

**CITY OF SAN JUAN CAPISTRANO**

**PERSONNEL RULES AND REGULATIONS**

**REVISED SEPTEMBER 2007**

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PERSONNEL RULES & REGULATIONS**

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## **RULE 1      ADMINISTRATION OF PERSONNEL RULES AND REGULATIONS**

This manual contains statements of personnel rules and regulations. It is designed to provide the guidelines and procedures regarding personnel issues in the administration of the City of San Juan Capistrano personnel system.

These written rules and regulations should increase understanding, eliminate the need for personal decisions on matters of City-wide policy and help assure uniformity throughout the organization.

The rules and regulations encompassed in this manual are established for all employees as defined in Article 4, Section 2-5 of the San Juan Capistrano Municipal Code.

By departmental executive order, Department Heads shall have the authority to develop and adopt additional rules affecting their departments as necessary. Such departmental rules shall be supplementary to these rules, shall be consistent herewith and shall in every case be approved in writing by the City Manager prior to implementation.

### **Section 1.01 Personnel Officer**

The City Manager shall act as Personnel Officer and shall administer the provisions of these rules. The City Manager may delegate the day-to-day administrative responsibilities of the Personnel Officer to any other officer or employee he/she shall so designate.

The Personnel Officer as provided in the Municipal Code shall interpret and apply these rules and may prepare amendments as required.

The Personnel Officer is authorized to establish administrative policies for the purpose of delineating day-to-day operating procedures with respect to general City administration.

### **Section 1.02 Personnel Records**

The Personnel Office maintains a personnel file for each employee. This includes salary history, promotion, evaluations, leaves of absence, address and other information concerning an employee's status.

The City relies on the employee and the supervisors for information on changes in address, marital status or number of dependents. Any changes must be reported by the employee or the supervisor within 30 days to the Personnel Office so that records remain current.

Every appointment, transfer, promotion, demotion, change in salary rate and/or any other temporary or permanent change in status of employee shall be approved by the Personnel Officer in the manner prescribed.

Any employee has the right to inspect the personnel file designed for that employee. If the file contains information that the employee does not agree with, the employee may prepare a separate written response and request that the Personnel Officer place the response in the file.

The personnel record of any person employed by the City should be kept for a period consistent with State and Federal guidelines.

### Section 1.03 Protection of Right to Privacy

- A. Access by City Employees. Department Head shall have access to specific information in an individual's personnel record, which is necessary to the performance of their assigned City duties. In the event that an employee applies for a position outside the present department, the prospective Department Head shall have access to that employee's file.
- B. Access by Public. The following employment information shall be released to members of the public upon request: the individual's name, date of hire, and current position title and confirmation of employee's rate of pay.
- C. Access Required by Subpoena and Other Laws. Personnel information must be released pursuant to a subpoena or in other circumstances where the City is required by law to release the information. Any questions concerning release of information under such circumstances or concerning records which may be subject to legal privilege shall be directed to the Personnel Officer.

## **RULE 2      DEFINITIONS**

### A. General Definition

All words and terms used in these rules and in any resolution or ordinance dealing with personnel policies, systems, or procedures shall be defined as they are normally and generally defined in the field of personnel administration.

B. Specific Definition

1. Affirmative Action - Activities used to assure current decisions and practices enhance the employment, upgrading and retention of members of protected groups. Such actions go beyond refraining from practices that discriminate.
2. Allocation - The assignment of a position to an appropriate class in accordance with its duties and responsibilities.
3. Appointing Authority - The City Manager pursuant to Ordinance No. 474. The City Manager may delegate appointing authority to the Assistant City Manager or Department Heads subject to review.
4. Classification - A group of positions having duties and responsibilities sufficiently similar so that the same requirements as to education, experience, knowledge, and ability may be demanded of incumbents and so that the same schedule of compensation may be made to apply with equity to all.
5. Compensation - The salary, wage, allowance, and all other forms of valuable consideration earned by or paid to any employee by reason of service in any position, but does not include expenses authorized and incurred incidental to employment.
6. Confidential Employee - Employees designated as such by resolution of the City Council, who in the course of assigned duties have access to information relating to the City's administration or employer-employee relations or who assists a Department Head in the processing of confidential materials relating to the performance of employees within a department. Employees currently designated as confidential employees by the City Manager are those employees currently filling positions allocated to the following classifications:

ADMINISTRATIVE COORDINATOR  
COMMUNITY SERVICES MANAGER  
BUILDING AND CODE ENFORCEMENT SERVICES MANAGER  
EXECUTIVE ASSISTANT  
HISTORIC PRESERVATION MANAGER  
PUBLIC WORKS MANAGER  
WATER ENGINEERING MANAGER  
WATER OPERATIONS MANAGER  
ALL PERSONNEL IN ADMINISTRATIVE SERVICES DEPARTMENT  
ALL PERSONNEL IN THE CITY MANAGER'S OFFICE  
INCLUDING CITY CLERK PERSONNEL

7. Demotion - The appointment of an employee to a classification having a lower maximum salary range either as a result of a disciplinary action or at the request of the employee.
8. Department Head - The head of an established department, having supervision of such department.
9. Dismissal - Discharge of an employee for a valid reason. Disciplinary action involuntarily separating employee from employment, re-employment, reinstatement, promotion or transfer.
10. Eligibility List - A list of qualified individuals who have achieved minimum rank or score in an examination for employment, re-employment, reinstatement, promotion or transfer.
11. Executive Employee - Employees designated as such by resolution of the City Council including employees currently filling the positions allocated to the following classifications which are exempt from the disciplinary provisions of the Personnel Rules and Regulations:

CITY MANAGER  
 CITY ATTORNEY  
 ASSISTANT CITY MANAGER  
 ADMINISTRATIVE SERVICES DIRECTOR  
 COMMUNITY SERVICES DIRECTOR  
 ENGINEERING & BUILDING DIRECTOR  
 PLANNING DIRECTOR  
 PUBLIC WORKS DIRECTOR

12. Immediate Family - The employee's spouse, child, foster child, grandchild, stepparent, legal guardian, stepchild, parent, brother, sister, grandparent, mother-in-law and father-in-law. Or, any relative living in the immediate household of the employee.
13. Layoff - Separation of an employee from employment with the City in the event, in the judgment of the City Manager, as recommended by the City Council, it becomes necessary to abolish services provided by the City because of the economy or efficiency and as further defined in these rules as to procedure.
14. Management - Employees designated as such by resolution of the City Council including, but not necessarily limited to the employees currently filling positions allocated to the following classifications:

ACCOUNTING MANAGER  
 ADMINISTRATIVE SERVICES MANAGER  
 CITY CLERK  
 COMMUNITY SERVICES MANAGER

BUILDING AND CODE ENFORCEMENT SERVICES MANAGER  
ECONOMIC DEVELOPMENT MANAGER  
HISTORIC PRESERVATION MANAGER  
MANAGEMENT ANALYST  
HUMAN RESOURCES MANAGER  
PRINCIPAL PLANNER  
PUBLIC WORKS MANAGER  
SENIOR CIVIL ENGINEER  
SENIOR CIVIL ENGINEER – ENVIRONMENTAL SERVICES  
SENIOR ENGINEER  
SENIOR MANAGEMENT ANALYST  
SENIOR PLANNER  
WATER ENGINEERING MANAGER  
WATER OPERATIONS MANAGER

Additionally, any employee having significant responsibility for formulating and administering City policies and programs and having authority to effectively recommend the hiring, transfer, suspension, layoff, promotion, discharge, or assign, reward or discipline another employee, or having the responsibility to direct them or to adjust their grievance, providing that the exercise of such authority is not merely of a routine or clerical nature, but requires the use of independent judgment in cooperation with adopted City policies and procedures, may be considered a "Management" employee should the City Manager recommend and the City Council so approve by resolution.

15. Open Examination - Any recruitment and selection process which invites qualified applicants from the public at large as well as City employees.
16. Performance Evaluation - Periodic progress reports on all employees indicating strengths and weaknesses and plans for employee development.
17. Permanent Part-Time Employee - An employee who regularly works less than thirty-five (35) hours per week. Employees who work only sporadically and are not considered or designated as a continuing personnel resource of the City shall be considered temporary only. Permanent part-time employees may be eligible for designated benefits as set forth in these rules.
18. Probationary Employee - A permanent full-time or permanent part-time employee who has not completed a probationary period of employment with the City.
19. Probationary Period - A working test period of no less than six months and no more than 12 months during which an employee is required to

demonstrate the ability to perform the duties of the position to which assigned.

20. Promotion - The appointment of an employee to a classification with a higher maximum salary.
21. Promotion - only classes - Classes established by the Personnel Officer to which promotions can only be made from within the organization.
22. Promotional Examination - Any recruitment and selection process which invites only qualified full-time or part-time employees as applicants.
23. Provisional Appointment - The temporary appointment of a regular employee to a higher or equal class who meets the minimum qualifications of the class to which temporarily assigned.
24. Reclassification - A change in the allocation of a position by raising it to a higher class, lowering it, or moving it to another class on the same level.
25. Re-employment - The appointment of an employee who was laid off within the preceding twelve months to a position in the same classification as the former position.
26. Regular Employee - A full-time employee in a permanent position who has successfully completed a probationary period of employment with the City.
27. Reinstatement - The appointment of a probationary or regular employee within twelve months after resigning in good standing to a position in a comparable class.
28. Rejection - The termination of an employee from a position during a probationary period.
29. Resignation - The voluntary separation of an employee from employment with the City.
30. Rules and Regulations - The Municipal Code Section 2-5.401 (Personnel System), these Personnel Rules and Regulations, and other rules, policies or procedures that may be set forth in the City Administrative Manual or Departmental rules and regulations.
31. Suspension - A disciplinary action by the appointing authority to prevent an employee from working normal hours, thereby exempting the employee from compensation for those hours.

32. Temporary Employee - An employee who is hired for a specific purpose to perform duties for a period of time not to exceed the equivalent of five months of continuous full-time employment in any fiscal year. If employment continues beyond that time period, the employee becomes a permanent part-time employee, which is defined in number 17, above.
33. Trainee - An individual appointed to a full-time position who possesses less than the desired qualifications for a position. An individual appointed as a "trainee" may serve in this capacity for a period of time not to exceed twelve months, and will be compensated at an hourly rate equivalent to 90% of an approved salary step within the salary range for the position.
34. Termination - The act of separation from employment for any reason other than retirement or resignation.
35. Transfer - The reassignment of an employee from one classification to another classification which has the same maximum salary and requires substantially the same qualifications.
36. Work Period - Period of timing consisting of seven (7) consecutive 24-hours, commencing at 12:00 o'clock midnight Thursday and ending at 12:00 o'clock midnight the following Wednesday.
37. Y-Rated Position - A position which is paid above the maximum of the salary range resulting in the incumbent's salary being frozen until adjustments to the salary range cause the incumbent's salary to fall within the range.

### **RULE 3 DEPARTMENT RULES**

Department heads shall have the authority to develop and to adopt by departmental executive order such additional personnel rules affecting their departments as shall be felt necessary. Such departmental rules shall be supplementary to these rules, shall be consistent herewith, and shall in every case be approved in writing by the City Manager prior to being put into effect.

