

CITY OF BUENA PARK

CORRECTED
VERSION



PERSONNEL RULES

&

REGULATIONS

8/28/18

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ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BUENA PARK,
CALIFORNIA, AMENDING MUNICIPAL CODE, CHAPTER 2.20 ENTITLED CIVIL
SERVICE SYSTEM, AND CHAPTER 2.24 ENTITLED POLITICAL ACTIVITIES OF
CITY EMPLOYEES**

A. Recitals.

(i) The City Council of the City of Buena Park did approve and adopt Ordinance No. 437 on the first day of May 1962, entitled Civil Service System; and

(ii) State and Federal employment laws have been changed, best employment practices have been implemented, and City operations have evolved requiring an update to the current Civil Service System; and

(iii) Amendments contained in this Ordinance are not intended to, and do not, alter terms and conditions of City employment; instead, these amendments are either non-substantive updates or changes necessitated by State or Federal law; and

(iv) All legal prerequisites to the adoption of this Ordinance have occurred.

B. Ordinance.

NOW, THEREFORE, the City Council of the City of Buena Park does ordain as follows:

Section 1: Chapter 2.20 of Title 2 of the Buena Park Municipal Code is hereby amended to read in its entirety as follows.

Section 2.20.010: Adoption of Civil Service System - Purpose.

In order to establish an equitable and uniform procedure for dealing with personnel matters, to attract to municipal service the best and most competent persons available, to assure that appointments and promotions of employees will be based on merit and fitness, as determined by competitive tests, and to provide a reasonable degree of security for qualified employees, the following civil service system of personnel administration is hereby adopted. All sections contained in this ordinance are intended to be gender neutral. All references to he, him, himself, etc. are intended to include all people regardless of their sex.

Section 2.20.020: Application of Chapter Provisions - Exemptions.

- A. The provisions of this chapter shall apply to all offices, positions and employments in the service of the City, except the following which are exempted:
1. Elective officers
 2. Members of appointive commissions and committees
 3. City Manager
 4. Assistant City Manager
 5. Director of Finance / City Treasurer
 6. Director of Human Resources / Risk Management
 7. Director of Community Development
 8. Director of Public Works / City Engineer
 9. Director of Community Services
 10. Police Chief
 11. City Clerk
 12. City Attorney
 13. Temporary, Seasonal, Limited Service Personnel
 14. Such other positions as the City Council shall designate, by resolution.
- B. However, the provisions of this chapter and the classification and salary resolution pertaining to position classification, attendance, vacation, leaves and holidays shall apply to all full-time exempt positions.

Section 2.20.060: Personnel Officer - City Manager Powers and Duties.

- A. The City Manager shall be the Personnel Officer. With the approval of the City Council, the City Manager may delegate any of the powers and duties conferred upon him as Personnel Officer under this chapter to any other officer or employee of the City, or may recommend that such powers and duties be performed under contract, as provided in Section 2.20.170.
- B. The Personnel Officer shall:
1. Administer all the provisions of this chapter and of the Personnel Rules not specifically reserved to the Council;
 2. Prepare and recommend to the Council revisions and amendments to the Personnel Rules. The City Attorney shall approve the legality of such revisions and amendments prior to their submission to the Council;

3. Under the direction of the Council, prepare a position classification plan, including class specifications and revisions of the plan. The plan and any revisions thereof shall become effective upon approval by the Council;
4. Under the direction of the council, prepare a plan of compensation and revisions thereof, covering all classifications in the competitive service. The plan and any revisions thereof shall become effective upon approval by the Council.

Section 2.20.070: Personnel Rules - Adoption, Application and Amendments.

- A. Personnel Rules to supplement this chapter shall be adopted by the City Council by Resolution. Such rules may be amended from time to time by Resolution of the City Council. Such rules shall be prepared by the Personnel Officer prior to adoption by the Council.
- B. Rules may be formulated as may be necessary and proper to carry out the intent and purpose of this chapter, and rules must be formulated establishing specific procedures to govern the following phases of the Civil Service System:
 1. The preparation, installation, revision and maintenance of a position classification plan covering all positions in the competitive service;
 2. The formulation of minimum standards and qualifications for each class position;
 3. The public announcement of vacancies and examinations and the acceptance of applications for employment;
 4. The preparation and conduct of examinations and the establishment and use of employment lists containing names of persons eligible for appointment;
 5. The certification and appointment of persons from employment lists to fill vacancies and the making of temporary and emergency appointments;
 6. The evaluation of employees during the probationary period and annually thereafter;
 7. The transfer, promotion, demotion and reinstatement of employees in the Civil Service System;

8. The separation from the service of employees through layoff, suspension, dismissal and for incapacity to perform required duties;
 9. The development of employee morale, welfare, and training;
 10. The maintenance and use of necessary records and forms;
 11. Suitable provision for orderly and equitable presentations to the Council by employees of matters relating to general conditions of employment;
 12. The procedure for conducting hearings before the Hearing Officer which shall be consistent with this chapter;
 13. Not less than fourteen days prior to recommendation by the Personnel Officer, all proposed rules or amendments to rules shall be posted in such public places as may be designated by the rules, and concurrently with such posting, copies of the proposed rules or amendments are to be made available to any employee at the Human Resources offices upon request.
- C. Protests to the adoption or amendment of any rules may be made in writing directly to the Personnel Officer. All protests must be made within the period of fourteen days after posting. The Personnel Officer, at its discretion, may set any protest for hearing.
- D. No rule or amendment shall be recommended by the Personnel Officer in which a change has been made therein after posting without reporting.
- E. In addition to the Personnel Rules authorized by this section, City departments may adopt rules pertaining to the operation of the department when such rules are not in conflict with this chapter or the Personnel Rules. Such rules need not be adopted in the manner provided for the adoption of personnel rules, but may be adopted by the approval of the Department Head and City Manager.

Section 2.20.08: Non-Competitive Service – Appointment

- A. Positions exempted from the Personnel Rules in Section 2.20.020 shall be termed Non-Competitive Service positions. Such positions serve at the will of the City Manager or City Council and employees

in those positions may be terminated without cause at any time and for any reason or no reason.

Section 2.20.080: Competitive Service – Appointment

- A. Appointments to vacant positions in the competitive service shall be made in accordance with the Personnel Rules. Such appointments shall be based on merit and fitness, to be ascertained so far as practicable by competitive examination. Examinations shall be used and conducted to aid in the selection of qualified employees, and consist of such recognized selection techniques as achievement and aptitude tests and other written tests, personal interview, performance tests, evaluation of daily work performance, work sampler or any combination of these, which will, in the opinion of the Personnel Officer, test fairly the qualifications of candidates. Physical and medical tests may be given as part of any examination. In any examination, the Personnel Officer may include, in addition to competitive tests, a qualifying test and set minimum standards therefor.
- B. Appointments shall be made by the City Council, the City Manager, or by the officer in whom the power to make appointments is vested by law.
- C. Vacant positions in the competitive service may be filled only by appointment from an eligible list, provisional appointment, transfer, reinstatement, or demotion.
- D. When appointment is to be made to a vacancy in the competitive service, the names of all eligible persons willing to accept appointment shall be transmitted by the Personnel Officer to the appointing authority in the order in which they appear on the lists and as provided in the Personnel Rules.
- E. In the absence of appropriate eligible lists, a provisional appointment may be made by the appointing power of a person meeting the qualifications for employment for the position. An eligible list shall be established within six months for any permanent position filled by provisional appointment. No person shall be employed by the City under provisional appointment for a total of more than twelve months. No special credit shall be allowed in any examination or the establishment of any eligible or promotional lists for service rendered under a provisional appointment.
- F. Appointments to emergency, temporary, and seasonal positions may, but need not be, made from eligible lists, and those appointed

shall not be in the competitive service. Appointments of this type shall include temporary employment for the replacement of employees on leave of absence or vacation, emergency appointments to meet emergencies which threaten life, property or the general welfare of the City or for work seasonal in nature.

- G. During the period of suspension of any employee or pending final action on proceedings to review the suspension, demotion or dismissal of an employee, the vacancy created may be filled by appointing authority only by temporary appointment.

Section 2.20.090: Competitive Service - Probationary Period.

- A. All original appointments for Police sworn personnel shall be for a probationary period of eighteen months. All other original appointments shall be for a probationary period of one year and all promotional appointments shall be for a probationary period of one year. During the probationary period, the employee may be rejected at any time without right of appeal or hearing.
- B. An employee rejected during the probationary period from a position to which he has been promoted shall be reinstated to the position from which he was promoted, unless he is discharged for a reason, as provided in this chapter and the rules, which would have been sufficient to cause his discharge from his former position as well. In the event of such dismissal, the employee shall be entitled to appeal his dismissal, as provided in this chapter.
- C. Any employee in the competitive service promoted or transferred to a position not included in the competitive service shall be reinstated to the position from which he was promoted or transferred, if, within one year after such promotion or transfer, action is taken to reject or dismiss him, unless he is discharged for cause in the manner provided in this chapter and the rules established for positions in the competitive service.
- D. An employee's status shall be considered permanent upon completion of the probationary period only if the appointing authority reports to the personnel officer that the services of the employee have been satisfactory and that the employee is recommended for a permanent appointment. It shall be the duty of the appointing authority to determine and report to the personnel officer before completion of an employee's probationary period whether or not the service of the employee has been satisfactory.

- E. The appointing authority may recommend extending the probationary period of an employee up to one additional six (6) month period. Employees on extended probation shall accrue sick and vacation leave but not service credit toward merit increases. An employee shall not compete in any promotional examination while on extended probation.

Section 2.20.110: Attendance and Leave - Rules for Certain Exempt Positions.

The provisions of the Personnel Rules relating to attendance and leaves shall apply to the incumbents of full-time positions.

Section 2.20.120: Suspension Conditions.

Any person holding a position of employment in the competitive service shall be subject to disciplinary suspension without pay by the appointing power, but such suspensions shall not exceed a total of twenty calendar days in any fiscal year. A department head not having power of appointment may make disciplinary suspensions in accordance with the Personnel Rules.

Section 2.20.130: Appeal Rights and Procedures.

- A. Right of Appeal. Any employee in the competitive service shall have the right to appeal to the City Manager relative to any situation affecting his employment status or conditions of employment, except in instances where the right of appeal is prohibited by this chapter or by a memorandum of understanding.
- B. There shall be no appeal from the following actions:
 - 1. Denial of salary increases.
 - 2. Demotion or discharge due to layoff.
 - 3. Verbal counseling.
 - 4. Transfer to another position in the same classification without a loss of pay.
 - 5. Hiring of Employee relatives.
- C. This section shall not govern the processing or disposition of disciplinary proceedings.

Section 2.20.140. Abolition of Position - Layoff Procedures.

Whenever, in the judgment of the City Council, it becomes necessary in the interest of economy or because the necessity for the position involved no longer exists, the Council may abolish any position or

employment in the competitive service in the same manner as the title and duties were established by the Council, and the employee holding such a position or employment may be laid off effectively thirty days after notice, in writing exclusive of any vacation period accrued, without the right of appeal. The name of such employee so laid off shall be placed at the top of the appropriate employment list provided by the rules, and such employee shall be reappointed should such position or employment of any position involving all or a major portion of the same duties be reinstated or created within one year.

