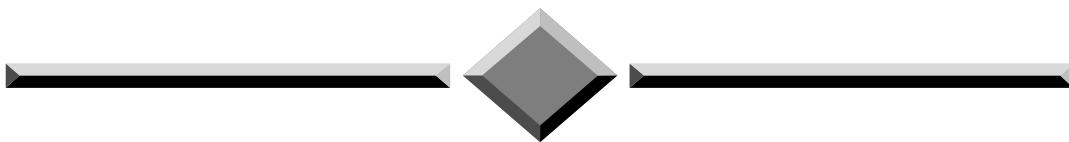


CITY OF SAN RAFAEL

Personnel Rules and Regulations



October 1995

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RULE 1 AUTHORITY AND PURPOSE

1.1 Authority

Under the authority granted to the legislative body of any City within the State of California under the provisions of Government code 45001 and the City of San Rafael Ordinance No. 1357 the City Council adopts these rules and regulations which shall have the force and effect of law and shall apply to all employees who are members of the Classified Service. Clarification regarding the implementation of these rules and regulations shall be the responsibility of the City Manager.

1.2 Purpose

The purpose of these rules and regulations is to facilitate service to the public and to provide for a fair and equitable system of personnel administration and management within the City organization.

It is the policy of the City that:

- a. All current and prospective employees shall receive equal opportunity in employment without discrimination on the basis of race, color, national origin, ancestry, religious creed, physical disability (including HIV and AIDS), mental disability, medical condition (Cancer), marital status, sex, age, sexual orientation, or organizational affiliation, (except when sex, age, disability, or medical condition is a bonafide occupational qualification). This non-discrimination policy applies to decisions affecting recruitment, selection, placement, assignment, training, transfer, promotion, evaluation, discipline, termination, compensation, benefits and all other aspects of employment.
- b. Tenure of employees covered by these rules and regulations shall be subject to satisfactory work performance the necessity for the performance of work, and the availability of funds.
- c. Relations with employees will be maintained in an open and straight forward manner in accordance with all applicable laws, ordinances, rules and regulations and memoranda of understanding.

1.3 Classified Service

The provisions of the resolution shall apply to all offices, positions and employments in the service of the City, except:

- a. Elective officers.
- b. The City Manager

- c. Members of appointive boards, commissions, and committees.
- d. All department heads, including but not limited to:
 - Police Chief
 - Fire Chief
 - Public Works Director
 - Library Director
 - Recreation Director
 - Planning Director
 - Finance Director
 - Assistant Executive Director - Redevelopment
 - Assistant City Manager
 - Personnel Director
- e. Persons engaged under contract to supply expert, professional, technical or any other services.
- f. Volunteer personnel.
- g. Emergency employees who are hired to meet the immediate requirements of an emergency condition, such as extraordinary fire, flood, or earthquake which threatens life or property.
- h. Employees, other than those listed elsewhere in this section, who are not regularly employed in Council authorized positions. "Regularly employed in Council authorized positions" means an employee hired for an indefinite term into a budgeted position, who is regularly scheduled to work no less than one thousand and forty (1040) hours per year, and has successfully completed the probationary period and been retained as provided in this ordinance and the personnel rules.
- i. Any position primarily funded under a state or federal grant and/or employment program.

Employees not included in the classified service under this section shall serve at the pleasure of their appointing authority.

1.4 Authority of the City Manager

In accordance with the provisions of the Personnel Ordinance the City Manager has the authority to appoint all officers and employees except those specifically excluded and to remove same and to maintain general control and supervision over same. The City Manager may delegate to Department Heads authority to appoint, terminate or take over personnel action subject to these rules and regulations, the Municipal Code, and the City Charter.

The Personnel System established by Ordinance shall be administered by the City Manager. The City Manager may delegate the administration of the personnel system to the Personnel Director.

1.5 Collective Bargaining Agreements

These rules are not intended to supersede any provisions of an existing collective bargaining agreement. If any section of these Rules and Regulations is covered by a provision of a collective bargaining agreement, the collective bargaining agreement shall prevail and the parallel provisions in the Rules and Regulations shall not apply to the affected unit. This pertains to recognized bargaining units who represent and negotiate for all employee classifications within their particular unit.

1.6 Employment Constitutes Acceptance of Rules

In accepting employment with the City of San Rafael, each employee agrees to be governed by and to comply with the Personnel Ordinance, Rules and Regulations, Administrative Procedures, and regulations and directives of the Department in which employed.

1.7 Severability

Should any provision contained in these rules be rendered or declared invalid by reason of any State or Federal legislation, court action, or emergency situation, such invalidation so declared shall not invalidate the remaining portion hereof and they shall remain in full force and effect.

1.8 Amendment of Rules

Amendments to these Rules are initiated by the City Manager or Personnel Director and approved by the City Council. Prior to final consideration by the City Council, any proposed amendment shall be communicated to each recognized employee organization and where appropriate under the Meyers-Milias-Brown Act any proposed amendment to these rules that constitute a change in or impacts wages, hours or terms and conditions of employment shall be subject to meet and confer.

RULE 2 DEFINITION OF TERMS

For the purpose of this Resolution, Personnel Rules and Regulations, and Administrative Procedures implementing the personnel rules and regulations, the definitions specified below shall apply unless it is plainly evident from the context that a different meaning is intended.

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

Applicant Means a person who has filed an application for employment with the City.

Appointing Authority

Shall mean the City Manager or designated official having the power of appointment and removal of employees.

Appointment Shall mean the offer to, and acceptance by, a person of a position in the Classified Service.

Certification Shall mean the furnishing of names by the Personnel Department of eligible available candidates for employment from an eligible list or in such manner as prescribed in these Rules.

City Shall mean the City of San Rafael.

City Council Shall mean the City Council of San Rafael.

Classification or Class A position or group of positions sufficiently similar as to duties performed, responsibilities and authority thereof, employment standards, and such other qualifications designated by the city's Personnel Director that the same title, examination requirements and/or other tests of fitness and the same schedule of compensation may be applied to each position in the group.

Classified Service Shall mean all those positions and/or classifications, and the employees occupying such positions listed in the salary resolution, with the exception of those officers, positions and employments noted in Rule 1.3 of these rules.

Classification Plan Arrangement of positions into classes, together with specifications, describing each class by job title, duties, and employment standards.

Classified Employee

Means any person holding full time or part time employment in a position in the Classified Service. All City of San Rafael employees are considered emergency workers and are expected to report to work during times of emergency and perform other duties which might be considered out of the scope of their normal work.