### **RULE 4 AFFIRMATIVE ACTION POLICY**

It is the policy of the City of San Juan Capistrano to take affirmative action to assure equal opportunity for all qualified employees and job applicants without regard to race, creed, color, sex, age, national origin, religion, physical or mental handicap, veterans' status, pregnancy, child birth or related condition. Positive action will be taken to assure the fulfillment of this policy within the following:

- \*Recruiting
- \*Hiring
- \*Promotions
- \*Upgrading
- \*Layoffs
- \*Compensation
- \*Benefits
- \*Termination
- \*All other terms and conditions of employment

Responsibility for monitoring compliance and implementing the City of San Juan Capistrano policy on Affirmative Action is assigned to the Personnel Officer.

## **RULE 5 CLASSIFICATION PLAN**

Position classification is the system whereby positions are classified according to their duties and responsibilities. Positions that are similar in type of work, level of difficulty and level of responsibility are grouped together in a class. All positions in a particular class are treated alike in such matters as salary, examinations and qualifications.

Each position is allocated to a specific classification which is carefully described in a class specification. A class specification shall be prepared for each classification.

The Personnel Officer shall administer and maintain the Classification Plan as approved by the City Council.

### **Section 5.01 Nature and Contents of Plan**

The Classification Plan shall consist of classes of positions defined by class specifications, including title, class summary, examples of duties assigned to positions in each class, and qualifications required of applicants for positions in each class.

Following the adoption of the Classification Plan, the Personnel Officer shall administer an annual review of the plan to assure an adequate reflection of the City work force. The review may involve only selected classes or the entire Classification Plan. Subject to approval by the City Council, the Personnel Officer shall recommend the allocation of every position to a class included in the plan.

**Section 5.02 Amendment of Classification Plan**

Whenever one or more new positions are under consideration for possible establishment, or whenever because of any revision in organization methods, a significant change of the duties or responsibilities of any existing position is made which may require the reallocation of such position, or whenever a new class is created to which any position may more appropriately be allocated, or whenever because of the abolishment or combination of any existing positions, or classes, an amendment of the classification plan is required, one or a combination of the procedures stipulated in the following shall be observed:

- a. The appointing authority shall forthwith report any significant facts relating to such possible changes in writing to the Personnel Officer in the manner prescribed.
- b. The Personnel Officer upon written request of any employee, or upon the Personnel Officer's initiative, after consultation with the head of the department concerned, may undertake any inquiry of the classification of any person.
- c. Upon either of the above initiations, the Personnel Officer shall study the assigned duties and responsibilities of any such position and the qualifications required for filling the same, and the relationships of such positions to other classes of positions in the classification plan. The Personnel Officer shall make an honest attempt to complete this study in a timely manner.
- d. On the basis of such investigation the Personnel Officer shall then make determinations for no change in allocation of the position, or allocation of the position to a more appropriate class in the existing classification or the establishment of the new class to which the position would be allocated, whichever is the appropriate action.
- e. The Personnel Officer shall recommend to the Council any change in the existing classes and class specifications deemed appropriate.

**RULE 6 SALARY ADMINISTRATION**

**Section 6.01 Preparation of the Pay Plan**

The Personnel Officer shall prepare a pay plan covering all classifications, showing the minimum and maximum rates of pay. In arriving at such salary ranges, consideration shall be given to:

- a. prevailing rates of pay for comparable work in other public organizations through benchmark surveys;

- b. internal alignments;
- c. current cost of living;
- d. recommendations of City Council and department heads; and,
- e. the City's financial condition and policies.

Section 6.02 Pay Plan Structure

The basic pay range of all classifications shall consist of a Basic Compensation Schedule of hourly, bi-weekly and monthly rates. There shall be a five percentage difference between each step in a five step range.

Section 6.03 Entrance Rates on Initial Employment

For permanent, full-time employees, the lowest rate of pay designated for a class shall normally be offered for recruitment purposes and shall normally be paid upon appointment to the class. Upon recommendation of the department head, as a result of market conditions such as a shortage of qualified candidates or should a candidate possess exceptional qualifications or experience, a new employee may be assigned to a rate other than the minimum rate. The assignment shall be approved by the Personnel Officer who will determine whether such action is in the best interest of the City. Appointment at other than the minimum shall in no manner affect the length of the probationary period.

a. Exception for Trainees

In the event no candidates are available for selection who possess the minimum qualifications for a position, a Trainee may be hired to fill the vacancy on a temporary basis. The selection of a Trainee shall be at the discretion of the Personnel Officer. Time served by an individual as a Trainee shall not count toward the probationary period, nor shall the individual be eligible for City fringe benefits, rights or privileges. The trainee shall be compensated at an hourly rate equivalent to 90% of an approved salary step within the salary range for the position.

Section 6.04 Pay for Temporary and Part-Time Work

The hourly amount paid employees designated as part-time or temporary shall bear direct relationship to the full-time rate for the classification to which assigned.

In the case of Recreation Aides, Recreation Leaders, and Interns, the hourly amount paid employees designed as such shall be based on the market place.

Employees designated as "permanent, part-time" shall be eligible for pay increases in a manner similar to regular full-time employees based on equivalent numbers of hours worked and given satisfactory performance. Temporary employees shall not be eligible for pay step increases.

Section 6.05 Pay for Probationary Employees

A probationary employee shall be eligible to be considered for a one step (5%) adjustment, contingent upon completion of the probationary period which indicates achievement of "regular employee" status. The adjustment may be made anytime after one year of service for management employees only when recommended by the department head (through the performance appraisal process) and approved by the Personnel Officer.

Section 6.06 Pay Increases

On each anniversary date an employee shall be eligible for a one step (5%) adjustment until the maximum pay rate of the assigned class is reached. The adjustment shall be implemented upon recommendation by the department head and approval by the Personnel Officer. Pay adjustments delayed because of unsatisfactory performance, but granted after the anniversary date, shall affect the anniversary date and date the next pay increase will be considered.

a. Determining the Anniversary Date

The date of the first step increase in a classification, unless or until another probationary period is served in another class, shall be used to determine the employee's anniversary date. The aforementioned date shall be moved up to either the 1st of the month or 15th of the month depending upon where it occurs within the month. For example, if the date occurs between the first and the 14th, the anniversary date shall become the first of that month, and if the date occurs between the 15th and 31st, the anniversary date shall become the 15th of that month.

Section 6.07 Pay Adjustment Upon Promotion

Upon promotion, an employee is entitled to advance to the step of the new range that is at least 5% higher than the previously assigned rate.

Section 6.08 Pay Adjustment Upon Demotion

When an employee is voluntarily demoted, a mutually agreed-upon pay step in the new range shall be assigned. When an employee is demoted as a result of disciplinary action, the step shall be set by the appointing authority imposing the discipline.

Section 6.09 Pay Adjustment Upon Re-employment

Upon re-employment, an employee shall be assigned the same step in the salary range that had been attained prior to layoff. Benefit accruals shall be equal to the benefit level the employee attained prior to layoff, except as precluded by applicable law.

Section 6.10 Special Merit Pay

A pay adjustment of up to 5% may be granted in advance of an employee's anniversary date in recognition of exceptional performance. The adjustment shall be made in rare cases and shall be recommended by the responsible department head and approved by the Personnel Officer, and must be accompanied by a current employee evaluation and memorandum supporting the request. Merit increases shall have no effect upon the anniversary date at which a regular step increase may be considered.

Section 6.11 Recognition Bonus Pay

The City shall grant \$100 recognition bonus for certifications above and beyond requirements of position and used for the benefit of the City. The following list contains several certifications obtainable by city employees and of value to the City.

To qualify for certification, the following parameters must be met:

- o The Certification must be issued by a governing or sanctioning professional body such as America Water Works Association or the American Institute of Certified Planners.
- o The certification must be obtained through a course of study either at an institution or through home study and attaining the qualified skill level proven through testing by the sanctioning body.
- o Certifications that are not on the list of approved certifications below must be approved by the City.

The following list contains several certifications obtainable by City employees and of value to the City:

- i. Playground Safety Inspection Certificate
- ii. Arborist Certification
- iii. Pesticide Applicator and Advisor Certifications
- iv. American Institute of Certified Planners Certification
- v. Certificate in Public Works
- vi. Construction Inspector Certificate
- vii. Certified Municipal Clerk
- viii. Master Municipal Clerk
- ix. International Conference of Building Officials (ICBO) certificates, to include:
  - Plans Examiner
  - Housing Inspector

- Mechanical Inspector
  - Plumbing Inspector
  - Combination Dwelling Inspector
  - Electrical Inspector
  - Light Commercial Combination Inspector
- x. -American Association of Code Enforcement certificates, to include:
- Certified Zoning Enforcement
  - Officer, Certified Housing Enforcement Officer,
  - Certified Code Enforcement Administrator

Section 6.12 Special Assignment Pay - Street Sweeper Operator

The Maintenance Worker assigned to operate the street sweeper shall be eligible for a 5 percent special assignment pay for the duration of the assignment. The Public Works Director shall notify the Personnel Office when the assignment begins or ends. Compensation shall be initiated or deleted by a Personnel Action Form.

In the event the regularly designated Sweeper Operator is unavailable to perform sweeper operator duties, any Maintenance Worker or Lead Maintenance Worker temporarily filling in for this assignment shall be eligible for this 5 percent special assignment pay for the duration of time spent operating the sweeper. Time spent in this capacity shall be noted on the individual's time sheet and approved by the Department Head.

Section 6.13 Bilingual Pay

Qualified employees who meet the following criteria shall receive a monthly stipend in recognition of their ability:

1. Employee must be assigned by the City Manager or his/her designee to speak and/or translate written material in a language in addition to English. This includes such specialized communication skills as sign language.
2. Employees must, as needed, speak and/or translate a second language.
3. Employees able to communicate and/or translate verbal information shall receive an additional \$85 per month.
4. Employees able to translate verbal and written information shall receive an additional \$125 per month. Employees assigned to translate written information will be required to be certified as qualified by the City.

The City, at its discretion, may reassign an employee from a bilingual assignment to a position which does not require a bilingual assignment. An employee in a bilingual assignment may request assignment to a position that does not require bilingual assignment. The request shall be made in writing to the City Manager, who will consider it according to the needs and availability of a qualified replacement.

Section 6.14 Acting Status

Employees performing the duties of their supervisor or a higher-paid position due to vacation, illness or leave, for 14 calendar days or more, shall receive acting status pay equivalent to the minimum salary rate for that position such that the minimum adjustment would be at least 5% above the employee's current salary with the approval of the Department Head and the Human Resources Manager. Acting status shall be retroactive to the first day and subject to no additional benefits.

Section 6.15 Payment for Required DOHS Certificates

The City shall pay \$300 annually for each **required** DOHS certificate for the Water Technician I, II, III, Water Production Supervisor, Water Distribution Supervisor and Water Construction Inspector positions. (Water Treatment Operator positions– T1, T2, T3 and T4 and Water Distribution Operator positions – D1, D2, D3 and D4.) Additionally, the City will provide \$300 for up to one DOHS certificate level above the required DOHS certificate for each position. The certificate requirements are part of the job descriptions and a condition of employment.

Section 6.16 Payroll Deductions

The City will deduct from the employee's periodic paycheck, all mandatory deductions required by law and voluntary deductions requested by the employee. Each paycheck will be accompanied by a statement itemizing salary deductions.

Section 6.17 Work Day and Work Week

The official work week of the City of San Juan Capistrano shall be forty (40) hours from Friday at mid-workday to the following Friday at mid-workday. The official workday shall be Monday through Thursday from 7:30 a.m. to 5:30 p.m. and Fridays from 7:30 a.m. to 4:30 p.m., with alternate schedules to meet Department operations or to meet special employees' needs due to transportation or caregiver issues.

