



# PERSONNEL RULES AND REGULATIONS

CITY OF GARDENA  
Human Resources Division  
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RESOLUTION NO. 6301  
Adopted by the City of Gardena  
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# INDEX TO RESOLUTION NO. 6301

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GARDENA,  
CALIFORNIA, ADOPTING PERSONNEL RULES AND REGULATIONS FOR THE  
CITY OF GARDENA AND REPEALING RESOLUTION NO. 2700, 2716, 3603, 4171  
AND ALL AMENDMENTS THERETO.

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## **RULE 1 PURPOSE**

### **SECTION 1.1 OBJECTIVES**

The City Council of the City of Gardena hereby adopts these Personnel Rules, the objectives of which are to facilitate efficient and economical services to the public and to provide for a fair and equitable system of personnel management in the municipal government.

These Rules set forth in detail those procedures, which will be used for those who compete for original employment and promotion, and define the obligations, rights, privileges, benefits and prohibitions, which are placed upon all employees in the competitive service of the City of Gardena.

## RULE 2 DEFINITION OF TERMS

WHENEVER USED IN THESE RULES THE TERMS REFERENCED BELOW SHALL BE DEFINED AS FOLLOWS:

- 2.1 **“Advancement”** – A salary increase of one or more steps within the limits of the pay range established for a class.
- 2.2 **“Anniversary Date”** – The anniversary of the Employment Date. Same as “Employment/Hire Date”.
- 2.3 **“Appointing Authority”** – The City Manager or any other officer of the city who, in his/her individual capacity has the final authority to make an appointment to any position in a specified department of the City of Gardena.
- 2.4 **“Appointment”** – Official placement into a specified position within the City Service.
- 2.5 **“Association”** – A recognized employee organization, acknowledged by the City as an employee association that represents employees of the City.
- 2.6 **“At-Will”** - An employee/position that serves at the pleasure of the City Manager or Department Head.
- 2.7 **“Certification”** – Official statement of fact by an authorized authority.
- 2.8 **“City Service”** – Employment within one of the specified city classifications of employment.
- 2.9 **“Class”** – All positions substantially similar with respect to duties, responsibilities, authority and character of work. Employees within the same class are paid on the same regular monthly salary range for each position.
- 2.10 **“Compensation”** – Salary, other forms of pay and benefits paid to employees in the City Service.
- 2.11 **“Competitive Service”** – All positions of employment in the service of the City except those specifically excluded by ordinance or resolution allocating such positions to the “Elective,” “Exempt,” or “Temporary” service. All exempt positions shall be designated in the City’s Classification Plan.
- 2.12 **“Confidential Employee”** – An employee in any classification who has access to or possesses information relating to employer-employee labor relations or decisions of the City Council or management affecting employer-employee relations, shall be designated as a “Confidential Employee” and removed from membership in a represented employee bargaining unit. The designation of “Confidential” status is specifically and solely reserved for employees who have access related to employer-employee relations and does not encompass employee access to confidential information, duties, or issues outside of employer-employee relations. Employees who work with information that must be kept confidential under privacy statues, regulations, or departmental policies (i.e., information such as personnel records, investigative data, or other

privileged information that may not be released to other or the public.) do not meet the definition to be classified as a Confidential Employee.

- 2.13 **“Day”** – A calendar day, unless otherwise specified.
- 2.14 **“Eligible Candidate”** – A person whose name is on an employment, reemployment, promotional, or additional appointment list and can under these rules be certified for consideration of appointment to a position in the personnel system.
- 2.15 **“Emergency”** – A circumstance requiring quick action which was not planned for by the determining body or official, or a sudden, unexpected happening or an unforeseen occurrence or condition or a pressing necessity which requires immediate action in order to prevent loss or further loss of life, material or property.
- 2.16 **“Employment Date”** – The date on which an employee officially completes all prescribed personnel processing and is authorized to begin work within the Classified Service (Same as “Anniversary Date”).
- 2.17 **“Exempt”** – Management, professional, or administrative employee that is exempt from overtime based on Fair Labor Standard Act guidelines and approved by City Council.
- 2.18 **“Full-Time Employee”** – An employee who is scheduled to work at least forty (40) hours per workweek, as contemplated under these Rules.
- 2.19 **“Hearing Officer”** - An officer appointed by the City Council to hear any appeal or complaint referred to the Council involving the Personnel system.
- 2.20 **“Human Resources Officer”** – The City Manager or his/her designee as provided for in the Gardena Municipal Code.
- 2.21 **“Immediate Supervisor”** – The person to whom an employee directly reports and who is responsible for evaluating, scheduling and supervising the employee’s work and work schedule.
- 2.22 **“Merit Increase”** – An increase in salary compensation based on employee performance.
- 2.23 **“Merit Increase Review Date”** – The date in which an employee is due a merit step increase.
- 2.24 **“Memorandum of Understanding”** – A written document duly signed by the authorized representatives of the City and the formally recognized employee organization representing the employees in an appropriate unit which is approved by the City Council and contains all of the matters agreed upon through the meet-and-confer process.
- 2.25 **“Part-Time Employee”** – An employee who is scheduled to work less than forty (40) hours per workweek.
- 2.26 **“Permanent Employee”** – An employee who has successfully completed the applicable probationary period and has been retained as hereafter provided for in these Rules.

- 2.27 **“Promotion”** – Advancement to a higher position within the City Service.
- 2.28 **“Reassignment”** – A change in position or department made for a reason other than through promotion or demotion.
- 2.29 **“Regular Appointment”** – Hire into the City Service according to the standard recruitment and selection process.
- 2.30 **“Reinstatement”** – Reappointment, after a break in service, to a specified permanent classified position without an examination or the serving of a probationary period.
- 2.31 **“Salary Schedule”** – A listing of the authorized salary assigned to each position in the Classification and Compensation Plan.
- 2.32 **“Transfer”** – A change of an employee from one position to another position in the same class or another class, involving the performance of similar duties and requiring substantially the same basic qualification with no change in pay schedule.
- 2.33 **“Workweek”** – Unless otherwise noted, a workweek is the consecutive 168 hours from 12:01 a.m. Sunday to 12:00 a.m. (midnight) on Saturday. For all employees working a 9/80 work schedule, their workweek shall begin exactly four hours into their eight hour shift on the day of the week which constitutes their alternating regular day off.
- 2.34 **“Working Day”** – A day as specified by the appointing authority on which an employee is required to serve the City in the performance of the duties of his/her position.
- 2.35 **“Year”** – A year refers to 365 consecutive days unless otherwise specified within the context of its use (e.g., “Fiscal Year” (July 1 – June 30) or “Calendar Year” (January 1 – December 31)).

## **RULE 3 GENERAL PROVISIONS**

### **SECTION 3.1 GUARANTEE OF RIGHTS**

City Employees shall have all rights that are afforded to them within these Rules guaranteed to them. Whenever there is any conflict among the meanings and definitions within the various documents governing these Rules, the following order shall mandate the authority of each:

Memorandum of Understanding  
Gardena Municipal Code  
Personnel Rules (Resolution)  
City Administrative Policies and Procedures  
Department Rules and Procedures  
Division Rules and Procedures  
Classification Plan

Collectively these documents shall herein after be referred to as the “Personnel Documents”.

### **SECTION 3.2 MANAGEMENT RIGHTS**

The City retains the exclusive right to determine the methods, means and personnel by which City government operations are to be conducted, as well as the right to exercise complete control and discretion over its organization, operations, and technology of performing its work; to determine the mission, function and necessity of all or part of each of its constituent departments, boards and commissions and the right to take all necessary actions to carry out the mission, functions and needs, or any part thereof, as well as set standards of service to the public.

Failure by the City to exercise and/or implement any rights expressly provided for in this Rule shall in no way extinguish and/or diminish the City’s right to do so in the future.

Moreover, the City reserves the right to exercise the following rights:

1. Schedule work and/or overtime work as required in the manner most advantageous to the City.
2. Determine assignments, and establish methods and processes by which assignments are performed.
3. Transfer employees within departments and to positions outside a department in a manner most advantageous to the City.
4. Determine the nature, standards, levels, and mode of delivery of services to be offered to the public.
5. Discipline or discharge employees as set forth in the Personnel Rules.
6. Lay off personnel of the City at any time because of lack of work or lack of funds or for other legitimate reasons.

7. Take all necessary actions to protect the public and carry out its mission in emergencies.
8. Contract out work or transfer work out of the bargaining unit.

### **SECTION 3.3 NO CONTRACT CREATED**

These Rules do not create any contract of employment, express or implied, or any rights in the nature of a contract.

### **SECTION 3.4 EQUAL EMPLOYMENT OPPORTUNITY STATEMENT**

The City is committed to the concept of equal opportunity employment as to all terms and conditions of employment, including hiring, compensation, training, transfers and discipline. It prohibits discrimination and harassment against employees, officers, officials, contractors, or applicants for employment on the basis of race, religion, color, sex (including gender, gender identity, gender expression, transgender, pregnancy, and breastfeeding), national origin, ancestry, disability, medical condition, genetic characteristics or information, marital status, age, sexual orientation (including homosexuality, bisexuality, or heterosexuality), or any other basis protected by law. Employees, applicants, officers, officials or contractors who believe they have experienced any form of employment discrimination are encouraged to report this immediately to a supervisor, Department Head, or Human Resources Officer.

### **SECTION 3.5 NEPOTISM**

Immediate family of present employees may be hired by the City only if the individuals concerned do not work in a direct supervisory or appointing authority relationship. Immediate family, for the purposes of nepotism, are defined as a spouse, registered domestic partner, child, mother, father, brother, sister, grandmother, grandfather, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, or legal guardian.

Present employees who become related will be permitted to continue work only if they do not work in a direct supervisory relationship with one another. Should such a circumstance occur, the employees involved must notify the Human Resources Officer prior to or immediately following the creation of the immediate family relationship. Only one of the employees will be permitted to remain within the current position with the City and reasonable accommodations will be made to eliminate the problem by reassignment of the other. Should this not be possible, the decision as to which relative will remain within the city service must be made by the concerned employees with the other employee to terminate from the City service within thirty (30) days of notification to the Human Resources Officer.

### **SECTION 3.6 VIOLATION OF RULES**

Violation of the provisions of these rules may be grounds for disciplinary action up to and including termination or for rejection of an applicant for hire.



**SECTION 3.7 MAINTENANCE OF TELEPHONE AND CURRENT ADDRESS**

All sworn personnel of the Police Department, all Department Heads and any other employees designated by a Department Head, shall maintain a working telephone during their employment with the City, and shall make such telephone number available to the Department Head and promptly advise the Human Resources Office of any changes.

All employees shall make their current address known to their Department Head and to the Human Resources Office and shall notify the same of any changes therein.

**SECTION 3.8 COOPERATION OF MUNICIPAL OFFICERS AND EMPLOYEES**

Every officer and employee of the City of Gardena shall cooperate with the City Council and the Human Resources Officer in order to completely fulfill the objectives and purposes of the Personnel Ordinance and these Rules. Such cooperation shall include the approval of the Human Resources Officer of all departmental and division personnel policies and procedures so as to insure consistency with the Personnel Documents, as defined in SECTION 3.1.

## **RULE 4 CLASSIFICATION PLAN**

### **SECTION 4.1 GENERAL PURPOSE**

To ensure the orderly classification of all personnel within the City service, all positions shall be categorized into a schedule of classes by salary schedule. The Human Resources Officer shall establish a specific job description for each position in the schedule and shall see that each is assigned to the appropriate salary schedule. These "Job Descriptions" and the "Salary Schedule" shall collectively herein be referred to as the "The Classification and Compensation Plan." The Classification and Compensation Plan shall be adopted and may be amended as becomes necessary and in accordance with these rules by the City Council. Amendments and revisions shall be recommended to the City Council by the Human Resources Officer.

### **SECTION 4.2 PREPARATION OF CLASSIFICATION AND COMPENSATION PLAN**

The Human Resources Officer shall ascertain and record the duties and responsibilities of all positions in the City Service and, after consultation with appointing authorities, heads of departments and applicable employees, shall recommend a Classification Plan for such positions. The Classification Plan shall consist of classes of positions in the Competitive Service defined by job specifications, including title, a description of typical duties and responsibilities of positions in each class, and a statement of the training, experience and other qualifications to be required of applicants for each position in each class. The Classification Plan shall be so developed and maintained that all positions substantially similar with respect to duties, responsibilities, authority and character of work are included within the same class, and that the same schedules of compensation may be made to apply with equity to all positions in the same class.

### **SECTION 4.3 CREATION OF NEW POSITIONS**

When a new position is created, the position must be added to the Classification Plan within 180 days. No person shall be appointed or employed to fill such position for more than 180 days or until the Classification and Compensation Plan has been amended to provide therefore.

### **SECTION 4.4 RECLASSIFICATION**

The re-classifying of an employee in a position within a certain classification to another position in another classification, that is more reflective of the duties and responsibilities currently performed by the employee may be allocated by the Human Resources Officer. Said reclassification may also occur with positions, vacant of an incumbent, such that the duties of the position have changed materially so as to necessitate reclassification.

In instances where the reclassification involves an incumbent/employee, there are two (2) types of reclassifications that may occur:

- i. Upward Reclassification: An employee serving in a position which has been reclassified upward, shall be at the rate which is immediately greater than the step in which they were

paid on the salary schedule of the former position, where the new salary schedule is able to accommodate the increase.

- ii. Downward Reclassification: An employee serving in a position, which has been reclassified downward, to a lower position with a lower base salary range. Employees who receive a downward reclassification may be Y-rated, as approved by the Human Resources Officer.

Reclassification of an employee shall be based upon specific and significant changes in duties and responsibilities, and shall not be used as reward or punitive action, or to circumvent these Rules regarding promotion, demotion or layoff. No employee shall be reclassified to a class for which they do not possess the minimum qualifications.

#### **SECTION 4.5 APPLICATION OF RATES IN SALARY SCHEDULE**

Employees occupying a position in the Competitive Service shall be paid a salary or wage established for that position's class under the Classification and Compensation Plan. The minimum rate, if provided by the class, generally shall apply to employees on original appointment. However, the Human Resources Officer, when circumstances warrant, may authorize original appointment or reinstatement at other than the minimum rate.

#### **SECTION 4.6 ADVANCEMENT WITHIN CLASSIFICATION PLAN**

No salary advancement shall be made so as to exceed any maximum rate established in the Classification and Compensation Plan for the class to which the advanced employee's position is so allocated.

Advancements shall not be automatic but shall depend upon the advancement policy established by the appropriate Memorandum of Understanding (MOU).

No position shall be assigned a salary not in conformance with the salary schedule unless the salary schedule for the class is amended in the same manner as herein provided for its adoption.

## **RULE 5 APPLICATIONS AND APPLICANTS**

### **SECTION 5.1 ANNOUNCEMENTS**

All examinations for classes in the Competitive Service shall be publicized by posting the announcements in City Hall, on official bulletin boards in each department, and in such other appropriate places, and by such other methods deemed necessary and advisable by the Human Resources Officer.

The announcements shall be in a standardized format authorized by the Human Resources Officer and shall specify the title and pay range of the class for which the examination is announced, the nature of the work to be performed, preparation including any education, experience, special license, certificate or registration desirable for the performance of the work of the class, the manner of making application, and any other pertinent information deemed as necessary by the Human Resources Officer.

### **SECTION 5.2 APPLICATION FORMS**

Applications shall be made as prescribed on the examination announcement. Application forms shall require information covering training, experience, education, reference, and other pertinent information. There shall be no questions relating to race, color, ancestry, age, sex, sexual orientation, physical handicap, marital status, national origin, political and religious opinions, affiliations or any other personal attributes as defined and prohibited by law, except that such information may be obtained for statistical purposes if provided voluntarily by the applicant in a document separate from the employment application. All applications must be signed by the person applying.

### **SECTION 5.3 FILING OF APPLICATIONS**

- (a) All applications must be filed in the Human Resources Office and must be filed within the prescribed time limits specified in the examination announcement unless otherwise provided for by the Human Resources Officer.
- (b) For a position requiring a license, certificate or registration with the State as evidence of professional or technical proficiency, the applicant shall submit it at the same time of filing the application.
- (c) The Human Resources Officer may require as necessary the verification of qualifications as specified in the announcement for the position.

### **SECTION 5.4 DISQUALIFICATION**

The Human Resources Officer may disqualify any applicant, either before or after examination, for any of the following causes, insofar as they relate to the applicant's ability to perform the functions required by the class for which the application has been made.

- (a) Failure to submit a complete application sufficient to assess the applicant's qualifications for the position.

- (b) Making a false statement of any material fact in the application or supporting documents.
- (c) Failure to possess the necessary requirements stated in the examination announcement or bulletin.
- (d) Failure to pass satisfactorily any required medical test or special examination.
- (e) Failure to meet any requirement stated in the examination announcement as a condition of employment.
- (f) Conviction or any plea of nolo contendere of any felony or misdemeanor involving moral turpitude.
- (g) Evidence of excessive gambling, current abuse of alcohol, or any unlawful use of controlled substances.
- (h) Dishonorable discharge from the Armed Forces of the United States.
- (i) Refusal to execute an oath as may be prescribed by law.
- (j) Failure to present himself/herself for fingerprinting or any pre-employment testing as may be required.
- (k) For any material cause which, in the judgment of the Human Resources Officer would render the applicant unfit for the particular position.
- (l) The Human Resources Officer may request any applicant who is being considered for disqualification for one of the above-mentioned causes to present additional information or to meet with the Human Resources Officer in order to clarify the facts and issues involved.

Whenever an applicant is rejected, notice shall be mailed to the applicant by the Human Resources Officer who shall state the reason(s) for such rejection.

## **RULE 6 EXAMINATIONS**

### **SECTION 6.1 NATURE AND TYPES OF EXAMINATIONS**

The selection techniques used in the examination process shall be impartial, of a practical nature, and shall relate to those subjects which fairly measure the relative capacities of the persons examined to execute the duties and responsibilities of the class to which they seek to be appointed.

Examinations may contain one or more for the following tests as is necessary to determine an individual's ability to perform the work:

- (a) Written tests of aptitudes, mental fitness and knowledge of the work.
- (b) Oral interview evaluating education, training and experience, and other personal qualifications.
- (c) Practical or performance tests demonstrating the skill and ability of the applicant to perform the work.
- (d) Athletic tests of physical skill and agility.
- (e) Physical tests of strength and fitness.
- (f) Medical and/or Psychological test.
- (g) Any other tests as may be required by the Human Resources Officer.