Day(s)

Shall mean calendar days unless otherwise specified as working days.

Demotion

A change in status of an employee from a position in one class to a position in another class with lesser duties and responsibilities, lower qualifications, and a lower range of pay.

Department Head

Shall mean the individual who is designated the administrative head of a department.

Discharge/Dismissal

The separation from employment of an employee by an appointing authority.

Eligible

A person who has successfully passed all competition and examination requirements for a classification for which he/she has made official application according to these rules and is on an Eligible List as promulgated by the Personnel Director.

Eligible List

An officially promulgated list of eligibles for a specific classification order of examination scores, or as especially provided by re-employment rights. The Eligible List will be effective for six (6) months with the possibility of an extension for an additional six (6) months by the Personnel Director at the request of the Department.

Employment Standards

Shall mean the acceptable degree of job related skill, education, abilities, experience, and personal and physical characteristics which are prescribed for the selection of an appointee to fill a position.

Examinations Any selection or evaluation device which measures an applicants knowledge, skills, and abilities related to the position for which the applicant has applied.

a. Open Examination:

Shall mean an examination for a particular class which is open to all persons meeting the qualifications for the class.

- b. Promotional Examination:
Shall mean an examination for a particular class, admission to which is limited to regular employees who meet the qualifications for the class.
- c. Open Continuous Examination:
Shall mean an open examination which is administered periodically and as a result of which a new Open Eligible List is created.

Immediate Family Immediate family shall be defined as employee's spouse, mother, father, child, sister, and brother.

Lay-Off Shall mean the termination of employment without prejudice due to lack of work or funds, abolishment of position, material change in job duties or organizational alterations.

Overtime Shall mean actual time worked beyond employee's standard scheduled duty week or as specifically defined in the appropriate M.O.U.

Overtime Pay Shall mean authorized payment granted to an employee for work in excess of a regular work day or work week, as prescribed in these rules.

Part-Time Position Shall mean a position in the Classified Service in which the employee is authorized to work less than the standard work day, work week, work month, or an indefinite period.

Personnel Director The City Manager shall be the Personnel Director. The City Manager may delegate any or all of the powers and duties as Personnel Director to the city's designated Personnel Director.

Position Shall mean a specific office or employment provided by the budget, whether occupied or vacant, limited term or regular, calling for the performance of certain duties.

Probationary Appointment:
Means an appointment to a regular position within the classified service for a definite probationary period.

Probationary Period

A working test period during which an employee is required to demonstrate his fitness for the position to which he/she is appointed by actual performance of the duties of the position.

Promotion The movement of an employee from one class to another class having a higher maximum rate of pay.

Regular Employee Shall mean an employee who has satisfactorily completed his/her probationary period and has achieved regular status in the Classified Service.

Reprimand Shall mean a form of disciplinary action, either in verbal or written form.

Resignation Shall mean the voluntary termination of employment by an employee.

Salary Resolution Means that resolution adopted by the City Council detailing the salaries and benefits for each Classified employee.

Salary Step Increase An increase in pay established in the salary plan which may be granted to an employee for satisfactory performance and successful completion of prescribed periods of employment in the class. All step increases are based on satisfactory work performance and must be approved by both the employee's Department Head and the City Manager.

Shift Personnel An employee working a shift other than the normal working day.

Suspension The temporary suspension from the service of an employee with or without pay for disciplinary purposes.

Sworn Personnel Those employees of the Police and Fire Departments defined as sworn personnel by the Penal Code, State of California.

Temporary Appointment Shall mean the appointment to any position in the Classified Service for a temporary period.

Temporary Position Shall mean a position, the duties of which are not permanent in nature.

Termination The separation of an employee from City Service. Termination may be by death, rejection during probation, discharge/dismissal, lay-off, resignation, retirement, work completion, lack of work or funds.

Title Means the common designation of a position or group of positions composing a class.

Transfer Shall mean a change from one position to another in the same or comparable class or from department to department (this does not include job rotation or shift changes).

Waiver Shall mean the refusal of offer of employment by a candidate whose name is on an Eligible List, or the unavailability of a candidate for appointment to a given position.

RULE 3 POSITION CLASSIFICATION AND COMPENSATION

3.1. Adoption of and Amendments to Classification Plan.

The Personnel Director shall prepare and maintain the classification plan. The plan shall consist of classifications and specifications for each class in the Classified Service. The classification plan or any amendment to it shall become effective upon final approval of the City Council.

3.2. Classification of Positions

Each position in the Classified Service shall be allocated by the Personnel Director to a classification in the classification plan based on the ongoing duties and responsibilities assigned to each position.

3.3. Reclassification

When the duties and responsibilities of a position have changed significantly, the position may be reclassified by the Personnel Director to a more appropriate classification upon approval of the City Manager.

3.4. Status of Employee Whose Position is Reclassified

If an occupied position is reclassified the incumbent shall be affected as outlined below:

a. To a lower classification

When a position is reallocated to a lower classification, the incumbent is either:

1. Transferred to a vacant position in the former classification; or

2. If the incumbent's current salary is greater than the top step of the lower classification, Y-rated at the current salary until the salary of the lower classification is at or above the Y-rate.

b. To a different classification with the same salary range.

When a position is reallocated to a different classification with the same salary range, the incumbent shall be granted the same status in the new classification, in which he/she shall be paid at the same step of the range and shall maintain the same salary rights.

c. To a higher classification

When a position is reclassified to a classification with a higher salary range, the incumbent is moved into the higher classification with the position, except in the circumstances prescribed below. Placement in the salary range shall be in accordance with the appropriate memorandum of understanding.

If the duties upon which the reclassification are based could have been assigned to any of a number of employees in that classification within the division or department, then a promotional exam is held for the reclassified position. Such an exam is a departmental only recruitment limited to employees within that classification. If the incumbent is not successful in this competitive process, she/he is assigned to the position vacated by the promotion.

3.5. Compensation Plan

The Compensation Plan adopted by the City Council shall provide for salary schedules, rates, ranges, steps and any other special circumstances or items related to the total compensation paid employees.

Each position within the classified services shall be allocated to its appropriate class in the classification plan on the basis of duties and responsibilities. Each class shall be assigned a salary range or a rate established in the salary plan. All persons entering the classified service shall be compensated in accordance with the salary plan then in effect.

All initial employments shall be at the first step of the salary range. The City Manager or his/her designee may authorize, upon the recommendation of the Appointing Authority, a position at an appropriate higher salary when, in his/her opinion, it is necessary to obtain qualified personnel or when it appears that the education or experience of a proposed employee is substantially superior to the minimum requirements of the class and justifies a beginning salary in excess of the first step.

