

CITY OF LARKSPUR

PERSONNEL RULES

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INTRODUCTION

These Personnel Rules (“Rules”) generally describe the administration of the personnel system of the City as related to the competitive service. These are policies and procedures which apply to the entire personnel system, and to employees across departments and bargaining units. Through these rules, managers, supervisors and employees can be aware of how the City addresses employment related situations in the areas of hiring, probationary periods, reinstatement, employment standards, salary administration, the disciplinary process, and other important elements of the employment relationship.

These rules have been created through a collaborative interaction involving managers and employee representatives. They are a product of the culture of transparency, reasonableness, and mutual concern the City strives to foster among its workforce and with the community. These rules address the rights of both employees and management, and provide procedures where different perspectives can be heard, understood and used to create reasonable and effective resolutions to personnel problems, and to enhance and improve employment relationships.

Over time, the needs of the employees and managers of the City will change. The demands on the City, in the form of service requirements of our citizens, or of new legal requirements on the City as an employer and provider of municipal services, will require that these rules be reviewed and updated. It is intended that these Rules be a living document, one which is revised to meet the needs of the organization over time. Changes to the Rules are made by resolution.

These Rules are supplemented by administrative policies established by the City Manager to conform with and be complementary to these Rules. Except for matters of legal compliance, where there is deemed to be a conflict between a Rule and an administrative policy, the Rules shall prevail. Additional terms and conditions of employment for a specific group of employees may be defined in a bargained agreement. Where an applicable bargaining agreement specifically conflicts with a Rule, the bargaining agreement provision shall govern. In the event there is a discrepancy between the language in these Rules and federal or state law, federal or state law shall prevail over these Rules. If any part of these Rules is determined to be unconstitutional or illegal, such part shall be severed from these Rules and the remaining Rules shall be given full force and effect. Members of the City's management team may issue additional departmental policies as deemed necessary for the efficient administration of particular units of the organization. However, such policies shall not conflict with these Rules. In cases where there is deemed to be a conflict between a unit policy or rule and these Rules, these Rules shall prevail.

DEFINITIONS

PERSONNEL OFFICER: Refers to the City Manager. When interpreting these Rules, anytime the Personnel Officer is listed, it should be interpreted to mean the City Manager or his/her designee. The City Manager may designate personnel administration authority to an administrative manager or operational manager, as appropriate.

PROBATIONARY PERIOD. Refers to the period of time subsequent to hiring or promotion when an employee's fitness for the position is evaluated prior to his/her obtaining the rights and benefits of regular employment with the City.

1. CLASSIFICATION AND COMPENSATION

- 1.1. GENERAL POLICY - Except for those positions identified in Chapter 2.24 of the Larkspur Municipal Code, all regular positions of employment in the City which are described and budgeted for by Council action, and are of indefinite duration, are considered part of the competitive service. Such positions shall be organized by the Personnel Officer into a classification system, and appointments to positions in the competitive service shall be made consistent with these Rules.
- 1.2. CLASSIFICATION - In order to facilitate equitable employment and compensation practices, a classification system shall be implemented which groups positions which are similar as to duties performed, degree of responsibility exercised, supervision received or given, and other relevant job factors, so that the same title and schedule of compensation will be applied to each position in the group, and substantially similar measures of required qualifications, and acceptable job performance will also be applied to each position in the group. The Personnel Officer shall develop descriptions for each job classification. Such job descriptions will contain a descriptive title, a definition of purpose for the position, typical and essential, but non-exclusive list of duties performed by positions in the classification, general qualifications and typical physical requirements of the work environment. Job classification descriptions are intended to be descriptive and explanatory, not restrictive, and should not be construed as limiting the ability of the City Manager to assign duties as needed to any position.
- 1.3. RECLASSIFICATION - As position duties and general qualifications change from time to time or the needs of the organization change and new duties are added or deleted, management may deem it necessary to conduct a classification study or job audit to determine the most appropriate classification for a position. Such a study may also be requested by an employee or representative of a bargaining unit. Upon determining that cause for such a study exists, the Personnel Officer may undertake or cause to be undertaken a study of such a position or positions and shall determine the most appropriate classification based on the findings and recommendations of such a study.
- 1.4. COMPENSATION - The Personnel Officer shall prepare or cause to be prepared a Salary Schedule for inclusion in each year's budget submission to the City Council. The schedule shall set forth the positions approved by the Council, together with proposed salary ranges, for the upcoming fiscal year. Salary ranges are to be reviewed by Council each fiscal year, or as often as may be recommended by the Personnel Officer to maintain appropriate compensation.
- 1.5. COMPENSATION ADMINISTRATION - In general, compensation practices shall be administered based upon merit, and in a manner that tends to conserve the City's resources. Adjustments shall be made to an employee's salary as the result of movement within the organization as described below:
 - 1.5.1. Salary Advancements: Salary advancements within an established range shall not be automatic, but shall be based upon satisfactory job performance as determined, and recommended in writing, by the employee's supervisor. Such review and recommendation shall occur at least once a year, generally on the anniversary of the employee's appointment to the position.
 - 1.5.2. Salary on Promotion: An employee who is promoted to a position in a class allocated to a higher salary range than the class to which the employee was formerly assigned will receive at least the nearest higher monthly salary in the higher salary range.