### **SECTION 6.2 OPEN-COMPETITIVE EXAMINATIONS**

Open-Competitive Examinations may be conducted whenever, in the opinion for the Human Resources Officer, the needs of the service require that recruitment be non-restricted and open to a wide-range of applicants. Open-Competitive Examinations may include any combination of the selection techniques mentioned in SECTION 6.1 herein.

### **SECTION 6.3 CLOSED-COMPETITIVE EXAMINATIONS**

Closed-Competitive Examinations may be conducted whenever, in the opinion of the Human Resources Officer, the needs of service require that recruitment be limited to persons already employed by the City regardless of employment status including probationary, seasonal, temporary transitional, provisional and part-time. Closed-Competitive Examinations may include any combination of the selection techniques mentioned in SECTION 6.1 herein.

### **SECTION 6.4 CLOSED-PROMOTIONAL EXAMINATIONS**

Closed-Promotional Examinations may be conducted whenever, in the opinion of the Human Resources Officer, the needs of the service require that recruitment be limited to persons already employed by the City. Closed-Promotional Examinations may include any of the selection techniques specified in SECTION 6.1, or any combination thereof. Only those employees who are full-time and

have satisfactorily completed the minimum period of probationary employment with the City as prescribed in SECTION 9.1 and who received at least an average rating on the last requirements set by the Department Head and the Human Resources Officer or the Position Classification Plan in the promotional examination announcement may compete in promotional examinations. Employees on promotional probation may compete in Closed-Promotional examinations.

#### **SECTION 6.5 CONTINUOUS EXAMINATIONS**

Continuous examinations may be administered periodically for a single class, as the needs of the service require the creation of an operating list of candidates for potential position openings. Names shall be placed on employment lists, and shall remain on such lists as prescribed in SECTION 7.2.

#### **SECTION 6.6 NON-COMPETITIVE EXAMINATIONS**

Non-Competitive examinations may be held for part-time, temporary or seasonal part-time work when competition is found to be impracticable. These positions may be filled in any manner prescribed by the Human Resources Officer.

#### **SECTION 6.7 CONDUCT OF EXAMINATIONS**

The City Council, upon recommendation of the Human Resources Officer, may contract with any competent agency or individual for the performance by such agency or individual of the responsibility for preparing and administering examinations. In the absence of such a contract, the Human Resources Officer shall perform such duties. The Human Resources Officer shall have broad discretion in determining the time, place, and manner of conducting examinations including the power to have examinations conducted outside the City, if necessary. The Human Resources Officer or his/her designee shall arrange for the use of public buildings and equipment and shall be responsible for the conduct of examinations.

#### **SECTION 6.8 SCORING EXAMINATIONS AND QUALIFYING SCORES**

Generally accepted measurement techniques and procedures shall be used in the computation of a candidate's score on tests and in determining the relative ranking of the candidates. At the discretion of the Human Resources Officer, failure of any part of an examination may be grounds for declaring that the applicant has failed the entire examination or that he/she is disqualified for subsequent parts of the examination. When this procedure is used, notice shall be given in the examination announcement. The Human Resources Officer may also designate any part of an examination as qualifying only (Pass/Fail) with no numerical weight assigned to passing scores in said part.

#### **SECTION 6.9 PASSING GRADES**

The average percentage for proficiency required for passing any portion of an examination shall be seventy percent (70%), unless a particular portion of an examination is rated on a pass or fail basis. The Human Resources Officer may establish a minimum percentage of proficiency other than seventy percent (70%) for any portion of the examination and an applicant who fails to attain such minimum shall be excluded from further examination and shall be considered as having failed the entire

examination. When a percentage of proficiency other than seventy percent (70%) is required, it shall be so stated in the examination announcement.

#### **SECTION 6.10 VETERAN'S CREDIT**

Veteran's credit is applicable only on Open-Competitive Examinations. Before a candidate is eligible for veteran's credit, he/she must receive a passing grade on all portions of the examination. A credit of two (2) points shall be given for veteran's credit.

To be eligible for veteran's credit, the applicant must have served full time for a period of not less than six (6) months in the Armed Forces of the United States in time of war, armed insurrection or international police action; and must have been honorably discharged, or released to inactive duty after honorable service. Such veteran's credit shall also be given to the spouse of any such person who, while engaged in such service in time of war, armed insurrection or international police action, was wounded, disabled or crippled and thereby permanently prevented from engaging in any remunerative occupation; and also to the surviving spouse of any such person who died or was killed while in such service, or as a direct result of wounds received in such service.

#### **SECTION 6.11 NOTIFICATION OF EXAMINATION RESULTS**

Each candidate in an examination shall be given written notice of the results thereof, and if successful, of his/her final rank and score on the employment list as described in SECTION 7.1.

#### **SECTION 6.12 REVIEW OF RECRUITMENT AND EXAMINATION PAPERS**

Any candidate, except where internal or external factors disallow, has the right to inspect his or her own recruitment and examination materials during normal business hours within fourteen (14) business days after the notices of recruitment or examination results have been mailed. Not more than one hour will be allowed for review during which the Human Resources Officer or his/her designee will be present.

- (a) Form Tests Not to be Open for Inspection. Standardized or copyrighted tests and questions not scored by an absolute standard will not be available for inspection, nor may candidates be allowed to review copies of these tests at any time.
- (b) Objections and Response to Objections. Objections must be submitted in writing within the 14-business day review period. The decision of the Human Resources Officer and/or the agency designated to prepare the examination shall be final.

#### **SECTION 6.13 REVIEW OF MEDICAL EXAMINATION**

When an applicant is disqualified because of failure to meet the medical or physical standards for the position in which he/she has applied, he/she may appeal in writing to the Human Resources Officer within fourteen (14) business days after receipt of the notification of the disqualification. The applicant may provide the City with any medical opinions or other evidence the applicant believes demonstrates his or her fitness for duty. The Human Resources Officer shall refer such appeal to a Medical Examiner



selected by the City for review. If, upon review, the Medical Examiner selected by the City deems that a re-examination is warranted, the examination will be conducted by a second licensed physician selected by the City, and paid for by the City.

If the re-examination results indicate that the applicant is disqualified, no further appeal can be made. If the results indicate that the applicant is qualified, his/her name shall be restored to its proper place on the eligibility list after approval by the Human Resources Officer.

#### **SECTION 6.14 EXEMPTIONS**

Positions designated by the City as “Transitional At-Will”, “Provisional”, or “Confidential” positions are exempt from the rules set forth in Rule 6, Section 6.1 through 6.12. These positions may be filled in a manner prescribed by the Human Resources Officer.

## **RULE 7 EMPLOYMENT LISTS**

### **SECTION 7.1 PROMULGATION OF EMPLOYMENT LISTS**

Within thirty (30) days after the completion of the examination process, the Human Resources Officer shall promulgate and keep available for review by the appointing authority and qualified candidates, an employment eligibility list. This list shall consist of the names of candidates who qualified in the examination. All lists shall be arranged in order of eligibility from the highest to the lowest qualifying score and be designated as appropriate as Open-Competitive, Closed-Competitive or Closed-Promotional with a specified expiration date as prescribed in SECTION 7.2. When more than one candidate is qualified at the same level, names on the eligibility list shall appear in alphabetical order for each applicant at the same level so as to be easily referenced.

### **SECTION 7.2 DURATION OF EMPLOYMENT LISTS**

An Employment Eligibility List shall become effective upon the date of promulgation by the Human Resources Officer and upon his/her certification that the list was legally prepared and represents the relative standing of the persons whose names appear on it. Employment eligibility lists, other than those resulting from a continuous examination, shall remain in effect for one (1) year or until the City declares the list exhausted because there are three or fewer names on the list, whichever occurs first. Employment eligibility lists may be extended prior to the specified expiration dates for an additional six-month period by the Human Resources Officer, but in no event shall an employment eligibility list remain in effect for more than two (2) years.

Open-Competitive Lists created as the result of continuous examinations shall remain in effect for one (1) year after the last administration of the examination or until the City declares the list exhausted because there are three (3) or fewer names on the list, whichever occurs first. New names to be placed on such lists shall be merged with any others already on the list in order of final standing, and shall remain on the list for not more than one (1) year. No individual will be certified as eligible for employment on any list for more than one (1) year.

All lists shall specify the date of expiration and be amended as required by action of the Human Resources Officer.

### **SECTION 7.3 COMBINATION OF LISTS**

The City Council may upon request of the Human Resources Officer, combine successive Employment Eligibility Lists when insufficient names on any list make such combinations desirable. Names for the same class of position shall be placed in the order of their relative ratings on the merged employment list. Names placed on a combined list shall remain on the list for not more than a total of one (1) year.

### **SECTION 7.4 RE-EMPLOYMENT LISTS**

The names of probationary and permanent employees who have been laid-off shall be placed on appropriate re-employment lists in the chronological order of the date of their hire. Such names shall remain thereon for a period for up two (2) years unless such persons are re-employed sooner.

## **SECTION 7.5 REMOVAL OF NAMES FROM LISTS**

The name of any person appearing on an employment, re-employment or promotional list shall be removed by the Human Resources Officer if the eligible applicant or employee requests in writing that his/her name be removed; if he/she fails to respond within five (5) days to a notice of certification mailed to the applicant/employee's last known address; or if two (2) offers of regular full-time employment in the class for which the employment list was established have been declined by the eligible applicant; or for any of the reasons specified in SECTION 5.4.

The person affected shall be notified of the removal of his/her name by a notice mailed to his/her last known address. The names of persons on promotional employment lists who resign from the service shall automatically be dropped from such lists.

## **RULE 8 METHOD OF FILLING VACANCIES**

### **SECTION 8.1 FILLING VACANCIES**

All vacancies in the Competitive Service shall be filled by transfer, demotion, re-employment, reinstatement, or from eligible candidates certified by the Human Resources Officer from an appropriate employment or promotional list, if available. In the absence of persons eligible for appointment in these ways, provisional appointments may be permitted in accordance with the Gardena Municipal Code and these Rules; or a position may be filled from an employment list of a higher class to a lower class, provided, however, no list exists for the lower position, and the duties, qualifications and subject matter of the examination given for the higher class, in the opinion of the Human Resources Officer, fairly measures the relative capacities of the persons willing to accept appointment to the lower class. Acceptance of the lower position shall not forfeit an eligible applicant/employee's right to be certified to higher positions for which he/she is qualified.

### **SECTION 8.2 PERSONNEL REQUISITION FORM**

Whenever a vacancy in the Competitive Service is to be filled, the appointing authority shall complete a Personnel Requisition Form.

### **SECTION 8.3 CERTIFICATION OF ELIGIBLE CANDIDATES**

If the Human Resources Officer does not consider it in the City's best interest to fill the vacancy by transfer, demotion or reinstatement, or if it is not possible to fill the vacancy by re-employment, certification shall be made from an appropriate employment list, provided eligible candidates are available.

### **SECTION 8.4 ORDER OF EMPLOYMENT**

The appointing authority may fill a vacancy by transfer or demotion. If not filled by transfer or demotion, he/she shall appoint the person at the top of the re-employment list if one exists. If not filled by transfer, demotion, or re-employment, he/she may fill the vacancy by re-instatement. If the vacancy is not filled by transfer, demotion, re-employment or re-instatement, the appointing authority may fill the vacancy from the promotional or open-competitive list.

Whenever there are fewer than three (3) names on the promotional list or an open-competitive list, the appointing authority may make an appointment from among such eligible persons, or may request that the Human Resources Officer establish a new list. When so requested, the Human Resources Officer may hold a new examination and establish a new employment list.

### **SECTION 8.5 PROBATIONARY APPOINTMENT**

After interview, background investigation and physical and/or mental examination, the appointing authority shall recommend appointments from among those certified, and shall promptly notify the Human Resources Officer of the person or persons recommended. The person willing to accept appointment shall present himself/herself to the Human Resources Officer or his/her designated representative, for processing on or before the date of appointment. If the applicant accepts the appointment and presents himself/herself for duty within such period of time as the appointing authority

shall prescribe, he/she shall be deemed to be appointed; otherwise, he/she shall be deemed to have declined the appointment.

No person shall be considered appointed and eligible to begin employment prior to the completion of all pre-employment processing as prescribed by the Human Resources Officer. Initial appointment shall be subject to a probationary period as outlined in SECTION 9.1.

#### **SECTION 8.6 PERMANENT APPOINTMENT**

A permanent appointment shall be effected when an employee has satisfactorily completed the probationary period in the position to which the employee is to be appointed, has been recommended for permanent appointment by the appointing authority and approved by the Human Resources Officer. A permanent appointment provides the employee with procedural, appeal and seniority rights and promotional priority in appointments as set forth in these Rules.

#### **SECTION 8.7 PROVISIONAL APPOINTMENT**

In the absence of three (3) names of individuals willing to accept appointment from the appropriate employment lists, a provisional appointment of a person, who, whenever possible, meets the minimum training and experience qualifications for entry-level employment or for a specified classification greater than the employee's permanent specified classification, may be made by the appointing authority. The Human Resources Officer shall endeavor to recruit and establish an employment list within six (6) months of the date of the provisional appointment for any position filled by provisional appointment.

Provisional appointments shall not extend more than thirty (30) calendar days beyond establishment of an employment list unless extended pursuant to the applicable provisions of the Gardena Municipal Code. Time served in a provisional appointment shall not count toward the probationary period of a regular appointment.

No special credit shall be allowed in meeting any qualification or in the giving of any test or the establishment or any employment or promotional list for service rendered under a provisional appointment.

An entry-level employee holding a provisional appointment shall be paid for hours worked at a rate equal to the entry-level step of the position to which he/she has been provisionally appointed. An entry-level employee shall not accrue benefits or service credit toward benefits during such appointments, except for Floating Holidays and unless otherwise provided in these Rules. No sick, vacation, or management leave shall be accrued except as provided by law.

A permanent employee holding a provisional appointment position shall receive for all hours worked in the provisional appointment position pay and benefits at a rate equal to that which he/she would have been entitled to receive had he/she been permanently appointed to the position.

If a provisional employee is subsequently appointed to the probationary status in the same position, the date of the probation may commence when the provisional employee is appointed to the probationary position.

Provisional appointments are At-Will positions that serve at the pleasure of the Appointing Authority and may be terminated at any time. The appointee has no rights to appeal the decision; and provisional appointees are not entitled to seniority rights in lay-off, or to promotional priority.

### **SECTION 8.8 EMERGENCY APPOINTMENTS**

In case of emergency the Mayor (or the City Manager, in the absence or disability of, or with the consent of, the Mayor), may employ such number of additional persons as the Mayor (or City Manager, as applicable), deems necessary. The Mayor (or City Manager, as applicable) shall determine the compensation and other working conditions to be paid for such emergency service.

Such emergency service shall not continue, however, for a longer period than ninety (90) days, unless authorized by the City Council. Such appointments shall be reported to the Human Resources Officer as soon as practicable. Time served in an emergency appointment shall not count toward the probationary period of a regular appointment.

Emergency appointments are At-Will positions that serve at the pleasure of the Mayor and/or City Manager and may be terminated at any time. The appointee has no rights to appeal the decision; and emergency appointees are not entitled to seniority rights in lay-off, or to promotional priority.

### **SECTION 8.9 TEMPORARY APPOINTMENTS**

A temporary appointment is an appointment, which will be made for less than 180 calendar days in any one calendar year. Temporary appointments shall be made in a manner prescribed by the Human Resources Officer. Except as required by law, temporary employees shall not be eligible for employee benefits as are provided for full-time employees. Time served in a temporary appointment shall not count toward the probationary period of a regular appointment.

Temporary appointments are At-Will positions that serve at the pleasure of the Appointing Authority and may be terminated at any time. The appointee has no rights to appeal the decision; and temporary appointees are not entitled to seniority rights in lay-off, or to promotional priority.

### **SECTION 8.10 TRANSITIONAL APPOINTMENTS**

- (a) In the event that special legislation, federal employment programs, state employment programs, or special Department/Division projects or programs are created, necessitating the employment of persons outside the normal personnel selection process, such persons shall be hired on a transitional status.
- (b) Transitional appointments can only extend for a period of time specified at the time of employment by the appointing authority, or by definition of the program under which the transitional appointment has been made.
- (c) Employees hired under the transitional appointments will be subject to the intent of the Personnel Rules and Regulations applying to regular full-time, probationary and permanent status employees. However, the specific application of the Rules, especially those covering recruitment, testing and selection procedures, handling of grievances and disciplinary actions,

promotions, transfers, and terminations, will be determined by the Human Resources Officer and the appointing authority, as is in the best interests of the City, according to the intent of the program/project. Disciplinary actions shall be subject to appeal only to the Human Resources Officer.

- (d) Transitional appointments shall be deemed as At-Will, shall serve at the pleasure of the Appointing Authority and may be terminated at any time.
- (e) Transitional appointees shall receive all benefits available under the Classification Plan to the City's full-time, probationary and permanent status employees.
- (f) Transfer from transitional status to probationary status to fill an existing or newly created full-time position for which the transitional status employee possesses the minimum qualifications and has demonstrated the necessary knowledge, ability and skills by examination or job performance can be accomplished by recommendation of the appointing authority and approval of the Human Resources Officer.
- (g) Should a transitional status employee be terminated due to lack of funds to continue the specific program, or the termination of the program, and if the employee meets all of the requirements outlined in the above Subsection (f), said employee, at the request of the appointing authority and approval of the Human Resources Officer, shall be placed on an appropriate re-employment list with all re-employment rights.
- (h) Time served in a transitional appointment shall not count toward the probationary period of a regular appointment. If a transitional appointee is subsequently appointed to the probationary status in the same position, the date of the probation shall commence when the transitional employee is appointed to the probationary position.

#### **SECTION 8.11 PART-TIME APPOINTMENTS**

A part-time appointment is one in which the employee is regularly scheduled to work less than eighty (80) hours per pay period throughout the year. Part-time appointments must be made from those persons on employment lists wishing to accept such part-time work, in accordance with regular examination and certification procedures. Acceptable professional principles of recruitment, examination and appointment shall be used for part-time appointments as are used for probationary appointments. Part-time employees shall not be eligible for any employee benefits as are provided for full-time employees, except as required by law.

