

# ***CITY OF SOLANA BEACH***



## ***PERSONNEL***

## ***RULES & REGULATIONS***

## ***MANUAL***

*Approved by the City Council on September 7, 1993*

## Table of Contents

<u>Section</u>	<u>Title</u>	<u>Page</u>
<b>Section 1</b>	<b>Introduction and General Provisions</b>	
1.01	Purpose	1
1.02	Authority	1
1.03	Administration	1
1.04	Delegation of Responsibility	1
1.05	Distribution of Manual	2
1.06	Memoranda of Understanding or Compensation Plan	2
1.07	Exempt Employees	2
1.08	General Provisions Regarding Americans With Disabilities Act	2
<b>Section 2</b>	<b>Definition of Terms</b>	
2.01	Anniversary Date	4
2.02	Advancement	4
2.03	Allocation	4
2.04	Applicant	4
2.05	Appointing Authority	4
2.06	Appointment	4
2.07	Candidate	4
2.08	City	4
2.09	City Council	4
2.10	City Manager	4
2.11	Class or Class of Positions	4
2.12	Classified Employees	5
2.13	Code	5
2.14	Compensatory Time Off	5
2.15	Day	5
2.16	Demotion	5
2.17	Department Head	5
2.18	Dismissal	5
2.19	Eligibility List	5
2.20	Emergency	5
2.21	Employee	5
2.22	Employment Standards	5
2.23	Examination	5
2.24	Exempt Employees	5
2.25	Layoff	5
2.26	Merit Pay Increase	6
2.27	Minimum Qualifications	6
2.28	Oral Examination	6
2.29	Oral Interview	6
2.30	Overtime Pay	6

<u>Section</u>	<u>Title</u>	<u>Page</u>
<b>Section 2</b>	<b>Definition of Terms (Continued)</b>	
2.31	Overtime Work	6
2.32	Permanent Appointment	6
2.33	Permanent Position	6
2.34	Personnel Officer	6
2.35	Position	6
2.36	Position Classification Plan	6
2.37	Probationary Employees	6
2.38	Probationary Period	7
2.39	Promotion	7
2.40	Promotional Probationary Period	7
2.41	Reclassification	7
2.42	Re-employment List	7
2.43	Regular Full-time Employees	7
2.44	Regular Part-time Employees	7
2.45	Regularly Scheduled Work Hours	7
2.46	Resignation	8
2.47	Suspension	8
2.48	Temporary Appointment	8
2.49	Temporary Position	8
2.50	Temporary Employees	8
2.51	Termination	8
2.52	Transfer	8
2.53	Unclassified Employee	8
2.54	"Y-rate"	8
<b>Section 3</b>	<b>Policies Governing Employment and Working Conditions</b>	
3.01	Equal Employment Opportunity	9
3.02	Affirmative Action Program	9
3.03	Harassment Policy and Procedure	14
3.04	Outside Employment	18
3.05	Conflicts of Interest	18
3.06	Employment of Relatives	19
3.07	Political Activity	20
3.08	Drug-Free Workplace Policy	20
3.09	Additional Policies	25
<b>Section 4</b>	<b>Employment and Promotion</b>	
4.01	Application Filing	26
4.02	Acceptance of Applications	26
4.03	Verification of Information	26
4.04	Disqualification of Applicants	26

<u>Section</u>	<u>Title</u>	<u>Page</u>
<b>Section 4</b>	<b>Employment and Promotion (Continued)</b>	
4.05	Nature of Examinations	27
4.06	Scheduling and Preparing Examinations	27
4.07	Character of Examinations	27
4.08	Job Announcements	27
4.09	Types of Examinations	28
4.10	Eligibility Lists Established	28
4.11	Removal Upon Appointment	28
4.12	Minimum Age Required	28
4.13	Legal Authority to Work	28
4.14	Pre-employment Medical Examination	29
4.15	Re-employment Medical Examinations	29
4.16	Re-employment Benefits	29
4.17	Criminal History Information	29
4.18	Driving Record	29
<b>Section 5</b>	<b>Transfers and Assignments</b>	
5.01	Administrative Transfers	30
5.02	Employee Transfer Requests	30
5.03	Out of Class Assignment	30
<b>Section 6</b>	<b>Probationary Period</b>	
6.01	Objective	32
6.02	Length of Probation	32
6.03	Extension of Probation	32
6.04	Rejection During Probation	32
6.05	Rejection Following Promotion	33
6.06	Promotion During Probation	33
6.07	Completion of Probationary Period	33
<b>Section 7</b>	<b>Classification Plan</b>	
7.01	Purpose	34
7.02	Composition	34
7.03	Content of Class Specifications	34
7.04	Use of Class Titles	34
7.05	Interpretation and Significance	34
7.06	Maintenance of the Plan	35

<u>Section</u>	<u>Title</u>	<u>Page</u>
<b>Section 8</b>	<b>Salary Administration and Anniversary Dates</b>	
8.01	Anniversary Dates	36
8.02	Anniversary Date Upon Transfer	36
8.03	Anniversary Date Postponed	36
8.04	Step Advancements	36
8.05	Salary Upon Initial Appointment	37
8.06	Salary Upon Reclassification	37
8.07	Salary Upon Promotion	37
8.08	Salary Upon Demotion	37
8.09	Salary Upon Transfer	38
8.10	Salary Plan	38
8.11	Salary Information	38
<b>Section 9</b>	<b>General Working Conditions</b>	
9.01	Work Schedules	39
9.02	Overtime	41
9.03	Call Back & Standby	42
9.04	Tuition Reimbursement	42
9.05	Mileage Allowance	43
9.06	Holidays	44
9.07	Resignation and Final Paycheck	45
9.08	Personnel Records	45
9.09	Performance Evaluations	46
9.10	Personal Telephone Use	47
9.11	Dress and Grooming Standards	47
<b>Section 10</b>	<b>Leave of Absence Provisions</b>	
10.01	Vacation Leave	48
10.02	Sick Leave	50
10.03	Bereavement Leave	51
10.04	Jury Duty	51
10.05	Witness Duty	51
10.06	Maternity Leave	52
10.07	Unpaid Leave Other Than Maternity Leave	53
10.08	Military Leave	53
10.09	Medical Leave - Non-occupational	54
10.10	Medical Leave - Work Related	55

10.11	Leave Slip Procedure	55
10.12	Overtime Request Procedure	56
10.13	Applicability to Exempt Employees	56
10.14	Unauthorized Absences Deemed to be Resignations	56
10.15	Catastrophic Leave Bank	56

<u>Section</u>	<u>Title</u>	<u>Page</u>
<b>Section 11</b>	<b>Layoff and Re-employment</b>	
11.01	Authorization	57
11.02	Order of Layoff	57
11.03	Assignment to Lower Classification	57
11.04	Seniority Defined	57
11.05	Order of Re-employment	58
11.06	Notice of Re-employment After Layoff	58
11.07	Re-employment of Former Employee	58
<b>Section 12</b>	<b>Disciplinary Procedure</b>	
12.01	Character of Discipline	60
12.02	Authority to Discipline	60
12.03	Causes for Discipline	61
12.04	Disciplinary Procedure	63
12.05	Appeal to City Manager	65
12.06	Prehearing Suspension	65
12.07	Certain Disciplinary Guidelines	66
<b>Section 13</b>	<b>Employee Grievance Procedure</b>	
13.01	Purpose	67
13.02	Definitions	67
13.03	General Provisions	68
13.04	Procedure	69
	Grievance Form	71

**Section 1****INTRODUCTION AND GENERAL PROVISIONS****1.01 Purpose**

This manual is designed to outline the personnel rules, regulations and policies that govern employment with the City of Solana Beach. This manual is designed as a guide to ensure consistent, fair and uniform treatment of all City employees. This manual is not an employment contract. The City Council reserves the right to change, amend, modify, repeal or suspend any or all of this manual at its sole discretion subject only to its obligation, if any, to meet and confer, or consult, as appropriate and as mandated by state law with respect to various portions of this manual.

The policies and procedures contained in this manual supersede any and all previously issued City policies, procedures, rules or instructions related to matters discussed herein.

Nothing in this manual shall be deemed to supersede applicable state or federal law or administrative regulations related to personnel matters.

**1.02 Authority**

The City Council of the City of Solana Beach has approved the provisions of this manual. The Council must approve all additions, amendments and revisions to the personnel policies and procedures contained in this manual.

**1.03 Administration**

The City Manager is responsible for implementing, administering and ensuring compliance with the provisions of this manual. In the event any provision of this manual needs clarification, the City Manager may issue administrative instructions clarifying the intent of said provision as adopted by the Council. The City Manager may develop and issue procedures,

consistent with this manual, to facilitate the manual's implementation.

If there is any conflict between this manual and the policies and procedures of any City department or division, the policies and procedures contained in this manual take precedence. If there is any conflict between this manual and any memorandum of understanding between the City and a recognized employee organization, the provisions contained in the memorandum of understanding shall take precedence to the extent of the conflict only.

#### **1.04 Delegation of Responsibility**

The City Manager may, at his or her discretion, delegate the responsibilities assigned in this manual as he or she may deem appropriate and necessary.

1

#### **1.05 Distribution of Manual**

The City Manager is responsible for the distribution and updating of this manual. Each current employee will receive a copy of this manual. New employees will be given a copy of the manual at the time of employment with the City. A copy of the manual will be kept in each City department. As changes or amendments to this manual are made, notice of the changes will be distributed in writing to the employees.

#### **1.06 Memoranda of Understanding**

These rules are intended to apply to all non-exempt employees. To the extent that a group of employees has organized and been recognized as a bargaining unit for the purposes of the Meyers-Miliias-Brown Act and has entered into a Memorandum of Understanding with the City, the provisions of the Memorandum of Understanding shall prevail over these rules in the event of a conflict.

#### **1.07 Exempt Employees**

Exempt employees are generally expected to perform their employment in a professional manner. To the extent that the provisions of these rules establish standards of employee conduct generally applicable to all employees, exempt employees are generally expected to conform their conduct to those standards. Further, to the extent that Sections 3, 4, 7, 8, 9, and 10 of these rules apply generally to all employees, those provisions also apply to exempt employees unless application of a particular provision is inconsistent with the employee's exempt status. For budgetary, accounting and similar purposes, the City Manager may require exempt employees to keep records of time worked. Except to the extent authorized by federal law, such time records shall not be used to determine entitlement to salary, but the City Council or City Manager may, consistent with federal law, establish rules, policies and procedures for use of the time records for other purposes.



**1.08 General Provisions Regarding Americans With Disabilities Act**

A. Because the ADA requires accommodations for individuals protected under the Act, the City may consistent with the law, make accommodations on an individual, case-by-case basis in order for the City to avoid discrimination relative to hiring, promotion, granting permanency, transfer, layoff, reassignment, termination, retirement, rates of pay, job an duty classification, seniority, leaves, fringe benefits, training opportunities, hours of work or other terms or privileges of employment.

2

B. The City has the legal obligation to meet with the individual to be accommodated before any adjustment is made in working conditions. The appropriate recognized employee organization will be notified of these proposed accommodations prior to implementation by the City. Before making an accommodation that involves waiving any provision of these rules for an individual protected by the Act, the City will provide the appropriate recognized employee organization with written notice of its intent to waive the provision, and will allow the recognized employee organization the opportunity to suggest accommodations that do not require waiving the rules and regulations.

C. Any accommodation provided to an individual protected by the ADA shall not establish a past practice nor shall it be cited or used as evidence of a past practice in any grievance procedure or other proceeding.

**Section 2****DEFINITION OF TERMS**

The following definitions shall apply throughout these rules and regulations unless the context requires another meaning.

- 2.01 Anniversary Date:** The date determined according to Section 8.01 which corresponds with a date upon which an employee appears on the payroll as a regular employee due to original appointment to a City position as a new employee, or the effective date of a promotion, or transfer to a certain position under these rules. Fire employees who were formerly employees of the Solana Beach Fire District prior to the merger with the City of Solana Beach shall carry forward their District hire date for purposes of PERS and seniority.
- 2.02 Advancement:** A salary increase within the limits of a pay range established for a class.
- 2.03 Allocation:** The assignment of a single position to its proper class based upon the duties performed, and the authority and responsibilities exercised by persons in the position.
- 2.04 Applicant:** A person who has filed a complete written application for employment with the City.

- 2.05 **Appointing Authority:** The appointing authority for a position is generally the head of the department in which a position is organized. The City Manager is the appointing authority for Department Heads.
- 2.06 **Appointment:** The offer to and acceptance by a person of a position in City service.
- 2.07 **Candidate:** An applicant who fulfills the requirements for a given position; who has successfully completed the required examination(s) (which may include written and oral exams, performance tests, medical examinations and background checks) for such a classification; and whose name has been placed on an eligibility list.
- 2.08 **City:** The City of Solana Beach.
- 2.09 **City Council:** The City Council of the City of Solana Beach.
- 2.10 **City Manager:** The City Manager of the City of Solana Beach.
- 2.11 **Class or Class of Positions:** A group of positions similar as to duties performed, degree of supervision, and responsibility exercised or required, minimum requirements of education, experience, skill, and such other qualifications, so that the same title, the same tests of fitness, and the same schedule of compensation may be applied to each position in the group.

4

- 2.12 **Classified Employees:** All City employees except unclassified employees.
- 2.13 **Code:** The Municipal Code of the City of Solana Beach, California, being the systematic compilation of effective ordinances of the City.
- 2.14 **Compensatory Time Off:** Time off with pay granted an employee in lieu of monetary payment for overtime.
- 2.15 **Day:** Calendar day unless otherwise noted.
- 2.16 **Demotion:** The movement of an employee from one class to another class having a lower maximum rate of compensation.
- 2.17 **Department Head:** The individual who is designated by the City Manager as the administrative head of a department.
- 2.18 **Dismissal:** The termination of employment by the appointing authority except by reason of retirement or layoff.
- 2.19 **Eligibility List:** A list of names of persons who have taken all examinations for a certain position in City service and have met all minimum qualifications for the position.
- 2.20 **Emergency:** Emergency is defined as an unforeseen circumstance which presents an immediate and present danger or hazard to City officials or

employees and/or the general public or loss of property and which requires implementation of changes. Nothing herein shall limit the authority of management to make such necessary changes during emergencies. However, management shall notify the designated representative of each recognized employee organization as soon as possible of the nature of the emergency, expected duration, and changes made, if any. Emergency assignments shall not extend beyond the period of the emergency.

- 2.21 **Employee:** A person appointed to a job position set forth in the classification plan and compensated through City payroll. Employee does not include elected officials, independent contractors, or volunteers.
- 2.22 **Employment Standards:** The general qualifications prescribed for the selection of an appointee to fill a vacancy.
- 2.23 **Examination:** The process of measuring and evaluating the relative skill, knowledge, ability, and fitness of applicants by job-related testing procedures.
- 2.24 **Exempt Employees:** This category includes all employees who are classified by the City as exempt from these rules or from the overtime provisions of the Federal Fair Labor Standards Act (FLSA) and applicable state laws. This category generally applies to unclassified employees.
- 2.25 **Layoff:** Involuntary separation from employment for non-disciplinary reasons including, but not limited to lack of funds or work, abolition of position, reorganization, or the reduction or elimination of service levels.

