



# **CITY OF WALNUT PERSONNEL RULES AND REGULATIONS**

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PERSONNEL RULES AND REGULATIONS**

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## **INTRODUCTION**

The purpose of the Personnel Rules and Regulations is to facilitate efficient and economical services to the public and to establish lawful procedures for dealing with Personnel matters.

The City Manager administers the personnel system and may delegate administrative authority and duties. These rules establish the personnel system for the City of Walnut. Unless a specific rule indicates otherwise, the rules apply to all employees.

The City Council has the authority to modify, change and revise the Personnel Rules and Regulations. When modifications are made, they will be recorded in amendments. Changes to the personnel rules are negotiable if they are substantive and within the scope of representation.

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

**DEFINITIONS:** Unless the context indicates otherwise, the following terms, whenever used in these Rules, shall be defined as follows:

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

**Appointing Authority:** The person having the authority to appoint or remove a person from City employment. This is the City Manager unless delegated to another employee or officer.

**At-Will:** All positions outside of the competitive service which may be terminated with or without cause, at any time, at the will of the City, and without the right of appeal. Seasonal part-time employees are considered at-will employees.

**Class:** All positions sufficiently similar in duties, authority, responsibility and working conditions to permit grouping under a common title and the application with equity of common standards of selection, transfer, promotion, and salary.

**Demotion:** The movement of an employee from one class to another class having a lower maximum rate of pay. A demotion may be voluntary or involuntary.

**Eligibility List:** A list of names of persons who have participated in an examination consisting of an appraisal of experience, training, work history, or any other means of evaluating qualifications of applicants. Eligibility Lists are valid for six months from the date of the establishment of the eligibility list. The City Manager or designee may extend the list up to ninety (90) days if needed.

**Examinations:**

- **Open-competitive** – Open to all people meeting the qualifications for the class.
- **Promotional/Closed** – An examination for a particular class which is only open to current City employees meeting the qualification for the class.
- **Continuous examination** – An open competitive recruitment which is administered periodically and as a result of which names are placed on an employment list, in order of final scores (interview and/or testing), for a period of no more than six months.

**Exempt:** A classification not entitled to overtime compensation under the Fair Labor Standards Act.

**Classified Full-Time NON-EXEMPT** – Positions subject to overtime requirements and working 40 hours per week.

**Hourly NON-BENEFITTED** – these positions are typically called Seasonal Part-Time or Temporary. These positions cannot exceed one thousand hours (1,000) in a fiscal year, and they receive no benefits except for the mandated sick leave benefit as required by the State of California.

**Permanent Part-Time Hourly Non-Exempt:** Positions that are budgeted at less than full time and work 30-39 hours per week on a year-round basis. Benefits are provided to this classification per the Personnel Rules and appropriate Memorandum of Understanding (MOU).

## **SECTION 1. COMPREHENSIVE WAGE AND SALARY PLAN**

Based on the recommendations of the City Manager, a Comprehensive Wage and Salary Plan for employees of the City of Walnut is established to provide a fair and efficient framework for the administration of wages.

## **SECTION 2. SALARY SCHEDULE**

The salaries for full-time and part-time positions of the City of Walnut will be established by the City Council and available at City's website [www.cityofwalnut.org](http://www.cityofwalnut.org).

### **SECTION 3. FULL-TIME AND PERMANENT PART-TIME SALARY SCHEDULE GUIDELINES**

- A. New employees shall be hired at the entry pay step or any pay step at the discretion of the City Manager. Employees in the classified service and management/executive employees other than the City Manager must successfully complete a one-year probation period. At the end of six months, the employee will be given a performance evaluation and may be eligible for the next step. Every year thereafter, employees shall be given a performance evaluation and may move to the next step, so long as the employee receives an overall performance evaluation rating of satisfactory or above. For the employees represented by the Walnut City Employees Association, performance evaluations shall not reference items three years old or older.
- B. Based on written justification at the time of a regularly scheduled step increase, the City Manager may authorize a move up of two steps.
- C. The effective date for any pay increase, step increase, longevity pay, or cost of living adjustment shall be made effective at the beginning of the pay period in which the increase and/or adjustment is to take effect.

### **SECTION 4. PROBATIONARY PERIOD**

- A. The probationary period for newly hired employees in the classified service and management/executive employees (except the City Manager) is one year of continuous and actual service.
- B. If a probationary employee is absent more than 10 days during the probationary period, the probationary period is extended automatically by the number of days of absence.
- C. During the probationary period, an employee may be terminated without cause or right to appeal.
- D. After an employee in the classified service or a management/executive employee, except the City Manager, completes probation, the employee attains permanent status.
- E. A Department Head may recommend an extension of the original probationary period up to 3 months. The affected employee must be notified of the extension at least two (2) weeks prior to the scheduled end of the 12-month probation.

## **SECTION 5. PERFORMANCE EVALUATIONS**

- A. Unless otherwise noted, a probationary employee will receive a performance evaluation at 6 months and then at the conclusion of their probation (usually 12 months). The next performance evaluation will be done twelve (12) months following their initial 6-month evaluation or other personnel action that affects their classification.
- B. Employees in the classified and permanent part-time service (including management and executive employees except for the City Manager) will not acquire a property interest in their job until after probation has been successfully completed. This will be measured through a performance rating of satisfactory or above, all other employees are employed at the will of the appointing authority and can be terminated at any time without cause or appeal.
- C. A department head or the City Manager may request that an employee performance evaluation be completed at any time for any full-time or permanent part-time employee. An employee may also request to their department head or the City Manager that they be given an evaluation of their performance at any time. Effective July 1, 2000, any disciplinary documents older than three years will not be permitted in an employee's performance evaluation.

## **SECTION 6. STATUS OF EMPLOYMENT**

- A. **Transfer:** The City Manager may, at any time, transfer an employee from one position to another position in the same or comparable class. A comparable class is one with essentially the same maximum salary limits, involves the performance of similar duties, and requires the same basic qualifications. A transfer shall not be used to effectuate a promotion, demotion, advancement, or reduction in pay, each of which may be accomplished only as provided in these rules. No person shall be transferred to a position for which he/she does not possess the minimum qualifications. A transferred employee will not have to serve a new probationary period. Any future scheduled step/merit increase will be completed as scheduled based on any past action. When transferred, the employee shall be placed at the new range and step that is closest to their current step without the employee receiving a decrease in salary.
- B. **Promotion:** A promotion is the appointment of an employee to a vacant or newly created position following a competitive process. Upon promotion, the employee shall receive Step A of the range or a minimum increase of five percent (5%), whichever is greater. Employees promoted will serve a six-month probation in their

new position and will be eligible for a step/merit increase at the end of the probationary period, with a performance evaluation indicating satisfactory performance, and then annually thereafter. If the employee does not pass their promotion probation, they may be returned to their previously held position or a similar vacant position.

- C. **Reclassification:** A Reclassification can be approved by the City Manager when a position changes in a manner to provide greater responsibility, added duties, or the need to fulfill services for the City. Upon reclassification, the employee shall receive a minimum of five percent (5%) increase in the new salary range. Reclassified employees are not required to serve a probationary period and are eligible for their next step/merit increase six months from the reclassification date with a performance evaluation indicating satisfactory performance, and then annually thereafter.
- D. For promotions or reclassifications, the City Manager may authorize a higher increase over the typical 5% if the appointee possesses skills or training which support a higher salary.

## **SECTION 7. VEHICLE USE**

- A. Except for Management/Executive staff, employees shall not use their personal vehicles for City business except as authorized by the City Manager. If such use is approved, the employee shall be reimbursed for any mileage incurred while using his/her personal vehicle during the course and scope of employment. Mileage shall be calculated at the applicable IRS rate and approved in the City budget. Mileage shall be calculated based upon the most direct route to and from the destination. The actual garage and parking expenses incurred shall be reimbursed upon submission by the employee of paid receipts.
- B. Management employees required to use their private vehicle for City business will receive a monthly car allowance of \$200 per month. This stipend will be in lieu of any mileage reimbursement. In addition, actual garage and parking expenses incurred shall be reimbursed upon submission by the employee of paid receipts.
- C. Executive employees required to use their private vehicle for City business will receive a monthly car allowance of \$400 per month. This stipend will be in lieu of any mileage reimbursement. In addition, actual garage and parking expenses incurred shall be reimbursed upon submission by the employee of paid receipts.
- D. Department of Motor Vehicle (DMV) records of all employees who are required to drive as part of their job will be checked annually. If an employee has three or more

moving violations within three years, that employee will not be allowed to drive any City vehicles or personal vehicle on City business. Such restrictions will be noted in the employee's performance evaluation. In addition, if a position requires an employee to drive and the annual check reveals that an individual has lost his/her driving privileges, the employee may be subject to disciplinary action, up to and including termination.

E. Where an employee's personally owned vehicle is authorized to be used for City business as described in A & B of this section the following requirements will apply:

1. Any employee using his/her personal vehicle for City business must have minimum insurance coverage for the vehicle as required by the State of California. Use of motorcycles for City business is prohibited except in emergencies affecting the City as deemed by the City Manager.
2. If the insurance is cancelled, voluntarily removed, lapses or for any reason is curtailed, the employee must notify his/her supervisor immediately and his/her vehicle shall not be used for City business until proof of reinstatement in coverage is received by the City.
3. The City will purchase a self-insured retention policy to be used as secondary to the employee's primary insurance policy.
4. Employees must notify the City's Human Resources Department within 24 hours of any driver's license suspension, revocation, disqualification, or restrictions placed on their driver's license by the courts.
5. Department Heads shall inform employees of this policy before an employee is authorized to use his/her personal vehicles for City business.
6. Upon request, employees must submit proof of insurance to their respective Department Head prior to using their personal vehicle for City business. Employees who make use of their personal vehicles for City business on a regular basis must submit proof of insurance once a year in October. Failure to do so may result in disciplinary action.
7. Employees who fail to abide by this policy may be subject to disciplinary action, up to and including termination.
8. Employees understand that by agreeing to use their own vehicle for city business, they are accepting all liability in the event of damage and/or accident.

- F. City-owned vehicles are to be used for work-related purposes only.
  - 1. Employees are subject to disciplinary actions for use of City owned vehicles for all personal purposes.
  - 2. If an employee authorizes a non-City employee the use of a City owned vehicle, said employee who authorized such use will be subject to disciplinary action, up to and including termination.
  - 3. All City owned vehicles are to remain on City property at the conclusion of each workday unless otherwise specifically approved by the City Manager.
- G. Any employee involved in a vehicle accident when driving any City owned vehicle must follow the vehicle accident reporting procedures as outlined in the Employee Safety Manual. Failing to report or falsifying any accident report is grounds for disciplinary action, up to and including termination.
- H. Employees shall refrain from operating cellular telephones, laptop computers, navigational devices and any other device that may cause driver distraction while operating a City owned vehicle or while operating a privately-owned vehicle in the course of conducting City business. Drivers should properly park their vehicle or use a hands-free device prior to using such equipment.