Should no appropriate appointment list exist, the appointing authority can recommend to the Human Resources Officer the appointment of any individual to be qualified in a method prescribed by the Human Resources Officer. Time served in a part-time appointment shall not count toward the probationary period of a regular appointment.

Part-time appointments are deemed At-Will, shall serve at the pleasure of the Appointing Authority, and may be terminated at any time.

#### **SECTION 8.12 SEASONAL PART-TIME APPOINTMENTS**

A seasonal part-time appointment is an appointment, which will be made for less than 120 calendar days in any one (1) calendar year. Seasonal part-time appointments must be made from those persons on seasonal part-time employment lists wishing to accept such work, in accordance with regular examination and certification procedures. Acceptable professional principles of recruitment, examination and appointment shall be used for seasonal part-time appointments as are used for probationary appointments.

Seasonal part-time employees shall not be eligible for any employee benefits as are provided for full-time employees. Time served in a seasonal part-time appointment shall not count toward the probationary period of a regular appointment.

Seasonal part-time appointments are deemed At-Will, shall serve at the pleasure of the Appointing Authority, and may be terminated at any time.

#### **SECTION 8.13 STUDENT INTERNS**

Student interns constitute a unique non-classified position designated to provide an educational opportunity to the student while providing a service to the City. The terms of their internship shall be defined by a signed agreement between the student intern and the City.

Student Intern appointments are deemed At-Will, shall serve at the pleasure of the Appointing Authority, and may be terminated at any time.

#### **SECTION 8.14 APPRENTICESHIP PROGRAMS**

An Apprenticeship Program is a detailed training program in which to train and qualify individuals in the field of a specific City trade or profession with on-the-job training and some accompanying study (classroom work and reading).

Apprentices are deemed to be full-time transitional employees who are eligible for all benefits associated with the probationary or permanent position. Apprentice positions do not guarantee promotion to a probationary or permanent position. If an Apprentice is subsequently appointed to a probationary position, the date of the probation shall commence when the Apprentice is appointed to the probationary position.

Apprentice positions serve at the pleasure of the Appointing Authority and may be terminated at any time.

#### **SECTION 8.15 RE-EMPLOYMENT**

Former employees, either probationary or permanent, who have been laid-off from a classification identical to that which is to be filled, shall be offered re-employment as set forth in Rule 7 Section 7.4.



## **SECTION 8.16 MEDICAL EXAMINATIONS**

Before any appointment, the eligible candidate selected by the appointing authority shall be required to pass a physical and/or mental examination as prescribed by the Human Resources Officer to determine the candidate's ability to safely perform the essential functions of the position with or without reasonable accommodation. The Human Resources Officer shall select a licensed physician to perform the examination, the cost of which shall be borne by the City of Gardena. Before any applicant may be appointed, such physician must submit a statement, upon forms prescribed or approved by the Human Resources Officer, that the applicant has the physical/mental ability to perform the duties of the position to which he/she seeks appointment. An applicant who is determined to be unfit for service shall not be eligible for appointment and his/her name shall be removed from the eligible list.

Sworn members of the Police Department, all Bus Operators, Public Works employees and any Department employees who operate vehicles requiring a Department of Motor Vehicles (DMV) Certification under Federal Transit Administration (FTA) and Federal Motor Carrier Safety Administration (FMCSA) mandates may at the discretion of the Human Resources Officer be required to take an annual physical and/or mental examination, which may include drug testing if required by the applicable Memorandum of Understanding (MOU) or federal or state mandate. Failure to successfully pass such physical and/or mental examination may result in transfer, demotion or dismissal in accordance with Rule 15.

## **RULE 9 PROBATIONARY PERIOD**

### **SECTION 9.1 REGULAR APPOINTMENT FOLLOWING PROBATIONARY PERIOD**

All initial appointments shall be tentative and subject to a probationary period of not less than six (6) months from the date of hire. Sworn personnel of the Police Department, shall be subject to a minimum probationary period of twelve months from the date of graduation from the Police Academy. The Human Resources Officer shall notify the appointing authority one (1) month prior to the scheduled completion date of the probationary period of any employee. The appointing authority shall then submit to the Human Resources Officer a written statement either recommending the retention or rejection of the employee. The Human Resources Officer shall notify the concerned appointing authority one (1) month prior to the scheduled completion date of the extended probationary period of any employee.

### **SECTION 9.2 EXTENSION OF PROBATION**

If the appointing authority has any concerns during the probationary period regarding the appointment of the probationary employee to the position, the appointing authority may request to extend the established probationary period by up to an additional six (6) month period. The extended probationary period must be requested in writing and approved by the Human Resources Officer prior to the end of the standard six (6) month probationary period. The Human Resources Officer shall notify the appointing authority and the employee in writing that the probationary period has been extended to a specified date. Prior to the completion of the extended probationary period, the appointing authority shall then file with the Human Resources Officer a statement in writing recommending either the retention, return to former class, or rejection of the employee.

Pursuant to State and Federal Law and City policy, the probationary period may be extended due to the probationary employee's use of protected or unprotected leave or modified duty status.

Protected leave includes, but is not limited to:

- i. Family and Medical Leave
- ii. California Family Rights Act
- iii. Pregnancy Disability Leave
- iv. Americans with Disability Act
- v. Workers Compensation Leave
- vi. Military Leave

A probationary employee may have the probationary appointment terminated during the period of protected leave under any of the following conditions:

- i. Termination of employment was already in progress at the time the probationary employee made use of a protected leave.
- ii. The probationary employee would have been laid off had the employee been at work and not on a protected leave.
- iii. The probationary employee is unable to perform an essential function of the position, because of a physical or mental condition, including the continuation of a serious health condition.

### **SECTION 9.3 OBJECTIVE OF PROBATIONARY PERIOD**

The probationary period shall be regarded as part of the testing process and shall be utilized for closely observing the employee's work, for securing the most effective adjustment of a new employee to his position, and for determining the employee's fitness for the position.

### **SECTION 9.4 REJECTION OF A PROBATIONARY EMPLOYEE**

During the probationary period, an employee may be rejected without cause or prejudice and with no right of an appeal. The Appointing Authority may recommend rejection of a probationary employee to the Human Resources Officer. Notification of rejection shall be served in writing on the probationary employee by the Human Resources Officer prior to the completion of the probationary period. A copy of the notification shall be placed in the probationary employee's personnel file.

### **SECTION 9.5 PROBATIONARY PERIOD FOLLOWING PROMOTION**

With the exception of the sworn personnel of the Police Department, every employee who is promoted to a higher classification shall serve a six (6) month probationary period of continuous service in the higher classification. Sworn personnel of the Police Department shall serve a probationary period of one continuous year (12 months) in the higher classification.

### **SECTION 9.6 REJECTION FOLLOWING PROMOTION**

An employee rejected during any phase of the probationary period following a promotional appointment shall be reinstated to the position from which he/she was promoted unless he/she is discharged for cause in the manner provided in the Gardena Municipal Code or these Rules for positions in the Competitive Service.

### **SECTION 9.7 TIME SERVED IN OTHER THAN REGULAR APPOINTMENT**

Time served in any type of appointment other than a regular appointment shall not count toward the probationary period of a regular appointment.

## **RULE 10 ATTENDANCE AND LEAVES**

### **SECTION 10.1 ATTENDANCE**

All employees shall be in attendance at their work in accordance with administrative regulations and the rules regarding work schedules, holidays and leaves. All offices and departments shall keep daily attendance records of employees, which shall be reported to the Payroll Office in the form and on the dates he/she shall specify.

### **SECTION 10.2 WORK SCHEDULES**

- (a) All employees shall be required to work a minimum number of hours per week as set forth in the Classification Plan of the City.
- (b) Daily hours of work, shifts, or leave parameters for employees within departments may and shall be modified and assigned by Department Heads as required to meet the operational requirements of said departments in accordance with Department policy and these Rules.
- (c) Exceptions to the above operation schedules shall be placed into effect as provided herein or by regulations prepared by the Human Resources Officer.

### **SECTION 10.3 HOLIDAYS**

City offices shall be closed on all legal holidays designated by the City Council. When a holiday falls on Sunday, the following Monday shall be observed. When a holiday falls on Saturday, the preceding Friday shall be observed. The rules for the assignment of holiday work schedules and the compensation for holidays worked shall be set forth in the appropriate Memorandum of Understanding (MOU).

### **SECTION 10.4 VACATION**

- (a) **Purpose.** The purpose of vacation is to enable each eligible employee to take leave so as to return to his/her work physically and mentally refreshed.
- (b) **Eligibility.** Vacation is available only to the following employees:
  - (1) Probationary, permanent or transitional full-time employees. Employees serving their initial probationary period in the service of the City will earn credits toward vacation for the time served during the initial probationary period. The credit will not vest to the employee until he/she receives a permanent appointment.
  - (2) Part-time employees shall accrue four hours of vacation leave per month if the total hours actually worked is equal to or exceeds sixty (60) hours for each pay period in the month.
- (c) **Rate of Pay.** Vacation with pay shall be granted by the appointing authority at the rate set forth in the Classification Plan of the City of Gardena.

- (d) **Vacation Allowances.** Vacation accrual and/or limits shall be set forth in the appropriate Memorandum of Understanding (MOU).

Subject to the approval of the Department Head and the Human Resources Officer, an eligible employee may be authorized to take vacation earned during the calendar year. A written report of each denied request for vacation signed by the proper Department Head, noting the details, shall be kept on file with the Human Resources Officer.

In the event one or more municipal holidays fall within an annual vacation leave, such holidays shall not be charged as vacation leave, but rather as holiday leave.

- (e) **Payment in Lieu of Vacation Leave.** An employee whose employment is terminated shall be paid in a lump sum for all accrued vacation leave earned but not taken prior to the effective date of termination. No such payment shall be made for vacation-accumulated contrary to the provisions of these Rules, and no employee shall receive payment or salary in lieu of taking his/her earned vacation except at the time of termination as specified in this section.

- (f) **Accrual of Benefits During Vacation Leave.** An employee on an authorized vacation leave will continue to accrue sick leave and vacation benefits while on such vacation leave, and the time spent on such vacation leave will count towards longevity and/or other seniority benefits. Vacation leave will not accrue during leaves of absence without pay unless required by law.

- (g) **Scheduling.** The Department Head, or designee, and the employee shall schedule times at which vacation leave is to be taken with due consideration being given to the desires of the employee and operational needs of the department. The request and approval process of vacation leave shall be determined by the Department Head as set forth by department policy.

## **SECTION 10.5 SICK LEAVE**

1. Full-time Employees and/or Part-time Employees covered under a collective bargaining agreement

- (a) **Definitions.**
- i. Sick Leave: Leave from work for the purposes of diagnosis, care, treatment of the existing health condition of an employee or an employee's immediate family member; preventative care for an employee or an employee's immediate family member; or for specified purposes for employees who are victims of domestic violence, sexual assault, or stalking.
  - ii. Preventative Care: Medical, dental and optical appointments to the extent that such appointments cannot be scheduled outside the workday. This includes disabilities caused by or attributed to pregnancy, miscarriage, abortion, childbirth and recovery therefrom.

iii. Immediate Family Member: Spouse, domestic partner, child, mother, father, brother, sister, grandmother, grandfather, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, or legal guardian.

(b) **Eligibility.** The provisions of this Section shall apply to all Full-time employees and/or Part-time employees covered under a collective bargaining agreement who have worked 30 or more days within a year of the commencement of employment and in accordance with State and Federal law.

(c) **Accrual of Sick Leave.** Sick leave with pay shall be granted by the appointing authority at the rate set forth in the appropriate Memorandum of Understanding (MOU) or as otherwise required by State and Federal law. There shall be no distinction between sick or family sick leave usage as it applies to the use of sick leave accruals. An employee may use the totality of their sick leave accruals for the purposes set forth in this policy for their own health condition or to care for a family member.

**Notification.** Sick leave shall not be considered as a privilege, which an employee may use at his/her discretion, but shall be allowed only in case of necessity and actual illness, injury or medical appointment. In order to receive compensation while absent on sick leave, the employee shall notify his/her superior prior to the time set for beginning his/her daily work shift, or in case of an emergency as soon as is practical.

When the need for sick leave is foreseeable an employee should notify their Supervisor/Manager of the needed leave at least 30 minutes prior to the start of their scheduled work shift unless otherwise designated by the Department's call-in procedures.

Sick leave will not be granted to any employee to permit an extension of the employee's vacation. Use of vacation leave in lieu of sick leave will not be permitted unless approved by the Department Head.

(d) **Abuse of Sick Leave.** Employees who are out of compliance with these provisions regarding the use of sick leave and/or who are suspected of committing sick leave abuse may be subject to discipline, up to and including termination. Sick leave abuse can include, but are not limited to, consistent patterns of unscheduled sick leave absences use in connection with weekends, holidays and/or scheduled days off. It is the City standard that sick leave absences of eight (8) or more work days in a rolling year or use of more than half of one's accrued sick leave balance in a year may be deemed as excessive absenteeism absent a bonafide reason or extenuating health problems.

(e) **Medical Certification or Other Documentation.** An employee may be required by the Human Resources Officer or Department Head to submit a

physician's certificate, as in accordance with State and Federal law, stating the cause of the absence if the employee remains off work for:

- i. Four (4) or more consecutive working days (pursuant to the Family Medical Leave Act (FMLA) and/or California Family Rights Act (CFRA) or eight (8) working days or more than one half of their annual sick leave accrual in a rolling one year period, if sick leave use is NOT attributable to FMLA/CFRA, as in accordance with State and Federal law;
- ii. The employee is a victim of domestic violence, sexual assault or stalking;
- iii. If there is suspicion of sick leave abuse.

Employees who have excessive absences, as set forth above in section (d) and/or a pattern of abuse in the form of unscheduled sick leave absences may be required to bring in a physician's certificate, or other reasonable proof of absence. The amount of time an employee shall be required to bring in a certification shall be reviewed annually and shall not exceed one (1) rolling year.

Department Heads will give their employees the benefit of the doubt and will not frequently or arbitrarily request physician's notes for routine sick leave usage, recognizing a considerable amount of time and expense is required to attend a medical visit to obtain a physician's certificate for work, absent suspicion of abuse.

- (f) **Fitness for Duty.** Employees may be required by the Department Head with the approval of the Human Resources Officer to report for an examination by a Medical Examiner selected by the City to determine fitness for duty. The City shall bear the cost for such examination.
- (g) **Accrual of Benefits During Sick Leave.** An employee on an authorized paid sick leave will continue to accrue sick leave and vacation benefits while on such paid sick leave, and the time spent on such sick leave will count towards longevity and/or other seniority benefits. Sick leave will not accrue during leaves of absence without pay unless required by law.
- (h) **Placement on Sick Leave.** A Department Head, or his/her designee, has the discretion to place employees on sick leave when, in the Department Head's judgment, the employee's presence at work would endanger the health and welfare of other employees or where the employee's illness or injury interferes with the performance of that employee's duties.

2. Part-time, Temporary, and Seasonal Employees not covered under a Collective Bargaining Agreement

- (a) **Introduction:** The City will comply with the provisions of Healthy Workplaces, Healthy Families Act of 2014 (AB 1522) known as the Paid Sick Leave Law.

- (b) **Definition:** Sick leave, under this provision, is defined as a necessary absence for diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or an employee's family member; or an employee who is a victim of domestic violence, sexual assault, or stalking to obtain relief, but not limited to a restraining order, or other injunctive relief, to help ensure the health, safety, or welfare of the victim or his or her child.

Family Members, for the purpose of this provision, are defined as follows:

- Child;
- Parent or parent-in-law;
- Spouse;
- Registered domestic partner;
- Grandparent;
- Grandchild; or
- Sibling.

- (c) **Eligibility and Usage of Paid Sick Leave:** At the start of each calendar year and/or the start of employment, an employee will be credited with 24 hours of Paid Sick Leave. After satisfying a 90-day employment requirement, employees are eligible to use up to 24 hours of paid sick leave in a calendar year. The minimum increment of paid sick leave that an employee can use at any one time is two (2) hours. Paid Sick Leave is in addition to any other City sick leaves and must be used first prior to the use of any other sick leaves.
- (d) **Conversion of Paid Sick Leave:** Paid Sick Leave is use or lose and will not be carried over to the following year. Paid Sick Leave may not be converted or cashed out if unused or upon separation from employment. However, if an employee is promoted or appointed to a full-time position the paid sick leave will carry over to the new position provided it is exhausted within that calendar year.
- (e) **Separation from Employment:** If an employee separates after 90 days of employment and is rehired within one year from the date of separation, the employee will not have to re-satisfy the 90-day employment period in order to use the accrued sick leave.

If an employee separates before 90 days of employment and is rehired within one year, the employee will be subject to meeting the 90-day employment requirement before being able to use the sick leave benefit.

If the employee is rehired within the same calendar year of previous separation, the employee's previous Paid Sick Leave balance will be restored. If the employee is rehired within a separate calendar year, after separation, the employee will receive a credit of 24 hours to his or her Paid Sick Leave balances.



- (f) **Clarification of Sick Days:** The sick days provided, pursuant to this policy, are not in addition to any sick days that may be available to an employee pursuant to City-paid leave policies that satisfy the requirements of AB 1522.
- (g) **Notification of Use of Paid Sick Leave:** Paid Sick Leave will be provided to the employee upon oral or written request of an employee. This request should be made to the employee's direct supervisor/lead or designee. If the need for the use of paid sick leave is foreseeable, the employee must provide reasonable advance notification to his or her direct supervisor/lead or designee. If the need for the use of Paid Sick Leave is unforeseeable, the employee must provide notice of the need for the leave as soon as practicable. This notice must comply with departmental rules or procedures to minimize disruption of departmental operations.

Utilization of sick leave for domestic violence, sexual assault or stalking may require supporting documentation.

#### **SECTION 10.6 INDUSTRIAL ACCIDENT LEAVE**

- (a) **Miscellaneous Employees – Workers' Compensation.** The City will pay 85 percent (85%) of full salary in lieu of temporary disability payments for all permanent full-time employees, with the exception of Transitional employees and sworn personnel of the Police Department, for leave of absence due to injury arising out of or in the course of employment as follows: sixty (60) calendar days off for every year of full-time employment with the City, to a maximum of twelve (12) months.

If additional time off is needed the City will coordinate the employee's City benefits with State Disability benefits. The employee is responsible for providing the start and end date of such state benefits to the Payroll Office. The City will pay the difference between the employee's base salary, excluding overtime pay, and the amount of the disability payments received by the employee under the Workers' Compensation laws of the State of California, by integrating sick leave or vacation pay until the employee's accumulated sick leave and vacation time are exhausted. All sick leave balances must be exhausted prior to application of vacation leave balances.

