



City of Pacific Grove

Administrative Policy & Procedures Manual

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City of Pacific Grove

Administrative Policy & Procedures Manual

Introduction

This manual is provided to you as a department manager of the City of Pacific Grove. It is a general guide to personnel policies and procedures and to your responsibilities as a department manager. (It will be noted in the Employee Handbook that this manual will be available for employees' review through the Department Manager and Human Resources Office). It is not intended to take the place or supersede the Pacific Grove Municipal Code, Council resolutions, minute actions, or policies.

In general, the legal framework for personnel policies is in the Municipal Code and Council adopted Ordinances and Resolutions.

The principal authority for most personnel functions is the City Manager, who delegates certain portions to the Personnel Officer and to Department Managers.

While the basic personnel policies are contained in the Municipal Code, Ordinances, and Resolutions; the City Manager authorizes the Administrative Policy & Procedures Manual and Employee Handbook to manage the day-to-day personnel activities.

Amendments to this manual will require Council approval and will be issued periodically along with instructions for insertion into the manual. It is the responsibility of the Department Manager to keep the Administrative Policy & Procedures Manual up-to-date.

100.008 Promotion and Recruitment Process

100.009 New position.

Prior to the distribution of any examination announcement for a newly established position, the personnel officer shall determine whether the recruitment is to be administered on an open basis or on a promotional basis, at the discretion of the personnel officer after consultation with the department manager within which the position exists.

100.010 Vacant positions.

Prior to the distribution of any examination announcement for a vacant position, the personnel officer shall determine whether the recruitment is to be administered on an open basis or on a promotional basis at the discretion of the personnel officer after consultation with the department manager within which the vacancy exists.

100.011 Recruitment process.

(a) Where an open recruitment is utilized, applications shall be accepted from any qualified individual.

(b) Promotional recruitment shall be open only to qualified, permanent city employees unless at the discretion of the personnel officer the recruitment is also open to temporary, seasonal, probationary, and/or part-time employees.

(c) In selecting the recruitment process (open or promotional) the personnel officer shall consider such relevant factors as: the complexity of the work performed within the classification; the known labor market for such personnel; and the availability within the city of a sufficient number of qualified applicants. Whenever feasible and consistent with the best interests of the city, promotional recruitment opportunities shall be provided to employees.

(d) Should the provisions of any memorandum of understanding or other employment agreement conflict with the provisions of PGMC §§4.20.070, 4.20.080, 4.20.085, and/or 4.20.087, the provisions of the memorandum of understanding or the employee agreement shall prevail.

100.012 Interim appointment.

In the event of a vacancy in a department manager position, the incumbent department manager shall make a recommendation to the personnel officer for the interim appointment to the position. The personnel officer shall not, however, be required to follow such recommendation. The personnel officer is authorized to make this or an alternate interim appointment and to set the salary and benefits for this appointment.

100.013 Transfer.

An employee may be transferred by the personnel officer, at any time, with the approval of the department managers involved, from one position to another position in a comparable class.

For transfer purposes, a comparable class is one with the same maximum salary, involves the performance of similar duties, and requires substantially the same basic qualifications.

No person shall be transferred to a position for which he or she does not possess the minimum qualifications. Transfer shall not be used to effectuate a promotion, demotion, advancement, or reduction, each of which may be accomplished only as provided in this chapter.

100.014 Position reclassifications.

Whenever a position is reclassified due to changes in duties and responsibilities, the incumbent employee shall be placed in the reclassified position without any competitive or recruitment process involving other city employees. It is recognized that if the incumbent is performing the duties in a satisfactory manner, the incumbent should receive the benefits of the reclassification.

100.015 Career ladder advancement.

The city's position classification plan provides for career ladder advancement of certain entry-level classifications subject to time and performance requirements. The classifications covered by this program are: Accounting Assistant I, II; and III;; Assistant Planner and Associate Planner; Maintenance Worker I and II; Equipment Mechanic I and II; Library Assistant I and II; Librarian I and II; Office Assistant I and II; Police Services Technician I and II.

100.016 Promotional program – Essential elements.

The essential elements of the city's promotional program are:

- (a) The city's promotional program shall be consistent.
- (b) Full-time permanent employees of the city shall be encouraged and supported in upgrading their job capabilities and in developing the necessary qualifications for higher level jobs within the city.
- (c) Proper recognition shall be given to full-time permanent employees who have upgraded their qualifications and they should be allowed, when appropriate, to compete for vacancies in higher-level positions with the city. The procedure for filling non-entry level position vacancies within the city shall be as follows:
 - (1) Candidates will usually be recruited on an open and competitive basis. Recruitment efforts consistent with attracting sufficient, qualified applicants and with properly filling the position will be utilized. Certain exceptions to this general procedure are discussed in subsection (c) (6) of this section.
 - (2) When a vacancy occurs in a city position, the personnel officer shall notify all city departments and divisions regarding the vacancy in order that all full-time permanent employees will be informed about such vacancies, and to apply for the position if they are qualified.
 - (3) All applications shall be examined to determine if the applicant is qualified in terms of the minimal employment standards which have been established for the position. All full-time permanent employees who possess the minimal qualifications for the position shall have the opportunity to compete for the position vacancy. Those applicants who meet the qualifications are notified of the appropriate examinations.
 - (4) When appropriate, a qualifying written and/or performance examination for the position will be given. These examinations, depending on the position to be filled, may test for specific skills, knowledge, ability or aptitude, or for some combination of these components.

The qualifying test content should reflect the highest possible degree of job-related validity.

Passing the written and/or performance examination should indicate that the candidate possesses the knowledge and skills necessary for successful performance on the job. Candidates passing the written and/or performance examinations will be considered qualified to participate in the oral interview examination. The written and performance testing procedure shall be used only on a pass/fail basis, except that the examination results may be additionally used in the final selection procedure. Examination results will not be released to applicants or interview board members until the final selection has been considered.

(5) In certain cases, the requirement for a written examination may be eliminated in consideration of candidates meeting certain experience requirements.

(6) In certain cases, it will be possible for a full-time permanent city employee to qualify for the oral interview examination without the requirement of a written examination on the basis of meeting the established minimal qualifications and by having satisfactorily performed the same or related duties and responsibilities. In exceptional cases, where such employee exceeds the minimal qualifications and has demonstrated that he or she can satisfactorily perform the duties and responsibilities of the position, and where only a single employee has demonstrated these qualities, he or she may be appointed to the non-entry level position vacancy without the city utilizing this section's full competitive promotional process for the particular position vacancy.

(7) The determinations as to the above procedures to be used in the recruitment process shall be made by the personnel officer in consultation with the appropriate department manager.

(8) In the oral examination all candidates shall be objectively evaluated as to the suitability of their education, experience, and personal qualifications for the specific position vacancy. Candidates earning a passing score shall be placed on the eligibility list for that position. The eligibility list shall remain in effect for 14 months from the date established by the personnel officer.

(9) Any other appropriate information to selecting the best qualified candidate may be utilized. This may include, but need not be limited to, background evaluation and personal references.

(10) From the list of candidates on the eligibility list, the department manager shall recommend the appointment of a candidate to the personnel officer. The personnel officer shall make the appointment, but shall not be bound by the recommendation of the department. The department manager and the personnel officer should be

guided in their determination by the performance of the candidates in the examination process. The paramount consideration in the appointment to fill the position vacancy is the candidate's overall suitability for the position based on ability to perform the duties and responsibilities of the position in comparison with the other candidates who compete in the examination process.

(11) All candidates for a promotional position shall, upon request, be provided the names of those employees on the eligibility list.

(d) In the event of conflict between this section and the provisions of any memorandum of understanding between the city and an employee organization, the provisions of the memorandum of understanding shall prevail.