**SECTION 8. HEALTH, DENTAL, ACCIDENTAL, LIFE, AND DISABILITY INSURANCE,  
LONG TERM DISABILITY, SHORT TERM DISABILITY, VISION CARE INSURANCE,  
DEFERRED COMPENSATION, SECTION 125 CAFETERIA PLAN.**

All permanent-part time employees (working 30 hours or more per week), full-time classified, management, and executive employees are eligible to purchase group health/medical insurance, dental, vision, additional life insurance and other available options using the benefits dollars listed under Section 9. Eligibility for these benefits dollars will be effective the first of the month following the date of hire or other approved life event(s).

All permanent-part-time (working 30 hours or more per week), full-time classified, management, and executive employees will receive a city paid \$50,000 term life and AD&D policy, short-term and long-term disability insurance.

Dependents of employees are eligible for health, dental, and vision care insurance. Criteria for the programs are available in the Human Resources Department.

- A. The employee may elect to purchase at their expense additional life insurance for themselves, their spouse, or dependent children upon approval from the insurance provider.
- B. All benefited employees will have the option to cash out all excess monies from their fringe benefit package. Staff who cash out excess monies will complete their benefit form indicating this option during open enrollment or during any time when changes are made consistent with approved life events.
- C. All permanent part-time (working 30 hours or more per week), full-time classified and management/executive employees are eligible to participate in a Section 125 Cafeteria Plan. The Plan allows eligible employees to have pre-tax monies deducted from their paycheck for the purpose of paying for medical expenses, childcare, and other IRS-approved purposes. The maximum deduction will be \$2,550 for medical expenses and IRS approved purposes, and \$5,000 for childcare or dependent care expenses. The administrative fee for the plan will be divided equally amongst the program participants. The annual deduction amounts may be increased per IRS guidelines.
- D. All eligible employees may elect to purchase supplemental insurance coverage (cancer, disability, accident/sickness). The premium for supplemental insurances may be paid from any excess funds from the fringe benefit package, as described in Section 9. If the employee does not have any excess funds, the premium is paid at the expense of the employee from pre-tax dollars through a bi-weekly payroll deduction.
- E. Effective January 1, 2008, the City began contracting with CalPERS for employee medical benefits through the Public Employees' Medical and Hospital Care Act (PEMHCA). Under this Act, the City is required to provide a minimum contribution towards employee health coverage at a rate of \$97.00 per month beginning January 1, 2008, and increasing on an annual basis at rate defined by CalPERS each year.

The City has adopted the "unequal method" for "annuitants" under Government Code section 22892. Retirees who retire from the City who qualify as "annuitants" under PEMHCA and are enrolled in the City's

PEMHCA plan as a retiree will receive a monthly contribution. The contribution is increased by an amount of not less than 5% of the monthly employer's PEMHCA contribution for employees, until the time that the employer contribution for annuitants equals the employer contribution for employees.

## **SECTION 9. FRINGE BENEFIT PACKAGE**

All eligible employees will be provided with a monthly bank of flexible benefit dollars referred to as their 'cafeteria fund.' The amount of the benefit bank will be established by the City Manager with the approval of the City Council.

The cafeteria fund benefits are:

<b>Employee Group</b>	<b>Maximum Benefit Bank if purchasing medical benefits:</b>	<b>Monthly cash out limits:</b>
<b>Permanent Part-Time (working 30 hours or more per week)</b>	\$1,350/month  This is a new benefit effect 7/1/25	\$450/month max cash out
<b>Classified Management</b>	\$1,800/month  Effective 1/1/24	If hired before 1/1/24, max cash out is \$1,225.00. If hired 1/1/24 or after, max cash out is \$600.00
<b>Executive</b>	\$2,100.00/month  Effective 1/1/24	If hired before 1/1/24, max cash out is \$1,525.00. If hired 1/1/24 or after, max cash out is \$900.00

Eligibility for the fringe benefit package will be effective the first of the month following appointment to a benefitted position.

The City of Walnut will pay the minimum contribution amount, if any, directly to CalPERS for those employees that purchase medical benefits.

## **SECTION 10. PART-TIME HOURLY RANGE SCHEDULE**

Hourly compensation for permanent part-time and seasonal part-time positions shall be established by the City Council and available at the City's website [www.cityofwalnut.org](http://www.cityofwalnut.org).

## **SECTION 11. PART-TIME SEASONAL/HOURLY EMPLOYMENT GUIDELINES**

Definitions: A seasonal part-time position is an assignment for a limited duration as needed, such as the recreation and aquatics positions and acquires no property interest in his/her employment.

Seasonal part time employees are hired at the entry pay step or at any pay step at the discretion of the City Manager.

Seasonal part time employees shall receive retirement benefits in accordance with Section 14.

## **SECTION 12. PERMANENT PART-TIME EMPLOYMENT GUIDELINES**

- A. A permanent part-time position is a position that is utilized twelve (12) months per year; their position is budgeted at 30-35 hours per week. Employees in permanent part-time positions acquire a property interest in their position after successfully completing the probationary period.
- B. Permanent part-time employees are hired at the entry pay step or at any pay step at the discretion of the City Manager.
- C. After initial selection and completing six months within a classification and receiving a performance evaluation of satisfactory or above, the permanent part-time employee may be eligible for the next step. The permanent part-time employee will also receive a performance evaluation at the end of their probation. One year from their six-month performance evaluation, the permanent part-time employee shall be given a performance evaluation and may move to the next step, so long as the employee's performance evaluation is satisfactory or above. Based on written justification at the time of a regularly scheduled step increase, the City Manager may authorize a move up of two steps.
- D. Performance evaluations for permanent part-time employees shall not reference items three years old or older.
- E. When an employee is hired in any part-time position that has a full-time equivalent, the employee shall be compensated the hourly equivalent of the full-time salary.
- F. Permanent part-time employees shall receive retirement benefits in accordance with Section 14.
- G. Permanent part-time employees shall receive floating holidays in accordance with the Permanent Part-time Floating Holiday Schedule:

## **Permanent Part-time Floating Holiday Accrual Schedule**

<b>Weekly Work Hours</b>	<b>Floating Holiday Hours</b>
1-10 hours/week	10 hours/year
11-29 hours/week	20 hours/year
30+ hours/week	30 hours/year
<b>Effective January 1, 2026 – all PPT employees will receive 5 hours per calendar year.</b>	

1. Accrual of floating holidays will be pro-rated during the calendar year.
  2. A permanent part-time employee is eligible to use floating holiday hours after thirty (30) calendar days of continuous employment.
  3. Each employee must submit a request in advance and approval must be given by the employee's supervisor and department head.
  4. Floating holiday leave may only be taken in hours equivalent to the number of normally scheduled hours per week (i.e., an employee scheduled to work 30 hours may only request leave for up to the 30 hours and not in excess of this). The basis of calculating total hours for a regularly scheduled workweek will be the average of four weeks from the previous two pay periods.
  5. **Effective January 1, 2026**, all Permanent Part-Time employees will receive 5 (five) hours of floating holiday hours per calendar year.
- H. A permanent part-time employee after twelve (12) months of continuous service with the City shall be entitled to vacation in accordance with the Permanent Part-Time Vacation Accrual Schedule:

### **Permanent Part-Time Vacation Accrual Schedule – Effective July 1, 2025:**

<b>Weekly Working Hours</b>	<b>Vacation Accrual</b>	<b>Years of Service</b>
1-10 hours/week	2 hours/month	0 +
11-29 hours/week	4 hours/month	0 +
30 + hours/week	5.6 hours/month	0 – 5 years
	8 hours/month	6-10 years
	11 hours/month	11 years +

1. Vacation hours can be accrued to a maximum of 150 hours. When the employee reaches 150 hours, the employee no longer accrues any additional vacation until vacation is used and the employee's total is reduced to below 150 hours. The employee then resumes accruing vacation but only until his/her total again reaches 150 hours.
2. Permanent part-time employees have the option to be paid on an annual basis to cash out up to 25 hours of vacation hours at the employee's then current base rate of pay. To be eligible for the cash out option, the employee must have used at least 25 hours within the preceding calendar year and must have a balance of 75 accrued vacation hours after the cash out. Any or all the cash out will be paid, upon written request of the employee once a year at the employee's then current wage at the time of payment. Said payment shall be made on the first day of February, or at such other time as the City Manager may determine at his/her absolute discretion as appropriate.
3. Vacation shall be authorized at the convenience of the City and at such time during the calendar year based upon the needs of the department.
4. Vacation hours cannot be taken in the same pay period in which they accrued.
5. Each employee must submit a request to use vacation a minimum of five days in advance and prior approval must be given by the employee's supervisor and department head.
6. If an employee does not request time off in advance, the City Manager may deny the use of vacation time and said employee may be subject to disciplinary action, up to and including termination.
7. Vacation may only be taken in hours equivalent to the number of normally scheduled hours per week (i.e., an employee scheduled to work 30 hours may only request leave for up to the 30 hours and not in excess of this). The basis of calculating total hours for a regularly scheduled workweek will be the average of four weeks within the most recent two consecutive pay periods.
8. Any unused vacation time shall be paid out upon termination at the employee's final rate of pay.

- I. Permanent part-time employees shall receive sick leave in accordance with the following Sick Leave Accrual Schedule:

**Permanent Part-Time Sick Leave Accrual Schedule**

<b>Weekly Work Hours</b>	<b>Sick Leave Hours</b>
1-10 hours/week	4 hours/month
11-29 hours/week	4.8 hours/month
30+ hours/week	5.6 hours/month

1. Permanent part-time employees may use accrued paid sick days beginning on the employee's 90<sup>th</sup> day of employment with the City. Absence or illness may not be charged to sick leave that has not yet been accrued.
2. Accrued unused sick leave may be carried over from year to year. Sick leave may only be taken in hours equivalent to the number of normally scheduled work hours per week.
3. Permanent Part-Time employees have the option to be paid annually for all accrued sick leave in excess of 130 hours at a rate of one-half (1/2) of their current base rate of pay. Accrual of sick leave cash-out will be calculated on a calendar basis. Any or all of the accrued sick leave in excess of 130 hours will be paid upon written request of the employee. Said payment shall be made on the first day of December, or at such time as the City Manager may determine at his/her absolute discretion as appropriate.
4. Permanent Part-Time employees, who retire, resign, or are terminated in good standing, may elect to have all of their sick leave balance reported to CalPERS for conversion to service credit or may have their sick leave balance paid at one-half the employee's final base rate of pay. This benefit applies to the PPT employee who has completed their initial probationary period.
5. A Permanent Part-Time employee shall notify the department head prior to or within two (2) hours after the start of the employee's scheduled shift of the need to take sick leave. Failure to give such notice without good reason shall result in that day of absence being treated as a leave of absence without pay and may

result in disciplinary action up to and including termination.