- 2.26 **Merit Pay Increase:** An increase in pay to a higher salary step within a salary range shown on the compensation plan, which may be granted to an employee for meritorious service. All "step" increases are merit increases and must be approved by both the employee's Department Head and the City Manager. Merit pay increases are contrasted to salary range adjustments which occur as a result of City Council approved changes to the compensation plan.
- 2.27 **Minimum Qualifications:** Shall mean the lowest acceptable degree of skill, education, abilities, experience, and personal and physical characteristics which are prescribed for the selection of an appointee to fill a position vacancy.
- 2.28 **Oral Examination:** A competitive examination administered orally.
- 2.29 **Oral Interview:** That part of an examination to evaluate a candidate's education, experience, and general qualifications for a position which is conducted orally as contrasted to a written examination or physical test.
- 2.30 **Overtime Pay:** Payment granted to an employee for work in excess of the regularly scheduled work hours in a particular FLSA work period. Overtime pay shall be computed in accordance with applicable laws and memorandum of

understanding or employee agreement.

- 2.31 **Overtime Work:** Work performed in excess of regularly scheduled work hours in a particular FLSA work period.
- 2.32 **Permanent Appointment:** An appointment to a permanent position after satisfactory completion of probationary period as required by these rules.
- 2.33 **Permanent Position:** A position, whether full time or part time, other than a temporary position, the duties of which do not terminate at any stated time.
- 2.34 **Personnel Officer:** The City Manager or the person designated or appointed by the City Manager to be responsible for recruiting, examination, and other personnel and related matters.
- 2.35 **Position:** A specific office or employment position provided by the budget, whether occupied or vacant, limited term or permanent, calling for the performance of certain duties as defined in a job description or specification and set forth in the position classification plan.
- 2.36 **Position Classification Plan:** A compilation of the title, definition, and scope of duties for each position or class of positions officially adopted and currently active within City service.
- 2.37 **Probationary Employees:** Full-time and part-time employees who are within their initial probationary period and as such have not obtained regular status. The probationary period is part of the initial hiring process for the purpose of assessing an employee's ability to perform the duties of the position to which the employee has been appointed.

6

A probationary employee is an unclassified employee, and may be terminated or discharged at any time, with or without cause, and without a hearing or right of review or appeal if deemed appropriate by the City.

A promotional probationary employee is a City employee who has been promoted to a higher job classification requiring different skills and serves the same purposes as probation for initial employment with the City with respect to the higher job classification.

- 2.38 **Probationary Period:** A working test period during which an employee is required to demonstrate fitness for the position to which appointed by actual performance of the duties of the position.
- 2.39 **Promotion:** The appointment of a qualified employee from one position to another position which has a higher classification on the position classification plan. A promotion is contrasted with a lateral transfer which is the movement of an employee to a different position of the same classification plan level, or a step increase which is a change in salary level within the same position classification.

- 2.40 Promotional Probationary Period:** The probationary period for an employee promoted to a position.
- 2.41 Reclassification:** A change in the allocation of an individual position to its appropriate classification based upon a comparative analysis and evaluation of the job content, difficulty, and responsibility. Reclassification may involve raising the position to a higher classification, reducing it to a lower classification, or reallocating the position to another classification at the same pay level. Such action shall not be construed as a promotion or demotion.
- 2.42 Re-employment List:** A list of persons who have been laid off from City service and who, in accordance with these rules and regulations, are entitled to consideration for appointment to vacancies in the class without further examination.
- 2.43 Regular Full-time Employees:** Employees who regularly work a minimum of 40 hours per week (fire employees who regularly work a schedule that averages 56 hours per week) on a continuing basis, and have successfully completed their probationary period. Such employees are hired for an indefinite and unspecified duration.
- 2.44 Regular Part-time Employees:** Employees who regularly work less than 40 but at least 20 hours per week on a continuing basis, and have successfully completed their probationary period. As with regular full-time employees, regular part-time employees are hired for an indefinite and unspecified duration.
- 2.45 Regularly Scheduled Work Hours:** Those work hours which are assigned work schedules for particular classifications and for which defined work day and work week have been established.

- 2.46 Resignation:** The voluntary termination of employment of any employee.
- 2.47 Suspension:** The temporary removal of an employee from service, without pay, for disciplinary reasons and for a specified period of time.
- 2.48 Temporary Appointment:** The appointment to any position in City service for which no eligibility list exists, or appointment to a temporary position.
- 2.49 Temporary Employees:** Temporary employees are hired on a full-time or part-time basis for a specified period of time, usually of limited duration, to handle special projects, abnormal workloads, emergencies, and to cover for employees on vacation or other leaves of absence. Employees in this category may also be called seasonal employees.
- 2.50 Temporary Position:** A position, the duties of which are not permanent in nature.

- 2.51 **Termination:** Involuntary separation of an employee from employment.
- 2.52 **Transfer:** A change from one position to another in the same or comparable class.
- 2.53 **Unclassified Employee:** Any employee with respect to whom the City has the right to terminate employment at any time, with or without advance notice, and with or without cause. The term "unclassified employee" includes, without limitation, all employees exempted from the scope of Chapter 2.44 of the Solana Beach Municipal Code. Exempt positions include City Manager, Assistant City Manager, City Engineer, Director of Community Development, Fire Chief, Deputy Fire Chief, Deputy Fire Chief/Fire Marshal, Director of Marine Safety, City Clerk, and other positions as may be determined from time-to-time by the City Council.

Because of the merger between the Fire District and the City of Solana Beach, incumbents in the Deputy Fire Chief and Deputy Fire Chief/Fire Marshal positions as of April 23, 1992, shall be considered exempt employees for FLSA purposes, but will not be considered unclassified as long as they remain in their current position.

Notwithstanding anything in these rules to the contrary, a decision by the City Manager to terminate the employment of an incumbent, determined as of January 1, 1993, in the position of Assistant City Manager, City Clerk, Community Development Director, or Director of Marine Safety shall, at the option of the employee, be subject to review by the City Council.

- 2.54 **"Y-rate":** The designated salary level of an employee who is paid outside of the salary range for the classification in which the employee is working. The salary of an employee in a "Y-rate" may be frozen until the salary range on the classification reaches the dollar amount of the employee's salary. The "Y-rate" may remain in effect for up to 24 months. An employee may be eligible for "Y-rate" when being transferred, or reclassified, without a break in service. "Y-rates" are recommended by the Department Head and subject to the approval of the City Manager.

### POLICIES GOVERNING EMPLOYMENT AND WORKING CONDITIONS

#### 3.01 **Equal Employment Opportunity**

It is the policy of the City that all persons are entitled to equal employment opportunity and the City does not discriminate against qualified employees or qualified applicants because of race, color, religion, sex, pregnancy, national origin, ancestry, age, marital status, veteran status, disability, physical handicap, or medical condition. It is the City's policy to treat all employees on the basis of merit, qualifications, and competence.

### 3.02 Affirmative Action Program

#### A. Background

As a public agency the City of Solana Beach has a moral obligation and a legal responsibility, as a participant in various state and federal grant programs, to ensure equal employment opportunity is afforded to all persons. The Affirmative Action Policy formalizes the City's commitment to all protected segments of the population that opportunity for employment will be based on merit, qualifications, and competence as determined by job-related criteria.

#### B. Policy Statement

It is the policy of the City of Solana Beach to provide equal employment opportunity to all persons without discrimination on the basis of race, color, religious affiliation, sex, pregnancy, national origin, ancestry, age, marital status, physical handicap, veteran status, or other medical condition, or any other status protected by law. The City shall make a good faith effort to ensure equal employment opportunities for all City employees and applicants for City employment through Affirmative Action by removing discriminating barriers when they are found to exist in employment practices regarding, but not limited to: hiring procedures, promotion, transfer, compensation, classification, training, termination of employment and other rights, conditions, and benefits of employment.

In undertaking this Affirmative Action Policy the City will not cause reverse discrimination by giving preferential treatment to any segment of the population by using quotas or other unequal opportunity device.

##### (1) Affirmative Action

The Affirmative Action goals of this program are to:

- (a) Eliminate disparity between members of protected groups in the local regional labor market population and the number employed within all classification levels of the City.

9

- (b) Ensure that no form of discrimination based on race, color, religious affiliation, sex, pregnancy, national origin, ancestry, age, marital status, physical handicap, veteran status, or other medical condition, or any other status protected by law, exists in the City's employment practices.

- (c) Provide procedures to evaluate the City's effectiveness in accomplishing these goals.

##### (2) Implementation of Affirmative Action



The City Manager has the primary responsibility for the Affirmative Action Program as the Affirmative Action Officer.

(a) The City Manager's goals include:

- [1] To be responsible for the administration and control of the City's Affirmative Action Program as it relates to hiring procedures, promotions, transfers, compensation, classification, training, terminations, and other rights, conditions, and benefits of employment.
- [2] To encourage Department Head's commitment to this program by assigning them responsibility for the program within their department.
- [3] To ensure the Affirmative Action Program stays current with governmental regulations, equal employment legislation, affirmative action laws, legal interpretations of laws, and informs the Department Heads of any significant changes or shifts of emphasis.
- [4] To thoroughly investigate complaints of alleged discrimination.
- [5] To monitor placements, transfers, promotions, terminations, and other pertinent statistical transactions of City employment practices periodically (as determined by the Affirmative Action Officer) to ensure that Affirmative Action is being supported.
- [6] To monitor job descriptions, employment tests, medical standards, and other documents and processes as described in the goals set forth in section (3)(b) below.

(b) The Assistant City Manager's goals include:

- [1] To assist the City Manager in the administration and management of the Affirmative Action Program.

10

- [2] To develop and implement internal and external communication procedures to disseminate policy, job announcements, and the City's Affirmative Action Program.
- [3] To keep the City Manager, Department Heads, and supervisors informed, as necessary, to the latest developments in the Equal Employment Opportunity/ Affirmative Action area.
- [4] To serve as a liaison between the City, governmental

regulatory agencies, organizations, and other community representatives who might assist in the recruitment of members of protected groups.

(c) Department Head and supervisor goals include:

- [1] To promote the concepts and objectives of the City's Affirmative Action Program.
- [2] To be aware of the Affirmative Action goals within their departments and implement the City's Affirmative Action Program according to the policies set forth.
- [3] To ensure that employees are aware of the Affirmative Action Program and that all employees understand their rights and responsibilities under the program. (A copy of this policy will be kept on file for employee reference.)
- [4] To ensure that supervisory staff do not discriminate against employees and/or applicants for employment.
- [5] To provide the City Manager and/or Assistant City Manager with any assistance necessary to guarantee success of this program.

(3) Employment Practices

(a) Recruitment goals include:

- [1] To advertise employment opportunities effectively through the use of such media as mailing lists, newspapers, periodicals, radio, or bulletin boards as necessary to ensure that protected group members are informed of City employment opportunities.
- [2] To identify the City as an equal opportunity employer in all recruitment literature.

11

- [3] To screen and review any recruitment material used to attract potential job applicants for language or photographs that imply discrimination towards protected groups.
- [4] To expand recruitment beyond normal boundaries when deemed necessary to reach Affirmative Action goals.

(b) Selection goals include:

- [1] To review job specifications to ensure they accurately describe the duties and responsibilities of the job and that the minimum qualification standards are job related.
- [2] To analyze written employment tests to determine their validity and reliability relative to the job.
- [3] To utilize performance tests, especially in those occupational categories where demonstrated ability is the prime job requirement.
- [4] To focus interviews on job-related qualifications and background.
- [5] To include qualified protected group members on oral boards and rating panels when possible.
- [6] As needed, to provide training in legal interviewing techniques to employees who conduct employment interviews.
- [7] To utilize only job related medical standards in pre-employment screening, placement, and modified work procedures.

(c) Development, promotion, and transfer goals include:

- [1] As necessary, review and analyze the career advancement process to determine whether any artificial barriers exist for members of protected groups who wish to advance their careers with the City.
- [2] To ensure qualification requirements for higher level job classifications are job related and promotion requirements do not place undue emphasis on non-merit factors (e.g. seniority).

(d) Training goals include:

- [1] To provide an educational reimbursement program to encourage all qualified employees, including members of protected groups, to actively seek promotion.

- [2] As needed, provide managers and supervisors with service training in topic areas such as human relations and potential work situation conflicts that may arise due to ethnic, cultural or socioeconomic differences within the City's work force.

(4) Dissemination

(a) Internal dissemination goals include:

- [1] To post Federal and State notices of Equal Employment/Affirmative Action on City bulletin boards.
- [2] To place the Equal Employment Opportunity Clause statement: "Equal Employment Opportunity/Affirmative Action Employer" on all position announcements.
- [3] To make available progress reports on the City's Affirmative Action Program to all Department Heads for discussion and/or dissemination within their departments.

(b) External dissemination goals include:

- [1] To notify recruiting sources used by the City of the City's Equal Employment Opportunity Policy and Affirmative Action Program.

(5) Time Table

The goal of eliminating any disparity between the members of protected groups in the area work force (boundaries of which are to be determined by the Affirmative Action Officer) and the relative number in City employment, in all job classifications, will begin upon adoption of the Affirmative Action Plan and continue until the disparity is eliminated.

(6) Periodic Evaluation

Goals include:

- (a) Institution of an evaluation process that effectively monitors the Affirmative Action Plan.
- (b) Cooperation from all departments by furnishing reports monitoring the progress of Affirmative Action in their respective departments.
- (c) Maintaining records of all new hires, transfers, promotions and terminations by race, sex, and age in the Personnel Department.

- (d) Periodically conducting a utilization analysis of the City work force (as determined by the Affirmative Action

Officer). The purpose of this analysis shall be to determine where minorities are not employed in proportion to their relative representations in the area work force by:

- [1] Monitoring applicants through a tracking system designed to determine sex, race, age, residence, and the source of referral for the position.
- [2] Obtaining current data reflecting the percentages of members of protected groups in the area work force.
- [3] Comparing the current percentages of members of protected groups in the area work force with specified occupational and salary categories within the City work force. Those occupational and salary categories in which the representation of protected groups is below the area work force population, shall be considered areas of under-utilization.
- [4] Using the extent of under-utilization present in each category as the basis for analysis and possible modification of existing personnel policies, practices and procedures.

- (e) To review the Affirmative Action Program periodically (as determined by the Affirmative Action Officer).

### **3.03 Harassment Policy and Procedure**

#### **A. Policy**

The City expects that all employees will treat each other with courtesy and respect. The City prohibits discriminatory harassment by employees at all levels of the organization against other employees and/or job applicants. The policy establishes procedures for employees and job applicants who believe they have been subjected to discriminatory harassment to pursue the complaints.