Section 2.20.150: Discrimination for Politics, Race, or Religion Prohibited.

No person in the competitive service system or seeking admission thereto shall be employed, promoted, demoted, discharged or in any way favored or discriminated against because of political opinions or affiliations or because of race, color, ancestry, national origin, religion, creed, age (over 40), disability, mental and physical, sex, gender (including pregnancy, childbirth, breastfeeding or related medical conditions), sexual orientation, gender identity, gender expression, medical condition, genetic information, marital status, or military and veteran status. No person shall be accepted into the competitive service system who is an active member in any organization which advocates the overthrow of the United States Government by force.

Section 2.20.160: Age Limits Not Permitted for Examinations - Exceptions.

Minimum or maximum age limits for any examination shall not be established and age shall not be a minimum qualification for any City employment in the competitive service. Any person possessing all of the minimum qualifications for a position is eligible to take any examination, regardless of age, and the personnel officer or any appointing power shall not adopt any rule prohibiting the employment of any person otherwise qualified in any City employment solely because of age; except, that the provisions of this section shall not apply to the employment of Police Officers and shall not prevent the legislative body from fixing minimum age limits for the employment of Police Officers.

Section 220.170: Contracting for Special Services.

The City Manager shall consider and make recommendations to the City Council regarding the extent to which the City should contract for the performance of technical services in connection with the development and administration of any phase of the personnel program, and the

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Council may contract for the performance of such services with any qualified person or agency.

Section 2.20.180: Appropriation of Funds.

The City Council shall appropriate such funds as are necessary to carry out the provisions of this chapter.

Section 2.20.190: Effective Date of Chapter.

The provisions of this chapter shall become effective on the 29th day of September, 2018.

CHAPTER 2.24

POLITICAL ACTIVITIES OF CITY EMPLOYEES

Section 2: Chapter 2.24 of Title 2 of the Buena Park Municipal Code is hereby amended to read in its entirety as follows:

Section 2.24.010: Officer or Employee Defined.

For purposes of this chapter, “officer” or “employee” means:

- A. Any person employed as a permanent, probationary, full-time, part-time, temporary or seasonal employee by the city, including any employees subject to the direction of the City Manager who are paid wholly or partially by federal or state funds;
- B. Reserve Police Officers;
- C. Any member of any commission or committee appointed by the Mayor or City Council of the City; or
- D. Any member of the City Council.

Section 2.24.020: Acts Constituting Unlawful Use of Influence.

No one who holds, or who is seeking election or appointment to any office or employment in the City shall, directly or indirectly, use, promise, threaten or attempt to use any office, authority, or influence, whether then possessed or merely anticipated, to confer upon or secure for any individual person, or to aid or obstruct any individual person in securing, or to prevent any individual person from securing, any position, nomination, confirmation, promotion, or change in compensation or position, within the City, upon consideration or condition that the vote or political influence or action of such person, or another, shall be given or used in behalf of, or withheld from, any candidate, officer, or party, or upon any other corrupt condition or consideration. This prohibition shall apply to urging or discouraging the individual employee's action.

Section 2.24.030: Soliciting from Other Officers or Employees.

- A. An officer or employee of the City shall not, directly or indirectly, solicit political funds or contributions, knowingly, from other officers or employees of the City or from persons on the employment lists of the City.

- B. Nothing in this section prohibits an officer or employee of the City from communicating through the mail, or by other means, requests for political funds or contributions to a significant segment of the public, which may include officers or employees of the City.

Section 2.24.040: Political Activities - Prohibited While in Uniform.

No officer or employee of the City shall participate in political activities of any kind while in uniform.

Section 2.24.050: Political Activities - Prohibited During Working Hours.

No officer or employee of the City shall participate in political activities of any kind during their City working hours.

Section 2.24.060: Political Activities - Prohibited on Certain City-Owned Premises.

No person shall participate in political activities on those premises owned by the City of Buena Park known as the Civic Center, located at 6650 Beach Boulevard; known as the Police Department, located at 6640 Beach Boulevard; known as the Community Center, located at 6688 Beach Boulevard; known as Fire Station No. 61, located at 7440 La Palma Avenue; Fire Station No. 62, located at 7780 Artesia Boulevard; Fire Station No. 63, located at 9120 Holder Street; known as the City Yard, located at 6955 Aragon Circle; and known as the Ehlers Event Center, located at 8150 Knott Avenue. Notwithstanding the above, the City's rental facilities located at 6688 Beach Boulevard and 8150 Knott Avenue may be used for political activities upon rental reservation and payment of full facilities fees on the same terms and conditions applicable to non - political events. The prohibition on political events shall not apply to the annual senior resource event conducted at 8150 Knott Avenue, during which candidates for election to the city council or opposing or supporting any city ballot measure or city council candidate may rent booths on the same terms and conditions as rental of non - political booths.

Section 3: Severability. The City Council declares that, should any provision, section; paragraph, sentence or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences and words of this Ordinance shall remain in full force and effect.

Section 4: This Ordinance shall take effect thirty (30) days after its adoption

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Section 5: The City Clerk of the City of Buena Park shall certify to the passage of the Ordinance and shall cause the same to be posted in the manner required by law.

PASSED AND ADOPTED this 28th day of August 2018, by the following called vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

I, Adria M. Jimenez, MMC, City Clerk of the City of Buena Park, California, do hereby certify that the foregoing ordinance was introduced and passed at a regular meeting of the City Council of the City of Buena Park held on the 28th day of August 2018.

City Clerk

RESOLUTION NO. ____

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF BUENA PARK AMENDING THE
PERSONNEL SYSTEM RULES AND REGULATIONS
OF THE CITY OF BUENA PARK.**

WHEREAS, the City Council is authorized and directed under the provisions of Section 2.20.070 of the Buena Park Municipal Code, 1990, to adopt rules and regulations for the administration of a personnel system; and

WHEREAS, State and Federal employment laws have been changed, best employment practices have been implemented, and City operations have evolved requiring an update to the current Personnel System Rules and Regulations to conform to current law and practices; and

WHEREAS, the Personnel Officer has considered these rules in the manner required by the Ordinances of the City of Buena Park; and

WHEREAS, the Personnel System Rules and Regulations of the City of Buena Park is amended to read in its entirety; and

NOW, THEREFORE, the City Council of the City of Buena Park does hereby resolve, determine, and order as follows:

Section 1: Amending the Personnel System Rules and Regulations.

The following rules and regulations are hereby adopted and established as the personnel rules and regulations for the City of Buena Park:

RULE I - PURPOSE

The Objectives of these rules are to facilitate efficient and economical services to the public and to provide for a fair and equitable system of personnel management in the municipal government. All sections contained in this resolution are intended to be gender neutral. All references to he, him, himself, etc. are intended to include all people regardless of their sex.

These rules set forth in detail those procedures which ensure similar treatment for those who compete for original employment and promotion and define the obligations, rights, privileges, benefits, and prohibitions which are placed upon all employees in the competitive service of the City.

At the same time, within the limits of administrative feasibility, recognition shall be given to the fact that individuals differ, that no two individuals react alike to reward and discipline or to uniform motivation and encouragement. For this

reason, considerable latitude shall be given to the Personnel Officer in the execution of his duties and responsibilities relating to employee morale and discipline.

RULE II – DEFINITION OF TERMS

The following terms, whenever used in these rules, shall be construed as follows:

Section 1: Acting Appointments. The Appointment for a limited period of time not to exceed 960 hours per fiscal year of a person who is already a probationary or regular employee to a position in a higher class for which there is no employment list, to a position in a higher class occupied by a regular appointee on suspension, or to a position in a higher class occupied by a probationary or regular appointee who is on an authorized leave of absence.

Section 2: Allocation. The allocation of a single position to the proper class in accordance with the specifications for that class. Or, the assignment of a class to a salary range or salary rate.

Section 3: Appointment. The employment of a person in a position.

Section 4: Appointing Power. The officers of the City who, in their individual capacities, or as a Commission or City Council, have the final authority to make the appointment to the position to be filled.

Section 5: Class. A group of positions sufficiently similar in duties, responsibilities, authority, and minimum qualifications for employment to permit combining them under a single title and equitable application of common standards of selection and compensation.

Section 6: Classification Plan. The designation by City Council resolution of a title for each class, together with the specifications for each class as prepared and maintained by the City Manager.

Section 7: Class Specifications. A written description of a class, setting forth factors and conditions which are essential characteristics of positions in the class.

Section 8: Compensation Plan. The assignment by City Council resolution of salary ranges and/or salary rates to each class.

Section 9: Competitive Service. The positions and employments which are included or which may hereafter be included under the Personnel System by ordinance.

Section 10: Continuous Service. The employment without break or interruption of an employee having a probationary or regular appointment.

Section 11: Continuity of Service Requirements. Continuous service, as required for advancement within salary ranges and for other purposes specified in this Resolution, is defined as City Employment on a probationary, regular, or acting appointment basis without break or interruption.

Section 12: Demotion. The voluntary or involuntary reduction of a regular employee from a position in one class to a position in another class having a lower maximum salary rate.

Section 13: Dismissal. The involuntary separation of an employee from the City service.

Section 14: Eligible. A person whose name is on an employment list.

Section 15: Employee. A person legally occupying a position.

Section 16: Employment List. A list of names of persons who have taken an examination for a class in the competitive service and passed, and are ranked on the list in order of the score received.

Section 17: Examination.

- A. Assembled Examination: An examination conducted at a specific time and place at which applicants are required to appear for competitive examination under the supervision of an examiner.
- B. Unassembled Examination: An examination consisting of an appraisal of training, experience, work history, or any other means for evaluating other relative qualifications of applicants without the necessity for their personal appearance at a specific place.

Section 18: Limited Service Personnel. Any person who is not regularly employed in a permanent position and hired to fill a temporary position or a seasonal position such as a summer recreation position. Paid employees such as Police Reserve Officers are included under this definition. Limited Service Personnel is not eligible for paid vacation or holidays.

Section 19: Limited Term Personnel. Non-permanent positions that do not exceed three (3) years. They can be utilized for any of the following reasons: (1) where the position is created for a project(s) or work that is expected to be completed within three (3) years; (2) where the position is funded by grant funds of three (3) or less years in duration; (3) where the position is funded by moneys from capital or enterprise funds that may be unavailable after three (3) years; or

(4) time-limited trainee positions. Employees shall be informed of the expected duration of the position at the time of employment. At the end of the position's duration, employment shall terminate with no right to appeal, and the employee shall not have layoff rights, bumping rights, severance payments or reemployment rights. However, with City Council approval, the City Manager may create a similar permanent position and appoint the employee to that new position. Should an employee who was originally hired to fill a limited duration position be later appointed to a permanent position, his/her hire date will be that date that service began in the limited duration position.

Section 20: Merit Salary Advancement. The increase of an employee's salary within the salary range established for the class of position he occupies as a result of satisfactory job performance in such position.

Section 21: Non-Competitive Service. The positions which are excluded from the Civil Service System by ordinance and serve at the will of the City Manager or City Council.

