

The background of the document is a photograph of the Culver City City Hall building. The building is a large, white, multi-story structure with a red-tiled roof and several arched windows and doorways. It is surrounded by numerous tall palm trees and other greenery. The sky is clear and blue. The text is overlaid on this image.

Culver CITY

HUMAN RESOURCES DEPARTMENT

Civil Service Rules

Amended June 22, 2015

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RULE 1

INTRODUCTION, AUTHORITY AND DEFINITION OF TERMS

1.1 Civil Service System: The Civil Service System adopted by the City Council pursuant to State law and in effect prior to the effective date of the City Charter, shall continue in full force and effect unless changed by ordinance of the City Council or by amendment to the rules and regulations heretofore approved by the City Council.

1.2 Adoption of Civil Service Rules Revisions: Pursuant to provisions of the Culver City Municipal Code, this revision of the Rules of the Civil Service System of the City of Culver City has been approved and adopted by the City Council under Resolution No. 2006-R068 dated September 25, 2006, after a public hearing and upon the recommendation of the Civil Service Commission.

1.3 Purpose: The purpose of these Rules is to provide a fair and equitable system of personnel management in the City government.

1.4 Intent: It is the intent of these Rules to ensure that all employees in the Classified Service shall be treated on an equitable basis in regard to hours and working conditions, and other benefits generally provided by Memoranda of Understanding or City Council resolution.

If any employee in the Classified Service should be excluded from coverage by a collective bargaining agreement or comparable resolution of the City Council, the employee shall be provided benefits equivalent to the most comparable employee classification which is covered by such an agreement or resolution.

1.5 Enforcement of Civil Service Rules: The Civil Service Commission, appointed by the City Council as set forth by the City Charter and the Culver City Municipal Code, is staffed by the Human Resources Department and establishes and enforces rules for the classified service which shall have the effect of law, as approved by the City Council.

- a. **Employee Rights:** These rules provide for a merit system whereby all employees in the classified service are appointed and promoted on the basis of merit. No person shall, by themselves or in cooperation with another person, interfere with the employment opportunities of any individual with respect to the individual's right of examination, application or certification for employment under the Civil Service Rules of the City of Culver City.
- b. **Commission Authority:** In addition to the authority set forth throughout these Rules, the Civil Service Commission has the authority to take necessary action against any applicant or candidate or representative or advocate of such applicant or candidate who uses political influence or special interest to circumvent the Civil Service System to achieve employment opportunities for the applicant or candidate or others.

1.6 The Merit Principle: Appointments and promotions in the Classified Service of the City shall be made according to merit and fitness, to be ascertained, so far as practical, by a competitive examination.

1.7 Equal Employment Opportunity: Equal employment opportunity shall be ensured without regard to race, color, gender, national origin, marital status, religion, age, disability, political affiliation or sexual orientation/identification.

1.8 Removal of Classified Service Status: The City Council shall not have the authority to withdraw from the classified service any departments, officers or employees, heretofore placed in the Classified Service, either by outright repeal of the Civil Service ordinance or otherwise unless and until the withdrawal thereof shall have been submitted to the qualified electors of the City at a regular or special municipal election held in the City, and shall have been approved by not less than a majority of the electors voting on such proposition.

1.9 Interpretation Of These Rules: In the interpretation of these Rules, the following should be considered:

- a. **Grammatical Interpretation:** The singular number includes the plural and the singular; words used in the present tense include the past and future tenses.
- b. **Laws, Statutes and Codes:** All references to Federal, State or local laws, statutes and codes shall be construed to include any amendments thereto and any rules and regulations promulgated hereunder.
- c. **Severability:** If any provision in these Rules is for any reason held to be invalid, unenforceable or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of these Rules.
- d. **Civil Service Rules vs. Memorandum Of Understanding:** If any of the provisions in these Rules are in conflict with a valid Memorandum of Understanding, the Memorandum of Understanding shall prevail.

1.10 Definition Of Terms: The following definition of terms, have been established to provide administrative and appellat direction in the operation of the Civil Service System and may be further defined in the body of these Rules:

- (1) **Administrative Policy:** Policies issued and adopted by the City Manager to implement policy decision for the administration of programs or processes generally provided by the direction of the City Council, Municipal Code, City Charter, Civil Service Rules or other authority.
- (2) **Appeal:** The formal procedures that provide the review of a decision of an appointing authority, the Human Resources Director or the City Manager by the Commission.
- (3) **Appellant:** Anyone appealing an action under jurisdiction of the Commission to the Civil Service Commission.
- (4) **Applicant:** An individual who submits the application materials, e.g. City application, resume, supplemental questionnaire, etc., as specified in the recruitment bulletin during the authorized filing period to receive consideration for a position for which a bulletin has been issued and advertised.
- (5) **Application:** The official City issued form that applicants must complete and submit to be considered for City employment when specified in the recruitment bulletin.

- (6) **Appointing Authority:** The City Council, the City Manager, the department head, division heads and/or other body of officials or individual official having, under law, the power to make an appointment to a position. Routine functions of the appointing authority may be delegated to accomplish the purposes set forth in these Rules, but the appropriate appointing authority shall be responsible for the actions or functions of such delegation or designee.
- (7) **Appointment:** The official hiring of a candidate for employment with the City that has been approved in writing by both the appointing and approving authorities.
- (8) **Authorized Position:** A position approved by the City Manager.
- (9) **Base Salary Range:** A pay plan for a given classification that establishes the minimum and maximum rate of pay for the classification. The base salary range typically consists of five (5) salary steps, in hourly increments.
- (10) **Bumped:** A permanent employee who is reassigned to a position within a lower classification as a result of another employee with more seniority being displaced due to a reduction in work force.
- (11) **Business Days:** A term used to refer to the days in which City Hall is open for business to the public.
- (12) **Calendar Day:** A term used to refer to the twenty-four (24) hour day, calendar days include Monday through Sunday.
- (13) **Candidate:** An examinee that has successfully passed all of the components of the examination process and has achieved eligibility for referral to a classified or unclassified position.
- (14) **Casual Part-time:** A specific type of unclassified appointment for part-time employees that is subject to hourly wages only and has limited benefits.
- (15) **Certification:** The actions that must occur in order for an appointing authority to receive the referral of candidates in consideration of filling a vacant position in the classified service. These actions are listed below in the order in which they occur:
 - i. **Certification of Eligible List:** The approval by the Human Resources Director of a list of all of the candidates eligible for consideration of filling a classified position for a particular classification. Said approval constitutes the establishment of the Eligible List.
 - ii. **Certification of Eligibles:** The approval by the Human Resources Director of the names of the candidates being referred, according to the rules of certification, to the appointing authority to fill a vacant position(s).
- (16) **Charter:** The Charter of the City of Culver City.
- (17) **City:** The City of Culver City.
- (18) **City Physician:** Any medical professional designated by the City to advise on matters requiring expertise in the medical or psychological field.
- (19) **City Council Policy:** Policies adopted by City Council not already covered by ordinances, to supplement or complement other resolutions or policies. The adoption of said policies is accomplished by resolution.

- (20) **Civil Service Commission:** The commission appointed by the City Council of the City of Culver City, California, to oversee the Civil Service System. When the term “Commission” is used in these Rules, it refers to the Civil Service Commission.
- (21) **Civil Service Ordinance:** Culver City Municipal Code, as amended, which creates and establishes the personnel system under Civil Service.
- (22) **Classification:** A category or class of positions that:
- i. Perform the same essential functions of the job; and
 - ii. Possess the same minimum requirements; and
 - iii. Are sufficiently similar in respect to duties, responsibilities and function to warrant the same descriptive title.
- (23) **Classification Specification:** The official description of the purpose of the positions assigned to the classification which specifies the minimum requirements for the position and includes examples of some of the essential duties and responsibilities that may be assigned to positions within that classification.
- (24) **Classified Employee:** An employee holding a position within the classified service.
- (25) **Classified Position:** A position within the classified service.
- (26) **Classified Service:** All classifications, positions and appointments in the City service except those specifically named in, or which may be designated as unclassified pursuant to these Rules or the City Charter.
- (27) **Continuous Recruitment:** A method used to recruit a greater number of applicants by accepting applications on a continuous basis. The testing of qualified applicants can take place when a sufficient number of qualified applicants have applied or at specific intervals regardless of the number of qualified applicants that apply.
- (28) **Deferred Applicant:** An applicant who was not amongst the most highly qualified applicants and consequently, was not invited to participate in the examination process. The City reserves the right to consider the applicant’s qualifications in consideration of the position for which the applicant applied at a later date.
- (29) **Deferred Eligible:** An eligible that has been interviewed but not selected for a position within a given classification. The appointing authority that interviewed and did not select the Deferred Eligible may request to have the name of this eligible withheld from future certification to that appointing authority in an open and competitive process, provided the appointing authority interviewed the Deferred Eligible for the same classification and in the same division within the previous twelve (12) months.
- (30) **Demotion:** A voluntary or involuntary action whereby a City employee is lowered in classification, temporarily or permanently.

- (31) **Disability Interactive Process:** Occurs when the Human Resources Director receives a physician's report confirming an employee's permanent disability. This process is a joint meeting with the affected employee to identify possible modifications or accommodations that can be made in order for the employee to continue working in the employee's position, in accordance with State and Federal law.
- (32) **Disciplinary Action:** Any action taken by an appointing authority against an employee with the purpose of punishing, modifying and/or correcting behavior which violated any of the Rules set forth herein.
- (33) **Dismissal:** The involuntary termination of the employment relationship between the City and an employee.
- (34) **Disqualification:** The involuntary removal of an applicant, candidate, eligible or appointee from competition for employment for cause.
- (35) **Eligible:** A candidate eligible for referral to a position in the classified service.
- (36) **Eligible List:** A list of eligibles in rank order that includes the eligible's corresponding final score.
- (37) **Employee:** A person who is the incumbent in a position.
- (38) **Examination:** The process by which an applicant's qualifications are evaluated, assessed and/or measured to determine the applicant's eligibility for the position.
 - i. **Assembled Examination:** An examination conducted at a specified time and place at which applicants are required to appear for competitive examination under the supervision of an examiner.
 - ii. **Unassembled Examination:** An examination consisting of an appraisal of training, experience, work history, or any other means of evaluating other relative qualifications of applicants without the necessity of the applicant's personal appearance. This type of examination process may be used when fewer than six (6) qualified applications are received.
- (39) **Examinee:** An applicant who is invited to participate, and participates, in the examination process of a recruitment.
- (40) **Excepted:** A term used to refer to casual part-time employees who are unclassified, subject to hourly wages only and have limited benefits.
- (41) **Exempt:** For the purposes of these Rules, this term refers to an employee, position or classification that is not a part of the classified service and is considered unclassified.
- (42) **Fitness For Duty Examination:** A medical or psychological examination conducted by a City Physician, as designated by the City.
- (43) **For Cause:** The specific grounds which constitute a violation of these Rules, City policies, Memorandum of Understanding, Charter, Municipal Codes, or any other job-related reason which provides cause for disciplinary action against an employee.

- (44) **Grievance**: An expressed written claim by an individual employee or designated representative that the City has violated, misinterpreted or misapplied, an obligation to the employee as such obligation is expressed and written in the Memorandum of Understanding.
- (45) **Human Resources Director**: The Director of the Human Resources Department or the director's designee, who acts in an advisory capacity for the Civil Service Commission, and administers these Rules and the personnel operations of the City.
- (46) **Incumbent**: Any employee who is occupying a classified or unclassified position.
- (47) **Insubordination**: The disobedience of an employee to a lawful order given by a higher authority within the scope of the employee's job.
- (48) **Job Abandonment**: A separation that occurs when an employee's actions, or lack thereof, creates the following conditions:
- i. An employee is absent without authorization for three (3) or more consecutive working days and/or shifts; and
 - ii. The employee fails to contact the employee's supervisor to provide justification for the absence.
- (49) **Job Bulletin**: A job announcement that outlines the minimum requirements of the position, the closing date, testing requirements, and other job related information.
- (50) **Judicial Review**: The legal process by which administrative decisions of the Commission may be appealed to a court of competent jurisdiction, as further defined in these Rules.
- (51) **Minimum Requirements**: The lowest level of knowledge, skills, abilities, experience, education and/or licenses permitting applicants access to the examination process.
- (52) **Nepotism**: Providing employment, promotions, higher earnings, and other benefits to employees because they are relatives or friends of City Officials, management or supervisors instead of on the applicant's or employee's ability or merit.
- (53) **Occupational Medical Standards**: Medical standards established for City employment that specify the physical and/or mental demands of all classifications, provided that such standards are directly related to the job demands which are necessary to each respective classification.
- (54) **Open & Competitive Examination**: An examination which provides an equal employment opportunity to every applicant, whether or not currently employed by the City.
- (55) **Ordered Leave With Pay**: Occurs when a department head, with the approval of the Human Resources Director and the City Manager, orders an employee to take a leave of absence with pay, as set forth in these Rules.
- (56) **Part-time Employees**: Employees who are regularly scheduled to work less than forty (40) hours per week in a position that is not part of the classified service and are subject to hourly wages. Part-time employees are designated as either casual part-time or regular part-time.

RULE 1

- (57) **Permanent Status:** An employee achieves permanent status after having successfully completed a probationary period for a classification within the classified service.
- (58) **Personnel Action:** An action affecting the status or assignment of an employee as documented and processed through the use of a Personnel Action form.
- (59) **Personnel File:** The employee's official record of employment and job performance as maintained by the Human Resources Department.
- (60) **Position:** The defined set of duties and responsibilities that make up a job to be performed by an employee. One or more positions may comprise a classification.
- (61) **Probationary Period:** A one (1) year period of time, beginning with the effective date of classified appointment, that shall be considered a continuation of the examination and selection process during which an employee is required to demonstrate suitability for permanent appointment by actual performance of the duties of the position to which the employee has been appointed.
- (62) **Promotion:** The advancement of an employee into a higher level classification or one which is allocated a higher base salary range.
- (63) **Promotional Examination:** An examination which provides an equal employment opportunity for a particular classification for qualified Culver City employees.
- (64) **Promotional List:** An Eligible List resulting from a promotional examination.
- (65) **Public Notice:** The notification to the public of all regularly scheduled and specially called meetings of the Commission, as required by law.
- (66) **Public Record:** Any record containing information relating to the conduct of the public's business prepared, owned, used, or retained by the City, which, must be made available to the public in accordance with the provisions of California Government Code Sections 6250, *et seq.*
- (67) **Quorum:** The number of Commission members that must be present for business to be legally conducted. Three members of the Commission shall constitute a quorum.
- (68) **Reasonable Accommodation:** A modification or an adjustment to a work environment or testing site that does not cause undue hardship to the City but will enable a qualified applicant or employee with a disability to participate in the application process or to perform essential job functions. Reasonable accommodation also includes adjustments to assure that a qualified individual with a disability has rights and privileges in employment equivalent to those of non-disabled employees.

- (69) **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, as a result of a study conducted by the Human Resources Department and as approved by the City Manager. The two (2) types of reclassifications, are as follows:
- i. **Upward Reclassification**: An employee serving in a position which has been reclassified upward, to a higher classification with a higher base salary range, shall be provided no less than a three percent (3%) increase, except that such increase shall not exceed the maximum rate of pay for the reclassified position.
 - 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 City Manager
- (70) **Reduction in Pay**: An employee's salary decrease within the limits of the pay range and steps established for a classification.
- (71) **Re-employment**: The process by which a former employee requests to return to employment with the City to the position from which the employee resigned, provided the employee had achieved permanent status in said classification and as set forth in these Rules.
- (72) **Regular Part-Time**: A type of appointment commonly referred to as "RPT" given to part-time employees that includes certain benefits.
- (73) **Reinstatement**: The appointment of a former employee to a position within a classification, from which the employee was laid off or displaced, provided said appointment occurs within two (2) years of lay off or displacement.
- (74) **Rejection**: The term used to denote an employee's failure to successfully complete probation. Said failure will result in the removal of the employee from the eligible list from which the employee was appointed, provided said eligible list is still valid.
- An employee who wishes to be reconsidered for the position in which the employee failed the probationary period may receive future consideration provided the employee reapplies for the position during a valid filing period and achieves placement on a new eligible list.
- (75) **Reprimand**: A written or oral admonishment for employee conduct described under cause for Disciplinary Action.
- (76) **Reprisal**: Punitive action taken by an employee or City Official against another employee, City Official or member of the public for actions including but not limited to voicing a complaint, assisting or participating in an investigation or hearing, or engaging in other protected activity.
- (77) **Request for Certification**: An appointing authority's request to the Human Resources Department via a Request for Certification form, for the referral of candidates in consideration of filling a position.
- (78) **Resignation**: An employee's voluntary separation from City employment.

- (79) **Retaliation**: Behavior that threatens, coerces or discriminates against an employee or City Official for presenting, participating, assisting or serving as a witness in an investigation, grievance, appeal, hearing or for other matters governed by the Civil Service Rules.
- (80) **Re-title**: The renaming of a classification title. This change does not entail any changes to an employee's salary, base salary range or the essential functions of the classification, as approved by the Civil Service Commission and the City Council.
- (81) **Reversion**: The return to the Classified Service of an employee who having previously held permanent status, accepted an appointment in the Unclassified Service within the preceding two (2) years, as set forth in these Rules.
- (82) **Seniority**: The length of service within a specific classification in the classified service; or the total length of time served as a City employee, regardless of classification or appointment status. The manner in which seniority is calculated is set forth in these Rules.
- (83) **Separation**: Occurs when the employee's services with the City terminate for reasons other than resignation or dismissal. This also includes job abandonment.
- (84) **Special Compensation**: An employee may receive special compensation when assigned additional duties beyond the scope of the employee's regular classification when operational conditions necessitate prioritizing these duties as an essential function of the division and/or department and the qualifications and skill level of the employee are appropriate to fulfill the duties.
- (85) **Suspension**: A disciplinary action whereby an employee is placed on an involuntary leave of absence without pay.
- (86) **Termination**: Occurs when the employee's services with the City terminate due to a resignation, dismissal or separation.
- (87) **Transfer**: The process of moving an employee from one position to another. The various types of transfers are as follows:
- i. **Intra-Departmental Transfer**: The employee is moved to another position in the same classification and in the same department;
 - ii. **Inter-Departmental Transfer**: The employee is moved to a position in the same classification but in another department;
 - iii. **Lateral Transfer**: The employee is moved to another position in another classification having substantially the same maximum salary limits, involving the performance of similar duties and requiring substantially the same basic qualifications. The new position can be in the same department or in a different department.
 - iv. **Disability Transfer**: A disabled permanent employee who is unable to perform the essential job duties of the employee's permanent classification may be placed without examination in another position, the duties of which the employee may reasonably be expected to perform satisfactorily, provided the employee meets the minimum requirements of said classification as set forth in these Rules.

- (88) **Unclassified**: All classifications not included in the Classified Service.
- (89) **Veteran**: An individual who has been honorably discharged from active duty in the Armed Forces of the United States after serving for a period of at least one (1) year; or if discharged for disability. Individuals who are still on active duty are not considered veterans for the purposes of these Rules.
- (90) **Working Days**: A term used to refer to the days that fall within the employee's assigned work schedule.
- (91) **Y Rating**: A process that allows employees that have been moved to a classification with a lower salary range to maintain the base salary associated with the previously held classification in lieu of being compensated at the base salary associated with the new classification as set forth in these Rules.