An employee who is determined to have harassed another employee or any person while pursuing a City activity, either on or off duty, will be disciplined. An employee found to be retaliating against a complaining employee or job applicant may be subject to disciplinary action. An employee found to have submitted a capricious or malicious complaint may be subject to disciplinary action. Harassing conduct by an employee which does not constitute discriminatory conduct under this policy may, nevertheless, be grounds for discipline under Section 12.03 of these rules.

B. Discriminatory Harassment Defined

(1) Verbal Harassment

Includes but is not limited to derogatory comments communicated to the employee on the basis of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, age, or veteran status.

(2) Physical Harassment

Includes but is not limited to assaulting, impeding, or blocking movement, or any physical interference with normal work or movement of the employee when directed at the employee on the basis of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, age, or veteran status.

(3) Visual Forms of Harassment

Includes but is not limited to derogatory posters, notices, bulletins, cartoons, or drawings on the basis of employee's race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, age, or veteran status.

(4) Sexual Harassment

Includes but is not limited to unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature directed at an employee which is presented as a condition upon an employment benefit, unreasonably interferes with an individual's work performance, or creates a work environment that is offensive to the employee.

C. Identification Guidelines

The following guidelines shall be applied to a review of the totality of the incident or situation in question to determine if conduct constitutes harassment. Harassment may be found to exist even if all factors are not present depending on the circumstances of each case.

Outrageous conduct may be grounds for finding of harassment even if it is an isolated incident. Guidelines for identifying harassment behavior include:

- (1) The behavior is unwelcome.
- (2) The behavior is one-sided.
- (3) The behavior is repetitive.

- (4) A complaint from the victim did not stop the behavior.

D. Responsibilities

- (1) Managers and Supervisors

Managers and supervisors, at all levels, are responsible for:

- (a) Explaining the complaint procedures to a complainant.
- (b) Making all employees aware of the City's policy and obtaining additional information on the subject for them.
- (c) Dealing with complaints as they occur with the same level of scrutiny and concern as complaints involving other prohibited behavior.
- (d) Administering discipline to the offending employee or employees when warranted by the circumstances.

- (2) City Manager

The City Manager may cause an independent investigation to be conducted of complaints; maintain a confidential file on all charges of harassment, and draft or cause to be drafted a report summarizing the investigation and proposing recommendations.

- (3) Person Filing Complaint

The person filing the complaint is encouraged to make attempts, if possible, to inform the person alleged to have violated this policy that the behavior is unwelcome. The person filing the complaint is encouraged to do this, but such action is not necessary in order to file a complaint. No employee shall retaliate against a person for making a complaint or for informing another employee that their behavior is unwelcome.

- (4) Status of Investigation

The City Manager, or other person designated by the Manager to conduct the investigation, shall keep the employees informed of the status of the investigation.

E. Confidentiality

All personnel shall maintain confidentiality about complaints in order to protect the parties involved, and information shall not be disclosed other than to assist in the investigation.

F. Complaint Procedure

(1) Filing

An employee or job applicant who believes he/she has been harassed may file a complaint with any one of the following as may be appropriate:

- (a) The immediate supervisor.
- (b) Any manager or supervisor within or outside the department.
- (c) The City Manager.

A complaint shall be signed and should be as specific and as detailed as possible.

(2) Response to a Complaint

All employees, supervisors, and managers are expected to treat any complaint immediately, seriously, and confidentially, and to give the investigation top priority.

G. Investigation Procedure

Any person receiving a complaint of harassment shall immediately notify the City Manager. The City Manager shall expediently investigate or cause to be investigated, all complaints of harassment. Managers and supervisors shall make available any employee for interviews and present any documents required by the investigator.

H. Investigator's Report

The investigator shall submit a report of the findings of the investigation to the person filing the complaint and the person alleged to have violated the harassment policy. Both parties shall be given the opportunity to submit written comments regarding the investigation report to the City Manager or to the person designated by the City Manager to review the investigation report.

I. Final Determination

After both parties review and comment, the City Manager or person designated by the City Manager to review the investigation report, shall prepare the final investigation report which shall be delivered to the appointing authority.



## J. Disciplinary Procedure

After reviewing the report of the investigation, the appointing authority of an employee in violation of this policy may commence appropriate discipline in accordance with the disciplinary procedure.

17

When deemed appropriate by the appointing authority, the disciplinary process and the investigation of a complaint may be processed simultaneously. Nothing in this section shall preclude discipline for harassing behavior in the absence of a complaint.

### 3.04 Outside Employment

A. Employees may engage in employment outside City employment, provided that:

- (1) Annual written approval is obtained in advance from the employee's Department Head and the City Manager.
- (2) The employment does not conflict with the employee's work schedules, duties, and responsibilities.
- (3) The employment does not create a conflict of interest or incompatibility with City employment.
- (4) The employment does not create a detrimental effect upon the employee's work performance with the City.
- (5) The employment does not involve conducting business during hours of employment with the City.
- (6) The employee does not use City premises, facilities, supplies, uniforms, or name in his/her outside employment.
- (7) The City is not responsible to any extent for the employee's outside employment, including but not limited to any liability for workers' compensation claims or injuries resulting from the outside employment.

B. Self-employment is considered outside employment and must meet the same conditions as other outside employment, with the addition of the restriction that the employment does not involve ownership of a private business that is incompatible with the employee's position with the City.

C. Employees whose outside employment is 40 hours or less per month shall be exempt from the requirement for prior approval under paragraph A.(1) above.

### 3.05 Conflicts of Interest

A. In addition to the restriction on conflict of interest imposed by law, employees of the City are prohibited from:

- (1) Engaging in or having any interest in any business or transaction, or incurring any obligation which conflicts or impairs, or appears to conflict or impair their independent judgment in the discharge of their official duties.

18

- (2) Accepting money, favors, or other considerations for work they would be required or expected to perform in the regular course of their duties.
  - (3) Accepting gifts, gratuities, or favors of any kind from persons or vendors doing business with the City. The only exceptions are the acceptance of consumable gifts offered to an entire work group during the holiday season where rejection would damage the spirit in which the gifts were offered, unsolicited gifts of nominal value (\$20 or less), or gifts commemorating a City event or a matter of City business.
  - (4) Disclosing confidential information acquired by or made available to them in the course of their employment with the City, or using such information for speculation or personal gain.
- B. It is the employee's responsibility to disclose and report all potential conflict of interest situations to his/her supervisor or the City Manager.

### **3.06 Employment of Relatives**

- A. At the time a person is applying for a position in City service, the person must identify any individual who is a close relative employed in the City.
- B. Close relatives will not be assigned within the same organizational unit, nor will they be supervised by the same individual. An employee may not supervise (as an immediate supervisor or as a higher-level supervisor) any close relative.
- C. If at any time a situation exists where close relatives are employed within the same organizational unit or are supervised by the same individual, the City Manager may transfer one of the individuals to a similar position in a different organizational unit in the City. If no similar position exists in the City, one of the employees may be terminated.
- D. "Close relative" is defined as mother, father, stepmother, stepfather, father-in-law, mother-in-law, husband, wife, child, stepchild, foster child, brother, sister, brother-in-law, and sister-in-law. The "organizational unit" will be determined by the City

Manager, or in special circumstances the City Council.

**3.07 Political Activity**

- A. City employees shall not engage in political activity of any kind on City premises or in City uniforms or during working hours or paid breaks or paid lunch periods. This paragraph shall not be construed to prohibit participation by City employees in a public forum conducted on City property provided the participation is on the employees own time and the employee is not in uniform. Prohibited activity shall include, but is not limited to, soliciting money, influence, service, or any other valuable thing to aid, promote, or defeat any political committee or the nomination or election of any person to public office, while on the job during working hours. No person shall attempt to coerce, command, or require a person holding, or applying for, any position, office, or employment with the City to influence or give money, service, or other valuable thing to aid, promote, or defeat any political committee, or to aid, promote, or defeat the nomination or election of any person to public office.
- B. The rights of City employees to register and vote as they choose shall not be infringed. Except as otherwise restricted by paragraph A above, City employees may express their opinions on all political subjects without recourse against them.
- C. Subject to the foregoing, any City employee may seek appointment or election to any public position, office, or employment for which the employee is qualified. Employees should be aware that election or appointment to a public position, office, or employment may give rise to incompatible offices which may be dealt with according to law. The City itself has no rules respecting incompatible offices.

**3.08 Drug-Free Workplace Policy**

A. Background

In order to provide a safe working environment in accordance with the Drug-Free Work Place Act of 1988, a formalized policy has been developed to address substance abuse and its effects in the workplace. This Drug and Alcohol Policy will help ensure that the employees of the City of Solana Beach are in a condition to perform

the duties of their job safely and efficiently in the best interest of themselves, their fellow workers, and the public they serve. The Drug-Free Workplace Act of 1988 applies to employers with any federal grant or with a federal contract worth more than \$25,000. The law requires that employees convicted of any drug-related workplace crime notify their employer within 5 days of the conviction. The employer must then notify the granting or contracting federal agency within 10 calendar days of receiving a conviction notice from the employee. Then the employer must impose sanctions (up to and including termination) against the convicted employee within 30 calendar days and/or require him/her to participate in a drug abuse assistance or rehabilitation program approved by an appropriate law enforcement or health agency.

20

B. Policy Statement

It is the policy of the City of Solana Beach that employees, while on duty or stand-by, shall not be under the influence of alcohol, drugs (legal or illegal), or other substance which impairs an employee's ability to perform their job and/or increases the potential for accidents, absenteeism, reduced productivity, poor employee morale, or damage to the City's reputation. Employees are also prohibited from possessing, selling, or providing alcohol or illegal drugs to any person, while on City property, operating a City vehicle, in a City uniform, at a City work location, or while on duty except as authorized by the City Manager or his/her designee. Any violation of this policy will result in appropriate disciplinary action.

C. Application

This policy applies to, and shall be distributed to, all full-time, part-time, temporary, and volunteer employees of the City of Solana Beach and will be made available to all employees through the Personnel Department. It includes alcohol, drugs, medications, and substances (legal or illegal) which could impair an employee's ability to effectively and safely perform the functions of their position. This policy does not limit the employee's or City's rights in regards to disciplinary proceedings. Full due process and representation rights will continue to be afforded to all employees as provided for in the City's rules and regulations.

D. Employee Responsibilities

An employee must:

- (1) Notify his/her supervisor, before beginning work, when taking any substance that impairs or might impair the ability to safely and effectively perform his/her duties. Use of medically prescribed drugs is not a violation of this policy. However, employees must notify their supervisor before beginning work

when taking a drug(s) which may interfere with the safe and effective performance of their duties.

- (2) Not report to work or be on stand-by while his/her ability to perform job duties is impaired due to alcohol or drug use.
- (3) Not be under the influence of or use alcohol or impairing drugs during working hours, on breaks, during meal periods, or at any time while at a City work site.
- (4) Not be engaged in the unlawful manufacture, distribution, dispensation, or possession of drugs at any time.

21

- (5) Submit immediately to a drug and/or alcohol analysis when requested by a responsible City representative pursuant to this policy and authorize in writing the disclosure of the results to the Personnel Department. Refusal may be considered insubordination and discipline up to and including termination may be imposed.
- (6) Provide within 24 hours of request bona fide verification of a current valid prescription for any potentially impairing drug identified by a drug analysis.
- (7) Notify his/her supervisor and/or Department Head within 5 calendar days of a conviction for any workplace drug-related crime.
- (8) Remain on the premises, as requested by a responsible City representative, when suspected to be under the influence of drugs and/or alcohol.
- (9) Not return to work after a positive drug analysis until such time as another drug analysis is negative and/or a medical evaluation permits the employee to return and the employee agrees to attend a rehabilitation program approved by the City.
- (10) Submit to random drug analysis for a period of 18 months following a positive drug analysis. If the employee tests positive again as a result of the random testing within this time period, he/she is subject to immediate termination.

E. Management/Supervisor Responsibility

Managers and supervisors shall:

- (1) Be responsible for the reasonable enforcement of this policy, including the imposition of appropriate discipline upon employees that violate this Policy.
- (2) Request that an employee submit to a drug and/or alcohol analysis, with City Manager or designee approval, when there is reasonable suspicion that an employee is under the influence of alcohol and/ or drugs during working hours or while on stand-by.
- (3) Attempt to seek out any witnesses to verify reasonable suspicion.
- (4) Give an employee an opportunity to explain their behavior before requesting a drug and/or alcohol analysis.
- (5) Document in writing the facts constituting reasonable suspicion that an employee is under the influence of drugs and/or alcohol as soon as possible after suspicion is determined but not necessarily before the employee is requested to submit to an analysis.

22

- (6) Remind any employee who refuses to submit to a drug and/or alcohol test that refusal may be considered insubordination and disciplinary action up to and including termination may be imposed.
- (7) Notify Department Head when managers or supervisors have reasonable suspicion that an employee has illegal drugs in his/her possession. If Department Head concurs with the reasonable suspicion, the appropriate law enforcement agency should be notified.
- (8) Notify the City Manager or designee immediately after an employee reports that he/she was convicted of a workplace drug-related crime. The City is required to report convictions of this nature to the Federal Government within 10 calendar days and impose appropriate discipline, up to and including termination, and/or require the employee to participate in a rehabilitation program approved by an appropriate law enforcement or health agency, within 30 calendar days of receiving notice.

#### F. Employer Searches

For the purpose of enforcing this policy and maintaining a drug and alcohol free workplace the City, upon reasonable suspicion, with or without prior notice to the employee, may search areas and property in which the City maintains full or joint control with the employees, including but not limited to City vehicles, desks, lockers, file cabinets, and bookshelves. The search will be conducted only with the approval of the Department Head, City Manager, or Personnel Officer.

The City will make a reasonable effort to contact the employee to have them present while searching the property in question. Searches of personal property, in the absence of other mitigating circumstances, will whenever possible be conducted in the presence of the employee and a responsible third party witness.

G. Drug and Alcohol Testing

Applicants for employment:

- (1) Before an official offer of employment can be extended, an applicant must submit to a drug and/or alcohol analysis as determined by the City. Refusal to undergo this drug and/or alcohol analysis may result in the applicant not being hired and any offer of employment being withdrawn.
- (2) A positive result from a drug and/or alcohol analysis may result in the applicant not being hired where the applicant's alcohol and/or drug use could affect job performance.
- (3) If an applicant's drug and/or alcohol analysis is positive they must provide bona fide verification of a valid current prescription for the drug identified in the analysis. If no such verification is provided within 24 hours of notification the City may choose not to hire the applicant.

23

- (4) An applicant will be given the opportunity to explain or rebut a positive drug and/or alcohol analysis before an employment decision is finalized.

Current employees:

- (1) A confirmed positive result from a drug and/or alcohol analysis may result in disciplinary action up to and including termination.
- (2) If an employee's drug and/or alcohol analysis is positive they must provide bona fide verification of a valid current prescription for the drug identified in the analysis. If no such verification is provided within 24 hours of notification the employee will be subject to disciplinary action up to and including termination.
- (3) An employee will be given the opportunity to explain or rebut a positive drug and/or alcohol analysis before any disciplinary action is imposed based on the City's investigation of the facts.