6. The City Manager may, if he/she deems it necessary, require the employee to file a Physician's Certificate or Personal Affidavit verifying the need for sick leave except for the first three days (24 hours) of sick leave that an employee uses sick leave each calendar year.
  7. Three days (24 hours) of sick leave per calendar year shall be allowed for the diagnosis, care or treatment of an existing health condition or preventative care for an employee or a family member, or for an employee who is a victim of domestic violence, sexual assault, or stalking.
  8. Family member is defined as a child (biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis), a biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child, a spouse, registered domestic partner, grandparent, grandchild or sibling. Additional sick leave may be taken in case of actual illness of an employee's child, parent, spouse, or registered domestic partner.
  9. Sick leave may only be taken in hours equivalent to the number of normally scheduled hours per week (i.e., an employee scheduled to work 30 hours may only request leave for up to the 30 hours). The basis of calculating total hours for a regularly scheduled workweek will be the average of four weeks from the two most recent two consecutive-pay periods.
  10. Seasonal part-time employees are entitled up to 40 hours of sick leave per calendar year, per California state law. Seasonal part-time employees may use accrued paid sick days after the 90th day of employment with the City.
- K. Each permanent part-time employee is allowed to designate up to 18 hours of personal leave per calendar year, (January through December) and which will be drawn from an employee's sick leave bank. (See Section 20, Personal Leave.)

## **SECTION 13. LONGEVITY PAY**

In addition to any salary range, employees listed below shall receive, as additional compensation, longevity pay calculated from date of hire, as follows:

<b>Years of Service</b>	<b>Ex/Management</b>	<b>Classified</b>	<b>Perm Part-Time</b>
<b>At 5 years</b>	<b>\$40 bi-weekly</b>	<b>\$50 bi-weekly</b>	<b>\$37.50 bi-weekly</b>
<b>At 10 years</b>	<b>\$50 bi-weekly</b>	<b>\$100 bi-weekly</b>	<b>\$75.00 bi-weekly</b>
<b>At 15 years</b>	<b>\$70 bi-weekly</b>	<b>\$150 bi-weekly</b>	<b>\$112.50 bi-weekly</b>
<b>At 20 years +</b>	<b>\$85 bi-weekly</b>	<b>\$200 bi-weekly</b>	<b>\$150.00 bi-weekly</b>

## **SECTION 14. RETIREMENT SYSTEMS**

- A. The City shall pay the 5% of the 7% Employer Paid Member Contribution ("EPMC") of all "classic" employees of the classified, permanent part-time, management, and Director of Administrative Services to the California Public Employees' Retirement System (CalPERS) as deferred income. The City shall pay the 3.5% of the 7% EPMC of all "classic" employees of the executives, with the exception of City Manager and Director of Administrative Services to the California Public Employees' Retirement System (PERS) as deferred income. The City will not report the value of EPMC as special compensation.

Effective July 1, 2024, The City shall pay 5% of the 7% member contribution to CalPERS for all "Classic" members, regardless of their title.

- B. Employees who are defined as "new members" under PEPRA will pay 50% of the total normal cost of the retirement benefit, which will fluctuate from time to time as determined by CalPERS.
- C. Seasonal part-time employees are required to participate in the 457(b) Deferred Compensation Plan provided by Nationwide Retirement Solutions.
- D. All PERS members are required to participate in the PERS Survivor Benefit at a cost of \$2 per month per member paid by the employer effective July 1, 2002. Effective July 1, 1998, the benefit increases to

the Fourth Level of the 1959 Survivor Benefits, which provides a higher level of 1959 Survivor Benefits, a monthly allowance to survivors of a member who dies prior to retirement.

- E. All eligible City Council members will be placed in CalPERS membership in lieu of Social Security. Those not eligible will participate in the 457(b) Deferred Compensation Plan, including Planning Commission members. The City will pay Council member contributions.

### **SECTION 15. DEFERRED COMPENSATION**

All full-time and permanent part-time employees may choose, at their expense, to participate in the 457(b) Deferred Compensation Plan(s) and Roth IRA Plans provided by MissionSquare and/or other approved Plans.

### **SECTION 16. PAY PERIODS**

The compensation due to all officers and employees of the City shall be paid on a bi-weekly basis.

### **SECTION 17. PAY DAYS**

Warrants, checks or direct deposits in the payment of compensation shall be made available to employees and officers of the City on the Thursday following the completion of each bi-weekly pay period. In the event that a pay day falls on a holiday, all warrants, checks or direct deposits in payment of compensation shall be made available to the City employee on the first workday preceding the holiday.

### **SECTION 18. WORKING HOURS AND OVERTIME**

- A. For employees assigned a 4/10 work schedule, their hours of work shall consist of ten (10) hours per day Monday through Thursday, exclusive of a lunch period.
- B. For employees assigned a 9/80 work schedule, their hours of work shall consist of eight (8) nine (9) hour days and one (1) eight (8) hour day in a two-week period, plus a one-hour lunch during each work shift, totaling 40 hours in each workweek.
- C. For employees assigned a 5/40 work schedule, their hours of work shall

consist of eight (8) hours per day Monday through Friday exclusive of a lunch period.

- D. The official work periods of the City of Walnut are as follows:
1. Friday 12 noon through the following Friday at 11:59 a.m. will constitute the work period for all full-time employees scheduled on a 4/10 work schedule.
  2. Friday 12 noon through the following Friday at 11:59 a.m. will constitute a work period for all full-time employees scheduled on a 9/80 work schedule, where the employee's alternate day off is Friday.
  3. Monday 12 noon through the following Monday at 11:59 a.m. will constitute the work period for all full-time employees scheduled on a 9/80 work schedule, where the employee's alternate day off is Monday.
  4. Monday 5 p.m. through the following Monday at 4:59 p.m. will constitute the work period for all full-time employees scheduled on a 5/40 work schedule.
- E. City Hall shall be open Monday through Thursday, from 7:00 a.m. to 6:00 p.m., and closed on Fridays. For employees assigned to a 4/10 schedule, it shall be the duty of each department head to ensure that each employee subject to this schedule does not work more than four (4) days in each calendar week. For employees assigned to a 9/80 or 5/40 schedule, it shall be the duty of each department head to arrange the work of their department so that each employee subject to this schedule shall not work more than five (5) days in each calendar week. The City Manager may require an employee assigned to a 4/10 schedule to temporarily perform service in excess of four (4) days per week and employees assigned to a 9/80 or 5/40 schedule to temporarily perform service in excess of five (5) days per week when public necessity or convenience so requires.
- F. Whenever a full-time employee or part-time employee, other than Management/Executive employees, is required to work overtime, the overtime work must be pre-approved by the department head in advance, except for emergencies. Whenever an employee works more than 40 hours per work period (as defined above), said employee shall

receive compensation for overtime worked at one and one-half (1-1/2) times the employee's regular rate of pay.

- G. Overtime will be assigned on a rotational basis via a sign-up sheet in each department. Employees wishing to work overtime will be placed on the list in order of seniority based on total length of service within the department. Scheduled overtime will be assigned, whenever practical, from the appropriate department's list. The person next in line will be offered the work. If that person refuses the overtime offer, he/she goes to the bottom of the list and will not be offered overtime until a full rotation of the list has occurred. If the person at the top of the list performs the overtime, he/she also goes to the bottom of the list. If no one signs up, the Department Head has the right to assign whomever he/she chooses. Overtime may be paid for or taken as compensatory time at the option of the employee. Compensatory time will be credited at time and one half.
- H. Management/Executive employees may work an alternate work or flexible schedule as defined in Section 15, subsections A and B, to meet the operational needs of the city.
- I. Any full-time employee, other than a Management/Executive employee, who is required to work on an observed holiday beyond the regular 40-hour work period, shall be entitled to pay at the rate of two (2) times the employee's regular rate of pay. For the purposes of this paragraph, hours worked shall include any time on paid leave.
- J. Any exempt Management/Executive employee participating in the 9/80 or 4/10 flex plan who is required to work on a regular scheduled 9/80 day may take another day off during the same pay period. If the employee's 9/80 day off falls on a holiday, the employee may take another day off during the same pay period.

## **SECTION 19. ANNUAL VACATION**

<b>Years of service</b>	<b>5/40 schedule</b>	<b>9/80 schedule</b>	<b>4/10 schedule</b>	<b>Vacation days earned</b>
0-5	3.69 pp	4.15 pp	4.62 pp	12 days
6-10	4.92 pp	5.54 pp	6.15 pp	16 days
11 & up	6.15 pp	6.92 pp	7.69 pp	20 days

- A. Full-time employees after twelve (12) months of continuous service with the City shall be entitled to a vacation of twelve (12) workdays per year to be accrued at an accrual rate per their regular schedule (see above).
- B. Vacation time may be accumulated to a maximum of 300 hours. After an employee has accumulated 300 hours of vacation time, he/she will not be eligible to accrue additional vacation time until he/she has drawn down on his/her vacation leave bank.
- C. In the event one or more City holidays occur during an employee's authorized vacation leave, these days shall not be charged as vacation leave. The vacation leave shall be extended accordingly for those employees eligible for such holidays.
- D. Vacation shall be authorized based upon due regard to the operational needs of the department.
- E. Vacation may only be taken after the successful completion of probation.
- F. The time set for the vacation of the City Manager shall be subject to the approval of the City Council.
- G. Employees who are terminated shall be paid all unused accrued vacation hours at their final rate of pay.
- H. All vacation requests shall be made at least a minimum of five (5) workdays in advance and prior approval must be given by the employee's supervisor and department head.
- I. If an employee does not request time off in advance, the City Manager may deny the use of vacation time. If the employee takes unauthorized vacation time, he or she may be subject to disciplinary action, up to and including termination.
- J. Employees who fail to return to work after a scheduled vacation, without authorization, may be deemed to have abandoned their employment.
- K. Effective July 1st of each year, Department Heads, including the City Manager, shall accrue 40 hours of additional vacation time. Each Department Head or the City Manager shall have the option to cash out

- 40 hours of vacation per fiscal year. Should the cash out option be chosen, payment will occur during the first pay period beginning after July 1<sup>st</sup>.
- L. All full time employees eligible for vacation leave accrual have the option on an annual basis to cash out up to 40 hours of vacation time at the employee's then current rate of pay. To be eligible for the cash out option, employees must have used at least 40 hours of vacation time within the preceding calendar year and must have a balance of 160 accrued vacation hours after the cash out.
  - M. Any or all the cash out will be paid, upon written request of the employee, once a year at the employee's then current wage at the time of payment. Said payment shall be made on the first day of February, or at such other time as the City Manager may determine at his/her absolute discretion as appropriate.