RULE 2**CIVIL SERVICE COMMISSION**

2.1 Definition and Function: The Civil Service Commission shall be a body of five (5) lay citizens, none of whom shall hold any paid office or employment in the City Government, or hold any contract for services to the City which could create a significant conflict with their duties as Commissioners and shall be appointed by the City Council to serve for specified terms or at the discretion of the City Council. Their principal function shall be to advise the City Council on all matters pertaining to the civil service system, recommend adoption of amendments to the Civil Service Rules, and provide an appeals procedure for classified employees.

2.2 Selection: Commissioners shall be selected by majority vote of the City Council.

2.3 Organization and Protocol: The Commission shall select a Chairperson for an annual term beginning each July 1 or thereafter. Such shall be by majority vote of the Commission based on nominations from the Commissioners. The Commission shall not conduct official business unless a quorum (3 members) is present.

The Commission shall decide its own meeting procedure. The Chairperson shall be the presiding officer and ceremonial representative, and may make and vote on each motion. The Commission shall set the time, place, and frequency of regular meetings, and shall make such decision known to the Human Resources Director.

2.4 Records: The Commission records shall consist of minutes of the Commission meetings and such data as the Commission designates are matters of Commission record. Such records shall be maintained for the Commission by the Human Resources Department staff. Commission minutes shall not be confidential unless otherwise noted.

2.5 Assistance: The staff of the Human Resources Department shall provide such assistance to the Commission as needed, and shall make such recommendations as deemed appropriate. The Human Resources Director or the Director's designated representative, unless excused by the Commission, shall attend each meeting.

2.6 Confidentiality: Whenever a matter coming before the Commission involves the personal conduct or affairs of an individual employee, it shall be treated as confidential, and every effort shall be made by the Commission to avoid unnecessary revelation of the case or embarrassment to the individual both in discussing the matter and in taking action with respect to the individual. The Commission may, if discretion warrants, conduct closed meetings for such periods of time as may be necessary to discuss such cases, pursuant to applicable State laws governing public meetings. All personnel records shall be confidential except as provided by law.

2.7 Coordination: The Commission shall, at its discretion, provide for maximum coordination of all deliberations with all principals involved by giving public notice of its meetings and hearings. Specifically, it may invite the representatives of various employee groups, department heads and others to its meetings, depending upon the nature of the discussions to be held.

2.8 Powers and Duties: The Commission shall have the power and duty to:

- a. Act in an advisory capacity to the City Council on matters pertaining to the civil service system;
- b. After a public hearing thereon, recommend to the City Council the adoption of amendments to or repeal of the Civil Service Rules;
- c. Hear appeals of any employee under the Classified Service who has received a reduction in step within a salary range, suspension, demotion, or dismissal, or who is appealing the denial of a grievance, and report in writing to the appointing authority, City Manager, employee and/or City Council its findings and conclusions;
- d. Review city-wide salary studies for classified positions, conducted every five years among other public agencies, to ascertain whether the salaries being paid City employees for similar work are comparable, fair and reasonable, and make recommendations with respect thereto to the City Council;
- e. Exercise such functions with respect to the Civil Service System not inconsistent herewith, as may be prescribed by the City Council.

2.9 Subpoenas, Oaths: In any investigation or hearing conducted by the Commission, it shall have the power to compel the attendance of witnesses or the production of evidence before it by subpoenas issued in the name of the City and attested to by the City Clerk, and to examine such witnesses under oath. The refusal of any person to attend or to testify in answer to such a subpoena shall subject said person to prosecution in the same manner as set forth by law for failure to appear before the City Council in response to a subpoena issued by it. Each Commissioner shall have the power to administer oaths to witnesses.

2.10 Exception: A four-fifths majority vote of both the Civil Service Commission and the City Council shall be required to grant an exception to the provisions of any rule which, if literally followed, would effect an absurd or unfair result in any particular case.

RULE 3

CLASSIFICATION

3.1 Policy: The purpose of classification is to establish and maintain a system of written job analyses by job titles and duties, which accurately represents the assignment of duties by organization and function to individuals and which describe the qualifications necessary to perform such duties satisfactorily. There shall be a class specification for each job classification in the Classified Service. The class specifications shall contain the duties, assignments, title, and requirements as to education, experience, licenses and other special characteristics.

The appointing authority may establish as many classes as the appointing authority wishes pursuant to this Rule, whether or not the appointing authority fills such classes; and may fill as many classes as the appointing authority's budget allows subject to budgetary constraints as may be imposed by the City Council.

3.2 Existing Classifications: All classifications presently existing as of the date of adoption of these revised Rules, as evidenced by the records of the Human Resources Department, shall continue in full force and effect unless subsequently changed pursuant to the procedures contained in this Rule.

3.3 Procedure:

- a. **Processing:** The establishment of a new classification or a reclassification may be requested by any member of the City Council, Commission, appointing authority or any employee of the City. The request shall be prepared and submitted to the Human Resources Director and the affected department head, and attached thereto shall be a description of the duties to be performed, and such information or attachments as may be necessary to consider the case. The Human Resources Director shall review the requested action with the requesting party and make such recommendations to the Commission as the Human Resources Director deems appropriate.

The Human Resources Director's recommendations shall be communicated to the originator, the affected appointing authority and employee organization. If any party disagrees with the Human Resources Director's recommendations, such objection may be presented in writing or verbally to the Commission at the time for consideration of the recommendation. The Commission shall make the final decision on the establishment of a new classification or revisions to an existing classification.

- b. **Reclassification:** When the duties and responsibilities of a position are modified to add or delete significant functions, skills, or authority, educational requirements or other factors which may affect compensation decisions, the classification may be redefined to reflect the new level. This constitutes a reclassification of the position. The process specified in these Rules for establishing a new classification or changing an existing classification is to be followed for processing a reclassification, which may result in establishment of a new classification or promoting the position to an existing classification.

- (1) **Basis for Reclassification:** 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.

(2) **Reclassification to Higher Level Position:** Should an employee's permanent position be reclassified to a higher level position, based upon the duties and skills currently being performed, the employee shall be entitled to that classification upon recommendation by the Appointing Authority and verification by the Human Resources Director that the employee meets the minimum requirements of the new classification.

(3) **Layoff Rights for Reclassified Employees:**

- i. An employee whose position is reclassified to a lower level classification shall be entitled to lay off rights as it pertains to the higher classification.
 - ii. An employee whose position is reclassified to a higher classification and is deemed not qualified for the higher classification shall be entitled to lay off rights, as it pertains to the lower classification.
- c. **Appeal:** Any employee subject to these Rules, except as otherwise provided herein, may appeal by filing written objections to the Commission regarding the proposed classification action. Such objections shall be considered at the same time as the Commission considers the recommendations of the Human Resources Director. This shall constitute the appeal process for classification actions except as provided in the grievance procedures in these Rules.
- d. **Duty Assignments:** An employee may be assigned related or collateral duties, not specifically named in a class specification, and which do not alter the primary responsibilities of the classification, as deemed necessary by the employee's appointing authority, without requiring a modification of the class specification or a reclassification.
- e. **Prohibitions:** No appointment shall be made to a classification which is not authorized under this Rule.

RULE 4

COMPENSATION

4.1 Policy: It shall be the policy of the City government to establish and maintain a system of pay and allowances which fairly compensates each employee in accordance with the duties of the classification; in accordance with the pay for the classification in comparison to the pay of other classifications in the City; and in comparison to the pay of similar classifications in local governmental jurisdictions, as appropriate.

4.2 Compensation or Pay Plan: The Human Resources Director shall prepare and maintain a pay plan which shall list all titles, ranges, steps, numbers, and rates of pay for all positions in the Classified Service. The pay plan shall be available to any person requesting same.

4.3 Changes in Compensation of Individual Employees: Changes in the compensation rate of individual employees shall be accomplished by a personnel action processed through the Human Resources Director or designee.

4.4 Use and Alteration of Compensation Plan: The compensation plan shall be used as the basis for the payment of compensation to all employees of the City governed by this Rule, as well as in recruitment, classification, and other matters. Alterations of the compensation plan shall be accomplished by City Council Resolution. The compensation plan in existence as of the adoption of this Rule shall continue in full force and effect unless changed by approval of the City Council.

4.5 Range and Steps:

- a. **Ranges - Salary:** Each classification governed by this Rule shall be assigned a range number indicating its pay span in steps. Changes in range number assignments shall be accomplished pursuant to these Rules.
- b. **Steps – Salary:** Each salary range (except Police and Fire classifications), shall consist of five (5) steps representing increases in monthly pay.

4.6 Pay Basis: The pay structure of classified employees shall be based on monthly salary. When an employee is to be paid by the hour, the employee's personnel action shall so state. In such cases, the employee shall be paid according to the number of hours the employee worked.

4.7 Determination of Compensation Rate and Step Increases: Employees shall advance through the pay steps of their respective range based upon overall satisfactory performance on performance evaluations.

- a. Probationary employees shall be advanced from Step 1 of the pay range to which they are assigned to Step 2 upon the completion of six (6) months of overall satisfactory performance with the City.
- b. Probationary employees who are initially assigned to any step higher than Step 1 shall be advanced to the next highest salary step upon the completion of one (1) year overall satisfactory performance in the step to which they were assigned.
- c. Employees with permanent status shall be advanced to the next highest salary step upon the completion of one (1) year of overall satisfactory performance in the step to which they were assigned (until said employees attain Step 5 of the range to which they are assigned).

- d. Employees who are promoted shall take a new anniversary date for step increases, said date being the first day of work in the new job classification.
- e. Employees assigned to a lower classification shall retain the anniversary date held prior to the assignment. The salary of these employees may be subject to the "Y" rating principle.
- f. When an employee is assigned to a lower classification with a top step hourly rate higher than the employee's former hourly rate , the employee shall be entitled to a step in the new range equivalent to, but not less than, the employee's former hourly salary rate. If such step assignment is less than the top step of the new range, the employee shall continue to receive step advancements as provided in (c) above.
- g. Exceptions to step assignments may be made either under the provisions of the rule applicable to personnel actions or by action of the appointing authority as approved by the City Manager.

4.8 Separation Pay: Any permanent or probationary employee that terminate employment shall be paid for such accrued leaves (vacation, sick, holiday pay, compensatory time, etc.) as authorized pursuant to State laws and the respective MOU or Resolution governing the pay and benefits of that employee's classification. It shall not be necessary to carry such employee on the payroll for any leave or vacation period. When separation is caused by the death of an employee, separation pay and any other accrued monies owed shall be made to the designated beneficiary of such employee following notification of the death to the Human Resources Department.

4.9 Special Compensation:

- a. **Definition:** An employee may be assigned additional duties beyond the scope of the employee's regular classification when operational conditions necessitate prioritizing these duties as an essential function of the division and/or department and the qualifications and skill level of the employee are appropriate to fulfill the duties.
 - (1) Such additional pay shall not be considered a promotion, and may be reduced or removed without cause, notice or appeal rights.
 - (2) No person shall receive both special compensation and acting pay as set forth in the respective MOUs.
 - (3) Special Compensation is not an assignment to a vacant, higher level position, but is an assignment of duties that are added to current classification/position duties.
 - (4) Special Compensation is temporary in nature.
 - (5) Special Compensation is distinct from assignment of collateral duties in that the duties for which the employee receives special compensation are of a higher or more complex nature than the employee's permanent classification.
- b. **Eligibility:** Special compensation shall only be given when an employee is assigned higher level duties that are in excess of eighty (80) consecutive hours. Employees shall be precluded from receiving special compensation while on any type of leave of absence.

c. **Process:**

- (1) The City Manager may approve special pay commensurate with the additional duties, while such duties are assigned, for up to six (6) months. Such special pay may be an amount not to exceed 10% of the employee's regular base pay.
- (2) If at the end of six (6) months the department needs an extension of special compensation, the request shall be submitted to the City Manager in writing, who may then renew the special compensation for another six (6) months. By the end of the extension period the department must determine the long-term nature of the additional duties and operational needs; only one renewal period is allowed.
- (3) By the end of the first or second six (6) month period, the department must cease the situation leading to special compensation, request a permanent reclassification, or make other such personnel or operational changes that will absorb the additional duties. The additional duties must cease at the same time as the special compensation ceases.

RULE 5

APPLICATIONS AND APPLICANTS

5.1 Applications: The Human Resources Department shall issue and receive applications for a position advertised, and shall review and verify each application for completeness, the qualifications of the applicant for the position, including the verification of education, prior employment and military service. All such applications shall be retained by the Human Resources Department in conjunction with other data governing the recruitment process and shall be available for inspection by the appointing authority.

5.2 Rejection of Application: The Human Resources Director may reject any applications submitted for any of the following reasons:

- a. Failure of the applicant to meet one or more of the announced requirements for the examination, such as training and experience, education, certification or licensing, or other requirements.
- b. False statements by the applicant with regard to any material facts.
- c. Any fraudulent practice or attempt thereof by the applicant in connection with any phase of the recruitment and selection procedure.
- d. Criminal conviction record of an applicant including pleas of guilty and nolo contendere, after considering the following:
 - (1) the classification, including sensitivity or confidentiality, to which the person is applying and whether the conviction is significant in relation to specific duties or tasks;
 - (2) the nature and seriousness of the offense;
 - (3) the length of time elapsed since the conviction;
 - (4) the age of the applicant at the time of the conviction;
 - (5) the presence or absence of rehabilitation efforts.

Applicants for Peace Officer positions who have felony convictions shall be disqualified pursuant to State law.

- e. Discharge from public or private employment for cause in the absence of mitigation as provided in (d) 1 through 5 above.
- f. Discharge from the Armed Forces of the United States under conditions other than honorable, in the absence of mitigations as provided in (d) 1 through 5 above.
- g. Reasons, other than the aforementioned, which would indicate unfitness of the applicant for the position; upon determination of the Human Resources Director and approval by the Civil Service Commission.

5.3 Physical Requirements:

- a. All candidates selected for City employment shall meet the pre-placement physical requirements for the classification for which they have been selected and be able to successfully perform the assigned job duties, with or without reasonable accommodation. The examining physician shall report to the Human Resources Director any physical condition which, in the examining physician's opinion, may impair the ability of the candidate to perform the duties to which the candidate is to be appointed. Physical and/or psychological conditions which cannot be reasonably accommodated are causes for rejection.
- b. The physical requirements for entrance employment shall be maintained by the Human Resources Department. Where physical requirements are to be key factors in job performance, the requirements shall be listed on the Job Bulletin for the position under recruitment.
- c. Information contained in reports of medical examination shall be confidential, shall be maintained separately from Personnel files, and shall not be released to anyone other than, the City Attorney, Risk Management, and the Human Resources Director without permission of the affected employee.

RULE 6

RECRUITMENT AND EXAMINATIONS

6.1 Fair Employment Practices: Any technique or procedure used in recruitment and selection of employees shall be designed to measure only the job related qualifications of applicants and their suitability for a particular position. No recruitment or selection technique shall be used which is not justifiably linked to successful job performance.

The City is committed to provide equal employment opportunities to all job applicants regardless of race, color, gender, national origin, marital status, religion, age, disability, political affiliation, sexual orientation/identification.

6.2 Recruitment:

- a. **Basis of Recruitment:** Whenever a vacancy occurs in any department of the City, the appointing authority may request the recruitment of qualified applicants to fill such vacancy. The request shall be accomplished by means of the proper form submitted to the Human Resources Director. The Human Resources Director, pursuant to Appointment provisions, shall seek qualified applicants to fill the vacancy.
- b. **Advertising:** The Human Resources Director shall distribute the Job Bulletin to such places as the Director deems necessary to attract qualified applicants, and may advertise the vacancy in a local or metropolitan newspaper of the Director's choosing for such time and in such manner as deemed appropriate. One copy of each Job Bulletin shall be posted on the bulletin board of the Human Resources Department as long as the recruitment is in effect.
- c. **Appeal:** An appeal may be made directly to the Human Resources Director by any City employee or applicant relative to Classified Service recruitment or examination matters concerning an applicant, within ten (10) working days of written notification of examination results. Appeals from the decision of the Human Resources Director may be made by filing a written request directly to the Civil Service Commission.

6.3 Authority to Examine: Whenever the Human Resources Director is in receipt of a Certification Request and is unable to fill the request by transfer, reinstatement, appointment from an active eligible list, or for other reasons that an examination is desirable, the Human Resources Director shall conduct an examination to establish a list of eligible persons for probationary appointment.

6.4 Commission Approval: Where an examination is required, the Human Resources Director shall prepare a Job Bulletin and forward it to the Commission for approval. It shall not be necessary to obtain additional Commission approval of a Job Bulletin if there have been no changes in the minimum requirements, or examination components.

6.5 Job Bulletin: The Job Bulletin shall include, but not be limited to, the following information:

- a. The title of the position;
- b. A brief description of the duties of the position;
- c. The minimum and maximum pay of the position;
- d. The category of persons eligible to take the examination;
- e. The components of the examination;

- f. The date and place of the examination, if known;
- g. Citizenship, residence, age and sex (as permitted or required by law);
- h. The qualifications required for the position in terms of education and experience;
- i. Physical qualifications if unusually restrictive;
- j. The last date applications will be accepted;
- k. The mailing address of the Human Resources Department; and
- l. Such other information as the Human Resources Director or the Commission may consider to be pertinent.

6.6 Examination Components: An examination to establish an eligible list shall consist of one (1) or more of the following components:

- a. Written test to determine aptitude and/or knowledge of position and duties;
- b. Oral test to determine suitability, presentation and communication skills, knowledge of position and aptitude;
- c. Demonstration test to determine ability to perform duties of position;
- d. Evaluation of experience and education to determine suitability for position;
- e. Physical agility test to determine ability to physically perform the duties of the position.

6.7 Pre-Placement Employment Offer Components: Shall be based on the satisfactory completion of one (1) or more of the following, depending on the requirements of the job:

- a. A review of the applicant's conviction record;
- b. Medical, physical and/or psychological examination, which may include a drug screening to determine state of physical and/or mental condition in connection with duties of the position, at the City's expense prior to appointment;
 - (1) Medical and physical examinations will be performed by a licensed physician;
 - (2) Psychological examinations will be performed by a clinical psychologist;
- c. A background investigation consisting of inquiries to friends, relatives, working associates and former employers to determine character of applicant;
- d. A review of the credit records of the applicant to determine suitability as a government employee, by contract with an agency qualified to perform such a review;
- e. Such other legally authorized tests or investigations requested by the appointing authority and approved by the Human Resources Director or Civil Service Commission.

6.8 Examination Categories: Examinations authorized by the Commission shall be included in one (1) of the following categories:

- a. **City Departmental Promotional:** This examination shall be restricted to qualified employees employed in the department having the vacancy.

- b. **City Promotional:** This examination shall be restricted only to qualified City employees.
- c. **Open:** This examination shall be open to any person who applies, and meets the qualifications enumerated in the Job Bulletin and these Rules.

6.9 Promotional Examinations: Insofar as practical, consistent with these Rules and consistent with the best interests of the City, vacancies in the Classified Service shall be filled by promotion from within the City. When a position is vacant and there is no current eligible list, the appointing authority may submit a requisition for either an open or a promotional examination to establish an eligible list.

6.10 Unassembled Examinations: The Human Resources Director may approve an unassembled examination process when the City receives fewer than six (6) qualified applications for a recruitment. An unassembled examination may consist of an appraisal of training, experience, work history, or any other means of evaluating job-related qualifications without requiring the applicant's personal attendance.