100.017 Recruitment

100.018 Fair employment practices.

Any technique or procedure used in recruitment and selection of employees shall be designed to measure only the job-related qualifications of applicants. No recruitment or selection technique shall be used which, in the opinion of the personnel officer, is not justifiably linked to successful job performance.

100.019 Announcement.

All vacancies being filled through the recruitment process shall be publicized by posting announcements at City Hall and by such other methods as determined by the personnel officer.

Such announcements shall contain job information, current salary information, method of applying and competing for the position, and other essential information. Open-competitive employment opportunities shall be advertised in the classified section of an appropriate newspaper.

Recruitment methods such as additional classified newspaper and magazine advertising, trade publication ads, direct mailing of announcements, and other methods may be used to provide that appropriate segments of the community and labor market receive information regarding a position.

100.020 Application forms.

All persons applying for employment with the city shall be required to complete an application on a form provided by the city. All applications must be signed by the person applying and all questions answered in full. Applications and attachments made to the application (resumes, certificates, transcripts, etc.) shall become the property of the city. By signing the application, the applicant shall authorize the city to make necessary background investigations. All applications received shall be referred to the department manager for screening.

Applications shall be scored on a screening check list, consisting of criteria applicable to the classification, in an objective, nondiscriminatory manner. Based on information presented on the application materials, candidates with qualifications most pertinent to the position will be invited to participate in the examination process.

Applications will be retained by the personnel officer for a period provided by law, but in all cases applications will be removed from active consideration if there have been no vacancies or other reason to consider them within six months after the date appearing on the application form.

An application form may be removed from active consideration if the applicant fails to respond within a reasonable period of time to an inquiry relative to availability for employment, fails to appear for an examination as notified, or at the request of the applicant.

100.021 Application deadline.

No application shall be considered when it is received after the specified deadline date, unless for extraordinary and extenuating circumstances as determined by the personnel officer. It shall be the responsibility of the applicant to see that the completed application form is filed with the personnel office by the specified deadline date. Applications are not considered filed until received by the personnel office. Mailed applications addressed to the personnel office shall be considered filed as of the date and time received by the personnel office.

100.022 Disqualification.

The personnel officer may disqualify or reject an application if the applicant:

- (a) Does not possess the minimum qualifications required for the position.
- (b) Indicates inability to perform the duties required by the position.
- (c) Has been convicted of a crime involving moral turpitude, if judged to be job related.
- (d) Has made false statements or omitted material fact(s).
- (e) Has practiced deception or fraud in the application.
- (f) Is physically or psychologically unable to perform the job applied for, and no reasonable accommodation can be made for such disability.
- (g) Is addicted to the habitual excessive use of drugs or intoxicating liquor.
- (h) Has filed an incomplete or unsigned application.

When an applicant is disqualified, notice shall be given through the personnel office.

100.023 Notification.

The personnel officer shall notify all applicants by mail. It shall be the option of the personnel officer to return incomplete or otherwise defective applications to the applicant to amend same, provided the time limit for receiving applications has not expired.

100.024 Examinations.

(a) Nature and Types of Examinations. The personnel officer may schedule appropriate examinations whenever a vacancy is to be filled and no eligibility list exists from which the vacancy might be filled. The selection techniques used in the examination process shall be impartial and relate to those subjects which fairly measure the relative capabilities of the person examined to execute the duties and responsibilities of the class. Examinations shall consist of selection techniques which will test fairly the qualifications of the candidates such as, but not necessarily limited to, achievement, aptitude, and other written tests, personal interviews, performance tests, physical agility examinations, evaluation of daily work performance, work samples, medical examinations, psychological examinations, fingerprinting and records check, successful completion of prescribed training, or any combination of these or other tests.

Notwithstanding any of the provisions in the foregoing paragraph, where all other qualifications are equal, preference shall be granted to veterans in the selection of candidates to fill the vacancy. As used in this section, "veteran" shall have the same meaning as under Government Code Section 18973.

Certificates of compliance or specific licenses may be accepted in lieu of certain examinations.

Written, performance, and physical agility examinations shall be used on a pass/fail basis, i.e., candidates receiving a qualifying score will be considered qualified to further participate in the examination process. In no case shall a candidate be eligible to progress in the examination process without receiving a qualifying score on any examination.

(b) Time, Place, and Conduct of Examinations. The city, upon determination of the personnel officer, may contract with any competent agency for preparation of written and performance examinations or to conduct the recruitment/examination process, or any phase thereof.

The personnel officer shall arrange for the use of public buildings and necessary equipment for conducting examinations and shall render reasonable assistance as shall be required.

No person shall be allowed to participate in any examination unless designated as a qualified candidate, and so notified by the personnel officer. Persons arriving after an

examination has commenced will not be allowed to participate, unless for extraordinary and extenuating circumstances in which case the personnel officer, or the representative, may arrange for another examination time on an individual basis at his/her discretion.

(c) Notification of Applicants. Each candidate in an examination shall be given written notice of the results on a pass/fail basis, by the personnel officer. Notification of the earned numerical score shall be the option of the personnel officer. Any error in procedure or in computation of an examination shall be corrected when brought to the attention of the personnel officer, but shall not invalidate appointments already made.

(d) Statement of Health. Candidates required to participate in a physical agility examination shall be required to sign a statement indicating that, to the best of their knowledge, they do not have any physical disability which might be aggravated by strenuous physical exertion.

Candidates must specifically indicate if they have ever been treated or examined for cardiovascular, equilibrium, or back/spinal injuries or disorders.

If a candidate indicates a history of treatment or examination for such injuries or disorders, the personnel officer may require that medical clearance be obtained from the candidate's personal physician. The personnel officer may disqualify the candidate from further participation in the examination process if appropriate medical clearance is not secured.

(e) Scoring Examinations and Setting Qualifying Scores. The personnel officer shall establish the minimum qualifying score for an examination. Candidates receiving a qualifying score on required examinations will be considered qualified to participate in the interview examination.

(f) No medical examinations or psychological examinations shall be conducted until a conditional offer of employment has been made, unless otherwise provided by law.

100.025 Oral board.

The oral board shall conduct an oral examination and shall consist of the personnel officer or a designated representative, management personnel, city employees familiar with the requirements of the class and/or representatives of the community and/or other public agencies as may be invited by the city to serve.

Members of the oral board will interview candidates, in accordance with the guidelines for oral interview board members, to further evaluate, screen and score candidate's experience, training, and knowledge. Each member of the oral board will rate candidates individually; scores shall be totaled and averaged to determine an overall rating for each candidate. The personnel office will supply board members with copies

of the candidates' applications, employment opportunity announcements, job description, interview evaluation materials, guidelines for interview board members, and other pertinent information.

100.026 Candidate review of examination results.

Within one calendar month from the date of an examination, candidates may review their examination records in the presence of the personnel officer, except for individual rating sheets of oral board members, psychological examination reports, and any other examination records of a confidential nature, as determined by the personnel officer.

100.027 Eligibility lists.

(a) Eligibility Lists. As soon as practicable after an interview examination, the personnel officer shall prepare and maintain an eligibility list. The eligibility list shall indicate the averaged score earned by each qualified candidate, and candidates for purposes of the eligibility and certification to departments shall be ordered according to score earned during the examination process. Certification of eligibles is made each time the department wishes to fill a vacancy.

Persons placed on an eligibility list shall be subject to such supplemental examination and background investigations as provided below, and shall not attain any "right to employment" by placement on the eligibility list.

(b) Duration of Eligibility Lists. Eligibility lists shall remain in effect for 14 months from the date established by the personnel officer, unless declared exhausted prior to that time for any of the following reasons: (1) all eligible candidates have been employed; or (2) it is determined that three or fewer candidates on the list are available and willing to accept employment.