- 1.5.3. Salary on Transfer: An employee who is transferred from one position to another in the same class or to a position in a class having the same salary range shall be compensated at the same point in the salary range as previously received.
- 1.5.4. Salary on Demotion: An employee who is demoted to a position in a class allocated to a lower salary range than the class to which the employee was formerly assigned will receive a salary adjustment to the monthly salary nearest his or her former salary in the lower salary range, unless otherwise determined by the Personnel Officer.
- 1.5.5. Salary for Temporary Out-of-Class Assignments: Any employee who is assigned to temporarily perform the duties of a position allocated to a higher salary range may receive additional compensation as described in an applicable memorandum of understanding, or at the discretion of the Personnel Officer. This temporary assignment is not to exceed a period of six (6) months, unless an extension is approved by the Personnel Officer, and shall not form the basis for a reclassification request. Upon completion of the out-of-class assignment, the employee will return to his/her previous salary.

2. EMPLOYMENT AND APPOINTMENT PRACTICES

- 2.1. GENERAL POLICY - All employees shall be appointed by the Personnel Officer. The Personnel Officer may delegate recruitment and selection responsibilities at his or her discretion. The City's employment processes will be conducted in a manner which is fair, efficient, and results in the employment of qualified candidates.
- 2.2. RECRUITMENT PROCEDURES - The City may utilize any legitimate procedure for attracting and selecting qualified applicants. Recruitment techniques may vary depending on the type of position, availability of qualified candidates, economic climate, and other considerations which may exist. Recruitments shall be conducted in accordance with equal employment opportunity principles. Recruitments may be open or may be limited to City employees, depending on the City's needs. When in the best interest of the City, the City Manager may make appointments of qualified persons without going through a recruitment procedure.
- 2.3. APPLICATIONS & OTHER MATERIALS - Application materials shall require information covering training, experience, and other pertinent information designed to determine the most-qualified applicant. All applications and selection procedure materials are confidential records and shall not be returned to applicants. Falsification or misstatement of material facts on application materials or during the selection procedure may result in rejection of the applicant or dismissal of the employee at any time. No applicant information shall be asked that is prohibited under any state or federal law.
- 2.4. SELECTION PROCEDURES - All selection procedures shall be designed to assess the job-related qualifications of each applicant and shall be consistent with merit system principles. The City may utilize any legitimate objective method to determine the qualifications of applicants, including without limitation, written tests, physical agility tests, oral examinations, training and experience review, panel interviews, assessment centers, and oral interviews. The methods used shall be impartial and shall fairly measure the relative capacities of the candidates to execute the duties and responsibilities of the job. The City may hold the selection processes itself or contract with any competent organization or individual to prepare and/or administer selections procedures.
- 2.5. CONTINUOUS RECRUITMENTS - When necessary to meet requirements for filling positions, the closing date for any selection process may be indefinite and applicants may be evaluated continuously in such manner and at such times and places as may be determined by the Personnel Officer.
- 2.6. BACKGROUND & MEDICAL VERIFICATIONS - As part of the pre-employment procedure, applicants may be required to supply references, and submit to a thorough background check. In addition, all employees must be physically and mentally capable of performing the essential functions of their jobs with or without reasonable accommodation. The City shall have the right to conduct a complete and exhaustive background investigation on all applicants seeking employment, including a criminal background check, where applicable, and a medical and/or psychological examination by City-retained medical practitioners, where deemed appropriate by the City. However, any medical or psychological examination shall be conducted only after a conditional job offer has been made, in accordance with applicable law.
- 2.7. DISQUALIFICATION - The Personnel Officer may disqualify any candidate for any legitimate reason. An applicant has no right to grieve or appeal any such actions by the City. Reasons for disqualification include but are not limited to.