3.6 Pay Period

City employees are paid twice per month on the 15th and the last working day of the month. When a holiday falls on a pay day, the pay day will be transferred to the following day of regular business unless the Finance Department is able to complete the payroll by the previous work day. The method of the distributing payroll shall be established by the Director of Finance.

3.7 Salary Step Increase

An employee may be considered for a step increase in accordance with the time intervals established in the salary plan. Advancement to a higher salary within a salary range may be granted for continued improvements and efficient and effective service by the employee in the performance of his/her duties. Salary advancements shall be made only upon the recommendation of the Department Head concerned, with the approval of the City Manager or their designee, and are not automatic but based on acceptable work performance.

Accelerated merit performance step increases of five percent (5%) may be granted an employee based upon the recommendation of the Department Head and approval of the City Manager.

3.8 Merit Pay Award

Employees at the maximum step of their salary range may be granted a merit pay award of up to five percent (5%) above and beyond their salary range. A merit pay award may be effective for up to one (1) year. A merit pay award when expired is not a disciplinary action and is not appealable. Merit pay awards may be granted in recognition of meritorious performance beyond the scope of regular duties and in response to extraordinary conditions.

3.9 Overtime

Overtime shall be paid in accordance with appropriate State and Federal law and memoranda of understanding.

RULE 4 EMPLOYMENT, APPLICATION AND EXAMINATIONS

4.1 Announcements

All selection procedures for classes in the classified service shall be publicized for not less than five (5) working days prior to the final filing date. The notice shall state the classification title, nature of work to be performed, qualification standards, when and where to file applications, examination procedures, and other pertinent information.

4.2 Applications

All applications shall be made upon official forms furnished by the Personnel Department, filled out as therein directed, and filed in the office of the Personnel Department on or before the closing date specified in the recruitment announcement.

Applicants taking more than one examination must file a separate and complete application for each such examination unless specified otherwise in the examination announcement.

All application forms and examination papers are confidential records of the City and under no circumstances will they be returned to the applicants or displayed publicly.

4.3 Qualification of Candidates

Candidates for positions must meet the qualification standards set forth in the job announcement.

4.4 Disqualification Criteria

The Personnel Director has the authority to disqualify candidates, or persons placed on an eligible list consistent with the provisions of these rules. The following shall constitute grounds for disqualification of a candidate or eligible:

- a. Fraudulent conduct or false statements by a candidate, or by others with the candidate's concurrence, on any application or in any selection procedure.
- b. Failure to meet any of the requirements or qualifications, as published in the announcement.
- c. Conviction (including pleas of guilty or nolo contendere) of a felony or misdemeanor if the Personnel Director determines that the conviction has an employment relationship to the position for which application is made. In making the determination, the Personnel Director shall consider the duties and responsibilities of the position, the nature of the conviction, the length of time since the conviction, the circumstances surrounding the crime, and the candidate's record since the conviction. In the case of applicants, candidates or eligibles for Peace Officer positions (as defined in Penal Code Sections 830, et seq.), a felony conviction or a specified misdemeanor identified in the Penal Code as one that precludes employment as a Peace Officer, if convicted, shall automatically disqualify the individual.

4.5 Examination Process

The purpose of all examinations shall be to determine the qualifications and fitness of each applicant. The selection techniques used in the examination process shall be impartial and relate to those subjects which, in the opinion of the Personnel Director, fairly measure the relative capacities of the persons examined to execute the duties and responsibilities of the class to which they seek to be appointed. Examinations shall consist of selection techniques which will test fairly the qualifications of candidates such as, but not necessarily limited to achievement and aptitude tests, other written tests, personal interview, performance tests, physical agility tests, evaluation of daily work performance, work samples, successful completion of prescribed training, or any combination of these or other tests. The probationary period shall be considered as a portion of the examination process. Examinations shall be designed to provide equal opportunity to all candidates by being based on an analysis of the essential requirements of the class, covering only factors related to such requirements.

4.6 Types of Recruitments and Examinations

The Personnel Director shall make the final decision on the type of recruitments and examinations to be held for any given position or classification. The following types of recruitments and examinations may be held:

a. Open Examinations

shall be open to all candidates who meet the qualification standards set forth in the job announcement.

b. Promotional Examinations

1. City Examinations shall be open to all current City employees, regardless of their employment status.
2. Departmental Examinations shall be open only to City employees in classified service positions within specific classifications in a designated department or division.

c. Open Continuous Examinations

Exams which are given periodically to fill recurring vacancies or vacancies that are difficult to fill. They are open to all candidates who meet the qualification standards.

4.7 Test Administration

The Personnel Director shall be responsible for administering and scoring selection tests.

a. Qualifying Scores

The Personnel Director shall set the minimum qualifying scores for each phase of the selection testing process. Candidates failing to achieve the qualifying score in any phase shall be disqualified from further participation in the testing process.

b. Grading

All grading will be based on the responses provided or performance demonstrated by the candidate at each phase of the testing process. No testing paper, record or statement may be subject to alteration, addition or clarification by the candidate after the conclusion of the test administration.

c. Final Scores

The final score of a candidate shall be based upon the compilation of all tests in the examination process according to the weights of each test established by the Personnel Director.

4.8 Notice of Qualification

All applicants taking the examination shall be informed in writing by the Personnel Director as soon as practical upon receipt of the test results as to whether or not they passed or failed.

4.9 Request for Review

Requests must be made in writing to the Personnel Director within seven (7) calendar days from the date of the Notice of Qualification letter.

- a.** Until such request is decided in the appellant's favor, his or her right to certification is to be determined by his/her original rating. Pending the rectification of such manifest error, however, the Personnel Director may, at his or her discretion, temporarily delay certification, or suspend, or cancel any certification heretofore made. No hearing on such requests will be granted to applicants.
- b.** Candidates may receive information on their exam results as long as such information does not compromise the confidentiality of the exam and/or violate Rule 15.4.

4.10 Change of Address.

Applicants changing their notification residence, after filing an application should notify the Personnel Director of such changes in writing, immediately. Failure to do so will be treated as the fault of the applicant and may result in the applicant's failure to be notified of an examination, or failure to be

certified for appointment, or to receive any other notice or communication which the Personnel Director may send.

RULE 5 ELIGIBLE LISTS

5.1 Preparation of Eligible Lists

Upon completion of an examination, the Personnel Director shall have prepared an Eligible List consisting of the names of candidates who qualified in the examination, giving their ratings and any other related examination data.