Section 22: Original Appointment. A person's first appointment as a City employee.

Section 23: Overtime. The workings by a probationary or regular employee in a full-time position of more hours than are required for a full work shift for the position.

Section 24: Part-time Position. A position having a workweek of fewer hours than the workweek established for full-time positions in the class. Part-time position may be either temporary or permanent.

Section 25: Permanent Position. A full-time or part-time position that is individually authorized in the budget and which is expected to exist indefinitely.

Section 26: Personnel Action Form. The multipurpose form used for processing changes in an employee's salary rate, employment status, or other matters contemplated in this resolution.

Section 27: Personnel Ordinance. Ordinance No. 437 which creates a personnel system for the City.

Section 28: Position. A combination of current duties and responsibilities assigned to a single employee and performed on either a full-time or part-time basis.

Section 29: Probationary Appointment. The probationary employment of a person in a permanent position. A probationary appointment is for a

specified period, during which job performance is evaluated as the basis for a subsequent regular appointment.

Section 30: Probationary Employee. An employee who has a probationary appointment to a permanent position.

Section 31: Probation Period. A working test period that is part of the selection process and during which an employee is required to demonstrate his fitness for the duties of the position to which he has been assigned by actual performance of such duties. As used in this resolution, the term “initial probation period” shall mean an employee's first probation period during his continuous City employment.

Section 32: Probationary Status. The status of a person who has a probationary appointment.

Section 33: Promotion. The advancement of an employee from a position in one class to a position in another class having a higher maximum salary rate.

Section 34: Promotional List. An employment list resulting from a promotional examination.

Section 35: Promotional Examination. An examination for a particular class, admission to the examination being limited to regular employees in the competitive service.

Section 36: Provisional Appointment. An appointment acquired by a person who passes the minimum qualifications established for a particular class and who has been appointed to a position in that class in the absence of available eligible.

Section 37: Reclassification. The reassignment of a position from one class to a different class in accordance with a reevaluation of the minimum qualifications, duties and responsibilities of the position.

Section 38: Reduction. A salary decrease within the limits of the pay range established for a class.

Section 39: Regular Appointment. The regular employment of a person in a permanent position. A regular appointment follows successful completion of a probation period and signifies satisfactory performance of duties and responsibilities in the permanent position to which the employee is assigned.

Section 40: Regular Employee. An employee who has successfully completed his probation period in a permanent position.

Section 41: Regular Status. The status of an employee who has acquired a regular appointment.

Section 42: Reinstatement. The reemployment without examination of a former permanent employee within one year following his or her resignation from the City service. Such action must have the approval of the Department Head and the appointing authority and reinstatement is not a right of a former permanent employee.

Section 43: Rejection. The involuntary separation from the City service of an employee who does not successfully complete his probation period in a position and who does not have regular status in another position in a different class, or the reduction of an employee who did not successfully complete his probation period in a position to another position in a different class in which he had previously acquired regular status.

Section 44: Reprimand. An oral or written reprimand made as a disciplinary action.

Section 45: Resignation. The voluntary separation of an employee from the City service.

Section 46: Salary Anniversary Date. The future date on which a probationary or regular employee is eligible on the basis of satisfactory job performance for a prescribed period, for a merit salary advance within the salary range established for the class of position he occupies.

Section 47: Salary Range. The range of salary rates for a class.

Section 48: Salary Rate. The dollar amount of each step in a salary range or the flat dollar amount of salary for a class not having a salary range.

Section 49: Suspension. The temporary separation without pay of an employee from the City service, for disciplinary purposes.

Section 50: Salary Step. The minimum through maximum salary increments of the salary range adopted for a job classification.

Section 51: Temporary Appointment. An appointment of a person to a position of limited duration.

Section 52: Temporary Position. A full-time or part-time position of limited duration.

Section 53: Termination. The separation of an employee from the City service because of retirement, resignation, death, or dismissal.

Section 54: Transfer. A change of an employee from one position to another position in the same class or in another class having the same maximum salary rate, involving the performance of basically similar duties and requiring substantially the same minimum qualifications.

Section 55: Vacancy. An authorized position that is not occupied by an employee having either a probationary or regular appointment to the position.

Section 56: Work Schedule. The assignment of a position to work shift or series of work shifts in a seven calendar day period.

Section 57: Work Shift. The number of working hours in a seven calendar day period as established for a particular position or class.

Section: 58: “Y-Rate”. “Y-Rate” applies to an employee whose salary is not subject to merit increase, cost of living adjustment, or any other increase because the employee’s salary exceeds the maximum salary for the employee’s classification. Typically, this occurs if an employee’s position has been reclassified to a classification with a maximum salary lower than the employee’s current rate.

RULE III – INTENT

It is the intent of these rules to recognize the following principles:

Section 1: Employment Standards. The City Council and all the citizens of Buena Park have the right to expect that the City will employ the best qualified persons available, that the tenure of every City employee will be based on a demonstrated need for the work performed, availability of funds, faithful and effective performance, proper personal conduct, and continuing fitness for his or her position, and that each employee will be encouraged, trained, and developed to assure optimum performance.

Section 2: City’s Responsibility to Employee. Each employee of the City of Buena Park has the right to expect that he will be fully informed of his or her duties and responsibilities that he or she will be provided with adequate administrative and supervisory direction, that he or she will be informed of how well he or she is performing his or her duties and his or her level of performance, that promotions will be made on the basis of merit and ability, that progressively improved work performance over an extended period will be recognized and rewarded and that incompetence will not be tolerated. And that he or she will not be subject to suspension, demotion, or dismissal without justification.

RULE IV - GENERAL PROVISIONS

Section 1: Disclosure of Religious or Political Affiliations. No question in any test, in any application form, or in any other personnel proceedings, or by any appointing authority, shall be so framed as to attempt to elicit information concerning political or religious opinions or affiliations of an applicant or employee. No appointment to, or removal from, a position in the competitive service shall be affected or influenced in any manner by any political or religious opinion or affiliation.

Section 2: Violation of Rules. Violation of the provisions of these rules shall be grounds for dismissal, rejection, or suspension.

Section 3: Amendment and Revisions of Rules. Recommendations for amendment and revisions of these rules may be made by the Personnel Officer for recommendation to the City Council. Prior to consideration, any amendment or revision shall be publicly posted at such places as the City Council shall prescribe, for at least fourteen consecutive days together with notice of the time, place and date of hearings by the City Council. At the time of consideration, any interested person may appear and be heard. Amendments and revisions shall become effective upon adoption by the City Council following such hearing.

Section 4: Department Rules. The City Manager is authorized to issue written administrative personnel regulations designed to augment or clarify the provisions of this Resolution. Prior to issuance, such regulations shall be referred to the City Attorney as to their conformance with this Resolution. At least annually such regulations shall be considered for possible incorporation in a revision of this Resolution.

In addition to the personnel rules authorized by the personnel ordinance and these rules, City departments may adopt rules pertaining to the operation of the department when such rules are not in conflict with the personnel ordinance or the personnel rules. Such department rules need not be adopted in the manner provided for the adoption of personnel rules, but may be adopted by the approval of the Department Head and the City Manager.

RULE V - CLASSIFICATION

Section 1: Classification of Positions. All positions in the City service shall be grouped into classes. Each class shall include those positions sufficiently similar in duties and responsibilities to require similar standards of education, experience, abilities and personal traits.

Section 2: Preparation and Content of Class Specifications. The City Manager shall be responsible for preparing and maintaining class specifications for all positions. The specifications shall include, but not be limited to, a list of

typical duties and a statement of the minimum qualifications required for appointment. It shall be understood that all positions require the ability to read, write, and speak the English language, to follow written and oral instructions, to maintain satisfactory relations with co-workers and the public, and reliability, sobriety, integrity, loyalty, and a record of orderly law abiding citizenship.

Section 3: Interpretation of Class Specifications. All class specifications shall describe typical duties which employees occupying positions in the class may properly be required to perform. Class specifications are explanatory, but not restrictive. The listing of particular tasks shall not preclude the assignment of others of related kind or character or requiring lesser skills.

Section 4: Adoption of Plan. Before the classification plan or any part thereof shall become effective, it shall first be approved in whole or in part by the City Council. Upon adoption by the Council, by resolution, the provisions of the classification plan shall be observed in the handling of all personnel actions and activities. The classification plan shall be amended or revised as occasion requires in the same manner as originally established.

Section 5: Allocations of Positions. Following the adoption of the classification plan, the Personnel Officer shall allocate every position in the competitive service to one of the classes established by the plan.

Section 6: New Positions. When a new position is created, before the same may be filled, the appointing authority shall notify the Personnel Officer, and except as otherwise provided by ordinance or these rules, no person shall be appointed or employed to fill any such position until the classification plan shall have been amended to provide therefore and an appropriate employment list has been established for such position.

Section 7: Reclassification. Positions, the duties of which have changed materially so as to necessitate reclassification, shall be allocated by the Personnel Officer to a more appropriate class, whether new or already created, in the same manner as originally classified and allocated. Reclassifications shall not be used for the purpose of avoiding restrictions surrounding demotions and promotions.

Section 8: Amending the Classification Plan. The City Council may create new classes, and revise or abolish existing classes.

RULE VI – COMPENSATION

Section 1: Preparation of Plan. The Personnel Officer or the person or agency employed for that purpose shall prepare a pay plan covering all classes of positions in the competitive service, showing the minimum and maximum rates of pay. In arriving at such salary ranges, consideration shall be given to

prevailing rates of pay for comparable work in other public and in private employment including consideration of conditions of work as well as basic pay; to current cost of living; to suggestions of department heads; and to the City's financial condition and policies. The Personnel Officer or the person or agency employed for that purpose shall thereafter make such further studies of the compensation plan as may be requested by the City Council.

Section 2: Adoption of Plan. The Personnel Officer shall submit the proposed pay plan to the City Council. The City Council shall adopt or amend and adopt the proposed plan. Thereafter, no position shall be assigned a salary higher than the maximum or lower than the minimum salary provided for that class of position unless the salary schedule for the class is amended in the same manner as herein provided for its adoption.

Section 3: Purpose. The purpose of this Plan is to establish a Merit system of compensation based upon performance and productivity, with due consideration for all qualities of service and contributions to the City.

Section 4: At least annually, the City Manager shall review the existing Compensation Plan and recommend to the City Council a salary range for each class for which the City Manager is the appointing authority. In determining salary ranges, consideration shall be given to both base pay, fringe benefits, and working conditions.

Section 5: The establishment of salary ranges and salary rates and the allocation of classes thereto shall be by Resolution of the City Council.

RULE VII - APPLICATIONS AND APPLICANTS

Section 1: Announcement. All examinations for classes in the competitive service shall be published by posting announcements in the City Hall, on official bulletin boards, and in such other places as the Personnel Officer deems advisable. The announcements shall specify the title and pay range of the class for which the examination is announced; the nature of the work to be performed; preparation desirable for the performance of the work of the class; the dates, time, place and manner of making applications; and other pertinent information. All such announcements shall be posted at least eleven calendar days in advance of examination date.