It shall be the duty of each department head to arrange the work of the department so that each employee therein shall work not more than five (5) consecutive days in each calendar week except that a Department Head, with approval of the City Manager, may require any employee in the department to temporarily perform service in excess of eight (8) or (9)

hours per day or five (5) days per week when public necessity or convenience so requires. Department Heads will not temporarily change an employee's regular work schedule to avoid payment of overtime.

Section 6.18 Flexitime

A flexible work schedule may be developed and implemented whereby designated employees may be allowed to work a total of eighty hours within a two-week period regardless of the number of hours worked per day, subject to approval of the Department Head and Personnel Officer. The flexible work schedule shall be maintained as long as the needs of the public and City are explicitly met.

Designated employees may be allowed to work four (4), ten (10) hour days in a work period or work a 9/80 schedule.

Section 6.19 Management Flexitime

Management personnel may flex their schedule as needed during the pay period to allow for required attendance at extraordinary events or meetings or unscheduled or emergency situations. This option allows the management employee to operate with professional flexibility. Use of flexitime will require prior approval by the Department Head. Use of a flexitime schedule which would extend beyond one pay period will require prior approval by the Department Head and City Manager.

Section 6.20 Overtime

Whenever, at the discretion of the appointing authority, an employee works beyond forty (40) hours in a work week, such person shall be compensated for such overtime work to the nearest 15 minutes at time-and-one-half his/her regular compensation, or receive compensatory time off earned at time and one-half rate. Whenever, at the discretion of the appointing authority, an employee works beyond twelve (12) hours in one work day, such person shall be compensated for such overtime to the nearest 15 minutes at double the rate of his/her regular compensation, or receive compensatory time off earned at double rate. Compensation for overtime shall be in the form of either cash payment or compensatory time off at the discretion of the Department Head with due regard for the wishes of the employee and particular regard for the needs of the City, or up to a maximum City expense of \$5,000 per fiscal year and thereafter at the discretion of the City Manager.

The employee may accumulate and hold for future use no more than 120 hours at any one time of compensatory time and, at the end of the fiscal year, may carry over no more than 80 hours of compensatory time for use in the next fiscal year. Compensatory time may only be cashed out at original rate of accrual. All other overtime hours accumulated to that point shall be paid at the end of the fiscal year. Such compensatory time off is subject to approval of the Department Head and Personnel Officer.

Overtime requested by an employee to adjust the employee's work schedule shall be considered flex time and is not subject to compensation at the rate of time and one-half.

Overtime shall be assigned/offered to full-time permanent employees before being assigned/offered to part-time or temporary employees. Part-time or temporary employees may work overtime only if no full-time permanent employee is available and/or interested in working overtime.

The City shall assign overtime with due regard to an equitable and fair distribution of work, whenever possible.

Section 6.21 Management Overtime

Designated management employees are not eligible for overtime pay. (Refer to Section 7.26 Administrative Leave).

Section 6.22 Emergency Stand-By/Call Out

Employees assigned to stand-by status by their Department Head or his/her designee during "off hours" shall receive two hours of regular pay for every day on stand-by and shall be paid 12 times regular pay for call outs, with a two hour minimum. Employees on standby on weekends and holidays, shall receive three (3) hours or regular pay for each day on standby. While on stand-by status the employee shall: 1) monitor the "beeper," 2) remain in the local area, 3) respond to any and all call outs within 15 minutes.

Employees may receive their stand-by compensation as compensatory time or paid for at the option of the department. Consideration shall be given to effectuating the wishes of employees. Employees with existing compensatory time balances of one-hundred (100) hours shall be paid for all work performed in excess of that amount.

Employees not on stand-by status when called out for an emergency shall be paid 12 times regular pay for call outs, with a three hour minimum. Additionally, employees not on stand-by status who have not physically worked their regular number of workday hours, shall, when called out on a bona-fide emergency, be paid at 12 times regular pay for all bona fide emergency hours worked.

Scheduled overtime does not constitute a bona-fide emergency. Bona-fide emergencies are those that occur due to a natural disaster such as fire, flood, earthquake, storm or landslide. They may occur due to damage to the infrastructure of the city such as inoperative valves, pipeline breaks or leakage in potable or sewage systems or traffic control lights. Traffic accidents may trigger bona-fide emergencies if they require city employees to repair or clean up damage or assist with traffic control.

Citizen complaints that require after-hours attention are bona-fide emergencies.

Call out time shall be reported and compensated on the basis of the nearest fifteen minutes.

Classified employees who occasionally receive phone calls outside of their regularly scheduled working hours from stand-by personnel or personnel on an emergency call-out, to get supervisory direction, shall receive a minimum of 30 minutes of regular pay for each phone call.

Section 6.23 Work on a Holiday

Any full-time employee who is required to work on a holiday shall be entitled to be paid for the holiday plus time and one half for all hours worked on the holiday or compensatory time off at time and one half. The "day is the day" concept shall apply.

**RULE 7      EMPLOYEE BENEFITS**

Section 7.01 Vacation Accrual and Use

a. Executive Employees

Actual hours accrued are subject to negotiation on an individual basis. Vacation leave may be accumulated on an unlimited basis.

b. Management Employees

Length of Service Annual Hours Accrued

0 - 3 years	80
4 - 7 years	132
8 - 10 years	148
11 - 19 years	164
20 years or more	172

Accrual of Vacation Time

Accrual at the next highest incremental rate shall commence on the first day of the fourth, eighth, eleventh and twentieth year of employment, respectively.

The maximum amount of vacation time which may be accrued by management employees and used for time-off shall be 300 hours; any accumulation of hours above 300 shall be forfeited by the employee. The maximum amount of vacation time which will be compensated for in cash upon separation from City shall be 300 hours. It shall be the responsibility of the employee and the Department Head to assure

that employees utilize credited vacation leave within the limitations set forth herein.

c. Classified Employees (Non-Management)

Length of Service Annual Hours Accrued

0 - 3 years	80
4 - 7 years	132
8 - 10 years	148
11 - 19 years	164
20 years or more	172

Accrual of Vacation Time

Accrual at the next highest increment rate shall commence on the first day of the fourth, eighth, eleventh and twentieth year of employment, respectively. The maximum amount of vacation which may be accrued by classified employees shall be 300 hours; any accumulation of hours above 300 shall be forfeited by the employee. The maximum amount of vacation time which will be compensated in cash upon separation from City service shall be 300 hours. It shall be the responsibility of the employee and the Department Head to assure that employees utilize credited vacation leave within the limitations set forth herein.

In December of each year, classified employees with four or more years of service to the City will receive a one-time yearly payment equal to .4% of their individual base salary on December 1, issued in a separate check.

d. Permanent Part-time Employees

Part-time employees shall be eligible to accrue vacation credit on a pro-rated basis based on the number of hours worked (i.e., 20 hours per week equals one-half vacation accrual rate).

Accrual of Vacation Time

The maximum amount of vacation time which may be accrued shall be 300 hours.

Reclassification

Upon reclassification to full-time employment, employees shall accrue vacation at the rate of 80 hours annually. Increases in the accrual rate shall be based upon length of service in a full time capacity.

Section 7.02 Vacation Usage

Total vacation allowance shall be based upon the number of months of City service computed to the nearest half month. It shall be the responsibility of the employee and Department Head to assure utilization of credited vacation leave within the limitations set forth herein.

The time during the calendar year at which an employee may take vacation leave shall be determined by the Department Head but with due wish of the employee and particular regard for the needs of the City. Eligible employees shall accrue vacation beginning with the date of hire but may not utilize such during the first six months of employment. Any employee wishing to schedule vacation in excess of 10 working days must receive the approval of the Personnel Officer at least 30 days prior to the vacation time. The employee will receive a response within 14 days of submittal. Vacation time or any leave time requiring any combination of vacation, administrative leave, comp time, or holiday pay in excess of 10 consecutive working days shall be granted only in cases where special non-recurring conditions are present and will be based on the City's ability to provide adequate service coverage during the employee's absence.

**Section 7.03 Vacation Benefits for Terminating Employees**

In the event of termination of employment, the employee shall be paid for any accrued vacation leave and compensation time which has accrued within the limits specified above.

**Section 7.04 Holidays Occurring During Vacation**

When one or more legal municipal holidays fall within a vacation leave, such day or days shall not be charged as the vacation leave. Under these circumstances, an employee's vacation leave shall be extended accordingly for those employees eligible for such holidays.

**Section 7.05 Holidays**

All City employees shall have the following holidays with pay and shall not be required to work on such holidays except as hereinafter provided:

- a. January 1st (New Year's Day)
- b. Third Monday in February (Washington's Birthday)
- c. Last Monday in May (Memorial Day)
- d. July 4th (Independence Day)
- e. First Monday in September (Labor Day)
- f. November 11th (Veteran's Day)
- g. Fourth Thursday in November (Thanksgiving Day)
- h. The day following Thanksgiving Day
- i. December 24th (Christmas Eve)
- j. December 25th (Christmas Day)
- k. December 31 (New Year=s Eve Day)
- l. Floating Holiday (10 hours)

Whenever a holiday falls on a Sunday not scheduled as a regular work day, the following Monday shall be observed as the holiday. Whenever a holiday falls on a Saturday not scheduled as a regular work day, the City will recognize the holiday on a case by case basis and observe it either on the preceding Friday or the Monday after the holiday, based on the needs of the community. The determination of the holiday observance will be made when the City issues the master holiday schedule each year.

Employees on a 9/80 schedule will be able to bank holiday hours for those holidays that occur on their flex day off. The following shall apply to the use of Holiday banked hours:

- Banked hours will be capped at 24
- Hours banked are not compensable – they cannot be cashed out
- Banked hours must be used before any other kind of leave, except for sick leave
- Employees will be strongly encouraged to use banked hours within a reasonable period of time, preferably by the end of each fiscal year.

An employee must have been paid for the entire amount of regularly scheduled hours of the days immediately prior to and following a City holiday in order to be paid holiday pay.

#### Section 7.06 Floating Holiday

Probationary and regular full-time employees shall be credited with a total of ten hours of compensated time off on July 1st of each year. The time(s) which the employee may elect to use shall be arranged with and approved by the employee's supervisor and Department Head and approved by the City Manager. The floating holiday must be used prior to June 30 or shall be forfeited.

#### Section 7.07 Sick Leave

Sick leave shall mean the time during which an employee is permitted to be absent from the duties of City service by reason of sickness or injury which incapacitates or prevents the employee from performing assigned duties, without any deduction being made from salary or compensation, and shall include, in certain cases, serious illness or death of a member of the employee's immediate family.

It will be the responsibility of the Department Head to periodically review the use of sick leave in the department. Use of sick leave may be used as a factor in determining employee performance for employee evaluations. The legitimate use of FMLA qualified sick leave shall not be used as a factor in determining employee performance for evaluation.

Section 7.08 Sick Leave Allowance

All permanent full-time employees shall be entitled to eight (8) hours sick leave for each calendar month of service. There shall be no limit on the amount of sick leave which may be accumulated. Permanent part-time employees may accumulate sick leave at one-half the rate of permanent full-time employees. Temporary employees shall not be eligible for sick leave benefits.

Section 7.09 When Sick Leave May Be Taken

Sick leave may not be used until it is earned and shall be taken only in case of actual and necessary sickness or disability of the employee. Eligible employees may utilize a maximum of ninety-six (96) hours of accumulated sick leave with pay in the event of 1) the employee's presence is required elsewhere because of family medical and dental appointments, serious illness, injury, disability or death of a member of the employee's immediate family; 2) official order to appear in court as a litigant or as a witness; and 3) personal necessity as defined and limited below.