6.11 Contractual Services: The Human Resources Director or Commission may approve the use of materials from a public or private agency, or the coordination of an examination with other public agencies. In addition, or as an alternative, the Human Resources Director or Commission may recommend the City Council contract with the legislative body or governing board of any other municipality or county, with any State department, or with any private agency, for the conduct of competitive examinations to ascertain the fitness of applicants for positions and employment in the Classified Service, and for the performance of any other service in connection with personnel recruitment, selection, classification or administration.

6.12 Use of Outside Examination Agents: Upon the recommendation of the Human Resources Director, the City may contract with a person or agency for the purpose of conducting examinations. The outside examination person or agency must be professionally qualified to examine persons for employment in governmental jurisdictions. The Human Resources Director shall ensure that examinations are conducted pursuant to the Rules. For the purpose of establishing an Eligible List, every effort shall be taken to ensure objectivity and neutrality of raters, examiners, proctors and observers. The Human Resources Director shall determine if and when City employees, electors or elected officials may participate in the examination process. The decision of the Human Resources Director is final.

6.13 Grading and Weighting:

- a. **Method:** The components of each examination shall be administered, graded and weighted by the examiners. The formula for such grading and weighting shall be applied in the same manner for each individual examination.
- b. **Use of Outside Examination Agents:** Upon the recommendation of the Human Resources Director, the City may contract with a person or agency for the purpose of conducting examinations. The outside examination person or agency must be professionally qualified to examine persons for employment in governmental jurisdictions. The Human Resources Director shall ensure that examinations are conducted pursuant to the Rules. For the purpose of establishing an Eligible List, every effort shall be taken to ensure objectivity and neutrality of raters, examiners, proctors and observers. The Human Resources Director shall determine if and when City employees, electors or elected officials may participate in the examination process. The decision of the Human Resources Director is final.
- c. **Veterans' Preference:** The score derived from grading and weighting for those candidates who receive passing grades shall be increased by adding three (3) points to their score where an examinee has submitted adequate proof to the Human Resources Director that the applicant has been honorably discharged from active duty in the Armed Forces of the United States after serving for a period of at least one year, or if discharged for disability. These additional three (3) points may only be used as a means to obtain an appointment when entering the Classified Service of the City of Culver City. Where an examination is both open

and promotional, City employees shall receive Veterans' Preference on the same basis as other applicants.

- d. **Seniority Preference:** Each employee who receives a passing grade on an examination shall receive one-quarter (1/4) point additional credit for each aggregate year of service with the City to a maximum of two (2) points (eight or more years of service). In every instance, points shall only be awarded for completed full years of employment in the City, and the controlling dates for computation shall be from the date of entrance on duty with the City to closing date of filing for the examination.

Exceptions:

- (1) **Promotional Exams:** For the purpose of promotional examination within the Fire and Police Departments, seniority preference points shall be allowed for each completed year served as a permanent employee within the Department conducting the promotional examination.
- (2) **RPT Seniority Points:** In open and competitive examinations, the City shall provide existing Regular Part-time employees one quarter (1/4) point additional credit for every 2,080 hours of service up to a maximum of four (4) points to the final score of the eligibility list.

6.14 Review of Scores by Examinees: The Human Resources Department will provide examinees with the opportunity to review exam results and rating comments. Examinees may only have access to the following information: component scores and rating comments, but without identification of the raters making such comments.

RULE 7

ELIGIBLE LISTS

7.1 Policy: The names of those examinees that have passed an examination, together with their weighted scores on each component of the examination and in total, shall be known as the Eligible List and shall be transmitted to the Human Resources Director for certification.

7.2 Final Scores: The final score shall include all scored and weighted components of the examination, seniority preferences points and veteran's preference points, as provided for in these Rules. Final scores will be rounded to the nearest whole number, e.g., 92.49 would be rounded down to 92 and 92.50 would be rounded up to 93.

7.3 Rank: Identifies the order of placement of an examinee on the eligible list. The examinee with the highest final score shall receive rank 1 and be placed first on the list, the examinee with the next highest score shall receive rank 2 and be placed second on the list, etc., until the name of the examinee with the lowest passing score and corresponding rank is listed. Examinees with the same final scores shall be listed as occupying equal rank, listed alphabetically.

7.4 Certification: Upon review and approval of the eligible list, the Human Resources Director shall certify it for use in the selection of an appointee and provide it to the Commission at their next regular meeting. When an examination process does not produce a valid eligible list of at least five (5) qualified candidates, the Human Resources Director may approve the use of a valid eligible list created for a higher classification when the Director determines that candidates on that list are qualified and interested in appointment to a related lower classification.

7.5 Duration of Eligible Lists: Each certified Eligible List shall be valid for use for a period of one (1) year, unless exhausted sooner. The Eligible List may be extended for up to one (1) additional year with the Commission's approval. The extended eligible list shall be valid until a new list is established for the same classification or the current Certification of Eligible List is exhausted, whichever occurs first, except as set forth below.

7.6 Consolidation of Eligible Lists: In the event of the establishment of an eligible list where another list for the same classification exists, the two (2) lists may be combined by the Human Resources Director and the names of the persons on each list shall be merged in such a manner as the highest scoring examinee is first, the next highest scored is second, etc., pursuant to these Rules. The consolidation of eligible lists as provided in these Rules shall not have the effect of extending the duration of any eligible list unless specifically provided and approved by the Commission.

7.7 Rules of Certification: Eligibles who are available for appointment shall be referred according to the examination type. If an appointment is made, the appointing authority is required to appoint from the five (5) ranks that were certified by the Human Resources Director and may not make a temporary appointment in lieu of making a selection from the eligible list, unless fewer than five (5) ranks appear on the list, in which case the appointing authority may request to terminate the list.

- a. **Open & Competitive Examinations:** The Rule of Five (5) ranks will be used for these types of examinations. All of the eligibles in the five (5) highest ranks, including ties, will be referred, in alphabetical order, in consideration of filling a vacancy.
- b. **Promotional Examinations:** The Rule of Three (3) ranks will be used for these types of examinations. All of the eligibles in the three (3) highest ranks, including ties, will be referred, in alphabetical order, for consideration in filling a vacancy.

- c. **Special Examinations:** The following types of recruitments may use the Rule of Ten (10) ranks to fill vacancies:
1. Fire Fighter Recruit
 2. Police Officer Recruit
 3. Bus Operator Trainee

7.8 Certification of Eligibles for Multiple Vacancies: The number of additional eligibles certified to appointing authorities with multiple vacancies from open & competitive examinations will depend on the type of referral method used:

- a. **Rule of Five:** When there are multiple vacancies for open & competitive examinations, the appointing authority shall be certified one (1) additional rank for each additional vacancy beyond the five (5) highest ranks provided for under the Rule of Five.

(1) **Examples:**

- i. If there are two (2) vacancies, all of the eligibles in the six (6) highest ranks will be certified to the appointing authority.
- ii. If there are three (3) vacancies, all of the eligibles in the seven (7) highest ranks will be certified to the appointing authority.

- b. **Rule of Three:** When there are multiple vacancies for promotional examinations, the appointing authority shall be certified one (1) additional rank for each additional vacancy beyond the three (3) highest ranks provided for under the Rule of Three.

(1) **Examples:**

- i. If there are two (2) vacancies, all of the eligibles in the four (4) highest ranks will be certified to the appointing authority.
- ii. If there are three (3) vacancies, all of the eligibles in the five (5) highest ranks will be certified to the appointing authority.

- c. **Rule of Ten:** When there are multiple vacancies for special examinations, the appointing authority shall be certified ten (10) additional eligibles for each additional vacancy beyond the ten (10) ranks provided for under the Rule of Ten.

(1) **Examples:**

- i. If there are two (2) vacancies, twenty (20) eligibles will be certified to the appointing authority.
- ii. If there are three (3) vacancies, thirty (30) eligibles will be certified to the appointing authority

7.9 Eligibles Not Selected: An appointment shall be made from the eligibles certified to the appointing authority in consideration of a vacancy. Eligibles not selected for appointment in a given classification will remain on the eligible list for that classification and may be considered for future vacancies within the classification until any of the following occur:

- a. The eligible list expires for the classification;
- b. The eligible is disqualified for the classification in the selection process for job related reasons;

(1) **Examples:**

- i. Eligible fails to pass the pre-placement medical examination after having received a conditional job offer.
- ii. Evidence is obtained that proves the eligible was dishonest during the selection interview(s) or in any of the application materials submitted to secure employment.
- c. The eligible receives a probationary appointment in the classification. Candidates who are offered or who are selected for a lower classification shall remain on the eligible list for the higher classification.

7.10 Recertification of Deferred Eligibles: Eligibles not selected will be considered Deferred Eligibles and will not be recertified to the same appointing authority for future vacancies unless a request is made to do so by the appointing authority. However, an eligible may request to be re-interviewed for a subsequent vacancy in the same classification and same division.

7.11 Recertification of Eligibles: Occurs when an eligible that was not selected is referred one or more times to the same appointing authority or same division within a twelve (12) month period. The appointing authority reserves the right to request that Deferred Eligibles be recertified and re-interviewed for subsequent vacancies within the same classification and division.

7.12 Elimination of Eligibles: Examinees on eligible lists may be eliminated by the Human Resources Director for any of the following:

- a. Selection from eligible list and receipt of probationary appointment;
- b. Two (2) declinations of offers of employment or three (3) waivers of certification from a single eligible list;
- c. Failure of candidate to respond to a written or verbal inquiry within five (5) working days of such inquiry;
- d. Failure of candidate to appear for an interview without notifying the Human Resources Director or appointing authority;
- e. Falsification of application and/or related documents by candidate;
- f. An evaluation indicating unsatisfactory physical and/or psychological fitness of the candidate with respect to the requirements of the position applied for, including unsatisfactory results on post-offer drug test and/or refusal to submit to said test, where applicable, as determined by the City's Physician and/or qualified psychological practitioner, as applicable;
- g. Voluntary withdrawal by candidate

- h. Information derived from any component of the recruitment, testing and/or selection which indicates the unsuitability of the applicant for employment, such as an unfavorable reference check;
- i. Disqualification under any part of these Rules.

7.13 Termination of Eligible Lists: The appointing authority may request that the Human Resources Director terminate an eligible list for good cause. Good cause shall include, but not be limited to:

- a. The list has exceeded the standard life of an eligible list, one (1) year.
- b. There are fewer than the required number of eligibles on the list for certification for:
 - (1) Open and Competitive Examinations: Fewer than five (5) ranks; or
 - (2) Promotional Examinations: Fewer than three (3) ranks; or
 - (3) Special Examinations: Fewer than ten (10) ranks.
- c. At least fifty percent (50%) of the eligibles on the list are unavailable, not interested or have been appointed.
- d. The position for which the eligible list was established has changed significantly and the candidates on the eligible list do not possess the knowledge, skills or abilities now required of the new position or revised classification.

The appointing authority, after a request to terminate an eligible list has been denied by the Human Resources Director, may appeal such decision to the Civil Service Commission.

RULE 8

APPOINTMENT

8.1 Appointment Policy: All appointments of persons to positions in the classified service shall be accomplished in such a manner as to secure and retain the most qualified employees available and shall adhere to the Anti-Nepotism Policy. The appointment of employees on a temporary basis shall be kept to a minimum as is compatible with operational requirements. All appointments are to be made in a fair and equitable manner, providing all qualified persons with an equal opportunity to serve in the employ of the City government.

8.2 Anti-Nepotism Policy: Because of the potential for creating adverse impacts on employment, supervision, safety, security or morale, members of an employee's immediate family shall not be employed in the direct line of supervision of one another. If any of these provisions conflict with the City Council Policy relating to Anti-Nepotism, the provisions in these Rules shall prevail. This policy shall be applied as follows:

a. **Special Definitions:** The following special definitions shall apply to this Rule:

(1) **Immediate Family (of affected employees):** The following relationships whether established by blood, marriage or other legal actions:

- i. Parents, grandparents, step-parents, step-grandparents, brothers, sisters, half-brothers, half-sisters, step-brothers, step-sisters, children, children's spouse, grandchildren, step-children, step-grandchildren.
- ii. Spouse and spouse's parents, grandparents, step-parents, step-grandparents, brothers, sisters, half-brothers, half-sisters, step-brothers, step-sisters, children, children's spouse, grandchildren, step-children, step-grandchildren.

(2) **Direct Line of Supervision:** Any regularly assigned employment relationship wherein an employee holds a position with any control or authority over an immediate family member. A City Council member and/or the City Manager shall be deemed to hold a position of control and authority over every City employee. A member of a City Commission or Board or Committee shall be deemed to hold a position of control and authority over every City employee who is regularly assigned as staff support to that member's Commission, Board or Committee.

b. **Applicability:** All employees, regardless of appointment status, are subject to this Anti-Nepotism Policy.

This policy shall not be applicable to any person whose immediate family member is elected to the City Council or Commission, if such a person, at the time of such election, is currently employed by the City.

c. **Notice to Affected Employees:** When a relationship that is subject to the Anti-Nepotism Policy is disclosed or discovered, the Human Resources Director will cause a written notice to be served on the affected employees. Said notice will advise the affected employees of the following:

- (1) **Employee Right to Transfer:** If a transfer opportunity is available, the employee shall have the opportunity to transfer subject to Transfer provisions set forth in these Rules.
- (2) **Information Regarding Available Transfer Opportunity:** Provide general information regarding any available transfer opportunities, e.g. classification title, department, work schedule, etc.
- (3) **Employee's Right To Resign :** The affected employees, upon being advised of their rights, shall have the right to resign if neither employee wishes to exercise the right to a transfer opportunity or if said opportunity is not available. The resignation shall be effective within a reasonable time period, not to exceed thirty (30) calendar days after the resignation decision or notice of transfer unavailability.
- (4) **Consequences of Employees Failing To Decide Who Will Resign:** The decision regarding who shall resign may be made by the affected employees. However, if no decision is made within thirty (30) calendar days of the written notice, the following shall apply:
 - i. **Employee Removed From Duty:** The employee with the most recent appointment, transfer or promotion which resulted in the application of the Anti-Nepotism Policy shall be removed from duty by the employee's appointing authority.
 - ii. **Employee Returned To Previous Permanent Position:** The employee who is removed from duty shall be returned to their previous permanent position, provided a vacancy exists in said classification.
 - iii. **City Terminates Employee:** In the event that no vacancies exist in the classification in which the affected employee previously held permanent status, the appointing authority shall terminate the employee.

Due process shall be given to the affected employees whenever applicable.

- d. **Right To Appeal:** When an employee is affected by the Anti-Nepotism Policy, the employee may appeal such determination to the Civil Service Commission for a final administrative adjudication of the matter. If the employee to whom the Rule has been determined to apply is an immediate family member of any member of the Civil Service Commission, that Commission member shall abstain from voting on the appeal. The Civil Service Commission, in its discretion, may use the services of a hearing officer.
- e. **Anti-Nepotism Policy Administrative Procedures Not Grieveable:** The procedures contained in the Anti-Nepotism Policy shall constitute an employee's exclusive administrative remedy. An employee may not file a grievance or other form of complaint for any determination, decision or action taken under the Anti-Nepotism Policy, except as provided herein.

8.3 Filling of Vacancies: The Human Resources Director will facilitate the filling of vacancies by referring qualified employees, eligible former employees, and candidates on the eligible list to the appropriate appointing authority. Referral for appointment will be made in the following order when applicable:

- a. **Disability Transfer:** Employees who have been previously transferred from a position because of disability may be eligible for reinstatement to such former position or one identical thereto when substantially recovered.
- b. **Transfer Opportunity:** Permanent employees who are already in a position within the classification or an equivalent classification in which there is a vacancy are eligible for a transfer opportunity. Said employees shall express the desire to transfer to such vacancy in accordance with the Transfer provisions provided herein.
- c. **Layoff**
 - (1) **Displacement:** Employees displaced to a lower classification for which they meet the minimum requirements as a result of a reduction in the work force. Displaced employees who meet the minimum requirements of the job shall be offered reinstatement under the provisions set forth in Rule 14, Layoffs.
 - (2) **Reinstatement:** Employees who have been laid off from a classification identical to that which is to be filled, shall be offered reinstatement on the following basis:
 - i. For employees who, at the time of layoff, were employed for fewer than five (5) years in the classified service, if the vacancy occurs within 365 days from the date of layoff.
 - ii. For employees who, at the time of layoff, had been employed for five (5) or more years in the classified service, if the vacancy occurs within two (2) years (730 days) from the date of layoff.
 - iii. Employees laid-off who were not reinstated during their respective period of mandatory reinstatement and did not otherwise waive rights to reinstatement, may be reinstated at the discretion of the respective appointing authority during an additional period of two (2) years following the end of the mandatory reinstatement period.
- d. **Re-employment:** Former employees who have resigned within the preceding 365 days may request to be re-employed, having held a permanent appointment in the classification from which they resigned. The former employee may be considered at the discretion of the respective appointing authority at the same time as examinees on an eligible list, but do not receive preference over such examinees.

If appointed, the former employee shall:

- (1) Not be required to serve another probationary period in the classification in which permanent status was held;
- (2) Be placed at the salary step held prior to separation;
- (3) Not be entitled to receive any additional compensation given prior to separation, e.g. acting pay, etc.;
- (4) Receive benefits appropriate to bargaining group representing the classification;
- (5) Be entitled to the leave accrual rates held prior to separation.

- e. **Eligible List:** Vacancies shall be filled by appointment pursuant to the Eligible Lists provisions, for classified appointments or as detailed herein.

8.4 Types of Appointment: The following shall be the only appointments authorized. The applicable type of appointment shall be cited as the subject of each personnel action request and notification.

- a. **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 Director. A permanent appointment provides the employee with procedural, appeal and seniority rights and promotional priority in appointments as set forth in these Rules.

b. Probationary Appointment:

- (1) A probationary appointment is the appointment of a person from an eligible list as certified pursuant to the Eligible Lists provisions. The probationary period commences on the effective date of such appointment to the position in the Classified Service and extends for a period of one (1) year. The purpose of the probationary period is to subject the employee to trial performance and training in the position to which the employee is appointed. During the time the employee is on probation, the employee may be rejected without appeal, except as provided by law, and is not entitled to seniority rights in lay off, or to promotional priority.
- (2) After the satisfactory completion of one (1) year of uninterrupted service, the probationary employee may be granted a permanent appointment pursuant to the following:
 - i. Submission of a completed performance evaluation and personnel action justifying such recommendation to the Human Resources Director for review prior to the end of the probationary period. No such review or recommendation is required for a decision to dismiss or reject the probationary employee.
 - ii. The failure of the appointing authority to present to the Human Resources Director a personnel action form recommending termination of probation prior to the end of the probationary period.
- (3) If the appointing authority fails to present a personnel action form recommending an extension of the probationary period prior to the end of the probationary period, permanent status shall be effective as of the 365th calendar day from the date probation began, except for extensions provided below.
- (4) Probationary employees are entitled to know whether or not they are being recommended for permanent status. The City Manager or designee may admonish any appointing authority who fails to provide performance evaluations and notice to a probationary employee.
- (5) A classified employee who has completed probation in one classification, who is serving a probationary period in a new classification, and who does not successfully complete the probationary period in that classification, shall have the right to revert to the employee's previous classification.

- (6) The probationary period may not be extended except for the cumulative time the employee was absent from work during the probationary period. In such cases, the appointing authority may extend the probationary period for the equivalent number of days of such absences in order that a full year of employment is completed prior to permanent appointment.