Section 2: Application Forms. Applications shall be made on forms provided by the Personnel Officer. Such forms shall require information covering training, experience, and other pertinent information and may include certificates of one or more examining physicians, references and fingerprinting. All applications must be signed by the person applying.

Section 3: Disqualification. The Personnel Officer shall reject any application which indicates on its face that the applicant does not possess the minimum qualifications required for the position. Applications also shall be rejected if the applicant is physically unfit for the performance of duties of the position to which he seeks appointment, is addicted to the habitual excessive use of drugs or intoxicating liquor; has been convicted of a crime involving moral turpitude; has made any false statement of any material fact or practiced, or attempted to practice, any deception or fraud in his application. Whenever an application is rejected, notice of such rejection with statement of reason shall be mailed to the applicant by the Personnel Officer. Defective applications may be returned to the applicant with notice to amend the same, providing the time limit for receiving applications has not expired.

RULE VIII – EXAMINATIONS

Section 1: Nature and Types of Examinations. The selection techniques used in the examination process shall be impartial, of a practical nature and shall relate to those subjects which, in the opinion of the Personnel Officer, fairly measure the relative capacities of the persons examined to execute the duties and the responsibilities of the class to which they seek to be appointed.

Examinations shall consist of such recognized personnel selection techniques as achievement tests, aptitude tests, evaluation of personality and background through personal interviews, performance tests, evaluation of daily work performance, work samples, or physical agility tests or any combination of them.

The probationary period of an employee shall be considered the final part of the examination process. Successful completion of the examination process shall occur with satisfactory completion of the probationary period.

Section 2: Promotional Examination. Promotional examinations may be conducted whenever, in the opinion of the Personnel Officer, the needs of the service require. Promotional examinations may include any of the selection techniques mentioned in Section 1 of this Rule, or any combination of them. Only permanent employees who meet the requirements set forth in the promotional examination announcements may compete in promotional examinations.

Section 3: Conduct of Examinations. The Personnel Officer shall determine the manner and methods and by whom examinations shall be prepared and administered. The City Council, upon recommendation of the Personnel Officer, may contract with any competent agency or individual for the performance by such agency or individual of the responsibility for preparing and administering examinations. In the absence of such a contract, the Personnel Officer shall perform such duties. The Personnel Officer shall arrange for the use

of public buildings and equipment for the conduct of examinations and shall render such assistance as shall be required with respect thereto.

Section 4: Scoring Examinations and Qualifying Scores. A candidate's score in a given examination shall be the average of his scores on each competitive part of the examination, weighted as shown in the examination announcement. Failure in one part of the examination may be grounds for declaring such applicants as failing the entire examination or as disqualified for subsequent parts of an examination. The Personnel Officer may, at his discretion, include as part of the examination, tests which are qualifying only.

Section 5: Notification of Examination Results and Review of Papers. Each candidate in an examination shall be given written notice of the results thereof, and if successful, of his final earned score and rank on the employment list.

Any candidate shall have the right to inspect his own examination papers within thirty days after the notices of examination results were mailed. Any error in computation is called to the attention of the Personnel Officer within this period, shall be corrected. Such corrections shall not, however, invalidate appointments previously made.

RULE IX - EMPLOYMENT LISTS

Section 1: Employment Lists. As soon as possible after the completion of an examination, the Personnel Officer shall prepare and keep available an employment list consisting of the names of candidates who qualified in the examination, arranged in order of final scores, from the highest to the lowest qualifying score.

Section 2: Duration of Employment Lists. Employment lists shall become effective upon the approval thereof by the Personnel Officer and upon his certification that the list was legally prepared and represents the relative ratings of the persons whose names appear on it. Employment lists shall remain in effect for one year, unless sooner exhausted, and may be extended, prior to their expiration dates, by action of the Personnel Officer for additional six month periods, but in no event shall an employment list remain in effect for more than two years.

Section 3: Reemployment Lists. The names of probationary and permanent employees who have been laid off shall be placed on appropriate reemployment lists in the order of their competency, from highest to lowest. Such names shall remain thereon for a period of two years unless such persons are sooner reemployed. When a reemployment list is to be used to fill vacancies, the Personnel Officer shall certify from the top of such list the number of names

equal to the number of vacancies to be filled, and the appointing power shall appoint such persons to fill the vacancies.

Section 4: Removal of Names from Lists. The name of any person appearing on an employment, reemployment or promotional list shall be removed by the Personnel Officer if the eligible requests in writing that his name be removed, if he or she fails to respond to a notice of certification mailed to his or her last known address, or if he or she has been certified for appointment three times and has not been appointed. The person affected shall be notified of the removal of his or her name by a notice mailed to his or her last known address. The names of persons on promotional employment lists who resign from the service shall automatically be dropped from such lists.

RULE X - METHOD OF FILLING VACANCIES

Section 1: Types of Appointment. All vacancies in the competitive service shall be filled by reemployment, reinstatement, transfer, demotion, or from eligible certified by the Personnel Officer from an appropriate employment or promotional list, if available. In the absence of persons eligible for appointment in these ways, provisional appointments may be permitted in accordance with the Personnel Ordinance and these rules.

Section 2: Notice to Personnel Officer. Whenever a vacancy in the competitive service is to be filled, the appointing power shall notify the Personnel Officer. The Personnel Officer shall advise the appointing power as to the availability of employees for reemployment, reinstatement, and request for transfers or demotion and of eligible on employment or promotional lists for the class.

Section 3: Certification of Eligibles. The appointing power shall indicate whether it is desired to fill the vacancy by reinstatement, transfer, or demotion, or whether certification from a promotional or employment list is preferred. If appointment is to be made from an employment or promotional list, the names of all persons willing to accept appointment shall be certified. The appointing power may select an appropriate number of candidates from the entire list of eligible candidates for hiring consideration. The Personnel Officer shall certify the entire list in final earned score and rank order.

Section 4: Order of Certification. Whenever certification is to be made, the employment lists, if each exists, shall be used in the following order: Reemployment list, promotional list, open-competitive list. Whenever there are fewer than three names on a promotional list or an open competitive list, the appointing authority may make an appointment from among such eligibles or may request the Personnel Officer to establish a new list. When so requested, the Personnel Officer shall hold a new examination and establish a new employment list.

Section 5: Appointment. After interview and investigation, the appointing power shall make appointments from among those certified and shall immediately notify the Personnel Officer of the person or persons appointed. The Personnel Officer shall thereupon notify the person appointed, and if the applicant accepts the appointment and presents himself for duty within such period of time as the appointing authority shall prescribe, he shall be deemed to be appointed; otherwise, he shall be deemed to have declined the appointment.

Section 6: Provisional Appointments. In the absence of appropriate employment lists, a provisional appointment may be made by the City Manager of a person meeting the minimum training and experience qualifications for the position. An employment list shall be established within twelve months for any permanent position filled by provisional appointment.

Section 7: Emergency Appointments. To meet the immediate requirements of an emergency condition, such as extraordinary fire, flood, or earthquake, which threatens public life or property, any legally competent officer or employee may employ such persons as may be needed for the duration of the emergency without regard to the Personnel Ordinance or rules affecting appointments. As soon as possible, such appointments shall be reported to the Personnel Officer.

RULE XI - PROBATIONARY PERIOD

Section 1: Objective of Probationary Period. The probationary period shall be regarded as a part of the testing process and shall be utilized for closely observing the employee's work, for securing the most effective adjustment of a new employee to his or her position, and for rejecting a probationary employee whose performance does not meet the required standards of work.

All original appointments for Police sworn personnel shall be for a probationary period of eighteen months. All other original appointments shall be for a probationary period of one year and all promotional appointments shall be for a probationary period of one year. During the probationary period, the employee may be rejected at any time for any reason or no reason without right of appeal or hearing.

Section 2: Extension of Probationary Period. The Personnel Officer may, on the written recommendation of a department head, extend the probationary period of an employee up to one additional six (6) month period. Employees on extended probation shall accrue sick and vacation leave but not service credit toward merit increases. An employee shall not compete in any promotional examination while on extended probation.

Section 3: Rejection of Probationer. During the probationary period, an employee may be rejected at any time by the appointing power without cause and without the right of appeal. Notification of rejection in writing shall be served on the probationer and a copy filed with the Personnel Officer.

If the service of the probationary employee has not been satisfactory, then the Department Head shall file with the Personnel Officer a statement in writing to such an effect and stating that the retention of such an employee in the service is not desired. If such a statement is not filed, the employee will be deemed to be satisfactory and his employment shall continue beyond the expiration of the probationary period.

Section 4: Rejection Following Promotion. Any employee rejected during the probationary period following a promotional appointment, or at the conclusion of the probationary period by reason of failure of the appointing power to file a statement that his or her services have been satisfactory, shall be reinstated to the position from which he or she was promoted unless charges are filed and he or she is discharged in the manner provided in the Personnel Ordinance and these rules for positions in the competitive service.

Section 5: Probation: Notwithstanding the other provisions of this Resolution, a provisional appointee in a class who, without a break in service, receives a probationary appointment to a position in the same class, the employee's probation period shall commence with the date of his provisional appointment. Satisfactory completion of such probation period shall be on written recommendation of the Department Head and approval of the City Manager.

RULE XII - PAY ADJUSTMENTS

Section 1: Application of Rates. Employees occupying a position in the competitive service shall be paid a salary or wage within the range established for that position's class under the pay plan as provided by Rule VII. The minimum rate for the class generally shall apply to employees upon original appointment. However, the City Manager may, when circumstances warrant it, appoint up to and including the top step as described in section 3. Officers and employees reemployed after lay-off shall receive a rate within the range established for the class and agreed upon by the appointing power and the employee concerned. Transfers shall not affect an employee's salary rate.

Section 2: Merit Salary Advancement. No salary advancement shall be made so as to exceed the maximum rate established in the pay plan for the class to which the advanced employee's position is allocated. Advancements shall not be automatic but shall depend upon increased service value of an employee to the City as exemplified by recommendations of his supervising official, length of service, performance record, special training undertaken, or other pertinent

evidence. Any denial of a merit increase by a Department Head and the City Manager is final and is not subject to the right of appeal.

Section 3: Pay Procedures – Individual Employees.

- A. Except as otherwise provided herein, all new employees shall be appointed at Step 1 of the salary range in effect for the class in which the appointment is made. The Department Head may authorize such new appointments at a salary rate up to Step 1. The City Manager may authorize all regular appointments at a salary rate up to the top Step, when it is determined that equity among employees and the interests of the City will best be served.

- B. Step Increases Within The Range. All salary increases within the range shall be made in five percent (5%) increments whenever possible.
 - 1. Employees are eligible to progress to the second and third steps, any time after completion of six (6) months of service at the preceding step. These salary increases are awarded in recognition of good performance and as an incentive for continued work improvement. These increases shall be made only if recommended by the Department Head and approved by the Personnel Officer.

 - 2. Employees are eligible for additional salary increases to the fourth, fifth and sixth steps, any time after completion of one (1) year of service at the preceding step on their salary anniversary date. These increases shall be made only if recommended by the Department Head and approved by the Personnel Officer and are awarded in recognition of good performance and as an incentive for continued work improvement.