If additional time is needed beyond the maximum number of sick leave and vacation credits taken, the employee will receive such disability payments as allowed by the Workers' Compensation laws of the State of California.

- (b) **Police Sworn Personnel.** In the event any sworn employee of the Police Department is injured while on duty, the employee will be granted a leave of absence with pay in accordance with Section 4850 of the Labor Code of the State of California.

- (c) **Accrual of Benefits During Industrial Disability Leave.** Any employee on an authorized leave because of an industrial injury will continue to accrue sick leave and vacation benefits while on such industrial disability leave, and the time spent on such industrial disability leave will count toward longevity and/or seniority benefits, provided, however, sworn members of the Police Department may not use sick leave earned while on disability leave to continue a leave of absence beyond termination of benefits as provided for in Section 4850 of the Labor Code of the State of California.

#### **SECTION 10.7 BEREAVEMENT LEAVE**

In the event of death of an immediate family member, an employee may be absent as set forth in the appropriate Memorandum of Understanding (MOU). Immediate family member is defined in accordance with the applicable MOU.

The City shall also comply with the provisions of the Family Medical Leave Act (FMLA) and California Rights Leave Act (CFRA) where applicable.

#### **SECTION 10.8 LEAVE OF ABSENCE WITHOUT PAY**

- (a) **Eligibility.** Upon recommendation of the Appointing Authority and approval of the Human Resources Officer, an employee may be granted a leave of absence without pay for a period not to exceed thirty (30) calendar days, except as otherwise provided for in these Rules. Any leave of absence, which continues beyond thirty (30) calendar days, must, in addition to the aforementioned approvals, receive approval from the City Council. An employee asking for a leave of absence without pay shall submit a letter to his/her Department Head stating the reasons for the request. The Department Head shall submit the request with a recommendation and reasons for approval or denial to the Human Resources Officer for disposition. If a leave of absence without pay is not approved by the Human Resources Officer, the Human Resources Officer shall state in writing to the requesting employee the reasons for the denial. The decision of the Human Resources Officer shall be final.
- (b) **Notice to Employee.** Upon approval of the request for a leave of absence without pay, the employee will be notified by the Human Resources Officer of the approval of such request and the date the employee is expected to return to work.
- (c) **Return to Work.** Upon expiration of an approved leave of absence without pay, the employee shall be reinstated in the position held at the time leave was granted or his/her name shall be entered on a re-employment list.
- (d) **Failure to Return to Work.** Failure on the part of the employee to report to duty within 24 hours after the expiration of a leave of absence without pay may be cause for discipline, up to and including, termination.

- (e) **Physical Examination Required.** Upon expiration of a leave of absence without pay of more than thirty (30) calendar days' duration, it shall be within the discretion of the Human Resources Officer to require a fitness for duty examination of the employee by a physician selected by the at City and the City's expense.
- (f) **Conditions of Leave.** A leave without pay is not a break in service or employment, and rights accrued at the time the leave is granted are retained by the employee; however, vacation and sick leave accruals, increases in salary, all other paid leaves, holidays and fringe benefits and other similar benefits shall not accrue to a person granted such leave during the period of absence, except as set forth in this Section and/or in accordance with the Memorandum of Understanding. The City is not required to maintain contributions toward group health and life insurance or retirement benefits except as required by law. An employee may maintain his or her health and life insurance benefits (including for eligible dependents) by timely paying the appropriate premiums. During the period of such leaves, all service and leave credits shall be retained at the levels existing as of the effective date of the leave. The employee shall be reinstated to his or her former position upon the timely return from the authorized leave, or to a comparable position if the former position is abolished.
- (g) **Denial of Leave of Absence Without Pay.** The Human Resources Officer and/or the City Council as specified in subsection (a) of this Section may deny a request for a leave of absence without pay or extension thereof. A leave of absence without pay may be denied if an employee has available accruals to authorize a paid leave.
- (h) **Revocation of Approved Leave.** A leave of absence without pay, which has been granted, by the Human Resources Officer or the City Council may be revoked by the grantor upon giving the employee seven (7) calendar days' written notice.

#### **SECTION 10.9 MILITARY LEAVE**

Military leave shall be granted in accordance with the Military and Veterans Code of the State of California, and applicable provisions of Federal and State law. All employees entitled to military leave shall give the appointing authority the opportunity, within the limits of military regulations, to determine when such leave will be taken. City officers or employees who have one (1) year or more of full-time City employment immediately prior to the beginning of requested military leave shall receive their regular City compensation during the military leave, not to exceed a period of thirty (30) calendar days in any fiscal year, or as may be approved by the City Council.

#### **SECTION 10.10 PREGNANCY DISABILITY LEAVE**

An employee who is disabled because of pregnancy, childbirth, or a related medical condition is entitled to an unpaid pregnancy disability leave for up to four (4) months.

- (a) **Notice & Certification Requirements.**

- (1) Requests for pregnancy disability leave must be submitted in writing and must be approved by the employee's supervisor or department head before the leave begins. The request must be supported by a written certification from the attending physician stating that the employee is disabled from working by pregnancy, childbirth or a related medical condition. The certification must state the expected duration of the disability and the expected date of return to work.
- (2) All leaves must be confirmed in writing, have an agreed-upon specific date of return, and be submitted to the department director prior to being taken. Requests for an extension of leave must be submitted in writing to the department director prior to the agreed date of return and must be supported by a written certification of the attending physician that the employee continues to be disabled by pregnancy, childbirth, or a related medical condition.

(b) **Compensation During Leave.**

Pregnancy disability leaves are without pay. However, the employee may first use accrued sick leave, vacation leave, and then any other accrued paid time off during the leave if leave accruals are available.

(c) **Benefits During Leave.**

- (1) The City will continue to maintain and pay for health insurance coverage for up to four (4) months while the employee is out on pregnancy disability leave. If the employee does not return to work following pregnancy disability leave, the City may recover premiums it paid to maintain health insurance coverage during the leave unless:
  - (i) The employee is taking leave under the California Family Rights Act and the employee chooses not to return to work following the CFRA leave;
  - (ii) The employee's inability to return to work is due to the continuation, recurrence, or onset of a health condition that entitles the employee to pregnancy disability leave, unless the employee chooses not to return to work following the leave;
  - (iii) The employee has non-pregnancy related medical conditions requiring further leave, unless the employee chooses not to return to work following the leave; or
  - (iv) There are other circumstances beyond the control of the employee, including, but not limited to, circumstances where the employer is responsible for the employee's failure to return to work (e.g., the employer does not return the employee to her same position or reinstate the employee to a comparable position), or circumstances where the employee must care for a family member (e.g., the employee gives birth to a child with a serious health condition).

- (2) Sick and Vacation Leave Accrual: Sick leave and vacation leave do not accrue while an employee is on unpaid pregnancy disability leave.

(d) **Reinstatement.**

- (1) Upon the expiration of pregnancy leave and the City's receipt of a written statement from the health care provider that the employee is fit to return to duty, the employee will be reinstated to her original or an equivalent position, so long as it was not eliminated for a legitimate business reason during the leave.
- (2) If the employee's original position is no longer available, the employee will be assigned to an open position that is substantially similar in job content, status, pay, promotional opportunities, and geographic location as the employee's original position.
- (3) If upon return from leave an employee is unable to perform the essential functions of her job because of a physical or mental disability, the City will initiate an interactive process with the employee in order to identify a potential reasonable accommodation.
- (4) An employee who fails to return to work after the termination of her leave loses her reinstatement rights.

**SECTION 10.11 FAMILY AND MEDICAL LEAVE**

The City will provide family and medical care leave for eligible employees as required by state and federal law. The following provisions set forth certain of the rights and obligations with respect to such leave. Rights and obligations which are not specifically set forth below are set forth in the Department of Labor regulations implementing the Federal Family and Medical Leave Act of 1993 ("FMLA"), and the regulations of the California Family Rights Act ("CFRA"). Unless otherwise provided by this policy, "leave" under this policy shall mean leave pursuant to the FMLA and CFRA.

(a) **Leave is only permitted for the following reasons:**

- (1) The birth of a child or to care for a newborn of an employee;
- (2) The placement of a child with an employee in connection with the adoption or foster care of a child;
- (3) Leave to care for a child, parent, spouse, or domestic partner who has a serious health condition;
- (4) Leave because of a serious health condition that makes the employee unable to perform the functions of his/her position;
- (5) Leave for a "qualifying exigency" may be taken arising out of the fact that an employee's spouse, son, daughter, or parent is on covered active duty or call to active duty status (under the FMLA only, not the CFRA); or
- (6) Leave to care for a spouse, son, daughter, parent, or "next of kin" who is a covered servicemember of the United States Armed Forces who has a

serious injury or illness incurred in the line of duty while on active military duty or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces (this leave can run up to 26 weeks of unpaid leave during a single 12-month period) (under the FMLA only, not the CFRA).

Employees who misuse or abuse FMLA leave may be disciplined up to and including termination.

**(b) Amount of Leave.**

Eligible employees are entitled to a total of 12 workweeks (or 26 weeks to care for a covered servicemember) of leave during any 12-month period. City measures the 12-Month Period for purposes of FMLA using a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken.

Where FMLA leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first.

**(1) Minimum Duration of Leave**

If leave is requested for the birth, adoption or foster care placement of a child of the employee, leave must be concluded within one (1) year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two (2) weeks. However, an employee is entitled to leave for one (1) of these purposes (e.g., bonding with a newborn) for at least one day, but less than two (2) weeks duration on any two (2) occasions.

If leave is requested to care for a child, parent, spouse or the employee him/herself with a serious health condition, there is no minimum amount of leave that must be taken. However, the notice and medical certification provisions of this policy must be complied with.

**(2) Parents Both Employed by the City**

In any case in which both parents are employed by the City and are entitled to leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to 12 workweeks during any 12-month period if leave is taken for the birth or placement for adoption or foster care of the employees' child (i.e., bonding leave).

In any case in which spouses both employed by the City are entitled to leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to 26 workweeks during any 12-month period if leave is taken to care for a covered servicemember.

Except as noted above, this limitation does not apply to any other type of leave under this policy.

(c) **Employee Benefits While on Leave.**

Leave under this policy is unpaid.

(1) Health Benefits

While on family and medical care leave, employees will continue to be covered by the City's group health insurance to the same extent that coverage is provided while the employee is on the job for up to 12 weeks each leave year. If the employee is disabled by pregnancy, coverage will continue to be covered for up to four (4) months each leave year.

In the event an employee is disabled by pregnancy and also uses leave under the California Family Rights Act, the City will maintain the employee's health benefits while the employee is disabled by pregnancy (up to four months or 17 weeks) and during the employee's CFRA leave (up to 12 weeks). However, employees will not continue to be covered under the City's other benefit plans. Employees may make the appropriate contributions for continued coverage under the preceding non-health benefit plans by payroll deductions or direct payments made to these plans.

Depending on the particular plan, the City will inform the employee whether the premiums should be paid to the carrier or to the City. Coverage on a particular plan may be dropped if the employee is more than thirty (30) days late in making a premium payment. However, the employee will receive a notice at least fifteen (15) days before coverage is to cease, advising him/her that coverage will be dropped if the premium payment is not paid by a certain date. Employee contribution rates are subject to any change in rates that occurs while the employee is on leave.

If an employee fails to return to work after his/her leave entitlement has been exhausted or expires, the City has the right to recover its share of health plan premiums for the entire leave period, unless the employee does not return because of the continuation, recurrence, or onset of a serious health condition of the employee or his/her family member which would entitle the employee to leave, or because of circumstances beyond the employee's control. The City shall have the right to recover premiums through deduction from any sums due the City (e.g., unpaid wages, vacation pay).

(d) **Substitution of Paid Accrued Leaves.**

While on leave under this policy, as set forth herein, an employee may elect to concurrently use paid accrued leaves. Similarly, the City may require an

employee to concurrently use paid accrued leaves after requesting FMLA and/or CFRA leave, and may also require an employee to use family and medical care leave concurrently with a non-FMLA/CFRA leave, which is FMLA/CFRA-qualifying.

(1) Employee's Right to Use Paid Accrued Leaves Concurrently with Family Leave

Where an employee has earned or accrued paid vacation, administrative leave, compensatory time, or personal or family leave, that paid leave may be substituted for all or part of any (otherwise) unpaid leave under this policy.

As for sick leave, an employee is entitled to use sick leave concurrently with leave under this policy if:

- i. The leave is for the employee's own serious health condition; or
- ii. The leave is needed to care for a parent, spouse, child, or domestic partner with a serious health condition, and would be permitted as sick leave under the City's sick leave policy.

(2) The City's Right to Require an Employee to Use Paid Leave When Using FMLA/CFRA Leave

Employees must exhaust their accrued leaves concurrently with FMLA/CFRA leave to the same extent that employees have the right to use their accrued leaves concurrently with FMLA/CFRA leave, with two exceptions:

- i. Employees are required to use accrued compensatory time earned in lieu of overtime earned pursuant to the Fair Labor Standards Act; and
- ii. Employees will only be required to use sick leave concurrently with FMLA/CFRA leave if the leave is for the employee's own serious health condition.

(3) The City's Right to Require an Employee to Exhaust FMLA/CFRA Leave Concurrently with Other Leaves

If an employee takes a leave of absence for any reason, which is FMLA/CFRA-qualifying, the City may designate that non-FMLA/CFRA leave as running concurrently with the employee's 12-week FMLA/CFRA leave entitlement. Sworn police personnel on leave pursuant to Labor Code § 4850 are excepted from this section.

(4) The City's and Employee's Rights if an Employee Requests Accrued Leave, Other Than Accrued Sick Leave, Without Mentioning Either the FMLA or CFRA



If an employee requests to utilize accrued vacation leave or other accrued paid time off, other than accrued sick leave, without reference to a FMLA/CFRA-qualifying purpose, the City may not ask the employee if the leave is for a FMLA/CFRA-qualifying purpose. However, if the City denies the employee's request and the employee provides information that the requested time off is for a FMLA/CFRA-qualifying purpose, the City may inquire further into the reason for the absence. If the reason is FMLA/CFRA-qualifying, the City may require the employee to exhaust accrued leave as described above.

(e) **Medical Certification.**

Employees who request leave for their own serious health condition or to care for a child, parent or a spouse who has a serious health condition must provide written certification from the health care provider of the individual requiring care if requested by the City.

If the leave is requested because of the employee's own serious health condition, the certification must include a statement that the employee is unable to work at all or is unable to perform the essential functions of his/her position.

Employees who request leave to care for a covered servicemember who is a child, spouse, parent, or "next of kin" of the employee must provide written certification from a health care provider regarding the injured servicemember's serious injury or illness.

The first time an employee requests leave because of a qualifying exigency, an employer may require the employee to provide a copy of the military member's active duty orders or other documentation issued by the military which indicates that the military member is on covered active duty or call to active duty status in a foreign country, and the dates of the military member's active duty service. A copy of new active duty orders or similar documentation shall be provided to the employer if the need for leave because of a qualifying exigency arises out of a different active duty or call to active duty status of the same or a different military member.

(1) Time to Provide a Certification

When an employee's leave is foreseeable and at least thirty (30) days' notice has been provided, if a medical certification is requested, the employee must provide it before the leave begins.

When this is not possible, the employee must provide the requested certification to the City within the time frame requested by the City (at least fifteen (15) calendar days), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

(2) Consequences for Failure to Provide an Adequate or Timely Certification

If an employee provides an incomplete medical certification, the employee will be given a reasonable opportunity to cure any such deficiency. However, if an employee fails to provide a medical certification within the time frame established by this policy, the City may delay the taking of FMLA/CFRA leave until the required certification is provided.

(3) **Second and Third Medical Opinions**

If the City has reason to doubt the validity of a certification, the City may require a medical opinion of a second health care provider chosen and paid for by the City. If the second opinion is different from the first, the City may require the opinion of a third provider jointly approved by the City and the employee, but paid for by the City. The opinion of the third provider will be binding. An employee may request a copy of the health care provider's opinions when there is a second or third medical opinion sought.

(4) **Intermittent Leave or Leave on a Reduced Leave Schedule**

If an employee requests leave intermittently (a few days or hours at a time) or on a reduced leave schedule to care for an immediate family member with a serious health condition, the employee must provide medical certification that such leave is medically necessary. "Medically necessary" means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule.

(f) **Employee Notice of Leave.**

Although the City recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much notice as possible of their need for leave. Except for qualifying exigency leave, if leave is foreseeable, at least thirty (30) days' notice is required. In addition, if an employee knows that he/she will need leave in the future, but does not know the exact date(s) (e.g. for the birth of a child or to take care of a newborn), the employee shall inform his/her supervisor as soon as possible that such leave will be needed. If the City determines that an employee's notice is inadequate or the employee knew about the requested leave in advance of the request, the City may delay the granting of the leave until it can, in its discretion; adequately cover the position with a substitute. For foreseeable leave due to a qualifying exigency, an employee must provide notice of the need for leave as soon as practicable, regardless of how far in advance such leave is foreseeable.

(g) **Reinstatement upon Return from Leave.**

(1) **Right to Reinstatement**

Upon expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an

equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. Employees have no greater rights to reinstatement, benefits and other conditions of employment than if the employee had been continuously employed during the FMLA/CFRA period.

If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the reinstatement date differs from the original agreement of the employee and City, the employee will be reinstated within two (2) business days, where feasible, after the employee notifies the employer of his/her readiness to return.

(2) Employee's Obligation to Periodically Report on His/Her Condition

Employees may be required to periodically report on their status and intent to return to work. This will avoid any delays to reinstatement when the employee is ready to return.

(3) Fitness-for-Duty Certification

As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition, which made the employee unable to perform his/her job, the employee must obtain and present a fitness-for-duty certification from the health care provider that the employee is able to resume work. Failure to provide such certification will result in denial of reinstatement.

(4) Reinstatement of "Key Employees"

The City may deny reinstatement to a "key" employee (i.e., an employee who is among the highest paid ten percent (10%) of all employed by the City within 75 miles of the work site) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the City, and the employee is notified of the City's intent to deny reinstatement on such basis at the time the employer determines that such injury would occur.