The personnel officer may extend the duration of the eligibility list when it is determined that three or more candidates on the eligibility list will remain available and are willing to accept future employment.

(c) Removal of Candidates from Eligibility List. A candidate shall be removed from the eligibility list when:

- (1) A candidate fails the pre-employment physical, psychological, or the examination administered subsequent to placement on the eligibility list.
- (2) A background investigation reveals past performance or other actions not recommending employment, as determined by the personnel officer.
- (3) The candidate is allowed to re-compete in an interview examination for the same position and fails to earn a qualifying score on the subsequent interview examination.

(4) The candidate is offered employment but fails to appear for duty as required.

(5) The candidate fails to respond to an invitation for interview by a department after reasonable efforts to contact the candidate.

(d) Candidates, upon request, shall be provided the names of all candidates on the eligibility list.

100.028 Appointments.

(a) Notification of Eligibles. If a vacancy is to be filled from an established eligibility list, the personnel officer shall provide the department manager with a list of the names from the eligibility list. The department manager, upon request, may review all candidate examination records pertaining to the recruitment.

(b) Supplemental Interview and Examinations. It shall be at the option of the personnel officer to require any supplemental interview and/or testing of eligible candidates. A psychological examination may be required of candidates for certain classes.

(c) Background Investigations. To the extent allowed by law, the personnel officer may direct a thorough background investigation before recommending an individual for hire.

(d) Appointments. From the list of eligible candidates the department manager shall recommend the appointment of a candidate to the personnel officer. The department manager's recommendation shall be guided by the performance of the candidates in the examination process, but need not be based solely on the numerical score earned in the interview examination. After successful background investigations and all required supplemental examinations, the candidate may be appointed by the personnel officer. The personnel officer shall not, however, be bound by the department manager's recommendation.

The personnel officer shall make the final determination and notify the applicant of the appointment, classification, effective date, salary range, and step. All new hires are subject to the candidate successfully passing the required physical examination and probationary period, subject to the limitations imposed by applicable law.

Upon the acceptance of appointment, the new employee shall report to the personnel officer on or before the date of appointment. The city clerk or designated representative shall process the necessary documents and administer the oath of office.

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100.030 Probationary period.

(a) Objective of Probationary Period. The probationary period shall be regarded as a part of the examination process and shall be utilized for closely observing the

employee's work, for securing the most efficient training in adjustment of a new employee to the position, and for rejecting any probationary employee whose performance is below average or unsatisfactory.

(b) Regular Appointment Following Probationary Period. All appointments shall be subject to the completion of no less than 12 months of service, and conditioned upon the personnel officer's formal action transferring the probationary employee to status of a permanent employee.

(c) Probationary Reports. Employee performance evaluation for probationary employees shall be prepared at three-month intervals through the entire probationary period. These evaluations shall be submitted to the personnel officer on a form prescribed by the personnel officer. Each evaluation shall be annotated to that effect. Performance evaluations shall be placed in the employee's personnel file.

(d) Rejection – Non-promotional. During the probationary period an employee may be rejected at any time by the personnel officer. Notification of rejection in writing shall be served upon the probationary employee seven days prior to the discharge date except in the case of an emergency, and a copy shall be filed with the personnel officer as soon as possible. A probationary employee so notified may request a hearing before the city manager for the sole purpose of clearing his or her name if all following circumstances exist:

(1) The rejection proposed occurs in conjunction with a charge that impairs the employee's reputation for honesty or morality, or his or her standing and association in the community; and

(2) The employee denies the charge or, at least, contests the accuracy of it; and

(3) There is a public disclosure of the charge by the city.

(e) Rejection – Promotional. Any employee rejected during the probationary period following a promotional appointment shall be reinstated to the position from which the employee was promoted.

100.031 Classification Plan

100.032 Allocation of positions.

Following the adoption of a classification plan and consultation with any affected recognized employee organization, the personnel officer shall allocate every position in the competitive service to one of the classes established by the plan.

100.033 New positions.

A new position shall not be created until the classification plan has been amended to provide therefore.

100.034 Reclassifications.

Positions, the assigned duties of which have been materially changed by the city so as to necessitate reclassification, whether new or already created, shall be allocated by the personnel officer to a more appropriate class. Reclassifications shall not be used for the purpose of avoiding restrictions concerning demotions and promotions, nor to effect a change in salary in the absence of a significant change in assigned duties and responsibilities.

100.035 Layoff Policy and Procedure

100.036 Statement of intent.

Whenever, in the judgment of the city council, it becomes necessary to layoff employees from certain positions, such employees may be laid off or reassigned without the right of appeal.

100.037 Notification.

Employees to be laid off or reassigned shall be given at least 45 calendar days prior notice.

100.038 Vacancy and reassignment.

Except as otherwise provided, whenever there is a reduction in the work force, the personnel officer shall first reassign to a vacancy, if any, in a lower class for which the employee who is the latest to be laid off in accordance with PGMC [4.20.370](#) is qualified. All persons so reassigned shall have their names placed on the reemployment list.

100.039 Employee rights.

An employee affected by layoff or reassignment shall have the right to displace an employee in the same department who has less seniority in the same class or in a lower classification in which the affected employee once had permanent status.

100.040 Seniority.

In order to retreat to a former or lower class, an employee must have more seniority than at least one of the incumbents in the retreat class and request displacement action in writing to the personnel officer within five working days of receipt of notice of layoff.

Employees retreating to a lower or similar class shall be placed at the salary step representing the least loss of pay. In no case shall the salary be increased above that received in the class from which the employee was laid off.

Employees retreating to a lower or similar class shall serve a probationary period in the new class unless they have previously successfully completed a probationary period in the class.

100.041 Employment status.

In each class employees shall be laid off according to employment status in the following order: temporary, probationary, and permanent.

Temporary and probationary employees shall be laid off according to the needs of the service as determined by the personnel officer.

In cases where there are two or more permanent employees in the class from which the layoff is to be made, such employees shall be laid off on the basis and in the order of seniority.

100.042 Reemployment list.

The names of persons laid off or reassigned in accordance with these rules shall be entered upon a reemployment list. Such list shall be used by the personnel officer when a vacancy arises in the same or lower class of position before certification is made from an eligible list.

100.043 Duration of reemployment list.

Names of persons laid off shall be carried on a reemployment list for three years, except that persons appointed to permanent positions of the same level or higher as that which laid off, shall, upon such appointment, be dropped from the list. Persons who refuse reemployment shall be dropped from the list. Persons reemployed in a lower class, or on a temporary basis, shall be continued on the list for the higher position for the three-year period.

100.044 Personnel records.

(a) Personnel Records. The personnel officer shall maintain a personnel record for each employee in the service of the city showing the name, title of position held, the department to which assigned, salary, changes in employment status, and such other information as may be considered pertinent by the personnel officer and required by applicable law and city administrative policy.

(b) Change-of-Status Report. Every appointment, transfer, promotion, demotion, change of salary rate, or any other temporary or permanent change in status of employees shall be reported to the personnel officer in such manner as prescribed.

100.045 Discipline

100.046 Discipline of officers and employees.

(a) *Intent and Applicability.*

(1) The city council acknowledges that the charter provides all employees serve at the pleasure of the appointing authority. The charter invests in the city manager the power to select most of the city's appointed officers and employees. The provisions of this chapter afford the city manager and others authorization to employ certain procedures with respect to all forms of discipline, so as to act in accordance with court decisions and statutory provisions. Nothing contained in this chapter is intended to create vested rights to employment or to curtail in any way the city manager's authority prerogative to discharge an employee with or without cause.

(2) The procedural safeguards and other provisions of this section shall be available only to permanent employees and officers subject to the city manager's removal power.

(3) Disciplinary action may be taken against probationary employees and part-time employees without regard to this article.