- C. Temporary Appointees. Non-Competitive Service persons employed or re-employed for part-time, temporary, or seasonal service may, upon approval of the Department Head, be compensated at any rate established for the class.

- D. Promotion. Every promotion from one class to a higher class shall carry a minimum pay increase of five percent (5%). The City Manager may authorize an increase in pay rate up to the top Step.

- E. Demotion.
 - 1. Involuntary Demotion. An employee who is involuntarily demoted shall have the salary rate, at the time of demotion,

reduced to the nearest lowest salary rate of the class of position to which the employee is demoted. The demoted employee shall not be required to serve a probation period in the lower position unless specifically determined by the City Manager.

2. Voluntary Demotion. An employee who requests demotion shall retain the current salary rate if such rate is within the salary range of the lower classification. If the employee's salary rate prior to the demotion was higher than the maximum salary of the lower position, the employee shall receive the latter. The employee shall not be required to serve a probationary period in the lower position unless specifically determined by the City Manager.

F. Position Reclassification. The pay of an employee in a position that is reclassified shall be determined as follows:

1. Class with Same Salary Range. If the position is reclassified to a class with the same salary range as the previous class, and if the incumbent is appointed to the reclassified position, the salary rate and the salary review date of the employee shall not be changed. This provision shall also apply to a change of class title provided there is no change in the basic duties of the position.
2. Class with Higher Salary Range. If the position is reclassified to a class with a higher salary range than the previous class, and if the incumbent is appointed to the reclassified position, the pay of the employee shall be governed by the section on pay upon promotion.
3. Class with Lower Salary Range. If the position is reclassified to a class with a lower salary range than the previous class, and if the incumbent is appointed to the reclassified position, the employee's pay shall not change. The employee shall be temporarily "Y-Rated" until at such time the pay within the lower class meets or exceeds the employee's "Y-Rated" pay. The employee shall not be required to serve a new probation period.

G. Changes in Class Salary Range. If a class is allocated to a different salary range, an employee in a position in that class shall be compensated at the same rate in the new range as the employee was receiving in the previous range, and the employee's salary review date shall not change.

- H. Transfer. The salary rate and salary review date of an employee who is transferred in class shall not change.
- I. Portion of Pay Period. A regular or probationary appointee serving on a full-time basis who works less than a full biweekly pay period, except when on authorized leave of absence with pay, shall receive as compensation for such period an amount equal to the number of hours worked times the employee's hourly rate. The number of hours worked in such pay period shall include paid holidays.
- J. Acting Appointments. Subject to the following conditions, an employee who is required on the basis of an acting appointment to serve in a class with a higher salary range than that of the class in which the employee is normally assigned shall receive the entry level salary rate of the higher salary range or the rate five percent (5%) higher than the rate the employee normally receives, whichever is greater.
1. The employee must perform all the duties and assume all the responsibilities of the higher class.
 2. Compensation for acting appointments shall be limited to the temporary filling of a vacant regular position due to termination, promotion, or extended sick leave of the incumbent or the temporary filling of newly budgeted positions, where the needs of the City require that the position be filled.
 3. Acting appointments shall not be permitted for a period in excess of 960 hours per fiscal year.
 4. The City Manager must approve all such appointments meeting the criteria set forth in this paragraph.
- K. Failure to Complete Probation Period. The compensation of an employee who is rejected during a probation period in a classification and who is assigned to a classification having a lower salary range shall be as follows:
1. If the employee had previously completed a probation period in a lower classification, the employee shall not be required to serve another one; the employee's last salary rate in the lower position shall be the employee's new salary rate upon reassignment to that position, and the employee shall earn eligibility to receive subsequent merit salary advancements in accordance with the rules.

2. If the employee had not previously completed a probation period in a lower classification, the effective date of the reassignment to that class shall be the employee's new probationary anniversary date and the employee shall be required to serve a probation period.

L. Probationary Appointment Following Provisional Appointment.

1. Notwithstanding the other provisions of this Resolution, a provisional appointee in a class who, without a break in service, receives a probationary appointment to a position in the same class shall be eligible for consideration for a salary advance after six (6) months of satisfactory service, including provisional service, as evidenced in writing by the Department Head and approved by the City Manager, and shall accrue leave benefits from the date of the provisional appointment.
2. The employee's probation period shall commence with the date of provisional appointment. Satisfactory completion of such probation period shall be on written recommendation of the Department Head and approval of the City Manager.
3. The salary advance provision of this section shall not apply when a provisional appointee in a class receives, without a break in continuous City service, a probationary appointment to a position in a different class having a higher salary range. The salary review date of such appointee shall be the date of the probationary appointment.

- M. Changes in Salary Anniversary Date. Authorized leaves of absence without pay in excess of thirty (30) calendar days shall be deducted in computing an employee's total City Service for advancement in salary range and for other purposes specified in this Resolution but shall not serve to interrupt the employee's continuous service. For the purpose of computing the new salary anniversary date, it shall be the number of calendar days of the employee's leave in excess of 30 calendar days.

Section 4: Type of Appointment. The type of appointment shall determine whether an employee's salary rate shall be on a biweekly or hourly basis.

1. Full-Time, Probationary, Provisional, Temporary and Acting Appointments. An employee having a provisional, temporary, probationary, or acting appointment that is on a full-time basis, shall be compensated at a biweekly rate.

2. Other Appointments. An employee having any other type of appointment shall be compensated at an hourly rate.

Section 5: Avoidance of Inequities. The City Manager may authorize special adjustments to avoid or eliminate inequities resulting from the strict application of any of the provisions of this Resolution.

Section 6: Any employee shall have the right to consideration by the City Manager of any request with respect to a claimed inequity resulting from the strict application of any of the sections contained herein. The employee shall submit to the Department Head a written statement of the claimed inequity and the employee's request, and the Department Head shall promptly forward the statement and the request, and the Department Head's written recommendation to the City Manager.

RULE XIII - TRANSFER, PROMOTION, DEMOTION AND REINSTATEMENT

Section 1: Transfer. After notice to the Personnel Officer, an employee may be transferred by the appointing power at any time from one position to another in the same or comparable class. If the transfer involves a change from the jurisdiction of one supervising official to another, both must consent thereto unless the City Council orders the transfer for purposes of economy or efficiency.

Each transferred employee is considered to be in an orientation period for the first three months. The purpose of the orientation period is designed to be mutually beneficial to the City and employee, allows the opportunity to determine compatibility and the employee's ability to perform the requirements of the assignment, and to provide a period of training, support, and close feedback.

Transfer shall not be used to effectuate a promotion, demotion, advancement, or reduction, each of which may be accomplished only as provided in the Personnel Ordinance and in these rules. No person shall be transferred to a position for which he does not possess the minimum qualifications.

Section 2: Promotion. Insofar as practicable and consistent with the best interests of the service, all vacancies in the competitive service shall be filled by promotion from within the competitive service, after a promotional examination has been given and a promotional list established.

If, in the opinion of the appointing power, a vacancy in the position could be filled better by an open, competitive examination instead of a closed, promotional examination, then the appointing power may instruct the Personnel Officer to call for applications for the vacancy and arrange for an open,

competitive examination and for the preparation and certification of an eligible list.

Section 3: Demotion. The appointing power may demote an employee whose ability to perform his required duties falls below standard, or for disciplinary purposes. Upon request of the employee, and with consent of the prospective supervising official, demotion may be made to a vacant position as a substitution for lay-off. No employee shall be demoted to a position for which he does not possess the minimum qualifications. Written notice of the demotion shall be given the employee before or within three (3) days after the effective date of the demotion, and a copy filed with the Personnel Officer.

Section 4: Reinstatement. With the approval of the Department Head and the appointing power, an employee who has resigned with a good record may be reinstated within one (1) year to his former position, if vacant, or to a vacant position in the same or comparable class, or to a position of lower classification, that is, one at a lower rate of pay on the City Compensation Plan. In no event, shall an employee be reinstated to a position for which he does not possess the minimum qualification. Nothing in this section shall be construed as granting a right to reinstatement to any former employee, and any and all reinstatements shall be with the approval of the Department Head and the appointing power as a discretionary matter.

Section 5: Suspension. A Department Head shall have the right to relieve an employee from duty for a period not to exceed five (5) days for an alleged violation of department or City rules, and that this five-day period to be utilized for investigation reasons only. When an employee is relieved of duty, he shall be notified in writing of the reasons for this action; however, this shall not be construed as a suspension. If the allegations are found to be true, the Department Head shall then have the right to suspend said employee for a period not to exceed twenty (20) calendar days in a fiscal year, and such suspension shall include the five day investigation period. If the allegations are unfounded, the employee shall be reimbursed fully for his time of relief from duty. A copy of the allegations, complete investigation, and disposition, shall be placed in the employee's personnel folder ONLY if the charges are found to be true.

When an employee is suspended for disciplinary reasons, he shall have the right of appeal on any and all suspensions and may request a hearing before the Advisory Arbitration.

Section 6: An employee may be relieved from duty by the appointing power in the event that said employee is charged with criminal prosecution for a violation against City, State or Federal statutes, pending final disposition of such charges.

RULE XIV - SEPARATION FROM THE SERVICE

Section 1: Discharge. A permanent employee in the competitive service may be discharged at any time by the appointing power in accordance with the provisions of Rule XVI stated hereinafter.

Department Heads and other employees not in the competitive service may be discharged at any time by the appointing power.

Section 2: Layoff.

A. LAYOFF PROCEDURES FOR EMPLOYEES WHO FOR COLLECTIVE BARGAINING PURPOSES ARE NOT REPRESENTED BY THE BUENA PARK EMPLOYEE'S ASSOCIATION.

Layoff shall be accomplished according to a priority list of employees in each classification. The list shall be prepared considering both length of service and past performance. A separate list for each classification shall be prepared and the City Manager shall determine the priority of classifications and the number of personnel from each list. Probationary employees shall head the list in reverse order of length of service in the classification.

An employee holding a probationary appointment as a result of having been promoted shall appear on the list of the higher class as a probationary employee and on the list of his prior classification as a permanent employee. His placement on the lower list shall include all service in the higher class and instead of being laid off, he will revert to his prior classification until his name is reached on that list.

A point value of one point for each full six months of service shall be given to recognize seniority. Points for performance shall be given on the following basis according to the Overall Rating on Report of Performance.

Unacceptable	-6	-4	-2
Improvement Needed	1	2	3
Satisfactory	4	5	6
Outstanding	8	10	12

All performance reports for permanent employees completed since January 1961 shall be valued and an average value arrived at.

The average points for performance shall be added to the seniority points and totaled. The priority list for each classification shall be

arrived at in the foregoing manner with the employee having the least number of points at the top of the list.

B. LAYOFF PROCEDURES FOR EMPLOYEES WHO ARE FOR COLLECTIVE BARGAINING PURPOSES REPRESENTED BY ANY BUENA PARK EMPLOYEE'S ASSOCIATION.

1. Statement of Intent:

- a) Layoff shall be by classification;
- b) Whenever, in the judgment of the City Council, it becomes necessary to abolish any position of employment, the employee holding such position of employment may be laid off or demoted pursuant to the provisions of this policy.