**(h) Required Forms.**

Employees must fill out the following applicable forms in connection with leave under this policy:

- (1) "Request for Family or Medical Leave Form" prepared by the City to be eligible for leave. NOTE: EMPLOYEES WILL RECEIVE A CITY RESPONSE TO THEIR REQUEST, WHICH WILL SET FORTH CERTAIN CONDITIONS OF THE LEAVE.
- (2) Medical (Physician's) certification—either for the employee's own serious health condition or for the serious health condition of a child, parent, spouse or domestic partner.

**SECTION 10.12 ADMINISTRATIVE LEAVE**

Upon the recommendation of the Department Head, the Human Resources Officer may grant a leave of absence up to a maximum of thirty (30) days for circumstances that warrant special consideration not covered by other sections of these Rules. An employee on an authorized administrative leave will continue to accrue sick leave and vacation benefits on such administrative leave, and the time spent on such leave will count towards longevity and/or other seniority benefits. Such leave may be extended beyond the thirty (30) days only with the approval of the City Manager.

**SECTION 10.13 ADMINISTRATIVE LEAVE PENDING AN INVESTIGATION**

The City may place an employee on administrative leave from the municipal service in the best interests of the City, including but not limited to enable the City to conduct an investigation. Except in the case of an at-will employee, the leave shall be with pay. Employees shall not be placed on administrative leave as harassment, discrimination or for other improper motive.

**SECTION 10.14 JURY LEAVE**

Every eligible, full-time employee of the City shall be permitted to serve on a jury, if the employee gives reasonable notice to the City that he or she is required to serve on the jury. Under such circumstances, the employee shall be paid the difference between his/her full salary and any payment received by him or her, except travel pay, for such duty up to a maximum of ten (10) days for each jury service, except for Federal Court for which no maximum number of days with pay will apply. Unpaid leave of absence shall be granted for any time in addition to the ten days' paid leave. Jury duty leave for part time employees will be in accordance with state and federal law.

Immediately upon return to active service, the employee shall complete all City forms related to jury service and payment of jury fees. The employee shall provide verification by the Court of the actual days and times served on the jury service.

Employees assigned to shift work may be reassigned by the Department Head to a shift that coincides with the court schedule during the period of court service. The absence with pay and all benefits shall continue to accrue during such absence.

**SECTION 10.15 LEAVE REQUIRED AS EMPLOYEE**

A City employee who, because of his/her status as an employee of the City, is required to be present in any legal proceedings for the City, shall be compensated at the employee's rate of pay for all such time spent and shall be considered to be on duty status.

### **SECTION 10.16 UNAUTHORIZED ABSENCE**

If an employee is absent from his/her job without permission or satisfactory excuse, the employee shall be subject to disciplinary action as determined by the appointing authority.

### **SECTION 10.17 STATE DISABILITY INSURANCE**

Any employee that applies for State Disability Insurance (SDI), in which their leave balances will be coordinated, must notify the Payroll Office of their application for the benefit. In addition, upon returning to work, the employee is required to notify the Payroll Office of the final SDI payment date. Failure to do so may result in an overpayment.

### **SECTION 10.18 DEPARTMENT POLICIES**

Each Department within the City may establish its own policies and procedures, including but not limited to establishing attendance standards. If Department policies conflict with these Rules and Regulations, then these Rules and Regulations shall prevail. Similarly, if Department policies conflict with any Memorandum of Understanding ratified by the City Council, then the Memorandum of Understanding shall prevail.

## **RULE 11 SUPPLEMENTAL EMPLOYMENT**

### **SECTION 11.1 POLICY**

The City of Gardena will permit, under certain circumstances, its employee to engage in supplemental employment regardless of whether the employee receives compensation in such employment. In accordance with Government Code Section 1126, such employment shall not be inconsistent with, or inimical to the employee's duties in the City or with the duties, functions, or responsibilities of the City.

### **SECTION 11.2 GENERAL PROVISIONS**

- (a) Supplemental employment must be performed on the employee's own time. Employees will not be permitted to perform tasks related to supplemental employment while on duty with the City. For the purposes of this Rule, employment shall mean work of any kind for remuneration of any kind, including but not limited to work as an employee, independent contractor, advisor and/or consultant.
- (b) Supplemental employment shall not conflict with City employment including, but not limited to, the following ways:

  - (1) The alertness of the employee;
  - (2) The efficiency of the employee fulfilling all the requirements of City employment;
  - (3) The time required for the supplemental employment;
  - (4) Undue physical demands which might affect City employment; and
  - (5) Ethical considerations insofar as the supplemental and City are concerned.
- (c) Employee shall not solicit supplemental employment or work during City time or utilize municipally-owned equipment or facilities in accomplishing supplemental employment.
- (d) Employee shall not engage in any supplemental employment wherein said employment could be reasonably considered by the appointing authority as part of the employee's official duties with the City.
- (e) No injury or illness sustained while engaged in supplemental employment shall be chargeable to the City's State Compensation Insurance Fund policy, except as provided for by State law, and any absence resulting from non-City injury or illness shall be charged against employee's available sick leave.
- (f) The provisions of this resolution shall apply to all employees engaged in supplemental work at the time of the effective date of these Rules and Regulations, and further, apply to all future full-time employees of the City of Gardena immediately upon appointment to a position with the City.

### **SECTION 11.3 PROCEDURE**

- (a)** All outside employment by any employee of the City, whether full, part- time or conditional must receive the prior approval of the Department Head. The employee must provide specific information regarding the nature of the supplemental employment and such other information requested by the Department Head.
- (b)** The Department Head shall review all requests for supplemental employment and shall approve, condition, or deny the request. Factors for conditioning or denying supplemental employment request include, but are not limited to, the following:

  - (1) The employment involves the use of City time, City badge or uniform or the prestige or influence of the City employment;
  - (2) The supplemental work includes activities, which the employee performs in his/her work for the City;
  - (3) The supplemental employment involves work, which may become subject to the control, inspection, or review of the City;
  - (4) The employment involves time demands, which render his/her regular work less efficient;
  - (5) The supplemental employment is of a nature, which would be incompatible from an ethical standpoint with the City Government;
  - (6) The physical demands of the supplemental employment; or
  - (7) The location of the supplemental employment.
- (c)** The Department Head's decision shall be forwarded to the Human Resources Officer. If the Department Head conditions or denies the request or if the Human Resources Officer determines that it should be conditioned or denied, he/she shall notify the employee of such decision. The employee shall be afforded an opportunity to appeal the decision by written notification to the Human Resources Officer made within ten (10) working days from the date of notification to the employee.
- (d)** Employees whose supplemental employment is ongoing in nature must file a new request the first of December of each year.
- (e)** A new request must be submitted each time the employee changes positions or duties in either his/her City work or his/her supplemental work.
- (f)** The request for supplemental employment must be accompanied by evidence from the supplemental employer that the employee will be covered by the

employer's workers compensation insurance policy for injuries caused or aggravated by the supplemental employment. Should illness or injury occur to the employee during supplemental employment which causes the employee to miss his/her regular City work, the employee may either charge such leave to available sick leave or request an absence without pay.



## **RULE 12 TRANSFER, PROMOTION AND REINSTATEMENT**

### **SECTION 12.1 TRANSFER**

No person shall be transferred to a position for which he/she does not possess the minimum qualifications. Upon notice and approval by the Human Resources Officer, an employee may be transferred by the appointing authority at any time from one position to another position in the same or comparable class. For transfer purposes, a comparable class is one which involves the performance of similar duties or requires substantially the same basic qualifications.

If the transfer involves a change from one department to another, both Department Heads must consent to the transfer unless the Human Resources Officer orders the transfer for purposes of economy or efficiency. Transfers shall not be used to effectuate a promotion, demotion, advancement or reduction, each of which may be accomplished only as provided for in the Classification Plan or these Rules.

An employee transferred under this rule shall be required to serve a probationary period in the class to which he/she is transferred unless the Human Resources Officer determines a probationary period is not needed. If the employee does not successfully complete the probationary period in the new position, the employee shall be restored to his or her former position and be required to complete the balance of his or her probationary period in the original position, if any, that extended at the time of transfer. If the original position is filled or unbudgeted as the employee successfully completes his or her probationary period in the original position, the employee may be subject to layoff.

### **SECTION 12.2 PROMOTION**

Promotional examinations shall be open to those employees as provided for in SECTION 6.3 and 6.4 of these rules. Insofar as practicable and consistent with the best interests of the service, all vacancies in the Competitive Service shall be filled by promotion from within the Competitive Service, after a promotional examination has been given and a promotional list established.

If, in the opinion of the Human Resources Officer a vacancy in the position could be better filled by an open-competitive examination as provided for in SECTION 6.2 herein instead of a closed-promotional examination, the Human Resources Officer shall call for applications for the vacancy and arrange for an open-competitive examination and for the preparation and certification of an eligibility list.

### **SECTION 12.3 REINSTATEMENT**

Upon recommendation of the Department Head, review by the City Medical Examiner and approval by the Human Resources Officer, a permanent or promotional probationary employee who has resigned with a good record may be reinstated within two (2) years of the effective date of resignation to his/her former position, if vacant, or to a vacant position in the same or comparable class.

Upon reinstatement, the employee, for purposes of seniority longevity, City-provided retiree benefits, accruals, and any other supplemental benefits, shall receive no credit for former employment, unless by specific written direction of the Human Resources Officer at the time of reinstatement. The date of the reinstatement shall be considered the employee's new anniversary date. Credit for former years of experience in the class may be granted in establishing the step rate for such employee. A reinstated employee will be entitled to the leave accrual rates held prior to separation.

## **RULE 13 SEPARATION FROM CITY SERVICE**

### **SECTION 13.1 DISCHARGE**

Any employee in the competitive service may be discharged at any time by the appointing authority for cause. Whenever it is the intention of the appointing authority to discharge an employee for cause the Human Resources Officer shall be notified in writing. Any employee who is to be discharged shall receive a written statement of the reasons for such action and notice of all rights provided for in these Rules and Regulations.

### **SECTION 13.2 LAYOFF**

The appointing authority may lay off an employee in the Competitive Service because of a material change in duties or organization or a shortage of work or funds. The name of the employee laid off shall be placed on the appropriate re-employment list as provided for by these Rules. For represented employees the procedure and timetable for notification of layoff shall be as set forth in the appropriate Memorandum of Understanding (MOU). For management and confidential employees the appointing authority shall notify in writing the Human Resources Officer of the intended action with reasons therefore ten (10) working days before the effective date of a layoff. A copy of such notice shall be given to the affected employee.

### **SECTION 13.3 RESIGNATION**

An employee wishing to leave the Competitive Service in good standing shall provide the appointing authority a written resignation an effective date that is at least two calendar weeks after the date resignation is provided and which states reasons for leaving. Any resignation, whether timely or not, shall be determined accepted immediately and shall be irrevocable.

An employee must resign his or her position upon being elected to any office of the City of Gardena, or an employee must also resign his or her position upon being elected or appointed to an office in another public agency, which is in conflict or incompatible with his/her employment with the City.

The resignation shall be forwarded to the Human Resources Officer with a written statement by the appointing authority as to the employee's service performance and other pertinent information concerning the cause for resignation. Failure to comply with this Rule shall be entered on the service record of the employee and may be cause for denying future employment by the City. The resignation of an employee who fails to give notice shall be immediately reported in writing by the Department Head to the Human Resources Office. The effective date for all resignations shall be at the end of a regularly-assigned workday or shift.

## **RULE 14 REASONABLE ACCOMMODATION**

The City provides employment-related reasonable accommodations to qualified individuals with disabilities within the meaning of the California Fair Employment and Housing Act and the Americans with Disabilities Act.

### **SECTION 14.1 PROCEDURE**

(a) **Request for Accommodation.**

An employee who desires a reasonable accommodation in order to perform essential job functions should make such a request, preferably in writing, to the Human Resources Department. The request must identify: a) the job-related functions at issue; and b) the desired accommodation(s).

(b) **Reasonable Documentation of Disability.**

Following receipt of the request, the Human Resources Department may require additional information, such as reasonable documentation of the existence of a disability.

(c) **Fitness for Duty Examination.**

The City may require an employee to undergo a fitness for duty examination at the City's expense to determine whether the employee can safely perform the essential functions of his or her job with or without reasonable accommodation. The City may also require that a City-approved physician conduct the examination.

(d) **Interactive Process Discussion.**

After receipt of reasonable documentation of disability and/or a fitness for duty report, the City will arrange for a discussion, in person or via telephone conference call, with the applicant or employee, and his or her representative(s), if any. The purpose of the discussion is to work in good faith to fully consider all feasible potential reasonable accommodations.

(e) **Case-by-Case Determination.**

The City determines, in its sole discretion, whether reasonable accommodation(s) can be made, and the type of accommodation(s) to provide. The City will not provide accommodation(s) that would pose an undue hardship upon City finances or operations, or that would endanger the health or safety of the employee or others. The City will inform the employee of its decision as to reasonable accommodation(s) in writing.

## **RULE 15 FITNESS FOR DUTY**

### **SECTION 15.1 CONDITIONAL OFFER OF EMPLOYMENT EXAMINATIONS**

After a conditional offer of employment has been extended to an applicant, the City may, in compliance with all applicable laws, require the applicant to submit to a fitness for duty examination prior to conferring appointment.

### **SECTION 15.2 CURRENT EMPLOYEE EXAMINATIONS**

The Human Resources Officer or his or her designee may require an employee to submit to a fitness for duty examination to determine if the employee is able to safely perform the essential functions of his or her job when there is reasonable suspicion the employee may be unable to perform or has difficulty performing one or more essential functions of his or her job.

### **SECTION 15.3 ROLE OF HEALTH CARE PROVIDER**

A City-selected health care provider will examine the employee at City expense. The City will provide the health care provider with a letter requesting a fitness for duty examination and a written description of the essential functions of the employee's job. The health care provider will examine the employee and provide the City with non-confidential information regarding whether: 1) the employee is fit to perform essential job functions; 2) there are any reasonable accommodations that would enable the employee to perform essential job functions; and 3) the employee's continued employment poses a threat to the health and safety of him or herself or others. If the health care provider exceeds the scope of the City's request and provides confidential health information, the City will return the report to the health care provider and request another report that includes only the non-confidential fitness for duty information that the City has requested.

### **SECTION 15.4 MEDICAL INFORMATION**

During the course of a fitness for duty examination, the City will not seek or use information regarding an employee's medical history, diagnoses, or course of treatment without an employee's written authorization.

### **SECTION 15.5 MEDICAL INFORMATION FROM THE EMPLOYEE'S HEALTH CARE PROVIDER**

An employee may submit confidential medical information to the City from his or her personal health care provider. If the employee provides written authorization, the Human Resources Officer will submit the information that the employee provides to the City-paid health care provider who conducted the examination. The Human Resources Officer will request the City-paid health care provider to determine whether the information alters the original fitness for duty assessment.

### **SECTION 15.6 INTERACTIVE PROCESS DISCUSSION**

After receipt of both the health care provider's fitness for duty report, and the analysis of the employee's personal health care information (if any) the Human Resources Officer will arrange for a discussion or

discussions, in person or via conference telephone call, with the employee and his or her representatives, (if any). The purpose of the discussion(s) will be in good faith to fully discuss all feasible potential reasonable accommodations. During the discussion(s), the Human Resources Officer will also discuss, if relevant, alternate available jobs for which the employee is qualified, or whether the employee qualifies for disability retirement or family and medical leave.

#### **SECTION 15.7 DETERMINATION**

After the discussion(s), the Human Resources Officer will review the information received, and determine if there is a reasonable accommodation that would enable the employee to perform essential job functions, or if the accommodations would pose an undue hardship on City finances or operations. The Human Resources Officer will inform the employee of his or her determination. The Human Resources Officer will use his or her discretion based upon the particular facts of each case.

#### **SECTION 15.8 SECTION 15.8 ADMINISTRATIVE DISMISSAL OF PHYSICALLY OR MENTALLY INCAPACITATED EMPLOYEE**

In the event an employee in any class becomes physically or mentally incapacitated so that he/she is unable to perform the duties of the class to which he/she has permanent status and there is no lower class to which he/she may be demoted, the Human Resources Officer may by administrative action dismiss or retire the employee.

## **RULE 16 EMPLOYEE CONDUCT AND DISCIPLINE**

### **SECTION 16.1 GENERAL PROVISIONS**

Corrective action is defined in these Rules as any effort taken by management to effect an improvement in the behavior of an employee who is not functioning according to the standards and practices established by management. Management response to problem behaviors within the work environment should begin immediately upon identification of the problem and should focus on expeditiously correcting the problem. Within this context, corrective actions are not defined as disciplinary but may be used as the basis for initiating the disciplinary process as specified in these Rules.

Disciplinary actions, as used within these Rules, include any management action taken to enforce conformity to standard policies, rules and regulations and other administrative or legal requirements or practices designed to promote the efficient and effective functioning of City operations. All disciplinary actions must be properly documented as outlined herein.

### **SECTION 16.2 AUTHORITY TO TAKE CORRECTIVE AND DISCIPLINARY ACTIONS**

Any authorized supervisor or manager may take corrective action as needed with the employees within his/her assigned work group. The appointing authority or his/her designee shall have the power and duty to take disciplinary action pursuant to provisions of this Rule. If a Department Head is the appointing authority, he or she must obtain the approval of the Human Resources Officer before taking the disciplinary action except in the case of Sworn Personnel in which the Chief of Police will consult with the City Manager or his/her designee. If the City Manager or the City Council is the appointing authority, no prior consent shall be required.

### **SECTION 16.3 TYPES OF CORRECTIVE AND DISCIPLINARY ACTIONS**

#### **(a) CORRECTIVE ACTIONS:**

- (1) **Counseling:** Open discussion with the employee to clarify expected behavior and need for corrective action regarding current performance. Emphasis is on problem identification and support in seeking a positive resolution of the problem.
- (2) **Written Reminder:** An official notification in writing by an authorized departmental manager or supervisor, or by the appointing authority to the employee that there is cause for dissatisfaction with his or her services and that further disciplinary measures may be taken if the cause is not corrected.