## **SECTION 20. SICK LEAVE**

- A. Regular full-time employees shall take sick leave with pay at a rate of eight (8) hours per month.
- B. An employee may use accrued paid sick days beginning on the 90<sup>th</sup> day of employment. Absence or illness may not be charged to sick leave that has not been already accumulated.
- C. Each full-time employee has the option to be paid annually for all accrued sick leave in excess of 160 hours at a rate of one-half (1/2) of the employee's then current rate of pay. Accrual of sick leave and buy-back will be calculated on a calendar basis.
- D. Any or all of the accrued sick leave over the maximum 160 hours will be paid upon written request of the employee, once a year at the employee's then current wage at the time of payment. Said payment shall be made on the first day of December, or at such time as the City Manager may determine at his/her absolute discretion as appropriate.
- E. When an employee retires, resigns, or terminates in good standing, that employee may elect to have all of their sick leave balance reported to CalPERS for conversion to service credit or may have their sick leave balance paid at one-half the employee's final rate of pay.

- F. In the event an employee suffers an untimely death, the City Manager is authorized to waive the sick leave payout policy and cash out all the employee's unused sick leave balance to be paid to the employee's family and/or beneficiary.
- G. Full-time employees may designate up to forty-eight (48 hours) of sick leave per year for the diagnosis, care or treatment of an existing health condition or preventative care of an employee or a family member, or for an employee who is a victim of domestic violence, sexual assault, or stalking.
- H. Family member is defined as a child (biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis), a biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child, a spouse, registered domestic partner, grandparent, grandchild or sibling. Additional sick leave may be taken in case of actual illness of an employee's child, parent, spouse, or registered domestic partner.
- I. An employee shall notify the department head prior to or within two (2) hours after the start of the employee's scheduled shift of the need to take sick leave. Failure to do so without good reason shall result in that day of absence being treated as a leave of absence without pay and may result in disciplinary action up to and including termination.
- J. The City Manager may, if he/she deems it necessary, require the employee to file a Physician's Certificate or Personal Affidavit verifying the need for sick leave except for the first three days (24-30 hours depending on work schedule) of sick leave that an employee uses each calendar year as provided under the Protected Sick Leave law (AB 1522).
- K. Use of sick leave under this section shall not extend the maximum period of leave to which an employee is entitled under Family and Medical Leave (Section 20).
- L. Employees who have exhausted all of their sick leave and who fail to return to work without authorization or good cause, may be deemed to have abandoned their employment.

- M. Permanent part-time employees shall receive sick leave in accordance with Section 11.
- N. If an employee's use of sick leave is excessive or impacts his/her ability to effectively complete his/her job, the Department Head will evaluate the employee's sick leave usage and submit a recommendation to the City Manager for disciplinary action if warranted, up to and including termination.
- O. Employees shall not be subject to discipline for use of any protected leave.

## **SECTION 21. PERSONAL LEAVE**

The purpose of personal leave is to allow each full-time and permanent part-time employee the benefit of taking care of personal emergencies where sick leave, family and medical leave, or vacation is not applicable. Use of personal leave will be administered as follows:

- A. Each full-time employee may designate up to 27 hours to personal leave per calendar year (January through December).
- B. Permanent part-time employees may designate up to 18 hours to personal leave per calendar year.
- C. Time used as Personal Leave shall be designated on the Absence Request form and timesheet as "Personal Leave", however, the hours are charged against an employee's sick leave bank.
- D. An employee is eligible to designate time off as Personal leave after the 90<sup>th</sup> day of employment with the City.
- E. Personal leave may be used in hourly increments only.
- F. In order to receive personal leave with pay, the employee shall notify the department head or designee prior to or within two (2) hours after the start of the employee's work shift.
- G. Personal leave is not accumulated year-to-year and must be used per calendar year (January through December based on paycheck date) or

the allocated hours will convert to unused sick leave balance.

- H. Abuse of personal leave may result in disciplinary action, up to and including termination.
- I. Personal leave will be pro-rated if hired after January 1.

## **SECTION 22. FAMILY AND MEDICAL LEAVE**

The family and medical leave policy is intended to comply with the California Family Rights Act ("CFRA") (2 CCR §§ 11087 et. seq., and the federal Family and Medical Leave Act ("FMLA") (29 USC §§ 2601 et. seq.). California law shall prevail unless preempted by federal law.

Copies of the state and federal acts are available in the Human Resources Department. The following is a summary of pertinent sections:

- A. FMLA and CFRA allow eligible employees to take up to twelve (12) weeks of unpaid leave in a twelve (12) month period for the birth, adoption or foster care of a child; the serious health condition of the employee's child, parent or spouse or registered domestic partner; or the employee's own serious health condition.
- B. FMLA and/or CFRA also allow for leave for a qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a military member on covered active duty. In addition, FMLA and/or CFRA allow for twenty six (26) weeks of unpaid leave in a twelve (12) month period to care for a covered service member with a serious injury or illness if the employee is the spouse, son, daughter, parent, or next of kin of the service member.
- B. During the twelve (12) week period, the employee is required to use any of his/her accrued leave during the otherwise unpaid portion of FMLA and/or CFRA leave, such as vacation, administrative leave and floating holidays. In addition, accrued sick leave may be used at the employee's request, in accordance with Section 17. If the employee has exhausted his/her paid leave banks but has additional leave remaining under FMLA and/or CFRA, the employee is still eligible to take the time. Employees will not accrue leave time (sick, vacation, administrative leave, and/or floating holidays) during an unpaid FMLA and/or CFRA leave.

- C. Health insurance benefits shall continue for the duration of the family and medical leave under the same conditions as if the employee had continued working.
- D. To be eligible for FMLA and/or CFRA leave, the employee must have worked for the City for at least 12 months and must have worked at least 1,250 hours during the year preceding the start of the leave.
- E. For the purpose of tracking annual leave, the City will use a rolling 12 - month period measured backward from the date leave begins.
- F. The City will require an employee requesting family medical leave to provide written certification from the health care provider for the individual requiring care. This includes medical certification for the employee or his or her family member.
- G. In any case in which both parents are employed by the City and are entitled to leave, the aggregate number of workweeks of leave to which both may be entitled is limited to 12 workweeks total during any 12-month period if leave is taken for the birth or placement for adoption or foster care of the employees' child (i.e., bonding leave). In any case in which a husband and wife are both employed by the City and are entitled to leave, the aggregate number of workweeks of leave to which both are entitled is limited to 26 workweeks during any 12-month period if leave is taken to care for a covered service member. Except as noted above, this limitation does not apply to any other type of leave under this policy.
- H. Reproductive Loss Leave – An employee who experiences reproductive loss may take up to five (5) days of protected leave. This leave must be taken within three (3) months of the reproductive loss event. A reproductive loss event is defined as a failed adoption, failed surrogacy, miscarriage, still birth, or an unsuccessful assisted reproduction. If an employee experiences more than one reproductive loss event in a year, they are entitled to no more than 20 (twenty) days of reproductive loss leave in that one-year period.

## **SECTION 23. PREGNANCY DISABILITY LEAVE**

If an employee is disabled by pregnancy, childbirth, or related medical condition, the employee is eligible to take pregnancy disability leave (PDL). When an employee is pregnant, she is eligible for pregnancy disability leave for up to four months.

- A. During PDL, the employee is required to use any of her accrued leave during the otherwise unpaid portion of her pregnancy leave such as vacation, administrative leave, and floating holidays. In addition, accrued sick leave may be used at the employee's request, in accordance with Section 17. If the employee has exhausted his/her paid leave banks, but has additional leave remaining under PDL, the employee is still eligible to take the time. Employees will not accrue leave time (sick or vacation) during an unpaid PDL leave.
- B. Health insurance benefits shall continue for the duration of the PDL under the same conditions as if the employee had continued working.
- C. The City will require employees seeking to take PDL to provide a medical certification from the employee's health care provider.
- D. There are no employment time requirements to be eligible for PDL.

#### **SECTION 24. BEREAVEMENT LEAVE**

When circumstances are such and the City Manager determines that conditions warrant, up to five (5) days of paid bereavement leave may be granted in the event of death of a relative of a full-time employee. "Relative" is defined as a spouse, domestic partner, parents, children, stepchildren, brothers, sisters, grandparents, grandchildren, half-brothers, half-sisters, aunts, uncles, any other individual related by blood or marriage, or other individuals under special circumstances approved by the City Manager. The City Manager has the authority to grant additional paid bereavement time per Section 24 of the Personnel Rules and Regulations.

#### **SECTION 25. UNAUTHORIZED LEAVE**

If any employee does not show up for work for three (3) consecutive workdays without notifying his/her supervisor or department head, the employee shall be considered to have abandoned his/her employment with the City. Such will be grounds for disciplinary action, up to and including termination.

#### **SECTION 26. MANAGEMENT APPROVAL OF LEAVE**

Management has the right to approve the use of all leave, and the decision of the City Manager shall be final. If a dispute arises from a leave request, the City Manager will make the final determination.

## **SECTION 27. LEAVE OF ABSENCE WITHOUT PAY**

Leave of absence without pay may only be granted by the City Manager and for good cause. The operational needs and impact on the City will be taken into consideration to ensure the mission of the City is carried out.

## **SECTION 28. ON-THE-JOB INJURY**

Whenever an employee is absent from employment with the City on account of injury arising out of or in the course and scope of that employee's employment as determined under the Worker's Compensation Act, the employee may elect to apply pro-rated accrued sick leave, if any, to such absence to receive the difference between the compensation received under the Workers' Compensation Act and the employee's regular pay until the employee is able to return to work or has exhausted his/her sick leave, whichever occurs first. An employee may also elect to use any accrued vacation time in like manner after sick leave is exhausted.

Should an employee receive Temporary Disability Payments under Labor Code section 4650 and wishes to integrate such payments with accrued leave, the following will occur:

Employees receiving payment from the City's third-party administrator may either cash it and write an equal check to the City or endorse the check to the City.

The employee's hourly wage is determined by payroll. The temporary disability payment amount will then be divided by the hourly wage to determine the equivalent number of hours of accrued leave. The employee will be paid those hours under a pay code entitled "Temporary Disability".

## **SECTION 29. WORK BOOT POLICY/TEE SHIRT POLICY**

The City will reimburse all full-time maintenance employees and all full-time code enforcement employees for work boots up to \$300 per fiscal year, upon proof of sales receipt. This benefit shall be provided to both management and classified employees.

Each full-time maintenance employee will be issued five (5) City t-shirts per year at no cost. The t-shirts may be worn while on duty as summer uniforms during the regular workday from Memorial Day to Labor Day only. Additional T-shirts may be purchased and will also be made available for purchase by other employees and City officials.