- 2.7.1. Improperly Completed Application: The applicant did not properly complete the application materials.
 - 2.7.2. Minimum Qualifications: The application indicates on its face that the applicant does not possess the minimum qualifications for the position.
 - 2.7.3. Essential Duties: The applicant is unable to perform the essential functions of the position sought, with or without reasonable accommodations.
 - 2.7.4. Illegal Drugs: The applicant is currently using illegal drugs.
 - 2.7.5. Legal Right to Work: The applicant is not legally permitted to work within the United States.
 - 2.7.6. False Statements: The applicant has made false statement of any material fact or practiced or attempted to practice deception or fraud in making the application for employment.
 - 2.7.7. Material Cause: Material cause, in the judgment of the Personnel Officer, is circumstances which would render the applicant unsuitable for the position, including but not limited to a prior resignation from the City, termination from the City or other employer, significant disciplinary action by City or other employer, or conviction of a crime which has a nexus to and may have an adverse impact on the applicant's ability to perform the job for which the applicant is applying.
- 2.8. APPOINTMENT - The Personnel Officer of is the only City employee authorized to make appointments. The Personnel Officer may appoint any competent applicant to a position for which the applicant is qualified. Appointments may be full-time or part-time, regular or temporary, depending on the needs of the City.
- 2.9. PROBATIONARY PERIOD - All appointments in the competitive service, including promotions, are subject to a probationary period of not less than twelve months actual service subsequent to appointment. Probationary periods may exceed twelve months for some job classifications as determined by the Personnel Officer. The Personnel Officer, at his or her discretion, may extend the probationary period for an individual probationary employee.
- 2.9.1. Probationary Rejection: During the probationary period, an employee may be rejected at any time without cause and without the right of appeal. Notification of rejection shall be made in writing to the employee prior to the expiration of the probationary period.
 - 2.9.2. Promotional Probationary Rejection: An employee rejected during a probationary period following a promotional appointment shall be reinstated to a position in his/her former job classification, unless the cause for probationary failure was sufficient grounds for termination and such termination followed the process described in these Rules for positions in the competitive service.

3. SEPARATION FROM SERVICE

- 3.1. RESIGNATION - A resignation becomes effective upon the City's receipt of an oral, written, or e-mailed notice of resignation from an employee. Employees wishing to leave the competitive service in good standing are required to give at least 2 weeks written notice when resigning. The resignation letter or e-mail should state the effective date and reasons for leaving. Once a resignation becomes effective, it is irrevocable except that the City Manager may, at his/her discretion of what is in the best interests of the City, permit a resignation to be rescinded.
 - 3.1.1. Automatic Resignation: Employees are deemed to have resigned when failing to return to duty at the end of an authorized leave of absence, or when otherwise absent from work without authorization for at least three workdays. The City shall give written notice of such automatic resignation. The employee shall have no right to appeal the automatic resignation in such circumstances.
- 3.2. LAYOFF - The City Manager may lay off any permanent employee because of lack of funds, curtailment of work, organizational changes, or for other business reasons. The employee holding such position or employment may be laid off or demoted without disciplinary action and without the right of appeal. An employee who is laid off has no bumping rights, no right of appeal, nor any greater rights to return status. Layoffs shall be by made in accordance with serving the best needs of the City. Such layoff shall take effect no sooner than fourteen (14) calendar days after the receipt by the employee of a notice in writing of the proposed layoff action. Prior to separating regular employees, the City Manager shall consider reasonable and feasible alternatives to layoffs.