However, at any time during the probationary period, including any extensions provided above, the appointing authority has the right to dismiss the probationary employee.

- (7) Pursuant to State and Federal law and City policy, the probationary period may be extended due to the probationary employee's use of protected leave or modified duty status.

Protected leave includes, but is not limited to:

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

- (8) Whenever possible, the probationary employee will be advised in writing of the impact the use of a protected leave may have on the employee's probationary period, prior to use of the protected leave.

- (9) A probationary employee on protected leave 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 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.

c. **Provisional Appointment:** A provisional appointment is:

- (1) the temporary use of permanent or unclassified employees currently occupying other positions, who meet the minimum qualifications for the examination to be used to fill the position; or,
- (2) the temporary use of persons not in the employment of the City who meet the minimum qualifications for the examination to be used to fill the position; and
- (3) only made when no eligible list is available for a vacant position and the appointing authority deems it impractical to delay appointment until an eligible list is certified; and

- (4) not to exceed one hundred twenty (120) days, nor continue beyond thirty (30) days from the establishment of the eligible list or the date of appointment from an Eligible List, whichever first occurs (see Terminations), except upon good cause, with justification provided to the Human Resources Director and approval received from the City Manager; and
 - (5) If a provisional appointee is subsequently appointed to probationary status in the same position, the date of probation may commence with the date of provisional appointment, on the recommendation of the Appointing Authority; and
 - (6) Provisional Appointments may be terminated at any time, and the appointee has no rights to appeal the decision; and
 - (7) Provisional Appointees are not entitled to seniority rights in lay off, or to promotional priority, and do not accrue benefits or service credit toward benefits during such appointments, unless otherwise provided for in these Rules.
- d. **Regular Part-Time Appointment (RPT):** A regular part-time appointment shall be an unclassified employee who has been appointed to work at an average annual rate of at least 20 hours and less than 40 hours per week. A person appointed to a combination of positions of employment with the City to serve in each such position at an annual rate of service of at least 20 hours and less than 40 hours per week shall be considered a "Regular Part-Time Employee" (RPT) notwithstanding the fact that the aggregate of hours worked in said combination of positions of employment per week equals or exceeds 40 hours per week.
- e. **Limited Term Appointment:** A Limited Term appointment:
- (1) is unclassified and intended for a specified and limited period of time; and
 - (2) may be made for defined projects or employment tasks, and shall not exceed twelve (12) months in duration except as extended for up to one (1) additional year but not to exceed two (2) years total with approval by the Human Resources Director; and
 - (3) shall be compensated at an hourly rate within the established salary range for that classification; and
 - (4) may or may not receive the associated benefits of the classification occupied as determined by the appointing authority; and
 - (5) does not accrue seniority or other rights provided to Classified employees, unless otherwise provided for in these Rules.

8.5 Reversion: In the event an employee of the City holding a position under the Civil Service System is appointed to a position not under the Classified Service, and should subsequently be removed therefrom, the employee shall revert to his/her former position under the Classified Service without loss of any rights or privileges and upon the same terms and conditions as if the employee had remained in said position continuously. This right of reversion shall only be effective for a period of two (2) years from the date of appointment to the position not in the Classified Service and shall not apply to employees removed from City service for disciplinary reasons.

8.6 Compensation:

- a. The beginning rate of compensation for all appointments shall be the minimum step of the assigned range. The beginning rate of compensation for such appointment may be set at a step higher than the minimum step, if it is found that the employee because of experience and ability is qualified for a rate above the minimum or if it is found to be difficult to obtain qualified employees at the minimum step.
- b. An appointment with a rate of compensation above the minimum step must be approved by the City Manager or designee on recommendation of the appointing authority.
- c. An employee promoted within the Classified Service shall be placed on the first step of the new, higher, classification that provides no less than a five percent (5%) salary increase, provided that such increase shall not exceed the maximum salary established for the new classification.
- d. Employees appointed as excepted or regular part-time shall be eligible for step increases upon the completion of 1,500 hours of work in the prior step (i.e., when they have been employed 1,500 hours, they may be increased to the "B" step, and when they have cumulatively worked 3,000 hours, to the "C" step). The highest step they can advance to is "C" step.
- e. Employees reinstated to a former classification from layoff or following resignation shall be eligible for such pay and benefits as they held prior to the layoff or resignation. Employees reinstated from layoff shall have any balance of accrued leave benefits which existed at the time of layoff, and which were not paid upon layoff, reinstated to their account.

8.7 Authority to Appoint: Under the provisions of these Rules, and except as otherwise provided by City Charter or City Ordinances, the appointing authorities shall have the right and duty to discipline, promote, demote, transfer and take other actions pursuant to these Rules; provided, that the City Manager shall act for the City Council in these matters as they relate to the City Attorney, Chief of Police and Fire Chief. It is the intent of this section to assign responsibility and accountability to certain persons who manage or supervise employees and administer the provisions of these Rules in regard to employees. The designated appointing authorities shall be:

- a. The City Council – for the City Manager, City Attorney, Chief of Police, and Fire Chief reporting to the City Council;
- b. The City Manager – for department heads, division heads and other officers and employees reporting to the City Manager;
- c. All department heads and elected officials who serve as department heads – for subordinate employees within their respective departments;
- d. All division heads – for subordinate employees within their respective divisions.

8.8 Work Authorization: A person who is not a citizen of the United States or is not otherwise legally authorized to work in the United States shall not be appointed.

8.9 Performance Evaluation During Probation: The appointing authority or designee shall provide each employee with a description of the duties the employee is to perform, counsel the employee as to the organization, functions, and mission of the department, and apprise the appointee of the job performance expected of the employee, both at the time of appointment as well as during the period of probation. At quarterly intervals during the probationary period, the appointing authority or designee shall evaluate the performance of the employee, notify and discuss with the employee such evaluation, and inform the employee of improvements needed and expected in job performance.

8.10 Procedure:

- a. **General:** All appointments, transfers, and terminations shall be requested and effected by means of the proper forms processed in accordance with these rules. The intent of this section is to provide for uniform practices, control and coordination in processing Personnel Actions.

- b. **Human Resources Director Responsibilities:** The Human Resources Director shall review all requests for appointment for conformity both to these Rules and to the compensation plan and shall:
 - (1) Effect the appointment by means of the proper form processed in the manner prescribed by the applicable Rule; or
 - (2) Return the request disapproved, stating the reasons for disapproval and the requirements for compliance with these Rules.

RULE 9**TRANSFER**

9.1 Transfer: Transfer of employees between departments, divisions or other operating units may be accomplished without examination, upon verification by the Human Resources Director that the employee being considered for transfer meets the minimum requirements of the position and has served in a similar classification with the City for at least one (1) year with satisfactory performance. A transfer may be temporary or permanent.

- a. **Origination of Transfer Request:** A transfer request may be initiated by an employee, an appointing authority or the City Manager or designee, provided that, no transfer shall be made without approval of either the City Manager or the City Council.
- b. **Transfer Eligibility Requirements:** The only employees eligible for a transfer opportunity are those who have already been appointed to the classification for which a transfer opportunity exists and who have already achieved permanent status in said classification. Employees with permanent status in a similar or equivalent classification may be considered for the transfer opportunity, with the approval of the Human Resources Director.
- c. **Transfer Procedures:**
 - (1) The Human Resources Department shall notify employees in writing of transfer opportunity.
 - (2) Employees must express an interest in writing to the Human Resources Department no later than five (5) working days of notice of the transfer opportunity, unless otherwise approved by the Human Resources Director.
 - (3) Upon verification, the Human Resources Director will include all eligible transfer requests along with the list of eligible candidates to appointing authority.

Any transfer effected by the City, or denial of a transfer for reinstatement by layoff as provided in these Rules, shall be subject to the right of the affected employee to file a grievance.

9.2 Effect on Status: An employee who is transferred shall retain all rights and privileges of seniority, pay, etc., of the employee's prior classification, including permanent status, unless otherwise provided in these Rules. The compensation shall be in accordance with the established salary range for the classification to which they are transferring.

9.3 Transfer Because of Disability: A disabled permanent employee who is unable to perform the essential job duties of his/her permanent classification may be placed without examination in another position, the duties of which the employee may reasonably be expected to perform satisfactorily, provided the employee meets the minimum requirements of said classification (See Occupational and Medical Standards provisions).

RULE 10

DISABILITY

10.1 Occupational Medical Standards: The City shall maintain occupational medical standards for City employment, specifying the physical and/or mental demands of all classifications, provided that such standards are directly related to job demands which are necessary to each respective classification. These standards shall be adhered to through the application of medical examination(s).

10.2 Medical Examinations: The medical examination is part of the selection process and shall be conducted by the City designated physician, free of charge to the candidate. This exam is conducted to determine the candidate's ability to perform the essential functions of the job, with or without reasonable accommodation. The City designated physician shall provide a written statement to the Human Resources Director that state whether the candidate meets or does not meet the occupational medical standards for the classification. Only qualified individuals who pass the medical examination will continue in the selection process.

10.3 Qualified Individuals: Defined as employees or applicants who meet the minimum requirements of the job and who can perform the essential functions of the job, with or without reasonable accommodation.

10.4 Disabled Individuals: The term disabled means, with respect to an individual, any of the following:

- a. a physical or mental impairment that limits one or more of the major life activities of such individual;
- b. a record of such an impairment;
- c. being regarded as having such an impairment.

10.5 Fitness for Duty Examination: A medical or psychological examination conducted by a City designated physician may be administered to an employee, under any of the following conditions:

- a. An appointing authority, having reasonable cause to believe that an employee may be incapable of performing the essential duties of the employee's position satisfactorily or may pose a direct threat to the health or safety of himself/herself, fellow employees or the public;
- b. The Human Resources Director may require that an employee who becomes disabled, through illness or injury, shall submit to a Fitness for Duty Examination to determine the nature and duration of illness or disability and the types of duties which the employee may perform during the period of disability or illness;
- c. The Human Resources Director may require further physical examinations of temporarily disabled employees to ascertain their fitness for duty in their appointed classification, e.g. examination(s) by specialists;
- d. To ascertain the employee's fitness for duty upon return from a leave of absence:
 - (1) Exceeding thirty (30) calendar days due to an illness or disability of the employee.
 - (2) Exceeding ninety (90) calendar days when absence is not due to an employee's illness or disability.

10.6 Refusal to Submit to a Fitness For Duty Examination: Failure to submit to a Fitness For Duty Examination shall constitute insubordination and be grounds for disciplinary action.

10.7 Temporary Disability: A disability that is not expected to exceed six (6) months in duration. Every effort will be made to accommodate employees with a temporary disability in a modified position.

10.8 Disability Interactive Process:

- a. Upon receipt of the physician's report confirming permanent disability, the Human Resources Director shall engage in the Interactive Process with the employee to determine possible modifications or accommodations that can be made in order for the employee to continue in his/her current position.
- b. If none can be reasonably accomplished, the Human Resources Director shall evaluate with the employee his/her experience and education to determine what other position the employee could perform satisfactorily with or without reasonable accommodation.
- c. The Human Resources Director shall consult with the affected appointing authority regarding the position(s) the employee can be expected to perform.

10.9 Reasonable Accommodation: May include, but is not limited to, any of the following:

- a. Modified duty assignment
- b. Disability transfer placement

10.10 Temporary Modified Duty: Upon confirmation of temporary disability, the Human Resources Director, along with the appointing authority, shall determine if there are any modified duty assignments in which the employee could work within the employee's disability limitations. Modified duty assignments shall not exceed twelve (12) months.

10.11 Disability Transfer Placement: When a disability transfer is the recommended reasonable accommodation for a permanent disability, the employee will be placed in a position in which the employee can perform the essential functions of the job without going through a competitive examination process, provided that the position is vacant.

The disability transfer shall be made to a classification with an equal or lower salary range than that which is in effect for the employee's appointed classification. The employee's new salary shall be determined by the salary range established for the new classification, as close to the employee's salary as possible without exceeding the employee's current salary, unless otherwise approved by the City Manager.

10.12 Employment Separation Due to Permanent Disability: This process will be initiated under any of the following conditions:

- a. Employee failed the Fitness for Duty Examination, thus indicating that the employee is unable to perform the essential functions of the employee's job with or without reasonable accommodation;
- b. Employee failed the Fitness for Duty Examination for reasons other than disability, and therefore is not entitled to a reasonable accommodation.

- c. The Human Resources Director engaged in the Interactive Process with the employee and determined that no position existed in which the employee could be expected to perform the essential functions of the job.

When no reasonable accommodation can be made, the employee will be given the opportunity to discuss the options available to the employee, e.g. separation, disability retirement, service retirement, etc., in accordance with appropriate State and Federal laws.

10.13 Procedure: All reassignments under this Rule shall be considered transfers and shall be accomplished by means of a Personnel Action form approved by the Human Resources Director or the Director's designee.

RULE 11

DISCIPLINARY ACTIONS

11.1 Definition and Objectives:

- a. Discipline is the enforcement of conformity to policies, rules, regulations and other administrative or legal requirements or practices designed to maintain a standard of cooperation and conduct necessary to carry out the mission of the organization successfully.
- b. The appointing authority shall apply disciplinary action in an equitable and consistent manner applicable to the situation; the action shall be documented in such a way as to be defensible on appeal.
- c. Disciplinary actions should effectively correct non-conforming behavior, be in proportion to the severity of the misbehavior, and restore conformity. Disciplinary actions shall be accomplished in such a manner as to avoid embarrassment of the employee being disciplined.
- d. The affected employees must be thoroughly apprised of the basis of disciplinary actions before, during and after actions are taken.
- e. Nothing in these Rules shall adversely affect an employee's constitutional rights.

11.2 Authority to Discipline: The appointing authority has the authority to take disciplinary action subject to these Rules.

11.3 Cause for Disciplinary Action: Grounds and cause for disciplinary action shall include the following, provided that the alleged acts are related to the employee's job, although charges may be based upon grounds and causes other than those enumerated:

- a. Fraud in securing employment or promotional opportunities;
- b. Employee is unable, refuses or fails to perform the essential functions of the employee's job;
- c. Willful disobedience and insubordination, such as:
 - (1) Willful failure to conform to duly issued orders or directions of persons in a supervisory position;
 - (2) Obstructive or insolent behavior directed at a supervisor;
 - (3) Any other disobedient behavior or insubordination.
- d. Absence without authorized leave, or failure to report to work after leave of absence has expired or been denied;
- e. Abuse of sick leave or leave without pay, including but not limited to:
 - (1) Claiming or taking sick leave with pay without a doctor's certificate when one is required under these Rules or departmental policies;
 - (2) Patterns of sick leave abuse;
 - (3) Working at another job while allegedly incapacitated for City employment;

- (4) Other conduct inconsistent with the purpose of the authorized leave.
- f. Absenteeism or tardiness which interferes with the effective and efficient performance of job duties or has a negative impact on department operations or budget;
- g. Conviction of a felony or conviction of a misdemeanor involving moral turpitude. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction. A misdemeanor involving moral turpitude shall be deemed to include only crimes involving dishonesty or serious character depravity;
- h. Failure to treat other employees or the public with courtesy, respect and dignity;
- i. Engaging in fighting or threatening behavior;
- j. Unauthorized use of City property, including but not limited to the use of property, vehicles or time for personal gain;
- k. Performing non-City work on City time without authorization;
- l. While on-duty or off-duty (wearing a uniform, operating a City vehicle or otherwise representing the City), causing damage or loss of public or private property (including motor vehicles) or waste of public supplies through omission, negligence or willful misconduct;
- m. Refusal to subscribe to any oath or affirmation which is required by law in connection with City employment;
- n. Failure or refusal to appear in obedience to lawful process or order of the Council, or to truthfully answer questions under oath, before Council and/or Commission, or a committee or subcommittee thereof, or before a duly authorized committee of the Congress of the United States, or of the Legislature of the State of California, or a committee or subcommittee of said Congress or Legislature, or before any authorized court, office of tribunal, or before a Grand Jury, on any subject relating to:
 - (1) Matters connected with the conduct of official business of the City or of any department, division, board or commission thereof;
 - (2) Any of the matters set forth in the California Code of Civil Procedure Section 2028 and 2028.1, as amended or any successor legislation.
- o. Impeding or interfering with a City-related investigation, including but not limited to:
 - (1) Refusing to meet or cooperate with an investigator;
 - (2) Knowingly providing false or misleading information;
 - (3) Tampering with evidence or witnesses;
 - (4) Threatening behavior towards witnesses to prevent witness from testifying or participating in an investigation.
- p. Retaliatory behavior towards witnesses who participate in a City-related investigation, lawsuit or court proceeding;

- q. Misconduct, including but not limited to:
 - (1) Any act of conduct, undertaken in bad faith, which, either during or outside of duty hours, is of such a nature that it causes discredit to fall upon the City, the employee's department or division;
 - (2) Failure to maintain proper decorum at work, including but not limited to improper dress and greeting of the public, causing discredit to the City or employee's department or division;
 - (3) Careless or negligent behavior or conduct which causes or contributes to injury to the employee or others;
 - (4) Creating, promoting or perpetuating a hostile working environment for other employees.
- r. Knowingly failing to follow the procedures set forth in these Rules;
- s. Engaging in any of the following:
 - (1) Inefficient use of City resources or time;
 - (2) Incompetency;
 - (3) Neglect of duty;
 - (4) Dishonesty;
 - (5) Failure to perform assigned duties;
 - (6) Failure to meet job performance standards;
 - (7) Using official position or office for personal gain or advantage;
 - (8) Illegal political activity;
 - (9) Unauthorized disclosure of confidential information;
 - (10) Conduct which is inconsistent with the proper administration of the department in which the employee is employed;
 - (11) Any conduct unbecoming an officer or employee of the City;
 - (12) Sleeping on the job, except when said action is legitimately required by the employee's job responsibilities;
 - (13) Possession or use of a weapon, except when such possession or use is legitimately required by the employee's job responsibilities;
 - (14) Use of threats, except when such use is legitimately required by the employee's job responsibilities;

- (15) Use of profanity, except when such use is legitimately required by the employee's job responsibilities;
- (16) Making false, vicious or malicious statements, except when such actions are legitimately required by the employee's job responsibilities;
- (17) Illegal gambling on the job, except when such action is legitimately required by the employee's job responsibilities;
- (18) Violating or failing to adhere to safety rules, practices or programs;
- (19) Theft or attempted theft;
- (20) Falsification of documents, including but not limited to time or payroll records;
- (21) Failure to maintain a job requirement;
- (22) Violation of City's Anti-Harassment Policy, as amended;
- (23) Violation of City policies on Drug & Alcohol Use in the Workplace, as amended;
- (24) Failure to achieve successful completion of a mandatory EAP or Rehabilitation program.

- t. Employee has violated any provision relating to conduct of employees in the City of Culver City's Charter, Memoranda of Understanding, ordinances, Administrative and City Council Policy Manuals, standards adopted by the employee's department, other written policies, documents or standards adopted by the City or any division thereof, or City Council, or of these Rules and regulations, provided that the employee has been notified of the foregoing.

11.4 Enumerated Grounds not Exhaustive: The above grounds for disciplinary action are not intended to be exhaustive and may be supplemented by other City policies or departmental regulations not enumerated above.

11.5 Severity of Disciplinary Action: The severity of disciplinary action shall be determined after consideration of the seriousness of the violation involved, the employee's overall record with the City and any mitigating circumstances. Some offenses may be the basis for disciplinary action, up to dismissal, on the first offense.