Maintenance Foremen will be issued six (6) royal blue polo shirts per year at no cost to the employee. The polo shirts will be worn while on duty as uniforms during the regular workday. It will be the responsibility of the Maintenance Foremen to care and clean their polo shirts. Additional polo shirts beyond the six issued may be purchased at the employee's expense.

### **SECTION 30. JURY DUTY**

If a full-time employee is called for jury duty, that employee shall receive his/her regular pay while actually performing jury service, up to a maximum of thirty (30) workdays in a twelve (12) month period. Any amount received by an employee as payment for serving jury duty shall be reimbursed to the City, except for any mileage reimbursement.

Compensation for any full-time employee on jury duty shall be determined and verified by the Supervisor. It shall be the duty of full-time employees requesting compensation under this provision to obtain and present to the Supervisor any and all information necessary to verify times and dates of jury duty.

If a permanent part-time employee is called for jury duty, the employee will receive payment equal to his/her regularly scheduled work hours while actually performing jury service, up to a maximum of thirty (30) workdays in a twelve (12) month period.

Any amount received by an employee as payment for serving jury duty shall be reimbursed to the City. Employees do not need to reimburse the City for any mileage paid to them for jury duty.

Compensation for any permanent part-time employee on jury duty shall be determined and verified by the Supervisor. It shall be the duty of permanent part-time employees requesting compensation under this provision to obtain and present to the Supervisor any and all information necessary to verify times and dates of jury duty.

Seasonal part-time employees are not entitled to paid leave to serve on jury duty.

### **SECTION 31. ATTENDANCE**

Employees shall be in attendance at their work in accordance with the rules regarding hours of work, holidays, and leaves. Department Heads shall keep attendance records of all employees. Unauthorized absences may result in disciplinary action.

## **SECTION 32. HOLIDAYS**

Full-time and permanent part-time employees receive observed paid holidays as follows:

1. New Year's Day (January 1)
  2. Martin Luther King Jr. Day (observed third Monday in January)
  3. Presidents' Day (observed third Monday in February)
  4. Memorial Day (observed last Monday in May)
  5. Independence Day (July 4)
  6. Labor Day (observed first Monday in September)
  7. Veterans' Day (November 11)
  8. Thanksgiving Day
  9. Day after Thanksgiving (only for those employees scheduled to work that day)
  10. Christmas Eve (December 24)
  11. Christmas Day (December 25)
- A. For employees scheduled to work a 4/10 workweek, holidays that fall on a Friday or a Saturday shall be observed on the preceding Thursday, and holidays that fall on Sunday shall be observed on the following Monday. For employees scheduled to work a 9/80 or 5/40 work schedule, holidays that fall on Saturday shall be observed on the preceding Friday, and holidays that fall on Sunday shall be observed on the following Monday.
- B. For employees scheduled to work a 5/40 schedule, holidays that fall on a Friday shall be observed on that Friday. For employees participating in the 9/80 plan with holidays that fall on the Friday that is the employee's 9/80 day off, the holiday shall be observed on an alternate day during the same pay period.
- C. If an observed holiday falls on a ten (10) hour workday under the 4/10 work schedule, the employee will be credited for a ten (10) hour day.
- D. If an observed holiday falls on a nine (9) hour workday under the 9/80 work schedule, the employee will be credited for a nine (9) hour day.
- E. If an observed holiday falls on an eight (8) hour workday under the 5/40 work schedule, the employee will be credited for an eight (8) hour day.

- F. In order to receive a paid holiday, the employee must either work or be on paid leave on either the day preceding or following the holiday.

### **SECTION 33. FLOATING HOLIDAYS**

- A. Each full-time employee on a 4/10 work schedule is allowed 20 floating holiday hours per calendar year (January through December based on paycheck date).
- B. Each full-time employee on a 9/80 or 5/40 work schedule is allowed 21 floating holiday hours per calendar year (January through December based on paycheck date).
- C. Each employee must submit a request to use floating holiday hours in advance, and approval must be given by the employee's supervisor and department head.
- D. A full-time employee is eligible to use a floating holiday after thirty (30) calendar days of continuous employment.
- E. Floating holidays may be used by full-time employees in lieu of sick leave only if all other leave hours have been exhausted.
- F. Permanent part-time employees shall receive floating holidays in accordance with Section 12. Seasonal part-time employees are not eligible for floating holidays.
- G. Accrual of Floating Holidays will be pro-rated during the calendar year if hired after January 1. Floating Holiday hours are eligible to roll over each year; there is no cap of accrual of these hours.

### **SECTION 34. EDUCATIONAL ENHANCEMENT PROGRAM**

- A. After one year of continuous full-time employment and an overall performance evaluation rating of satisfactory or above, full time employees shall be eligible to participate in the Educational Enhancement Program. Permanent part-time employees who work 35 or more hours per week and have worked at least three years of continuous part-time employment with the City and have received a performance evaluation rating of satisfactory or above, shall be eligible to participate in the Education Enhancement Program.

- B. An eligible employee must complete an Educational Enhancement Program application and have it approved by their immediate supervisor, department head, and City Manager prior to starting a course. This will ensure that each employee is enrolled in a program that will benefit the City.
- C. The City will advance up to \$5,000 of tuition related expenses per full time employee per fiscal year. The City will advance up to \$1,000 of tuition related expenses per permanent-part time employee per fiscal year. The employee may select the learning institution of his/her choice. However, the institution must be recognized as accredited within State of California guidelines.
- D. The City will pay in advance 100% of the tuition-related expenses for technical certificate training programs, for a maximum of two (2) classes per semester or quarter.
- E. As indicated in Subsection C above, related expenses shall include books and parking fees, as well as tuition.
- F. Pre-payment will only be applicable if the employee signs the required waiver form granting the City permission to deduct the fee and related expenses from said employee's paycheck if the employee fails to complete the course successfully with a passing grade of "C" or better for undergraduate courses and a "B" or better for graduate courses. Such deductions will be taken in installments over twenty-six {26} bi- weekly pay periods and at no time will the deductions reduce the employee's wages below the minimum wage. During the time that tuition assistance is repaid through payroll deduction, the employee will not be eligible to participate in the Educational Enhancement Program for further assistance until the amount has been paid in full to the City.
- G. Upon approval of the City Manager, an employee may apply for *tuition reimbursement* for classes taken during such time that repayment is being made upon verification of a passing grade "C" or better for undergraduate courses and a "B" or better for graduate courses (based upon the official transcript) from the educational institution and upon submission of documented proof of tuition payment.
- H. All employees wishing to participate in the Educational Enhancement Program must sign an *Educational Enhancement Waiver Form*.

- I. Those employees wishing to attend a technical certificate training course not offered at a local college will be reimbursed at the going rate of said course based on fees charged at a local college.
- J. In the event of an employer-initiated layoff as described in Section 57, the affected employee will not be required to reimburse the City for any tuition related funds received within one year of the effective date of the layoff.

## **SECTION 35. TRAINING PLAN**

Permanent employees of the City are eligible to request specialized training in the form of seminars, special courses, forums, etc., at City expense. This training is in addition to the Educational Enhancement Program.

## **SECTION 36. RESIGNATION**

An employee wishing to resign from his/her employment must file a written letter of resignation with the Department Head stating the effective date at least fourteen (14) calendar days prior to the resignation. Failure to give such notice shall mean the employee did not resign unless by reason of hardship and upon the employee's request, the City Manager may waive the two-week notice requirement. A resignation is effective when accepted by the Department Head.

## **SECTION 37. ANTI-NEPOTISM PROVISION**

- A. Relatives of those listed below may not be hired in any position in the City organization:
  - 1. City Councilmembers.
  - 2. Standing Board and Commission members.
  - 3. Administrative/Executive employees of the City;
  - 4. Employees of the City Manager's Department; or
  - 5. Employees of the Human Resources Department.
- B. The employment of a relative of any employee is prohibited within the same department when they:
  - 1. Perform joint duties; or
  - 2. One supervises the other.

- C. For business reasons of supervision, safety, security, or morale, the City may refuse to place one spouse under the direct supervision of the other spouse.
- D. For business reasons of supervision, safety, security, or morale, the City may refuse to place both spouses in the same department, division, or facility if the work involves potential conflicts of interest or other hazards greater for married couples than for other persons.
- E. "Relative" means spouse, registered domestic partner, child, step-child, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, parent-in-law, brother-in-law, sister-in-law, or another individual related by blood or marriage living in the same household as the City employee.
- F. "Employee" means any person who receives a City paycheck for services rendered to the City.

## **SECTION 38. DISCRIMINATION, HARASSMENT AND RETALIATION**

The City has a strong commitment to prohibiting and preventing discrimination, harassment and retaliation with regard to all phases of personnel recruitment, selection, appointment, and employment. The purpose of this Policy is to define discriminatory, harassing and/or retaliatory conduct, to prohibit the condoning or perpetuating of such conduct and to provide an efficient means for reporting and resolving complaints of discrimination, harassment and/or retaliation. The City has zero tolerance for any conduct that violates this Policy.

**A. Policy:** The City's policy strictly prohibits unlawful discrimination and harassment and/or retaliation because of an individual's protected classification "Protected Classification" includes:

- Race, Color
- Ancestry, National Origin
- Religion, Creed
- Age (40 and over)
- Disability, Mental and Physical
- Sex, Gender (not including pregnancy, childbirth, breastfeeding, or related)
- Medical Condition
- Sexual Orientation
- Gender Identity, Gender Expression

- Genetic Information
- Marital Status
- Military or Veteran status

The City also prohibits discrimination, harassment or retaliation because of an individual's protected activity. "Protected activity" includes: making a request for or receiving an accommodation for a disability; making a request for or receiving accommodation for religious beliefs or practices; making or supporting a complaint under this Policy; opposing violations of this Policy; or participating in an investigation pursuant to this Policy.

The City considers discrimination and harassment and/or retaliation a serious offense and is firmly committed to the philosophy that every employee has the right to work in an environment free from intimidation, ridicule and insult and to be treated with courtesy, dignity and respect. Every employee is expected to adhere to a standard of conduct that is respectful to all persons within the work environment. Conduct need not arise to the level of a violation of state or federal law to violate this Policy. Instead a single act can violate this Policy and provide grounds for discipline or other appropriate sanctions. Any complaint of discrimination, harassment and/or retaliation will be fully investigated.

B. Covered Individuals: The individuals covered by this Policy are: applicants, employees regardless of rank or title, elected or appointed officials, interns, volunteers, and contractors. This Policy applies to all terms and conditions of employment, internships, and volunteer opportunities, including, but not limited to, selection, hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation, and training. If, after a prompt and thorough investigation, it is determined that an individual has engaged in discrimination, harassment and/or retaliation, that individual will be subject to appropriate sanction or disciplinary action, up to and including termination.

