the grievance procedure set forth in the representation unit's Memorandum of Understanding. In the event the employee organization currently recognized as the majority representative of the representation unit involved disagrees with actions taken by the City Manager pursuant to the provisions of this Section (17.09 E), the matter may be referred to the grievance procedure set forth in the representation unit's Memorandum of Understanding currently in effect. In the event said Memorandum of Understanding contains no grievance procedure, the matter may be referred to the grievance procedure set forth in Section 17.60 of these Personnel Rules.

17.10 CERTIFICATION AND DECERTIFICATION OF A RECOGNIZED EMPLOYEE ORGANIZATION

- A. An employee organization which seeks recognition as the recognized employee organization for a representation unit which has been requested or already established shall file a petition with the City Manager. The petition shall contain:
1. Name and address of employee organization.
 2. Names and titles of its officers.
 3. Names of the employee organization representatives who are authorized to speak on behalf of its members.
 4. Information as to whether the employee organization is a chapter of, or affiliated directly or indirectly in any manner with, a regional or state, or national or international organization and, if so, the name and address of each such regional, state, national or international organization.
 5. Copies of the employee organization's constitution and bylaws.
 6. A statement that the employee organization has no restriction on membership based on race, color, creed, sex, or national origin.
 7. A designation of the names and addresses of no more than two (2) persons to whom notices sent by regular United States mail or personally delivered will be deemed sufficient notice to the employee organization for all purposes unless otherwise specified herein.
 8. Description of the representation unit for which the employee organization seeks certification.
 9. A statement by the employee organization to the effect that it has been designated as a representative by at least thirty percent (30%) of the employees in the representation unit.

The petition shall be accompanied by proof of employee approval that the organization represents at least thirty percent (30%) of the employees in the representation unit. The City Manager shall give notice of the request for certification or decertification to the employees in the unit, to the employee organization, if any, which is then currently certified as the representative of the unit. Such notice shall be given within three (3) days following receipt by the City Manager of the request for certification or decertification, excluding Saturday, Sunday and holidays. Upon determining that the petitioning employee organization represents at least thirty percent (30%) of the employees in the representation unit the City Manager shall arrange for a secret ballot election to ascertain the free choice of a majority of such employees. Any other employee organization shall be shown as one choice on the ballot upon filing of a petition and presentation of proof of employee approval that the organization represents at least thirty percent (30%) of the employees in the representation unit. Such petition for a place on the ballot must be filed within seven (7) calendar days after notice of the petition for election has been mailed by the City Manager to the employees. In all certification or decertification elections the choices on the ballot shall be the currently recognized employee organization for the unit (if any) challenging employee organizations, and no organization."

- B. Employees entitled to vote in a representation election shall be those employees employed in positions within the representation unit who were employees at least fifteen (15) days prior to the date of the election. Employees who did not work during the above described time period because of illness, vacation, or authorized leave of absence, and who are otherwise eligible, shall be permitted to vote.
- C. The recognized employee organization shall be representative of all the employees in such unit for purposes of negotiating on matters within the scope of representation. This shall not preclude individual employees from consulting with management representatives on employer-employee relations matters of concern to them.
- D. Provided that at least thirty-six (36) months have elapsed from the most recent date of certification of said organization, requests for decertification of that employee organization may be initiated by a petition from employees or by another employee organization. No such request shall be processed unless it is filed no sooner than one-hundred fifty (150) calendar days and no later than ninety (90) calendar days before the expiration of the then current Memorandum of Understanding or agreement between the City and the employee organization which is then presently certified as the representative of the unit for which decertification is requested.

A petition for decertification shall be submitted to the City Manager and must be accompanied by proof of employee approval of at least thirty percent (30%) of the employees within the representation unit. The City Manager shall arrange for a secret ballot election to determine which employee organization shall represent the unit or if there shall be no representative organization. Choices on the ballot shall be determined in the same manner as set forth in Section 17.10 "A".