(b) **DISCIPLINARY ACTIONS:**

- (1) **Written Reprimand:** An official notification in writing by an authorized departmental manager or supervisor, or by the Appointing Authority to the employee that there is cause for dissatisfaction with his or her services and that further disciplinary measures may be taken if the cause is not corrected. A Written Reprimand is a disciplinary action and as such is made part of the employee's official department file and the City Personnel File, with a copy given to the employee.
- (2) **Suspension:** An employee is placed on non-pay status for disciplinary reasons, including, but not limited to poor performance, unsatisfactory behavior, or misconduct. The maximum number of days that an employee may be suspended from work without pay in any calendar year is thirty (30) calendar days. The fact that an employee has been suspended for the maximum number of days shall not be an impediment to imposition of additional discipline. Rather, the appointing authority may impose greater disciplinary measures.
- (3) **Reduction in Salary:** A temporary or permanent reduction in pay step within the employee's pay range may be given for any one (1) disciplinary action as defined in these Rules. A reduction in pay step within range is the withdrawal of increments granted for merit, efficiency and length of service. The maximum reduction in pay for any one (1) disciplinary action shall not exceed two (2) steps within the range for the employee's pay class and shall become effective on the date of the disciplinary action.
- (4) **Demotion:** An employee may be demoted to a lower classification or rank with reduction in salary.
- (5) **Dismissal:** An employee may be discharged from the municipal service.

**SECTION 16.4 GROUNDS FOR CORRECTIVE AND DISCIPLINARY ACTION**

Either corrective action or disciplinary action may be taken for cause, which may include, but is not limited to the following, insofar as they related to the employee's ability to perform the functions required by his/her employment with the City.

- (a) Fraud.
- (b) Dishonesty, including but not limited to falsification of records or making a false statement.
- (c) Incompetence or unsatisfactory performance.
- (d) Neglect of duty, i.e., failure to perform duties required of an employee within his/her position adequately.

- (e) Insubordination.
- (f) Willful disobedience.
- (g) Disrespect or discourteous treatment of the public, fellow employees or officials of the City.
- (h) Use, possession, sale or being under the influence of alcohol, illegal drugs or controlled substances, including but not limited to prescription medication taken without or in excess of a valid prescription, while on duty, on City property, in City vehicles or using City equipment.
- (i) Unjustified violence or threat of violence during work hours.
- (j) Excessive absenteeism that negatively impacts the employee's performance and/or the performance of other employees, regardless of the fact that the employee may have taken accrued and available sick leave, but without consideration of statutorily protected leaves.
- (k) Excessive tardiness.
- (l) Abuse of sick leave, including but not limited to use of sick leave when an employee is not sick and/or is otherwise not eligible to use sick leave by law.
- (m) Unauthorized absence.
- (n) Negligence or improper use of City property, or unauthorized, or carelessness in the use, care and handling of City Property.
- (o) Theft of City Property.
- (p) Violation of any of the provisions of the ordinances, resolutions or any rules and regulations that may be prescribed by the City Council, City Manager or published in the department or division of the employee.
- (q) Violation of or refusal to subscribe to any oath or affirmation, which is required by law in connection with City Employment.
- (r) Any act of conduct which, either during or outside of duty hours, is incompatible with service to the public that it causes discredit or would reasonably tend to cause discredit to fall upon the City, its employees, officers or departments/divisions.
- (s) Inattention to duty, or indolence.
- (t) Outside employment which is incompatible with the employee's position and not specifically authorized by the appointing authority or City Manager.



- (u) Acceptance from any source of a reward, gift or other form of remuneration in addition to regular compensation by an employee for the performance of his/her official duties.
- (v) Engaging in political activity during working hours, in a City uniform, and/or on City premises.
- (w) Misuse or Falsification of City records.
- (x) On or off duty conduct unbecoming of an employee of the City of Gardena.

**SECTION 16.5 NOTICE OF DISCIPLINARY ACTION**

- (a) **Notice of Intent to Discipline.** A written Notice of Intent to Discipline as prescribed in this Section shall be given to the employee by the appointing authority whenever a suspension, reduction-in-pay, demotion or dismissal of the employee is proposed for disciplinary reasons. When prior notification is not possible because of an emergency or immediate action is necessary, notification shall be given within forty-eight (48) hours after the action is taken to discipline the employee. A copy of each Notice of Intent to Discipline shall be forwarded to the Human Resources Officer.

**The Notice of Intent to Discipline shall state:**

- (1) The disciplinary action proposed.
  - (2) The specific charges upon which the actions based, including reference to the specific City or Department Rule or Regulation claimed to be violated.
  - (3) A summary of the facts upon which the charges are based.
  - (4) Notice of the employee's right to respond to the charges, either orally or in writing, including the date, time, and person to whom the employee may respond.
  - (5) Copies of the materials on which the intended discipline is based shall be provided concurrently with the Notice of Intent.
  - (6) Failure to respond in the time specified shall constitute a waiver of the right to respond.
- (b) **Response to Notice of Intent.** Except in emergency situations or by agreement, employees receiving a Notice of Intent to suspend, reduce salary, demote or dismissal shall be given an opportunity to informally respond orally or in writing no sooner than seven (7) nor more than fourteen (14) calendar days from the date of the Notice. The employee may present any information that is pertinent to the proposed action.

- (c) **Notice of Disciplinary Action.** If it is decided to proceed with the disciplinary action, a Notice of Disciplinary Action shall be served upon the employee within seven (7) calendar days of the decision to impose disciplinary action. A copy will then be sent to the Human Resources Officer for inclusion in the employee's official Personnel Service File.

The Notice of Disciplinary Action shall indicate the following:

- (1) The disciplinary action implemented.
- (2) The date of its implementation.
- (3) The specific City or departmental rules and regulations on which the violation is based.
- (4) A summary of the facts and circumstances involved in the violation.
- (5) Any rights of administrative appeal to which the employee is entitled.

#### **SECTION 16.6 APPEAL OF DISCIPLINARY ACTION**

If the employee wishes to appeal any disciplinary action of written reprimand, suspension, reduction in salary, demotion or dismissal, he/she shall submit to the Human Resources Officer within seven (7) calendar days of receiving the Written Reprimand or Notice of Disciplinary Action, a statement specifying the basis or bases for the appeal.

Any employee who has been suspended for five (5) days or less shall be entitled to an appeal to the Human Resources Officer. Any employee who has been suspended for more than five (5) days, given a reduction in salary, demoted or dismissed for disciplinary reasons shall be entitled to an appeal to the City Council.

- (a) **Appeal to the Human Resources Officer.** The Human Resources Officer shall meet with the employee on the propriety of the disciplinary action. The employee may present to the Human Resources Officer information relevant to the imposition of discipline.
- (1) **Findings and Orders.** The Human Resources Officer may sustain, modify or reject the disciplinary action, taking into account the factors noted below:
    - i. Whether there was a preponderance of evidence to support the disciplinary action.
    - ii. Whether there were violations or omissions of procedure in implementing the disciplinary action.

- iii. Whether the disciplinary action taken was unreasonable, capricious and arbitrary in view of the offense, the circumstances surrounding the offense, and the past record of the employee.

No action will be sustained if the disciplinary action taken resulted solely from unlawful discrimination.

- (2) Notification of Employee. The decision of the Human Resources Officer shall be forwarded to the affected employee within fourteen (14) days of the meeting.

**(b) Appeal to the City Council.**

- (1) Election to Conduct Hearing. The City Council shall at its next regular meeting consider the appeal and elect to either hear the matter itself (at a subsequent date) or request the Human Resources Officer to submit a list of three (3) Hearing Officers who would be made available to the agency under contract to provide special personnel services. From this list of three (3) Hearing Officers, the City Council shall select one, who will conduct a hearing in accordance with the provisions of this Rule.
- (2) Conduct of the Hearing. The employee may be represented by any person or attorney as he/she may select and may, at the hearing, produce on his/her behalf relevant oral or documentary evidence. Cross-examination of witnesses shall be permitted. The conduct and decorum of the hearing shall be under the control of the Mayor, if the City Council elects to hear the appeal, or the Hearing Officer, with due regard to the rights and privileges of the parties appearing before it. Hearings need not be conducted according to technical rules relating to evidence and witnesses. Hearings shall be open unless the employee requests in writing to have a closed hearing.
- (3) Findings, Recommendations and Decisions.
  - i. City Council. If the City Council has elected to hear the appeal itself, it shall within fifteen (15) calendar days after the conclusion of the hearing, affirm, revoke, or modify the disciplinary action taken. The City Council's decision shall be final.
  - ii. Hearing Officer. If a Hearing Officer hears the appeal, he or she shall, within fifteen (15) calendar days after the conclusion of the hearing, issue his or her findings and recommendations in writing to the employee and to the City Council. The City Council shall review the findings and recommendations of the Hearing Officer and may then affirm, revoke, or modify the disciplinary action taken. The decision of the City Council shall be final. The City

Council shall not harsher discipline without first having reviewed the official transcripts of the hearing.

- iii. **Judicial Review.** The decision of the City Council shall be binding, subject to judicial review pursuant to the provisions of Section 1094.5 of the California Code of Civil Procedure and further subject to the time limits for seeking such review pursuant to Section 1094.6 of the Code of Civil Procedure made applicable to the City by Gardena Municipal Code 1.12.040.
- (4) **Representation and Time Waiver.** The affected employee shall have the right to be represented by legal counsel and/or an Association representative at any stage in the above proceedings. All time frames may be waived by mutual agreement of all parties.

## **RULE 17 TRAINING OF EMPLOYEES**

### **SECTION 17.1 RESPONSIBILITY FOR TRAINING**

The City Council encourages the training programs of employees. Responsibility for developing training programs for employees shall be assumed jointly by the Human Resources Officer and Department Heads. Such training programs may include lecture courses, demonstrations, reading assignments, or other materials as may be available for the purpose of improving the effectiveness and broadening the knowledge of municipal officers and employees in the performance of their respective duties.

### **SECTION 17.2 CREDIT FOR TRAINING**

Participation in, and successful completion of, special training courses may be considered in making advancements and promotions. Evidence of such activity shall be filed by the employee with the Human Resources Officer. Where special courses are required for advancement to a higher-level position, no employee shall be advanced to such position until he/she has satisfactorily completed all such courses, or unless the taking of such courses has been waived by the Human Resources Officer.

### **SECTION 17.3 SPECIAL CONFERENCES, MEETINGS, INSTRUCTIONAL COURSES, OR SEMINARS**

Officers and employees may be granted special permission, without loss of pay, to attend professional or technical institutes or conferences, or other meetings as may contribute to the effectiveness of their service to the City. Such special permission is subject to the approval of the Department Head, Human Resources Officer, or the City Council, whichever is applicable. Evidence of such special permission to attend said conferences or meetings shall be furnished promptly by the Department Head to the Human Resources Officer. Officers and employees granted said special permission shall be considered to be on-duty-status.

## **RULE 18 PERFORMANCE EVALUATION**

### **SECTION 18.1 DEFINITION**

The performance evaluation system is a procedure used in evaluating the work performance of employees under their immediate supervision in the City's service. The frequency and content of the evaluation may vary depending upon the Department, Division, position, length of service, past performance, changes in job duties, or recurring performance problems.

### **SECTION 18.2 PURPOSE**

The performance evaluation system's purpose includes the following:

- (a) To improve supervisor-employee relations and meet the basic human needs of the employee;
- (b) To assess employee performance; and provide a record of employee performance;
- (c) To distinguish employees for purposes of assignment, in-service placement, and retention;
- (d) To (motivate employees to) improve employee performance and develop employee skills and abilities;
- (e) To recognize a job well done and establish plans to improve any performance deficiencies.

### **SECTION 18.3 APPLICABILITY**

Performance evaluation reports shall be made for all employees in the Competitive Service of the City at least annually.

### **SECTION 18.4 RATING PERIODS**

Performance evaluation reports shall be prepared in accordance with the following schedule:

- (a) For probationary employees serving a six-month probationary period, the City shall prepare performance evaluation reports at the third and sixth months of probation.
- (b) For probationary employees serving a twelve-month probationary period, the City shall prepare performance evaluation reports at the sixth and twelfth month of probation.
- (c) In the event a probationary employee is extended to an 18-month probationary period, the City shall prepare performance evaluation reports at the sixth, twelfth, and 18th month of probation.

- (d) For all full-time permanent employees in the Competitive Service, the City shall prepare performance evaluation reports at least annually. Annual reports must be prepared in a manner prescribed by the Human Resources Officer and submitted by the employee's merit review date each year to the Human Resources Officer for inclusion in the employee's permanent personnel service file.

#### **SECTION 18.5 PERFORMANCE RATINGS**

Performance ratings as indicated on the performance evaluation reports shall be given to each employee in a classified position in accordance with the following standards:

- (a) **Outstanding**: Shall be the rating given to any employee whose overall performance is notably superior to the job performance expected of a fully competent employee. Only truly exceptional employees should receive this rating.
- (b) **Above Average**: Shall be the rating given to any employee whose overall work performance is notably above the standards of performance required for the position.
- (c) **Satisfactory**: Shall be the rating given to any employee whose overall work performance meets the standards of performance required by the position. This is the most common performance rating.
- (d) **Needs Improvement**: Shall be the rating given to any employee whose overall work performance is below the standards of performance required for the position.
- (e) **Unsatisfactory**: Shall be the rating given to any employee whose overall work performance is unacceptable and substantially inferior to the standards of performance required for the position.

#### **SECTION 18.6 EMPLOYEE RESPONSE/APPEALS**

Should any employee feel aggrieved by the Performance Evaluation he/she has received, the employee may, pursuant to SECTION 16.6 of these Rules, appeal such evaluation to the Human Resources Officer and/or may write a written response, which will be attached to the Performance Evaluation. The decision of the Human Resources Officer shall be final.

## **RULE 19 GRIEVANCES**

### **SECTION 19.1 PURPOSE**

The purpose of this Rule is to establish a mechanism for the orderly resolution of disputes regarding the alleged violations of these Rules and Regulations or the applicable Memorandum of Understanding.

### **SECTION 19.2 DEFINITIONS**

- (a) **“Association”** – A recognized employee organization, acknowledged by the City as an employee association that represents employees of the City.
- (b) **“City”**- The City of Gardena.
- (c) **“Day”**- A calendar day ending at 5:00 p.m., unless otherwise specified within the context of its use.
- (d) **“Grievance”**- A controversy between the grievant and the City which involves only matters pertaining to one or more of the following:
  - (1) The interpretation or the alleged violation of the applicable terms and conditions of employment set forth in the most recent MOU;
  - (2) The interpretation or alleged violation of the Personnel Rules and Regulations.
- (e) **“Grievant”**- The employee, employees, or Association who present a grievance.
- (f) **“MOU”**- The Memorandum of Understanding applicable to the grievant.
- (g) **“Human Resources Officer”**- The City Manager or other person appointed to perform the functions of the office of the Human Resources Officer.
- (h) **“Supervisor”**- A supervisor with authority to resolve the grievance, including the Department Head.

### **SECTION 19.3 SCOPE AND LIMITATIONS**

- (a) This procedure shall only apply to grievances pertaining to alleged violations of these Rules and Regulations or the applicable MOU.
- (b) The grievant may be represented by an attorney, the appropriate Association, or both, at the formal stages of the grievance procedure.
- (c) The Association shall not pursue an employee’s grievance if that employee does not want to initiate or continue with the grievance, except the Association may pursue a grievance involving those matters described above in SECTION 19.2 (d)(1).



- (d) The time periods set forth in this procedure are mandatory.
- (e) Failure of the grievant to meet any time periods may, at the option of the person who is deciding the grievance, result in the grievance being denied or not considered.
- (f) Failure by the City to meet any time limit shall result in the grievance automatically brought into the next level at the end of the time period. The grievant will then be required to file all appropriate grievance or appeal documents within the applicable time period.
- (g) Any level or time period may be waived by written consent of both the grievant and the City.

#### **SECTION 19.4 PROCEDURE**

(a) **Step One: Informal Procedure.**

- (1) Within fourteen (14) calendar days of the act or omission which the grievant alleges violates these Rules and Regulations or the applicable MOU, the grievant shall discuss the grievance with the grievant's lowest level supervisor who shall attempt to resolve the grievance.
- (2) The supervisor shall respond either orally or in writing within seven (7) calendar days of the discussion.
- (3) Grievances which could affect a significant number of employees within the same Division or Department shall be commenced by a discussion with the Division or Department Head. The Division or Department Head shall respond within seven (7) days following the discussion. A grievance not resolved at this level may proceed directly to Step Three within the time limits set in paragraph (a) thereof.

(b) **Step Two: Formal Procedure.**

- (1) Except as provided in paragraph (3) of Step One, a grievance unresolved by Step One may be continued if submitted by the grievant, in writing to the supervisor who responded in Step One within seven (7) days of the date of the supervisor's response or the expiration of the time period for the supervisor's response, whichever is sooner. The written grievance shall be submitted on official forms as established by the Human Resources Officer.
- (2) The formal grievance shall be processed through the Department and a written decision from the Department Head or Designee thereof forwarded to the grievant within twenty-one (21) days of submitting the written grievance.

(c) **Step Three: Administrative Appeal.**

- (1) A grievance unresolved by Step Two may be continued if appealed to the Human Resources Officer within fourteen (14) days of date of the final decision of the Department Head or his/her designee or the expiration of the time period for the Department Head or his/her designee's response, whichever is sooner. The appeal shall be submitted to the Department Head in writing, state the reasons in support and have attached all forms, decision and notices submitted and received in Step Two.
- (2) The Human Resources Officer shall process the appeal and may conduct a hearing at his/her option. A copy of the decision shall be forwarded to the grievant, Department Head and City Manager within twenty-one (21) calendar days from the time the grievance was appealed to the Human Resources Officer. If the Human Resources Officer conducts a grievance hearing, it shall be held within fourteen (14) calendar days from the time the grievance was appealed to the Human Resources Officer, and a copy of the decision shall be forwarded to the grievant, Department Head and City Manager within fourteen (14) days from the date of the hearing.

(d) **Step Four: Hearing Officer.**

- (1) A grievance unresolved by Step Three may be continued to Step Four if appealed to the City Manager within fourteen (14) days of the date of the final decision or the expiration of the time period for the Human Resources Officer's response, whichever is sooner.
- (2) Upon receipt of such appeal, the City Manager shall set a time and place for a hearing officer to hear the grievance.
- (3) If the City Manager and grievant cannot agree upon a hearing officer or cannot agree to submit the matter to the California Office of Administrative Hearings, the parties shall procure a list of seven (7) qualified individuals from the State Mediation and Conciliation Service. Each party shall alternately strike one (1) name from that list until one (1) person remains which person shall be the hearing officer. The party who strikes the first name shall be determined by the flip of a coin or other similar device.
- (4) The hearing shall be conducted according to the rules and provisions set by the hearing officer and any other rules and procedures mutually agreed upon.
- (5) All costs, fees and transcription expenses shall be borne equally by the grievant and the City. The grievant shall deposit one-half (1/2) the estimated costs of the hearing within seven (7) days of receipt of the City Manager's written demand to do so. Failure to deposit such demanded sum will automatically terminate the grievance.