C. Prohibited Conduct: The City's Discrimination, Harassment and Retaliation Policy prohibit the following types of conduct:

1. Discrimination. Discrimination is any action or conduct by which an individual is treated differently or less favorably because of the individual's protected classification, actual or perceived; because the individual associates with a person who is member of a protected classification, actual or perceived; or because the individual

participates in a protected activity as defined in this Policy.

2. Harassment. Unlawful harassment is any verbal, visual or physical conduct based on an individual's actual or perceived protected classification that is sufficiently severe or pervasive so as to affect an employee's work performance negatively and/or alter the conditions of employment and create an intimidating, hostile or otherwise offensive working environment.

Examples of the type of conduct that can constitute unlawful harassment include, but are not limited to, the following:

- a. Verbal harassment - For example: epithets, derogatory comments or slurs, graphic commentaries about an individual's body or other suggestive comments made on the basis of a protected classification. This includes inappropriate comments about appearance, dress, physical features, gender identification, or race, ethnic or sexually-oriented stories and jokes.
- b. Physical harassment - For example: assault, impeding or blocking movement, interference with normal work movement, massages, sitting on laps, or unwanted/offensive touching. This includes pinching, grabbing, patting, or making explicit or implied job threats or promises in return for submission to physical acts.
- c. Visual forms of harassment - For example: leering, making derogatory gestures, derogatory posters, notices, bulletins, cartoons, drawings, e-mails, faxes or other depictions related to a protected classification.
- d. Sexual conduct - For example: unwelcome sexual advances, requests for sexual favors, propositions, and other verbal or physical conduct of a sexual nature, where submission is made a term or condition of employment, where submission to or rejection of the conduct is used as the basis for employment decisions, or where the conduct is intended to or actually does unreasonably interfere with an individual's work performance or create an intimidating, hostile or offensive work environment.

e. Retaliation - Retaliation occurs when adverse conduct is taken against a covered individual because of the individual's protected activity as defined in this Policy. "Adverse conduct" may include but is not limited to: disciplinary action, counseling, taking sides because an individual has reported harassment or discrimination; spreading rumors about a complainant or about someone who supports or assists the complainant; shunning or avoiding an individual who reports harassment or discrimination; or making real or implied threats of intimidation to prevent or deter an individual from reporting harassment or discrimination.

If you have questions regarding these definitions, if you are uncertain as to what constitutes discrimination, harassment or retaliation, or, if you are uncertain as to what constitutes prohibited conduct under the City's Policy, contact your supervisor, Human Resources, Administrative Services Director, the City Manager or other management official.

D. Reporting Discrimination, Harassment or Retaliation: A covered individual who believes he or she or another City employee has been subjected to discrimination, harassment or retaliation may make a complaint -- orally or in writing -- to any supervisor, Human Resources, manager, or department head, without regard to any chain of command.

Complaints should include the following information:

1. The employee's name, department and position title.
2. The name of the person or persons who have engaged in the alleged harassment, discrimination or retaliation, including their job title(s) if known.
3. The specific nature of the harassment, discrimination and/or retaliation, including but not limited to, a description of the conduct, how long it has gone on, and any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against the victim as a result of the harassment, discrimination and/or retaliation (if applicable), or any other threats made against the victim as a result of the harassment, discrimination and/or retaliation.

4. Witnesses to the harassment.
5. Whether the victim previously has reported such harassment and, if so, when and to whom.

Your notification to the City is essential as it enables the City to investigate and prevent further acts of harassment, discrimination and/or retaliation. It is recommended that complaints be made no later than 15 working days after the incident. In addition, a written and signed statement of the complaint should be submitted to your supervisor, Human Resources, the Administrative Services Director or the City Manager within 10 days of the initial report. Employees in need of assistance in filing the complaint will be provided such assistance. You will not be penalized in any way for reporting harassment, discrimination, and/or retaliation.

- E. Anonymous Complaints: Any employee who wishes to make a complaint of discrimination, harassment or retaliation but is uncomfortable disclosing his or her identity may do so by following the above complaint procedure and filing the complaint anonymously with Human Resources, the Administrative Services Director or City Manager. Employees should know, however, that anonymity in the complaint procedure may affect the City's ability to complete a thorough investigation.
- F. The City's Response to Complaints of Discrimination, Harassment and Retaliation: All complaints of harassment, discrimination and/or retaliation that are reported to management will be taken seriously and investigated immediately, thoroughly, objectively, completely and as confidentially as possible. The City, as part of its investigation, will make every attempt to interview all individuals with information relative to the complaint.

Every effort will be made to assure the confidentiality of complaints made under this Policy to the greatest extent allowed by law. Complete confidentiality cannot occur, however, due to the need to investigate fully and the duty to take effective remedial action. An employee who is interviewed during the course of an investigation is prohibited from attempting to influence any potential witness while the investigation is ongoing. An employee may discuss his or her interview with a designated representative. The City will not disclose a completed investigation report except as it deems necessary to support

a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or court order.

The City will make a determination as to any complaint of harassment, discrimination and/or retaliation and communicate that determination to the complaining employee and to the alleged harasser. The complainant may not be entitled to copies of any notes or other written materials regarding the investigation. If it is determined that an employee has violated this Policy, appropriate corrective action will be taken in accordance with established City disciplinary procedures, up to and including discharge.

An individual has the option to report harassment, discrimination or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or to the State of California Civil Rights Department. These administrative agencies offer legal remedies and a complaint process. The nearest offices are listed on the Internet or employees can check the posters that are located on City bulletin boards for office location and telephone numbers.

While the City defends its employees' right to work in an environment free of harassment, discrimination and/or retaliation, it also recognizes that false accusations of harassment, discrimination and/or retaliation can have serious consequences. Accordingly, any employee who has deliberately and falsely accused another person of harassment, discrimination and/or retaliation will be subject to appropriate disciplinary action, up to and including termination.

The City trusts that all employees will continue to act responsibly to establish a positive working environment free of harassment, discrimination and retaliation. The City encourages employees to present any questions concerning this Policy to their immediate supervisor, your department head, Human Resources, the Administrative Services Director or the City Manager.

### **SECTION 39. EMPLOYEE GRIEVANCE PROCEDURE**

The City's intent is to offer fair and equitable appeals procedures. A "grievance" is a formal written allegation by a permanent full-time or permanent part-time employee who does not agree with his/her overall performance evaluation, or who alleges a violation of a provision of the Personnel Rules and Regulations; a violation of the regulations in the Employees Safety Manual; or a violation of an administrative policy. A grievance must be filed within 20 days of the act which gave rise to the grievance or within 20 days from the date the City made the employee aware of the act.

Before filing a formal written grievance, the grievant must attempt to resolve it by an informal conference with his/her immediate supervisor. If an employee would like to file

a grievance, the employee must obtain a Grievance Procedures packet from the Human Resources Department, complete the necessary forms, and return completed grievance forms to Human Resources. The Human Resources Department will notify all parties concerned within five (5) working days.

- A. The grievant and his/her immediate supervisor shall meet to review and discuss the grievance. The supervisor shall submit his/her written decision to grievant within five (5) working days following the meeting.
- B. The grievant may appeal the supervisor's decision. This appeal must be submitted in writing to the department head within five (5) working days immediately following the grievant's receipt of the supervisor's decision. The department head shall meet with the grievant and the grievant's immediate supervisor within five (5) working days of receipt of the appeal. The department head shall submit a written decision to the grievant within five (5) working days after the meeting.
- C. The employee may appeal the decision of the department head by submitting a written response to the Administrative Services Director within five (5) working days after the grievant's receipt of the department head's decision.
- D. The Administrative Services Director shall meet with the grievant, his/her supervisor and the department head and review the appeal within five (5) working days of receipt of the appeal. The Administrative Services Director shall submit his/her written decision to the grievant within five (5) working days after the meeting. Every effort will be made to resolve the appeal at this level.
- E. If the matter is not settled, a written appeal may be submitted City Manager by the employee to the City Manager within five (5) working days following the grievant's receipt of the Administrative Services Director's decision.
- F. The City Manager shall review the grievance and render a written decision within five (5) working days of receipt of the appeal. The City Manager's decision shall be final.

#### **SECTION 40 . PRE-EMPLOYMENT EXAMS**

Candidates, age 18 and over, are subject to fingerprinting and a background investigation.

The candidates being considered for employment may be sent to a City-authorized physician at the City's expense.

## **SECTION 41. EMERGENCY CALL-OUT POLICY**

The following Emergency Call-Out Policy for full-time employees shall be adhered to:

- A. When a full-time employee, other than a Management/Executive employee, is called out for a City emergency, employee shall be given a minimum of four (4) hours pay, regardless of the amount of time it takes to rectify the problem.
- 8. The employee shall be paid at the overtime rate outlined in Section 15.

## **SECTION 42. ADMINISTRATIVE LEAVE**

Full-time Management/Executive positions are management employees who meet all of the following criteria: (1) Employee is customarily required to work over and above 40 hours per week; (2) Employee customarily and regularly exercises discretionary and independent judgment; and (3) Employee is responsible for submitting written reports, and making oral presentations and recommendations to the City Manager and City Council.

- A. Management employees do not receive overtime pay. The City provides Administrative Leave of 48 hours for management employees and 56 paid hours for Department Heads per fiscal year to recognize these employees for the time they spend at work over and above 40 hours per week.
- B. Requests to use Administrative Leave shall be submitted to the employee's immediate supervisor for approval, and then forwarded to the City Manager for approval. The City has the discretion to grant the leave based on workload considerations and operational need.
- C. Management positions will be established by City Council and the job classifications available at the City's website [www.cityofwalnut.org](http://www.cityofwalnut.org).
- D. Administrative Leave will be pro-rated during the calendar year if hired after January 1. Administrative Leave hours are eligible to roll over each year; there is no cap of accrual of these hours.

## **SECTION 43. VERIFICATION OF EMPLOYMENT**

All new employees must verify identity and entitlement to work in the United States by providing required documentation.

## **SECTION 44. EXTENDED BENEFITS - COBRA**

The Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) provides for the continuation of health care coverage to certain employees who terminate employment and beneficiaries of employees who die, become disabled, or are divorced. Employees become eligible for continued coverage upon termination of service, whether voluntary or otherwise (other than termination for gross misconduct), retirement, or reduction in hours worked. For these employees and their dependents, continued coverage is available at their expense, eligible employees will be notified by Human Resources of their COBRA benefits.

## **SECTION 45. SUBSTANCE ABUSE**

The City and The Walnut City Employees Association (WCEA) are mutually committed to maintaining a drug and alcohol free workplace. To that end, the parties agree as follows:

As part of providing a drug free, safe work environment, the City has a drug-free workplace policy, as well as a substance abuse program, that will assist employees who have identified that they have a substance abuse problem.