H. Testing Procedures

Drug and alcohol analysis, at the City's discretion and expense, will be conducted at a NIDA certified laboratory that utilizes proper sample collection and chain of custody procedures. A positive result

will be confirmed using Gas Chromatography/Mass Spectrometry analysis.

#### I. Confidentiality

Drug and/or alcohol analysis results will not appear in an employee's or applicant's general personnel folder. This information will be maintained in a separate confidential medical folder that will be securely kept under the control of the Assistant City Manager. Disclosure of analysis results will be made to City management strictly on a need-to-know basis and to the employee upon request. Disclosures, without the employee's consent, may also occur when: (1) the information is compelled by law, judicial, or administrative process; (2) the information has been placed at issue in a formal dispute between the employer and employee or applicant; (3) the information is to be used in administering an employee benefit plan; (4) the information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.

#### J. Reasonable Suspicion

For the purpose of this policy reasonable suspicion is a belief based on objective facts sufficient enough to lead to an inference that an employee is under the influence of drugs and/or alcohol. Any of the following constitute grounds for a drug or alcohol test:

- (1) A preventable accident damaging City property or causing an injury to themselves or someone else.
- (2) An on-the-job accident while operating a vehicle or a piece of power equipment.
- (3) A physical altercation.
- (4) Possession of illegal or restricted drugs and/or alcohol. Possession or use of prescription drugs shall not constitute a basis for reasonable suspicion if the drugs are possessed or used according to the terms of the prescription.
- (5) Personal injury to self, co-worker(s), or general public.

24

### 3.09 Additional Policies

The City Council may from time to time adopt additional or supplemental policies relating to discrimination or job requirements such as policies to implement the Americans With Disabilities Act, the Drug-Free Workplace Act, or similar state or federal laws.



**Section 4**

**EMPLOYMENT AND PROMOTION**

**4.01 Application Filing**

All applications shall be made upon official forms furnished by the City and filed in the Personnel Office on or before the final filing date specified in the job announcement. All applications and examination papers are confidential records of the City and under no circumstances will they be returned to the applicants or displayed publicly. A separate and complete application for each recruitment must be filed unless otherwise specified in the job announcement.

**4.02 Acceptance of Applications**

Applications for employment with the City shall not be accepted until a recruitment for a specific position(s) sought has been announced. Applications for temporary appointments and for employment in a temporary

capacity pending examinations may be filed as determined by the City Manager or in accordance with the provisions of these rules. The form of employment applications shall be determined by the City Manager and may be changed from time to time as the circumstances warrant.

**4.03 Verification of Information**

The City may require applicants to provide certified copies or affidavits relating to receipt of any diploma, license, or any other accreditation or certification required to meet the requirements or to verify information contained in an application, letter, oral statement, or resume.

**4.04 Disqualification of Applicants**

The City may refuse to examine an applicant or may, after examination, disqualify such applicant or remove the applicant's name from an eligibility list, or refuse to certify an eligible name on an eligibility list if any one of the following conditions exists:

- A. The applicant is found to lack any of the preliminary requirements announced for the examination for the class or position.
- B. The applicant has made a false statement of material fact in the application.
- C. The applicant has directly or indirectly obtained information regarding examinations to which, as an applicant, the individual was not entitled.
- D. The applicant has not submitted the application correctly or within the prescribed limits.

26

- E. The applicant has been dismissed from City of Solana Beach employment for cause.

**4.05 Nature of Examinations**

The purpose of all examinations shall be to determine the merit and fitness of each applicant. Examinations shall be impartial and shall be suitable to test fairly the relative capacities of the persons examined to perform the duties of the position to which they seek employment. Applicants in the same examination shall be accorded equal treatment in all phases of the examination procedure. Applicants requiring reasonable accommodation under state or federal law shall be afforded such accommodations.

**4.06 Scheduling and Preparing Examinations**

The Personnel Officer shall determine the type of examination and the length of the recruitment period for all examinations. The Personnel

Officer shall authorize the preparation of all examinations and may call upon qualified persons or companies to prepare and/or grade examinations.

**4.07 Character of Examinations**

Examinations may be written or oral, in the form of a demonstration of skill, or any combination of these; and any investigation of character, personality, education, and experience; and any tests of intelligence, capacity, technical knowledge, manual skills, work samples, physical fitness, or any combination of these or other tests which the Personnel Officer deems are appropriate, may be employed. Promotional examinations may include performance reviews, records of conduct, or any other generally accepted qualifications deemed necessary or reliable in determining the merit and fitness of each applicant.

**4.08 Job Announcements**

Public notices of the recruitment shall be posted on the official bulletin board of the City prior to the date of final filing. The need for further publicity and/or distribution of the announcements shall be determined by the Personnel Officer. The job announcement shall contain the following information:

- A. The title and rate of pay for the position to be filled.
- B. Some typical duties to be performed.
- C. Minimum qualifications required.
- D. Method of securing application forms and final dates on which applications will be accepted.
- E. Any other information as may be deemed useful in the recruitment of applicants.
- F. If position is unclassified and/or exempt.

**4.09 Types of Examinations**

Examinations shall be of the following type:

A. Open Examination

An examination which is open to all persons meeting the qualifications for the class.

B. Promotional Examination

An examination admission which is limited to permanent and probationary employees of the City who meet the qualifications for the class.

C. Closed Examination

An examination which is limited to currently employed City personnel. The Personnel Officer will determine when a closed examination is appropriate.

**4.10 Eligibility Lists Established**

Upon completion of an examination, the Personnel Officer shall have prepared an eligibility list consisting of the names of candidates who qualified in the examination, in the numerical order in which they have been rated, giving their ratings and any other data deemed pertinent for the purpose. Eligibility lists shall remain in effect as long as there are applicants available which are of an interest to the City.

**4.11 Removal Upon Appointment**

The name of a person who accepts a permanent appointment to a position shall be removed from the eligibility list for such position.

**4.12 Minimum Age Required**

All persons who are selected for employment by the City must be at least 18 years of age. Employees may be asked to provide proof that they are at least 18 years of age at any time. Minors may be employed in part-time, temporary positions but must provide appropriate documents from their high school. Exception: emancipated minors may be employed but must provide proof of necessary documents and be able to otherwise qualify for City insurance and bonding requirements.

**4.13 Legal Authority to Work**

Each applicant must attest to his or her legal authority to work and his/her identity on an I-9 form provided by the Federal Government. This verification must be completed as soon as possible after an offer of employment is made and in no event more than three business days after an individual is hired. All offers of employment and continued employment are conditioned on furnishing satisfactory evidence of identity and legal authority to work in the United States.

**4.14 Pre-employment Medical Examination**

Job offers shall be contingent upon satisfactory completion of a medical examination. After a job offer has been made each prospective employee shall be required, as determined by the Personnel Officer, to take a pre-employment medical examination which may include drug screening after receiving an offer of employment and before beginning his/her first day of duty. The medical examination is provided by the City at its sole expense.

Every offer of employment is contingent upon successful completion of the health questionnaire and/or medical examination by the prospective employee.

**4.15 Re-employment Medical Examination**

Employees who are rehired following separation from City service shall be required to complete the medical examination process, as defined above; and shall complete a new initial probationary period in the same manner as other new employees.

**4.16 Re-employment Benefits**

Rehired employees are considered new employees from the effective date of their re-employment for all purposes, including the calculation of benefit levels.

**4.17 Criminal History Information**

Pursuant to Section 2.40.020 of the Solana Beach Municipal Code, certain City employees evaluating pre-employment applications may obtain summary criminal information from the state.

**4.18 Driving Record**

When operation of a motor vehicle is a requirement of the job, or when the job description or qualifications require possession of a valid driver's license, the City may obtain an employee's or prospective employee's current driving record as mandated by the Department of Motor Vehicles.

**TRANSFERS AND ASSIGNMENTS**

**5.01 Administrative Transfers**

A. Authorization to Transfer

The City Manager may authorize the transfer of an employee from one position in a department to another position of the same or comparable classification in another department. Any employee transferred to a different position shall possess the minimum qualifications for the position.

B. Reassignment within Department

The Department Head may reassign an employee to another position in the same classification in the same department at any time.

**5.02 Employee Transfer Requests**

A. An employee who wishes to be considered for an open position within his/her present department must discuss the request directly with his/her Department Head.

B. If the open position is in another department, the employee must file a transfer request with the Personnel Officer. Employees will be considered for interdepartmental transfers only if the following conditions are met:

(1) The employee must have completed a minimum of six months' continuous service in his or her current position.

(2) The employee's performance in his or her current position must be satisfactory or better.

(3) The employee must meet the minimum qualifications for the position to which the transfer is requested.

(4) The employee's request must be approved by the City Manager.

C. The employee's anniversary date for salary will not change when transfer is a lateral move.

**5.03 Out of Class Assignment**

A. Unless otherwise provided in a memorandum of understanding approved by the City Council or in department rules adopted pursuant to an approved memorandum of understanding (e.g. Fire Department), the following shall apply to out of class assignments.

An out of class assignment is a temporary assignment of a regular employee to an established position at a higher level of pay which requires the employee to perform all of the duties of the higher classification.

An out of class assignment may be made by the Department Head when a position is vacant or when an incumbent employee is absent for more than 30 days for reasons other than vacation. Such an assignment shall be temporary and shall terminate when the position is filled permanently, when the incumbent employee returns to work, or when the temporary assignment is discontinued. In no event shall an out of class assignment exceed a period of six months, unless an extension is approved by the City Manager.

B. Authorization

An out of class assignment shall be recommended by the Department Head and approved by the City Manager prior to being effective.

C. Minimum Qualifications

A regular employee in an out of class assignment must meet all the minimum qualifications of the higher classification, but need not be qualified by examination or have standing on an eligibility list.

D. Compensation

When an employee is temporarily assigned to a higher classification for the convenience of the City for a period equal to or exceeding five consecutive working days, the employee shall receive out of class pay for all days worked at the higher class. To be eligible for out of class pay under this provision, approval must be received in advance from both the Department Head and the City Manager. Once approved, out of class pay will continue through the duration of the new assignment.

Out of class pay shall be a minimum of 5% above the employees regular rate of pay. Out of class pay of more than 5% must be authorized by the City Manager. Benefits of the higher classification are not available and the employee will continue to receive the benefits of the employee's regular position.

If employee is working out of class at a position in the same pay range, employee shall be paid at same step at which he/she is currently being paid.

## Section 6

### PROBATIONARY PERIOD

#### 6.01 Objective

The probationary period shall be regarded as a part of the selection process and shall be utilized for the purpose of determining the employee's ability to satisfactorily perform the duties prescribed for the position and determining the employee's ability to work with other employees.

#### 6.02 Length of Probation

All initial and promotional appointments shall be tentative and subject to a probationary period of actual City service. The probationary period shall not include time served under any temporary appointment. The length of probationary periods shall be six months for all employees except safety employees who have a twelve month probationary period.

The City Manager may establish probationary periods of longer terms for certain classes or departments where such longer term probationary periods are reasonably needed to adequately assess an employee's on-the-job performance following the completion of an orientation and/or training period.

#### 6.03 Extension of Probation

When additional time is needed to evaluate an employee, the probationary period of an individual employee may be extended by the City Manager, upon the request of the Department Head, for a period not to exceed an additional six months. Approval of such extension by the City Manager shall be in writing with notification to the employee involved prior to the end of the probationary period. If probation is extended, no merit increase shall be granted until probation is successfully completed. An extension of probation shall be made only if the initial probationary term has not expired.

In the event a probationary employee takes an approved paid or unpaid leave of absence of 15 or more calendar days during his/her probationary period, the probationary period shall be extended for an equivalent period of time.

#### 6.04 Rejection During Probation

During the probationary period, an employee may be rejected at any time by the Department Head without cause and without the right of appeal. The Department Head shall notify the City Manager in writing of the intention to reject an employee during probation. Upon approval, the Department Head shall provide prompt notification to the employee involved.

#### 6.05 Rejection Following Promotion

An employee rejected during the probationary period following a



promotional appointment shall be reinstated to a position in the former classification from which the employee was promoted. Provided, however, that if the cause for not passing probation was sufficient grounds for termination the employee shall be subject to termination without reinstatement to the lower position. Such termination shall be subject to discipline procedures as contained in the manual.

**6.06 Promotion During Probation**

While serving a probationary period an employee may be promoted to a position in a higher class provided the employee is certified from the appropriate eligibility list in accordance with these rules. If an employee is promoted during a probationary period, the employee shall serve a new complete probationary period for the new class beginning with the date of appointment to the new class.

If a probationary employee is reverted to their prior lower position because of a rejection following promotion, the employee shall be subject to probation at the lower classification for the balance of the previous probationary term as of the date of promotion.

**6.07 Completion of Probationary Period**

Prior to the completion of the probationary period the employee's supervisor shall complete, and the Department Head shall review and approve a performance to ascertain whether the probationary employee may become a regular employee of the City.

**CLASSIFICATION PLAN**

**7.01 Purpose**

The purpose of the classification plan is to provide a complete and continuous inventory of all classifications in the City service and to provide accurate descriptions and specifications for each class. Positions having similar duties and responsibilities shall be classified and compensated on a uniform basis.

**7.02 Composition**

The classification plan shall consist of groupings of positions by classifications which are approximately equal in difficulty and responsibility, consisting of the same general qualifications and which can be compensated with the same range of pay for similar working conditions. Classes shall be arranged in series whenever possible.

**7.03 Content of Class Specifications**

Each class specification shall include the title, a description of the duties and responsibilities of the work, and a statement of the minimum qualifications required of the person who is to perform the work.

**7.04 Use of Class Titles**

The class title shall be the official title of every position allocated to the class for the purpose of personnel actions and shall be used on all payrolls, budget estimates, official records, and reports relating to the position. The Department Head may authorize the use of another working title for the purposes of internal administration or in contacts with the public.

**7.05 Interpretation and Significance**

The class specifications are not to be considered restrictive nor construed as limiting the duties and responsibilities of any position. They neither limit nor modify the authority of any City official to assign duties to direct and control the work of employees in the City service. The class specifications are descriptive and explanatory of characteristic duties and responsibilities of positions in a class and, as such, they are to be interpreted in their entirety and in relation to other classes in the classification plan.

**7.06 Maintenance of the Plan**

The Personnel Officer shall be responsible for the maintenance of the classification plan. The Personnel Officer may allocate positions to the appropriate class and may make revisions in the classification plan which shall consist of additions, deletions, consolidations, or amendments to existing class specifications.