4. REINSTATEMENT

- 4.1. GENERAL POLICY - Reinstatement is defined as the return to employment in the competitive service of a former employee in the competitive service who left the City in good standing. "Good standing" shall be determined by the City Manager. A former employee may be reinstated without competitive examination within twelve (12) months of the date of separation to the position from which the employee was separated, or to any other position to which the employee would have been eligible to transfer. Except for those rights which are based on continuous service, all rights based on tenure acquired by an employee who has been separated shall be restored upon reinstatement, except for such accrued leave time for which the employee has already been paid. Former City employees returning to competitive City service after the reinstatement period shall be considered new employees for the purposes of any benefits based on tenure or seniority.
 - 4.1.1. Extension: The 12 month reinstatement period may be extended by the City Manager for employees whose separations were the result of layoff or military leave. The reinstatement period for employees who separate for reasons other than layoff or military leave may not be extended beyond the 12 month period.
 - 4.1.2. Temporary Employment: Temporary appointments shall not constitute a reinstatement.
- 4.2. REINSTATEMENT FROM MILITARY LEAVE - An employee who is required to take a military leave which results in separation from City employment shall be reinstated as provided in the Military and Veterans Code of California and applicable federal laws. A medical examination to determine limitations of duties may be given at City expense as part of a reinstatement process.

5. EMPLOYEE CONDUCT AND WORKPLACE ENVIRONMENT

- 5.1. GENERAL POLICY - The conduct of all City employees shall be governed at all times by the ordinary and reasonable rules of behavior observed by law-abiding and self-respecting citizens, and shall not reflect unfavorably upon City service. This shall apply whether or not the employee is at work or acting in an official capacity.
- 5.2. INCOMPATIBLE ACTIVITIES - City employees may not engage in activities that are incompatible with ethical and effective employment with the City, including but not limited to:
- 5.2.2. Participating in improper political activity prohibited by the federal Hatch Act or pertinent provisions of state law;
 - 5.2.3. Using for private gain or advantage the influence of a City position or the facilities, equipment and supplies of the City;
 - 5.2.4. Accepting any favors or gifts from persons, concerns or corporations who have, or seek to have, business contacts with the City;
 - 5.2.5. Divulging confidential information to anyone to whom disclosure of such information has not been authorized; or
 - 5.2.6. Participating in any employment or other activity, including independent contracting and/or volunteer activities, which would prevent an employee from doing his/her City job in an efficient and capable manner, is illegal pursuant to state or federal law, or which results in a conflict of interest between the employee's private interests and his/her official duties and responsibilities. Examples of such prohibited outside employment include, but are not limited to:
 - 5.2.6.1. Jobs/business conducted during the employee's work hours with the City;
 - 5.2.6.2. Jobs/business that prevent the employee from being available for necessary overtime or emergency work period outside his or her normal working hours when such overtime or emergency duty is a regular part of his or her job;
 - 5.2.6.3. Work which may later be subject directly or indirectly, to control, inspection, review, audit or enforcement by the employee or by the agency in which he/she is employed
 - 5.2.6.4. Business conducted using City facilities, resources or equipment (including telephones, computers, supplies, etc.)

When there is a possibility or appearance of an incompatibility between the employee's public duties and private interests, the employee must bring the situation promptly to the attention of the immediate supervisor for review and resolution. Managers and supervisors shall counsel employees as appropriate upon becoming aware of possible conflicts of interest.

- 5.3. GIFTS AND GRATUITIES - In general, employees are prohibited from accepting gifts that they receive by reason of their employment with the City, so that they are not, and do not appear to be, improperly influenced in the performance of their duties. Gratuities of nominal value (such

as a box of candy during the holiday season), offered infrequently and openly to the workgroup rather than an individual employee are generally excepted. In the rare event of receiving an acceptable personal gift of gratuity, employees shall adhere to the Fair Political Practices Commission (FPPC) rules for accepting and reporting gifts.