Personal necessity leave can be used by an employee at a rate of 24 hours per year for absences other than illness or disability and the absences shall be deducted from accumulated sick leave. Sick leave or personal necessity leave is not intended for taking care of personal business which could be taken care of at another time.

Personal necessity is considered to be:

- a) a personal matter that requires your attention which cannot be taken care of except during normal working hours; or
- b) a matter that requires your attention, such as a hot water heater flooding your home, fire, robbery; or

The nature of the personal necessity need not be disclosed in writing on the Absence Request Form, but it shall be discussed with the employee's Supervisor, Department Head, and the Personnel Officer or his designee. This information shall be treated confidentially by all parties involved.

Sick leave shall not be used in lieu of or in addition to vacation for the intent of extending vacation. When an employee is compelled to be absent from employment by reason of injury arising from and in the course of City employment as determined by the workers' compensation law, the employee may elect to apply accrued sick leave, if any, in such amount that when added to workers compensation benefits equals the employee's gross salary. Earned vacation time and compensatory time off may be utilized in a similar manner.

**Section 7.10 Notification of Illness by Employee**

An employee on sick leave shall notify their supervisor no later than one (1) hour after the time set for beginning daily duties. When on FMLA leave, the employee will be required to notify the City in compliance with the Family Medical Leave Act.

**Section 7.11 Return From Sick Leave**

Upon returning from sick leave, a physician's certificate may be required if, in the opinion of the Department Head, it appears that an employee is abusing sick leave privileges or to determine the validity of the employee's absence during the time for which sick leave was requested.

Any employee absent from duty on sick leave for three (3) consecutive work days due to illness or accident may, at the discretion of the Department Head, be required to submit to a physical examination by a physician designated by the City to determine fitness to return.

**Section 7.12 Sick Leave Payout Prior to Separation of Employment**

At the employee's request, the City will compensate in cash or in time off for unused sick leave accrued above 288 hours. The compensation formula will be consistent with the payout levels established in Section 7.13 of the Personnel Rules, based upon years of service.

Employees with greater than 288 hours of sick leave and who have used two (2) days or fewer of sick leave in the previous fiscal year shall have the right to cash-out up to two days of sick leave at 100% the following July 15<sup>th</sup>.

In addition to the above provision, Management employees shall be allowed to:

- a) cash out sick leave above 200 hours at the rate of 50%;
- b) convert hours accrued beyond 300 to deferred compensation, as they accrue them each pay period, at their current sick leave cash out rate, shown in Section 7.13.
- c) convert up to three days (24 hours) of sick leave to vacation if they've used 16 hours or less of sick leave in one year (July 1-June 30), at their current cash out rate, shown in Section 7.13.
- d) convert up to five (5) days of unused sick leave to a Deferred Compensation account at the end of each fiscal year, at their current cash out rate. Following such conversion, the employee must have a minimum balance of eighty (80) hours in their sick leave account.

**Section 7.13 Sick Leave Compensation Upon Termination of Employment**

City employees hired before July 1, 1999, who terminate employment with the City shall be compensated in cash for unused sick leave at final rate of pay based on the following:

less than 2 years	None
2 to less than 15 years	50%
15 to less than 20 years	75%
20 or more years	100%

Employees hired on or after July 1, 1999, shall abide by the following sick leave cash out schedule:

Less than 2 years	None
More than 2 years	50%

There shall be no maximum amount of unused sick leave eligible for cash compensation subject to the foregoing schedule.

**OTHER LEAVES OF ABSENCE**

**Section 7.18 Donation Of Blood**

The City shall grant each employee in the unit of representation reasonable time off for the purpose of making a donation of blood. No charge will be made against vacation, sick or any other type of leave when such absence is approved in advanced by the employee's supervisor/department head.

**Section 7.19 Community Service Leave**

Each Management and Executive employee shall be granted up to four (4) hours paid leave per month to undertake community service at approved non-profit, charitable or community service organizations.

**Section 7.20 Bereavement Leave**

An employee shall be granted a leave without loss of pay in case of death of a member of the employee's immediate family. Such leave is designated as bereavement leave. Up to five (5) days leave without loss of pay shall be granted for the death of a member of the employee's immediate family.

Immediate family as used in this section is defined as the employee's spouse, child, foster child, grandchild, stepparent, legal guardian,

stepchild, parent, brother, sister, grandparent, mother-in-law, father-in-law and grandparents-in-law; or:

- a. Any other relative by blood or marriage who is a member of the employee's household. (Employees may be required to submit proof that the deceased relative was a member of the employee's household prior to the time of death.)
- b. Any other relative of the employee by blood or by marriage where it can be established by the employee that as a result of such relative's death, the employee's presence is required to handle funeral arrangements and/or matters of estate.

In addition, bereavement leave may be granted on a case by case basis under other circumstances at the discretion of the City Manager when it is in the best interest of the City to do so.

Time off beyond these parameters shall be charged to any type of available leave. Temporary and other part-time employees shall not be eligible for bereavement leave.

#### Section 7.21 Jury Duty Leave

Regular and probationary employees who are summoned to serve on jury duty or subpoenaed as a witness in any court in this State of the United States, or any administrative board of tribunals, shall be entitled to a leave of absence with pay while serving. Employees may keep fees and fees for mileage received while serving. Employees must return to work if not required to attend jury duty on a particular day.

#### Section 7.22 School Activity Leave

Pursuant to California Labor Code Sections 230.7 and 230.8, parents, guardians and grandparents having custody, of school-age children shall be allowed leave from their jobs, with or without pay, as may be necessary to participate in school activities such as parent-teacher conferences, disciplinary matters, school programs and related events with their children. Such leave is limited to 40 hours per school year, at a maximum of 8 hours per month. Employees must give reasonable advance notice to the employer to permit work coverage, and may be required to provide documentation from the school that the employee participated in the activity on the specific date and time. Leave properly requested in advance shall not be denied.

#### Section 7.23 Family Care Leave

##### A. General Provisions

1. Family Leave shall be granted to the extent required by law, including the following situations:
  - a. An employee's serious health condition.
  - b. The birth of a child or placement of a child for adoption or foster care.
  - c. An employee's presence is needed to attend to a serious health condition of the employee's child, spouse, parent or child of an employee standing in loco parentis (those with day-to-day responsibilities to care for and financially support a child).
2. Employees must request and identify their need for Family Leave. The City agrees that certain other types of leaves available to employees under this Agreement may meet the requirements of Family Leave pursuant to applicable law. The City may apply any time during which an employee is on such leave against the amount of Family Leave to which the employee is entitled.
3. Eligibility for Family Leave will be determined according to the requirements of applicable law.
4. When a request for Family Leave is approved, the department shall determine whether sick leave, compensatory, and/or vacation time is to be applied. Such determination shall be consistent with other leave provisions of this Agreement and shall give consideration to the circumstances and the wishes of the employee. The use of sick leave shall be restricted to those circumstances which qualify under the provisions of the Personnel Rules and Regulations.
5. The City will continue to pay agreed-upon medical contributions for the duration of an employee's approved leave, in accordance with the Federal Family and Medical Leave Act.

**B. Notification Requirements**

1. If the Family leave is foreseeable, the employee must provide the department with thirty (30) calendar days notice of his or her intent to take Family Leave.
2. If the event necessitating the Family Leave becomes known to the employee less than thirty (30) calendar days prior to the employee's need for Family Leave, the employee must provide as much notice as possible. In no case shall the employee provide notice later than five (5) calendar days after he or she learns of the need for Family Leave.

3. When the Family Leave is for the purpose of the scheduled medical treatment or planned medical care of a child, parent or spouse, the employee shall, to the extent practicable, schedule treatment and/or care in a way that minimizes disruption to City operations.
4. The City shall notify the employee that the employee is considered using leave per the FMLA, as required by the Act.

C. Verification

As a condition to the approval of Family Leave, an employee may be required to furnish certification from the health care provider which states: (1) the date on which the condition commenced; (2) the probable duration of the condition; (3) an estimate of time that the employee needs to be off; (4) that the employee cannot perform his/her duties because of the employee's own serious health condition or that care is needed when the leave is for an eligible family member pursuant to applicable law.

Section 7.24 Military Leave

Military leave shall be granted in accordance with the provisions of State and Federal law. All employees applying for military leave shall give the Department Head, within the limits of military regulations, an opportunity to determine when such leave shall be taken. Employees may use compensatory time and vacation time for weekend drills.

Section 7.25 Leave of Absence Without Pay

Leave of absence without pay may be granted in advance by the Personnel Officer upon recommendation of the Department Head. No such leave shall be granted except upon written request of the employee, setting forth the reason for the request. All requests shall be evaluated on basis of personal need, duration and work requirements. Any leave of absence without pay lasting more than fourteen (14) calendar days shall preclude employee from accruing leave time and other benefits after the 14th day.

Section 7.26 Administrative Leave

All employees designated as Management shall accrue sixty-four (64) hours additional leave per year as compensation for hours worked over and above the normal work schedule. No more than 64 hours may be carried at any time.

City will pay full accrued amount of Administrative Leave at separation. Administrative leave may be taken at any time on approval of the

appointing authority. Management employees may buy back up to 64 hours each year, at the request of the employee. Management employees shall have the option of cashing out Administrative Leave in December and in June of each year, not to exceed sixty-four in any fiscal year; and/or carry over up to 64 hours of administrative leave at the end of the fiscal year, provided no more than 64 hours are carried at any time.

Executive employees accrue 64 hours administrative leave per year. There is unlimited accrual of this leave, and Executive Employees may buy back up to 64 hours of administrative leave if the leave hours remain at the end of the fiscal year. This leave is compensable upon separation.

#### Section 7.27 On-the-Job Injury Leave

Whenever an employee is compelled to be absent from active duty due to an injury disability arising out of and in the course of employment, such employee shall be entitled to receive an On-the-Job Injury Leave With Pay for up to the first three consecutive days of such absence. The granting of such leave shall be conditioned upon the following:

- a) the absence is at the discretion of a licensed medical physician or other designated health care professional.
- b) supervisory personnel have been properly notified of such injury or disability and an on-the-job injury report has been properly completed and submitted.
- c) the injury occurred while the employee was performing work duties on the job.

Whenever the On-the-Job Injury Leave extends beyond the first three days, the employee will be allowed to use accrued leave to supplement the Workers' Compensation allowance to achieve the equivalent of 100% of his/her salary.

#### Section 7.28 Compensation For Job Connected Illness or Injury

In accordance with Workers' Compensation laws, the City provides protection for employees in the event of on-the-job injuries. If an employee is injured on the job, the injury must be reported immediately to the supervisor - no matter how minor it seems. If necessary, the employee should receive first aid or medical treatment. Detailed instructions shall be given to the employee to initiate a workers' compensation claim as necessary. The Personnel Officer shall assure that required forms are completed in a timely manner.

#### Section 7.29 Non-Work Related Disability Leave

If an employee is compelled to be absent from active duty due to a non-work related disability or accident, the City shall grant a leave of absence

in accordance with state disability laws. The City provides short- and long-term disability insurance coverage to assist an individual when this situation arises.

Section 7.30 Unauthorized Absence

A city employee who without prior authorization is absent or fails to discharge regularly assigned duties for a period of twenty-four (24) consecutive work hours shall be considered to have abandoned the job and may be subject to disciplinary action, including discharge.