- E. Notwithstanding any other provisions to the contrary if the City Manager has a reasonable doubt that an employee organization represents a majority of the employees in a representation unit, the City Manager shall direct the Personnel Director to schedule an election to determine the current wishes of employees in the representation unit. The Personnel Director shall arrange for a secret ballot election in the same manner as provided in Section 17.10 "A"; provided, however, that no such election shall be held until the employee organization then currently recognized as the representative of the unit or units involved has been given at least thirty (30) days' notice of the date upon which the election will be held.

Any employee organization may be listed on said ballot if said organization petitions for a place thereon and submits proof of employee approval that that employee organization represents at least thirty percent (30%) of the total number of employees in the representation unit or units affected by the election. The ballot shall contain a "no organization" choice.

- F. An employee organization shall be granted formal recognition as the recognized employee organization by the City Manager following an election or run-off election if:
- (1) that employee organization has received a numerical majority of the votes of all eligible employees in the unit who vote in the election.
 - (2) in an election involving three (3) or more choices, where none of the choices receives such a majority, a run-off election shall be conducted between the two choices receiving the largest number of valid votes cast. The rules governing an initial election shall also apply to a run-off election.

Notification of recognition shall be made to the City Council, departments concerned, employees in the unit being represented, challenging employee organizations, and such other persons or organizations as the City Manager deems appropriate. The City Manager may refuse to certify the winner of an election as the recognized employee organization for that unit or units if after an investigation, he concludes that the winner of such election has coerced, intimidated, or grossly misled employees in securing or attempting to secure their votes.

17.11 EXECUTIVE SESSIONS

Nothing herein shall be interpreted as preventing, or limiting the right of the City Council to hold executive sessions with the City Manager, or other duly designated management representative, prior to and during consultations and discussions with representatives of employee organizations regarding the salaries, salary schedules, or compensation paid in the form of employee benefits to employees in order to review its position and instruct its designated representatives.

17.12 IMPASSE PROCEDURES

Impasse procedures may be invoked only after all other attempts made by both parties to reach agreement through good faith negotiation have been unsuccessful.

- (1) Impasse Meeting: Any party involved in the negotiation of specific issues may invoke the impasse procedure by filing with the other party (or parties) affected a written request for an impasse meeting. Each party shall then provide the other with a statement of its position on the disputed issues. An impasse meeting shall then be promptly scheduled by the parties involved. The purpose of such impasse meeting is to permit review of the position of all parties in a final good faith effort to reach agreement on the disputed issues.
- (2) If agreement is not concluded at the impasse meeting, the parties together may mutually agree upon a method of resolving the dispute including, but not limited to, mediation. Unless the parties in writing mutually request them to do so, mediators shall make no public statement nor take any public position regarding the issues. All mediation sessions shall be conducted in private.

17.14 UNFAIR EMPLOYEE RELATIONS PRACTICES

- A. It shall be unfair employee relations practices for the City to:
- (1) interfere with, restrain, or coerce employees in the exercise of the rights recognized or granted by these Employer-Employee Relations rules;
 - (2) dominate or interfere with the formation of any employee organization or contribute financial support to it, provided that the City may permit the use of City facilities, make dues deductions, and permit employees who are officers or representatives of recognized employee organizations to confer with City officials during working hours without loss of time or pay, subject to applicable regulations;
 - (3) refuse to negotiate with representatives of recognized employee organizations on matters within the scope of negotiation during the periods prescribed in these rules;
 - (4) refuse or fail to meet with any duly designated mediator.

It shall be unfair employee relations practices for employees or employee organizations or their agents to:

- (1) interfere with, restrain, or coerce employees in the exercise of the rights recognized or granted by these Employer-Employee Relations rules;

- (2) refuse to negotiate with City officials on matters within the scope of negotiation when the employee organization involved has been recognized as the majority representative;
- (3) refuse or fail to meet with any duly designated mediator.