(4) In the case of peace officers, the provisions of Government Code Section 3300 et seq. shall be applicable.

(5) For convenience, the term "employee" as hereinafter used in this section shall refer to those city personnel described in subsection (a) (2) of this section.

(6) Notwithstanding any other provision in this chapter, employees exempt from treatment under the terms of the Fair Labor Standards Act shall not be suspended except as permitted by said Act.

(b) Permitted Disciplinary Action. The following disciplinary actions may be taken against an employee for one or more of the causes for discipline hereinafter specified, or for any other just cause:

- (1) Dismissal.
- (2) Demotion.
- (3) Suspension without pay.
- (4) Written reprimand.

In the case of suspension without pay, such suspension shall not exceed 30 working days.

(c) Causes for Discipline. Causes for discipline shall include, but shall not be limited to, the following; discipline may be taken for any other just cause, even though it may not appear herein below:

- (1) Incompetent, inept, substandard or untimely performance of assigned work.
- (2) Insubordination to a superior in the course of employment.
- (3) Willful failure or refusal to properly perform assigned work.
- (4) Gross carelessness in the discharge of assigned work.
- (5) Malfeasance in office.
- (6) Conviction of a felony or any crime involving moral turpitude.
- (7) Repeated tardiness.
- (8) Inability to establish proper working relationships with fellow workers.
- (9) Consumption of alcohol or use of drugs on duty, or reporting to work under the influence of alcohol or drugs.
- (10) Gambling while on duty.
- (11) Unauthorized absence.
- (12) Use of city tools or equipment for private or personal purposes.
- (13) Abuse or gross negligence in the care or operation of city tools or equipment.
- (14) Falsely obtaining sick leave or overtime.
- (15) Receiving bribes in connection with performance of city service.
- (16) Participation in political activities while in uniform or on duty.
- (17) Discussion or disclosure of city information known to be confidential with or to unauthorized persons.
- (18) Refusal to report to an emergency call.
- (19) Fraud in securing employment.
- (20) Theft of city property or property received in trust by city.
- (21) Willful giving of false information in the course of duty.
- (22) Violation of Government Code Section 3201 et seq. regarding political activities.

(23) Violation of any provision of this chapter.

(24) Willful violation of safety rules, departmental rules, or any other rules applicable to job performance.

(25) Offensive treatment of the public or fellow employees.

(26) Falsification of city records.

(d) Procedural requirements prior to disciplinary action. No employee shall be disciplined hereunder unless prior thereto such employee has received from his or her department manager:

(1) Notice of the proposed action and of the grounds for such action, described in subsection (e) of this section.

(2) A written copy of the charges and grounds for such charges, described in subsection (e) of this section.

(3) An invitation to the employee to make a verbal or written answer to the charges within 10 days (or such longer period as may be allowed per subsection (f) of this section) of the employee's receiving the notice of action and copy of charges.

(4) A written decision on such answer at the earliest practicable date, not to exceed 20 days following the answer.

No disciplinary action shall be taken against an employee until the time periods provided herein have been exhausted without an answer from the employee, or until the employee has responded to the disciplinary action and written decision has been issued.

(e) Notice of Proposed Action. An employee against whom disciplinary action is pending is entitled to reasonable advance written notice stating any and all reasons, specifically and in detail, for the proposed action. The material on which the notice is based and which is relied on to support the reasons in that notice including, but not limited to, statements of witnesses, documents, and investigative reports or extracts therefrom, shall be assembled, copied and delivered to the employee for review. Material which is classified as confidential and as such is not available for review shall not be used to support the reasons in the notice.

(f) Employee's Answer. An employee is entitled to 10 days, unless the department manager, in his or her discretion, authorizes a longer period, to answer a notice of proposed disciplinary action. In determining the time to be allowed the department manager may consider the facts and circumstances of the case, and the need to afford the employee ample opportunity to review the material relied on by the department

manager to support the reasons in the notice and to prepare an answer. If the employee answers within the time allowed, the department manager shall consider the answer in reaching a decision. The employee may answer through a designated representative, or personally, in writing or any combination thereof. The right to answer personally includes the right to answer orally in person by being given a reasonable opportunity to make any representation which the employee believes might affect the final decision in the case. When the employee requests an opportunity to answer personally, the department manager shall personally hear the answer. The word "answer" shall be deemed to include such statements, affidavits, declarations, or such other evidentiary matter as the employee may wish to submit.

(g) Status of Employee During Notice Period. Except as otherwise provided, an employee against whom disciplinary action is proposed shall be retained in an active status during the notice period. When circumstances are such that the retention of the employee in active status in the employee's position may result in damage to city property or may otherwise be detrimental to the interests of the city, fellow workers or the public, the department manager in his or her discretion, may temporarily assign the employee to duties in which these conditions do not exist or place the employee on paid leave.

(h) Notice of Decision. Any employee against whom disciplinary action is pending is entitled to notice of the department manager's decision at the earliest practicable date, not to exceed 20 days following the employee's answer. The department manager shall cause to deliver the notice of decision to the employee no less than five days prior to the effective date of the action. If discipline is to be finally imposed, the notice shall be in writing, shall be dated and shall inform the employee of the following:

- (1) Which of the reasons in the notice of proposed disciplinary action have been sustained and which have not been sustained.
- (2) Of the right to appeal the notice of decision, as provided in this section.
- (3) Of the five-day time limit for such appeal, and that such appeal shall be in writing and submitted to the city manager.

If, after notice and answer, the department manager decides not to discipline the employee, the employee shall be so notified within 20 days following the answer. A decision not to discipline shall be accompanied by a directive to delete all references to the pending action from the employee's personnel file.

(i) Appeal of Disciplinary Action. If, pursuant to subsection (h) of this section, an employee appeals the notice of decision, the city manager shall hear the matter.

(j) Procedures on Appeal.

- (1) An appeal filed with the city manager shall be forwarded to the city attorney.
- (2) The city attorney and the city manager shall set a date for the hearing. A hearing on appeal should be set to commence within 45 days following the filing of the appeal, provided the appealing employee may waive said setting restriction, and the city manager may set the hearing beyond said period for good cause.
- (3) The city manager may grant continuances, in the exercise of his or her sole discretion, for good cause.
- (4) The city and the appealing employee (sometimes hereafter referred to as “parties”) may each be represented by legal counsel or other representative. The city manager may also be provided advisory legal counsel. The city shall not be responsible for legal or other costs of the appealing employee.
- (5) Each party shall have the following rights: to make opening remarks; to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the appeal even though that matter may not be covered in direct examination; to impeach any witness regardless of which party first called the witness; to rebut evidence introduced against a party; and to make final arguments. No party shall have the right not to be called as a witness. A party called by the opposing party may be examined as if under cross-examination.
- (6) Oral evidence shall be taken on oath administered by the city manager.
- (7) Witnesses to be called by either party shall be excluded from the hearing room unless both parties agree otherwise. In addition to legal counsel, each party shall be entitled to have an investigator or other representative remain throughout the hearing, even if such person is also a witness. The appealing employee has the right to remain throughout.
- (8) The city shall proceed first with its evidence, the appealing employee to follow. Rebuttal and surrebuttal shall be allowed by the city manager upon a finding that same is not repetitive and is offered to rebut evidence not previously rebutted.
- (9) Technical rules of evidence need not guide the city manager. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make evidence admissible over objection in a court of law in California. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in a court of law in California. Rules of privilege shall be effective to the

extent that they are otherwise required by statute to be recognized at the hearing on appeal. Irrelevant and unduly repetitious evidence shall be excluded.