OTHER BENEFITS

Section 7.31 Medical, Life, Vision and Dental Insurance

The City provides medical, life, vision and dental insurance for City employees. The insurance becomes effective the first day of the month following date of hire.

Insurance coverage is included in the applicable MOU or resolution.

Questions regarding coverage, forms and other matters pertaining to the insurance program should be directed to the Human Resources Office.

Section 7.32 COBRA

The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) requires that the group health plans provide employees and their dependents the opportunity to continue health care coverage under the plan in certain circumstances where coverage under the group health plan would otherwise terminate. While the City must make continued health coverage available, it can charge qualified beneficiaries up to 102% of the cost of coverage if continuation of benefits under the group plan is desired.

Section 7.33 Retiree Health Benefit Plan

CalPERS medical coverage is available to City retirees. ARBA stipend for the purchase of medical insurance is provided through a City/OCRS agreement.

Section 7.34 Retiring Employee Recognition Program

The Retiring Employee Recognition Program provides for a salary incentive for long term City service. The guidelines and definitions for this program are detailed in the Administrative Policy Manual.

Section 7.40 Retirement Plan

All full-time employees automatically become a member of the Orange County Employees Retirement System (OCERS).

Section 7.50 Short-Term/Long-Term Disability Insurance

Eligible employees may receive short-term/long-term disability coverage or income protection of up to two-thirds of salary during disability periods due to non-job related injury or illness up to a maximum percentage of salary.

Section 7.60 Deferred Compensation Program

City employees may elect to have a portion of their salary withheld. The deferred amount is tax free until actually received and is invested in the meantime. As prescribed by applicable laws or plan provisions, funds may be withdrawn upon resignation, retirement or to a beneficiary upon death.

City shall match voluntary employee contributions to a deferred compensation account, up to \$20/month, in accordance with Memoranda of Understanding between the City and the employee associations.

Section 7.61 401(a) Deferred Compensation Program

The City shall establish a 404(a) deferred compensation program through ICMA, subject to the provisions allowable under current regulations for this type of program.

Section 7.70 Credit Unions

City employees may elect to join the ORCO State Employees Federal Credit Union and/or Orange County Teachers Federal Credit Union.

Section 7.71 CalPERS Long Term Care

The City will offer this benefit at the sole expense of the employee.

Section 7.72 Pre-paid Legal Services

The City will offer this benefit at the sole expense of the employee.

Section 7.73 College Savings Program (529 Plan)

The City will offer this benefit at the sole expense of the employee.

Section 7.80 Educational Reimbursement

The City's annual educational incentive shall be \$4,000/yr for a degree from an accredited college or university or certificate program, with no maximum benefit during employment. There will be no limit on the cost of each degree.

Eligible expenses may include: application/registration fees; tuition; required textbooks, supplies and materials; laboratory fees; and required student health and/or association fees. Incidental expenses such as transportation, parking, meals and paper supplies are not eligible for reimbursement.

Employees who receive reimbursement funds under this program shall be required to agree in advance that if the employee terminates employment with the City within eighteen months following the date of course completion, all funds reimbursed for such course work shall be repaid to the City by the employee.

City will provide up to \$20,000 annually for all Classified and Professional/Management employees to participate in the program and carryover any remainder to the following fiscal year up to a total pool amount of \$35,000. If annual requests exceed amount available, amounts would be pro-rated based on requests.

The Personnel Officer shall have authority regarding courses of study eligible for reimbursement. Unless otherwise deemed appropriate, only regular full-time employees may be eligible to elect to take courses which will benefit their positions with the City. Upon authorization, employees shall complete the course with a passing grade and fulfill requirements set forth by the Personnel Officer in order to receive reimbursement.

Guidelines and requirements pertaining to the reimbursement program are covered in detail in the Administrative Policy Manual.

**Section 7.81 Work Boot Reimbursement**

City will provide CAL/OSHA certified work boots and replace on an as-needed basis as determined by the Division Manager, however, no more than two (2) pairs of boots per year. If an employee wishes to purchase a boot other than the model of boot which would be provided by the City, the City will reimburse the employee for the cost of the boot up to a maximum of \$160.00 provided the boot which is purchased is a CAL/OSHA certified steel toe work boot and the employee submits an appropriate receipt for the purchase.

**Section 7.82 Uniform Allowance/Reimbursement**

City shall provide to field employees either a uniform pants allowance or reimbursement (with appropriate receipts) for the purchase of uniform pants to a maximum yearly amount of \$180. Individual employees must elect at the beginning of each fiscal year which option he/she will adopt for that fiscal year.

**Section 7.91 Ride Share Program**

Employees who carpool, walk, bike, take the bus or the train at least twice per week shall, at the end of the fiscal year, be eligible for nine (9) hours of additional floating holiday time in the next fiscal year.

**Section 7.92 Mileage Reimbursement**

Management and Classified employees shall receive mileage reimbursement in accordance with IRS standards.

Section 7.93 Auto Allowance

Management employees shall receive a monthly automobile allowance of \$60.00.

Section 7.94 Lunch and Break Periods

Because of varying work shifts, flextime and job conditions, lunch and break periods are scheduled with the supervisor. Typically a one-hour or one-half hour lunch break is provided. Two break periods of fifteen (15) minutes each are also allowed. Break periods cannot be accumulated.

Section 7.95 IRS Code Section 125 Plan

The City will provide employees the opportunity to participate on a voluntary basis in a Dependent Care Assistance Program (Section 129) under Internal Revenue Code Section 125, which allows employees to redirect part of their salary, before it is taxed, to be used for child, elderly and dependent care, and eligible medical expenses.

**RULE 8      EMPLOYMENT PRACTICES**

Section 8.01 Fair Employment Practice

The City of San Juan Capistrano assures any technique or procedure used in recruitment and selection of employees shall be designed to measure only the job-related qualifications of applicants. No recruitment or selection technique shall be used which, in the opinion of the Personnel Officer, is not justifiably linked to successful job performance. It is the policy of the City that no technique, procedure or policy in recruitment and selection shall be discriminatory to any group protected by state or federal legislation.

Section 8.02 Non-Discrimination Policy

The City shall offer equal employment to all persons without regard to race, creed, color, sex, age, national origin, religion, physical or mental handicap or veterans' status. No applicant is to be discriminated against or given preference because of these factors. This policy is intended to apply to recruiting, hiring, promotions, upgrading, layoffs, compensation, benefits, termination and all other privileges, terms and conditions of employment.

Section 8.03 Hiring Relatives

No member of the immediate family of the City Manager or any City Council member shall be appointed to any position, whether full or part-time, in the City work force. The hiring of relatives of City employees is permitted.

However, employees who are relatives, must be employed in different departments within the City. In no case will it be allowed that one relative directly supervise another. Relatives of employees shall neither be given preference nor discriminated against. It is the goal of the City to prevent favoritism and conflict of interest.

If two employees marry while both employed in the same department in the City, it shall be necessary for one of the employees to transfer to a different department of the City if possible or resign from City service within six months after marriage.

**Section 8.04 Hiring the Handicapped**

Selection decisions regarding otherwise qualified handicapped persons shall be made in accordance with the City's guidelines applying to non-discrimination on the basis of handicap, provisions of which govern reasonable accommodation, pre-employment inquiries, medical examinations, and other employment practices.

**Section 8.05 Requisition and Sources of Recruitment**

The Department Head will notify the Personnel Officer of a position which is, or will become, vacant. The appointing authority shall immediately notify the Personnel Officer when a vacancy is to be filled. The Personnel Office shall begin recruitment for the position utilizing the following: reinstatement, transfer, demotion, re-employment and eligibility list. Should these options fail to produce an eligible candidate, a provisional appointment may be made, subject to the approval of the Personnel Officer.

**Section 8.06 Provisional Appointment**

The Personnel Officer may approve a temporary provisional appointment in the absence of persons available for appointment when time is of the essence in filling the vacancy. An appointment to fill a vacancy in this manner may require hiring a trainee, selecting a qualified individual presently not employed by the City, or appointing an existing full time employee in an acting status. A provisional appointment is made at the discretion of the Personnel Officer. The appointed individual shall be compensated within the approved salary range for the appointed position. A provisional appointment shall be less than 12 months duration, and generally shall only last for the duration of the recruitment process.

Provisional appointments may be terminated at any time without right to appeal. If an existing full time employee was filling the provisional vacancy, the individual is not eligible for City fringe benefit rights or privileges.

If a trainee or other qualified individual is selected to fill the provisional vacancy, the individual is not eligible for city fringe benefit rights or privileges.

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

Section 8.07 Job Announcements

All examinations shall be announced in a bulletin which shall specify at least the major job responsibilities and desirable qualifications, and the selection process options of the City. Job announcements shall be posted on appropriate bulletin boards in City facilities. Recruitment methods shall be utilized as necessary to ensure that segments of the labor market available to the City are utilized.

Section 8.08 Application Forms

Applications shall be made only on forms provided by the Personnel Officer. Such forms shall require information covering training, experience and educational background and other information deemed pertinent by the appointing authority. All applications must be signed and dated by the person applying and received by the Personnel Officer within a filing period prescribed by the Personnel Officer.

Section 8.09 Rejection of Application

The Personnel Officer may reject any applicant who:

- a. Does not possess the established requirements for the advertised position.
- b. Is unable to perform the duties of the position.
- c. Has made a false statement concerning any material fact, or has practices or attempted practice of any deception or fraud in the application or examination, or in securing eligibility for appointment or promotion, regardless of when discovery was made.
- d. Fails to pass satisfactorily any medical or job-related examination which may be required.
- e. Fails to meet special conditions of employment.

Section 8.20 Examinations

The selection of techniques used in the examination process shall be impartial, of a practice nature and shall relate to those subjects which are related to the duties and responsibilities of the position.

The examination may consist of evaluation of personality and background through written tests, oral interviews, performance tests, medical examinations and other job-related tests or any combination thereof. Examinations may be open or promotional at the discretion of the Personnel Officer who shall consider the recommendations of the Department Head.

Section 8.21 Promotional Examinations

Promotional examinations may be conducted whenever, in the opinion of the Personnel Officer after consultation with the Department Head, the need of the service so requires. Promotional examinations may include any of the selection techniques or any combination thereof mentioned

above. Employees who meet the minimum qualifications and apply for open, promotional opportunities shall be given the opportunity to interview.

Section 8.22 Open Examinations

Open examinations may be conducted at the discretion of the Personnel Officer after consultation with the Department Head. Public candidates who meet the requirements of the open position may compete in open examinations.

Section 8.23 Conduct of Examinations

The Personnel Officer shall determine the manner, method and by whom examinations shall be prepared and administered. The City may contract with any competent agency or individual for the performance of this service. In the absence of such a contract, the Personnel Officer shall perform or delegate such duties.

Section 8.24 Notification of Results

Applicants who meet the requirements for admission to the eligibility list must be notified that they have achieved minimum rank. In addition, each non-selected applicant must be given notice of non-selection, including general reasons, requirements for addition to eligibility and appeal rights available. The City will take reasonable steps for notification of applicants including mailing such notice to the last known address.

Each candidate in an examination shall be given notice of the results within a reasonable amount of time. An applicant may review the materials related to testing including his/her answer sheets and test copies except in cases where tests are of a stock or form nature and when contracts prohibit such review.