2. Definition:

Seniority: Seniority for the purpose of determining order of layoff shall be defined as total accumulated continuous time served in permanent and probationary status in the City classified service,

- a) By classification only; and
- b) Total City service, including time served on military leave of absence in the armed forces of the United States.

3. Notification: Employees to be laid off shall be given, whenever possible, 30 calendar days prior notice, but no less than 15 calendar days notice.

4. Seniority: In order to retreat to a former or lower class, an employee must have more seniority than at least one of the incumbents in the retreat class and request displacement action in writing to the Human Resources Director within five (5) working days of receipt of notice of layoff.

Employees retreating to a lower class shall be placed at the salary step representing the least loss of pay. In no case shall the salary be increased above that received in the class from which the employee was laid off.

5. Employment Status: In each classification, employees shall be laid off according to employment status in the following order: (A) temporary; (B) provisional; (C) probationary; (D) permanent.

The order of layoff within a classification subject to a layoff shall be based on seniority of service within that classification. The employee being laid off or displaced from a classification shall be the employee in the affected classification with the least amount of time served in the affected classification. However, up to a maximum of 30% of the personnel, but not less than one person within the positions of that layoff classification, may be exempted from the layoff procedure by the City. The appointing authority, at its sole judgment, may exempt from layoff procedure up to 30%, but not less than one position, of the personnel within the affected classifications.

When two or more employees have equal seniority, the layoff shall be made at the sole discretion of the appointing authority.

Employees transferring or voluntarily demoting shall retain the same anniversary date as in their previous position for all purposes, including step advancement

6. Vacancy and Demotion: Except as otherwise provided herein, whenever there is a reduction in the work force, the appointing authority shall demote the affected employee to a vacancy, if any, in a lower class for which the employee is qualified. All persons so demoted shall have their names placed on the reemployment list for the higher class.
7. Employee Rights: An employee affected by layoff shall have the right to displace an employee who has less seniority in a lower classification in which the affected employee once had permanent status. For the purpose of this section, seniority shall be time served in a classification as defined in Section (ii) (A) herein; except that when an employee has been displaced from a classification, the seniority for that displaced employee shall then include, for further layoff' purposes, City seniority as defined in Section (ii) (B) herein, to include all time served in the classified service in related classifications affected by the layoff. For the purpose of this section, seniority shall be all periods of full-time service at or above the classification level where the layoff is to occur.

When a displaced employee is not eligible to demote to a classification because such displaced employee did not have prior permanent status in the lower classification because such classification did not exist when the displaced employee promoted to his/her current classification and when the job skills required are within the normal skills level of the higher attained classification, such displaced employee shall be exempted from the requirement

that the affected employee has had prior permanent status in the lower classification

8. Reemployment Lists: The names of persons laid off or demoted in accordance with these rules shall be entered upon a reemployment list. Lists from different departments or at different times for the same class of position shall be combined into a single list. Such list shall be used by the appointing authority when a vacancy arises in the same or lower class of position before employment is made from an eligible list.
9. Duration of Reemployment List: Names of persons laid off shall be carried on a reemployment list for eighteen months, except that the name of an individual reappointed to a permanent position of the same class shall, upon reappointment, be dropped from the list. An individual who declines either a voluntary demotion or reemployment in a classification shall be dropped from that specific reemployment list. Persons reemployed in a lower class, or on a temporary basis, shall be continued on the list for the higher class for the balance of the eighteen month period.

An individual that may be appointed from a reemployment list will be required to successfully pass a reemployment physical examination provided at City expense.

10. Terms and Conditions of Reemployment: Reemployment from a reemployment list to a previously held class shall be at the same step held at the time of layoff and at the current salary of that class at the time of reemployment.

In case of a voluntary demotion from a reemployment list, the employee so electing shall be paid at the highest step in the range for the lower class which does not represent an increase in salary from the salary which would have been effective had the employee been appointed to his/her previously held class; and in no case to exceed top step in the current salary range of the class to which the employee is appointed.

Employees reappointed from a reemployment list shall be credited with, at the time of reappointment, all accrued benefits at the time of layoff which were not compensated for at the time of layoff, provided that such accrued benefits shall not exceed established maximums at the time of reappointment.

Section 3: Resignation. An employee wishing to leave the competitive service in good standing shall file with the supervising official,

at least two weeks before leaving the service, a written resignation stating the effective date and reasons for leaving. The resignation shall be forwarded to the Personnel Officer with a statement by the appointing power or Department Head as to the resigned employee's service performance and other pertinent information concerning the cause for resignation. Failure to comply with this rule shall be entered on the service record of the employee and may be cause for denying future employment by the City. The resignation of an employee who fails to give notice shall be reported to the Personnel Officer by the Department Head immediately.

RULE XV - DISCIPLINARY PROCEEDINGS - AUTOMATIC RESIGNATION

Section 1: Definition and Objective of Discipline. 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 successfully carry out the service mission of the City organization. Self-discipline or self-conformity is the goal strived for by this section. Where self-discipline fails, disciplinary action is authorized and shall be accomplished in such a manner as to be just, equitable, consistent and suited to the situation.

Types of disciplinary actions which may be taken, in order of severity are: dismissal, involuntary demotion, reduction in pay steps within a pay range, suspension, written reprimand, oral reprimand or an appropriate combination of said disciplinary actions.

Section 2: Disciplinary Procedures.

- A. Application. The Disciplinary Procedures set forth herein shall be followed in all instances where disciplinary action is contemplated. In addition, the provisions of Chapter 9.7 of Title 1, Division 4 of the California Government Code, as amended from time to time and any successor provision or provisions thereto, shall apply as appropriate. Further, these procedures are not intended to preclude an employee from exercising his or her right to a hearing required to be afforded to him or her pursuant to state law.
- B. Initial Notice. The concerned employee shall be given written notice by the Department Head of the proposed disciplinary action. Such notice shall include a statement of the reasons for the proposed action and shall include a copy of the charges being considered.

- C. Documentation. The concerned employee shall be allowed to review the then known documents, materials, names of witnesses and other evidence upon which the proposed action is based, and be given a copy of such documents, materials and other evidence insofar as it is possible to do so. Said documents, materials and evidence shall be provided together with the notice specified in subsection 2-(b) above.
- D. Right to Respond. After a reasonable opportunity to review the documents, materials, charges and other evidence presented pursuant to paragraphs (a) and (b) above, the employee shall have the right to respond, either orally or in writing, to the Department Head.
- E. Right to Representation. The affected employee, at the employee's expense, shall have the right to be represented by a person chosen by the employee during the disciplinary procedure.
- F. Further Investigation. If the employee's version of the facts creates doubt as to the accuracy of the information provided, the Department Head shall initiate, or shall cause to be initiated, a further investigation of the factual situation leading to the proposed action.
- G. Implementation of Disciplinary Action. Within ten (10) business days of the completion of the procedures set forth above, the affected employee shall be informed by the Department Head, in writing, of the action taken with a copy to the City Manager.
- H. Appeal to City Manager. The employee, upon receipt of notice of the imposition of disciplinary action against him, shall have the right to appeal the Department Head's decision in writing to the City Manager, except that an oral or written reprimand may not be so appealed. Said appeal shall be delivered to the City Manager within ten (10) business days of the employee's receipt of notice of the imposition of discipline. Otherwise, the Department Head's action shall be final and binding.

Should the employee desire to appeal the Department Head's decision directly to advisory arbitration rather than having the matter reviewed by the City manager, he may do so by filing with the Human Resources Director within ten (10) business days of his receipt of the notice of imposition of discipline by the Department Head, a written appeal to the City Council. Said written appeal shall be in form and content as required by these

rules and, in addition, shall state that the employee knowingly and intentionally waives his opportunity to have the action of the Department Head first reviewed by the City manager. In such a situation, the provisions of subparagraphs (h) and (i) of this Section 2 shall be deemed inapplicable to the subject proceeding.

- I. Action by City Manager. Upon disciplinary action being appealed to him, the City Manager shall, as expeditiously as possible, consider all written materials presented pursuant to subsections 2-(b), (c) and (d), above, related to said action. The City Manager may then within ten (10) business days of his receipt of the appeal affirm, reverse or modify such action. Written notice of the City Manager's action shall be supplied to the employee and the Department Head.
- J. Advisory Arbitration. The employee, upon receipt of notice of the affirmation of disciplinary action against him by the City Manager, whether by way of total affirmation or modification of the Department Head's action, shall have the right to appeal the City Manager's decision in an advisory arbitration; except that an oral or written reprimand as provided by these Rules may not be so appealed. Said appeal shall be delivered to the Human Resources Director within ten (10) business days of the employee's receipt of notice of the City Manager's action. Otherwise, the City Manager's action shall be final and binding. The advisory arbitration shall be conducted in accordance with the provisions of Section 5 of this Rule XVI.

Section 3: Grounds for Disciplinary Action. The following shall constitute grounds for disciplinary action (any of them may be a sufficient basis for a disciplinary action):

- A. Fraud in securing employment or promotion or making a materially false statement on an application for employment or promotion or on any supporting documents furnished with or made a part of any such application.
- B. Incompetency such as failure to comply with the minimum standards for an employee's position for a significant period of time.
- C. Neglect of duty, such as failure to timely perform the duties required of an employee's position.

- D. Willful disobedience and insubordination such as willful failure to submit to duly appointed and acting supervision or to conform to duly established orders or directions of persons in a supervisory position.
- E. Dishonesty involving employment.
- F. Being under the influence of alcohol or intoxicating drugs while on duty.
- G. Addiction to or habitual use of alcoholic beverages, narcotics or any habit forming drug which renders it more difficult for the employee or the department for which he is employed to deliver public service.
- H. Absence without leave.
- I. Conviction of a crime or conduct constituting a violation of law which renders it more difficult for the employee or the department for which he is employed to deliver public service.
- J. Discourteous treatment of the public.
- K. Theft of, improper or unauthorized use of, or harm to City property or the property of others.
- L. Violation of the rules and regulations of the City or any department.
- M. Any act or conduct undertaken which, either during or outside of duty hours, is of such a nature that it causes discredit to fall upon the City, the employee's department or division. Assault, battery, or fighting, or failure to maintain proper decorum during working hours causing discredit to the employee's department or division.
- N. Excessive absenteeism or abuse of sick leave.
- O. Inattention to duty, tardiness, indolence, carelessness or negligence in the care and handling of City property.
- P. The employee's failure to resolve a physical or mental infirmity(s) or defect(s) affecting job performance when it is within the capacity of the employee to do so.

- Q. Outside employment of an employee which conflicts with the employee's position and is not specifically authorized by the Department Head.
- R. Acceptance from any source of any emolument, reward, gift or other form or remuneration in addition to the employee's regular compensation, as a personal benefit to the employee for actions performed in the normal course of the employee's assigned duties.
- S. Falsification of any City report or record, or any report or record required to be, or, filed by the employee.
- T. Violation of any of the provisions of the Municipal Code, lawful ordinances, resolutions, or any rules, regulations or policies which may be prescribed by the City Council, City Manager, Department Head or supervisor.
- U. Political activities precluded by State or Federal law.
- V. Possession of weapons during employment hours, carried on City property, or housed, stored, and/or carried in any City vehicle, unless authorized.