11.6 Types of Disciplinary Actions: The disciplinary actions which may be imposed include, but are not limited to, written reprimand, suspension without pay, reduction in step within a range, demotion, and dismissal. Any single action or a combination of the preceding may be used. Disciplinary actions shall be effective following legally required notice as provided in these Rules, and are defined as follows:

- a. **Written Reprimand:** An official notification, in writing, by the appointing authority to the employee, that the employee has failed to meet performance standards and/or violated any of the Rules set forth herein, and that further disciplinary measures may be taken if the cause is not corrected.
- b. **Suspension Without Pay:** The temporary separation from City employment of an employee, without compensation during the separation period and without accrual of employee leave benefits (if the suspension exceeds 13 working days or 7 shifts in Fire), for a period of time designated by the appointing authority as a disciplinary measure.
- c. **Reduction in Step Within a Range:** The reduction of the step granted for merit, efficiency, and/or length of service, which may be permanent or temporary.
- d. **Demotion:** The movement of an employee from one class to another class having a lower maximum rate of pay, which may be permanent or temporary.
- e. **Dismissal:** The discharge of an employee from City employment.

An appointing authority may place an employee on a leave of absence with pay, with the approval of the Human Resources Director, while determining what type of disciplinary action, if any, may be imposed on the employee.

11.7 Written Notice to Employee: Prior to the suspension without pay, reduction in step within a range, demotion, or dismissal of a classified employee for disciplinary purposes, written notice of the proposed disciplinary action shall be given to the employee. The written notice to the employee shall be reviewed by the Human Resources Director and/or City Attorney for conformance to these Rules and due process requirements of law prior to distribution to the employee. Such notice shall include the specific charges and the facts upon which the proposed action is based. The notice shall also advise the employee of an informal opportunity to respond. The written notice may include copies of documents or materials on which the proposed action is based or provide the employee with notice of an opportunity to review said materials prior to responding to the proposed action.

No such prior notice is required for a written reprimand or other administrative actions as set forth in these Rules, which is in itself a notice of deficiency which may lead to future disciplinary action. The written notice shall be in a form prescribed by the City Attorney and the Human Resources Director consistent with applicable law.

Within five (5) working days after the date the employee is provided with the notice of proposed action, the employee shall have the right to respond, orally or in writing, at the employee's option, to the appointing authority or assigned Predetermination Hearing Officer concerning the proposed action. This period may be extended by mutual written agreement or by the City Manager under mitigating circumstances. The appointing authority shall render a final written notice of decision following this response period and shall provide the employee with a copy of the appeal rights provided by this Rule.

11.8 **Right to Appeal:**

a. **Final Determination:**

- (1) **Written Reprimand - City Manager:** An employee may appeal a Written Reprimand by filing a written appeal with his or her Department Head no later than ten (10) working days following the date of receipt of the Written Reprimand. The Department Head shall meet with the employee and the employee's supervisor within five (5) working days of receiving the appeal. The Department Head shall render a written decision within ten (10) working days following the joint meeting.

If the employee disagrees with the Department Head's decision, the employee may forward the appeal to the City Manager through the Human Resources Director within five (5) working days of receiving the Department Head's decision. The City Manager shall meet with the employee and the employee's Department Head within ten (10) working days of receiving the employee's appeal. The City Manager shall notify the employee of his or her decision within fifteen (15) working days of the joint meeting. The City Manager's decision shall be final.

In cases where the employee's supervisor is also the Department Head, the employee may file the appeal with the City Manager through the Human Resources Director.

Any of the aforementioned timeframes may be extended by mutual consent of the parties.

- (2) **Commission - Disciplinary Actions (Excluding Written Reprimands):** Any employee in the Classified Service who is subject to Suspension without pay, Reduction in Step within a Range, Demotion, or Dismissal shall have the right to appeal to the Commission from that disciplinary action.

b. **Appeal Procedures:**

- (1) **Employee:** An employee wishing to file an appeal shall do the following:
- i. The employee shall file with the Human Resources Director, no later than ten (10) working days (five (5) shifts in Fire Suppression) following the date of receipt of the notice of final discipline, a written answer to the charges and an appeal requesting the Commission, hearing officer or board review the disciplinary action.
 - ii. The answer to the charges shall contain a written statement of the issues being appealed.
 - iii. The appeal shall contain a request for either an open or closed hearing before the Commission.
 - iv. If an employee fails to file a timely appeal in compliance with this Rule, the employee shall forfeit all appeal rights.
- (2) **Human Resources Director:**
- i. Regardless of the request in the appeal for an open or closed hearing, if the hearing is to occur before the Commission, the Commission will cause notice to be served on the employee, pursuant to State law, at least twenty-four (24) hours prior to the hearing, of the employee's right to have the Commission hear the appeal in public.

- ii. If the employee has made no request to have an open hearing, the hearing shall be closed.
- iii. A copy of the Notice of Intent, Final Notice, and the employee's appeal shall be placed in the employee's personnel file as a matter of record.

11.9 Processing: Upon the receipt of an appeal, the Human Resources Director shall prepare a summary of the charges and imposed discipline for the Commission to review. The matter will then be placed on the next regular meeting agenda to schedule a hearing date.

11.10 Hearings: Upon the scheduling of a hearing by the Commission, the Human Resources Director shall notify the affected parties of the date, time, and place set by the Commission and shall publicly post a notice of the date, time and place of the hearing together with the names of the affected parties. If the employee elects a closed hearing, the name of the employee shall not be included on the public posting.

Unless otherwise approved in advance by the Commission, the employee shall appear personally before the Commission at the hearing, and may select up to two (2) additional persons to be present at the hearing, in addition to legal counsel or other designated representative, to represent the employee at the hearing. If the employee or the employee's representative fails to appear on the scheduled date, the Commission may require a showing of good cause for the employee's or representative's failure to appear before the hearing is permitted to be continued. If the Commission finds that there was not good cause for the failure to appear, the appeal shall be deemed denied and the disciplinary action sustained.

The Commission may, in its discretion, grant continuances for valid reasons (e.g., incapacity of the employee, unavailability of counsel, or documented emergency circumstances, among others).

11.11 Subpoenas: Each Commissioner shall have the power to cause subpoenas to be issued to compel the attendance of witnesses and the production of evidence relating to the hearing subject matter. The appellant and the department may request subpoenas to be issued to compel the attendance of witnesses by filing such request with the Human Resources Director at least fourteen (14) business days prior to the scheduled hearing. Subpoenas shall be delivered to the appointing authority or the appellant's representative for service.

11.12 Oaths: Any Commissioner present at the hearing shall have the power to administer oaths to witnesses. The refusal of a City employee to testify under oath shall be grounds for disciplinary action.

11.13 Use of Hearing Officer or Board: A hearing officer, composed of person(s) qualified to so act, may be appointed to conduct an appeal hearing.

- a. **Commission:** The Commission, upon a majority vote, may decide that the use of a hearing officer would benefit the City and the employee to ensure the expeditious completion of the hearing process. In such event, the Commission shall appoint a hearing officer to conduct a hearing as follows:
 - (1) The hearing officer shall not be an employee or elected or appointed official of the City.
 - (2) Unless granted an extension by the Commission, the hearing officer shall submit written findings and recommendations to the Commission for review and final decision within thirty (30) calendar days after the closing date of the hearing, which will be either the conclusion of closing arguments or the hearing officer's receipt of the parties' closing brief, whichever is later.
- b. **Employee:** The employee may submit with the appeal a written request that the matter be heard before a hearing officer, on the basis that it would not be possible to receive a fair and impartial hearing before the Commission as a result of bias of more than two (2)

Commissioners. If such request is not made with the appeal, the employee's option to request a hearing officer shall be waived. If the Commission grants such request, the Commission shall appoint a hearing officer to conduct the hearing as follows:

- (1) The hearing officer shall not be an employee or elected or appointed official of the City.
- (2) Unless granted an extension by the Commission, the hearing officer shall report written findings and decision to the Human Resources Director, the parties, and parties representatives within thirty (30) calendar days after the closing date of the hearing, which will be either the conclusion of closing arguments or the hearing officer's receipt of the parties' closing brief, whichever is later. The Human Resources Director shall disseminate the decision to the Civil Service Commission.

11.14 Hearing Procedure: The Commission, through its chair, or hearing officer, shall conduct a hearing in the following manner:

a. Prior to the start of the hearing, the parties shall comply with the following:

- (1) Informal pre-hearing conference procedures: Upon acceptance of an appeal, the Commission, or hearing officer may require the parties to attend a pre-hearing conference at a date and time specified by the Commission, or hearing officer. The pre-hearing conference shall be no less than 15 days prior to the first hearing date set for the appeal.
- (2) Unless otherwise determined by the Commission, the pre-hearing conference shall be chaired by the Commission chair, or the hearing officer. The Commission chair may designate another member as co-chair of the pre-hearing conference.
- (3) The purpose of the pre-hearing conference shall be to develop the following:
 - i. A joint statement of facts, including any stipulated facts
 - ii. A joint witness list, including a summary of expected testimony
 - iii. A joint exhibit list
 - iv. A statement of evidentiary issues
 - v. Identification of affirmative defenses
 - vi. Identification of potential legal issues
 - vii. A time estimate for the appeal hearing
 - viii. Dates of unavailability of the parties, counsel, and witnesses
- (4) Not later than five (5) business days prior to the pre-hearing conference, each party to the appeal shall prepare, serve on the other party and file with the Commission or hearing officer a pre-hearing conference statement setting out that party's information or positions for items one (1) through eight (8), above. The chair of the pre-hearing conference may, at his/her sole discretion, continue the pre-hearing conference from time to time to require additional information as may be deemed appropriate. Upon a showing of good cause, a party may amend his or her pre-hearing conference statement.
- (5) At the pre-hearing conference, the parties shall endeavor to stipulate to facts, resolve evidentiary matters, and develop joint witness and exhibit lists. The chair may set a time

estimate for the hearing and set a schedule for briefing and argument before the Commission or hearing officer on unresolved legal issues.

- (6) The Commission or hearing officer may impose appropriate sanctions against any party who fails to appear or participate in good faith at the pre-hearing conference. Those sanctions may include, but are not limited to, evidentiary rulings against that party.
 - b. The hearing shall be called to order at the scheduled time.
 - c. The hearing shall be conducted informally, and the rules of evidence shall not apply.
 - d. Except for good cause including evidence presented for impeachment purposes, at the discretion of the Commission or hearing officer no witness or exhibit not identified or presented at the pre-hearing conference will be allowed or admitted.
 - e. The Commission or hearing officer shall maintain order at the hearing and may enforce its orders through the following mechanisms:
 - (1) Exclusion or expulsion of witnesses;
 - (2) Expulsion of anyone who disturbs or disrupts the hearing or fails to follow any lawful directives of the Commission or hearing officer.
 - f. The Commission or hearing officer may establish reasonable time limits for examination and cross-examination of witnesses.
 - g. Each party may present an opening statement, with the City going first. Appellant may reserve an opening statement until the beginning of the appellant's case in chief.
 - h. The appointing authority or department representative shall, by a preponderance of the evidence, prove the conduct upon which the charges are based. The employee may present witnesses and evidence in defense of the charges and may raise any affirmative defense. All witnesses shall be subject to cross examination by the parties or the parties' representatives and by the Commission or hearing officer.
 - i. Closing arguments shall then be presented, with the appointing authority or departmental representative preceding the employee or his/her representative in presentation. The appointing authority shall be provided final rebuttal following appellant's closing arguments.
 - j. At the discretion of the Commission or hearing officer, closing briefs rather than closing arguments may be permitted. If closing briefs are permitted, the Commission or hearing officer shall establish a reasonable schedule for briefings.
 - k. Upon completion of the hearing, the chair shall recess the proceedings to deliberate in closed session.

11.15 Deliberations:

- a. **Commission:** The Commission shall deliberate in closed session and make a decision on the case. The Commission shall have no authority to substitute his/her judgment as to

the propriety of the discipline other than for the reasons set forth in Rule 11.16. Upon conclusion of deliberations, the Commission shall report out in open session its decision and formally close the hearing.

The decision of the Commission shall be binding.

- b. **Hearing Officer:** In cases where the Commission has been recused in accordance with Rule 11.13 (b) the hearing officer shall deliberate and make a final decision on the case. The hearing officer shall have no authority to substitute his/her judgment as to the propriety of the discipline other than for the reasons set forth in Rule 11.16.

The hearing officer or board shall submit the findings and decision to the Human Resources Director, parties and the parties' representative.

11.16 Decision:

- a. **Modification/Rejection of Disciplinary Action:** The Commission may only modify or reject a disciplinary action on one or more of the following basis:

- (1) There is no substantial evidence to support the need for the disciplinary action.
- (2) The disciplinary action taken resulted from discrimination on the basis of race, color, gender, national origin, marital status, religion, age, disability, political affiliation, sexual orientation / identification.
- (3) The disciplinary action taken was arbitrary, unreasonable or excessive.

- b. **Employees Deprived of Due Process:** If the Commission, Hearing Officer or Board concludes that the procedures for disciplinary actions were not properly followed, and such failure deprived the employee of due process and caused the employee a loss of wages, the Commission, Hearing Officer or Board may order that back pay be awarded or other such remedy to correct the deficiency imposed on the employee.

11.17 Time Frame for Written Findings and Decision: Written findings and decision of the Commission shall be rendered within fifteen (15) working days after the closing date of the hearing or after the date of the Commission meeting at which the recommendations of the Hearing Officer or Board are filed for review, and shall thereupon be directed to the proper authorities and the affected employee, unless extended by mutual consent of both parties.

The decision of the Commission shall be binding, except in the case where the appointing authority is the City Council, in which case the decision may be modified or overruled by a majority vote of the City Council.

11.18 Execution of Decision: It shall be the duty of the Human Resources Director to keep the Commission fully informed of the final execution of its decision, and to assist the appointing authority in such execution when requested.

In the event the employee is reinstated after Dismissal by the Civil Service Commission following a hearing, the employee shall be reinstated to duty with such salary and other accrued benefits as would have been payable for the period reinstated, less amounts the employee earned or could reasonably have earned during that period, and any other payments required by federal or state law.

11.19 Judicial Review: Either the City or the employee may seek judicial review and appeal the final decision of the Commission, pursuant to California Code of Civil Procedure, Section 1094.5. An employee whose appeal is denied or modified by the final decision of the Commission shall be advised that the time to seek judicial review is set forth in California Code of Civil Procedure, Section 1094.6.

11.20 Protection Against Reprisal: An employee who appeals a disciplinary action or a witness who appears in the hearing or participates in the investigation process shall not be discriminated against, coerced, threatened, or in any other manner interfered with or subjected to reprisal by any other employee or official of the City by virtue of the matters raised properly in the appeal proceeding.

The violation of this section by an employee or official of the City shall be grounds for immediate dismissal of the offending party.

RULE 12

GRIEVANCES

12.1 Statement: The purpose of the Grievance Procedure is to establish channels of communication between employees, supervisors and management. The City encourages any employee having a grievance related to the employee's working conditions to discuss the matter informally with the employee's immediate supervisor without undue delay. The informal discussion need not be reduced to writing and no records need be kept. The purpose of informal discussion is to settle grievances fairly and as quickly as possible.

12.2 Right to Grieve: Any permanent classified employee may file a grievance concerning claims that the City has violated, misinterpreted or misapplied an obligation to the employee as such obligation is expressed and written in the Memorandum of Understanding.

Grievance procedures for unclassified employees are addressed in the respective MOU.

12.3 Representation: An employee may seek advice and assistance of any person or organization to represent the employee in any stage of the grievance procedure.

12.4 Exclusions: The following matters shall be excluded from the grievance procedure:

- a. **Changing Policies, Standards or Procedures:** The grievance procedure shall not be used for the purpose of changing an established policy, standard or procedure, unless it is the contention of the grievant that the policy, standard or procedure is in violation of law;
- b. **Employees Without Permanent Status / Unclassified Employees:** The grievance procedure shall not be used to contest or appeal the dismissal or other discipline of employees who do not hold permanent status in any classification;
- c. **Employee Layoffs:** The grievance procedure shall not be used to contest or appeal the layoff of an employee, except to the extent that such employee was laid off before employees with less seniority in that classification;
- d. **Removal of Probationary Employees:** The grievance procedure shall not be used to contest or appeal the removal from a classification in which an employee is serving a probationary period;
- e. **Performance Evaluations:** The grievance procedure shall not be used to contest or appeal a performance evaluation. An employee shall have the right to submit written comments to be included with said performance evaluation and placed in the employee's personnel file;
- f. **Alternative Resolutions:** The grievance procedure shall not be used for matters in which an alternative resolution procedure is provided for in these Rules, City provisions or State and Federal law.

12.5 Procedure: The grievance procedures consist of an Informal Grievance Process (informal discussion with supervisor) and a Formal Written Grievance Process. All grievances shall be handled in the following manner:

a. **Informal Grievance Process:** Before filing a formal written grievance, the employee should attempt to resolve the dispute by presenting the complaint to the employee's supervisor and discussing it with the supervisor to resolve the situation that gave rise to the complaint. The Informal Grievance Process involves the following:

(1) **Time Limits For Beginning the Informal Grievance Process:** An employee with a complaint shall present the case to his/her supervisor within thirty (30) calendar days after the incident, or when the employee should have become aware of the incident, giving rise to the complaint.

i. Failure to present the complaint within the prescribed time limits may result in the employee losing the right to present the complaint as part of the Informal Grievance Process.

(2) **Representation During Informal Grievance Process:** The employee may request the presence of a labor representative at the informal meeting between the employee and the employee's supervisor.

(3) **Time Limits for Supervisor Decision:** The supervisor shall attempt to settle the matter, and shall inform the employee of the decision within five (5) working days after meeting with the employee.

(4) **Waiving Informal Grievance Process:** The Employee may choose to waive the Informal Grievance Process and file a Formal Written Grievance form.

b. **Formal Written Grievance Process:** The Formal Written Grievance procedure shall consist of four (4) progressive steps:

(1) **Step One (Grievance to Supervisor):** If the employee disagrees with the supervisor's decision that resulted from the Informal Grievance Process or, if employee waived the Informal Grievance Process, the employee may begin the Formal Written Grievance Process by completing and submitting a grievance form, available through the Human Resources Department, to the employee's supervisor.

i. The completed Formal Written Grievance Form shall indicate what rule or policy is involved (if known), what act or omission caused the grievance, and what remedy the grievant is seeking.

ii. The completed grievance form shall be submitted to the grievant's supervisor within ten (10) working days of receipt of the supervisor's decision on the Informal Grievance Process, except where the employee waived the Informal Grievance Process.

In the event the employee waived the Informal Grievance Process, the employee shall submit the completed grievance form as soon as the employee became aware of the incident that gave rise to the grievance.

iii. The supervisor shall review the completed grievance form and evaluate any new data or facts presented and provide the grievant with a written decision within five (5) working days of receipt of the completed grievance form.

- (2) **Step Two (Grievance to Department Head)**: If the grievant disagrees with the supervisor's decision on the grievance (Step One), the grievant shall forward the completed grievance form to the grievant's Department Head within ten (10) working days after the receipt of the supervisor's written response.
- i. The Department Head or the Department Head's designee shall investigate the case and discuss the matter in a joint meeting with the grievant and the grievant's supervisor within ten (10) working days of the receipt of the completed Formal Written Grievance Form.
 - ii. The Department Head shall respond in writing within fifteen (15) working days following the joint meeting.