5.2 Effective Date

Eligible lists shall become effective on the date approved by the City Manager.

5.3 Types of Lists

Persons may be appointed from the sources listed below. The order of preference shall be as follows:

a. Reinstatement

These lists consist of persons returning from layoffs.

b. Promotional Lists

These lists consist of City employees who have successfully competed in a promotional examination.

c. Open Lists

These lists consist of eligibles who have successfully competed in an examination open to any person.

5.4 Duration of Eligible Lists

Eligible Lists shall remain in effect for six (6) months from the established date and can be extended for up to an additional six (6) months at the written request of the Department Head. Eligible Lists may be in full force as long as two (2) more eligible names than the number of vacancies remain on the Eligible List.

5.5 Removal of Names From Eligible Lists

Names of eligibles may be removed from an Eligible List by the Personnel Director for any of the following reasons:

- a.** Any cause set forth in Rule 4.4, "Disqualification Criteria".
- b.** Failure to accept appointment when certified.

- c. Failure to respond to the Appointing Authority to whom certification was made within five (5) working days from the date of written notice of interview.
- d. Passed over or rejected on the certification list three (3) times, in the same classification each of which has resulted in the appointment of another eligible.
- e. Waiver of certification for the second time.
- f. In the case of promotional examinations, termination (by resignation or discharge) from City employment.
- g. Appointment from the eligible list to a regular full-time status position for which the list was established.

RULE 6 CERTIFICATION AND APPOINTMENT

6.1 *Filling of Vacancies*

When a vacancy occurs in a department, the Department Head shall request, on forms furnished by the Personnel Director certification of eligible persons from an Eligible List for such position.

6.2 *Certification of Eligibles*

For each vacancy, the Personnel Director shall certify all qualified candidates, in score rank order, on the relevant list to the appointing authority. The appointing authority or designee may interview and select any candidate certified by the Personnel Director for each vacancy.

6.3 *Waiver of Certification*

Persons whose names would otherwise be certified but who notify the Department that they are unavailable for appointment shall not be certified to a department. Each instance that this occurs shall constitute a waiver by the eligible person.

Eligibles shall be entitled to one (1) waiver, each of which shall count as a certification; after which a waiver is cause for removal from the Eligible List.

6.4 *Class of Appointments*

Employment status in the City service shall be divided into the following categories:

a. *Regular*

1. Full-time:

Appointment to an authorized position budgeted on a full-time, 40 hours-a-week basis (or a full-time schedule equivalent).

Employees appointed on this basis shall be included in the classified service of city employment and shall receive all rights and benefits outlined in the personnel policy documents and appropriate memoranda of understanding.

2. Part-time

Appointment to an authorized budgeted position in a classification included in the full-time classification structure and regularly scheduled for 20 hours or more per week (or a half-time or more schedule equivalent), but for less than 40 hours per week (or a full-time schedule equivalent).

Employees appointed on this basis shall be included in the classified service of the City and shall receive benefits in accordance with the applicable Memorandum of Understanding.

b. Temporary

1. Limited Term

Appointment to a part-time or full-time position established with a regular fixed schedule for a duration of six months or less.

Employees appointed on this basis shall be included in the unclassified service of the City and shall receive no insurance or leave benefits.

2. Extended Term: appointment to a part-time position but working less than 30 hours per week established with a regular fixed schedule for a duration of more than six months.

Employees appointed on this basis shall be included in the unclassified service of the City and shall receive no insurance or leave benefits.

3. Indefinite Term: appointment to a position established on the basis of a project or contract whose ending date is not fixed, but whose status is determined by the completion of said project or contract.

Employees appointed on this basis shall be included in the unclassified service of the City and shall receive no retirement, insurance or paid leave benefits.

6.5 Appointing Authority Appointments

If two (2) more eligible names than the number of vacancies remain on the Eligible List, they shall be certified to the requesting Appointing Authority.

The Appointing Authority may select for appointment any eligible candidate from among those certified, and shall report to the Personnel Director on the Certification Form as to whether candidates not selected were: "Rejected", "Passed Over", or "Not Considered", and the reasons therefore. If no one is selected, the Appointing Authority may request certification from a new Eligible List.

6.6 Other Certification Criteria

In addition to the eligible applicants the Personnel Director may certify the names of persons for the following reasons:

- a. Candidates for transfer or voluntary demotion;
- b. Candidates for re-appointment;
- c. Candidates on incomplete lists set aside (the number of eligible names does not exceed by two (2) the number of vacancies);

6.7 Temporary Appointments

a. Entitlements

Temporary employees shall not be entitled to sick leave, vacation leave, paid holiday, or the right of appeal loss of employment.

b. Probationary Period

The duration of time in which a person is employed in a temporary position shall not be counted as part of the probationary period if that person receives a probationary appointment. The probationary period starts from the date of appointment to a regular position.

6.8 Medical Examinations

Final approval of appointment to any initial position of employment is contingent upon the eligible individual's ability to pass a job related medical examination administered by a licensed physician commissioned for such service by the City. Psychological examinations may be required for certain positions.

6.9 Re-appointment

Re-appointment after termination shall be considered as new employment. Re-appointments may only be made upon request of the Appointing Authority if the individual has:

- a. Left City service less than twelve (12) months.
- b. Left City service in good standing and has the approval of the Personnel Director.

Re-appointments shall only be made to the job classification the individual left. Upon re-appointment, the employee shall be subject to the probationary period prescribed for the class.

RULE 7 PROBATIONARY PERIOD

7.1 Purpose of Probation

After passing an examination and accepting appointment, each employee in the Classified Service shall serve a period of probation beginning on the date of appointment. Such period shall be for the purpose of determining the employee's ability to perform satisfactorily the duties prescribed for the position.

7.2 Length of Probationary Period

The probationary period on original and promotional appointment shall be for one (1) year for all employees except Police Officers who shall serve a probationary period of eighteen (18) months.

7.3 Rejection During Probation

During the probationary period an employee may be rejected at any time by the Appointing Authority without the right of appeal.

7.4 Notification of Rejection

On determining that a probationary employee's work is not satisfactory, the Appointing Authority shall notify the Personnel Director in writing of his/her intention to terminate the employee. After discussion with the Personnel Director, the Appointing Authority shall notify the employee in writing of his/her rejection.

7.5 Extension of Probationary Period

The probationary period shall not be extended except in the case of extended illness or injury or compelling personal situation during which time the employee was unable to work. In such cases, the probationary period may be extended for the length of time the ill or injured employee was unable to work.