Section 4: Records. Original copies of all written records pertaining to any matter which has resulted in disciplinary action shall be maintained in the employee's personnel file.

Section 5: Advisory Arbitration.

- A. Any regular employee shall have the right to appeal a decision by the City Manager involving dismissal, demotion, reduction in pay or suspension, or of a Department Head, if City Manager review is waived by the employee, provided, however that only one (1) advisory arbitration hearing shall be allowed as to any one (1) disciplinary action.
- B. The employee's appeal shall be heard in an advisory arbitration by an impartial hearing officer selected in a manner mutually agreeable to the City Manager and the employee; if no agreement is reached the hearing officer shall be selected from a list of advisory arbitrators from the California State Mediation and Conciliation Service (SMCS) or from a list agreed to between the City Manager and the employee. If the parties obtain a list of arbitrators from SMCS, the City will pay SMCS's fee for providing the list.

- C. The employee may be represented by his/her Association/Union representative, any other regular employee of the City, or his/her attorney.
- D. The hearing officer shall issue subpoenas to compel the attendance of witnesses, if such be necessary at the request of either party.
- E. If both parties request that the hearing be recorded by a certified shorthand reporter, then the expenses for such recording services shall be borne equally by the City and the employee. If only one party requests that the hearing be recorded by a certified shorthand reporter, then that party alone will bear the expenses. Each party shall be responsible for any specialized or extraordinary services they might individually request.
- F. The expenses for the hearing officer shall be borne equally by the City and the Association, and each party shall be responsible for expenses they incur. The maximum expense for the hearing officer borne by the Employee or Association is \$2,000.
- G. After the close of the hearing, the hearing officer shall prepare a written advisory award and findings of fact and conclusions of law based on the evidence presented at the hearing, and shall present his/her findings to the City Council and the employee within thirty (30) calendar days, or a longer period of time as stipulated by the parties. In rendering an award, the hearing officer shall be limited to the express terms of this document and shall not have the power to modify, amend, or delete any terms or provisions of this document. Failure of either party to insist upon compliance with any provision of this document at any given time or times under any given set or sets of circumstances shall not operate to waive or modify such provision, or in any manner whatsoever to render it unenforceable, as to any other time or times or as to any other occurrence or occurrences, whether the circumstances are, or are not, the same.
- H. At the hearing, both the appealing employee and the City shall have the right to be heard and to present evidence.
- I. Oral evidence shall be taken only on oath or affirmation. Each party shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses on any

matter relevant to the issue even though the matter was not covered in the direct examination, to impeach any witness regardless of which party called him/her to testify, and to rebut the evidence against him/her.

- J. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rules that might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions, and irrelevant and unduly repetitious evidence shall be excluded.
- K. The City Council shall review the hearing officer's recommendation, but shall not be bound thereby. The City Council shall adopt, amend, modify or reject the recommended findings, conclusions and/or opinion of the hearing officer. Prior to making a decision which adopts the hearing officer's recommendation, the City Council may order and read the transcript, at the Council's discretion. Prior to making a decision which modifies or rejects the hearing officer's recommendation, the City Council shall order and read the transcript of the Board hearing.
- L. The City Council shall not conduct a *de novo* hearing. The City Council may, at its sole option, allow limited oral arguments from either party before making a decision.
- M. The decision of the City Council shall be final and binding, subject only to review by the courts under California Code of Civil Procedure section 1094.5.
- N. The City staff shall notify the appellant in writing, within five working days of the City Council's decision. Such notice shall indicate the effective date of the action to be taken.

Section 6: Automatic Resignation.

- A. Absence without leave, whether voluntary or involuntary, for a period longer than five (5) consecutive assigned working days, or four (4) consecutive working shifts for police personnel on the

4-10 plan or three (3) consecutive working shifts for fire suppression personnel is an automatic resignation from City service as of the last date on which the employee worked. An employee shall not be denied leave without pay for the period generating the resignation without good cause.

- B. The Department Head shall notify the employee of the automatic resignation by serving upon such employee a notice of separation. Said notice of separation shall state the dates of absence without leave, the effective date of the automatic resignation and, if applicable, the reasons why the employee's request for leave without pay for the period generating the resignation was denied. Service of the notice may be made either personally or by placing the notice of separation in a sealed envelope addressed to the last known address of the person to be served, according to City payroll records, certified with return receipt requested, and the depositing of the envelope in the United States Mail with postage fully prepaid. Service is complete on mailing, provided that the date of service shall be deemed extended for a period of time during which the employee proves that he did not receive the notice of separation and could not have been informed of its contents. Upon request of the employee, the Department Head shall decide whether to extend the date of service. Should the Department Head decide not to extend the date of service, that issue may be appealed to the Personnel Officer for a determination preliminary to the Personnel Officer considering any issue which would be appealable should the Personnel Officer decide to extend the date of service.
- C. Within twenty (20) calendar days from the date of service of the notice of separation, an employee who has resigned pursuant to this Section 6 may file with the Department Head a written request for reinstatement with full seniority and no loss of accrued benefits. Such written request shall set forth, with particularity, the facts underlying the request and shall be supported by such documentation as the Department Head deems necessary to substantiate the facts set forth in the request. The Department Head may reinstate such employee if the Department Head finds that there is good cause for the employee's failure to obtain leave therefore and that the employee is ready and able to resume the discharge of the employee's duties. An employee so reinstated shall not be paid salary for the period of the employee's absence or separation or for any portion thereof. The Department Head shall act upon the request for reinstatement, in writing, within ten (10) days of his

receipt thereof. A copy of the writing shall be mailed to the employee within the ten-day period in the manner specified for mailing a notice of separation.

- D. Should the Department Head not reinstate the employee, the employee may appeal that decision in writing specifying the grounds for appeal to the Personnel Officer within ten (10) business days of the mailing of the Department Head's decision to the employee. Otherwise, that decision shall be final and binding. Such appeal shall be filed with the Director of Human Resources and shall be considered in accordance with the procedures set forth in Section 5 of this Rule XVI insofar as they are applicable and not in conflict with this Section 6. The burden of proof during the hearing before the Personnel Officer shall be that of the employee except as to the questions whether the employee was absent without leave for the period generating the automatic resignation and, if applicable, whether there existed good cause for the denial of the employee's request for absence without leave for the period generating the resignation, if those questions or either of them, are placed in issue by the employee.

RULE XVI - TRAINING OF EMPLOYEES

Section 1: Responsibility for Training. Responsibility for developing training programs for employees shall be assumed jointly by the City Council, the Personnel Officer and Department Heads. Such training programs may include lecture courses, demonstrations, assignment of reading matter or such other devices as may be available for the purpose of improving the effectiveness and broadening the knowledge of municipal officers and employees in the performance of their respective duties. Any compulsory training on off-duty time shall be compensated for at the regular rate.

Section 2: Credit For Training. Participation in and successful completion of special training courses may be considered in making advancements and promotions. Evidence of such activity shall be filed by the employee with the Personnel Officer.

RULE XVII - REPORTS AND RECORDS

Section 1: Personnel File. The Personnel Officer shall maintain a employee file for each employee in the service of the City showing the name, title of position held, the Department to which assigned, salary, changes in employment status, and such other information as may be considered pertinent.

Section 2: Change-of-Status Report. Every appointment, transfer, promotion, demotion, change of salary rate, and any other temporary or permanent change in status of employee shall be reported to the Personnel Officer in such a manner as may be prescribed by these rules and regulations.

Section 3: Destruction of Records. Roster and payroll records shall be kept permanently. All other records relating to personnel, including correspondence, applications, examinations and reports may be destroyed after one year. Any temporary record may be destroyed at any time by the Personnel Officer with the consent of the City Council and the City Attorney.

RULE XVIII– HIRING OF EMPLOYEE RELATIVES

The hiring of relatives of City employees is based upon the following criteria:

Section 1: Definitions.

1. A “relative” is defined as a spouse, child, step-child parent, step-parent, parent-in-law, legal guardian, brother, sister, brother-in-law, sister-in-law, step-brother, step-sister, aunt, uncle, niece, nephew, grandchild, grandparent, regardless of their place of residence, or any other individual related by blood or marriage living within the same household as the City employee.

2. An “employee” is defined as any person who receives a City payroll check for services, full or part-time rendered to the City of Buena Park.

Section 2: Policy.

3. The employment of relatives of City employees within the City of Buena Park is limited to the following situations: Any relative of a Councilmember, the City Manager, or employee of the Human Resources Department shall not be considered for employment within the City of Buena Park in any capacity, either full-time or part-time.

4. Any relative of a City-appointed commissioner, or committee member, or department manager may not be considered for employment within the department or area of responsibility of such City-appointed commissioner, or committee member of department manager. The employment of relatives of all other City employees is prohibited within the department of the existing employee when such related employee may: perform joint duties, share responsibility or authority; report to the same immediate supervisor; or be supervised by or would supervise a relative.

5. Relatives of City employees, except for relatives of Council members, the City Manager, City-appointed commissioners, or department managers may be hired for seasonal assignments. However, such employment shall not exceed twenty percent (20%) of the compliment of seasonal employees in that classification and shall be selected only by an open recruitment process.

6. City employees who are related as described above, shall not be affected in their current job status except when the City Manager determines that the circumstances of such employment raises an undue hardship upon the other employees within the particular work unit and that such employment is detrimental to the supervision, safety, security or morale of the particular work unit.

7. If two existing City employees become married and their employment conflicts with the policy stated above, they may continue employment provided that such employment does not directly or indirectly place an undue hardship upon other employees within the particular work unit of the married couple and such employment is not detrimental to the supervision, safety, security or morale of the particular work unit. The City Manager shall determine whether or not such detriment or undue hardship exists.

8. The City Manager is authorized to issue written guidelines to implement and enforce this policy. All determinations made by the City Manager shall be final and conclusive and not subject to Section 2.20.130 of the Administrative Section of the City Code. In all situations where the City Manager determines a conflict to exist between existing or future related employees, the City Manager shall attempt to resolve such conflict in the following manner:

- Attempt to redefine the job responsibilities of the related employees within the department to minimize the conflict.
- If such redefinition of job status is not feasible, attempt to transfer one of the employees to a similar position (without guarantee or identical salary) that would not be in violation of this policy.
- If transfer is not feasible or acceptable, request the voluntary resignation of one of the employees.
- If one of the employees does not voluntarily resign, the employee with the least employment experience in the City of Buena Park may be discharged by the City Manager.

RULE XIX – ANTI-HARASSMENT IN EMPLOYMENT

Section 1: Purpose of Policy.

A. To define and issue to all employees the City’s policy on the prohibition and prevention of harassment, discrimination, retaliation and bullying in the workplace.

B. To fully inform all employees of their right to have a safe work environment and be free of unlawful harassment, discrimination, retaliation, and bullying in the workplace.

C. To fully inform all employees that the City of Buena Park does not and will not tolerate any conduct that is believed to violate this Policy in the workplace.