The Personnel Officer shall be responsible for conducting classification studies or having studies conducted by qualified persons or companies outside City service of proposed new or existing positions in the City service when:

- A. Notified by the City Manager that new positions are being authorized.
- B. Notified by a Department Head that the duties and responsibilities of a position or group of positions may be improperly classified or have undergone significant change.
- C. Periodically or as a need arises, to review a certain position or group of positions in the City service.
- D. When an incumbent has reason to believe that his or her position has evolved because of a gradual accretion of duties to an assignment that may be outside the regular classification, he or she may initiate a request for review through the Personnel Officer. This review may also be initiated by the City.

35  
Section 8

**SALARY ADMINISTRATION AND ANNIVERSARY DATES**

**8.01 Anniversary Dates**

For the purpose of salary administration and performance evaluations, each employee shall have an anniversary date which shall be determined by application of one of the following paragraphs as herein provided. Any salary adjustment or other similar action taken with respect to an anniversary date shall be made at the beginning of the first pay period following the anniversary date.

- A. That date which represents for an employee the date on which he or she was originally employed, or adjusted as required for any break in service.
- B. For an employee who is promoted, the date of hire anniversary date shall remain the same; the anniversary date for purposes of merit increases or other such salary and/or performance evaluation purposes, shall be the date the employee begins service in his/her new permanent position.
- C. For a former employee, who is rehired, the anniversary date shall be the date on which the employee was rehired, or adjusted as required for any subsequent break in service.

**8.02 Anniversary Date Upon Transfer**

Anniversary dates of employees who are transferred to a job classification designated by the same salary range, or whose job classification is reclassified from one salary range to another, shall not be changed.

**8.03 Anniversary Date Postponed**

For each employee whose step advance is postponed by their Department Head, the anniversary date shall be changed to the date to which the advancement is postponed.

**8.04 Step Advancements**

Step advancements are merit increases. An employee must perform the duties of the position in a manner satisfactory to the Department Head to receive a step advancement. Step advancements authorized herein shall be made from each step to the next higher step within the limits of the appropriate salary range. Unless otherwise provided on a compensation plan approved by the City Council, step advancements shall be made as follows: A step to B

step, upon successful completion of probation; B step to C step, upon six months satisfactory service from the date of the last step increase; each step increase thereafter shall occur on an employee's anniversary date subject to satisfactory job performance.

36

No advancement shall be made without the written recommendation by the Department Head. If an employee is hired at Step C or Step D, the first evaluation will occur at three months of service and the second evaluation at six months; however, the employee will not be eligible for a merit/step increase until he/she has completed one full year of service unless approved by the City Manager.

**8.05 Salary Upon Initial Appointment**

Upon initial appointment with the City, an employee shall be placed in the first step of the salary range. However, if it is not practical or possible to hire qualified personnel at the first step, appointment at a higher step within the range may be authorized by the City Manager.

**8.06 Salary Upon Reclassification**

Any employee in a job which is reclassified with a different salary range shall be compensated at the step in the new salary range that does not result in a loss of pay. Upon recommendation by the Department Head, and approval by the City Manager, an employee in a position which is reclassified may be placed in a step of the new salary range for the new class which provides for a minimum increase of approximately 5%. The employee must meet the minimum qualifications of the reclassified position.

The salary of an employee whose position is reclassified to a classification with a lower salary range and whose salary is above the maximum of the new salary range shall be frozen at the salary of the old classification until the salary range of the new classification is equal to or exceeds the employee's salary. This shall be referred to as "Y-rate".

**8.07 Salary Upon Promotion**

Upon promotion, an employee shall be placed in the first salary step of the range for the new classification. If placement in the first salary step provides for a salary increase that is less than 5%, the employee shall be placed in a salary step in the range for the new classification that provides for at least a 5% increase.

Where an employee is promoted into a classification with a salary range that does not have salary steps, the employee will be placed at the salary range minimum or at a salary within the range that provides for a salary increase of 5%, whichever is greater. A higher salary may be established with the approval of the City Manager.

**8.08 Salary Upon Demotion**

The salary of an employee who is demoted to a position of a job classification with a lower salary than the job classification from which the employee was demoted shall be reduced to the salary step in the range for the new classification recommended by the Department Head and approved by the City Manager.

37

**8.09 Salary Upon Transfer**

In the case of a transfer of an employee from one position to another in the same salary range, the employee shall continue in the same salary step. In the case of a transfer of an employee from one position to another in a class with a lower salary range, the employee may be placed at any step that most closely approximates his/her existing salary.

**8.10 Salary Plan**

A salary plan shall be authorized by the City Council. This plan shall establish the salary range and salary steps for each position in the City.

**8.11 Salary Information**

The specific salary of an employee may be disclosed by the City pursuant to a valid records request.

38  
Section 9

GENERAL WORKING CONDITIONS

9.01 Work Schedules

The following provisions are intended to define the normal hours of work and shall not be construed as a guarantee of work per day or per week, or of days of work per week.

A. Work Day

The normal work day shall be 8 hours of work in a 24 consecutive hour period, except for certain Fire personnel or certain Marine Safety employees, or in cases of emergencies. Department Head may determine different hours only with prior approval of City Manager. For Fire personnel, the normal work day shall be a 24 hour period, beginning at 0800 and continuing until the next day, ending at 0800 hours (8 a.m. to the following 8 a.m.). Employees are expected to be at their work station, ready to begin work, at the beginning of their assigned shift. Certain Marine Safety personnel may work 10 hour work days. Except when otherwise established by Department policy approved by the City Manager, employees shall notify their supervisor as early as possible, but no later than 15 minutes after the beginning of their shift if they expect to be absent or tardy on any given day unless employee can demonstrate extenuating circumstances that clearly precluded such notification.

B. Work Shift

Employees shall be scheduled to work on regular work shifts having regular starting and quitting times. Except for emergencies, employees' work shifts shall not be changed without 24 hours prior notice to the employee. Neither call-out nor overtime constitute a change in the work shift.

C. Work Week

The normal work week shall be five work days and two consecutive days of rest in a seven consecutive day period, except for certain Fire personnel and certain Marine Safety personnel or in cases of emergencies. The exception to this may occur periodically during normal rotation of work week schedule for Public Works and Parking Enforcement employees. For Fire personnel, the work week shall average approximately 56 hours per week over a 1 year period with the work period being 24 days.

39

D. Irregular Work Schedule

Subject to compliance with the Fair Labor Standards Act and implementation regulations, the Department Head, subject to approval by the City Manager, may establish work schedules based on the operating needs of the department outside of the normal work week or shift.

E. Meal Period

Each regular full-time employee, except certain Fire and Marine Safety employees, shall be entitled to an uninterrupted, unpaid meal period of a minimum of 30 minutes and a maximum of 60 minutes at or about the mid-point of their work day. The length of the meal period and the time the meal period is taken, shall be determined by mutual agreement; if agreement cannot be reached, the determination shall be made by the Department Head. It is the responsibility of the City's Department Heads to provide relief for the employees within the various Departments. Employees are entirely relieved of responsibilities and restrictions during their meal period, unless they have agreed, in writing, to work an on-duty meal period which will be treated as paid time.

F. Rest Period

Employees shall be provided rest periods at the rate of 15 minutes for each 4 hours worked. Rest breaks shall be considered paid work time. An employee is not required to remain on City premises during the rest period.

G. Emergency Assignments

Nothing herein shall be construed to limit or restrict the authority of the City to make temporary assignments to different or additional



locations, shifts, or duties for the purpose of meeting an emergency. For purposes of this manual, emergency shall mean an unanticipated circumstance which requires an immediate response. Such emergency assignments shall not extend beyond the period of said emergency. The provisions of this section shall also apply when necessary to cover for illness or other absence of employees.

H. Vacation, Holiday, or Sick Leave Work Day

All references to accrual or use of vacation, holiday, or sick leave in this manual shall be interpreted as one day being equivalent to eight hours for all employees except Firefighters assigned to shift work. Firefighters shall accrue vacation and sick leave and the accrual and use of vacation and sick leave shall be as provided in the approved memorandum of understanding. For Miscellaneous employees, if a holiday falls on an employee's regularly scheduled day off, the employee shall receive, at the employees option, eight hours of straight time pay or eight hours of comp time if the employee is eligible for comp time for the holiday.

40

- I. In order to assure adequate coverage for the Receptionist and other positions involving regular public contact, the City Manager may require coordination of leave, meal and rest periods between employees in the same or different departments.

**9.02 Overtime**

- A. All Classified employees who are eligible for overtime shall receive overtime pay computed at one and one-half their regular rate for all hours authorized by the City and worked by the employee in excess of 40 hours worked in a work week. Fire employees who regularly work a schedule that averages 56 hours per week shall receive overtime pay computed at one and one-half their regular rate for all hours authorized by the City and worked by the employee in excess of 182 hours worked in a 24 consecutive day work period. Overtime hours shall be paid to the nearest quarter hour of time worked. When an employee works on a regularly scheduled holiday and it is not his/her regularly scheduled day off, the employee shall receive 8 hours straight time pay for the holiday and be compensated for the hours actually worked at his/her straight time rate. The employee may elect to receive comp time (providing employee will not exceed the 50 hour comp time limit) or pay for the hours actually worked on the holiday, except for employees such as Firefighters and Lifeguards who are required to work holidays and receive holiday pay.

Overtime at 1.5 times the regular hourly rate shall be paid only when a classified full-time employee actually works or is on the job in excess of their normal work hours (for Miscellaneous employees, this equates to eight hours per day; for permanent Marine Safety employees, this equates to ten hours per day). If the employee works

part of the day, is on leave part of the day, and then returns to work after regular working hours, they shall receive overtime pay only on the hours actually worked in excess of their normal working hours.

- B. Except for safety employees, overtime shall be authorized in writing by the employee's Department Head and may require the authorization of the City Manager or Personnel Officer prior to the overtime being worked. Safety employees may work overtime subject to the prior approval of the Department Head, or when actually responding to an emergency subject to subsequent approval by the Department Head. An employee not specifically exempt from the provisions of the Fair Labor Standards Act shall not begin work more than 15 minutes before their established schedule begins nor work longer than 15 minutes after it ends, unless specifically authorized by the appropriate supervisor.
- C. Employees eligible for overtime pay and have less than the maximum permitted accrual, may elect to receive compensatory time (CT) at time and one-half (1-1/2) in lieu of overtime pay. An employee may accrue and have a maximum current credit of 50 hours of comp time. Firefighters are not eligible for compensatory time.

41

Employees who have accrued more than the maximum current credit on the date of initial adoption of the Rules and Regulations shall have one year to use the excess; however, the City Manager may grant additional time to use the excess for good cause on a case-by-case basis. Employees with 40 hours or more of accrued comp time shall receive overtime pay only.

- D. Part-time employees are entitled to overtime only if they work more than 40 hours in a 7 day work week.

#### **9.03 Call Back & Standby**

- A. Call back work is defined as work required by the City of an employee who, following completion of the employee's work day or work week and departure from the employee's work site, is unexpectedly ordered to report back to duty to perform necessary work. Employees who are called back shall receive a minimum of two hours compensation (three hours for Public Works and Lifeguards) at time and one-half unless employee is called back less than two hours before start of employee's next regular shift or work day.
- B. Whenever an employee is called back, the employee shall receive the minimum provided above or pay for hours actually worked, whichever is greater. Hours worked shall be calculated beginning at the time the call back is received by the employee and ending when the employee is relieved of duty.

- C. If an employee, who was called back to work and has completed his/her assignment and left work, is again called back to work, he/she will not receive another minimum if the time of return is within the previous call back minimum.
- D. Standby duty shall not be regarded as call back work. Standby duty pay of \$70 per week shall be paid to employees assigned standby duty for seven consecutive days. Employees assigned standby duty for a period of less than seven days shall receive a prorated amount of \$10 a day.

**9.04 Tuition Reimbursement**

- A. The tuition reimbursement program is intended to:
  - (1) Encourage employees to continue their education in order to meet present and future needs of City service.
  - (2) Increase effective work performance and employee efficiency.
  - (3) Facilitate promotion from within.
  - (4) Attract to City service persons of superior ability and potential for advancement.

42

- B. Eligible Courses
  - (1) Courses must relate to the employee's job assignment or be job-oriented, and must be offered by a qualified training institution. In general, qualified training institutions are those colleges or universities which offer accredited course work transferable to other academic institutions.
  - (2) Training programs, such as workshops, institutes, seminars, and symposia which do not meet the above criteria and which are not intended for academic advancement are not covered under the program. These courses may be attended on City time at the discretion of the Department Head, and at City expense, which is budgeted for and administered by the employee's department.
- C. Courses must be taken on an employee's own time.
- D. Each employee shall be eligible for a maximum reimbursement each year from said fund, subject to availability of monies remaining in said fund. The individual employee yearly maximum shall be \$500.
- E. Reimbursement will be made in the following manner:

- (1) Prior to enrolling in a course, an employee must secure Department Head approval that the course work is job-related and submit to the department a proposed estimated expenditure request on the proper tuition reimbursement request form. If the Department Head denies an employee request, the employee may appeal the denial to the City Manager.
- (2) Upon conclusion of the course work, the employee must submit proof of a "C", "pass", or other appropriate notice of successful course completion to his/her Department Head along with an expenditure claim and receipts for tuition books, or other required course materials. Books paid for by the City shall be placed in the City library in the Personnel Department and shall be considered City property.

**9.05 Mileage Allowance**

- A. Employees shall be reimbursed at the current rate allowed by the Internal Revenue Service for the authorized use of their private vehicle on City business. Employees shall also be reimbursed for parking fees paid while using their vehicle on City business.
- B. An employee who uses his/her automobile for City business must provide the minimum automobile insurance coverage required by the State of California. Evidence of current insurance must be on file with the City.

**9.06 Holidays**

- A. The City shall recognize the following days as official City holidays, and all regular employees normally scheduled to work on these days will be given the day off with pay.

<u>Holidays</u>	<u>Day Observed</u>
New Year's Day	January 1
Martin Luther King Day	3rd Monday in January
Presidents Day	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1st Monday in September
Veteran's Day	November 11
Thanksgiving Day	4th Thursday in November
Day after Thanksgiving	Friday after Thanksgiving
Christmas Day	December 25

Full-time Miscellaneous, Lifeguard, and Management employees shall be entitled to two floating holidays each year as outlined below.

- (1) Eight hours to be credited during the first full pay period in July.
- (2) Eight hours to be credited during the first full pay period in January.

Part-time permanent employees shall be entitled to the above holidays at the rate of four hours per holiday and shall be entitled to four hours for each floating holiday.

Firefighters shall be compensated for holidays as agreed upon in their memorandum of understanding between the Firefighters and City, and Lifeguards shall be compensated based on their agreement with the City.

- B. If one of the holidays listed above falls on a Sunday, then it shall be observed on the following Monday. If one of the holidays listed above falls on a Saturday, then it shall be observed on the previous Friday.
- C. When a day is proclaimed by the City Council or by the Mayor with the consent of the City Council for a public day of thanksgiving, day of mourning, or holiday, then each employee shall be granted time off with pay for their regularly scheduled hours.
- D. A Classified employee who works on the day a holiday is observed, as provided above, shall be paid straight time for the holiday, just as all employees are paid for the holiday and, in addition, the Classified employee shall be compensated for the hours he/she actually works on the holiday. Such compensation shall be either cash or compensatory time off, at the employee's option.