In cases where the grievant's supervisor is also the Department Head, the grievant can proceed to the next step, from Step One to Step Three.

- (3) **Step Three (Grievance to City Manager)**: If the grievant disagrees with the Department Head's decision and chooses to proceed, the grievant shall forward the completed Grievance Form to the City Manager through the Human Resources Director within ten (10) working days after receipt of the decision from the Department Head.
- i. The Human Resources Director shall compile the record of the grievance and prepare a report for the City Manager within five (5) working days after receipt of the completed grievance form.
 - ii. The Human Resources Director, having received the completed grievance form, shall facilitate a meeting between the City Manager, the grievant and the grievant's department head within fifteen (15) working days after receipt of the completed grievance form, or at a date to be determined by mutual agreement confirmed in writing. The Human Resources Director may be present at said meeting if requested by the grievant and/or the department head.
 - iii. The City Manager shall notify the grievant within fifteen (15) working days of the joint meeting, or later if extended by mutual consent of both parties and confirmed in writing, and notify the grievant and the Department Head of the decision.
 - iv. If no notice of the decision is provided by the City Manager within the fifteen (15) working days time limit, the Human Resources Director shall notify the Commission and the Commission shall schedule a grievance appeal hearing for the grievant.

- (4) **Step Four (Grievance to Commission)**: If the grievant disagrees with the City Manager's decision, the grievant may appeal the decision to the Commission no later than fifteen (15) working days after the receipt of the City Manager decision.
- i. The grievant shall state what type of grievance hearing is desired, open or closed, by specifying such request on the completed grievance form.

- ii. The Human Resources Director, having received the Grievance, shall compile the entire record of the grievance, the completed grievance form along with whatever other data was provided by the grievant or management during the Grievance Process for the Commission's review of the employee's appeal.
- iii. The Commission shall consider the entire record of the grievance and:
 - a) May schedule a hearing to review the appeal; or
 - b) Exercise its power to adjudicate an appeal without a hearing, at its discretion.

12.6 Time Limits Not Met – Grievance Deemed Resolved:

- a. **Employee:** If the prescribed time limits for the employee to file a written grievance at any step are not met, the grievance shall be deemed resolved at that step without further review.
- b. **Supervisor/Management:** If a supervisory or management representative fails to respond within the prescribed time limits, the employee shall be entitled to carry the grievance forward to the next step of review.

12.7 Extended Time Limits: The parties to a grievance may extend the time limits at any step by mutual written consent and prior to the expiration of established time limits.

12.8 Time Limits Only for Matters on City Council Policy: In Formal Written Grievance cases pertaining to the City Council policy, the City Manager shall have the right to defer action until the City Manager has obtained City Council direction.

- a. The City Manager through the Human Resources Director shall inform the grievant and the Commission of this intent within the required fifteen (15) working day period.
- b. The City Council shall settle Formal Grievances as expeditiously as City Council business will allow, and according to whatever procedure the City Council may see fit to formulate.
- c. The City Manager shall consult with the City Council and respond to the grievant within thirty (30) working days after having met with the City Council

12.9 Right to Appeal to Commission: Only permanent employees in the classified service shall have a right to appeal a decision reached on a grievance up to the Civil Service Commission.

Employees in the unclassified service shall have a right to appeal a decision on a grievance, except that such appeals shall not proceed beyond review by the City Manager. All determinations reached by the City Manager shall be final and not appealable.

12.10 Protection Against Reprisal: No employee who presents or participates in a grievance, assists in the grievance or is a witness who appears in the grievance hearing shall be discriminated against, coerced, threatened, or in any other manner interfered with or subjected to reprisal by any other employee or official of the City by virtue of the matters raised properly in the grievance proceeding.

The violation of this section by an employee or official of the City shall be grounds for immediate dismissal of the offending party, in accordance with the Discrimination and Harassment in the Workplace Policy.

12.11 Grievance Hearings: If the Commission elects to hold a hearing, the Human Resources Director shall notify the affected parties of the date, time, and place, and shall publicly post a notice of the date, time, and place of the hearing, together with the names of the affected parties.

- a. Unless incapacitated, the employee shall appear personally at the grievance hearing, and may be represented by any person the employee selects. Failure of the grievant, or the grievant's representative, to appear, without good cause or advance notice, shall be considered a withdrawal of the appeal and shall sustain the decision of the City Manager.
- b. The Commission may, in its discretion, grant continuances for valid reasons (e.g., incapacity of the employee, unavailability of counsel, or documentable emergency, among others).
- c. The Commission hearing shall be conducted informally, and the rules of evidence shall not apply. The grievance hearing may be open or closed to the public at the option of the employee.

12.12 Use of Grievance Hearing Officer or Board: The Commission, upon a majority vote, may appoint a grievance hearing officer or board composed of person(s) qualified to conduct a grievance hearing and make findings and recommendations, to conduct a grievance hearing under the following conditions:

- a. The decision to appoint the grievance hearing officer or board shall be based on a reasonable determination that it would benefit the City and the grievant to ensure the expeditious completion of the grievance hearing process.
- b. The grievance hearing officer or board member shall not be a Commissioner or elected or appointed official of the City.
- c. The grievance hearing officer or board shall report their findings and recommendations to the Commission within fifteen (15) working days following the hearing for review and final recommendation to the Commission.

12.13 Subpoenas: Each Commissioner, grievance hearing officer or board shall have the power to cause subpoenas to be issued to compel the attendance of witnesses and the production of evidence relating to the hearing subject matter.

- a. The grievant and the department may request subpoenas to be issued to compel the attendance of witnesses by filing such request with the Human Resources Director at least fourteen (14) business days prior to the scheduled grievance hearing.
- b. At the discretion of the Commission, the Commission shall have the right to issue additional subpoenas after the grievance hearing has commenced, provided both parties are notified in writing. Subpoenas shall be delivered to the Department Head and/or the grievant's representative for service.

12.14 Oaths: Any Commissioner, grievance hearing officer or board, present at the grievance hearing shall have the power to administer oaths to witnesses. The refusal of a City employee to testify under oath shall be grounds for disciplinary action.

12.15 Grievance Hearing Procedure: The Commission, grievance hearing officer or board, through its chair, shall conduct a grievance hearing in the following manner:

- a. The grievance hearing shall be called to order at the scheduled time.
- b. Each party shall be required to identify their witnesses and to present their pre-marked exhibits at the beginning of the grievance hearing. Except for good cause, at the discretion of the Commission, grievance hearing officer or board, no witness or exhibit not identified or presented at the start of the hearing will be allowed or admitted.
- c. The Commission, grievance hearing officer or board shall maintain order at the grievance hearing and may enforce its orders through the following mechanisms:
 - (1) Exclusion or expulsion of witnesses;
 - (2) Expulsion of anyone who disturbs or disrupts the grievance hearing or fails to follow any lawful directives of the Commission, grievance hearing officer or board.
- d. The Commission, grievance hearing officer or board may establish reasonable time limits for examination and cross-examination of witnesses, require parties to attempt to stipulate to non-controversial facts and/or to establish other rules regarding the presentation of evidence to expedite the completion of a fair and impartial hearing.
- e. Each party may present an opening statement, with the grievant going first. The City may reserve an opening statement until the beginning of the City's response.
- f. The grievant shall present the completed Formal Written Grievance Form, together with whatever witnesses and evidence the grievant may deem pertinent. If the grievant and/or the grievant's witnesses testify, they shall be subject to cross-examination by the City's representative and the Commission, grievance hearing officer or board.
- g. The City's representative may present the City's rebuttal evidence together with whatever witnesses the City's representative deems pertinent. City witnesses shall be subject to cross-examination by the grievant, and the Commission, grievance hearing officer or board.
- h. At any time during the grievance hearing, the Commission, grievance hearing officer or board may interrogate a witness, any party, or any representative of any party.
- i. Closing arguments shall then be presented, with the employee or the employee's representative preceding the representative of the City in presentation. The employee shall be provided final rebuttal following the City's closing statement.
- j. The Chair shall then formally close the grievance hearing.

12.16 Deliberations: The Commission shall deliberate in closed session and make a decision on the grievance.

The Commission may only modify or reject a decision pertaining to a grievance on one or more of the following basis:

- a. The decision itself resulted in a violation of the Civil Service Rules.
- b. The decision resulted from discrimination on the basis of political affiliation, religion, age, gender, color, national origin, disability, marital status, race or sexual orientation/identification.
- c. The decision reached was arbitrary, unreasonable, or excessive.

12.17 Findings: Written findings of the Commission shall be rendered within fifteen (15) working days after the conclusion of deliberations unless extended by mutual consent by both parties.

12.18 Execution of Commission Findings: The findings of the Commission, pursuant to a grievance, shall be final.

12.19 Records: A copy of the employee's grievance form, along with the final decision on the grievance shall be maintained by the Human Resources Department for a period of at least five (5) years.

12.20 Judicial Review: Either the City or the employee may seek judicial review and appeal the final decision of the Commission, pursuant to the California Code of Civil Procedure, Section 1094.5. An employee whose appeal is denied by the final action of the City Council shall be advised in writing that employee's timeframe to seek judicial review is set forth in the California Code of Civil Procedure Section 1094.6.

RULE 13

TERMINATION OF EMPLOYMENT

13.1 Types of Termination: Terminations may be any one of the following types:

- a. **Resignation:** Occurs when an employee terminates their appointment voluntarily by submitting an oral or a written resignation.
- b. **Dismissal:** The involuntary termination of the employment relationship between the City and an employee.
- c. **Separation:** Occurs when the employee's services terminate for reasons other than resignation or dismissal, including but not limited to the following:
 - (1) service retirement
 - (2) disability retirement
 - (3) failed probation
 - (4) lay off
 - (5) assignment completed
 - (6) absence for three (3) consecutive days or shifts without authorization
 - (7) death

13.2 Reasons Given For Termination: The reasons upon which the employee's removal from duty is based will be given to the employee through due process, as set forth in these Rules.

Employees who resign do not need to provide a reason for the resignation; however, the employee is encouraged to state a reason and complete an exit interview.

13.3 Eligibility for Re-employment: An employee who terminates employment may be eligible for re-employment in the last classification in which the employee held permanent status, under the following conditions:

- a. **Resignation:** An employee who resigns under favorable conditions may be eligible for re-employment in the position from which the employee resigned, or a like position, provided the employee held permanent status in that classification, as set forth in these Rules.
- b. **Dismissal:** An employee who is dismissed shall not be eligible for re-employment with the City, except by prior approval of the Commission.
- c. **Separation:** Employees who terminate employment due to the following types of separations may be eligible for re-employment:
 - (1) Disability retirement, provided that the disabled employee is able to perform the essential functions of the position from which the employee disability retired, as permitted by state law;
 - (2) Involuntary job abandonment, except by prior approval of the Commission.

Re-instatement rights are only afforded to employees who have been separated or displaced as a result of a layoff, as set forth in Layoffs provisions.

13.4 Exit Interview: Terminated employees are encouraged to complete an exit interview with the appointing authority or with the Human Resources Director.

RULE 14

LAY OFF

14.1 Policy: Where lack of work, funds, reorganization, technological advances, or other conditions approved or directed by City Council require a reduction in the number of authorized budgeted positions in the classified service, the City Manager will effect said reduction using the lay off provisions set forth below:

- a. Identify the classifications that will be subject to a reduction in the number of authorized budgeted positions;
- b. Identify the employees that will be impacted by the reduction in the number of authorized budgeted positions;
- c. Effect the lay off and displacement of employees based on seniority.

14.2 Special Definitions: The following terms are defined for lay off purposes:

- a. **Lay off:** A reduction in the work force of authorized budgeted positions within a department or division budget that results in the removal from employment or displacement of incumbent(s) in the affected classification(s).
- b. **Displacement:** The removal of an incumbent from a classification affected by the reduction in work force and subsequently reassigned to another position or classification of equal or lower salary range.
- c. **Seniority:** The criteria used to identify the employees that will be affected by the lay off. There are two (2) kinds of seniority, these are as follows:
 - (1) For Lay off purposes: Length of service in classification
 - (2) For Displacement purposes: Length of total City service
- d. **Bumped:** A permanent employee who is reassigned to a lower classification as a result of another employee being displaced due to a reduction in work force. An employee who is bumped shall be entitled to placement rights, according to seniority, in any classification in which they formerly held permanent status that has the same or lower salary range.

14.3 Decision to Lay off: The decision to reduce the number of budgeted positions may be made by an appointing authority, subject to the approval or direction of the City Council and City Manager.

14.4 Employees Subject To Layoff: All employees in the affected classification shall be considered without regard to location, division or department whenever a lay off is to occur in said classification.

14.5 Order of Effecting Reduction In Work Force: No lay off of a classified employee in the classification affected by the reduction in the number of authorized budgeted positions shall be permitted in any department which employs temporary employees within the same classification. The order in which the reduction in work force will be implemented is as follows:

- a. **Group 1: Temporary Employees.** This group includes employees who do not have permanent status (casual part-time, regular part-time, provisional, limited term, seasonal) in the classification affected by the reduction in work force. Temporary employees affected by the reduction in work force will be terminated prior to the lay off of any probationary or permanent employee in said classification.

- b. **Group 2: Permanent Employees.** The employee with the least seniority in the affected classification shall be the first person subject to lay off, followed by the next least senior, etc. until the number of positions have been reduced to the authorized levels.

14.6 Determining Seniority:

- a. **Within Classification:** Length of service is determined by the total time the employee has served in the affected classification (less leave of absences without pay, excluding protected leaves). Employee shall be given credit for time served in a higher or equivalent classification if employee was displaced due to a previous reduction in work force.
- b. **City-Wide:** Length of service shall be determined by computing the total time the employee has been employed by the City (less leave of absences without pay, excluding protected leaves), irrespective of types of appointment. City-wide length of service shall be used in determining displacement to other positions in the City for which the employee may be qualified.

14.7 Seniority Ties: In the event of seniority ties within classification, City-wide length of service shall be used to break ties. In the event the foregoing fails to break a tie, the following criteria may be used to determine order of lay off or displacement:

- a. Rank on eligible list from which employee was hired into the affected classification.
- b. Based upon the qualifications of the employee with regard to the needs of the City, as approved by the City Manager, provided a justification memo has been submitted by the affected employee's department head to the Human Resources Director for review.
- c. The date (including time stamp) the employee's application was received for the classification in question.
- d. Lottery or coin-toss.

14.8 Seniority Limitations: Employees holding temporary, provisional, casual part-time, regular part time (RPT), limited term or probationary appointments that do not have permanent status in another classification shall not have seniority rights in a lay off.

14.9 Seniority List: Upon notification of the proposed layoff, the Human Resources Director shall establish a Seniority List of City employees in the affected classifications. The Seniority List shall indicate the department, employee name, classification, and length of service of each employee, in the following order:

- a. Seniority in classification;
- b. Seniority in length of total City service.

14.10 Placement List: The Human Resources Director shall establish a Placement List for laid off or displaced employees by:

- a. Reviewing the personnel file of the affected employee; and
- b. Determining the other classifications, if any, that the employee may be qualified to perform without examination; and
- c. Identifying the classification(s) whose salary range is equal to or less than the classification from which the employee is being laid off or displaced.

- d. Advising the employee of the classifications for which they are eligible, including vacant unclassified positions. The employee shall indicate which positions in the classified service are of interest to the employee as well as those that are not of interest.
- e. The employee's name will be placed on the Placement List for all of the classifications in which the employee expressed an interest, provided the employee is eligible for the classification(s) and an eligible list can be established for said classification(s).

An employee may not be promoted as a result of a lay off. This means that the affected employee cannot be appointed to a classification whose established salary range is greater than the classification from which the employee was laid off or displaced, unless otherwise approved by the City Manager.

The Placement and Seniority Lists shall be transmitted to the Commission for approval. The approved lists shall be transmitted to the City Manager for implementation of lay off decisions and procedures under this Rule.

14.11 Notification to Affected Employees: A written notice of impending lay off shall be issued to each employee affected at least thirty (30) calendar days prior to the anticipated effective date, whenever possible. The notification shall state the reasons for the lay off or displacement, the department(s) involved, the classifications affected, the anticipated date of lay off or displacement, and the employee's rights under these Rules.

14.12 Displacement Rights: An employee who is impacted by a lay off may be placed in another position within the same Classification or bumped to another Classification for which the employee is qualified without examination. An employee whose position is eliminated as a result of the reduction in work force shall be eligible for appointment to any of the following:

- a. Another vacant position within the same or equivalent classification;
- b. Another vacant position within a Classification with a lower salary range.

The final decision as to which positions will be affected by displacement shall be made by the City Manager. A displaced employee, who previously obtained permanent status, shall retain such status if displaced to a position within the Classified Service and shall not be required to serve an additional probationary period.

14.13 Displacement Offer:

- a. **Acceptance:** Employees who receive a layoff notice may also be eligible for a displacement offer. Employees who are offered displacement in lieu of lay off must accept the displacement offer within fifteen (15) calendar days of the lay off notice so that the displacement may become effective on the sixteenth (16th) calendar day.
- b. **Declination:** Employees subject to displacement may decline to accept the position offered, in which case they shall be separated with reinstatement rights. The employee's decision to accept or decline the position must be made at least fifteen (15) calendar days prior to the expiration of the thirty (30) calendar day lay off notice so that the implementation of the decision may occur on the sixteenth (16th) calendar day.

14.14 Reinstatement Rights: Classified employees who have been displaced or laid off shall be granted reinstatement rights. The names of all such employees shall be placed on an eligible list corresponding to the classification in which the employee held permanent status and from which the employee was displaced or laid off. Reinstatement rights include, but are not limited to, the following:

- a. Employees who have been laid off or displaced shall be reinstated in the employee's permanent classification in seniority order (inverse order of lay off) when such a position in the affected classification becomes vacant, based on the total time served in the given classification.
- b. Employees who have been laid off pursuant to the time limits specified in Rule 8.
- c. Such reinstatement shall be made irrespective of organization and shall have priority over all other employees, except disabled employees, when placed in such positions.
- d. Employees reinstated shall be placed at the same step in their permanent classification as they held prior to the lay off or transfer.
- e. Employees offered reinstatement to the position from which they were laid off or displaced, or one within the same classification will be given up to ten (10) calendar days from the City's offer of reinstatement to notify the Human Resources Director in writing of the acceptance or declination of the reinstatement offer. If the employee declines the offer, fails to respond within a prescribed time period, or fails to appear for work within an agreed upon period, reinstatement rights shall be considered waived as to any future vacancy.

14.15 Displacement and Lay off Grievance Rights: A grievance can only be filed by employees who have been subjected to displacement or lay off under any of the following conditions:

- a. **Failure To Adhere to the Order of Effecting Reduction In Work Force:** A grievance may be filed by an employee affected by a reduction in work force when:
 - (1) Said employee was displaced or laid off before or instead of other employees holding temporary positions in the same classification within the same department;
 - (2) Said employee was displaced or laid off prior to the displacement or lay off of other employees with less seniority in the affected classification within the same department.
- b. **Failure To Grant/Adhere To Reinstatement Rights:** Employees who have been displaced or laid off shall have grievance rights relative only to the employee's reinstatement rights.

14.16 Reversion Rights: Any employee, holding a provisional, temporary, or unclassified appointment, having previously held permanent status in the classified service within the previous two (2) years, shall be entitled to revert to the employee's permanent classification in the event of a reduction in work force.