- (6) The hearing officer's decision shall be advisory. The City Manager shall notify the grievant within fourteen (14) days following receipt of the decision whether the decision will be adopted amended or rejected. If the decision is rejected or substantially modified adversely to the grievant, the City Manager must have reviewed the hearing record and render a written decision.

## **RULE 20 REPORTS AND RECORDS**

### **SECTION 20.1 PERSONNEL SERVICE FILE**

The Human Resources Officer shall maintain a Personnel Service File on every employee. This is the City's official personnel file. Such file shall contain the original employment application form, personal reference data, written and oral examination data, salary assignments, changes in employment status, performance evaluation reports, personal commendations and/or disciplinary actions, and such other information as may be considered pertinent by the Human Resources Officer. An exception for Sworn Personnel Service Files is made, as the Police Department maintains the complete Personnel Service File with the Human Resources Office maintaining the Administrative Personnel Service File which includes all records and actions except disciplinary.

### **SECTION 20.2 CONFIDENTIALITY OF RECORDS**

The Personnel Service File of each employee shall be considered confidential and only those persons specifically authorized by the Human Resources Officer shall have access to said service file. Medical information and other sensitive information as specified by law or by the Human Resources Officer shall be maintained separately from other information in the Personnel Service File.

All inquiries regarding an employee's or former employee's service with the City should be directed to the Human Resources Officer. Only the position title, dates of service, and salary compensation will be released. A written waiver for release of information signed and dated by the employee or former employee must be received and approved by the Human Resources Officer for other information to be released.

Employees will have access to information placed in their Personnel Service File and may review their file by making a written request directly to the Human Resources Officer. Review will be made at such time as is reasonable for both the Human Resources Officer and the employee and will be conducted in the presence of the Human Resources Officer or his/her designee.

### **SECTION 20.3 CHANGE OF STATUS REPORT**

Every appointment, transfer, promotion, demotion, change of salary rate, and any other temporary or permanent change in status of an employee shall be reported to the Human Resources Officer in such manner as he/she may prescribe.

## **RULE 21 ELECTRONIC COMMUNICATIONS RESOURCES POLICY**

The City encourages the use of electronic communications resources to share information in support of its mission of public service and to conduct its business. This policy governs all City-provided Electronic Communications Resources including, but not limited to, the Internet, E-mail, voice-mail, cellular telephones, pagers, personal digital assistants, smartphones, computers/laptops, tablets, telecommunications devices, video and audio equipment, wireless networks, data systems telecommunications equipment, transmission devices, data processing or storage systems, computer systems, servers, networks, input/output and connecting devices, software, City-hosted social media, and documentation that supports electronic communications services (“Electronic Communications Resources”).

### **SECTION 21.1 ELECTRONIC COMMUNICATIONS**

The City’s email system is an official communication tool for City business. An official email address is established and assigned by the City to each employee. All City communications sent via email will be sent to this address. City employees must use the official City email, instead of their private email address (such as Yahoo, Hotmail, Gmail, AOL) when communicating City business via email.

Electronic Communications Resources must be used in compliance with applicable statutes, regulations, and City’s policies including those that require a work environment free from discrimination and harassment. Electronic communications should conform to the same standards of propriety and respect as any other verbal or written communication at the City. Employees are expected to use common sense and judgment to avoid any communication, which is disrespectful, offensive or illegal.

The City, as the provider of access to its Electronic Communications Resources, reserves the right to specify how those resources will be used and administered to comply with this Policy. Employees should realize that the message content sent from the City’s account reflects upon the City (positively or negatively) to those who receive the message. Employees may be subject to disciplinary action for using the Electronic Communications Resources in a manner other than for their intended purposes, or in a manner, that violates applicable laws, rules or policies. Electronic communications to recipients on systems outside of City pass through systems and networks not managed by the City. The privacy and confidentiality of these messages is, therefore, not assured. In addition, some delivery methods and networks impose legal restrictions regarding the nature of messages allowed. Users are expected to comply with all such regulations. Employees and other users of the Electronic Communications Resources may create criminal and civil liability for themselves and the City by using outside or third party systems in an offensive, defamatory or illegal manner and in such event employees and other users may be subject to disciplinary action up to and including termination.

### **SECTION 21.2 INCIDENTAL PERSONAL USE**

Electronic Communication Resources are provided by the City to facilitate the performance of City work. Incidental personal use is secondary, and should not: (i) interfere with the City’s operation of Electronic Communications Resources; (ii) interfere with the user’s employment or other obligations to the City, or (iii) burden the City with noticeable costs. Users of Electronic Communications Resources shall not give the impression that they are representing, giving opinions, or otherwise making

statements on behalf of the City unless appropriately authorized to do so. The City is not responsible for any loss or damage incurred by an individual as a result of personal use of the City's Electronic Communications Resources.

### **SECTION 21.3 PRIVACY LIMITS**

The California Public Records Act requires the City to disclose specified public records. In response to requests for such disclosure, it may be necessary to examine electronic communications records that users may consider to be personal to determine whether they are public records that are subject to disclosure. Electronic communications records may also be subject to disclosure in litigation or administrative proceedings in the same manner as other City records.

All communications transmitted via the City's Electronic Communications Resources, whether or not related to personal or confidential matters, are subject to monitoring, at the City's discretion. The City monitors communications transmitted via the City's Electronic Communications Resources in the ordinary course of business for purposes that include ensuring their reliability and security. The existence of passwords and "message delete" functions do not restrict or eliminate the City's ability or right to access electronic communications.

Employees should *not* communicate their private, privileged, or confidential information, including but not limited to, personal attorney-client communications, financial or medical information and other privileged information, via the City's Electronic Communications Resources. Employees who do communicate their private, privileged or confidential information via the City's Electronic Communications Resources will be deemed to have waived any privilege or privacy rights in those communications, even where those communications are made via personal password-protected accounts using the City's Electronic Communications Resources.

Electronic communications sent to and received from attorneys representing the City that relate to the attorney's representation are confidential, privileged attorney-client communications and/or attorney work product. Such electronic communications shall not be distributed in any fashion to unauthorized individuals.

Additionally, the City may be required to produce information transmitted or stored on its Electronic Communications Resources pursuant to a court order, subpoena, or statute.

### **SECTION 21.4 RESTRICTIONS**

The information sources accessible via the Internet are worldwide and constantly growing in kind and number. It is not possible for any Internet access provider to fully manage the types of information accessible by its systems and users, especially with regard to content limitations. Nonetheless, the City reserves the right to restrict access to any data source, at its sole discretion. A restriction of one data source does not constitute an implication of approval of other non-restricted data sources.

Without exhausting all the possibilities, the following are examples of inappropriate use of the City's Electronic Communications Resources:

- (a) Exposing others to material which is offensive, obscene or in poor taste. This includes information which could create an intimidating, offensive or hostile work environment.
- (b) Any use that may, for a reasonable person, create or further a hostile attitude or give offense on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, or any other status protected by law. This includes transmitting images, messages, cartoons, or jokes which include ethnic or racial slurs, or are offensive, or which may be construed as harassment or disparaging of others based on a protected class.
- (c) Threatening acts of violence including direct threats, communications which make an individual feel threatened or bullied, expressions of an intent to harm or to create an unsafe and/or dangerous situation or to make a person feel unsafe or in danger, or any other actions, activities, behavior, or conduct that violates the City's workplace safety policy.
- (d) Conducting personal business more than an incidental basis, including, but not limited to, accessing dating websites, such as eHarmony, Cupid and Chemistry, and social websites, such as Facebook, MySpace, GoogleGroups, Instagram, Tumblr, and Twitter.
- (e) Using or disclosing the username or password of another employee to gain access to his/her email or other electronic communications resources account without the required consent and approval of the City, or to otherwise make the City's electronic communications system(s) available to others without the required consent and approval of the City.
- (f) Communicating confidential City information to unauthorized individuals within or outside of City.
- (g) Sending messages or information, which is in conflict with applicable law, City policies, rules or procedures.
- (h) Attempting to access unauthorized data or break into any City or non-City system, including, but not limited to, any Police Department, Department of Justice, Department of Motor Vehicles, Credit Bureau, and/or criminal history databases.
- (i) Engaging in theft or the unauthorized copying of electronic files or data.
- (j) Performing acts that are wasteful of computing resources or that unfairly monopolize resources to the exclusion of others. These acts include, but are not limited to, sending mass mailings or chain letters and creating unnecessary network traffic.
- (k) Intentionally misrepresenting one's identity for improper or illegal acts.

- (l) Engaging in unlawful activities, such as, but not limited to, gambling, or committing a crime including fraud, or violating any federal, state, or local law.
- (m) Engaging in commercial activity or activity for financial gain, not under the auspices of the City.
- (n) Engaging in recreational use of the City's Electronic Communications Resources that interferes with the ability of the employee or other users to conduct City work. This includes, but is not limited to, downloading or uploading software, games, or shareware. Employees are also prohibited from downloading and using instant messenger (IM).

### **SECTION 21.5 OVERTIME - PRIOR APPROVAL REQUIRED**

The Fair Labor Standards Act (FLSA) requires that the City pay non-exempt employees overtime for all hours worked in excess of specified hours in a work period. Accordingly, for non-exempt employees under the FLSA:

- (a) No time spent in any activity on the City's Electronic Communications Resources for the benefit of the City may be done outside of the employee's scheduled work hours without advance approval from the employee's immediate supervisor. Emergencies may arise that call for an exception to this rule. In emergencies, the employee may perform the work, but must notify a supervisor as soon as possible, and in no event later than the end of that day. If the employee's supervisor denies the request to work overtime, the employee must obey the supervisor's directive and cease working overtime.
- (b) All time spent outside of the employee's scheduled hours on the City's Electronic Communications Resources for the benefit of the City must be reported on official City forms so that the City may pay the employee for that work. Employees may never choose to work and not request compensation. All legitimate overtime will be compensated.
- (c) Failure to follow the City's overtime approval procedures will result in being paid for all legitimate work time, and being subject to disciplinary action, up to and including, termination for violating the overtime approval procedures.



## **RULE 22 SOCIAL MEDIA POLICY**

The City understands that its employees use social media sites to share events in their lives, to communicate, and to discuss their opinions with others, including family, friends and co-workers. However, the use of social media may present certain risks and carries with it certain responsibilities. To assist employees in making responsible decisions about their use of social media, the City has established this policy and guidelines for appropriate use of social media.

In the rapidly expanding world of electronic communication, social media can mean many things. In general, social media encompasses the various activities that integrate technology, social interaction, and content creation. Through social media, individuals can create Web content, can organize, edit or comment on content, as well as combine and share content on their own web site or on someone else's. Social media uses many technologies and forms, including Web feeds, blogs, wikis, photography and video sharing, web logs, journals, diaries, chat rooms, bulletin boards, affinity web sites, podcasts, social networking, fansites, mashups, and virtual worlds.

### **SECTION 22.1 UNDERSTAND YOUR RIGHTS AND RESPONSIBILITIES IN USING SOCIAL MEDIA TECHNOLOGY**

Use good and ethical judgment. To the extent your social media use impacts City employees or the members of the public, follow City policies and regulations as applicable, including, but not limited to, those that protect individual privacy rights, anti-discrimination and harassment policies, the workplace safety policy and other relevant City policies.

If your conduct adversely affects your job performance, your co-workers or members of the public, or is otherwise detrimental to the City's mission or operations, the City may take disciplinary action against you up to and including termination.

You are more likely to resolve work-related complaints by speaking directly with your co-workers or using other channels, such as speaking with the City's Human Resources Division, or by filing an internal complaint or grievance, if applicable.

Nevertheless, if you decide to post complaints or criticism, avoid using statements, photographs, video or audio that reasonably could be viewed as malicious, obscene, or threatening or that might constitute harassment or bullying. Examples of such conduct might include offensive posts that could contribute to a hostile work environment on the basis of race, religious creed, color, national origin, ancestry, physical or mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation or any other status protected by law or City policy. Examples of threatening conduct include posting material that would make a reasonable person afraid for his or her safety or the safety of his or her family.

Strive for accuracy and full disclosure in any blog or post. Include a link to your sources of information. If you make a mistake, correct the information, or retract it promptly.

Never post any information or rumors that you know to be false about the City, your coworkers, City clients, or people working on behalf of the City.

Never post, blog, tweet, etc. any photos of the City uniform, City Seal, City equipment, employee ID badge, etc. when doing so is not in the course of City business.

Do not disclose information that may violate City or employee rights. For example, do not disclose another individual's social security number, medical information or financial information in a manner that violates that person's rights. Nothing in this rule shall be construed to prevent employees from discussing with others matters protected by the Meyers-Milias-Brown Act, including but not limited to wages, hours and other terms and conditions of employment at the City.

Pursuant to Labor Code section 980, the City cannot require you to disclose your social media username or password, access your personal social media in the presence of the employer, or divulge any social media, except in cases where to do so is required by law due to the nature of the position.

If you publish a blog or post online related to the work you do or subjects associated with the City, make it clear that you are not speaking on behalf of the City. It is best to include a disclaimer such as "The postings on this site are my own and do not necessarily reflect the views of the City."

If you want to keep your personal life separate from your professional or work life, use privacy settings to restrict personal information on public sites. Consider who you invite or accept to join your social network as those individuals will have access to your profile, photographs, etc.

Understand that even if you have private setting, those you invite into your network can easily print, save, cut, paste, modify or publish anything you post. Material can be archived on the Internet even after you remove it.

## **SECTION 22.2 USING YOUR CITY EMAIL ADDRESS**

Do not use City email addresses to register on social networks, blogs or other online tools utilized for personal use.

## **RULE 23 EMPLOYER-EMPLOYEE RELATIONS**

### **SECTION 23.1 PURPOSE**

The purpose of this rule is to implement Chapter 10, Division 4, Title I of the Government Code of the State of California (Sections 3500 et seq., captioned “Local Public Employee Organizations”), by providing orderly procedures for the administration of employer-employee relations between the City and its employee organizations and for resolving disputes regarding wages, hours, and other terms and conditions of employment covered by this Rule.

### **SECTION 23.2 DEFINITIONS**

As used in this Rule, the following terms shall have the meanings indicated:

- (a) **“Appropriate Unit”**: A unit established pursuant to SECTION 23.11 of this Rule.
- (b) **“Consult or Consultation in Good Faith”**: To communicate orally or in writing for the purpose of presenting and obtaining views or advising of intended actions.
- (c) **“Employee, Confidential”**: An employee who, in the course of his or her duties, has access to confidential information relating to the City’s administration of employer-employee relations. (See RULE 2.1)
- (d) **“Employee, Management”**: Any employee having significant responsibilities for formulating or administering City policies and programs, including, but not limited to, the City Manager and his/her staff, Department Heads; and such assistants and deputies as may be designated by the Human Resources Officer.
- (e) **“Employee, Professional”**: Employees engaged in specialized knowledge and skill attained through completion of a recognized course of instruction, including, but not limited to, attorneys physicians, registered nurses, engineers, architects, teachers, and various types of physical, chemical, and biological scientists.
- (f) **“Employee Organization”**: Any organization which includes employees of the City and which, as one of its primary purposes, represents such employees in their employment relations with the City.
- (g) **“Employer-Employee Relations”**: The relationship between the City and its employees and their employee organization, or when used in a general sense, the relationship between the City’s management and employees or employee organizations.
- (h) **“Impasse”**:

- (1) Impasse means that the representatives of the City and an exclusively recognized employee organization have reached a point in their meeting and conferring in good faith where their differences on matters within the scope of representation remain so substantial and prolonged that further meeting and conferring would be futile; or
  - (2) Any unresolved complaint by an affected employee organization advanced in good faith, concerning decisions of the Human Resources Officer made pursuant to SECTIONS 23.8 and 23.14.
- (i) **“Exclusive Representative”**: An employee organization, which has been formally recognized by the Human Resources Officer as the sole employee organization representing the employees in an appropriate unit.
  - (j) **“Mediation or Conciliation”**: The efforts of an impartial third person or persons, functioning as intermediaries, to assist the parties in reaching a voluntary resolution to an impasse through interpretation, suggestion and advice. Mediation and conciliation are interchangeable terms.
  - (k) **“Meet and Confer in Good Faith”** (also referred to herein as “Meet and Confer” or “Meeting and Conferring”): The mutual obligation of duly authorized City representatives and duly authorized representatives of an exclusive employee organization to meet and confer promptly upon request of either party, to continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation, (i.e., wages, hours, and other terms and conditions of employment).
  - (l) **“Memorandum of Understanding”** (also referred to herein as “MOU”): A written document duly signed by the authorized representatives of the City and the formally recognized employee organization representing the employees in an appropriate unit which contains all of the matters agreed upon through the meet-and-confer process.
  - (m) **“Employee Relations Officer”**: The City’s principal representative or his/her duly authorized representative, in all matters of employer-employee-relations designated pursuant to SECTION 23.14 of this Rule.
  - (n) **“Peace Officer”**: This term is used as defined in Section 830 of the California Penal Code.
  - (o) **“Recognized Employee Organization”**: An employee organization, which has been acknowledged by the Employee Relations Officer, or his/her designee, as an employee organization that represents employees of the City. The rights accompanying recognition are either:
  - (p) **“Formal Recognition”**: The exclusive recognition (certification) of an employee organization as the majority representative in an appropriate unit; or

- (q) **“Informal Recognition”**: The right to consultation in good faith by all recognized employee organizations.
- (r) **“Scope of Representation”**: All matters relating to employment conditions and employer-employee relations, including but not limited to, wages, hours, and other terms and conditions of employment. City Rights as described in SECTION 23.4 are excluded from the scope of representation.

### **SECTION 23.3 EMPLOYEE RIGHTS**

Employees of the City shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purposes of representation on all matters of employer-employee relations, including, but not limited to, wages, hours, and other terms and conditions of employment.

Employees of the City also shall have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the City.

No employee shall be interfered with, intimidated, restrained, coerced, or discriminated against by the City or by any employee organization because of his/her exercise of these rights.