- 5.4. PROFESSIONAL Demeanor - The City will maintain a professional working environment for the benefit of its employees and the public. As public employees and representatives of the City, each employee shall present himself appropriately and professionally, including but not limited to workplace attire.
- 5.5. NO SMOKING - As required by state law, smoking is prohibited in all City vehicles, facilities, and within 20 feet of any entrances, exits, and windows that can be opened. Employees of the City of Larkspur are also expected to comply with no-smoking ordinances enacted by the City of Larkspur.
- 5.6. ATTENDANCE AND WORKING HOURS - Employees shall be in attendance at their workplace in accordance with assigned schedules. All units shall keep attendance records of employees which shall be reported via the payroll system. The City shall establish and may modify regular working hours for its employees and may require employees to work overtime and to perform standby responsibilities.
- 5.7. RELATIVES WORKING FOR THE CITY - No employee, prospective employee, or applicant shall be improperly denied employment or benefits of employment on the basis of marital status with another employee or official of the City. Notwithstanding the above, the City retains the right to take appropriate steps to avoid inappropriate working relationships among relatives.
- 5.8. POLITICAL ACTIVITY - Except as specifically allowed by law, City employees are prohibited from participating in any political activity while on duty or while performing official business. In addition, the Hatch Act prohibits government employees who are compensated by federal funding from engaging in partisan political activities.
- 5.9. WORK PERFORMANCE - Employees are expected to perform assigned work according to directions and standards provided by supervisors. Performance feedback between supervisors and employees will be provided through employee performance evaluations, which are generally completed once a year and may be done more frequently at the discretion of the supervisor. Although performance evaluations are not subject to grievance procedures, employees have the right of rebuttal within 30 days of being presented with a final signed performance evaluation. In addition, supervisors may communicate their expectations concerning job performance to employees through a variety of other tools, such as corrective interviews, counseling memos, special evaluations, corrective work plans and oral reprimands.
- 5.10. PERSONNEL FILES - The City will maintain personnel files for each employee, containing information related to employment qualifications, performance, and salary administration. In addition, and as needed, the City may maintain a separate file containing confidential and limited medical information used for such purposes as providing reasonable accommodation and administering medical leaves. Employees have a right to review their personnel files, and should be provided with a copy of each document contained in such files. Employees have a right to expect their employers to preserve the privacy of their personnel files to the extent legally possible.

6. GRIEVANCE PROCEDURES

- 6.1. GENERAL POLICY - A grievance procedure is designed to resolve any dispute regarding an alleged violation or misapplication of a provision of an MOU, department policies and procedures, Personnel Rules, or other policies affecting working conditions when such policies are established by the City and when such policies contain no other review, appeal or resolution process within the policy. A grievant may be an employee association or any regular employee(s) adversely affected by the alleged violation or misapplication. The grievance procedure does not apply to disciplinary appeals.
- 6.2. TIME LIMITS - Any grievance not timely filed or appealed within specified time limits, shall be null and void, and the grievant shall forfeit any further right of complaint or appeal. Time limits may be waived or extended by mutual written agreement of the parties. If the City does not meet the time limits, the grievance shall be advanced to the next step. A workday is any day the City offices are regularly open for business.
- 6.3. REPRESENTATION - A grievant may be represented by an employee representative of his/her own choice at any step in the presentation of his/her grievance.
- 6.4. NO RETALIATION - Any retaliation taken against any employee for good faith use of or participation in this procedure is strictly prohibited.
- 6.5. PROCEDURE- The following procedure shall be followed in presenting and resolving a grievance:
 - 6.5.2. Informal Discussion: Within five (5) workdays of the occurrence (or within 5 days of when the employee should have reasonably known of the occurrence) giving rise to the grievance, the grievant shall discuss the grievance with his/her immediate supervisor. Every effort shall be made to find an acceptable solution by informal means.
 - 6.5.3. Written Presentation: If, after discussing the grievance with the supervisor, the grievant does not believe the matter to have been resolved, the grievant may make a written presentation of his/her grievance to the Department Head, provided such written grievance is filed within ten (10) workdays of the meeting with his/her supervisor. If the grievant's immediate supervisor is the Department Head, the written grievance shall be submitted directly to the City Manager. The written grievance shall set forth a clear statement of the name of the grievant and his/her immediate supervisor; the nature of the grievance including the date of occurrence; the specific provision, policy or procedure alleged to have been violated; the decision rendered as a result of the informal discussion and the date on which it was rendered; and the specific remedy sought. The name of an employee representative of the grievant, if designated, shall also be provided.
 - 6.5.4. Department Head Response: A written decision within ten (10) workdays of receipt of the written grievance shall be communicated to the employee by the Department Head. If the response is not made within the time limits, or if the employee is still dissatisfied with the resolution, the employee may appeal in writing to the City Manager within ten (10) workdays from the receipt of the Department Head's response.
 - 6.5.5. City Manager Response: The City Manager or his/her designee shall respond to the grievance within ten (10) workdays from the receipt of the appeal. If the employee is still dissatisfied, the employee may within five (5) workdays, request the City Manager to set up a mediation session.