Classified permanent employees serving a probationary period in a new classification shall be entitled to revert to the employee's permanent classification if the employee's probationary position is affected by lay off. Such employees shall not have any priority rights for job openings or displacements under this Rule, appeal rights or seniority rights in lay off, except those accorded in the employee's permanent position. The affected employee shall be entitled to the pay step in the employee's previous position which would have been received had the employee not left such position.

RULE 15

EMPLOYEE RECOGNITION AND INCENTIVE PROGRAM FOR OUTSTANDING JOB PERFORMANCE

15.1 Policy: It shall be the policy of the City to recognize and reward outstanding job performance of the City's classified and unclassified employees through an established program.

15.2 Outstanding Job Performance Criteria: The following examples shall be considered appropriate criteria for outstanding performance awards:

- a. **Sustained Job Performance Superiority:** Whenever an employee performs the duties of the employee's position in a manner superior to that of others in similar positions, in terms of skill, devotion to duty, originality or like manner for six (6) months or more.
- b. **Outstanding Performance Evaluation Rating:** Whenever an employee receives an overall rating of "Excellent" on the employee's annual performance evaluation.
- c. **Acts of Bravery or Safety:** Whenever an employee performs a heroic act, involving the risking of the employee's life or limb to help others, or the saving of or attempting to save a human life.
- d. **Extraordinary Performance (Single Act):** Whenever an employee's extraordinary single act results in significant achievements.
- e. **Performance Improving Workplace Environment:** Whenever an employee's acts or performance contributes to the improvement of health, safety or morale for the City or the employee's department.
- f. **Inventions or Suggestions:** Whenever an employee invents or suggests anything for the use of the City which results in significant savings in manpower, money or materials.
- g. **Other Performance:** Other types of outstanding job performance not enumerated above may be considered, based on evidence submitted by the appointing authority.

15.3 Outstanding Job Performance Recognition Program: The types of recognition available for the appointing authority to utilize in recognition of outstanding job performance includes the following:

- a. Oral recognition by the appointing authority.
- b. Written recognition by the appointing authority with copies to the employee and the Human Resources Department for placement in the employee's personnel file.
- c. City Council resolution commending the employee, i.e., City Council commendation.
- d. Granting of up to three (3) working days off with pay.
- e. Increase in compensation (step advancement within range prior to scheduled date or additional step beyond that scheduled).
- f. Cash award, up to \$1,000. Cash award will be taxable, non-PERSable and subject to available funds within the awarding department's budget.
- g. A combination of any of the recognition awards set forth above.

15.4 Procedures: The appointing authority may recommend an employee for an outstanding job performance which meets the criteria of the program. The appointing authority shall prepare written recommendations and shall forward them to the City Manager for approval, disapproval or modification. The recognition award and/or commendation (excluding oral and written recognition by the appointing authority) shall be forwarded to the Commission for public acknowledgment.

15.5 Employee Service Awards: Employees shall receive a service award for the completion of each five (5) years aggregate service with the City. Such awards shall be determined by the Human Resources Director, subject to the approval of the City Manager. Service awards shall be presented to the employee by the City Council at a City Council meeting or any other formal meetings, in the presence of the appointing authority or department representative.

15.6 Retirement Recognition: Employees who retire or resign after ten (10) or more years of service are eligible to be honored by the City Council at a City Council meeting. A retirement award may be presented to the employee at the time of recognition.

RULE 16

PERSONNEL OPERATIONS

16.1 General: Pursuant to the Culver City Municipal Code establishing the position of Human Resources Director, there shall be an established system of personnel operations, departmental or otherwise, to be known as the Human Resources Department.

16.2 Human Resources Department: The Human Resources Director, or the person or agency to whom these powers have been delegated, shall be the ex-officio administrative head of the Human Resources Department. The Human Resources Department shall be provided with sufficient funds in each annual municipal budget to carry out the human resources and Civil Service requirements of the City. The Human Resources Director shall attend to the duties assigned to this position through the funds, resources and facilities provided in the Human Resources Department.

16.3 Maintenance of Employee Records: Accurate and current records of all employees shall be processed and maintained by the staff of the Human Resources Department, pursuant to the requirements of State and Federal laws and the needs of the City. Such records shall be confidential except as provided by law.

The staff of the Human Resources Department shall maintain such employee records as required by local, State and Federal laws and City policies, provided that records are maintained which document changes in the employment status of all employees.

16.4 Destruction of Records: No records shall be destroyed without prior approval of the Commission, the City Attorney and the City Council. Destruction or storage of personnel records shall be carried out pursuant to State laws and City Charter provisions relating to the destruction or storage of official public documents.

16.5 Access to Records: The staff of the Human Resources Department, the City Manager, City Attorney, Civil Service Commission and City Council shall have access to personnel records to the extent such access is not restricted by law. An appointing authority shall have access to the records contained in the personnel files of those employees whom they supervise. An employee shall have access to the employee's own personnel file.

16.6 Personnel Processes: The staff of the Human Resources Department, under the direction of the Human Resources Director, shall provide the following services including, but not limited to:

- a. Recruitment, testing and selection assistance;
- b. Classification and compensation;
- c. Training and development;
- d. Employee benefits administration;
- e. Policy administration and interpretation;
- f. Employee and labor relations, e.g., negotiations and contract administration and interpretation;
- g. Coordination of employee benefits with Risk Management and Payroll;
- h. Maintaining employment records of all City employees;

- i. Provide counseling to employees regarding job performance;
- j. Communicate information to employees regarding City programs and activities.

16.7 Services to Civil Service Commission: The staff of the Human Resources Department, under the direction of the Human Resources Director, shall provide services to the Commission as necessary, including, but not limited to, the following:

- a. Administrative support for meetings, conferences, training and hearings;
- b. Advice and assistance in the preparation, drafting and distribution of reports and other correspondence;
- c. Advice and assistance in the preparation, drafting, adoption and interpretation of policies and rules in coordination with the City Attorney;
- d. Advice and assistance in the analysis and preparation of classification and pay plans for City Council approval;

16.8 Counseling: The staff of the Human Resources Department, under the direction of the Human Resources Director, shall advise and counsel appointing authorities on all matters of personnel administration, subject to review and discussion with the City Attorney on legal matters.

16.9 Personnel Action Control System: The Human Resources Director has been delegated authority by both the City Council and the Civil Service Commission to review and approve all changes in the status of employment. Confidential monthly reports of all personnel actions approved by the Human Resources Director shall be provided to the Civil Service Commission (classified employees only) and the City Council (both classified and unclassified employees).

RULE 17

GENERAL PROVISIONS

17.1 Ordered Leave of Absence - With Pay: A department head, with the approval of the Human Resources Director and the City Manager, may order an employee to take a leave of absence with pay under the following circumstances:

- a. The affected employee is under investigation by the City for accusations made against them and in the judgment of the department head the continuance in the workplace by the affected employee would obstruct an investigation or is a threat to the other City employees or to the general public's safety and welfare.
- b. The affected employee's safety and welfare is at risk due to the employee's participation in an investigation or hearing.
- c. The affected employee has been ordered to submit to a medical/psychological evaluation by the City designated physician to determine fitness for work.
- d. The affected employee is named as a defendant in a criminal proceeding but has not yet been convicted or found not guilty and until a disposition of their criminal charge is obtained.

17.2 Outside Employment or Business/Volunteer Activities: Any employee may engage in outside employment or business/volunteer activities, in addition to the employee's appointed duties, as long as the outside employment or business/volunteer activity is not incompatible or in conflict with the duties and responsibilities of the employee's position with the City or impact the employee's ability to perform the duties of the employee's job or said outside employment or business/volunteer activity has been duly authorized.

a. **Obtaining Authorization:**

- (1) **New Employees:** New employee must declare pre-existing outside employment or business/volunteer activity on Outside Employment Form upon first day of hire;
- (2) **Current Employees:** Prior to employee engaging in outside employment or business/volunteer activity, authorization must be obtained from the appointing authority. The appointing authority will then submit a completed Outside Employment Form to the Human Resources Director to determine whether said job or activity will pose a conflict of interest.

- b. **Applicability:** No employee shall engage in outside employment or perform outside activities that may be incompatible or in conflict with the employee's duties or the duties of the employee's subordinates or impact the employee's ability to perform the duties of the employee's job. These outside activities shall not be performed on City time or use City resources, unless authorized by the City Manager.

17.3 Amendment of Rules: Any employee, elected official, Commissioner or employee organization, hereinafter referred to as “party,” may propose amendments to these Rules, subject to the following procedures.

a. **Proposed Amendment Procedures:**

- (1) The party shall provide the Human Resources Director the reasons for the proposal, along with a written copy of the proposed amendments, and a request to place the matter on the Commission agenda. Such request shall be made to the Human Resources Director at least ten (10) working days in advance of the next regularly scheduled Commission meeting.
- (2) The Human Resources Director and City Attorney shall review the proposed amendments and make such analysis and recommendations as they deem appropriate for Commission consideration. The Commission shall receive and consider the original proposed amendments to these Rules and the Human Resources Director’s analysis and recommendations. The party or the party’s representative(s) shall present proposed amendments to the Commission in person at a regular meeting.
- (3) The Commission shall determine whether or not to consider the proposed amendments. Proposals rejected by the Commission may be appealed by the party to the City Council. The City Council shall affirm the rejection or remand the matter to the Commission for public hearing.
- (4) **Notice of Public Hearing:** Proposed amendments accepted for consideration by the Commission shall be reproduced and distributed by the Human Resources Director to each member of the City Council and Commission, and shall be made available to all City employees. Once this has been done, the notice of the public hearing shall be as follows:
 - i. The proposed change shall be advertised at least once by the Human Resources Director in a local newspaper, five (5) to (10) ten calendar days prior to the hearing.
 - ii. The advertisement shall be legal notice that the Civil Service Commission shall hold a public hearing at a certain time, date and place on the proposed amendments.
 - iii. The proposed amendment shall be posted by the Human Resources Director in a conspicuous place in City Hall and on all public notice boards within the City Departments together with a notice of the hearing time, date and place; and a copy of this notice (and the proposed amendment) shall be distributed by the Human Resources Director to each member of the City Council and Commission, and shall be made available to City employees.
- (5) **Public Hearing:** The Commission shall convene a regular or special meeting at the time, date and place advertised for public hearing, and shall provide each person in attendance at the public hearing with an opportunity to be heard. The Commission may approve, modify or reject the proposed amendment based on the hearing, without further hearing.

- (6) **Adoption:** The Commission shall forward its recommendation regarding a proposed amendment(s) to the City Council for adoption by Resolution. The action of the City Council shall be binding upon the Commission and all City employees, with no further action required. Any rule amended shall be provided to each member of the City Council and the Commission, and shall be made available to City employees and employee organizations.

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APPENDIX

<p>Culver City Municipal Code</p> <p>Civil Service Commission</p> <ul style="list-style-type: none"> ➤ Creation; Composition; Eligibility; Compensation ➤ Terms of Members ➤ Term Limits ➤ Removal; Forfeiture of Membership ➤ Meetings; Meeting Place; Quorum; Minutes ➤ Compliance with Applicable Laws ➤ Powers and Duties <p>Civil Service Systems</p> <ul style="list-style-type: none"> ➤ Purpose ➤ Civil Service Rules ➤ Classified Service; Applicability ➤ Personnel Officer; Duties ➤ Right to Contract for Services ➤ Appointments ➤ Probationary Period ➤ Right of Restoration ➤ Disciplinary Action ➤ Personnel in Departments of City Clerk and City Treasurer ➤ Abolition of Position ➤ Nondiscrimination ➤ Anti-Nepotism Policy 	<p style="text-align: right;">Appendix A</p> <p style="text-align: right;">§ 3.03.005</p> <p style="text-align: right;">§3.03.010</p> <p style="text-align: right;">§3.03.015</p> <p style="text-align: right;">§3.03.020</p> <p style="text-align: right;">§3.03.025</p> <p style="text-align: right;">§3.03.030</p> <p style="text-align: right;">§3.03.100</p> <p style="text-align: right;">§3.05.005</p> <p style="text-align: right;">§3.05.010</p> <p style="text-align: right;">§3.05.015</p> <p style="text-align: right;">§3.05.020</p> <p style="text-align: right;">§3.05.025</p> <p style="text-align: right;">§3.05.030</p> <p style="text-align: right;">§3.05.035</p> <p style="text-align: right;">§3.05.040</p> <p style="text-align: right;">§3.05.045</p> <p style="text-align: right;">§3.05.050</p> <p style="text-align: right;">§3.05.055</p> <p style="text-align: right;">§3.05.060</p> <p style="text-align: right;">§3.05.070</p>
<p>Culver City Charter</p> <p>Article XII. Civil Service</p> <ul style="list-style-type: none"> ➤ Merit Principle ➤ Classification ➤ Appointments from Civil Service Positions ➤ Prohibitions 	<p style="text-align: right;">Appendix B</p> <p style="text-align: right;">§1200</p> <p style="text-align: right;">§1201</p> <p style="text-align: right;">§1202</p> <p style="text-align: right;">§1203</p>
<p>California Code of Civil Procedure</p> <ul style="list-style-type: none"> ➤ Judicial Review ➤ Judicial Review Time Limits ➤ Written Depositions 	<p style="text-align: right;">Appendix C</p> <p style="text-align: right;">§1094.5</p> <p style="text-align: right;">§1094.6</p> <p style="text-align: right;">§2028.010</p>

CULVER CITY MUNICIPAL CODE

CIVIL SERVICE COMMISSION

§ 3.03.005 CREATION; COMPOSITION; ELIGIBILITY; COMPENSATION.

There shall be a Civil Service Commission consisting of five (5) members to be appointed by the City Council. Commissioners shall be residents of the City who are lawfully registered voters of the City, none of whom shall hold any paid office or employment in the City Government. Applicants for appointment to any Commission seat must have been lawfully registered voters of the City for the thirty (30) days immediately preceding the filing of their application. No person may serve on more than one (1) Commission at the same time. Compensation of Commissioners, if any, may be established by resolution of the City Council.

§ 3.03.010 TERMS OF MEMBERS.

Members of the Commissions shall generally serve for a term of four (4) years and until their respective successors are appointed and qualified. The terms of at least one (1) and not more than two (2) members shall expire on July 1 of each succeeding odd-numbered year, and any appointment to fill an unexpired term shall be for such unexpired period only. The City Council may determine to appoint persons to the Commissions for terms less than four (4) years for purposes of creating staggered terms or for any other reason determined by the City Council.

§ 3.03.015 TERM LIMITS.

- A. No person shall serve more than two consecutive full terms as Commissioner on any one (1) Commission. If a person serves a partial term in excess of two (2) years, it shall be considered a full term for the purpose of this provision.
- B. Nothing in this provision shall act as a bar to service as a Commissioner on the same Commission after at least two (2) years have elapsed from the last full term as Commissioner.
- C. A Commissioner who has served two (2) consecutive full terms as a Commissioner on one (1) Commission may serve on a different Commission without waiting the required two (2) year period provided for in this section.

§ 3.03.020 REMOVAL; FORFEITURE OF MEMBERSHIP.

- A. Commissioners serve at the pleasure of the City Council and may be removed at any time by a majority vote of the Council.
- B. The grounds for forfeiture of the seat of a Commissioner are the following:
 1. The Commissioner is convicted of a felony or a crime involving moral turpitude; or
 2. The Commissioner ceases to be a resident and lawfully registered voter of the city.
- C. Upon request of the affected Commissioner whose seat has been forfeited, the City Council shall

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hold a public hearing during which the City Council shall consider declaring the seat vacant. The conclusion of the City Council shall be at the City Council's sole discretion and shall be final. In the absence of such a request and notwithstanding the provisions of § 3.03.005 hereof, after the occurrence of any of the foregoing events, the seat of the Commissioner may be declared vacant by the City Council.

§ 3.03.025 MEETINGS; MEETING PLACE; QUORUM; MINUTES.

- A. *Meetings.* Each Commission shall meet on an as-needed basis as determined in the sole discretion of the City Manager or duly authorized designee. Meetings shall at all times be open to the public and shall be held in the Council Chambers except when such Chambers are required for any meeting of the City Council or when the Commission determines that a meeting should be held in a different location due to the subject matter being considered, in which case another room or public place within the City limits may be used.
- B. *Change of meeting place.* Notice of change in meeting place shall be posted on the front door of the Council Chambers.
- C. *Quorum.* A majority of the members of the Commission shall constitute a quorum.
- D. *Minutes.* Commission minutes shall be kept in accordance with City Council policy.

§3.03.030 COMPLIANCE WITH APPLICABLE LAWS.

Commissioners shall comply with all applicable laws and City Council policies.

§3.03.100 POWERS AND DUTIES.

The Civil Service Commission shall have the following powers and duties:

- A. Act in an advisory capacity to the City Council on matters pertaining to the Civil Service System;
- B. Hear appeals or grievances of any officer or employee under the Civil Service System who is suspended, demoted or removed and report in writing its findings and conclusions;
- C. Examine witnesses under oath and compel their attendance or the production of evidence before it by subpoenas issued in the name of the City and attested by the City Clerk; and
- D. Recommend new or amended Civil Service Rules consistent with the City Charter and Civil Service System, holding public hearings thereon before presentation to City Council for approval.
- E. Periodically, at the discretion of the City Council, make a study of salaries being paid by other public and private agencies, in order to ascertain whether the salaries being paid City employees for similar work are comparable, fair and reasonable and make recommendations with respect thereto to the City Council;
- F. Perform such other duties with respect to the Civil Service System, not inconsistent with the City Charter or this Code, as may be prescribed by ordinance, resolution, City Council policy or other City Council action.

CIVIL SERVICE SYSTEM**§ 3.05.005 PURPOSE.**

To establish and maintain an equitable and uniform procedure for dealing with personnel matters and to place municipal employment on a merit basis so that the best qualified persons may be available through competitive tests.

§ 3.05.010 CIVIL SERVICE RULES.

In addition to such other rules as the Civil Service Commission may determine are necessary and proper to carry out the intent and purpose of the personnel program, the following rules shall govern:

- A. Preparation, installation, revision and maintenance of a position classification plan covering all positions in the Classified Service, including employment standards and qualifications for each class.
- B. Preparation, revision, and administration of a plan of compensation directly correlated with the position classification plan, providing a rate or range of pay for each class.
- C. Public announcement of all tests and the acceptance of applications for employment.
- D. Preparation and conduct of tests and the establishment and use of resulting eligible lists containing names of persons eligible for appointment.
- E. Certification and appointment of persons from eligible lists, and making of temporary appointments.
- F. Evaluation of employees during the probationary period.
- G. Transfer, promotion, demotion and reinstatement of employees in the Classified Service.
- H. Separation of employees from municipal service through layoff, suspension and dismissal.
- I. Standardization of hours of work, attendance and leave regulations, working conditions and the development of employee morale, welfare, education and training.
- J. Suitable provision for orderly and equitable presentations to the Council by employees relating to general conditions of employment.
- K. Content, maintenance and use of personnel records and forms.

§ 3.05.015 CLASSIFIED SERVICE; APPLICABILITY.

The Civil Service System shall be applicable to all departments, offices, positions and employments and all persons employed by the City except the following:

- A. Elective offices;
- B. Members of appointive boards, commissions and committees;
- C. Persons engaged under contract to supply expert professional or technical services for a definite

and limited period of time;

- D. Assistant City Managers, Assistants to the City Manager, the Personnel and Employee Relations Director, Public Works Director/City Engineer and such staff assistants to any of said employees as the City Council may authorize;
- E. Volunteer personnel, crossing guards, or other employees holding seasonal, limited or temporary appointments of limited duration, or serving on a part-time basis;
- F. Staff assistants to the head of a department or division as may be authorized by the City Council.
- G. Professional and technical employees in the field of information technology, who perform design, development, documentation, analysis, acquisition, installation, creation, technical support, testing or modification of computer systems or programs.