Once an employee has notified the City or the City has determined an individual is in need of assistance, the following procedures will be followed:

1. Upon consent of the employee, the City will work with the employee and his/her health insurance carrier to enroll the individual into a rehabilitation program.
2. No employee shall be discharged for a substance abuse problem provided that they successfully complete the rehabilitation program and provide sufficient documentation.
3. An employee who has decided to enroll in a substance abuse treatment program will be permitted to use all of his/her accrued leave to compensate for loss of time from work while in rehabilitation.

## **SECTION 46. MILITARY LEAVE**

Upon being called for active military duty, a full-time employee will be placed on Military Leave with Pay, with all benefits continuing to accrue. However, any amount received by such employee as payment from the military shall be deducted from the City pay. It shall

be the duty of the employee to present to the City Manager any information requested necessary to verify dates and pay of employee's military duty. An employee on active military leave will not be required to use accrued leave time during any paid portion of his/her military leave. During military leave, the employee will continue to accrue all benefits, including health insurance for him or herself or his/her dependents.

## **SECTION 47. DONATION OF LEAVE TIME FOR CATASTROPHIC ILLNESS**

Employees may donate accrued vacation/sick leave to another employee who is or will be absent for an extended period of time because of a catastrophic illness, which is defined as an immediate, life-threatening illness:

- A. An employee who has accrued vacation or sick leave may donate all or part of the accrued vacation or sick leave to another employee who is ill or will be absent for a period of time due to catastrophic illness, and who does not have sufficient accrued sick leave and/or vacation leave to cover his/her absence.
- B. Employees wishing to donate vacation and/or sick leave must complete an Authorization to Donate Accrued Vacation or Sick Leave Form so that the time may be credited to the proper person.
- C. The donation of accrued vacation or sick leave shall not involve any form of payment or compensation, financial or otherwise, between the employees involved.
- D. The department head of the recipient's department shall be notified in advance of all requests for donations.
- E. The donation request shall first be circulated in the recipient's department within the City organization.
- F. The donated time will be assessed on a per hour basis, regardless of the donor's or recipient's salary.
- G. The donation of time is limited to catastrophic illness, i.e. heart attack, cancer, etc.
- H. In the case of any dispute arising from the implementation of this plan, the City Manager's decision will be final.
- I. Donation of sick leave for catastrophic illness shall be subject to the approval of the department head and City Manager.

- J. The donation is irrevocable, unless the recipient receives more donated time than can be utilized, in which case the unused leave will be returned to the donor on a pro-rated basis.

## **SECTION 48. DISASTER RESPONSE**

In the event of a major disaster where a state of emergency has been declared by the City, the County of Los Angeles, the State of California or the federal government, all employees shall be required to work as official emergency workers and must report to the City's Emergency Operations Center at the earliest possible time. Exempt and general employees who work in excess of 40 hours per week as defined by Section 15 will be entitled to Emergency overtime compensation. Hourly -pay rates will be equivalent to their current monthly base salary divided by 173.33 hours {which reflects their total working hours [2,080] divided by 12 months). Emergency overtime will only be paid for those hours actually worked where a regular and disaster time sheet have been submitted to the Finance.

If an earthquake occurs that is a Richter Scale 6.0 magnitude or greater with an epicenter located within fifty (50) miles of the City, Management/Executive employees may first secure their home/family and must report as soon as possible to their designated emergency position at the City Hall or City Maintenance Yard. It will be determined whether all employees will be called to work.

If an earthquake occurs that is 5.5 magnitude or greater with an epicenter located within ten (10) miles of the City, all full-time, permanent part-time, and seasonal part-time employees may first secure their home/family and must report as soon as possible to their designated emergency position at the City Hall or City Maintenance Yard.

Failure to respond in accordance with this Section may be grounds for disciplinary action, up to and including termination.

All employees are encouraged to develop an emergency kit to be kept at their individual workstations.

## **SECTION 49. POLITICAL ACTIVITIES OF CITY EMPLOYEES**

Pursuant to the provisions of Government Code sections 3201 through 3209, the following restrictions are placed upon the political activities of City employees:

1. No City employee may solicit, either directly or indirectly, political funds or contributions knowingly from other City employees,

although City employees may be incidentally included in a mailing or other solicitation of a general nature.

2. No City employee may use his or her position in the City to benefit any political candidate.
3. No City employee may engage in political activities during working hours.
4. No City employee may engage in political activities at any time while in a City uniform or distinctive part of a City uniform.
5. No employee shall use City public facilities or City equipment for political activities.
6. Any questions regarding these restrictions should be referred to the City Manager.

If an employee has questions concerning these restrictions, he/she should consult with the City Manager before engaging in such activities.

#### **SECTION 50. OUTSIDE EMPLOYMENT**

City employees may engage in outside employment for compensation while off-duty if it does not conflict with his/her duties, functions, or responsibilities to the City or the department in which he/she is assigned. The City has established guidelines as to what constitutes inconsistent outside employment for City employees. The guidelines are available in the Human Resources Department.

Once a request has been made, the City Manager shall determine if the outside employment is consistent with the employee's current job duties at the City. Employees are required to complete the "Outside Employment Form" and a copy of the form will be placed in the employee's personnel file.

Failure to disclose outside employment may be grounds for disciplinary action, including termination.

#### **SECTION 51. SUBMITTAL OF HOME ADDRESS AND PHONE NUMBER**

All employees are required to submit their home address and the phone number to the City's Human Resources Department. If an employee moves or changes their phone number, notification of the new information must be submitted to the Human Resources

Department within five (5) working days.

## **SECTION 52. WORKPLACE VIOLENCE**

As part of the City's commitment to provide a safe working environment to its employees, the City has adopted and will enforce a Workplace Violence Program.

- A. Any act of violence or threat of violence by or against any City employee is unacceptable and violates City policy. The City is committed to providing a safe and healthful workplace for all of its employees and will take any steps necessary to protect its employees from violence, real or implied.
- B. Workplace violence is defined as any act or threat of violence that occurs at the work site, involving the use or threat of physical force against an employee that results in, or has a high likelihood of resulting in, injury, psychological trauma, or an incident involving the threat or use of a firearm or other dangerous weapon.
- C. Any act of workplace violence by an employee will be grounds for disciplinary action, up to and including termination.
- D. The City will cooperate with local law enforcement as well as the District Attorney's office to assist in the prosecution of any employee who engages in workplace violence.
- E. The City will make every attempt to reduce and eliminate violence in the workplace through the use of the following programs:
  - 1. Screening of applicants prior to hire
  - 2. Probationary period and annual evaluations
  - 3. Proactive disciplinary system using progressive disciplinary measures
  - 4. Open door policy, as well as a formal grievance procedure
  - 5. Use of several internal communication devices (safety committee, monthly departmental meetings, newsletter, etc.)
  - 6. Strong substance abuse policy

7. Informal Employee Assistance Program (EAP}
  8. Training Program on dealing with workplace violence.
- F. The City's procedure for dealing with threats and reporting procedures are outlined in the Employee's Safety Handbook under the heading of "Workplace Violence."

### **SECTION 53. MOVE-UP PAY**

- A. In the event an employee is temporarily assigned to work in a higher classification or assigned work or to perform additional duties at a level higher than the employee's existing regular assignment as described in the employee's job description, that employee shall be paid not less than 10% above the employee's current regular rate of pay.
- B. To qualify for move-up pay, the employee must be assigned to the higher classification or higher duties for thirty consecutive calendar days. Upon completion of the thirty calendar days in the move-up assignment, the affected employee shall receive move-up pay retroactive to the first day of said move-up assignment.
- C. Move-up pay shall be authorized as a result of the assignment of additional duties due to vacancies resulting from terminations, retirements, disabilities, and/or leaves of absence, or as approved by the City Manager.
- D. If an employee, while on move up pay, receives a promotion or reclassification connected to their move-up position, they shall be compensated at the step in the new range not less than the 10% move-up pay they were receiving.

### **SECTION 54. CLASSIFIED REDUCTION IN-FORCE/LAYOFF POLICY**

- A. Authority. The City Manager may lay off employees at any time for lack of work, budgetary reasons, technological changes, or other City actions that necessitate a reduction in the workforce.
- B. Reduction-In-Force. When it becomes necessary to reduce the work force, the City Manager shall designate the position(s) or classifications, departments, or other organizational units in which the positions are to be eliminated. Contract and temporary employees in the same classification

as the positions proposed for elimination within the affected organizational unit shall be laid off first. Probationary promotional employees who are laid off shall be returned to the position held prior to their promotion. Employees shall receive 30 days' written notice prior to the effective date of any lay-off.

- C. Order of Layoff. The order of layoff of full-time employees in the classified service and management/executive employees shall be made in accordance with a system that favors retention of the more meritorious employees, based upon evaluation of the following factors listed in order of importance:
1. The employee's performance record with primary weight given to the employee's most recent performance evaluation, except when an employee has less than one year seniority with the City, in which case only seniority will be used.
  2. Seniority: Seniority is length of service in the classification within the department. If employees have the same seniority, the City will consider seniority in the City employment. Seniority is service time beginning with the employee's date of appointment in the classified service or to a management/executive position. Seniority shall continue to accrue during periods of vacation, sick leave, layoff not exceeding nine months, any authorized leave of absence less than thirty (30) days or call to military service for the duration of the call to duty. Seniority shall not accrue during any other break of service.
- D. Reassignment/Transfer. The City may offer an employee who is to be laid off a reassignment or transfer to a vacant position. Any employee who declines a reassignment or transfer may terminate and be placed on the re-employment list. Any employee who chooses to terminate and have his/her name placed on the re-employment list shall notify the department in writing of his/her decision at least ten (10) days prior to the effective date of the proposed reassignment or transfer. Such termination shall be on the same date as the reassignment or transfer would have been effective.
- E. Bumping Rights. Any employee subject to layoff who has held regular status in a lower classification within the same job family of his/her current classification may request placement in the lower class. If such a request is made, an Order of Layoff List consisting of the names of employees in the requested class and the employee requesting placement will be prepared and used in effecting a layoff consistent with provisions of this section. An employee who has been involuntarily transferred to a class

from which a layoff is to be made shall have automatic "bumping rights" to his/her previous classification for up to six (6) months from the effective date of transfer.

- F. Continuation of Benefits. Employees who are laid off and who receive medical benefits will have their medical insurance benefits continued to the end of the second calendar month following the date of their layoff if they are not covered by another medical plan.
- G. Re-Employment List. The name of every regular employee who is laid off, transfers, or elects to be demoted to a formerly held classification in the same department for longer than one pay period due to reduction in force, shall be placed on a re-employment list.
- H. Names may be removed from the re-employment list for any of the following reasons:
  - 1. The expiration of nine (9) months from the date of placement on the list.
  - 2. Re-employment in a full-time position in the classified service in a department other than that from which the employee was laid off.
- I. Failure to respond within fourteen (14) calendar days of mailing of a registered letter regarding availability of re-employment.
- J. Failure to report to work within fourteen (14) calendar days of mailing of a registered letter containing a notice of re-employment, absent mitigating circumstances.
- K. An individual request in writing that his/her name be removed from the list.