7.6 Regular Status

Regular status shall commence with the day following the expiration date of the probationary period.

7.7 Promotion of Probationary Employee

An employee serving a probationary period may be promoted to a position in a higher position classification provided he/she is certified from the appropriate Eligible List in accordance with these rules. The employee promoted in this manner shall serve a new probationary period for the position to which employee is promoted and the new probationary period and promotional appointment shall be effective the same date.

7.8 Unsuccessful Passage of Promotional Probation

An employee who does not successfully pass his/her promotional probationary period shall be reinstated to the position in which the employee held regular status prior to his/her promotion. Provided, however, that if the cause for not passing the promotional probationary period was sufficient grounds for dismissal, the employee shall be subject to dismissal without reinstatement to the lower position.

7.9 Lateral Transfer Probation

Voluntary transfers to another job classification, within the same salary range, shall require a six (6) month probationary period. In the event of unsuccessful passage of this period refer to 7.8.

RULE 8 TRANSFERS

8.1 Types of Transfers

Transfers may be within the same department (intra-departmental) or between departments (inter-departmental). The requirements for each are as follows:

a. Intra-departmental transfers

The Appointing Authority shall have the authority to transfer an employee from a position in one division of a department to a position in the same or similar classification within the same salary range, in the same division or to another division of the same department.

b. Inter-departmental transfers.

An employee may transfer from a position in one (1) department to a position in the same classification in another department, provided the consent of the two Appointing Authorities and the City Manager is obtained.

c. Voluntary transfers

An employee may make a written request for transfer to the Personnel Director to a position in the same or similar classification within the

same salary range. Such a transfer may be made on the recommendation of the affected Department Head(s) and the approval of the City Manager.

8.2 *Minimum Qualifications*

Any persons transferred to a different position shall possess the minimum qualifications for the position.

RULE 9 REDUCTION IN FORCE

9.1 *Authority*

The Appointing Authority may lay off, without prejudice, any regular employee because of lack of work or funds, or organizational alterations, or for reasons of economy or organizational efficiency.

9.2 *Order of Layoff*

Temporary employees shall be laid off before probationary employees, and probationary employees shall be laid off before regular employees in the affected classification. In effecting any layoff, the Appointing Authority shall consider the employee's performance, and as a non-mandatory guideline, the employee's seniority. Thirty (30) days before the effective date of a lay-off, the Appointing Authority shall notify the Personnel Director of the intended action with reasons therefor, and a statement certifying whether or not the services of the employee have been satisfactory. A copy of such notice shall be given the employee affected. If certified as having given satisfactory service, the name of the employee laid off shall be placed on the appropriate list as provided by these Rules.

9.3 *Reinstatement Following a Layoff*

A regular employee in good standing in the Classified Service who has been laid off may be reinstated without examination within twenty-four (24) months of the date of his/her lay-off to the position from which he/she was separated, or to any other lower level position to which he/she would have been eligible to transfer. If reinstated to a lower level position the employee remains on the reinstatement list for the duration of their twenty-four (24) month period.

Benefits would be reinstated at the level accruing prior to the layoff and seniority would only be affected by the number of months off the payroll.

RULE 10 DEMOTION

10.1 DEMOTION

The Appointing Authority may demote an employee when the following occurs:

- a. The employee fails to perform his/her required duties.
- b. The need for a position which an employee fills no longer exists;
- c. An employee requests such a demotion.

No employee shall be demoted to a classification for which he/she does not possess the minimum qualifications.

When the action is initiated by the Appointing Authority, written notice of demotion shall be provided to an employee at least ten (10) working days before the effective date of the demotion, and a copy filed with the Personnel Department.

Withholding a salary step increase, or withdrawing a merit step increase within or above the salary range of the employee's position shall not be deemed a demotion.

Disciplinary demotion action shall be in accordance with Rule 12, "Disciplinary Action".

RULE 11 TERMINATION OF EMPLOYMENT

11.1 Resignation

An employee wishing to leave the City service in good standing shall file with his/her immediate supervisor, at least fourteen (14) days before leaving the service, a written resignation stating the effective date and reason for leaving.

A copy of the resignation shall be forwarded to the Appointing Authority and Personnel Department.

11.2 Termination - Lack of Work or Funds

The Appointing Authority may terminate an employee because of changes in duties or organization, abolition of position, shortage of work or funds, or completion of work for which employment was made.

11.3 Termination - Disciplinary Action

An employee may be terminated at any time for disciplinary action, as provided in Rule 12, "Disciplinary Action."

11.4 Retirement

Retirement from the City service shall, except as otherwise provided, be subject to the terms and conditions of the City's contract as amended from time to time, with the Marin County Retirement System.

11.5 Rejection During Probation

An employee may be terminated from their position during the probationary period of their initial appointment to the city's classified service without right of appeal.

RULE 12 DISCIPLINARY ACTION

12.1 Authority

The City Manager, all appointing authorities, and management and supervisory employees may take disciplinary action against an employee under his or her control subject to this rule and the appropriate provisions of any Memorandum of Understanding.

All employees covered by these rules shall be subject to the appeal procedure provided in this section. It shall not be applicable to probationary employees, temporary employees nor to disciplinary actions that do not result in loss of salary. Employees have the right to representation at any or all stages of the appeal process.

12.2 Definition

Disciplinary action shall mean discharge/dismissal, demotion, reduction in salary, and suspension resulting in loss of pay.

12.3 Causes for Disciplinary Action

Causes for disciplinary action against any employee may include, but shall not be limited to, the following:

- a. Negligence of duty
- b. Violation of safety rules
- c. Unacceptable attendance record including recurring tardiness, repeatedly overstaying lunch or break periods.
- d. Possession, distribution, or under the influence of alcoholic beverages, non-prescription or unauthorized narcotics or dangerous drugs during working hours.
- e. Inability, unwillingness, refusal or failure to perform work as assigned, required or directed.
- f. Unauthorized soliciting (on non-City business) on City property or time

- g.** Conviction of a felony or conviction of a misdemeanor involving moral turpitude
- h.** Unacceptable behavior toward the general public or fellow employees or officers of the City
- i.** Falsifying employment application materials, time reports, records, or payroll documents or other City records
- j.** Disobedience to proper authority
- k.** Misuse of City property
- l.** Violation of any of the provisions of these working rules and regulations or departmental rules and regulations
- m.** Disorderly conduct, participation in fights, horseplay or brawls, when occurring on the job.
- n.** Dishonesty or theft
- o.** Establishment of a pattern of violations of any City policy or rules and regulations over an extended period of time in which a specific incident in and of itself would not warrant disciplinary action, however, the cumulative effect would warrant such action
- p.** Insubordination
- q.** Other acts inimicable to the public service.