§ 3.05.020 PERSONNEL OFFICER; DUTIES.

- A. Designation of officer. The Personnel Officer shall be the City Manager, or such person as appointed by the City Manager. Duties may be combined with those of any other office or position, provided the appointee shall have had training or experience in personnel administration.
- B. Duties.
 - 1. Attend all meetings of the Civil Service Commission and serve as liaison officer between the City Manager and the Civil Service Commission.
 - 2. Administer all of the provisions of the Rules not specifically reserved to the City Council, the Civil Service Commission, or the City Manager.
 - 3. Assist the Civil Service Commission in the preparation, study and analysis of Rules and revisions and amendments thereto, for submission to the City Council after approval by City Attorney as to legality of such action.
 - 4. Assist the Civil Service Commission in the study, analysis and/or preparation of classification and pay plans, including class specifications and revisions of said plans covering all classifications in the Classified Service; the plans, and any revisions thereto, becoming effective upon approval by the City Council.
 - 5. Encourage the improvement of municipal service by studying needs and recommending programs for education and training to the City Manager; such programs becoming effective upon approval by the Civil Service Commission and the City Council.

§ 3.05.025 RIGHT TO CONTRACT FOR SERVICE.

The City Council, upon the recommendation of the Civil Service Commission or the City Manager, may contract with any qualified person or agency for the performance of technical services in the operation of the Civil Service System.

§ 3.05.030 APPOINTMENTS.

Appointments to vacant positions in the Classified Service shall be made in accordance with the Civil Service Rules by the City Council, the City Manager, or the officer to whom the power to make appointments

has been delegated.

§ 3.05.035 PROBATIONARY PERIOD.

All regular appointments, including promotional appointments, shall be for a probationary period of one (1) year. During the probationary period, the employee may be rejected at any time without right of appeal or hearing. An employee rejected during the probationary period from a position to which he has been promoted shall be reinstated to the position from which he was promoted, unless he is dismissed from the municipal service.

§ 3.05.040 RIGHT OF RESTORATION.

In the event an employee of the City holding a position under Civil Service is appointed to a position not under the Classified Service, and should subsequently be removed therefrom, he shall revert to his former position under the Classified Service without loss of any rights or privileges and upon the same terms and conditions as if he had remained in said position continuously. The right of restoration shall be effective for a period of two (2) years from the date of appointment to the position not within the Classified Service.

§ 3.05.045 DISCIPLINARY ACTION.

All persons holding positions in the Classified Service shall be subject to disciplinary action for misconduct, incompetency, inefficiency or failure to perform duties, or to observe the Rules of the Department in which he is employed or of the Commission, but subject the right of appeal of the aggrieved party to the Civil Service Commission in the manner set forth in the Civil Service Rules.

§ 3.05.050 PERSONNEL IN DEPARTMENTS OF CITY CLERK AND CITY TREASURER.

The City Clerk and the City Treasurer are the appointing authorities for personnel in their respective Departments, but such personnel shall be appointed from the eligible lists prepared in the same manner as applies to other employees in the Classified Service and shall be governed by all of the requirements of said service.

§ 3.05.055 ABOLITION OF POSITION.

Whenever in the judgment of the City Council it becomes necessary in the interest of efficiency or economy so to do, it may consolidate any department or departments, or positions in the Classified Service, or if necessity for the position involved no longer exists, it may abolish any position or employment in the Classified Service and in the event of such consolidation or abolishment of position may lay-off, demote, transfer or discharge the employees holding such position. Should such position or employment or any position involving all or any of the same duties be reinstated or created within two years, the employee laid-off, demoted, transferred or discharged shall be eligible to be appointed thereto in preference to any other qualified persons on the eligible list for such position, provided that the said employee complies with the Rules of the Civil Service Commission relative to such reinstatement.

§ 3.05.060 NONDISCRIMINATION.

No City employee or person seeking City employment shall be subject to discrimination which

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is prohibited by applicable Federal, State, or local law. In accordance with this policy, no employee or prospective employee shall be interfered with, intimidated, restrained, coerced, employed, promoted, demoted, discharged, or in any way favored or discriminated against because of political opinions or affiliations, race, religious beliefs, age, sex, disability, or national origin.

§ 3.05.070 ANTI-NEPOTISM POLICY.

- A. Because of the potential for creating adverse impacts on supervision, safety, security or morale, members of an immediate family shall not be employed in the direct line of supervision of one another.
- B. If at the time of the adoption of this policy, an employee has an immediate family member also employed by the City, this Section shall not be applicable to that employee based on that existing familial relationship.
- C. This policy shall not be applicable to any person whose immediate family member is elected to the City Council, if such person, at the time of such election, is currently employed by the City.
- D. Employees who become subject to this policy after appointment, but who are not otherwise exempted, pursuant to Subsection B., shall have the opportunity to transfer subject to the provisions of the Civil Service Rules, relating to transfers. In the event no transfer is available, one of the employees shall resign and such resignation shall be effective within a reasonable time period, not to exceed thirty (30) calendar days, after notification of the decision of transfer unavailability. The decision regarding who shall resign may be made by the affected employees. If no decision is made within thirty (30) calendar days:
 - 1. The employee with the most recent appointment, transfer or promotion which resulted in the application of the policy shall be deemed to have resigned; or
 - 2. If the reason the policy applies is other than an appointment, promotion or transfer, the employee with the least cumulative seniority shall be deemed to have resigned.
- E. For the purpose of this Section, IMMEDIATE FAMILY shall be defined as the following relationships whether established by blood, marriage or other legal actions:
 - 1. Parents, grandparents, step-parents, step-grandparents, brothers, sisters, half-brothers, half-sisters, step-brothers, step-sisters, children, children's spouse(s), grandchildren, step-children, step-grandchildren.
 - 2. Spouse and spouse's parents, grandparents, brothers, sisters, half-brothers, half-sisters, step-brothers, step-sisters, step-parents, step-grandparents, step-grandchildren.
- F. For the purpose of this Section, DIRECT LINE OF SUPERVISION shall be defined as any regularly assigned employment relationship wherein an employee holds a position with any control or authority over an immediate family member of that employee. A City Council member shall be deemed to hold a position of control and authority over every City employee. A member of a City Commission, Board or Committee shall be deemed to hold a position of control and authority over every City employee who is regularly assigned as staff support to that member's Commission, Board or Committee.
- G. When it is determined an employee is affected by this policy, the employee may appeal such determination to the Civil Service Commission for a final administrative adjudication of the matter; provided that the Civil Service Commission, in its discretion, may use the services of a hearing officer

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and not hold evidentiary hearings itself; and provided further that, if the employee to whom the Policy has been determined to apply is an immediate family member of any member of the Civil Service Commission that Commission member shall abstain from voting on the appeal.

- H. The administrative procedures contained in this policy shall constitute an employee's exclusive administrative remedy. An employee may not file a grievance or other form of complaint for any determination, decision or action taken under this policy, except as provided in Subsection G. herein.

ARTICLE XII. CIVIL SERVICE

§ 1200. MERIT PRINCIPLE.

Appointments and promotions in the administrative service of the City shall be made according to merit and fitness, to be ascertained, so far as practicable, by competitive examination.

The Civil Service System adopted by the City Council pursuant to State law and in effect prior to the effective date of this Charter, shall continue in full force and effect unless changed by ordinance of the City Council or by amendment to the rules and regulations approved by the City Council. As provided in the State enabling act referred to above, the City Council shall not have the authority to withdraw any departments or employees, including Department Heads, placed in Classified Service, from the operation of such system, either by outright repeal of the Civil Service ordinance or otherwise, unless and until its withdrawal shall have been submitted to the voters of the City at a regular or special municipal election held in the City and shall have been approved by majority vote at a City election.

§ 1201. CLASSIFICATION.

All Department Heads shall be in the Unclassified Service. The City Manager, City Attorney, City Clerk and City Treasurer shall be in the Unclassified Service.

§ 1202. APPOINTMENTS FROM CIVIL SERVICE POSITIONS.

In the event an employee of the City holding a position in the Classified Service is appointed to a position in the Unclassified Service, and within two years is removed or resigns from that position, the employee shall revert to his or her former position in the Classified Service upon the same terms and conditions as if he or she had continuously remained in that position.

§ 1203. PROHIBITIONS.

No person shall willfully make any false statements, certificate, mark, rating or report in regard to any application, test certification or appointment held or made under the Civil Service System or in any manner commit or attempt any fraud preventing the impartial execution of such Civil Service System or its rules and regulations.

CALIFORNIA CODE OF CIVIL PROCEDURE

§ 1094.5 JUDICIAL REVIEW.

SUMMARY: Law by which an employee or agency may issue a writ for the purpose of inquiry made into the validity of any final administrative order or decision by an inferior tribunal, e.g. Commission, City Council, etc. The case would be heard by the court without a jury. The inquiry shall extend to the questions whether the respondent proceeded without a fair trial, or in excess of jurisdiction; whether there was a fair trial; whether there was any prejudicial abuse of discretion (when the decision is not supported by the findings or the findings are not supported by the evidence).

(a) Where the writ is issued for the purpose of inquiring into the validity of any final administrative order or decision made as the result of a proceeding in which by law a hearing is required to be given, evidence is required to be taken, and discretion in the determination of facts is vested in the inferior tribunal, corporation, board, or officer, the case shall be heard by the court sitting without a jury. All or part of the record of the proceedings before the inferior tribunal, corporation, board, or officer may be filed with the petition, may be filed with respondent's points and authorities, or may be ordered to be filed by the court. Except when otherwise prescribed by statute, the cost of preparing the record shall be borne by the petitioner. Where the petitioner has proceeded pursuant to Article 6 (commencing with Section 68630) of Chapter 2 of Title 8 of the Government Code and the Rules of Court implementing that section and where the transcript is necessary to a proper review of the administrative proceedings, the cost of preparing the transcript shall be borne by the respondent. Where the party seeking the writ has proceeded pursuant to Section 1088.5, the administrative record shall be filed as expeditiously as possible, and may be filed with the petition, or by the respondent after payment of the costs by the petitioner, where required, or as otherwise directed by the court. If the expense of preparing all or any part of the record has been borne by the prevailing party, the expense shall be taxable as costs.

(b) The inquiry in such a case shall extend to the questions whether the respondent has proceeded without, or in excess of, jurisdiction; whether there was a fair trial; and whether there was any prejudicial abuse of discretion. Abuse of discretion is established if the respondent has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence.

(c) Where it is claimed that the findings are not supported by the evidence, in cases in which the court is authorized by law to exercise its independent judgment on the evidence, abuse of discretion is established if the court determines that the findings are not supported by the weight of the evidence. In all other cases, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record.

(d) Notwithstanding subdivision (c), in cases arising from private hospital boards or boards of directors of districts organized pursuant to the Local Health Care District Law (Chapter 1 (commencing with Section 32000) of Division 23 of the Health and Safety Code) or governing bodies of municipal hospitals formed pursuant to Article 7 (commencing with Section 37600) or Article 8 (commencing with Section 37650) of Chapter 5 of Part 2 of Division 3 of Title 4 of the Government Code, abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record. However, in all cases in which the petition alleges discriminatory actions prohibited by Section 1316 of the Health and Safety Code, and the plaintiff makes a preliminary showing of substantial evidence in support of that allegation, the court shall exercise its independent judgment on the evidence and abuse of discretion

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shall be established if the court determines that the findings are not supported by the weight of the evidence.

(e) Where the court finds that there is relevant evidence that, in the exercise of reasonable diligence, could not have been produced or that was improperly excluded at the hearing before respondent, it may enter judgment as provided in subdivision (f) remanding the case to be reconsidered in the light of that evidence; or, in cases in which the court is authorized by law to exercise its independent judgment on the evidence, the court may admit the evidence at the hearing on the writ without remanding the case.

(f) The court shall enter judgment either commanding respondent to set aside the order or decision, or denying the writ. Where the judgment commands that the order or decision be set aside, it may order the reconsideration of the case in light of the court's opinion and judgment and may order respondent to take such further action as is specially enjoined upon it by law, but the judgment shall not limit or control in any way the discretion legally vested in the respondent.

(g) Except as provided in subdivision (h), the court in which proceedings under this section are instituted may stay the operation of the administrative order or decision pending the judgment of the court, or until the filing of a notice of appeal from the judgment or until the expiration of the time for filing the notice, whichever occurs first. However, no such stay shall be imposed or continued if the court is satisfied that it is against the public interest. The application for the stay shall be accompanied by proof of service of a copy of the application on the respondent. Service shall be made in the manner provided by Title 4.5 (commencing with Section 405) of Part 2 or Chapter 5 (commencing with Section 1010) of Title 14 of Part 2. If an appeal is taken from a denial of the writ, the order or decision of the agency shall not be stayed except upon the order of the court to which the appeal is taken. However, in cases where a stay is in effect at the time of filing the notice of appeal, the stay shall be continued by operation of law for a period of 20 days from the filing of the notice. If an appeal is taken from the granting of the writ, the order or decision of the agency is stayed pending the determination of the appeal unless the court to which the appeal is taken shall otherwise order. Where any final administrative order or decision is the subject of proceedings under this section, if the petition shall have been filed while the penalty imposed is in full force and effect, the determination shall not be considered to have become moot in cases where the penalty imposed by the administrative agency has been completed or complied with during the pendency of the proceedings.

(h) (1) The court in which proceedings under this section are instituted may stay the operation of the administrative order or decision of any licensed hospital or any state agency made after a hearing required by statute to be conducted under the Administrative Procedure Act, as set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, conducted by the agency itself or an administrative law judge on the staff of the Office of Administrative Hearings pending the judgment of the court, or until the filing of a notice of appeal from the judgment or until the expiration of the time for filing the notice, whichever occurs first. However, the stay shall not be imposed or continued unless the court is satisfied that the public interest will not suffer and that the licensed hospital or agency is unlikely to prevail ultimately on the merits. The application for the stay shall be accompanied by proof of service of a copy of the application on the respondent. Service shall be made in the manner provided by Title 4.5 (commencing with Section 405) of Part 2 or Chapter 5 (commencing with Section 1010) of Title 14 of Part 2.

(2) The standard set forth in this subdivision for obtaining a stay shall apply to any administrative order or decision of an agency that issues licenses pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code or pursuant to the Osteopathic Initiative Act or the Chiropractic Initiative Act. With respect to orders or decisions of other state agencies, the standard in this subdivision shall apply only when the agency has adopted the proposed decision of the administrative law judge in its entirety or has adopted the proposed decision but reduced the proposed penalty pursuant to subdivision (c) of Section 11517 of the Government Code; otherwise the standard in subdivision (g) shall apply.

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(3) If an appeal is taken from a denial of the writ, the order or decision of the hospital or agency shall not be stayed except upon the order of the court to which the appeal is taken. However, in cases where a stay is in effect at the time of filing the notice of appeal, the stay shall be continued by operation of law for a period of 20 days from the filing of the notice. If an appeal is taken from the granting of the writ, the order or decision of the hospital or agency is stayed pending the determination of the appeal unless the court to which the appeal is taken shall otherwise order. Where any final administrative order or decision is the subject of proceedings under this section, if the petition shall have been filed while the penalty imposed is in full force and effect, the determination shall not be considered to have become moot in cases where the penalty imposed by the administrative agency has been completed or complied with during the pendency of the proceedings.

(i) Any administrative record received for filing by the clerk of the court may be disposed of as provided in Sections 1952, 1952.2, and 1952.3.

(j) Effective January 1, 1996, this subdivision shall apply to state employees in State Bargaining Unit 5. For purposes of this section, the court is not authorized to review any disciplinary decisions reached pursuant to Section 19576.1 of the Government Code.

§ 1094.6 JUDICIAL REVIEW TIME LIMITS.

SUMMARY: Law which allows an employee or local agency to seek judicial review of a decision made by a local agency, commission, board or officer, regarding the suspension, demotion or dismissal of an employee or officer, or the denial of application for any retirement benefit or allowance.

(a) Judicial review of any decision of a local agency, other than school district, as the term local agency is defined in Section 54951 of the Government Code, or of any commission, board, officer or agent thereof, may be had pursuant to Section 1094.5 of this code only if the petition for writ of mandate pursuant to such section is filed within the time limits specified in this section.

(b) Any such petition shall be filed not later than the 90th day following the date on which the decision becomes final. If there is no provision for reconsideration of the decision, or for a written decision or written findings supporting the decision, in any applicable provision of any statute, charter, or rule, for the purposes of this section, the decision is final on the date it is announced. If the decision is not announced at the close of the hearing, the date, time, and place of the announcement of the decision shall be announced at the hearing. If there is a provision for reconsideration, the decision is final for purposes of this section upon the expiration of the period during which such reconsideration can be sought; provided, that if reconsideration is sought pursuant to any such provision the decision is final for the purposes of this section on the date that reconsideration is rejected. If there is a provision for a written decision or written findings, the decision is final for purposes of this section upon the date it is mailed by first-class mail, postage prepaid, including a copy of the affidavit or certificate of mailing, to the party seeking the writ. Subdivision (a) of Section 1013 does not apply to extend the time, following deposit in the mail of the decision or findings, within which a petition shall be filed.

(c) The complete record of the proceedings shall be prepared by the local agency or its commission, board, officer, or agent which made the decision and shall be delivered to the petitioner within 190 days after he has filed a written request therefor. The local agency may recover from the petitioner its actual costs for transcribing or otherwise preparing the record. Such record shall include the transcript of the proceedings, all pleadings, all notices and orders, any proposed decision by a hearing officer, the final decision, all admitted exhibits, all rejected exhibits in the possession of the local agency or its commission, board, officer, or agent, all written evidence, and any other papers in the case.

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(d) If the petitioner files a request for the record as specified in subdivision (c) within 10 days after the date the decision becomes final as provided in subdivision (b), the time within which a petition pursuant to Section 1094.5 may be filed shall be extended to not later than the 30th day following the date on which the record is either personally delivered or mailed to the petitioner or his attorney of record, if he has one.

(e) As used in this section, decision means a decision subject to review pursuant to Section 1094.5, suspending, demoting, or dismissing an officer or employee, revoking, denying an application for a permit, license, or other entitlement, imposing a civil or administrative penalty, fine, charge, or cost, or denying an application for any retirement benefit or allowance.

(f) In making a final decision as defined in subdivision

(e), the local agency shall provide notice to the party that the time within which judicial review must be sought is governed by this section. As used in this subdivision, "party" means an officer or employee who has been suspended, demoted or dismissed; a person whose permit, license, or other entitlement has been revoked or suspended, or whose application for a permit, license, or other entitlement has been denied; or a person whose application for a retirement benefit or allowance has been denied.

(g) This section shall prevail over any conflicting provision in any otherwise applicable law relating to the subject matter, unless the conflicting provision is a state or federal law which provides a shorter statute of limitations, in which case the shorter statute of limitations shall apply.

§ 2028.010 WRITTEN DEPOSITIONS.

Any party may obtain discovery by taking a deposition by written questions instead of by oral examination. Except as modified in this chapter, the procedures for taking oral depositions set forth in Chapters 9 (commencing with Section 2025.010) and 10 (commencing with Section 2026.010) apply to written depositions.