### **SECTION 23.4 CITY RIGHTS**

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

The City has the legal obligation to ensure the health, welfare and safety of its citizens, which necessitates the prompt and uninterrupted continuation of its functions. Thus, City Officials have the right to exercise the administrative initiative necessary to carry out these responsibilities.

### **SECTION 23.5 MEET AND CONFER IN GOOD FAITH**

- (a) The City, through its representatives, shall meet and confer in good faith with representatives of formally recognized employee organizations with exclusive representation rights, regarding matters within the scope of representation.
- (b) The City shall not be required to meet and confer in good faith on any subject pre-empted by Federal or State Law. Proposed amendments to this Resolution are excluded from the scope of meeting and conferring but not from consultation unless they relate to wages, hours, terms, and conditions of employment as defined by the Government Code.

### **SECTION 23.6 ADVANCE NOTICE**

An exclusive representative will receive reasonable advance written notice of any ordinance, rule, resolution or regulation directly relating to matters within the scope of representation proposed to be adopted by the City Council, and be given the opportunity to meet, upon request, with the Employee Relations Officer, or his/her designee, prior to consideration by the City Council.

In cases of emergency, when the City or any board or commission of the City determines that an ordinance, rule, resolution or regulation must be adopted immediately without prior notice or meeting with a recognized employee organization, the City or the board or commission of the City shall provide such notice and opportunity to meet at the earliest practicable time following the adoption of such ordinance, rule, resolution or regulation.

### **SECTION 23.7 PETITION FOR RECOGNITION**

There are two levels of employee organization – formal and informal. The recognition requirements of each are set forth below:

- (a) **Formal Recognition- The Right to Meet and Confer in Good Faith as Exclusive Representative.** An employee organization that seeks formal recognition for purposes of meeting and conferring in good faith as the exclusive representative of employees in an appropriate unit shall file a petition with the Employee Relations Officer, or his/her designee, containing the following information and documentation:
- (1) Name and address of employee organization.
  - (2) Names and titles of its officers.
  - (3) Names of employee organization representatives who are authorized to speak on behalf of its members.
  - (4) A statement that the employee organization has, as one of its primary purposes, representation of employees in their employment relations with the City.
  - (5) A statement whether the employee organization is a chapter or local of, or affiliated directly or indirectly in any manner with, a regional or state, or national or international organization and, if so, the name and address of each such regional, state or international organization.
  - (6) Certified copies of the employee organization's constitution and bylaws.
  - (7) A designation of those persons, not exceeding two (2) in number, and their addresses, to whom notice sent by regular United States mail will be deemed sufficient notice on the employee organization for any purpose.

- (8) A statement that the employee organization recognizes that the provisions of Section 923 of the Labor Code are not applicable to City employees.
- (9) A statement that the employee organization has no restriction on membership based on race, color, religion, creed, national origin, ancestry, age, sexual orientation, mental or physical disability, marital status, sex, gender, gender identity, gender expression, genetic information, medical condition or military and veteran status.
- (10) The job classifications or titles of employees in the unit claimed to be appropriate and the approximate number of member employees therein.
- (11) A statement that the employee organization has in its possession written proof, dated within six (6) months of the date upon which the petition is filed, to establish that a majority of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the City. Such written proof shall be submitted for confirmation to the Employee Relations Officer, or his/her designee, or to a mutually agreed upon disinterested third party.
- (12) A request that the Employee Relations Officer, or his/her designee, recognize the employee organization as the exclusive representative of the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith on all matters within the scope of representation.
- (13) A statement that the employee organization understands it has a mutual responsibility with the City to conduct employee relations in the manner prescribed by the Personnel Rules (Resolution) and the laws of the State of California.

(b) **Informal Recognition – The Right to Consult in Good Faith.**

An employee organization that seeks recognition for purposes of consultation in good faith shall file a petition with the Employee Relations Officer, or his/her designee, containing the following information and documentation:

- (1) All of the information enumerated in Subsections (1) through (9) inclusive, of paragraph (a) of this Section.
- (2) A statement that the employee organization has in its possession written proof, dated within six (6) months of the date upon which the petition is filed, to establish that the employees have designated the employee organization to represent them in their employment relations with the City. Such written proof shall be submitted for confirmation to the

Employee Relations Officer, or his/her designee, or to a mutually agreed upon disinterested third party.

- (3) A request that the Employee Relations Officer, or his/her designee, recognizes the employee organization for the purpose of consultation in good faith.
- (c) The petition, including all accompanying documents, shall be verified, under oath, by the Executive Officer and Secretary of the organization that the statements are true. All changes in such information shall be filed forthwith in like manner.
- (d) The Employee Relations Officer, or his/her designee, shall grant recognition, in writing, to all employee organizations who have complied with either paragraph (a) or paragraph (b) of SECTION 23.7 and, in addition, paragraph (c) of the said SECTION 23.7 of this Title for purposes of consultation in good faith for its members. Employee organizations seeking formal recognition as exclusive representative must, in addition, establish to the satisfaction of the Employee Relations Officer, or his/her designee, that it represents a majority of the employees in the manner prescribed in paragraph (a) of SECTION 23.7. No employee may be represented by more than one (1) recognized employee organization for the purposes of this Rule.
- (e) If the Petition is in order, and the proof of support shows that a majority of the employees in the appropriate unit have designated the petitioning employee organization to represent them, and if no other employee organization filed a challenging petition, the petitioning employee organization and the Employee Relations Officer shall request the California State Mediation and Conciliation Service, or another agreed upon neutral third party, to review the count, form, accuracy and propriety of the proof of support. If the neutral third party makes an affirmative determination, the Employee Relations Officer shall formally acknowledge the petitioning employee organization as the Exclusive Recognized Employee Organization for the designated unit.

### **SECTION 23.8 PROCEDURE FOR DECERTIFICATION**

- (a) A decertification petition alleging that the recognized exclusive representative no longer represents the majority employees in an established appropriate unit shall be filed with the Employee Relations Officer, or his/her designee. No election pursuant to such petition shall be held until the completion of the exclusively recognized employee organization's first twelve (12) months of recognition. If a memorandum of understanding is in effect, a decertification petition cannot be filed except during the 60-day period commencing 120 days prior to the expiration date of the applicable memorandum of understanding then having been in effect less than three (3) years. (If the MOU has been in effect longer than three (3) years, the petition can be filed at any time.)



- (b) A decertification petition may be filed by two (2) or more employees or their representative or an employee organization and shall contain the following information and documentation declared by the duly authorized signatory under penalty of perjury to be true, correct and complete:
- (1) Name, address and telephone number of the petitioner and a designated representative authorized to receive notices or requests for further information.
  - (2) The name of the established employee representation unit and of the recognized employee organization sought to be decertified as the exclusive representative.
  - (3) An allegation that the recognized employee organization does not represent the interests of a majority of the employees in the appropriate unit, and any other relevant and material facts relating thereto.
  - (4) Proof of employee support that at least thirty (30%) percent of the employees in the employee representative unit no longer desire to be represented by the recognized employee organization. Such proof shall be submitted for confirmation to the Employee Relations Officer, or his/her designee, or to a mutually agreed upon neutral third party within the time limit specified in this section.
- (c) An employee organization may, in satisfaction of the Decertification requirements herein, file a Recognition Petition under SECTION 23.7(a) that evidences proof of employee support of at least thirty (30%) percent, includes the allegation and information required in SECTION 23.8(a)(3) above and otherwise conforms to the requirement of SECTION 23.7(a).
- (d) The Employee Relations Officer, or his/her designee, shall initially determine whether the petition has been filed in compliance with the requirements of this Section. If the determination is in the negative, the Employee Relations Officer, or his/her designee, shall set forth the reasons in writing and offer to consult with the representatives of such petitioning employees or employee organization. If the determination is in the affirmative, the Employee Relations Officer, or his/her designee, shall give notice of such decertification or recognition petition to the recognized employee organization and to the employee unit pursuant to SECTION 23.11.

### **SECTION 23.9 MODIFICATION OF EMPLOYEE REPRESENTATION UNITS**

- (a) Requests by recognized employee organizations for modification of the employee representation unit may be considered by the Employee Relations Officer, or his/her designee. Such requests shall be made only during the window period specified in SECTION 23.8 above and shall contain a completed

statement of all relevant acts and reasons in support of the proposed modification of employee representation unit. The Employee Relations Officer, or his/her designee, shall process such petitions as other recognition petitions pursuant to this Section.

- (b) The City may propose that an employee representation unit be modified at any time. The Employee Relations Officer, or his/her designee, shall give written notice of the proposed modification to the recognized employee organization. Thereafter, the Employee Relations Officer, or his/her designee, shall determine the modification pursuant to the requirement of this Section and shall give written notice of such determination to the recognized employee organization.
- (c) Any disagreement regarding the City's modification of the representation unit is appealable to the City Council for final determination.

### **SECTION 23.10 SEVERANCE REQUESTS**

An employee organization may file a request to become the recognized employee organization of a unit alleged to be appropriate that consists of a group of employees who are already a part of a larger established unit represented by another recognized employee organization. The time, form and processing of such request shall be as specified in SECTION 23.9 for unit modification requests.

### **SECTION 23.11 APPROPRIATE UNIT**

- (a) The Employee Relations Officer, or his/her designee, after reviewing the petition filed by an employee organization seeking formal recognition as exclusive representative, shall determine whether the proposed unit is an appropriate unit. The policy objectives in determining the appropriateness of units shall be the effect of a proposed unit on: (1) the efficient operations of the City and its compatibility with the primary responsibility of the City and its employees to effectively and economically serve the public; and (2) providing employees with effective representation based on recognized community of interest considerations. These policy objectives require that the appropriate unit shall be broadest feasible grouping of positions that share an identifiable community of interest. The following factors, among others, are to be considered in making such determination:
  - (1) The extent to which employees have common skills, qualifications, working conditions, job duties and similar educational requirements;
  - (2) The history of employee relations:
    - i. in the unit;
    - ii. among other employees of the City; and

- iii. in similar public employment, provided, however, no unit shall be established solely on the basis of the extent to which employees in the proposed unit have organized.
  - (3) The effect of the unit on the efficient operation of the City and sound employer-employee relations.
  - (4) The effect on the existing classification structure and impact on the stability of the employer-employee relationship of dividing a single classification among two or more units.
- (b) In the establishment of appropriate units:
- (1) Professional employees shall not be denied the right to be represented separately from non-professional employees; and
  - (2) Management and confidential employees who are included in the same unit with non-management or non-confidential employees may not represent such employees on matters within the scope of representation.
- (c) The Employee Relations Officer, or his/her designee, shall, after notice to and consultation with affected employee organizations, allocate new classifications or positions, delete eliminated classifications or positions, and retain, reallocate or delete modified classifications or positions from units in accordance with the provisions of this Section. The decision of the Employee Relations Officer, or his/her designee, shall be final

**SECTION 23.12 SUBMISSION OF UPDATED INFORMATION BY EXCLUSIVELY RECOGNIZED EMPLOYEE ORGANIZATIONS**

All changes in the information filed with the City by an Exclusively Recognized Employee Organization under items (1) – (9) of its Recognition Petition under SECTION 23.7 shall be submitted in writing to the Employee Relations Officer, or his/her designee, within fourteen (14) days of such change.

**SECTION 23.13 AMENDMENT OF CERTIFICATION**

- (a) Employee Organization Petition
- (1) A recognized employee organization shall file with the Employee Relations Officer, or his/her designee, a petition to amend its certification or recognition in the event of a merger, amalgamation, affiliation or transfer of jurisdiction.
  - (2) The petition shall be in writing, signed by an authorized agent of the employee organization and contain the following information:

- (b) The name, address and telephone number of the employee organization and the name, address and telephone number of the agent to be contacted;
- (c) A brief description and the title of the established unit;
- (d) A clear and concise statement of the nature of the merger, amalgamation, affiliation or other change in jurisdiction and the new name of the employee organization. The statement shall include the following information:

  - (1) Whether the new organization has the same structure as the former organization (e.g., eligibility for membership, dues/fees structure, continuation of the manner in which contract negotiations, administration and grievances processing will be effectuated), and if not, an explanation of the change(s) in structure;
  - (2) Whether the officers and representatives of the new organization are the same as the former organization, and if not, a specification of the changes in officers and/or representatives;
  - (3) Whether the power of the members to control the organization's agents is the same as it was in the former organization (e.g., input into contract proposals, contract ratification, frequency of membership meetings, preservation of the (former) organization's physical facilities, books, and assets, choosing/oversight of executive board members), and if not, a specification of what changes have been made; and
  - (4) Whether the organization's members were given an opportunity to vote on the change in status, and if so, a description of the voting process and results;
- (e) Review Process

  - (1) Upon receipt of a petition filed pursuant to Subsection (a) above, the Employee Relations Officer, or his/her designee, will conduct such inquiries and investigations, and hold such hearings as deemed necessary and/or conduct a representation election in order to decide the questions raised by the petition.
  - (2) The Employee Relations Officer, or his/her designee, may dismiss the petition if the petitioner has no standing to petition for the action requested or if the petition is improperly filed.
  - (3) In determining whether to grant the petition, the Employee Relations Officer, or his/her designee, will examine the following issues:
- (f) Whether the new organization has the same or similar structure as the former organization;

- (g) Whether the officers and representatives of the new organization are substantially the same as the former organization;
- (h) Whether the power of the members to control the organization's agents are substantially the same; and
- (i) Whether the organization's members were given an opportunity to vote on the change in status.
- (j) Determination
  - (1) Unless the Employee Relations Officer, or his/her designee, finds that there is no substantial continuity of identity and representation between the former and new organizations, he/she will issue an amendment of certification reflecting the new identity of the exclusive representative. This certification will not be considered to be a new certification for the purpose of computing time limits pursuant to SECTION 23.8. The terms and conditions of a MOU then in effect shall remain in effect until the MOU expires.
  - (2) If the Employee Relations Officer, or his/her designee, determines that there is no substantial continuity of identity and representation between the former and new organizations, he/she shall order a secret ballot election in conformance with the provisions of SECTION 23.15 of this Rule.

**SECTION 23.14 DESIGNATION OF EMPLOYEE RELATIONS OFFICER**

The City Council hereby designates the City Manager as the Employee Relations Officer and he/she shall be the City's principal representative in all matters of employer-employee relations, with authority to meet and confer in good faith on matters within the scope of representation including wages, hours and other terms and conditions of employment. The Employee Relations Officer so designated is authorized to delegate these duties and responsibilities.

**SECTION 23.15 RESOLUTION OF IMPASSES**

If the parties reach an impasse, either party may initiate the impasse procedure by filing with the other party (or parties) affected a written request for an impasse meeting, together with a statement of its position on all disputed issues. An impasse meeting shall then be scheduled by the Employee Relations Officer, or his/her designee, forthwith after the date of filing of the written request for such meeting, with written notice to all parties affected. The purpose of such impasse meeting is twofold: (1) to permit a review of the position of all parties in a final effort to reach agreement on the disputed issues, and (2) if agreement is not concluded, to mutually select the specific impasse procedure to which the dispute may be submitted; in the absence of agreement between the parties on this point, the matter may be referred to the City Council.

The impasse procedures are as follows:

- (a) Mediation (or Conciliation). All mediation proceedings shall be private. The mediator shall make no public recommendations nor take any public position concerning the issues.
- (b) A Determination by the City Council. After a hearing on the merits of the issue at impasse.
- (c) Any other dispute resolution process to which the parties mutually agree or which the City Council may order.

The foregoing recitation of impasse procedures does not preclude the exclusive representative from exercising any of its rights under the MMBA as it relates to fact finding. (See Govt. Code §§ 3505.4, 3505.5, nor does it preclude the City from exercising its rights under Govt. Code § 3505.7.)

The fees and expenses, if any, of mediators or of any other impasse procedure, shall be payable one-half (1/2) by the City and one-half (1/2) by the employee organization or employee organizations.

### **SECTION 23.16 USE OF CITY FACILITIES**

Employee organizations may, with the prior approval of the Employee Relations Officer or his/her designee, be granted the use of City facilities during non-work hours for meeting of City employees provided space is available, the activity is lawful and pertains directly to the employer-employee relationship and not such internal employee organization business as soliciting membership, campaigning for office, and organization meetings and elections. In addition, employee organization use of city facilities shall not interfere with the efficiency, safety and security of City operations.

All requests for use of City facilities shall be in writing and shall state the purpose or purposes of the meeting, all other anticipated events (time, duration, number of participants, etc., shall be spelled out). A copy of the meeting agenda shall be furnished to the Employee Relations Officer, or his/her designee, as soon as it is available, but in no event less than 24 hours prior to such meeting. The City reserves the right to assess reasonable charges for the use of such facilities.

The use of City equipment other than items normally used in the conduct of business meetings, such as desks, chairs, and computers, is strictly prohibited, the presence of such equipment in approved City facilities notwithstanding.

### **SECTION 23.17 MEMORANDUM OF UNDERSTANDING (MOU)**

If agreement is reached by the representatives of the City and the exclusive representative, they shall jointly prepare a written memorandum of such understanding, which shall not be binding until it is presented to and adopted by the City Council at a public meeting.

## **RULE 24 ADOPTION**

### **SECTION 24.1 CONSTRUCTION**

- (a) Nothing in these Rules shall be construed to deny any person or employee the rights granted by Federal or State laws.
- (b) The rights, powers and authority of the City Council in all matters, including the right to maintain any legal action, shall not be modified or restricted by this Rule.
- (c) The provisions of this Rule are not intended to conflict with the provisions of Chapter 10, Divisions 4, Title 1, of the Government Code of the State of California (Sections 3500 et seq.) as amended.

### **SECTION 24.2 SEVERABILITY**

If any provisions of this Rule, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of this Rule, or the applications of such provision to persons or circumstances other those as to which it is held invalid, shall not be affected thereby.

### **SECTION 24.3 REPEAL**

That Resolutions No. 2700, 2716, 3603, and 4171, and all amendments thereof are hereby repealed.

### **SECTION 24.4 EFFECTIVE DATE**

That this resolution shall take effect immediately.

### **SECTION 24.5 CERTIFICATION**

That the City Clerk shall certify to the passage and adoption of this resolution; shall cause the same to be entered among the original resolutions of the City of Gardena; and shall make a minute of the passage and adoption the City of Gardena in the minutes of the meeting at which the same is passed and adopted. Passed, Approved and Adopted the 12th day of December, 2017.