Section 8.30 Eligibility List

An eligibility list shall be established following the examinations to determine the names of applicants who have achieved minimum rank. Such applicants shall be deemed as qualified for appointments pending further review by the appointing authority and other qualifying procedures including reference checks, medical examinations and background investigations. Eligibility lists shall be valid and in effect for a period of six months up to a maximum of one year at the discretion of the Personnel Officer. Eligibility lists shall be certified by the Personnel Officer.

Section 8.31 Appointment From Eligibility List

When an appointment is made from any eligibility list, the Personnel Officer shall certify names from the appropriate list. The appointing authority shall further review the job-related qualifications of those certified before making selection decisions.

Section 8.32 Re-Employment and Reinstatement

With the approval of the appointing authority and the Personnel Officer, a regular or probationary employee who has completed at least six months of probationary service and who has resigned with a good record and in good standing, may be reinstated to the former position, if vacant, or to a vacant position in the same or a comparable class within one (1) year from date of resignation.

No credit for former employment shall be granted in computing salary, vacation, sick leave or other benefits except on the specific recommendation of the appointing authority and the approval of the Personnel Officer.

a. Re-employment List

In the case of layoffs, a re-employment list is maintained when a vacancy occurs in the subject class; the appointing authority shall consider former employees from the list. The list shall be maintained for one year and as people are appointed to permanent positions, their names are dropped from the list. Employees on the re-employment list are responsible for informing the City of current address, telephone number and availability for work.

Section 8.40 Selection

Selection from the eligibility list may be made at any rank on the list of qualified applicants at the direction of the appointing authority. Any candidate who appears on the list may be selected.

Section 8.41 Physical Examination

Prospective employees shall be required to pass a medical or physical examination as may be prescribed. The Personnel Officer shall select a licensed medical doctor to perform the examination, the cost of which shall be borne by the City. The examination will determine the applicant's fitness to perform the job.

Section 8.42 Background Investigation

The Personnel Officer will conduct a background check on the successful candidate(s) which will focus on job-related qualifications. Background investigations may include reference checks, checks of criminal records and any other valid background checks deemed necessary by the Personnel Officer.

Section 8.43 Orientation

All new employees will be required to attend an orientation program designed to inform new employees of City benefits, policies, and procedures. Such orientation will occur within the first week of the employee's employment.

#### Section 8.44 Outside Employment

An employee's first obligation is to the position held with the City of San Juan Capistrano. Employees may only accept other employment if:

- a. The work does not present a conflict of interest, provide undue liability for the City, cause an interruption in the work schedule assigned the employee, or create a disciplinary action.
- b. The employment is approved in writing by the Personnel Officer.

Employees shall receive approval of outside employment as indicated above prior to acceptance of that employment. Each notification shall be placed in the employee's personnel file.

#### **RULE 9      PROBATIONARY PERIOD**

The probationary period shall be part of the screening process and shall be utilized for the following:

- a. To closely observe an employee's work.
- b. To provide for the most effective adjustment of an employee to the position.
- c. To further evaluate any probationary employee whose performance does not meet the required standards of the job to which appointed.

When an employee is appointed to a new position as a result of promotion, transfer or for any other reason, a new probationary period, as provided herein, shall begin at the time of appointment to the new position.

#### Section 9.01 Regular Appointment Following Probationary Period

Original appointments to positions within the classified service shall be subject to a probationary period of no less than six months and no more than twelve months. Original appointments to positions within the Management Service shall be subject to a probationary period of twelve months. At the conclusion of the probationary period, the employee will be notified of regular status, provided the appointing authority approves the action.

Achievement of regular employee status shall be based upon successful completion of a probation period, as determined by the Department Head and approved by the Personnel Officer.

For management employees, only in cases of exceptional performance by an exceptional employee, as documented in writing by the Department Head, will the Personnel Officer consider requests to consider a change in status (from probationary to regular) prior to twelve months of service.

Promotional appointments shall be subject to a probationary period of six months.

**Section 9.02 Rejection of Probationary Employee**

A probationary employee may be rejected at any time without the right of notice of an intent to reject or right of appeal or hearing during the probationary period. The appointing authority shall inform the Personnel Officer of the appointing authority's desire to reject a probationary employee. Notification of rejection shall be furnished to the probationary employee at least 10 working days prior to rejection, and a copy filed with the Personnel Officer. The appointing authority, after consultation with the Personnel Officer, may at the appointing authority's discretion extend the probationary period of an employee up to 12 months.

A rejected probationer serving as a result of an original appointment shall be dismissed from City service. An employee rejected during or at the conclusion of the probationary period following promotional appointment shall be reinstated to the position or class, or a comparable position or class, from which the employee was promoted and shall receive credit for time served during the promotional position.

**Section 9.03 Performance Evaluation During Probationary Period**

Performance evaluation during the employee probationary period shall be prepared within fourteen (14) calendar days preceding the conclusions of three (3) months service. Employee performance evaluation shall be prepared thereafter, within fourteen (14) calendar days preceding three (3) month intervals of service until the appointing authority deems the employee qualified to satisfactorily perform the job duties.

**RULE 10 CHANGES OF EMPLOYMENT STATUS**

**Section 10.01 Promotion**

Promotion refers to the movement of an employee from a position in one class to another class imposing higher duties and responsibilities, requiring higher qualifications and providing a higher maximum rate of pay will be regarded as a promotion.

**Section 10.02 Promotion In-House**

Insofar as practical and consistent with the best interest of the City, as determined by the Personnel Officer, vacancies shall be filled by promotion from within whenever qualified employees exist. Promotion - only classes will be established by the Personnel Officer in consideration of input from the Department Heads.

Section 10.03 Requirements for Promotional Candidates

Only regular employees who meet the requirements set forth in the Classification Plan and who received a satisfactory overall rating at the time of their last performance evaluation may compete in promotional opportunities. Any employee who wishes to apply for promotional opportunity must also have completed at least six (6) months in their present position. Employees who meet the minimum qualifications and apply for open, promotional opportunities shall be given the opportunity to interview.

Section 10.04 Rejection Following Promotion

An employee rejected during or at the conclusion of the probationary period following promotional appointment shall be reinstated to the position from which promoted and shall be reinstated to the position or class, or comparable position or class from which promoted and shall receive credit for time served in the promotional position unless charges are filed and the employee is discharged in the manner provided for in these rules and regulations.

Section 10.05 Reclassification

Whenever a position is reclassified which is currently occupied by an incumbent who is satisfactorily performing the duties of the proposed position, the City shall place that incumbent in the reclassified position, without the need to undertake a recruitment. Such reclassifications shall not result in demotion.

A reclassification may occur when the essential duties of a position change due to new technology, new regulations or laws, reorganization within the city, or other compelling reasons that increase to a higher level the duties performed by the position.

The City shall notify the Association whenever a reclassification is to occur to allow the Association to request to meet and confer over the impact and salary of the position.

Reclassification of an employee in a reclassified position may occur, at the City's discretion, if s/he has been satisfactorily performing the duties of the position for at least six months, as evaluated by the Department Head.

Out-of-Class grievances that result in position reclassifications shall also result in the reclassification of the employee, provided s/he has been satisfactorily performing the duties of the position for at least 6 months, as evaluated by the Department Head.

Section 10.10 Transfers

A transfer occurs when an employee changes positions which are in the same classification having essentially the same maximum salary and requiring substantially the same qualifications. This may or may not involve a change of an employee's place of employment from one department to another.

Section 10.11 Conditions for Transfer

An employee, who does not possess the minimum qualifications for an open position, shall not be transferred to that position. A qualified employee may be transferred, provided the transfer has been approved by the employee's supervisor, the new supervisor and the Personnel Officer.

Section 10.12 Employee Requested Transfers

New employees who have completed their probationary period in their current positions, may apply for a transfer. All other employees, who have worked a minimum of six (6) months in their current position, may apply for a transfer. A request may be submitted only when a vacancy exists. The employee's request for transfer will be considered on the basis of the employee's qualifications for the vacant position, the employee's best interests, and the best interests of the City. Requests for transfers must be received according to deadlines established by the Personnel Officer.

The City will consider lateral transfers and promotional opportunities to vacant positions within the same or similar job class for at least two weeks before they are opened competitively to non-employees. The employee requesting the transfer must have had a "satisfactory" rating on their last evaluation and meet the minimum qualifications for the position. The City would have no obligation to hire any of the applicants for transfer.

Section 10.13 Employer Initiated Transfers

The City of San Juan Capistrano reserves the right to transfer its employees from one position to another, or one department to another, if the transfer is necessary for the purpose of economy or efficiency.

Section 10.20 Voluntary Demotion

A regular employee may request a voluntary demotion to a vacant position in a class with a lower maximum salary rate provided the employee possesses the qualifications of that class.

Such requests must be filed with the Personnel Officer and require approval of the current Department Head and that of the Department Head of the vacant position.

Section 10.30 Conditions for Layoff

The City Manager, with the concurrence of the City Council, may abolish any position, because of material change in duties and organization, or shortage of work or funds. The employee holding such position or employment may be laid off without disciplinary action and without the right of appeal. No regular employee shall be laid off until all temporary and probationary employees holding positions in the same class in the department are first laid off. Only those employees in the department assigned to the class in which the position is to be abolished shall be involved in this layoff procedure.

Section 10.31 Notice of Layoff

Employees to be laid off shall be given at least fourteen (14) calendar days notice.

Section 10.32 Order of Layoff

Seniority shall govern the layoff of employees except in the case where there are two or more employees having equal seniority (same hire date). Employee performance will then govern the layoff. Seniority shall be determined as total number of years of full-time employment with the City of San Juan Capistrano.

Section 10.33 Layoff Procedure

Employees shall be laid off in reverse order of seniority and in consideration of performance. In cases where there are two or more employees having equal seniority in the affected class, such employees shall be laid off on the basis of the last performance evaluation report in that class as determined by the City Manager.

Section 10.34 Re-employment List

The names of persons laid off in accordance with these rules shall be entered on a re-employment list for one year, except that persons appointed to permanent positions shall, upon such appointment, be dropped from the list.

When a vacancy occurs in the subject class, the appointing authority shall consider the former employees from the re-employment list. It is the responsibility of the employee on a re-employment list to keep the City informed of his/her current address and telephone number, and availability for work.

Section 10.40 Termination - Resignation

An employee wishing to leave the City in good standing shall file with the immediate supervisor at least two (2) weeks before leaving the City a written resignation stating the effective date and reason(s) for leaving.

The resignation shall be forwarded by the Department Head to the Personnel Office and City Manager.

Section 10.41 Exit Interviews

All terminating employees will receive exit interviews. These exit interviews will be held upon notification by employee of plans to resign. The interview will be conducted by the Personnel Officer's representative. When an employee simply telephones from the outside to resign, the call should be referred to the Personnel Office. The Personnel Office will attempt to obtain as much exit interview information as possible over the telephone.

The objectives of the exit interviews are:

- a. To determine the real reason why the employee is leaving, so as to retain desirable employees whenever possible.
- b. To discover any grievances the employee may have regarding departmental conditions so that corrective action can be taken.
- c. To discover any misunderstandings the employee may have had regarding the job, or the supervisors, so that corrective action can be taken.
- d. To make certain that the reason for leaving expressed on the form is identical with that expressed verbally by the employee.
- e. To collect City-issued keys, manuals, equipment, etc.
- f. To have employee sign necessary termination forms.

Section 10.50 Performance Evaluation

Each supervisor or department head having immediate charge of an employee or group of employees, shall make or cause to be made, on forms provided by the Personnel Officer, performance evaluation reports for all subordinates. Performance evaluations shall be considered in actions relating to transfer, promotion, demotion or changes affecting the status of an employee.