12.4 *Disciplinary Appeals Procedures*

a. *Pre-Disciplinary Procedures*

In all disciplinary actions the appointing authority will:

1. Deliver (by return receipt mail or hand carry) to the concerned employee written notice of the proposed action. The written notice must include a statement of the reasons that disciplinary action is being proposed, such as insubordination, theft, etc., and must also include a copy of the charges being considered by management. The reasons must be prepared with specificity and detail to insure that the employee is aware of the specific misconduct complained of by times, dates, places, etc., so that employee can admit or refute the factual allegations.
2. The employee must be shown the documents or materials upon which the proposed disciplinary action is based and the employee should be supplied with a copy of those documents. The employee has the right to be represented and may choose to appear with or without a representative.
3. The employee must be advised that he/she has a right to respond, either orally or in writing, at employee's option, to the authority responsible for imposing the discipline.
4. Said employee shall have a maximum of seven (7) working days from receiving the written notification of the proposed action in which to respond. Upon written request to the

- Personnel Director said employee may request up to a maximum of three (3) working days extension for good cause.
5. At the completion of the pre-disciplinary meeting at which time the employee has an opportunity to respond to the charges, the appointing authority may render a decision as to whether or not to impose discipline.

b. Formal Action

Following a review of a proposed disciplinary action, the appointing authority, within seven (7) workdays of receiving the employee's response, shall render a written decision and send it by registered mail or personal delivery to the employee. A copy shall also be delivered to the City's Personnel Director and mailed to the employee's representative, if any. After a decision is reached, the employee must also be informed in writing of the right to appeal if discipline is imposed.

12.5 Notice of Appeal

The employee has the right, within seven (7) workdays after receiving the decision, to file a request for appeal with the City's Personnel Director. The appeal shall be a written statement, signed by the appellant, explaining the basis of the appeal, stating the action desired by the appellant, with his/her reasons therefore, stating that the pre-disciplinary procedures have been exhausted, and whether or not he/she wishes the use of a hearing officer.

Upon receipt of such notice of appeal, and if no hearing officer is requested, the Personnel Director shall arrange for a meeting with the City Manager within seven (7) working days of the filing of the appeal. After weighing all evidence, the City Manager shall render his/her decision within seven (7) working days of the meeting unless an extension of time is deemed necessary. City Manager shall notify affected party(ies) if this extension is deemed necessary. The decision of the City Manager shall be final.

If, within the seven (7) working day appeal period, the employee involved does not file such appeal, unless good cause for the failure is shown, the appointing authority's decision shall be final.

12.6 Hearing Officer Procedures

If the employee files a timely appeal requesting a hearing officer, the Personnel Director shall, within seven (7) workdays after receiving the appeal, initiate the selection of a hearing officer.

As soon as possible, and in any event not later than ten (10) workdays after receiving written notice of the desire to appeal, the parties shall agree upon a

hearing officer. If no agreement is reached within said ten (10) days, a hearing officer shall be selected from a list of seven (7) names submitted by the American Arbitration Association or State Mediation and Conciliation Service by alternate striking of names until one name remains. The party who strikes the first name from the panel shall be determined by lot.

After the appointment of a hearing officer, all requests for continuance shall be directed to the hearing officer. Continuances are to be granted only upon a showing of good cause, following the procedure specified herein. The party making a request for a continuance shall do so in writing, and shall serve a copy of the request upon the other party.

The function of the hearing officer shall be to examine all the facts and available evidence, to question witnesses and to make a recommendation to the City Manager.

The appellant shall appear personally at the scheduled hearing unless physically unable to do so. The appellant or his/her representative may produce relevant oral or documentary evidence at the hearing.

Evidence taken at the hearing by the hearing officer shall conform to the provisions of California Government Code Section #11513.

The hearing officer shall prepare a proposed decision in such form that it may be adopted by the City Manager as the decision in the matter. A copy of the proposed decision shall be filed by the hearing officer with the Personnel Director. The proposed decision shall be furnished by the Personnel Director to each party within ten (10) days after the proposed decision is filed.

The proposed decision shall set forth detailed findings of fact and conclusions, and a determination of issues. In the determination of issues, the decision shall separately determine:

- a. Whether the conduct constitutes just cause for discipline under Rule 12.3; and
- b. The propriety of the discipline imposed by the appointing authority.

Findings and Decision

Where the matter has been heard by a hearing officer, the Personnel Director shall arrange for a meeting between the employee, his/her representatives, and the City Manager within ten (10) calendar days after the hearing officer has submitted his/her findings. The City Manager shall after weighing all the evidence and findings of the hearing officer shall determine the matter by:

- a. Adopting the proposed decision in its entirety; or
- b. Modifying the proposed decision and adopting it as modified; or
- c. Reducing the disciplinary action set forth therein and adopting the balance of the proposed decision; or
- d. Rejecting a proposed reduction in penalty, approving the penalty sought by the disciplinary authority or any lesser penalty, and adopting the balance of the proposed decision; or
- e. Rejecting the proposed decision in its entirety.

In so determining the matter, the City Manager may in his/her discretion direct preparation of transcripts of the proceedings before the hearing officer and may review those transcripts prior to making his/her decision.

The City Manager's decision shall be final appealable only to the courts.

RULE 13 LEAVE BENEFITS

13.1 *Vacation Leave*

Annual vacation leave with pay shall be granted each regular employee of the Classified Service. The rate of accrual and the administration of vacation leave shall be in accordance with provisions of the salary resolution and/or current Memoranda of Understanding.

13.2 *Sick Leave*

Sick leave with pay shall be granted to each eligible employee of the Classified Service and shall be in accordance with the salary resolution and/or current Memoranda of Understanding. Sick leave shall not be considered as a privilege which an employee may use at employee's discretion, but shall be allowed only in case of necessity and actual sickness or disability. The employee is required to notify employee's immediate supervisor or Department Head according to department rules and regulations. An employee eligible for sick leave with pay shall be granted such leave for the following reasons:

- a. Personal illness or illness within the immediate family, or physical incapacity resulting from causes beyond the employee's control; or
- b. Medical appointments which could not otherwise be scheduled for non-work hours.

13.3 *Holidays*

The number of paid holidays and the administration of the holiday schedule shall be in accordance with provisions of the salary resolution and/or current Memoranda of Understanding.