(10) The city manager shall determine whether, based on all the evidence, the city has demonstrated by a preponderance of the evidence the truth of the facts upon which the discipline is based. Findings shall be made as to such determination. If the city manager determines that the city has so demonstrated, the city manager shall then decide whether those facts support discipline and, if so, the nature of the discipline which should be imposed. If the city manager determines that the city has not so demonstrated, the hearing shall terminate at such point. The factual findings, determinations, decisions and other recommendations shall be prepared in writing.

(11) Either party may provide for the presence of a court reporter to report the proceedings of the hearing on appeal. Cost of the reporter shall be borne entirely by the party so providing. If no reporter is present, the proceeding will be tape recorded.

(12) The appealing employee shall have the right to determine whether the hearing shall be open to the public or closed. That determination, once made, shall be irrevocable, except for (A) the protection of any witness or any information as provided by law, and (B) when a change in such determination is made in a timely manner so as reasonably to allow required posting and notice without the need to modify hearing dates.

(13) Copies of all records, recorded testimony, other documents, findings, determinations, decisions and recommendations made during the open session of an open hearing shall, without exception, be available to the public under the terms of the California Public Records Act. Requests for copies of such items submitted and made at a closed hearing shall be considered under the terms of the California Public Records Act and other applicable law.

(k) Action Following Hearing.

(1) In cases where the city manager has determined that the city has not demonstrated the truth of the facts upon which discipline is based, the city manager shall immediately rescind the disciplinary action in the notice of discipline, and steps necessary to adjust the employee's records to reflect such rescission shall be taken.

(2) In cases where the city manager has determined that the city has demonstrated the truth of the facts upon which the discipline is based, the employee shall be so notified in writing. Nothing herein shall be construed to preclude the city manager from imposing a less severe disciplinary action following

review. For this purpose, the order of severity, from most severe to least, shall be as listed in subsections (b) (1) through (4) of this section.

(3) A report of the action of the city manager shall be submitted in writing to the council, for information only, unless the appealing employee requests such report not be made. In any event, the city manager's action shall be final.

(4) The city manager's decision may be reviewed pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6 within 90 days of such decision

100.047 Miscellaneous Regulations

100.048 Compensation basis for temporary employment.

Persons employed in temporary positions shall be compensated at the hourly or daily rate which is equivalent of the first step of the salary range to which the particular class of position is allocated. Upon the recommendations of the department manager, the personnel officer may authorize payment at a daily rate equivalent to a higher step of the range to which the particular class is allocated.

100.049 Compensation for portion of month.

Any permanent employee employed in a position who works less than a full calendar month, except when on earned vacation or paid sick leave shall be compensated at the applicable hourly rate.

100.050 Deductions in compensation.

The compensation of any permanent employee absent from duty without pay shall be deducted at the applicable hourly rate.

100.051 Qualifications of employees.

(a) Existing Employees. Officers and employees holding positions are deemed to be qualified for the position to which they are allocated, on a continuing basis even if the educational requirements are modified subsequent to their date of hire.

(b) New Employees. Officers or employees appointed after the effective date of prescribed educational and experience requirements shall be required to possess such experience and requirements.

100.052 Temporary assignment.

(a) The personnel officer may temporarily assign an employee to a different position for a period of time, not to exceed 180 consecutive calendar days, within any 12-month period, after which the employee shall return to his or her regular duties. Provided, that the personnel officer may extend such temporary assignment if, in the personnel officer's judgment, to terminate the assignment would result in inefficient allocation of personnel or mismanagement of city funds.

(b) In the event the temporary assignment exceeds 160 consecutive working hours, and if the assignment is to a position in a higher class than that usually occupied by the assigned employee, for all hours in excess of 160 such employee shall be paid at the salary schedule of the higher classification at a step providing a minimum increase in salary of at least five percent.

Otherwise, compensation during work in such position shall be at the employee's usual rate.

When an employee whose salary has been increased hereunder returns to his or her regular duties, his or her salary shall thereupon revert to the schedule commensurate with those regular duties.

(c) In the event of conflict between this section and the provisions of any memorandum of understanding between the city and an employee organization, the provisions of the memorandum of understanding shall prevail.

100.053 Overtime.

(a) Generally. It is the policy of the city that overtime work shall be kept to a minimum consistent with the protection of life and property and the efficient operation of city departments and activities. All overtime work shall be subject to regulation by the personnel officer.

(b) Eligibility and Definitions. The elements of overtime, including eligibility for overtime and definition of overtime for city employees, shall be as approved by the city council in memoranda of understanding with the various employee organizations representing city employees.

100.054 Holidays.

The following are city holidays: the first day of January (New Year's Day); the third Monday in January (Martin Luther King's Birthday); the third Monday in February (Presidents' Day); the last Monday in May (Memorial Day); the fourth day of July (Independence Day); the first Monday in September (Labor Day); the second Monday in September (Admissions Day); the second Monday in October (Columbus Day); the eleventh day of November (Veterans' Day); the fourth Thursday in November (Thanksgiving Day); the day following Thanksgiving Day; the twenty-fifth day of December (Christmas Day); the working day immediately preceding Christmas; every day appointed by the Governor of the state or the President of the United States as a memorial, public fast, thanksgiving or holiday.

It is the intent of this section that all city employees shall observe the holidays set forth in this section. Unless otherwise provided, when a holiday falls on a Sunday, the following Monday shall be observed; when a holiday falls on a Saturday, the prior Friday shall be observed. When a holiday falls on an employee's time off, the working day

immediately preceding or immediately following such holiday, at the determination of the department manager and subject to the approval of the personnel officer, shall be observed as a holiday. If it is the determination of the department manager, approved by the personnel officer, that such compensatory time off cannot be given without disrupting essential public services, then such employee shall be given compensatory time off at the earliest possible date and, if practicable, it shall immediately precede or follow the employee's regularly scheduled time off.

A holiday falling within a vacation period shall not constitute a vacation day. A holiday occurring while an employee is on sick leave shall not count against the employee's sick leave credit. Any employee who must work on a holiday shall take equal time off as soon as practicable.

Police department employees who must work on a holiday or have a holiday fall on regularly scheduled time off, shall have the option to defer that holiday or be paid therefore at straight-time pay in addition to regular salary. The option shall be exercised at the time of report of holiday compensation to the police department and shall be irrevocable. After 13 deferred holidays have thus been accrued to the employee's credit, pay only shall be available for such holidays.

When an agreement with an employee organization so provides, employees covered by such agreement shall be entitled to one additional holiday per year on a date to be selected by the employee, subject to scheduling requirements of the city.

100.055 Vacation/Sick/ Converts to Paid Time off (PTO) Effective July 1, 2015

(a) Legacy employees other than those defined as sworn members, hired prior to July 1, 2015 earn and accrue PTO according to the rates set out in the following tables: PTO accruals are based upon full years of consecutive employment according to the rates set out in the following table:

Legacy Employee	
Years of Service	Hours Earned per Month
Less than 4	10.667
5 to 6	14.00
7 to 8	14.667
9 to 10	15.333
11 to 12	16.00
13 to 14	16.667
15	17.333
16	18.00
17	18.667
18	19.333
19	20.00
20 plus	20.667

New Employees are defined as those hired on or after July 1, 2015. PTO accruals are based upon full years of consecutive employment according to the rates set out in the following table:

New Employee	
Years of Service	Hours Earned per Month
Less than 4	8.00
5 to 15	12.00
15 plus	15.333

Accrued PTO will not exceed a specific amount of hours per each association MOU. PTO Buy-Back and Pay Out – Refer to MOU.

c) A person who terminates employment, takes a leave of absence, retires or is laid off, and who has earned and accrued PTO that has not been taken, shall be paid for such PTO at the time of such event at the hourly rate applicable at the time of said termination, leave of absence, retirement or layoff. In the case of termination of employment due to death, such payment shall be made to the person entitled thereto.