Section 10.51 Timing of Performance Evaluations

The employee performance evaluation shall be completed by the appointing authority within specific time frames set by the Personnel Officer. The evaluation shall be signed and dated by the supervisor, department head and employee, and copies provided to appropriate personnel. An employee may examine the employee's own performance evaluation on file in the Personnel Office.

## **RULE 11    DISCIPLINARY ACTION**

### **Section 11.01 Application**

The appointing authority shall apply necessary and appropriate disciplinary action whenever an employee fails to meet the required standards of conduct or performance. Discipline is the enforcement of conformity to policies, rules and regulations and other administrative or legal requirements or practices designed to maintain a standard of cooperation and conduct necessary to carry out the service mission of the City organization successfully. The disciplinary action, when taken, shall be documented in such a manner as to be defensible at review and/or upon filing of a grievance by the disciplined employee.

### **Section 11.02 Types of Disciplinary Action**

Disciplinary actions include reprimands, suspensions, demotions and dismissal as defined below:

- a.    Verbal Reprimands - In the event that the appointing authority determines that a deficiency in performance or conduct is not of sufficient magnitude to warrant a more formal disciplinary action, an oral warning may be given to the employee, which should include examples of corrective actions which should be taken to improve performance or conduct in question. A confidential written record shall be made of such conferences with a copy provided to the employee.
- b.    Written Reprimands - An oral or written statement from the appointing authority to a subordinate of an action, which meets any of the grounds for disciplinary action listed in these rules. After verbal consultation, an official notification in writing by the appointing authority to the employee that there is cause for dissatisfaction with his/her services and that further disciplinary measures may be taken if the cause is not corrected.
- c.    Suspension - The temporary separation of an employee from City service without pay, for disciplinary purposes not to exceed thirty (30) calendar days in any one (1) calendar year.
- d.    Demotion - A change in employment status from one position to another having a lower rate of pay and/or a change in duties which are allocated to a class having a lower maximum rate of pay. The demotion may be temporary or permanent.

- e. Dismissal - The discharge of an employee from City service on disciplinary purposes by the appointing authority.

Section 11.03 Causes for Disciplinary Action

The causes of disciplinary action include, but are not limited to, the following:

- a. Insubordination, which shall consist of violation of any official regulation or order or failure to obey any proper directions made and given by a supervisor in the course of employment.
- b. Incompetence, inability or failure to perform the duties required by the position, as well as willful neglect of official duty.
- c. Gross carelessness in the discharge of assigned duties.
- d. Substance abuse, habitual intemperance, consumption of alcoholic beverages during working hours or reporting to work in a state of intoxication.
- e. Malfeasance in office or employment.
- f. Presentation or use of known false information in any manner to commit or attempt to commit fraud, or the falsification or unauthorized alteration of City documents or records.
- g. Repeated tardiness or excessive absences, or the improper or unauthorized use of leave privileges or benefits.
- h. Gambling for money or articles of value during the working day.
- i. Careless, negligent, improper and unauthorized use of City equipment, property or funds for private or personal purposes.
- j. Unauthorized discussion or release of confidential informational documents or records.
- k. Violation of the Personnel Ordinance or rules and regulations or a promulgated department rule, regulation or policy.
- l. Use of narcotics or drugs, which impair job performance, except as prescribed by a licensed physician.
- m. Refusal or failure to promptly or properly report an injury or disability arising from or in the course of employment.

- n. Engaging in unauthorized or incompatible employment elsewhere, or engaging in political activities during work hours.

Section 11.04 Disciplinary Procedures

When a permanent employee is to be suspended, demoted or dismissed, a preliminary written notice of the proposed action is to be prepared by the appointing authority, reviewed by the Personnel Officer, and then delivered to the employee. The written notice shall include:

- a. The reasons for the proposed action.
- b. The charges being considered.
- c. The proposed disciplinary action to be taken.
- d. A statement advising that before the proposed disciplinary action takes effect the employee has a right to respond in writing within five (5) working days from receipt of the written notice.

All charges filed against a permanent employee shall be documented in clear and concise language. The employee shall be given an opportunity to review the documents or materials upon which the proposed disciplinary action is based, and, if practicable, the employee shall be supplied a copy of the documents. The employee is entitled to be represented at any meeting concerned with potential disciplinary action when the employee's presence is required at said meeting.

Section 11.05 Notification of Decision

Within ten (10) working days after the employee has had the opportunity to respond, the appointing authority shall notify the employee of any disciplinary action to be taken and the effective date.

Section 11.06 Appeal of Decision

The employee may appeal the decision within five (5) working days of the notification of disciplinary action. The appeal may be made directly to the City Manager or an impartial arbitrator may be utilized to provide an advisory opinion to the City Manager prior to the submittal of the appeal to the City Manager. The procedure for a disciplinary appeal hearing is found in Administrative Policy #228, *Rules of Procedure and Evidence for Disciplinary Appeal Hearings*.

a. Advisory Arbitration

The impartial arbitrator shall be selected by the employee and designated representative and the City. The cost of the arbitrator, if any, shall be borne equally by the employee and the City. The arbitrator shall submit a written advisory opinion to the City

Manager who shall make the final and binding decision to sustain, revoke or modify the decision of the appointing authority.

b. City Manager

An employee may submit the appeal directly to the City Manager. Within ten (10) working days after submission of the appeal or receipt of written advisory opinion of the arbitrator, the City Manager shall make the final and binding decision to sustain, revoke or modify the decision of the appointing authority who took the disciplinary action against the employee.

Section 11.07 Temporary Absence with Pay

Notwithstanding the provisions of this section, upon the recommendation of the appointing authority, the City Manager may approve the temporary assignment of an employee to the status of absent with pay pending conduct or completion of such investigations or hearings as may be required to determine if disciplinary action is to be taken. Such status shall be conditioned such that the employee remains available and in daily telephone contact with the employer.

**RULE 12 GRIEVANCE PROCEDURE**

Section 12.01 Matters Subject to Grievance Procedures

A grievance shall be initiated through an informal first step when the employee notifies the supervisor verbally of his/her contention that the City has violated or misapplied a specific obligation expressed and/or written in the Personnel Rules and Regulations of the City. Personnel Division staff is available to assist Department Heads in such matters as the interpretation of Rules, documentation procedures and preparation of notices as requested.

Section 12.02 Notification of Grievance

The second step in the grievance process shall be a written notice filed in a timely manner, on a form provided by the City, which shall include at a minimum:

- a. Nature of the grievance;
- b. Date when the incident occurred;
- c. Description of the incident;
- d. Rule violated; and,
- e. Specific remedy sought by the employee.

Section 12.03 Steps in the Grievance Process

### First Step

Within ten (10) working days after the occurrence of the incident involved in the grievance, the employee may initiate the grievance process by discussing the matter informally with his/her immediate supervisor. An attempt shall be made to resolve the grievance between the employee and the immediate supervisor. The supervisor shall deliver an oral or written response within ten (10) working days after submission of the grievance.

### Second Step

If the grievance is not satisfactorily resolved in the first step, the grievance may be submitted to the supervisor's supervisor, if any, within the department organization within ten (10) working days after the immediate supervisor's answer is received by the employee. After an attempt to resolve the grievance between the employee and his/her designated representative, if any, the intermediate supervisor shall deliver a written answer within ten (10) working days after submission of the grievance. If there is no intermediate supervisor, the grievance shall go directly to the Department Head.

### Third Step

If the grievance is not satisfactorily resolved in the first and second steps, it shall be submitted in writing to the employee's Department Head within ten (10) working days after the intermediate supervisor's answer is received by the employee. The Department Head shall meet with the employee and his/her designated representative, if any, within ten (10) working days after submission of the grievance to the Department Head. The Department Head shall review the grievance and may affirm, reverse or modify the disposition made at the first and second steps and shall deliver a written answer to the employee within ten (10) working days after said meeting.

## Section 12.04 Appeal of Decision

If the grievance is not satisfactorily resolved, the employee may appeal the decision of the Department Head to the City Manager. At the option of the employee, the grievance may be submitted:

- a. Directly to the City Manager, or
- b. To an impartial arbitrator who will provide an advisory opinion to the City Manager prior to the consideration of the grievance by the City Manager.
- c. To a mediator from the State Mediation and Conciliation Service who will provide findings and recommendations to the City Manager prior to consideration of the grievance by the City Manager.

When the appeal is submitted to the City Manager, it shall specify whether the employee desires to have the appeal considered directly by the City Manager or reviewed first by an impartial arbitrator. Such submission must occur within ten (10) working days after the Department Head's written answer is received.

Section 12.05 Advisory Arbitration

An employee may elect to use an impartial arbitrator to provide an advisory opinion to the City Manager prior to the consideration of the grievance by the City Manager. After a hearing on the merits of the grievance and considering evidence from all parties concerned, the impartial arbitrator shall submit a written advisory opinion to the City Manager.

Within ten (10) working days after receipt of the written advisory opinion of the impartial arbitrator, the City Manager shall meet with the employee and his/her designated representative, if any, and other appropriate persons to assess the grievance. The City Manager may affirm, reverse or modify the disposition of the grievance. The City Manager shall deliver a written decision to the employee within five (5) working days after said meeting. The City Manager's decision shall conclude the administrative appeals procedure.

If an employee elects to use an impartial arbitrator, the arbitrator shall be selected jointly by the employee and his/her designated representative, if any, and the City. The cost of the arbitrator, if any, shall be born equally by the employee and the City.

Section 12.06 State Mediation

An employee may elect to use a certified mediator from the State Mediation and Conciliation Service to provide findings and recommendation to the City Manager prior to the consideration of the grievance by the City Manager. After a hearing on the merits of the grievance and considering evidence from all parties concerned, the certified mediator shall submit a written summary of his/her findings and recommendations to the City Manager.

Within ten (10) working days after receipt of the written summary of findings and recommendations from the certified mediator, the City Manager shall meet with the employee and his/her designated representative, if any, and other appropriate persons to assess the grievance. The City Manager may affirm, reverse or modify the disposition of the grievance. The City Manager shall deliver a written decision to the employee within five (5) working days after said meeting.

The City Manager's decision shall conclude the administrative appeals procedure.

If an employee elects to have a certified mediator from the State Mediation and Conciliation Service, the certified mediator shall be selected jointly by the employee and his/her designated representative, if any and the City. The cost of the certified mediator, if any, shall be born equally by the employee and the City.

Section 12.07 City Manager

An employee may elect to submit the grievance directly to the City Manager for a final and binding decision. Within ten (10) working days after submission of the grievance to the City Manager, the City Manager shall meet with the employee and his/her designated representative, if any, and other appropriate persons to assess the grievance.

The City Manager may affirm, reverse or modify the disposition of the grievance. The City Manager shall deliver written decision to the employee within five (5) working days after said meeting, and such decision shall conclude the administrative appeals procedure.

Section 12.08 Extension of Time

Any or all of the time limitations mentioned above with reference to filing and response times may be extended by mutual agreement between the employee and the City.

**RULE 13     SAFETY**

Every employee is entitled to a safe and healthful place in which to work. To this end, every reasonable effort will be made in the interest of accident prevention, fire protection and health preservation.

The City will maintain a safe and healthful work place. It will provide safe working equipment, necessary personal protection, and, in the case of injury, provide first-aid as appropriate.