6.5.6. Mediation: A third-party neutral shall mediate the dispute according to the normal rules governing mediation and shall provide the City Manager and grievant with an advisory written recommendation. The City Manager or designee shall communicate his/her decision in writing within ten (10) workdays of receiving the mediator's recommendation. City Manager's action shall be final and binding and there shall be no further review. Any costs associated with such mediation services shall be borne equally by the parties.

7. DISCIPLINARY PROCEDURES

- 7.1. GENERAL POLICY - Disciplinary actions are intended to be corrective and progressive in nature, unless a single infraction, on its own, warrants significant discipline. The City Manager shall determine appropriate disciplinary action to be taken. The City will comply with current state and federal laws, including the CA Firefighters' Procedural Bill of Rights Act (G.C. 3250-3262) in the investigation of possible employee misconduct and administration of discipline, and may accordingly add to or adapt the procedures described only to the extent necessary to comply with current legal requirements. Only those employees holding regular status in the competitive service have the right to appeal discipline as described in this chapter. Those employees who are not part of the competitive service and are appointed by the City Manager may be subject to discipline at the City Manager's discretion with no right of appeal; or may be discharged with or without cause, with no right of appeal. All disciplinary actions shall become a part of the employee's official personnel record.
- 7.2. TYPES OF DISCIPLINE - Verbal counseling and oral reprimands, with any associated written confirmation, are considered to be a form of supervisory feedback and not disciplinary action in and of themselves, and thus are not subject to appeal.
 - 7.2.2. Written Reprimand: A written reprimand shall not be subject to appeal; however, the employee has the right to meet with the City Manager or supervisor issuing the reprimand before or after a written reprimand is placed in the employee's personnel file. The employee may also provide a written rebuttal which will be included in the personnel file along with the written reprimand.
 - 7.2.3. Suspension Without Pay: A department head may recommend suspension of the employment of an employee without pay for not more than thirty (30) days in any one year. Any employee who has been suspended for disciplinary reasons shall not receive pay for the duration of the suspension; nor shall any benefits which are calculated upon hours worked be credited to the employee, including, but not limited to, sick leave, vacation, retirement, or disability insurance, during the period of suspension. Suspensions are subject to the procedures outlined below, which include the right of appeal.
 - 7.2.4. Reduction In Pay: A department head may recommend reduction of the salary of an employee for disciplinary reasons, provided that such reduction shall be to a step or percentage within the salary range of the classification held by the employee, and that a date when the employee is eligible to be considered for a merit increase shall be established, unless otherwise recommended by the department head and approved by the City Manager. Reductions in salary are subject to the procedures outlined below, which include the right of appeal.
 - 7.2.5. Demotion: A department head may recommend demotion of an employee for disciplinary reasons, to any classification with a lower salary, provided the employee meets the minimum qualifications for the lower-level class. The employee shall not be eligible for promotion for a period of at least six (6) months or as otherwise recommended by the department head and approved by the City Manager. Disciplinary demotions are subject to the procedures outlined below, which include the right of appeal.