17.15 ADVANCE NOTICE

Except in cases of emergency, reasonable advance written notice shall be given to each recognized employee organization affected by any ordinance, rule, resolution or regulation directly relating to matters within the scope of representation which is to be considered by the City Council, by any board or commission of the City, or by any department, and each shall be given the opportunity to meet with such body prior to any action taken thereon. In cases of emergency when the City management determines that such a proposal must be acted on immediately without prior notice or meeting with the recognized employee organization, City management shall provide such notice and opportunity to meet at the earliest practical time following the action taken thereon.

17.16 USE OF CITY FACILITIES

- A. A recognized employee organization shall be allowed use of space on available departmental bulletin boards for communications having to do with official organization business, such as times and places of meetings, provided such use does not interfere with the needs of the department. This privilege may be revoked in the event of abuse after the City Manager consults with representatives of the recognized employee organization. Solicitation for membership or other internal employee organization business shall be conducted during the non-duty hours of all employees concerned.
- B. City buildings and other facilities may be made available for use by City employees or a recognized employee organization or their representatives in accordance with such administrative procedures as may be established by the City Manager or department heads concerned.

17.17 ADMINISTRATION

The City Manager is authorized to establish procedures to carry out the intent of these Employer-Employee Relations rules and shall also have the authority for the administrative interpretation of said rules.

All elections authorized by these rules shall be conducted by the State Conciliation Service or some other party agreed on by the City and concerned employee organizations. The expenses, if any, of conducting an election shall be equally shared by the parties involved in the election.

17.18 CONSTRUCTION

- A. Nothing in these Employer-Employee Relations rules shall be construed to deny any person, employee, or employee organization the rights granted by Federal and State laws.
- B. The rights, powers and authority of the City Council and the rights of employee organizations in all matters, including the right to maintain legal action, shall not be modified or restricted.
- C. The provisions hereof are not intended to conflict with, nor shall they be construed in a manner inconsistent with, the provisions of Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Section 3500 - 3510) as amended, modified or replaced.

17.19 SEVERABILITY

If any provision of these Employer-Employee Relations rules or application of such provision to any person or circumstance, shall be held invalid, the remainder thereof, or the application of such provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

(SECTIONS 17.00 through 17.70 added by Resolution No. 70-100 C.S., March 24, 1970; SECTIONS 17.00 through 17.70 amended and re-numbered by Resolution No. 76-023 C.S., adopted January 20, 1976.)

MISCELLANEOUS PROVISIONS

18.00 RESTRICTIONS ON OUTSIDE WORK

Gainful employment outside an employee's regular City position shall be considered a privilege subject to regulation and not a right. No employee shall engage in a gainful occupation outside his City position which is incompatible with his City employment or which is of such a nature as to interfere with satisfactory discharge of his regular duties. Any employee who wishes to engage in or accept such employment may do so after having first obtained written approval of the City Manager or a designated representative. Violation of this section shall be cause for disciplinary action.

18.10 NOTIFICATION OF ADDRESS

All employees, including those on leave of absence, shall keep the Personnel Director informed as to their current home address at all times. Failure to do so within ten (10) days after change of address may be cause for disciplinary action.

18.20. EMPLOYEE GRIEVANCES OR COMPLAINTS

Any employee dissatisfied with working conditions or any other phase of his employment shall discuss his problem initially with his immediate supervisor. The employee may thereafter take his grievance in turn to his department head, the Personnel Director, and the City Manager.

If an employee is not satisfied with the disposition of the matter by the City Manager, he may file his grievance with the Personnel Board and request advisory review. The employee may request that the review be private; otherwise, it shall be accomplished at public meetings of the Personnel Board.

Within thirty (30) days, the Personnel Board shall review the grievance, make such further investigation as it deems necessary, and render an advisory recommendation to the City Manager. A copy of the Board's recommendation shall be furnished to the employee.