44

- E. If a legal holiday, as listed above, falls on a regularly scheduled day off for a Classified Miscellaneous employee, the employee will be paid eight hours of straight time pay or receive at the employee's option eight hours of comp time provided the employee is eligible to receive comp time.
- F. To be eligible for holiday pay, the employee must work on the last regularly scheduled work day preceding the holiday and the first regularly scheduled work day following the holiday, unless the employee is taking approved vacation or management leave or comp-time off. An employee on vacation shall not be charged vacation time for a holiday that falls during the vacation period. An employee using sick leave the day before and/or the day after a holiday must submit a valid doctor's verification within three days after returning to work. Such verification shall be placed in the employee's personnel

file.

- G. Employees on paid leave of absence (e.g. sick leave, vacation etc.) are eligible for holiday benefits for holidays that are observed during the period they are on leave of absence.

**9.07 Resignation and Final Paycheck**

- A. For an employee to resign City service in good standing he/she shall file with their Department Head, at least two weeks before leaving, a written resignation stating the effective date and reason for leaving. Failure of the employee to comply with this provision may be cause for denying future employment with the City.
- B. Employees will receive their final paycheck including salary and all authorized pay outs for accumulated leave on the regular pay day for the pay period in which they resign. If an employee resigns with at least two weeks advance notice, upon request, the employee may receive their final paycheck on their final day of employment. City property, such as keys, tools, equipment, and I.D. card must be returned by the employee prior to the final paycheck being released.

**9.08 Personnel Records**

- A. An employment history for each regular employee in City service will be maintained by the City. The personnel file shall include dates of service, positions held, salary history, and other information as may be deemed appropriate and/or required by law.
- B. The personnel file of an employee will be open for inspection by the employee or his/her authorized representative at his/her request during business hours by appointment. The employee will have access to all contents of the file except those materials which are a part of the employment/selection process. A copy of the material in the personnel file will be provided to the employee upon request. After first request, succeeding copies shall be at the employee's expense. Cost will be determined by the City.

**9.09 Performance Evaluations**

- A. All employees in City service shall have their performance evaluated by the Department Head or by the supervisor designated for this purpose every six months during the first year of employment and at least annually thereafter based on anniversary date. The employee's supervisor shall review the findings of the evaluation with the employee and sign the evaluation report before forwarding the evaluation to the Department Head. A copy of the completed evaluation shall be provided the employee and a copy shall be placed in the employee's personnel file.

An employee whose overall evaluation indicates "improvement needed" or "unsatisfactory" may appeal the evaluation in accordance with this paragraph. An employee whose performance evaluation is done by a supervisor (whether or not subject to approval by the Department Head) may appeal the evaluation to the employee's Department Head. An employee whose evaluation is done by the Department Head may appeal the evaluation to the Assistant City Manager. The appeal shall be filed within two weeks after the date that the evaluation is signed by the evaluator and received by the employee.

The Department Head or Assistant City Manager shall meet with the employee and the performance evaluator within two weeks from the date of the appeal. After the meeting, the Department Head or Assistant City Manager may confirm the evaluation or may change the evaluation rating. The meeting to review an appeal shall be informal. The employee may be represented at the appeal hearing by a representative of the employee's choice including any other employee or an employees' association representative. If the appellant chooses to be represented by another employee, the representative shall be granted release time to attend the appeal meeting.

- B. Employees serving their probationary period shall have their performance evaluated in the same manner as prescribed for permanent employees. Probationary employees shall be evaluated every three months during their probationary period, or at different intervals as determined by the City Manager. Fire safety personnel shall be evaluated monthly during the probationary period.
- C. If an employee is hired at any step other than A step, he/she shall not be given a merit increase until the specified time frame has elapsed for that increase. An employee is eligible for a merit increase as follows:

A Step to B Step	6 months
B Step to C Step	6 months
C Step to D Step	1 year
D Step to E Step	1 year

No exceptions are allowed unless outstanding performance can be documented and exception is approved by City Manager.

To further clarify--if an employee is hired at "C" step, he/she will receive performance evaluation at three months, six months, and one year but will not be eligible for a merit increase until one year has elapsed.

Employees are encouraged to keep all personal telephone calls to a minimum. Friends and relatives should be discouraged from calling during working hours unless there is an emergency. Personal calls should be made during break periods or lunch whenever possible. Personal long distance or toll calls are to be charged to the employee's own telephone number or long distance calling card.

#### **9.11 Dress and Grooming Standards**

- A. Office employees often have contact with the public and, therefore, represent the City in their appearance as well as by their actions. The properly attired employee helps to create a favorable image for the City. Accordingly, the personal appearance of office workers is to be governed by the following standards:
- (1) Employees are expected to dress in a manner that is normally accepted in business establishments. Employees are expected to utilize good judgment in determining their dress and appearance. Clothing and appearance should be neat, clean, and in good business taste, and not constitute a safety hazard.
  - (2) Employees shall present a businesslike appearance and refrain from wearing sexually suggestive attire, denim (blue jeans) and sweatshirt clothing, shorts, T-shirts, casual sandals, tennis shoes, and similar items of casual attire.
  - (3) Men must wear dress shirts (long or short sleeves) or polo shirts with collars. Dress shirts and ties must be worn to official public meetings.
- B. Certain positions within City service require that a uniform be worn. The uniform identifies the individual as a City employee. Uniforms should always be neat and clean. Uniforms furnished by the City may be worn to and from work, but they are not a substitute for personal attire.
- C. If an employee reports for work improperly dressed, the supervisor should instruct the employee to return home and change clothes or to take other appropriate corrective action. The employee will not be compensated during such time away from work, and repeated violations of the policy will be cause for disciplinary action.



**10.01 Vacation Leave**

- A. The City believes that its employees and the City benefit when employees have scheduled time away from work for relaxation and recreation. In order to provide for such absence without concern for continuation of pay, the City has adopted the following paid vacation leave plan.
- B. Unless otherwise provided by prior and continuing agreement for certain employees, paid vacation leave shall be accrued on a hourly basis as follows:

<u>Months of Employment</u>	<u>General</u>	<u>Fire</u>
12-36 completion months	10 days/year <u>OR</u> 3.08 hours/pay period	112 hours/year <u>OR</u> 4.308 hours/pay period
37-120 completion months	15 days/year <u>OR</u> 4.62 hours/pay period	168 hours/year <u>OR</u> 6.461 hours/pay period
121 + months	20 days/year <u>OR</u> 6.15 hours/pay period	224 hours/year <u>OR</u> 8.616 hours/pay period

Permanent, part-time employees shall be entitled to vacation at one-half the rate allowed for permanent full-time employees.

<u>Months of Employment</u>	<u>Days of Vacation</u>
12-36	5 days/year or 1.54 hours/pay period
37-120	7.5 days/year or 2.31 hours/pay period
121 or more	10 days/year or 3.08 hours/pay period

- C. Vacation time shall be accrued at the rate described above, provided, however, that no vacation time shall be accrued during the probationary period, generally the first six months (or first one year) after an employee's date of hire. Vacation time shall begin to be accrued after the expiration of the probationary period. In addition, after the expiration of the probationary period, the employee shall be credited with the vacation time which otherwise would have been accrued during the probationary period.

- D. Employees shall be allowed to accumulate up to two times their annual accrued rate of vacation, determined according to these rules. Employees who have reached the maximum permitted accrual shall not earn vacation until the employee takes vacation. Once an employee takes vacation and brings the accrued vacation below the maximum permitted, the employee shall then begin to again earn vacation at the appropriate rate, until and unless the maximum permitted accrual is again reached. The City Manager may direct any employee to use vacation time in order to ensure that the accrual does not exceed the two year maximum. Upon termination of employment, an employee shall be entitled to pay, at the employee's rate of pay at the time of termination, for all unused vacation time up to the maximum permitted accrual. No compensation shall be paid for any vacation time in excess of the two year maximum permitted accrual.
- E. Request for vacation time shall be filed with the Department Head according to departmental procedures and in accordance with City leave request procedures. All Department Head requests must be approved by City Manager prior to leave date. The City Manager may authorize or deny vacation requests at his or her discretion to best meet the needs of the City. No vacation shall be authorized for any employee until after the employee has completed one year of full-time employment with the City unless authorized in writing by the City Manager.
- F. For Firefighter employees vacation leave shall be taken at the time designated by the Department Head. Miscellaneous and Lifeguard employees may take vacation at any time subject to the prior approval of the Department Head. Employees who are at, near, or exceed their vacation limit, may be required to take vacation in order to reduce the accrued vacation time.
- G. In the event an official holiday falls within an employee's scheduled vacation leave, such holiday shall not be considered as vacation leave used by the employee.
- H. Vacation usage may not exceed the accrued vacation balance as of the prior pay period.
- I. As set forth in paragraph D, above, employees who have reached the maximum permitted accrual shall not earn vacation until the employee's vacation is brought below the maximum limit.
- J. The City Manager may temporarily waive the maximum accrual limits on a case-by-case basis for employees who have been unable to take vacation because of work load, staffing or other exigent circumstances. The waiver shall be in writing and shall set forth the reasons for the temporary waiver. The waiver request must be submitted to the City Manager in writing. In granting the waiver the City Manager may establish a schedule for use of vacation by the employee.

- K. Upon termination of employment with the City, an employee shall receive pay for his/her current vacation leave balance up to and not exceeding the maximum permitted vacation leave accrual at his/her current base hourly rate.

#### 10.02 Sick Leave

- A. The City provides a sick leave program for the purpose of minimizing the economic hardships that may result from personal or dependent health care, illness or injury.

- B. Accrual

All full-time employees shall accrue sick leave at the rate of eight hours for each calendar month of service. Part-time permanent employees shall accrue sick leave at the rate of four hours per calendar month. Fire employees who regularly work a schedule that averages 56 hours per week shall accrue sick leave at the rate of 7.385 hours per biweekly pay period. There shall be no limit to the amount of sick leave that an employee may accumulate.

- C. Use

Sick leave may be used for personal illness or injury, emergency or routine medical or dental appointments, including disability due to pregnancy as provided in the Maternity Leave subsection, and for reasonable travel time to and from health care facilities. Sick leave slips shall be completed and approved before leave is taken for all dental, doctor appointments, etc. and shall be completed no later than the day employee returns to work after taking sick leave for illness.

If the amount of sick leave taken for a particular illness or injury is 24 hours (or two shifts) or less, the Department Head may accept the employee's reason for use of sick leave or may require a certificate from a physician or other health care practitioner. Any use of sick leave in excess of 24 hours (or two shifts) shall require a certification from a physician or other health care practitioner. Use of sick leave for routine medical check-ups and appointments shall be permitted upon prior authorization by the Department Head. An employee taking sick leave the day before and/or the day after a holiday must submit a valid doctor's verification within three days after returning to work. Such verification shall be placed in the employee's personnel file.

The City Manager may authorize the use of up to three days (five days if the funeral is out of town) of sick leave for the purposes of bereavement. (See also Section 10.03.)

D. Family Care

Up to 60 hours or 56 hours for certain Fire safety employees working shift schedules, of sick leave may be used per calendar year to care for members of the employee's immediate family who are ill or injured. Immediate family means: parent, step-parent, and any other family member living in the same household as the employee qualifying as a dependent for Internal Revenue purposes. Family care may be used for the care of newborn infants.

E. Sick Leave Conversion

Twenty-four (24) hours of accumulated sick leave may be converted annually to vacation leave, provided that the employee maintains a minimum sick leave accrual balance of 168 hours after sick leave is converted to vacation and further provided that the employee has less than the maximum permitted vacation time accrual. The conversion may be made annually during the month following the anniversary date of the employee's date of hire. No sick leave conversion shall be permitted if the employee has used more than three days (24 hours) of sick leave during the prior year.

F. Notwithstanding anything in this paragraph 10.02 to the contrary, an employee who is retired for any reason shall not be entitled to credit or pay for, or to use, sick leave except as provided in this subparagraph F. An employee who is otherwise eligible for a disability retirement shall be retired notwithstanding any accumulated sick leave.

**10.03 Bereavement Leave**

A. Employees may utilize up to three days of sick leave (up to five days if funeral is more than 500 miles from City) as bereavement leave for each death in their immediate family for the purpose of bereavement, and for the arranging of and attendance at, the funeral. Immediate family means: spouse, parent, grandparent, step-parent, child, step-child, brother, or sister. Fire safety employees working shifts may take up to three consecutive shifts provided that no more than five calendar days are involved.

B. The employee may be required to submit proof of relative's death before final approval of leave with pay is granted.

**10.04 Jury Duty**

An employee ordered by the court to serve on jury duty, shall receive paid time while serving such duty, if the employee deposits with the City all fees for services and mileage.

#### **10.05 Witness Duty**

- A. An employee who serves as a witness within the line of duty, or on a case related to the employee's duties, will receive paid time for such service.

51

- B. An employee required to be absent from work by properly issued court subpoena which compels the employee's presence as a witness, unless the employee is a party or an expert witness, shall receive release time to comply with such subpoena.
- C. An employee who serves as a witness within the line of City duty or on a case related to the employee's job, on a day that is a regularly scheduled day off, shall be paid at the employee's base hourly rate or at time and one-half, if the employee otherwise qualifies for overtime compensation, for all hours the employee is actually required to be in court.
- D. To receive paid time as provided above, the employee shall deposit with the City any witness fees and mileage actually received.
- E. Pursuant to Government Code Section 68097.2, Fire safety employees who are obligated by a subpoena to appear as a witness shall be compensated by the City. No subpoena for a Fire safety employee shall be accepted unless the person at whose request the subpoena was issued pays the amount required by Section 68097.2 to the City at the time the subpoena is served.
- F. When an employee testifies as an expert witness, except on behalf of the City of Solana Beach or other governmental entity, and receives compensation therefore, the employee shall do so on the employee's own authorized leave time and only in accordance with the applicable rules for outside employment.

#### **10.06 Maternity Leave/Family Leave**

- A. An employee disabled by pregnancy, child birth, or related medical condition shall be granted leave for the duration of the disability, as needed for all disabilities related to each pregnancy. An employee may utilize time from her accrued vacation balance or accrued sick leave balance to cover the period of her absence. An employee may request up to four months of time off (includes vacation, sick leave, and leave without pay). No benefits shall accrue during time off without pay. Pay for holidays shall be made only if the holiday occurs during paid leave time.
- B. An employee who may take maternity leave should give the City reasonable (a minimum of three months prior to taking leave) advance notice, and an estimate of the duration of her absence. An employee returning to work from maternity leave of absence shall return to the

same classification and pay step as she was assigned prior to taking maternity leave.

Upon returning from authorized maternity leave, the employee shall not forfeit credit for previous service as a result of leave taken for pregnancy, childbirth or a related medical conditions.