- 7.2.6. Dismissal: A department head may recommend dismissal of an employee for cause. Dismissals are subject to the procedures outlined below, which include the right of appeal.
- 7.3. GROUND FOR DISCIPLINARY ACTION - The following behaviors are sufficient cause for disciplinary action, but such action is not be limited to these causes:
- 7.3.2. Misstatements or omissions of fact in completion of the employment application or other process to secure appointment to a position with the City.
 - 7.3.3. Knowingly furnishing false information in the course of the employee's duties and responsibilities.
 - 7.3.4. Inefficiency, incompetence, carelessness, negligence or other failure to meet expected standards in the performance of duties.
 - 7.3.5. Violation of safety rules.
 - 7.3.6. Violation of any of the provisions of these Rules or City or departmental policies.
 - 7.3.7. Being in possession of or under the influence of an intoxicating beverage, controlled substance, or prescription drugs not authorized by the employee's physician, while on duty or on work property.
 - 7.3.8. Any unreported work restrictions provided to the employee by a healthcare provider as a result of illness, injury or the use of non-prescription or prescription medication that adversely impacts the employee's ability to perform the essential functions of his or her job. Employees are not required to provide information as to the nature of an illness, injury or medication, but are required to report work restrictions and to engage in interactive dialog about appropriate workplace accommodations for such restrictions.
 - 7.3.9. Disobedience to proper authority, refusal or failure to perform assigned work, or to comply with a lawful order, or to accept a reasonable and proper assignment from a City supervisor.
 - 7.3.10. Unauthorized soliciting on City property.
 - 7.3.11. Unauthorized absence without leave; failure to report after leave of absence has expired or after a requested leave of absence has been disapproved, revoked, or canceled, or any other unauthorized absence from work.
 - 7.3.12. Conviction of a crime which relates to the qualifications, functions, or duties of the employee's position, or which otherwise adversely impacts the ability of the employee to perform the job.
 - 7.3.13. Improper political activity as defined by the City [whatever source is appropriate] and Government Code.
 - 7.3.14. Behavior, either during or outside of duty hours, which is of such a nature that it causes discredit to the City.
 - 7.3.15. Discourteous or offensive treatment of the public or other employees.
 - 7.3.16. Misuse of City property, improper or unauthorized use of equipment or supplies, damage to or negligence in the care and handling of City property.
 - 7.3.17. Fighting, assault, and/or battery.

- 7.3.18. Working overtime without authorization.
- 7.3.19. Sleeping on the job, except as specifically authorized.
- 7.3.20. Accepting bribes or kickbacks.
- 7.3.21. Engaging in outside employment which conflicts with an employee's responsibilities.
- 7.3.22. Intimidation or interference with the rights of any employee.
- 7.3.23. Refusal to take and subscribe to any oath or affirmation which is required by law in connection with employment.
- 7.3.24. Failure to obtain and/or maintain minimum qualifications for the employee's job class, including required licenses, credentials, certificates or other conditions for employment in the assigned classification, or failure to meet legal requirements for retention in the class.
- 7.3.25. Inability to perform the essential duties of the job, with or without reasonable accommodation.

Although the causes listed above generally refer to activities conducted in the workplace and during work time, off-duty conduct as described may also be cause for disciplinary action when it has a clear nexus to a significant negative impact on the employer's interests, i.e., creates a danger to others, harms the employer's credibility or operations, or impairs the employee's ability to attend or perform work.

7.4. DISCIPLINARY PROCEDURE - The following steps shall be taken with regard to employee behavior which results in a disciplinary action being taken, except that if any discipline procedures are incorporated into a negotiated Memorandum of Understanding (MOU), the MOU procedures shall be used for administration of discipline of employees subject to that MOU.

7.4.1. Investigation: An alleged violation of policy, procedure, rules, regulations, directives, orders or laws shall be investigated promptly by the employee's supervisor, department head or designee. The investigator shall complete a written report of the investigation including the specific violations alleged, the employee's statement, all available facts related to the alleged violations, and statements of relevant witnesses, if any. An employee subject to a meeting or an investigative interview that may result in disciplinary action has the right, upon request, to representation.

7.4.2. Department Head Review and Notice of Recommended Discipline: The employee's department head or designee shall review all written documents and other information related to the alleged violation and may investigate further to insure that all facts are adequately documented; and shall make a recommendation for discipline to the City Manager. Upon receipt of such recommendation, the City Manager shall review and indicate concurrence or modification of the recommended disciplinary action within five (5) working days.

The employee's department head will provide written notice to the recommended discipline. The written notification will explain the incident and/or employee behavior of concern, the grounds for the proposed discipline, the proposed discipline and the date the proposed discipline will take effect. The employee has a right to review all documentation on which the proposed discipline is based.