The City will exert every effort to abide by all regulations as they pertain to governmental agencies which are set forth in Federal and State standards, and good practices as dictated by location and circumstances.

It is the employee's duty to comply with safety and health standards and all rules, regulations and orders applicable to employee's actions and conduct.

It is the employee's responsibility to identify safety concerns and report them immediately to the employee's supervisor so that the City may investigate and provide corrective action as necessary.

Section 13.01 Safety Program

The City will institute a Safety Program for all field employees, to encourage awareness of safety practices.

Section 13.02 No Smoking in City Vehicles

In order to preserve the health, safety and welfare of employees, the City of San Juan Capistrano hereby prohibits smoking in City vehicles.

**RULE 14      SEXUAL HARASSMENT POLICY**

It is the policy of the City that all employees should enjoy a working environment free from all forms of discrimination, including sexual harassment. All employees, both male and female, shall be free from subjection to unsolicited and unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature.

It is against City policies for any employee, male or female, to sexually harass another by 1) making a submission to such conduct either explicitly or implicitly a term or condition of an individual's employment; 2) making submission to or rejection of such conduct a basis for employment decisions affecting such individual; 3) creating an intimidating, hostile or offensive working environment; 4) intentionally, or as a result of such conduct, to substantially interfere with an individual's work performance.

The City will enforce disciplinary action against any person who threatens or insinuates, either explicitly or implicitly, that an individual's refusal to submit to sexual advances will adversely affect the individual's employment, evaluation, wages, advancement, assigned duties, shifts, or any condition of employment or career development. This discipline can include termination.

**RULE 15      ATTENDANCE AND ABSENTEEISM**

Attendance

Employees shall be in attendance in accordance with these rules and regulations governing hours of work, leaves and holidays. All departments shall maintain attendance records for all employees.

Each employee will be at work and ready to work at starting time and will work until quitting time. Habitual tardiness will be a matter for disciplinary action.

Absenteeism

Any employee who is absent from work shall be responsible for notifying their supervisor in a timely manner indicating when the employee will report back to work. Any employee who fails to comply with this rule will be subject to disciplinary action.

**RULE 16 ALCOHOL AND DRUG ABUSE POLICY**

Policy

It is City of San Juan Capistrano policy that employees shall not be impaired by, or have in their biological system, or be in possession, of alcohol or drugs while on City property, at work locations, or while on duty or in pre-arranged on-call status, and that employees shall not sell or provide drugs or alcohol to any other employee or person while on duty or in pre-arranged on-call status.

While use of validly prescribed medications and drugs does not violate this policy per se, failure by an employee to notify his/her supervisor, before beginning work, when taking medications or drugs which could foreseeably interfere with the safe and effective performance of duties, or the operation of City equipment, can result in discipline up to and including termination. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a qualified physician may be required.

The City reserves the right to search, without employee consent, all work areas and property in which the City maintains control or joint control with the employee. Otherwise, the City may notify appropriate law enforcement agencies that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by the City.

Employees reasonably believed to be under the influence of alcohol or drugs may be required to submit to an alcohol and/or drug analysis and may be prevented from engaging in further work and shall be detained for a reasonable time until he or she can be safely transported from the work site.

Refusal to immediately submit to an alcohol and/or drug analysis when requested by City management or law enforcement personnel, or refusal to submit to a search of personal properties if requested by law enforcement personnel, may constitute insubordination and be grounds for discipline up to and including termination.

The City of San Juan Capistrano is committed to providing reasonable accommodation to those employees whose drug or alcohol problem classifies them as handicapped under federal and/or state law.

The City of San Juan Capistrano is concerned with the well-being and safety of all its employees. It will assist employees who voluntarily seek help for alcohol or drug problems. Employees should contact their supervisor or the Personnel Officer or his designee for additional information.

#### Application

This policy applies to all employees of the City of San Juan Capistrano. This policy applies to alcohol and drugs, including all substances, drugs, or medications, whether legal or illegal, which could impair an employee's ability to effectively and safely perform the functions of the job.

### EMPLOYEE RESPONSIBILITIES

An employee must:

- \* not report to work or be subject to duty while his/her ability to perform job duties is impaired due to on or off duty alcohol or drug use;
- \* not possess or use alcohol or impairing drugs, including illegal drugs and prescription drugs without a prescription, during working hours or while subject to duty, on breaks, during meal periods or at anytime while on City property or in City vehicles;
- \* when so requested by a City representative, surrender possession of alcohol or impairing drugs, including illegal drugs and prescription drugs for which no valid prescription is available;
- \* not directly or through a third party sell or provide drugs or alcohol to any person, including any employee, while either or both employees are on duty or subject to being called to duty;
- \* submit immediately to a search and an alcohol and drug test when requested by a City representative, upon reasonable suspicion;

- \* notify his/her supervisor, before beginning work, when taking medications or drugs, prescription or non-prescription, which may interfere with the safe and effective performance of duties or operation of City equipment; and,
- \* provide, within 24 hours of request, bona fide verification of a current valid prescription for any potentially impairing drug or medication identified when a drug screen/test is positive. The prescription must be in the employee's name.
- \* report all breaches of this policy.

### SUPERVISORY RESPONSIBILITIES AND GUIDELINES

- \* Supervisors are responsible for reasonable enforcement of this policy.
- \* Supervisors may request that an employee submit to a drug and/or alcohol test when a supervisor has a reasonable suspicion that an employee is intoxicated or under the influence of drugs or alcohol while on the job or on pre-arranged on-call status.

"Reasonable suspicion" is a belief based on objective facts sufficient to lead a reasonably prudent supervisor to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform his/her job safely is reduced.

For example, any of the following, alone or in combination, may constitute reasonable suspicion:

- Slurred speech;
  - Alcohol odor on breath;
  - Unsteady walking and movement;
  - An accident involving City property, where it appears the employee's conduct is at fault;
  - Physical altercation;
  - Verbal altercation;
  - Atypical behavior;
  - Possession of alcohol or drugs;
  - Information obtained from a reliable person with personal knowledge.
- \* Any supervisor requesting an employee to submit to a drug and/or alcohol test will document in writing the facts constituting

reasonable suspicion that the employee in question is intoxicated or under the influence of drugs.

- \* The authority for enforcement and testing under this policy is limited to an employee's chain-of-command supervisors, including direct supervisor, division manager, department head and City Manager or his designee.
- \* Upon suspicion that an employee is impaired, the supervisor must request that another supervisor (in the employee's chain-of-command, whenever possible) be present to witness the signs of impairment and concur with the need for testing.
- \* Employees refusing an order to submit to a drug and/or alcohol analysis upon request shall be reminded of the requirements and disciplinary consequences of this policy. Where there is reasonable suspicion that the employee is under the influence of alcohol or drugs, the supervisor shall arrange for the employee to be safely transported home.
- \* No employee shall be physically searched on their person nor shall the personal possession of employee be searched without the freely given consent of, and in the presence of, the employee.
- \* Department Heads or designee shall be notified when there is reasonable suspicion to believe that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by the City. If the Department Head or designee concurs that there is reasonable suspicion of illegal drug possession, the Department Head shall notify the appropriate law enforcement agency.

#### PHYSICAL EXAMINATION AND PROCEDURE

The drug and/or alcohol test may test for any substance which could impair an employee's ability to effectively and safely perform the functions of his/her job, including, but not limited to, prescription medications, alcohol, heroin, cocaine, morphine and its derivatives, P.C.P., methadone, barbiturates, amphetamines, marijuana and other cannabinoids. Exhibit "A" describes the method in which the initial test will be conducted, how the sample will be processed after the drug and/or alcohol test is completed, and how a confirmatory test after an initial positive result will be performed. Exhibit "A" is subject to periodic review and updates for compliance with legal and/or medical guidelines.

## RESULTS OF DRUG AND/OR ALCOHOL ANALYSIS During Alcohol/Drug Tests

A positive result from a drug and/or alcohol analysis may result in disciplinary action, up to and including discharge.

If the drug screen is positive, the employee must provide within 24 hours of request bona fide verification of a valid current prescription for the drug identified in the drug screen. The prescription must be in the employee's name. If the employee does not provide acceptable verification of a valid prescription, or if the prescription is not in the employee's name, or if the employee has not previously notified his or her supervisor, the employee will be subject to disciplinary action up to and including discharge.

If an alcohol or drug test is positive for alcohol or drugs, the City shall conduct an investigation to gather all facts. The decision to discipline or discharge will be carried out in conformance with Rule 11 of the City of San Juan Capistrano Personnel Rules and Regulations.

### Confidentiality

Laboratory reports and test results shall not appear in an employee's general personnel folder. Information of this nature will be contained in a separate confidential medical folder that will be securely kept under the control of the Personnel Officer. The reports or test results may be disclosed to City management on a strictly need-to-know basis and to the tested employee upon request. Disclosures, without patient consent, may also occur when: (1) the information is compelled by law or by judicial or administrative process; (2) the information has been placed at issue in a formal dispute between the employer and employee; (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.

## **EXHIBIT "A"**

### **DRUG TESTING PROCEDURE**

Employee must present himself/herself at South Coast Family Clinic with a written request from the City of San Juan Capistrano's Personnel Officer or his designee for all drug testing. The request must include the printed name, title, and signature of the person authorized to order drug testing on behalf of the City.

The employee must show some form of picture identification, and must complete all necessary registration/consent materials at the time of presentation at the clinic.

#### **COLLECTION PROCESS**

The employee will be taken to the laboratory by a South Coast Family Clinic medical assistant where the employee will receive a specimen collection bottle.

Employee will be instructed to wash his/her hands.

Medical assistant will turn off water to the restroom.

Medical assistant will introduce indicator dye to the toilet for evidence of specimen tampering.

Employee will fill the specimen bottle with at least 60 ml of urine.

Medical assistant will then read the temperature of the specimen within four (4) minutes to verify that it is a fresh specimen. If the temperature of the specimen is not within 90-100 degrees F, the patient must provide a fresh sample.

**SPLIT SAMPLE PROCEDURE:** Medical assistant will pour the specimen into the first bottle which is to be used for mandatory testing, and requires 60 ml of urine. Any additional urine specimen will be poured into the second specimen bottle to be used as a split sample specimen. If there is no additional urine available for the second specimen, the first shall nevertheless be processed for testing.

Medical assistant will secure the caps on the specimen bottles and affix the specimen bottle seals over the caps and down the sides of the specimen bottles in view of the employee.

Medical assistant will record the date on the specimen bottle seals.

Employee will initial the specimen bottle seals.

Employee will then read and complete the Donor Consent portion of the lab requisition, including signature, date and any medications of the employee may have taken in the last 30 days.

Employee will complete, sign, and provide daytime telephone number on the certification portion of the lab requisition in case lab has any last minute questions. **Federal Regulations prohibit disclosure of the employee's identity to the laboratory.**

Medical assistant will complete all appropriate collection site information on the lab requisition form.

The Chain of Custody section will be completed by both the employee and the medical assistant. (Every time the specimen is handled, transferred, or placed into storage prior to being packaged for shipment, every individual must be identified and the date and purpose of change recorded.)

Upon completion of the collection process, the employee will be given a copy of the Drug of Abuse Test Request, the employer will be sent a copy, and the collection site will retain a copy.

Medical assistant will place the specimen bottles and all other copies of the requisition form in the shipping container.

Medical assistant will secure the shipping container and his/or her initials and date will be written on the shipping container seal.

The specimen will be overnight shipped to the appropriate laboratory for testing.

Test results will be sent directly to the City of San Juan Capistrano.