(d) The provisions of this section shall not prevent the council from approving additional terms and conditions regarding accrual, designation and use of PTO, pursuant to negotiation and approval of memoranda of understanding with employee organizations, so long as those terms and conditions are not inconsistent with the provisions of this section.

(e) PTO shall be taken at such time as may be approved by the department manager.

100.057 Sick leave policy

Effective July 1st, 2015 Sick Leave has been combined with vacation time and will now be referred to as Paid Time Off (PTO).

(a) Legacy employees other than those defined as sworn members, hired prior to July 1, 2015 shall earn and accrue PTO according to the rates set out in the following tables: PTO accruals are based upon full years of consecutive employment according to the rates set out in the following table:

Legacy Employee	
Years of Service	Hours Earned per Month
Less than 4	10.667
5 to 6	14.00
7 to 8	14.667
9 to 10	15.333
11 to 12	16.00
13 to 14	16.667
15	17.333
16	18.00

17	18.667
18	19.333
19	20.00
20 plus	20.667

New Employees are defined as those hired on or after July 1, 2015. PTO accruals are based upon full years of consecutive employment according to the rates set out in the following table:

New Employee	
Years of Service	Hours Earned per Month
Less than 4	8.00
5 to 15	12.00
15 plus	15.333

Accrued PTO will not exceed a specific amount of hours per each association MOU. PTO Buy-Back and Pay Out – Refer to MOU.

(b) Other terms and conditions of sick leave, including, without limitation, scope of permitted use, shall be as approved by the city council in memoranda of understanding with employee organizations. The complete Sick Leave policy is defined within the Employee Handbook.

(c) A department manager or the personnel officer may require evidence in the form of a physician's certificate or other similar proof as to the adequacy of the reason for an employee's absence during the time for which sick leave is requested or taken. The city may not require an employee to disclose information that can not be obtained without authorization per the Confidentiality of Medical Information Act, California Civil Code, Section 56 et seq.

(d) Effective on July 1, 2015, the following will apply.

1. Expanded Definition of Family Members: Sick leave may be used for the following family members. The underlined text are the additions to your current MOU language:
 - a. Parent (biological, adoptive, foster, stepparent, 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)
 - b. Child (regardless of age or dependence status, a child is defined as biological, adopted, foster, stepchild, legal ward or a child to who the employee stands in loco parents)
 - c. Spouse or domestic partner
 - d. Grandparent
 - e. Grandchild
 - f. Sibling
2. Sick leave may also be used for specified purposes for an employee who is a victim of domestic violence, sexual assault, or stalking including to:

- a. Obtain any relief, including, but not limited to, a temporary restraining order, restraining order, or other injunctive relief, to help ensure the health, safety, or welfare of the victim or his or her child.
- b. Seek medical attention for injuries caused by domestic violence, sexual assault, or stalking.
- c. Obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence, sexual assault, or stalking.
- d. Obtain psychological counseling related to an experience of domestic violence, sexual assault, or stalking.
- e. Participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault or stalking, including temporary or permanent relocation.

Part Time Employees Only

- (a) Effective July 1, 2015 part-time, temporary, and seasonal employees, must earn at least one hour of paid leave for every 30 hours worked. Accrual begins on the first day of employment or July 1, 2015 whichever is later. Employees are entitled to use the accrued paid sick days beginning on the 90th day of employment. Sick days will be accrued up to 24 hours or three days in each year of employment.
- (b) An employee can only accrue paid sick leave up to a cap of 6 days or 48 hours, whichever is greater, ongoing. Sick leave does not accrue once the cap is reached, but accrual begins again when accrued sick leave drops below the cap. Any unused accrued paid sick leave carries over year to year while continuously employed. Employees will be provided the total amount of sick leave that may be used per year at the beginning of each fiscal year beginning July 1. Accrued paid sick days must carry over to the following year of employment.
- (c) A part-time employee who separates their employment from the city and is reinstated within one year of separation is eligible to use any previously accrued and unused paid sick leave immediately upon rehiring. The 90 day pre-requisite is waived.

Upon separation part-time employees will not be allowed to cash out their sick leave.

100.058 On-the-job injury.

(a) Unless otherwise provided by law or memoranda of understanding with an employee association, whenever any permanent officer or employee is absent from duty on account of injury arising out of and in the course of employment, the employee shall utilize accumulated sick leave, regardless of the length of continuous service, to compensate for such absence.

Accumulated sick leave shall be used to make up for the difference between workers' compensation insurance benefits and city compensation.

(b) Subsection (a) of this section shall not be construed to prevent the city council from approving salary continuation plans, pursuant to the negotiation process with employee organizations, which provide for payment of full salary for a designated period to

employees injured on the job. Such plans may provide for, without limitation, deferral of sick leave use until such designated period has expired.

100.059 Hiring – Salary rate.

The first step is the minimum rate and normally shall be the hiring rate for the class. In cases where it is necessary or desirable to secure highly qualified personnel or if a person of unusual qualifications is engaged, the personnel officer may hire up through the highest step in the class.

100.060 Increases within range – Basis.

(a) Every permanent officer and employee who is employed in a class for which there is a salary range shall have an anniversary date.

(b) The normal salary range shall consist of five salary steps. An employee shall be advanced to the next step on the first of the month following the first anniversary of the date of hire. Thereafter, advancement to the subsequent steps shall occur annually on the first of such month.

(c) Temporary or seasonal workers may be advanced within a salary range.

(d) In any case where, by reason of unusual circumstances, rigid adherence to the foregoing principles related to salary adjustments would cause a manifest injustice, the council, on recommendation of the personnel officer, may make such an order relating thereto as in its discretion is proper.

(e) Nothing in this section shall be construed to prevent the council from approving provisions in memoranda of understanding with employee organizations which provide for additional steps, on terms and conditions set out in such memoranda, based on longevity of service with the city.

100.061 Reemployment – Procedure – Salary range.

With the approval of the personnel officer, a regular employee or probationary employee who has completed at least six months of a probationary period and who has resigned with a good record may be reinstated within two years of the effective date of resignation, to a vacant position in the same or comparable class. Upon reinstatement, the employee shall be subject to the full probationary period prescribed for the class. Credit for former employment shall be granted in computing salary, vacation, sick leave, or other benefits except on the specific recommendation of the personnel officer at the time of reinstatement. For the purposes of further increases within the salary range, July 1st shall be established as the effective date.

100.062 Salary on promotion or reallocation.

(a) Minimum. A person promoted or reallocated from one class to another having a higher overlapping salary range shall be adjusted to the minimum of the new range or to

one step above his or her previous salary, whichever is higher. For the purposes of further anniversary increases within the salary range, the anniversary date shall not change.

(b) Step Increase First. In the event that such promotion, reallocation or salary adjustment is to be effective on the same date that an employee is eligible for consideration for a step increase, he/she shall first receive the step increase.

(c) Exceptions. When the personnel officer finds that strict application of the minimum increase provisions set out in subsection (a) of this section is not consistent with the nature of the promotion or reallocation, the personnel officer may direct adjustment of the salary range without reference to the minimum increase provisions. Example: reallocation resulting in change of an employee's membership from one employee group to another, in which case the difference between non-salary benefits in the respective memoranda of understanding would distort the intent underlying the minimum increase provisions.

(d) In the event of conflict between this section and the provisions of any memorandum of understanding between the city and an employee organization, the provisions of the memorandum of understanding shall prevail.

100.063 Salary on demotion or reclassification.

A person who is demoted or reallocated from one class to another having a lower salary range may be assigned to a step within the salary range of the lower class which is equal to the salary rate received in the higher class. If the salary rate received in the higher class is above the salary range of the lower class, the employee may be assigned to the fifth step of the lower class.

For the purposes of further increases within the salary range, the anniversary date shall not change.