13.4 *Military Leave of Absence*

State law shall govern the granting of military leave of absence and rights and requirements of employees returning from such leave.

13.5 *Leave of Absence Without Pay*

Leave of absence without pay may be granted in cases of emergency or where such absence would not be contrary to the best interests of the City. Such leave so granted is not a right but an authorized privilege. Employees on authorized leave of absence without pay may not extend such leave without express approval of the Appointing Authority. All other applicable leaves must be exhausted and no vacation, sick leave, or any other paid benefit shall be accrued or used during such leave. The department head may grant up to 30 days leave of absence depending upon the merit of the case. Any leave in excess of 30 days may only be granted upon approval of the City Manager and may not exceed a total of six months.

13.6 *Jury Duty*

Employees required to report to jury duty shall be granted a leave of absence with pay from their assigned duties until released by the court, provided that the employee provides advance notice to the Appointing Authority and remits to the City all per diem service fees except mileage or subsistence allowance within thirty days from the termination of such duty.

13.7 *Medical Leave of Absence*

Shall be granted in accordance with Family and Medical Leave Act of 1993 and Family Care Leave (AB 1460) and the City of San Rafael's rules and regulations concerning the usage of accrued sick and/or vacation leave.

13.8 *Worker's Compensation Leave*

All regular, full-time employees of the City who have suffered a disability or injury arising out of and in the course of their employment as defined by the Worker's Compensation Insurance and Safety Act of the State of California, and who are eligible to receive or shall receive compensation in the form of temporary or permanent disability payments in vouchers from the insurance carrier for such disability, and during the first seven (7) days after such disability, when compensation is not paid by the insurance carrier, shall be entitled to remain absent from duty with pay until such time as they are able to return to duty or they are determined to be permanent and stationary provided, however, compensation leave payments shall not exceed the following limitations:

For Non-Safety employees: Compensation leave payments shall not exceed the employees' regular full pay for the first three (3) calendar months and

three-fourths (3/4) of the regular full pay for the following six (6) calendar months.

For Safety employees: Compensation leave payments are governed by Labor Code Section 4850. Labor Code Section 4850 provides generally that employees who sustain an industrial injury which precludes them from working are eligible to receive full salary for a period of up to one year during the period of such a disability.

Under no circumstances is the workers compensation leave (paid or unpaid) to exceed one year. Integration of sick leave with Workers' Compensation is to be automatic; the City may not waive integration, and any employee entitled to Workers' Compensation must apply, therefore before sick leave benefits are payable. Every effort will be made, by the City and the injured employee, to expeditiously determine if an injury or illness is work related and therefore covered under workers compensation provisions. Until such time as it is determined whether or not the illness or injury is covered by workers' compensation the employee shall use accrued sick and vacation leave time.

RULE 14 GRIEVANCE PROCEDURES

14.1 Purpose

The grievance procedure is intended to provide a uniform method available to all City employees to seek adjustment of grievance arising out of their employment relations on matters for which appeal or hearing is not provided by other rules.

A grievance may be filed by an employee in his/her own behalf, or jointly by any group of employees, or by a formally recognized employee organization acting on behalf of and with the written consent of the affected employee(s).

14.2 Definition

A grievance is a dispute concerning the interpretation or application of provisions of City ordinances, or resolutions, or written rules, and/or regulations, affecting the status or working conditions of City employees, except that individual disciplinary actions are not grievances within the meaning of this policy and will be processed under the appeal procedure as outlined in Rule 12, "Disciplinary Action".

14.3 Conduct of Grievance Procedure.

- a. The time limits specified may be extended to a definite date by mutual agreement of the employee and the reviewer concerned. In the event the city fails to respond within the time requirements and does not seek an extension the employee may submit the grievance to the next

step. In the event the employee fails to submit his/her grievance to the next higher step within seven (7) calendar days of receipt of a response the grievance may be deemed closed.

- b. The employee at his/her own expense is entitled to the assistance of another person of his/her own choosing in preparing and presenting his/her appeal at any level of review.
- c. Consultation with the Personnel Officer may be made as it relates to clarification and interpretation of these Rules. All parties shall ensure the personnel officer receives a copy of the initial written grievance and subsequent responses to said grievance.
- d. The employee shall follow the established chain of command in presenting his/her grievance to upper levels of management, except where a grievance involves an employee's immediate supervisor in which case he/she should present his/her grievance to the next level of supervisors.
- e. Employees shall not suffer from reprisal for using the grievance procedure.

14.4 Step One - Informal Procedure.

- a. If an employee feels he/she has a grievance, that employee should contact his/her immediate supervisor within seven (7) calendar days of the incident to informally discuss the matter.
- b. The supervisor shall discuss the grievance with the employee, endeavoring to reach a mutual understanding on the matter. The employee's immediate supervisor should make the employee aware of the City's grievance procedure, providing employee with a copy of the procedure if the employee determines to initiate a formal grievance.
- c. If an employee's grievance concerns employee's immediate supervisor and/or cannot be resolved through informal discussion, the employee may request an informal meeting with the next level of supervision.

14.5 Step Two - Formal Procedure.

- a. If an employee's grievance cannot be satisfactorily answered through informal discussion the employee shall submit, within seven (7) calendar days after completing the informal procedure to the Division Head, a written statement which shall set forth in detail:
 - 1. Name of employee (grievant).
 - 2. Classification title.

3. Department
 4. A clear statement of the nature of the grievance, citing the applicable MOU provision, ordinance, rule or regulation violated.
 5. Date upon which grievance occurred.
 6. Proposed solution or action requested by the employee.
 7. Signature of the employee.
 8. Name of the individual or organization, if any, representing the employee (grievant) followed by the signature of the organization's representative.
 9. Date of the execution of the grievance form.
- b. The Division Head shall, within seven (7) calendar days, meet with the aggrieved party.
- c. The Division Head shall inform the employee in writing of his/her decision within seven (7) calendar days after the meeting. The Division Head's written decision shall include findings relating to the conditions as to which the inquiry is made and the action taken or which shall be taken in regard to such conditions or the reasons for refusal to act.

14.6 Step Three - Appeal to Department Head.

- a. If the grievance cannot be satisfactorily concluded at the second step, then upon written request of the employee, the Department Head will meet with the employee within seven (7) calendar days of the request unless the meeting is postponed to a mutually acceptable date. Where Step Two is directly to the Department Head, this step is not applicable and any further appeal is to the City Manager.
- b. The Department Head shall inform the employee in writing of his/her decision within seven (7) calendar days after the meeting.