52

- C. The employee shall notify the City at least ten working days prior to her return from maternity leave of her intention to return to work, and provide the City with satisfactory written verification from a physician or other licensed health care practitioner that her disability has ceased.
- D. If an employee is on unpaid leave for more than 30 days, their right to the next merit increase shall be postponed for the duration of the unpaid leave.
- E. The City Manager shall have authority to equitably adjust the provisions of this section to accommodate emergency situations or extenuating circumstances.
- F. Any eligible employee may take unpaid family leave pursuant to the applicable provisions of state and federal law. Family leave may be taken in conjunction with, or in addition to, maternity leave only to the extent required by state or federal statute.

**10.07 Unpaid Leave Other than Maternity or Family Leave**

- A. An employee may be granted up to 30 days of unpaid leave of absence at the sole discretion of the City Manager. Unpaid leave shall be granted only for compelling reasons if operational requirements permit such absence. Leave without pay shall not be granted unless the employee has already used all appropriate paid leave.
- B. An unpaid leave may be extended beyond 30 days with the approval of the Department Head and the City Manager.
- C. No benefits shall accrue while employee is on unpaid leave of absence.
- D. If an employee is on unpaid leave for more than 30 days, their right to the next merit increase shall be postponed for the duration of the unpaid leave.

**10.08 Military Leave**

- A. Military leaves of absence are authorized, without pay, except as

provided below or required by law. In order to be eligible, employees must submit written verification from the appropriate military authority. The City will reinstate employees returning from military leave to their same position or one of comparable seniority, status and pay if they:

- (1) Have a certificate of satisfactory completion of service.
- (2) Apply within 90 days after release from active duty or within such extended period, if any, as their rights are protected by law.
- (3) Are qualified to fill their former position.

53

- B. Exceptions to this policy will occur whenever necessary to comply with applicable laws.
- C. An employee who has more than 12 months service with the City and who is on temporary military duty ordered for the purposes of active military training, encampment, naval cruises, special exercises, or like activity shall be on leave with pay for the first 30 days of such leave provided the temporary military duty does not exceed 180 calendar days. Inactive duty, such as scheduled reserve drill periods, is not considered as active military duty and does not qualify. Leave with pay shall not exceed 30 calendar days in any one fiscal year unless specifically authorized by the City Council.

#### **10.09 Medical Leave - Non-occupational**

- A. Regular full-time and regular part-time employees who are temporarily disabled and unable to work due to a personal illness or injury, may be granted an unpaid medical leave of absence.
- B. Medical leaves may be authorized only on the basis of a physician's written statement that the employee is not able to work due to a medical disability.
- C. An employee who is granted a medical leave of absence must utilize any accrued sick leave, vacation benefits, and any accrued compensatory time off, in that order, during the initial period of leave. Any portion of a leave that occurs after all sick leave, vacation benefits, and compensatory time off have been exhausted shall be without pay. The total period of all absences related to the same medical condition shall be considered part of the same leave. Unpaid portions of a leave, if granted, shall not exceed four months duration.
- D. An employee who plans to take a medical leave must provide the City with reasonable notice of the date the leave will commence, the estimated duration of the leave, and the expected date of return to

work. When an unplanned medical condition or emergency occurs that does not allow the employee to provide advance notification of the need for a medical leave, the employee must notify the City of the situation at the earliest possible time. The City may require periodic confirmation of the need for continued leave.

- E. Employees returning to work after any medical leave must have a written release from a physician verifying that they are able to return to work and safely perform their duties.
- F. The City will continue to pay group insurance premiums for the first 30 days of an approved unpaid medical leave of absence. If an employee is on leave for a period in excess of 30 days, it is the employee's responsibility to pay the premiums for the balance of the leave.

54

The employee must arrange for all payments of insurance premiums before going on leave. Failure to do so will result in termination of benefits on the thirty-first (31st) day of the leave and the employee will be treated as a new employee upon return from the leave for reinstatement of benefits.

#### **10.10 Medical Leave - Work Related**

- A. Upon written request, an unpaid leave of absence for a work-related disability will be extended to any full-time or part-time employee for the duration of the work-related disability. Employees returning from a leave will be given credit for any portion of a probationary period completed prior to the commencement of the leave of absence. An employee may supplement workers compensation benefits while on disability with earned sick leave, compensatory time or vacation. Benefits paid during a leave of absence for a work-related disability will be coordinated with workers' compensation benefits. Notification requirements for a medical leave of absence for occupational disabilities are the same as those for medical leaves for non-occupational disabilities. The City will retain employees on an extended leave of absence for work-related disabilities until one of the following situations occurs:
  - (1) The employee is released by a physician for full or partial duty.
  - (2) The City receives medical evidence satisfactory to it that the employee will be permanently unable to return to work.
  - (3) The employee directly or indirectly informs the City (i.e., by accepting other employment, moving out of the state, etc.) that he/she does not intend to return to the City's employ.



B. Consistent with applicable workers compensation laws, and provided that the position has not been previously filled or eliminated for economic reasons, an employee who returns to work at the end of his or her leave of absence will be returned to his or her former position or will be offered a comparable position for which he or she is qualified. The employee must provide a physician's statement that indicates that he/she is fit to return to the position designated for the employee.

#### **10.11 Leave Slip Procedure**

Leave slips are to be completed by employees for all time off from work. Leave slips are necessary in order for the Finance Department to complete the review and audit of all time sheets. The slips should be submitted to the Finance Department at the time they are completed in order to verify the leave hours available and subsequently finish the payroll processing. Leave slips must not be held until submission of time sheets; rather, they are to be completed as delineated below. Leave slips must be submitted to supervisor and/or Department Head for approval prior to actual leave being taken. Once signed, all leave slips must be forwarded to the Finance Department; do not wait to attach to time sheet.

55

If employee is away from work due to an illness or emergency, leave slips must be completed the day employee returns to work and forwarded to Finance within two days of the date of the illness or emergency.

#### **10.12. Overtime Request Procedure**

All miscellaneous, permanent and seasonal lifeguard employees must complete an Overtime Request form prior to working any overtime unless the situation is an emergency. If overtime is necessary in an emergency situation, then the overtime slip should be filled out at the end of the overtime worked.

Before the overtime is worked the Department Head or Department Head's designee must sign the authorization form. After the authorization form is signed by the Department Head the Department Head shall cause the employee to be notified and shall forward the completed form to the Finance Department for processing. The City Manager may, by written directive to a Department Head, require that overtime in certain Departments be approved by the City Manager.

#### **10.13 Applicability to Exempt Employees**

In order to assure accountability to the public, exempt employees shall be subject to the leave rules established by Section 10.01 through 10.10 including those times when the employee is absent for less than one day.

#### **10.14 Unauthorized Absences Deemed to be Resignations**

Employees who are absent without authorization for three consecutive

working days and have not contacted their supervisor, Department Head, City Manager or other City Department Head will be deemed to have voluntarily resigned from City employment as of the end of the third day of absence unless the employee can affirmatively demonstrate extenuating circumstances which prevented such notification. Messages delivered via answering machines or faxes will not be considered proper notification.

**10.15 Catastrophic Leave Bank**

Employees may donate certain leave time to be used by other employees stricken with a debilitating disease or illness. Donor employees may transfer up to 25% of the employee's accrued vacation or comp time, or up to 24 hours of sick leave provided the employee is eligible to convert sick leave to vacation in accordance with these rules. Firefighter employees may not donate sick leave. The City Manager may establish procedures to implement this section.

**Section 11**

**LAYOFF AND RE-EMPLOYMENT**

**11.01 Authorization**

The City Manager may lay off, without prejudice, any regular employee because of lack of appropriate funds, curtailment or lack of work, or other reasons. Such layoff shall take effect a minimum of 30 days after the receipt by the employee of a notice in writing of the proposed layoff action.

**11.02 Order of Layoff**

Layoffs shall be by classification within each department. Within each classification, employees will be selected for layoff based upon seniority. When it becomes necessary because of lack of work, lack of funds, or other reasons to reduce the number of employees within a given employee classification, the City Manager or designee, will prepare a layoff list in the following order:

- A. Temporary employees.
- B. Probationary employees.

C. Regular employees.

**11.03 Assignment/Bumping to Another Classification**

In the event of a layoff, employees who have been promoted during their service with the City may bump back one classification in their career series to a position they formerly held, if there is an employee in the lower classification with less seniority than the employee who wants to bump. In addition, with respect to Miscellaneous/Lifeguard employees, in the event of a layoff, employees may bump into classifications in their career series if there is an employee in an equal or lower classification with less seniority than the employee who wants to bump. Employees at a higher classification with more seniority than employees at a lower classification may be assigned to the lower classification in the event of a layoff in which event the employee with less seniority will be laid off. An employee who desires to exercise the bumping rights of this section shall give notice to the Personnel Officer of the election within fourteen calendar days from the date the employee receives notice of layoff.

**11.04 Seniority Defined**

A. For purposes of this provision, for all employees other than Miscellaneous employees (except Miscellaneous Lifeguard employees), seniority shall be defined as the length of paid service in a particular Department since the employee's most recent hire date with the City.

57

For employees whose anniversary dates are the same, seniority may be determined by position on hire list. Time spent in a higher classification shall be added to lower classification in career series to determine seniority. When employees have equal seniority, the order of layoff shall be determined by lot. For Lifeguard employees continuously employed since incorporation, seniority shall be determined from the most recent date of hire by the County.

B. For purposes of this provision, for Miscellaneous employees (except Miscellaneous Lifeguard employees who are covered by paragraph A. of this section), seniority shall be defined as length of paid service since the employees most recent date of hire with the City. For employees whose anniversary dates are the same, seniority may be determined by position on hire list. When employees have equal seniority, the order of layoff shall be determined by lot.

**11.05 Order of Re-employment**

Employees on a layoff re-employment list shall have preference over new hires. Employees on layoff shall be offered re-employment in the inverse order of layoff, provided the employee has the ability to perform essential functions of the offered employment.

**11.06 Notice of Re-employment After Layoff**

Upon notification by the City of the opportunity for re-employment, the employee shall have one week to notify the City of his/her intent to return to work and shall have an additional two weeks to report to work. Employees recalled to work shall return to work at the time specified by the City. Any laid off employee who refuses an offer of employment to the classification from which they were laid off or who fails to report to work shall no longer be eligible for re-employment. The re-employment list shall be valid for one year.

**11.07 Re-employment of Former Employee**

A former employee rehired by the City shall be considered a new employee. They may be required to pass the employee physical at City's expense and will be required to complete and satisfactorily pass the probationary period in order to be rehired as a full-time or permanent part-time employee.

The following special provisions shall apply to employees who have been laid off and then rehired within one year of being laid off:

- A. An employee who is rehired within one year of being laid off shall have reinstated the employee's accumulated sick leave hours on the books at the time of layoff.
- B. An employee who is rehired within one year of being laid off shall earn vacation at the same accrual rate as when they were laid off; provided, however, the accrual shall be subject Rule 10.01 C.

- C. An employee who is rehired within one year of being laid off shall have his/her seniority determined by first determining the period of paid service without regard to the lay off and then deducting the number of days of the layoff.

**Section 12**

**DISCIPLINARY PROCEDURE**

**12.01 Character of Discipline**

**A. Definition**

Discipline is the imposition of reprimands, suspensions without pay, demotions, transfers, reductions in pay, termination or other punitive actions taken by management against an employee. Discipline does not include transfers, reductions in pay, layoffs, or other actions taken for economic or non-punitive reasons. Terminations of an employee during an employee's probationary period or extensions of an employee's probationary period are not discipline, and shall not

be deemed to be discipline, regardless of the reason for the termination or extension. Discipline does not include a denial of benefits such as vacation or sick leave when such denial is justified pursuant to the rules and regulations relating to vacation leave, sick leave or other leaves of absence.

**B. Progressive Discipline**

When disciplinary action is warranted, it is the policy of this City to utilize the least severe forms of discipline warranted by the nature and severity of the offense, and the employee's prior record. Repetitive misconduct or unsatisfactory performance shall be disciplined by increasingly severe disciplinary action in order to provide the maximum opportunity for the employee to conform with the organization's standards. This does not imply that all forms of discipline must be utilized or a prescribed sequence of discipline followed before the more harsh disciplinary actions are applied. The City retains the right to impose whatever discipline is appropriate under the circumstances.

**12.02 Authority to Discipline**

The City Manager, Assistant City Manager, and Department Heads are authorized to implement and administer disciplinary action on employees under their control in accordance with these rules. Every supervisor shall assist their superiors in achieving sound performance, and acceptance of a supervisory position shall constitute acceptance by that employee of the corresponding duties and responsibilities, including those disciplinary in nature. Failure to take disciplinary action when appropriate reflects negatively on the performance of the supervisor or supervisors involved.

**12.03 Causes for Discipline**

Each of the following constitute cause for imposing disciplinary action of an employee. The following is not an exclusive list but is provided as an illustrative guideline and standard to employees which is more clear than that which a more generalized rule would provide. It is the intent of this rule, however, to include as a cause for discipline any action or non-action by an employee which impedes or disrupts the performance of the City and its organizational component units, is detrimental to employee morale or safety, violates properly established rules and procedures, or adversely affects the reputation of the City and its officers or employees. It is not the intent of these rules to include as a cause for discipline any action or non-action by an employee which represents the

exercise of a constitutional right or privilege, or the exercise of a right or privilege granted by federal, state or municipal law in so far as such exercise is within their right as a municipal employee of their category and classification. Examples of causes for discipline include, but are not limited to:

- A. Fraud in securing appointments.
- B. Performing the duties of the employee's position in an incompetent manner.
- C. Performing the duties of the employee's position in an inefficient manner.
- D. Performing the duties of the employee's position in an untimely manner.
- E. Performing the duties of the employee's position in a careless manner.
- F. Failure to possess and/or utilize the minimum qualifications required for the position.
- G. Dishonesty in the performance of the duties of the position.
- H. Failure to be present at assigned places and times, including excess absenteeism or excessive tardiness.
- I. Insubordination.
- J. Failure to treat superiors, other employees or the public with respect and courtesy.
- K. Use of alcohol or being under the influence of drugs or controlled substances on duty (exception: use of over-the-counter or prescription drugs provided the Department Head is informed of all label, pharmaceutical, or manufacturer warnings relating to side effects of the drug where the side effects could affect work performance and provided the employee complies with such warnings.)
- L. Illegal use or possession of alcohol or controlled substances while on duty.

- M. Any dishonest or wrongful conduct, act, or omission either during or outside of duty hours which is of such nature that it causes discredit to an employee's department or employment, or which conduct, act, or omission has a disruptive effect on the efficiency or integrity of the public service. This provision applies to off duty conduct, acts or omissions only if the employee is in City uniform, operating a City vehicle or is otherwise identifiable as a City employee. Off duty omissions are subject to this provision only if under the circumstances an employee is legally obligated to take

an action.