100.064 Salary on transfer.

A person who is transferred from one position to another in the same class or to another in a class having the same salary range may be compensated at the same step in the salary range as he or she previously received. For the purposes of further increases within the salary range, the anniversary date shall not change.

100.065 Changes in salary range.

A person who is in a class which is increased to a higher salary range shall be compensated at the same step in the new salary range as he or she was receiving in the previous range.

100.066 Educational incentive pay plans.

The city council may approve, pursuant to memoranda of understanding with employee organizations, educational incentive pay plans providing for additional compensation for covered employees who satisfy and complete defined courses of study and/or who are awarded defined educational degrees.

100.067 Adjustments in salary ranges.

General adjustments in salary ranges of the salary ordinance made hereafter by virtue of general increases or decreases in cost of living or in salary levels shall be made by adjusting classes upward or downward to the appropriate standard salary range provided by ordinance. Where the salary range for a given class or for several classes is revised upward or downward the employees holding positions in classes affected shall have their existing salary adjusted to the same relative step in the new salary range; provided, however, the personnel officer, upon recommendation of the department manager, may assign the employee to any higher step in the salary range. For the purpose of increases within the salary range, the anniversary date shall not change.

100.068 Mileage allowance.

(a) Any officer or employee of the city who is required to keep available his or her own privately owned vehicles for use in the execution of official duties, shall be allowed, reimbursed and paid a mileage allowance as established by resolution of the council.

(b) Officers and employees who are not required to keep available for travel in the execution of their official duties a private vehicle as a condition of employment and who must use such private vehicle in connection with their duties, shall be allowed, reimbursed and paid a mileage allowance as established by resolution of the council.

(c) It is the duty of the personnel officer to determine whether availability of a vehicle is a condition of employment.

(d) No claim for mileage allowance shall be allowed unless and until it is accompanied by such form and report as may be required by the personnel officer.

(e) In lieu of a mileage allowance the council may allow a fixed sum per month for private vehicle use.

100.069 Travel expense.

(a) When Paid. Except where otherwise provided by law, any officer or employee of the city, in performance of his duty, shall not receive compensation for expenses of transportation, meals, lodging and incidentals unless such expenses are incurred under one of the following circumstances: (1) such officer or employee works excessively long hours away from his regularly established workplace; (2) is required to attend a meeting at which a meal is served; (3) is required to travel away from his regularly established

workplace on very limited notification; or (4) where any officer or employee is authorized by the city manager to attend any school, conference, convention or meeting at which representation or participation will benefit the city.

(b) Determination. The personnel officer shall determine the necessity of such travel, attendance and expense.

100.070 Salary payment dates.

Salaries shall be paid bi-weekly on Fridays.

100.071 Leave of absence – Military.

Every officer and employee of the city shall be entitled to absent himself from his duties or services while engaged in the performance of ordered or voluntary enlistment and subsequent engagement in the performance of military or naval duty in the armed forces of the United States, its allies or the state of California, and while going to and returning from such duty, but in no event shall civilian employment, either attached or unattached to naval or military forces, be deemed to be included therein unless otherwise provided in this chapter. The officer or employee shall not be prejudiced by reason of such absence with reference to promotion or continuance in the city service, and shall be entitled to a military leave of absence without pay from the city service during his absence as per the Military Family Leave Act. Any officer or employee shall be entitled to receive pay for time spent on duty in accordance with the California Military and Veterans Code.

100.072 Leave of absence – Jury duty.

Every officer and employee of the city may, on giving reasonable notice thereof, be entitled to be absent from duties or services when officially called for jury duty, and to receive regular city compensation, less the amount allowable as fees (excluding mileage allowance) for jury services. So that payroll preparation may be facilitated, arrangements may be made at the discretion of the payroll officer for payment of regular city compensation and reimbursement of the jury fee by the employee.

100.073 Leave of absence – Without pay.

(a) Standard. A leave of absence without pay not to exceed five working days may be granted a permanent employee by the department manager. Leaves of absence that exceed five working days may be granted such employees upon the recommendation of the department manager and approval of the personnel officer. A leave of absence without pay may be granted for a period not to exceed:

(1) Thirty days for personal reasons which do not cause inconvenience to the department.

(2) Six months for illness beyond that covered by sick leave.

(3) Six months for education or training which will benefit the city.

(b) Extension. Upon finding unusual or special circumstances, a leave of absence may be extended if recommended by the department manager and approved by the personnel officer.

(c) Failure to Report. Failure to report for duty after a leave of absence has expired or has been disapproved or canceled by the appointing authority, or any other failure to report for duty as scheduled, shall be grounds for discipline.

(d) Requests. All requests for leaves of absence and leaves recommended by the department manager shall be submitted to the personnel officer.

(e) Overtime. An employee shall not be granted a leave of absence without pay until he or she has first used accumulated overtime, if any.

(f) Other Laws. This section shall not be construed to conflict with state and federal law on the subject of family leave.

100.074 Other employment – Incompatibility.

(a) Incompatibility. No officer or employee of the city shall engage in any employment, activity or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to his or her duties as a city officer or employee or with the duties, functions or responsibilities of the city. No work shall be performed outside city employment where any part of an employee or officer's efforts will be subject to approval by any other officer, employee, council, board or commission of the city, unless otherwise approved in the manner described immediately in this section.

(b) Determination. Department managers may determine those outside activities which, for employees and officers under their supervision, are inconsistent with, incompatible to, or in conflict with duties as city employees and officers. Outside employment, activity or enterprise may be prohibited, among other reasons, if it: (1) involves the use for private gain or advantage of city time, facilities, equipment and supplies; or the badge, uniform, prestige, or influence of the city; or (2) involves receipt or acceptance of any money or other consideration from any source other than the city for the performance of an act otherwise required in the regular course of an employee or officer's city duties; or (3) involves the performance or an act in other than city capacity which act may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other city officer or employee; or (4) involves time demands as would render performance of city duties less efficient.

(c) Notice. Department managers shall provide notice to employees and officers of any activities determined to be prohibited.

(d) Duty of Employees and Officers. Employees and officers engaging in any employment, activity or enterprise for compensation shall inform the appropriate department manager of the nature of the employment, activity or enterprise and the time required to perform same.

Department managers shall provide determinations as set out in this section within 30 days following receipt of such information. Included with such determination shall be advice that should an employee or officer act contrary to the determination, disciplinary action may follow.

(e) Appeal. Any employee or officer allegedly aggrieved by any determination made pursuant to this section may appeal to the personnel officer. The personnel officer shall, within 30 days following receipt of the appeal, either deny, grant, or grant with conditions/exceptions the appeal and so notify the employee or officer. The action of the personnel officer shall be final.

100.075 Employment of relative.

An appointed department manager shall not employ his or her father, mother, brother, sister, wife, husband, or child, or the wife or husband of such relative within the department of such department manager unless unusual conditions exist. If such relative or the wife or husband of such relative is about to be employed, the department manager and the personnel officer shall make a recommendation to the council who shall determine whether such employment would be detrimental to the best interests of the city.

100.076 Attendance.

Employees shall be in attendance at their work in accordance with the rules regarding hours of work, holidays, and leaves. All departments shall keep daily attendance records of employees which shall be reported to the payroll department in the form and on the date specified. Failure on the part of an employee, absent without leave, to return to duty within 24 hours after notice to return shall be cause for discipline. The depositing in the United States mail of a first class letter, postage paid, addressed to the employee's last known place of address, shall be reasonable notice.

100.080 Harassment, Discrimination, and Retaliation Prevention Policy and Complaint Procedure

100.085 Purpose.

The purpose of this policy is to establish a strong commitment to prohibit and prevent harassment, discrimination, and retaliation in the workplace, and to set forth a procedure for investigating and resolving complaints of harassment, discrimination, and retaliation.