14.7 Step Four - Appeal to City Manager.

- a. If the grievance cannot be successfully resolved at the third step, it may be forwarded within seven (7) calendar days, in writing to the City Manager. In this instance both the Department Head and the employee or employee's representative may make any written presentation to supplement his/her case.
- b. The City Manager upon receiving the grievance should discuss the grievance with the employee, his/her representative, if any, and other appropriate persons. The City Manager may designate a fact-finding committee, or officer not in the normal line of supervision to advise him/her concerning the grievance.

- c. The City Manager shall decide within seven (7) calendar days as to the final disposition of this grievance. The City Manager's decision will be final.

RULE 15 RECORDS AND OTHER MISCELLANEOUS PROVISIONS

15.1 *Reports of Personnel Transactions*

To enable the Personnel Director to perform its duties accurately and expeditiously, each appointing authority shall report promptly, on forms provided, the following transactions:

- a. Requisitions for certifications;
- b. All appointments;
- c. Separation from service;
- d. Transfers and demotions;
- e. Salary increases;
- f. Completion of probationary periods;
- g. Leaves of absence and time off without pay;
- h. Disciplinary actions;
- i. Changes of name, address, and telephone number.

15.2 *Responsibility for Transactions*

Each department head shall be responsible for reporting personnel transactions and for distribution of personnel material and information, and for posting notices.

15.3 *Official Records*

The Personnel Director shall maintain a service or personnel record for each employee in the service of the City showing the name, title of position held, the department to which assigned, salary, changes in employment status, and such other information as may be considered pertinent by the Personnel Director.

15.4 *Confidential Nature of Personnel Records*

All personnel records and files and examination materials are confidential. The Personnel Director shall take all necessary steps to protect the confidentiality of those materials. Disclosure of such records shall be governed by the Public Records Act, Government Code Sections 6250, et. seq. Individual employees may review their official personnel file maintained by the Personnel Department and/or their respective appointing authority. With the written consent of the employee, the authorized representative of the recognized employee organization may also review that personnel file.

15.5 Confidential Nature of Medical Records

All medical records and files are the property of the City of San Rafael. These confidential records and files are to be maintained in a file separate from the employee's personnel file in the Personnel Department. Disclosure of such records shall be governed by the Public Records Act, Government Code, Section 6250, et. seq.

15.6 Destruction of Records

Employee history roster cards shall be considered permanent records. All other records relating to personnel, including correspondence, applications, examination records, and reports, may be destroyed pursuant to state and federal requirements relating to destruction of public records. Procedures for the destruction of records shall be governed by the Government Code and as established in policy by the City Council.

15.7 Outside Employment

All regular employees are prohibited from employment outside of their City positions without prior notice to the appointing authority. Approval may be denied by the appointing authority if such outside employment is incompatible with the proper discharge of the employee's official duties or would tend to impair the employee's independence of judgment or action in the performance of his/her official duties.

Failure to secure authorization for outside employment and/or failure to adhere to the conditions placed on such employment shall be considered grounds for disciplinary action up to and including dismissal.

15.8 Gratuities/Solicitation of Contributions

No employee shall request, solicit, or demand gratuities from any citizen or company for services provided by the City. Such action shall be considered grounds for disciplinary action up to and including dismissal.

No officer, agent, clerk or employee, under the government of the City, shall, directly or indirectly, solicit or receive, or be in any manner concerned in soliciting or receiving any assessment, subscription, contribution or political service, whether voluntary or involuntary, or any political purpose whatever, from anyone on an Eligible List or holding any position under the provisions of this ordinance.

15.9 Return of City Equipment

Upon termination of employment all tools, equipment, and other city property assigned to an employee shall be returned.

15.10 Political Activity

The political activity of City employees shall comply with pertinent provisions of State and Federal Law.

15.11 Employment of Relatives

The City retains the right:

- a. To refuse to place one party to a relationship under the direct supervision of the other party to a relationship where such has the potential for creating adverse impact on supervision, safety, security, or morale.
- b. To refuse to place both parties to a relationship in the same department, division, or facility where such has the potential for creating adverse impact on supervision, safety, security, or morale, or involves potential conflicts of interest.

15.12 Performance Appraisals

Prior to the completion of the probationary period, a minimum of one performance evaluation report shall be reviewed with the employee and submitted to the Personnel Department.

Upon completion of the probationary period, a performance report shall be reviewed yearly thereafter on each employee in the Classified Service. As a means of determining whether in-grade salary increases are merited, and/or as a means of improving employee performance and communication between supervisors and subordinates.

15.13 Physical Examination and Standards For Employees.

- a. Physical examination at request of City Manager. Whenever the City Manager, from the City Manager's personal observations, or upon recommendation of the department head, or from information received from any source whatsoever, believes that an employee has contracted an ailment or disability which may in any substantial degree interfere with the performance by employee of the essential duties of employee's position, or which may endanger the safety and life of fellow employees or the public, the City Manager may request that such employee submit to a physical examination, given by the city's designated physician and based upon the essential duties of employee's position and the health standards of the city. The cost of such examination will be borne by the city.
- b. Notice to employee, physical examination. Whenever it is determined that an employee is to be given a physical examination, the Department Head shall notify the Personnel Director, who will make the appointment with the city's designated physician. The notice shall

state reasons for the belief on the part of the Department Head that a physical examination is required. Upon setting the time of the examination, the Personnel Director shall notify both the Department Head and the employee. The time the employee spent in examination will not be charged to sick leave or vacation, but will be part of the regular work day.

- c.** Charges may be based upon medical report. Upon receipt of the report of the examining city physician, the Personnel Director shall transmit a copy of the report to the City Manager, the appropriate department head, and the employee. If the examining city physician finds in the medical report that the employee's physical condition does not conform to the health standards established for the position, or that the employee suffers from a permanent or chronic physical or mental ailment which incapacitates employee for the proper, safe, and efficient performance of the essential duties of employee's position, the City Manager may remove said employee. The Department Head may establish, in conjunction with the city physician, a date by which an employee must meet the health standards for the class if employee does not now meet them.
- d.** Duty of employee to maintain physical condition. It shall be the duty of every employee to maintain his/her physical condition so as to conform to the health standards established for the position, and failure by any employee to so maintain his/her physical condition shall be deemed a failure to observe the established rules and regulations in relation to employee's position within the meaning of this section. This requirement in no way obligates the city to provide time off, exercise rooms, gymnasiums, or any other place or device to maintain health standards.
- e.** This rule shall be adhered to with due consideration to all applicable federal, state and/or local laws in effect at the time, such as, but not limited to the Americans With Disabilities Act.