## **SECTION 55. DISCIPLINE**

- A. Causes for Disciplinary Action: Any employee (except the City Manager) who has successfully passed probation may be disciplined for cause. Conduct which shall be deemed to constitute cause shall include, but is not limited to, the violation of any of these rules, written City policies, department policies, inefficiency or incompetence; unsatisfactory performance; discourteous treatment of fellow employees or the public; and misconduct which brings or could bring discredit on the City. The following disciplinary actions may be taken against any employee:

1. **Oral Reprimand:** The employee will be warned of unsatisfactory areas of work performance or behavior and will be informed of the areas where improvement is needed. Supervisors may issue oral reprimands.
2. **Written Reprimand:** The employee will be given a written warning of performance deficiencies or problems of behavior or conduct. The written reprimand will include a detailed statement of the problem, what the employee is directed to do to correct the problem, and notice that further disciplinary action will be taken unless the employee's behavior or performance improves. Supervisors may issue written reprimands.

An employee shall have the opportunity to present a written response to the reprimand and have the written response placed in his/her personnel file. Any written response must be submitted to the Human Resources Department within ten (10) days of receipt of the written reprimand to be included in the employee's personnel file.

3. **Suspension:** An employee may be temporarily removed from his/her duties without pay by a Department Head. Supervisors may recommend suspensions to the subject employee's Department Head.
  4. **Reduction in Pay:** An employee's pay may be reduced for disciplinary purposes by a Department Head. Any such reduction must be within the salary range for the employee's classification.
  5. **Demotion:** An employee may be demoted by the Department Head to a lower classification for disciplinary reasons. Supervisors may recommend demotions.
  6. **Discharge:** An employee may be terminated from employment by a Department Head. A supervisor may recommend discharge.
- B. **Emergency Suspension:** An employee may be placed on paid administrative leave immediately when in the judgment of the appointing authority that employee's conduct presents a clear and immediate danger to the health or safety of the employee or anyone

else.

- C. Discipline of Exempt Employees: Except for a violation of a major safety rule, exempt employees (management/executive) may not be subject to suspension other than in full workweek increments.
- D. Procedures for Taking Disciplinary Action: For disciplinary suspensions, reductions in pay, demotion, and discharge of employees in the classified service and management/executive employees (except the City Manager) who have successfully completed probation, the following procedures shall be followed:
  - 1. Notice of Intent: Whenever the Department Head intends to suspend, demote, reduce pay, or discharge an employee, the Department Head shall give the employee a written notice of intent to discipline which sets forth the following:
    - a. The disciplinary action proposed.
    - b. The specific charges upon which the action is based.
    - c. A summary of the facts upon which the charges are based.
    - d. A copy of all written materials, reports, or documents upon which the discipline is based.
    - e. Notice of the employee's right to respond to the charges either orally or in writing to the appropriate authority.
    - f. The date, time, and person before whom the employee may respond. Said time shall be no less than fifteen (15) days after issuance of the notice of intent.
    - g. Notice that failure to respond at the time specified shall constitute a waiver of the right to respond prior to the decision on any final discipline being imposed.
- E. Response by Employee: The employee shall have the right to respond to the Department Head orally or in writing. The employee shall have a right to be represented at any meeting set by the appropriate authority to hear the employee's response. In cases of suspensions, demotions, reductions in pay or discharge, the employee's response will be considered before final action is taken.
- F. Final Notice: After the response or the expiration of the employee's time to respond to the notice of intent, the appropriate authority may either:
  - (1) dismiss the notice of intent and take no disciplinary action against the employee or
  - (2) modify the intended disciplinary action or
  - (3) prepare

and serve upon the employee a final notice of disciplinary action as initially proposed. The final notice of disciplinary action shall include the following:

1. The disciplinary action taken.
2. The effective date of the disciplinary action taken.
3. Specific charges upon which the action is based and which the authority has deemed sustained.
4. A summary of the facts upon which the sustained charges are based.
5. The written materials, reports, and documents upon which the disciplinary action is based.
6. The employee's right to appeal suspensions, reductions in pay, demotions, and discharges by submitting a written appeal within ten (10) calendar days to the Human Resources Department.

## **SECTION 56. APPEAL HEARING**

If, within the 10day calendar appeal period, the employee involved does not file an appeal of his/her suspension, reduction in pay, demotion and/or discharge, the action of the Department Head shall be considered conclusive and shall take effect as prescribed. If within the 10-day calendar day period, the employee files a notice of appeal by giving written notice to the Human Resources Department, an appeal hearing shall be established as follows:

- A. If a third-party hearing officer cannot be agreed upon by the Human Resources Department and the employee's representative (or employee alone if unrepresented), the parties shall submit a request to the State mediation and Conciliation services (SMCS) or American arbitration Association (AAA) for a list of seven persons qualified to act as hearing officers. Within ten (10) calendar days following receipt of the list of hearing officers, the parties shall meet to select the hearing officer. The parties shall meet to select the hearing officer. The parties shall alternately strike one name from the list of hearing officers (the right to strike the first name shall be determined by the flip of a coin) until one name remains, who will be the hearing officer.
- B. Where applicable, the date for commencement of the hearing shall not be less than twenty {20} days, nor more than sixty {60} calendar days, from the date of the filing of the employee's appeal with the Human Resources Department. The parties may stipulate a longer or shorter period of time in which to hear the appeal. All interested parties shall be notified in writing of the date, time, and place of hearing.
- C. At the request of the employee, open the hearing to the public.

- D. Subpoenas and subpoenas duces tecum pertaining to a hearing shall be issued by the hearing officer at the request of either party not less than five (5) working days prior to the commencement of such hearing. After the commencement of such hearing, subpoenas shall be issued only at the discretion of the hearing officer.
- E. The hearing need not be conducted in accordance with technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is relevant to the credibility of a witness or hearsay declarant, having any tendency in reason to prove or disprove any disputed fact that is of consequence to the determination of the action regardless of the existence of any common law or statutory rules which might improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in superior court actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil and criminal actions, and irrelevant and unduly repetitious evidence shall be excluded. The hearing officer shall not be bound by the technical rules of evidence. The hearing officer shall rule on the admission or exclusion of evidence.
- F. Each party shall have these rights: To be represented by legal counsel or other person of his/her choice; to call and examine witnesses; to introduce evidence; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him/her to testify; and to rebut the evidence presented against him/her. If the appellant employee does not testify in his/her own behalf, he/she may be called and examined as if under cross-examination. Oral evidence shall be taken only on oath or affirmation. A court reporter will be engaged to record the hearing, unless the parties (City, hearing officer, employee/employee representative) all agree that a court reporter is not necessary.
- G. The hearing shall proceed in the following order, unless the hearing officer, for specific reason, directs otherwise:
  1. The City shall be permitted to make an opening statement.
  2. The appealing party shall then be permitted to make an opening statement.

3. The City shall produce the evidence on its part; the City bears the burden of proof and burden of producing evidence.
  4. The appealing party may then present his/her defense and offer his/her evidence in support thereof; the employee bears the burden of proof and the burden of producing evidence for any affirmative defenses asserted.
  5. The parties may then, in order, respectively offer rebutting evidence only, unless the hearing officer for good reason, permits them to offer evidence upon their original case.
  6. Closing arguments shall be permitted and written briefs may be permitted at the discretion of the hearing officer.
- H. The hearing officer shall determine the relevance, weight, and credibility of testimony and evidence. He/she shall base his/her findings on the preponderance of evidence. During the examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing unless the hearing officer, in his/her discretion, for good cause, directs otherwise. No still photographs, moving pictures, or television pictures shall be taken in the hearing chamber during a hearing. The hearing officer, prior to or during a hearing, may grant a continuance for any reasons he/she believes to be important to reaching a fair and proper decision. The hearing officer shall render his/her written decision as soon as possible after the conclusion of the hearing and in no event later than thirty (30) days after closing the hearing. His/her decision shall set forth findings of fact and conclusions. The decision shall be considered by the City Manager as advisory only.
- I. The hearing officer may recommend sustaining or rejecting any or all the charges filed against the employee. He/she may recommend sustaining, rejecting, or modifying the disciplinary action invoked against the employee. He/she may not recommend discipline more severe than that imposed by the Department Head.

The hearing officer's opinion and recommendation shall be provided to the City Manager, the charged employee, and the Human Resources Office.

## **SECTION 57. CITY MANAGER DECISION**

Within thirty (30) days of the receipt of the hearing officer's findings and

recommendations, and transcript (if any), whichever date is later, the City Manager shall adopt, amend, modify, or reject the recommended findings, conclusions, and/or decision of the arbiter. The City Manager shall not conduct a de novo hearing, but shall only review the record of the arbitration. The City Manager may, at his/her option, allow limited oral arguments and/or may request and review written statements from either side. The decision of the City Manager shall be final. Copies of the City Manager's decision, including the hearing officer's recommendation(s) shall be contained in the employee's personnel file, unless no discipline is upheld by the City Manager.

The City will pay the cost of facilities, fees, and expenses of the hearing officer, and the court reporter. Any party requesting a transcript will pay the cost thereof. Each party shall bear its own witness and attorney fees. If either party unilaterally cancels or postpones a scheduled hearing, thereby resulting in a fee charged by the hearing officer or court reporter, the party responsible for the cancellation or postponement shall be solely responsible for payment of that charge.

This process shall not apply to mutual settlements by the parties which result in an arbitration fee.

#### **SECTION 58. EMPLOYEE TIME OFF FOR VOTING**

California Elections Code section 14001 requires agencies to post a notice to employees advising them of provisions for taking paid leave for the purpose of voting in statewide elections. The notice must be posted 10 days before a statewide election. In general, a statewide election is defined as one in which all voters in the state have an opportunity to vote on at least one common race or issue. Additional details regarding the definition of a statewide election are available in the Human Resources department.

Employees are eligible for paid time off for the purpose of voting only if they do not have sufficient time outside of their regular working hours to vote. Employees may, without loss of pay, take off enough working time that, when added to the voting time available outside of working hours, will enable the employee to vote. The City will only compensate the employee up to two hours for time taken off for voting. Department Heads. Employees will be required to take the time off only at the beginning or end of the employee's shift, whichever allows the most free time for voting and the least time off from the regular working shift, unless otherwise mutually agreed.

If the employee on the third working day prior to the day of election, knows or has reason to believe that time off will be necessary to be able to vote on election day, the employee shall give the Department Head at least two working days' notice that time off for voting is requested.