This Policy applies to all terms and conditions of employment including, but not limited

to, hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation and training.

100.090 Policy.

Harassment is illegal and will not be tolerated. Discrimination on the basis of any protected classification, as defined below, is illegal and will not be tolerated.

Disciplinary action up to and including termination will be instituted for behavior described in the definitions of harassment and discrimination set forth below. Supervisors and managers who knew or should have known of harassment or discrimination and fail to report such conduct and fail to take the appropriate corrective action are also subject to disciplinary action up to and including termination.

Any retaliation against a person for filing a harassment charge or making a harassment complaint is prohibited. Employees found to be retaliating against another employee shall be subject to disciplinary action up to and including termination.

100.095 Definitions.

- A. Adverse Conduct. Discussing or spreading rumors about a complaint, shunning and avoiding an individual who reports harassment or discrimination or real or implied threats of intimidation to prevent an individual from reporting harassment or discrimination. This includes individuals who make good-faith reports of harassment or discrimination and those who associate with an individual who is involved in reporting harassment or discrimination or who participates in the complaint or investigation process.
- B. Discrimination. Basing an employment decision on one's protected classification; treating an applicant or employee differently with regard to any aspect of employment because of his or her protected classification; engaging in harassment.
- C. Harassment includes, but is not limited to:
 - 1. Verbal. Epithets, derogatory comments, inquiries into sexual experiences, jokes, or slurs and propositioning on the basis of a protected classification. This might include inappropriate comments on appearance, including dress or physical features.
 - 2. Physical acts. Assault, impeding or blocking movement, offensive touching or gestures, any physical interference with normal work or movement when directed at an individual on the basis of a protected classification. This could be conduct in the form of pinching, grabbing, patting, or making explicit or implied job threats or promises in return for submission to physical acts.
 - 3. Visual Acts. Derogatory posters, notices, bulletins, notes, letters, cartoons, or drawings, making sexual gestures, or leering related to a protected classification.
 - 4. Unwelcome Sexual Conduct. Unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature which is explicitly

or implicitly conditioned upon a term or condition of employment, where submission to or rejection of the conduct is used as a basis for employment decisions or where the conduct is intended to or actually does unreasonably interfere with an individual's work performance or creates an intimidating, hostile, humiliating or offensive working environment because of the pervasive or severe nature of the conduct. Sexual harassment can occur between employees of the same sex. Sexual desire is not necessary.

- D. Protected Classifications. Include race, religion (includes religious dress and grooming practices), color, national origin, ancestry, physical or mental disability, medical condition (genetic characteristics, cancer, or a record or history of cancer), genetic information, marital status, sex (pregnancy, childbirth, breastfeeding, and/or related medical conditions), gender, gender identity, gender expression, sexual orientation, military or veteran status, age (40 and above), and other status protected from workplace harassment or discrimination by state or federal law.
- E. Retaliation. Any adverse conduct taken because an individual has reported harassment or discrimination or has participated in the complaint or investigation process described herein.

100.100 City complaint procedure.

A. Reporting.

The City encourages all individuals to report, as soon as possible, any conduct believed to violate this policy. An employee, job applicant, independent contractor, volunteer, or nonemployee who believes he or she has been harassed, discriminated against, or retaliated against may make a complaint orally or in writing to any of the following:

1. Immediate supervisor.
2. Any supervisor, manager or department head within or outside the department.
3. The city manager or designee, or the Human Resources Manager or designee.

There is no need to follow the chain of command. Such a complaint may be reported at any time, but preferably within 30 calendar days of the last incidence of the alleged conduct.

Any supervisor, manager, or department head who receives a harassment complaint should notify the city manager or Human Resources Manager immediately.

Where the complainant is an employee, the supervisor, manager, or department head receiving the complaint shall offer the complainant employee assistance and/or counseling through the City's Employee Assistance Program (EAP).

An individual has the option to report harassment, discrimination, or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH). These administrative agencies offer alternate legal remedies and a complaint process. There are time limits for filing complaints with

these agencies. Posters listed in common area bulletin boards provide the nearest office locations and telephone numbers.

B. Investigation and Determination.

Upon notification of a complaint, the City Manager, Human Resources Manager, or designee shall:

1. Authorize the investigation of the complaint and supervise and/or investigate the complaint within a reasonable time period. The investigation may include interviews with: (a) the complainant; (b) the accused harasser; and (c) any other persons the investigator has reason to believe has relevant knowledge concerning the complaint.
2. Review factual information gathered through the investigation to determine whether the alleged conduct constitutes harassment, discrimination, or retaliation; giving consideration to all factual information, the totality of the circumstances, including the nature of the conduct and the context in which the alleged incidents occurred.
3. Report the results of the investigation and the determination, as to whether harassment, discrimination, or retaliation occurred, to appropriate persons including to the complainant, the alleged harasser, the supervisor, and the department head. If it is determined that harassment has occurred, the complainant shall be notified regarding (1) steps taken to correct the behavior and (2) action the complainant should take if harassment, discrimination or retaliation recurs. However, if discipline is imposed on the harasser, the specific manner of discipline (e.g., termination, suspension, reprimand) imposed will not be communicated to the complainant.
4. If it is determined that conduct in violation of this policy occurred, recommend and/or take prompt and effective remedial action. The remedial action will be commensurate with the severity of the offense.
5. Take reasonable steps to protect the victim and other potential victims from further harassment, discrimination or retaliation.
6. If appropriate, take action to remedy the victim's loss, if any, resulting from the harassment.

C. Confidentiality.

1. Anonymous complaints can be made regarding this policy to assist those who believe they may be victims of sexual harassment or discrimination in determining available options. Anonymous complaints may be made by phone at 648-3171 (using a blocked number) or via email (using an anonymous email account).

2. An individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview, except as otherwise directed. Any individual who discusses the content of an investigatory interview will be subject to discipline or other appropriate action. The City will make every effort to maintain the confidentiality of complaints made under this policy and other information gathered during the investigative process and will not disclose such information except as deemed necessary to support a disciplinary action, to take remedial action, to defend the City in adversarial proceedings or to comply with the law or court order.

D. Record Retention

All materials related to a complaint of harassment, including reports, correspondence, data, documents, tapes and testimony gathered during the investigation shall be retained for a minimum of three years. All materials used to support a disciplinary action shall be retained in the personnel file of the employee disciplined.

100.110 Dissemination of policy.

All employees, supervisors, and managers shall be provided with a copy of this policy. The City will distribute all other information relating to the illegality of harassment and discrimination as required by law.

OTHER RESOURCES:

EEOC's National Contact Center (NCC) customer service representatives are available to assist in more than 100 languages between 8:00 a.m. and 8:00 p.m. Eastern Time. An automated system with answers to frequently asked questions is available on a 24-hour basis.

U.S. Equal Employment Opportunity Commission
Phone: 1-800-669-4000
TTY: 1-800-669-6820
[info@ eeoc.gov](mailto:info@eeoc.gov)

DFEH --Employment/Public Accommodations:
1-800-884-1684

Housing:
1-800-233-3212 (within California)
1-510-622-2946 (outside California)

¹ Ord. 288 N.S., passed January 2, 1957, authorizes a retirement contract between the city council of the city of Pacific Grove and the Board of Administration of the California Employees' Retirement System. Authority – See California Government Code § 45000 et seq.

2 This definition shall not be construed to deny certain retirement benefits mandated by the state retirement system for employees working in excess of 1,000 hours.

Repealed by Ord. 11-020. [Ord. 00-20 § 2 (Exh. A), 2000] adopting APPM

Sections in italics will remain in the Pacific Grove Municipal Code, reference purposes only, any ordinance changes will require Council action.