- 7.4.3. Pre-disciplinary (*Skelly*) Meeting: The employee will have the right to respond to his/her department head, either orally or in writing, within five (5) working days from the date of the notification. Where an oral response has been elected, the department head shall schedule, coordinate and conduct a pre-disciplinary meeting within ten (10) working days of the employee's request. The purpose of the meeting is for the employee to provide additional information and facts relevant to the alleged violation prior to his/her department head to making a final decision regarding the discipline. The department head or his/her designee may serve as the hearing officer. The employee shall have the right to have a representative present. Failure to respond within the prescribed time period following issuance of the notice of proposed discipline shall result in the employee's forfeit of all further rights, and the proposed discipline will be imposed.
- 7.4.4. Imposition of Discipline: Within three (3) working days of either the receipt of an employee's written response to the proposed discipline, or the *Skelly* meeting, the department head shall serve the employee with a final written notice of disciplinary action authorized by the City Manager, and specifying the date(s) upon which the disciplinary action shall be imposed. The notice of disciplinary action shall also inform the employee of the right to appeal and shall further inform the employee of any time limitations within which the notice of appeal must be filed. Disciplinary actions may be imposed prior to an appeal hearing.
- 7.5. RIGHT OF APPEAL - An employee who has received a notice of disciplinary action may, within five (5) working days of its receipt, request a hearing before a neutral third party hearing officer. Such a request must be made in writing to the City Manager. The appeal shall be heard by an independent hearing officer to be selected by both parties pursuant to a strike list provided by State Mediation Conciliation Service. The hearing officer shall have the authority to convene the hearing, establish or modify procedures for the hearing, receive evidence through testimony and documents, and to make findings of fact and conclusions regarding the discipline. Either party may request that the matter be transcribed, and the requesting party shall bear the expense of the transcript.
- 7.5.1. Evidentiary hearing: An evidentiary hearing before a neutral hearing officer shall be arranged for by the City Manager and shall, absent extenuating circumstances, be held within sixty (60) working days of the receiving the request for a hearing. Employees may represent themselves or be represented by a representative of the employee's recognized employee organization or by legal counsel (at the employee's expense). All parties shall be notified at least ten (10) days prior to the hearing. At least five (5) working days prior to the date set for the hearing, each party shall provide to the City Manager and to the other party a list of all witnesses and all exhibits. The hearing shall be closed and confidential, and no audio or video recording of any type shall be permitted except as an official recordkeeping practice. The employee's presence is required. Failure to appear at the appeal hearing unless physically unable to do so shall be deemed a withdrawal of the appeal and a waiver of any further right of administrative appeal. The hearing shall be conducted in an efficient manner conducive to determining the truth of disputed issues, however, the technical rules of evidence do not apply. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to relying in the conduct of serious affairs. Oral evidence shall be taken only upon oath or affirmation. The hearing officer shall rule on any evidentiary or procedural matter, and such rulings shall not be invalidated by any informality in the

proceedings. Any witnesses other than the City's representative shall be excluded from the proceeding until called to testify, except as mutually agreed to by the employee and the City's representative. The order of the hearing may include:

- The City's representative, followed by the employee, may make preliminary opening statements.
- The City's representative may present oral or documentary evidence, or both, in support of the City's position; the employee may cross-examine all witnesses called by the City.
- The employee may present oral or documentary evidence, or both, in support of the employee's position; the City's representative may cross-examine all witnesses called by the employee.
- The City's representative, followed by the employee, may make a closing statement.

7.5.2. Hearing officer recommendations: Following the conclusion of the hearing, the hearing officer shall prepare written findings and recommendations and provide them to the City Manager. The hearing officer's decision shall be advisory on the City Manager. Within five (5) working days of receiving the hearing officer's decision, the City Manager shall issue a final decision. Written notice of the City Manager's decision, along with a copy of the hearing officer's findings and recommendations, shall be provided to the department head, the employee and/or designated representative. The notice shall also include a statement of the employee's right to seek review by administrative writ of mandamus.

- 7.6. EXTENSION OF TIME LIMITS - Specified time limits may be extended by mutual agreement in writing between the parties. If mutual agreement cannot be reached, time limits shall be adhered to.
- 7.7. IMMEDIATE REMOVAL - An employee may be placed on Administrative Leave with Pay without notice or hearing where the continued presence of the employee would be a clear and present hazard or disruption to other employees, the public, or the City. An Administrative Leave with Pay pending an investigation is not subject to appeal. The employee's supervisor or department head may direct the employee's activities during the employee's regularly scheduled work hours during an Administrative Leave with Pay.