- O. Conviction of a felony, serious misdemeanor or any crime involving moral turpitude. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, to a charge of a felony or any offense involving moral turpitude is deemed to be a conviction within the meaning of this Section.
- P. Misuse, misappropriation, or theft of City or other publicly owned property.
- Q. Failure to fully comply with the laws, rules, regulations, or policies of the City relating to the conduct of employees.
- R. Failure to comply with safety rules, standards, or regulations.
- S. Misusing or abusing sick leave benefits by reporting sick when not sick, or obtaining sick leave pay falsely or under false pretenses. Making a false claim for compensation, benefits or reimbursement. Making a false industrial accident or workers' compensation claim.
- T. Falsification of City records.
- U. Unauthorized sleeping on the job.
- V. Participating in a strike, work stoppage, slowdown, or sickout in violation of a memorandum of understanding or by safety employees.
- W. Improper and constitutionally unprotected political activity which prevents an employee or other employees from the efficient performance of employment with the City or which has a disruptive effect on the efficiency or integrity of the City service or the department in which such employee is employed.
- X. Failure or refusal to cooperate with supervisory personnel or other employees when failure to do so is detrimental to the efficiency of the City service.
- Y. Misuse or misappropriation of City property or funds.
- Z. Refusal to take and subscribe to any oath or affirmation which is required by law or these rules in connection with his or her employment.

- AA. Refusing to report on official call in an emergency.
- BB. Violation of departmental rules and regulations duly promulgated by a Department Head in accordance with these rules.



CC. Acceptance of bribes or acceptance of gifts (including without limitation goods or services at a price less than that commercially available to consumers) or acceptance compensation of any nature from any person, corporation or firm of the public for whom the employee exercises authority with respect to the issuance of any City permit, lease, or approval.

#### **12.04 Disciplinary Procedure**

##### **A. Minor Discipline**

Disciplinary action of a nature which will result in no direct loss of salary or a loss in salary represented by a suspension without pay of 24 hours or less (two shifts or less for Firefighters) shall be accomplished in such manner as deemed prudent by the Department Head. Minor discipline may be imposed without pre-disciplinary notice and hearing. Examples of such disciplinary action are oral and written reprimands, and suspensions without pay of 24 hours or less (2 shifts or less for Firefighters). An employee may appeal such minor discipline to the City Manager in accordance with Section 12.05 after the disciplinary action has been imposed.

##### **B. Major Discipline**

Punitive disciplinary action of a nature which may result in the direct reduction or loss of employee salary, except for suspensions without pay for 24 hours or less (2 shifts for Firefighters), shall conform to the following procedure:

- (1) Pre-Disciplinary Notice. The employee shall be served personally or by certified mail with a written notice of the proposed disciplinary action citing the reasons for the proposed action and the time and place of the hearing on the proposed action; notice shall also include a copy of the charges. The charges shall be sufficiently detailed so as to give the employee fair opportunity to rebut the charges. Access to materials upon which the action is based shall be provided. A copy of the notice shall be filed immediately with the Personnel Officer.
- (2) Employee Right to Respond. The employee shall have the right to respond, either orally or in writing, to the Department Head within five working days.

- (3) Employee Pre-Disciplinary Hearing.

- (a) Unless the right to a hearing is waived by the employee in writing, a hearing shall be held not sooner than three days after the employee's receipt of notification. The length of notice should consider the complexity of the charge, severity of the proposed action, and the urgency of the situation. The hearing may be held sooner than three days or at such other time if mutually agreed upon by the employee and the Department Head.
- (b) At a minimum the following persons shall participate in the hearing: the employee and/or the employee's representative, the disciplining supervisor, and the hearing officer.
- (c) The purpose of the hearing is to review all pertinent facts, discover any additional information relating to the case, and afford the employee an opportunity to respond to the charges and proposed action.
- (d) Definitions
  - [1] Disciplining Authority: The person authorized under the rules of the department to impose the discipline.
  - [2] Hearing Officer: The Department Head unless he or she is the disciplining authority, in which case the City Manager shall designate a hearing officer.
  - [3] Personnel Officer: The Assistant City Manager who has the responsibility to insure the proper adherence to the disciplinary process and documentation control in respect to an employee's personnel file.
- (e) The conduct of the pre-disciplinary hearing may be informal, but should reflect the nature of the charges being considered and the discipline proposed. The City shall have the right to call the employee as a witness and the employee shall be subject to the subpoena power of the City. The employee may call a reasonable number of witnesses. If the employee desires to call other employees as witnesses, the Department Head shall authorize such employees to attend the hearing as witnesses.
- (f) After hearing all testimony by both sides, and concluding the hearing, the hearing officer may further investigate prior to making a determination of the matter.
- (g) The hearing officer shall have the authority to take the final disciplinary action subject to the appeal right provided in Section 12.05.

(h) [1] The hearing officer shall render a decision in writing to the employee and Personnel Officer.

[2] The Personnel Officer shall cause written decision within five days unless action is appealed in accordance with 12.05 and action shall be deemed final.

(4) Mediation

In the event the employee is not satisfied with the decision of the Personnel Officer, the employee may within seven calendar days from notice of the decision request in writing the mediation services of the State Mediation and Conciliation Services. If the Mediation and Conciliation Services fails to effect a resolution between the parties, then the matter may proceed to an appeal to the City Manager as provided in Section 12.05. The recommendations of the mediator are non-binding.

**12.05 Appeal to City Manager**

A. Employee Right of Appeal

An employee has the right to appeal to the City Manager within seven calendar days of notification of a decision of disciplinary action. The appeal request shall be filed with the City Manager with a copy forwarded to the Personnel Officer. The appeal request must specify the findings and discipline to which exception is taken, the reasons why, and the revision requested in the disciplinary action imposed.

B. City Manager Hearing

The City Manager shall hold an informal hearing with the employee, employee's representative, supervisor, Department Head, and hearing officer to review the facts of the case and the intended discipline. The City shall have the right to call the employee as a witness and the employee shall be subject to the subpoena power of the City. The City Manager shall notify in writing the employee, the Department Head, the hearing officer, and the Personnel Officer of the decision. The City Manager may delegate the responsibility for hearing and rendering the decision on any appeal.

**12.06 Prehearing Suspension**

When, in the opinion of the City Manager, it is in the best interest of the City, or when the presence of the employee at work would be contrary to employee morale, the City Manager may place the employee involved on suspension with pay prior to the pre-disciplinary hearing, or without pay at any other point in the procedure. If no discipline is imposed, or if the discipline is less than a suspension without pay, the employee will be entitled to reimbursement for his/her salary during the suspension. If the discipline ultimately imposed is a suspension or greater in severity, then the employee will not be entitled to such reimbursement unless so allowed in part or in whole by the City Manager.

**12.07 Certain Disciplinary Guidelines**

A. All disciplinary action shall be placed in employee's personnel file.

B. Written Reprimand

A copy of any written reprimand shall be placed in the employee's personnel file.

C. Suspension Without Pay

A single suspension without pay shall not exceed 30 calendar days, nor shall any employee be penalized by 2 or more suspensions without pay totaling more than 30 calendar days in any 1 fiscal year.

D. Reduction in Pay

Reductions in pay shall become effective at the beginning of the next payroll period following the effective date of the disciplinary action.

E. Demotion

Demotions shall become effective at the beginning of the next payroll period following the effective date of the disciplinary action.

F. Dismissal

An employee who has been dismissed from the City service shall be paid salary accumulated to the effective date of terminations, any compensatory time accumulated, and accrued vacation time (if eligible therefore).

66  
Section 13

**EMPLOYEE GRIEVANCE PROCEDURE**

**13.01 Purpose**

The purpose of this grievance procedure is to provide a just and equitable method for the resolution of grievances as quickly as possible without discrimination, coercion, restraint, or reprisal against any employee or management representative who may be involved in a grievance or its resolution. It is recognized that many disputes regarding employment matters within a department or the City can and should be resolved quickly at the lowest level possible. However, in the event that such resolution does not occur, the procedures set forth in this grievance procedure shall be followed.

**13.02 Definitions**

A. Grievance

A grievance is an expressed claim (as described in this grievance procedure) by an employee, or group of employees with respect to events which have actually occurred where it is alleged that the City has violated, misinterpreted or mishandled an obligation to the employee(s) as written in the City's Personnel Rules and Regulations, Memorandum of Understandings, Compensation Plans, Administrative Directives, or other written rule or regulation of the City related to terms, conditions or requirements of employment.

B. Non-reviewable Grievances

A grievance is not for resolving complaints, requests or changes in wages, hours or working conditions and would not be reviewable under this procedure, if it results from:

- (1) Applications for changes in title, job classification or salary.
- (2) Appeals of an employee evaluation or performance review.
- (3) A decision not to hire or rehire a particular person

General decisions to impose non-disciplinary layoffs, transfers, demotions, suspensions, terminations or reductions in pay are not subject to the grievance procedure. Alleged violations relating to the application of these rules relating to such matters to individual employees are subject to the grievance procedure.

C. Non-applicability of grievance procedure to discipline.

Appeals of disciplinary decisions are addressed in Section 12. The grievance procedures set forth in this Section 13 do not apply to decisions relating to the imposition of discipline on a particular employee or particular employees. Where it is alleged that discipline has been improperly imposed with respect to an employee because of a misapplication or misinterpretation of a rule or regulation, that issue shall be addressed in the disciplinary proceeding. However, where threatened discipline is based upon an alleged misapplication or misinterpretation of a rule or regulation, use of the grievance procedure is appropriate.

**13.03 General Provisions**

Any formal written grievance filed under this procedure must be on the City's Grievance Form, or a comparable form used by the employee organization which is the designated representative of the employee, and contain the following information:

- A. The specific written rule, regulation, or agreement allegedly being violated, misinterpreted, or misapplied.
- B. The specific act or omission which gave rise to the alleged violation, misinterpretation, or misapplication.
- C. The date or dates on which the alleged violation, misinterpretation, or misapplication occurred.
- D. A list of witnesses the employee desires to have available for the hearing.
- E. The remedy requested.
- F. The name(s) the employee(s) filing the grievance and the signature of the employee(s) or the person filing the grievance on behalf of the employee(s).

When filing a formal written grievance the employee may be represented in their grievance conference by one representative provided that 48 hours prior to the grievance conference the employee informs the person hearing the grievance that they will be utilizing a representative and who that person is. If the representative is an employee of the City the representative will be given paid time off in order to attend the grievance procedure. The employee must be personally present at all required discussions or conferences concerning their grievance per this procedure. Management may be assisted in the grievance conference as

necessary in order to decide the grievance in a proper and timely manner. The provisions of this paragraph regarding notification of a representative shall not apply to a representative who is a field representative of the recognized employee organization representing the employee(s).

68

Failure by management to reply to an employee's grievance within the time specified, automatically grants the employee the right to appeal the grievance to the next level within five days. If the employee does not appeal a decision within the time specified the grievance shall be considered settled on the basis of the last decision and the grievance shall not be subject to further appeal or reconsideration.

The City may choose to consolidate similar employee grievances into one grievance conference. However, when similar grievances are filed by more than three employees the affected employees shall designate a maximum of three employees and three representatives to represent the group in all steps of this procedure.

If the grievance involves a Memorandum of Understanding, the City, if it so chooses, upon informing the grieving employee shall be permitted an additional 15 calendar day period during any step in the process to discuss with the employee association the grievance before a decision is issued to the employee. This paragraph shall not apply if the employee association files the grievance or is representing the employee with respect to the grievance.

Any provision of the grievance procedure, including time periods, may be waived or modified with the mutual consent of the City and the Grieving employee.

#### **13.04 Procedure**

##### **A. Step One -- Informal Grievance**

Before filing a formal written grievance an employee should first try to resolve it informally through discussion with their immediate supervisor. If the employee's immediate supervisor is a Department Head they should also use this informal process with their Department Head to resolve their grievance. If after this discussion, the employee does not believe the grievance has been satisfactorily resolved, the grievance should be articulated on the Grievance Form and submitted to their Department Head to begin the Formal Grievance process.

- (1) The employee shall inform their immediate supervisor (either verbally or in writing) of their grievance within fourteen calendar days after the employee knew, or in the exercise of reasonable diligence should have known, of the events giving

rise to the grievance.

- (2) Within five calendar days after being informed of the grievance, the supervisor will have a discussion with the employee concerning the grievance.
- (3) Within five calendar days of the discussion, the supervisor will render a verbal or written decision to the employee.

69

B. Step Two -- Formal Grievance

If the employee is not able to resolve their grievance informally in step one, they should file a Formal Written Grievance on the form provided.

- (1) Within ten calendar days from the receipt of the decision from their immediate supervisor, the employee, if they wish to appeal the decision shall submit a Formal Written Grievance to their Department Head on the Grievance Form.
- (2) Within ten calendar days of receipt of the Formal Written Grievance, the Department Head will hold a grievance conference at a mutually agreeable time.
- (3) Within 20 calendar days of the conference, the Department Head will render a written decision to the employee.

C. Step Three -- Mediation

In the event the employee is not satisfied with the decision of the Department Head, the employee may within ten calendar days of the date of the decision request in writing through the City Manager the mediation services of the State Mediation and Conciliation Services. If the mediator is unable to effect an agreement between the parties then the matter shall proceed to step four, unless the employee withdraws the grievance in writing. The recommendations of the mediator are non-binding.

D. Step Four -- Appeal of Formal Written Grievance

- (1) Within 15 calendar days from receipt of the written decision from their Department Head, the employee, if he/she wishes to appeal the decision shall submit a Formal Written Grievance to the City Manager. The appeal shall include an explanation of why the employee believes the Department Head's decision was not proper.
- (2) Within ten calendar days of receipt of the appeal, the City



Manager or designee will hold a grievance conference at a mutually agreeable time.

- (3) Within ten calendar days of the conference, the City Manager or designee will render a written decision to the employee. The decision of the City Manager or designee shall be final.

70  
CITY OF SOLANA BEACH

GRIEVANCE FORM

TO: \_\_\_\_\_

DATE: \_\_\_\_\_

FROM: \_\_\_\_\_

I, the undersigned, after informally discussing my grievance with my immediate supervisor and not agreeing with their decision, wish to file this Formal Written Grievance.

Description of grievance including the written agreement that was violated, when and how it was violated, and any supporting information for your position (see Grievance Procedure for additional information).

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Remedy requested to settle this grievance.

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Grievant's Signature

CITY OF SOLANA BEACH

PERSONNEL RULES & REGULATIONS MANUAL

RECEIPT FORM

Per Section 1.05 of the Personnel Rules & Regulations, all current and new employees will receive a copy of this manual. As changes are made, employees will be notified in writing of said changes.

By my signature below, I certify that I have received a copy of the City of Solana Beach's Personnel Rules & Regulations Manual.

Name (please print)\_\_\_\_\_

Signature\_\_\_\_\_

Department\_\_\_\_\_Date\_\_\_\_\_

Additional copies of the Personnel Rules & Regulations Manual are available from the Personnel Department.