D. To inform all employees of their rights if they believe that they are or have been the victim of harassment, discrimination, retaliation, and bullying.

E. To provide a means for the prompt reporting and full and effective investigation of harassment, discrimination, retaliation, and bullying complaints and to provide for effective remedial action against the harasser and for the victim.

Section 2: Statement of Policy.

It is the Policy of the City that it will not tolerate verbal or physical conduct by any employee which harasses, discriminates, retaliates, disrupts, or interferes with another’s work performance or which creates an intimidating, offensive, or hostile environment. In addition to prohibiting all forms of harassment, discrimination and retaliation, the City also prohibits any form of “intimidation or bullying” in the workplace or elsewhere, such as at offsite events.

Harassment or discrimination against an applicant, unpaid intern, volunteer, or employee by a supervisor, management employee, elected or appointed official, co-worker, member of the public, or contractor on the basis of race, religion, color, sex (including gender, gender identity, gender expression, transgender, pregnancy, and breastfeeding), national origin, ancestry, citizenship status, disability, medical condition, genetic characteristics or information, marital status, age, sexual orientation (including homosexuality, bisexuality, or heterosexuality), military or veteran status, or any other protected classification as defined below is prohibited and will not be tolerated.

This Policy applies to all terms and conditions of employment, including, but not limited to, hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation, and training.

Harassment violates Title VII of the Civil Rights Act of 1974, the California Government Code, and regulatory guidelines of the Equal Employment Opportunity Commission and the California Fair Employment and Housing Commission.

All employees will be expected to comply with this Policy and take appropriate measures to ensure that such conduct does not occur. Appropriate disciplinary action will be taken against any employee who violates this Policy against harassment, discrimination, retaliation, and bullying in the workplace. Based on the seriousness of the offense, disciplinary action will be taken up to and including termination.

When a violation of this Policy is reported, an investigation shall be conducted to determine if there was knowledge, or should have been knowledge, on the part of any supervisor, and whether any supervisor had failed to take immediate and appropriate corrective action.

Negligent supervision, tacit approval by “turning a blind eye”, treating the situation as a joke, failure to take action, or concealing a situation will subject the supervisor involved to disciplinary action.

Disciplinary action or other appropriate sanction up to and including termination will be instituted for prohibited behavior as defined below.

Any retaliation against a person for filing a complaint or participating in the complaint resolution process is prohibited. Individuals found to be retaliating in violation of this Policy will be subject to appropriate sanction or disciplinary action up to and including termination.

Section 3: Definition of Harassment.

A. Protected Classifications: This policy prohibits harassment or discrimination because of an individual’s protected classification. “Protected Classification” includes race, religion, color, sex (including gender, gender identity, gender expression, transgender, pregnancy, and breastfeeding), national origin, ancestry, citizenship status, disability, medical condition, genetic characteristics or information, marital status, age, sexual orientation (including homosexuality, bisexuality, or heterosexuality), and military or veteran status.

B. Policy Coverage: This Policy prohibits the employer, elected or appointed officials, officers, employees, or contractors from harassing or discriminating against applicants, officers, officials, employees, unpaid interns, volunteers, or contractors because of: 1) an individual's protected classification; 2) the perception that an individual has a protected classification; or 3) the individual associates with a person who has or is perceived to have a protected classification.

C. Discrimination: This policy prohibits treating individuals differently because of the individual's protected classification as defined in this Policy.

D. Harassment may include, but is not limited to, the following types of behavior that is taken because of a person's protected classification. Note that harassment is not limited to conduct that city employees take. Under certain circumstances, harassment can also include conduct taken by those who are not employees, such as elected officials, appointed officials, persons providing services under contracts, or even members of the public:

1. Verbal Harassment – For example, epithets, derogatory comments or slurs, and propositioning on the basis of a protected classification. This might include inappropriate comments on appearance, including dress or physical features, or dress consistent with gender identification, or race-oriented stories and jokes.

2. Physical Harassment – For example, assault, impeding or blocking movement, offensive touching, or any physical interference with normal work or movement. This includes pinching, grabbing, patting, proposition, leering, or making explicit or implied job threats or promises in return for submission to physical acts.

3. Visual Forms of Harassment – For example, derogatory posters, notices, bulletins, cartoons, emails, pictures or drawings related to a protected classification.

4. Sexual Harassment – Unwelcome sexual advances, requests for sexual favors and other acts of a sexual nature, where submission is made a term or condition of employment, where submission to or rejection of the conduct is used as the basis for employment decisions, or where the conduct is intended to or actually does unreasonably interfere with an individual's work performance or creates an intimidating, hostile or offensive work environment.

E. Guidelines for Identifying Harassment: To help clarify what constitutes harassment in violation of this Policy, use the following guidelines:

1. Harassment includes any conduct which would be “unwelcome” to an individual of the recipient’s same protected classification and which is taken because of the recipient’s protected classification.

2. It is no defense that the recipient appears to have voluntarily “consented” to the conduct at issue. A recipient may not protest for many legitimate reasons, including the need to avoid being insubordinate or to avoid being ostracized.

3. Simply because no one has complained about a joke, gesture, picture, physical contact, or comment does not mean that the conduct is welcome. Harassment can evolve over time. The fact that no one is complaining now does not preclude anyone from complaining if the conduct is repeated in the future.

4. Even visual, verbal, or physical conduct between two individuals who appear to welcome the conduct can constitute harassment of a third individual who observes the conduct or learns about the conduct later. Conduct can constitute harassment even if it is not explicitly or specifically directed at an individual.

5. Conduct can constitute harassment in violation of this Policy even if the individual engaging in the conduct has no intention to harass. Even well-intentioned conduct can violate this Policy if the conduct is directed at, or implicates a protected classification, and if an individual of the recipient’s same protected classification would find it offensive (e.g., gifts, over attention, endearing nicknames).

F. Retaliation: Any adverse conduct taken because an applicant, employee or contractor has reported harassment, discrimination, or bullying or has participated in the complaint and investigation process described herein, is prohibited. “Adverse conduct” includes but is not limited to: taking sides because an individual has reported harassment, discrimination, or bullying, spreading rumors about a complaint, shunning and avoiding an individual who reports harassment, discrimination, or bullying, or real or implied threats of intimidation to prevent an individual from reporting harassment, discrimination, or bullying. The following individuals are protected from retaliation: those who make good faith reports of harassment, discrimination, or bullying, those who associate with an individual who is involved in reporting harassment, discrimination, or bullying, and those who participate in the complaint or investigation process.

Section 4: Definition of Bullying.

A. All employees, consultants, independent contractors, and visitors have the right to be treated with respect. Bullying is the use of aggression with the intention of harming another individual. It can include any intentional written, visual, verbal, or physical act when the act physically harms the individual or damages his or her property; has the effect of interfering with an employee's ability to work; is severe or pervasive; and creates an intimidating or threatening environment.

B. Bullying comes in many shapes and sizes and can take many forms including, but not limited to, excluding, tormenting, taunting, abusive comments, using threatening gestures; pushing, shoving, punching, unwanted physical contact, or any use of violence; graffiti; name calling, sarcasm, spreading rumors, and teasing. Such conduct can also occur via use of electronic or telephonic communications such as the internet, email and chat room misuse, mobile threats by text messaging, or calls or misuse of cameras and video equipment. Under certain circumstances, bullying can also include conduct taken by those who are not employees, such as elected officials, appointed officials, persons providing services under contracts, or even members of the public.

Section 5: Definition of Employee.

For the purposes of this policy, an employee shall be defined as any individual, regardless of classification, employed by the City of Buena Park, or job applicants, unpaid interns, volunteers, or contractors working under the supervision of the City, vendors and contract employees.

Section 6: Complaint Procedure.

A. Any employee, job applicant, unpaid intern, volunteer, or contractor who believes he or she has been the subject of harassment or any form of bullying should report the alleged act immediately verbally or in writing with any of the following. There is no need to follow the chain of command:

1. Immediate supervisor;
2. Any supervisor or manager within or outside of the department;
3. Department Head; or
4. Director of Human Resources.

B. The limitation on reporting alleged acts of harassment, discrimination, retaliation, and bullying must be within twelve months of the incident or incidents.

C. If a complaint involves a supervisor or manager, the complaint shall be filed directly with the department head or Director of Human Resources.

D. Any supervisor or department head who receives a harassment, discrimination, retaliation, or bullying complaint is to immediately notify the Director of Human Resources.

E. Upon notification of a harassment, discrimination, retaliation or bullying complaint, the Director of Human Resources will:

1. Inform the complainant of his or her right to initiate the complaint.

2. Authorize the investigation of the complaint and supervise a fair and thorough investigation of the complaint by impartial and qualified personnel and/or investigate the complaint.

3. Investigation of a complaint will include interviewing the complainant, accused harasser and any named or apparent witness. Employees shall be protected from coercion, intimidation, retaliation, interference, or discrimination for filing a complaint or assisting in an investigation.

4. All complaints will be handled in a timely and confidential manner. In no event will information be released to anyone who is not involved with the investigation; nor will anyone involved be permitted to discuss the subject outside the investigation.

5. Review factual information gathered through the investigation to reach a reasonable conclusion to determine whether the alleged conduct constitutes harassment, discrimination, retaliation, or bullying giving consideration to all factual information, the totality of the circumstances, including the nature of the verbal, physical, visual or sexual favor aspect of the advance, and the context in which the alleged incidents occurred.

6. Timely report a summary of the results of the investigation and the determination as to whether harassment, discrimination, retaliation or bullying occurred to the appropriate person including complainant, alleged harasser, supervisor, and the

department head. If discipline is imposed, the level of discipline will not be communicated to the complainant.

7. If conduct in violation of this Policy occurred, take and/or recommend to the department head prompt and effective remedial action against the harasser. The remedial action will be commensurate with the severity of the offense. Notify the victim that necessary steps of corrective action have been taken to resolve the problem.

8. Reasonable steps will be taken to protect the victim and other potential victims from further harassment, discrimination, retaliation, or bullying.

9. Reasonable steps will be taken to protect the victim from any retaliation as a result of communicating the complaint.

F. The city takes a proactive approach to potential Policy violations and will conduct an investigation if its officers, supervisors, or managers become aware that harassment, discrimination, retaliation or bullying may be occurring, regardless of whether the recipient or third party reports a potential violation.

G. Option to report to outside administrative agencies: An individual has the option to report harassment, discrimination, or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH). These administrative agencies offer legal and a complaint process. The nearest offices and telephone numbers are listed on the posters that are located on City bulletin boards at the following locations:

- Human Resources Office
- Community Center
- Police Department
- City Yard
- Ehlers Event Center
- California Welcome Center

Section 7: Confidentiality.

Every possible effort will be made to assure the confidentiality of complaints made under this Policy. However, complete confidentiality cannot occur due to the need to fully investigate and the duty to take effective remedial action. As a result, confidentiality will be maintained to the extent possible. An individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview, except as otherwise directed by a

supervisor or the Director of Human Resources. Any individual who discusses the content of an investigatory interview will be subject to discipline or other appropriate sanction. The employer will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or court order.

Section 8: Responsibilities.

Elected Officials, Appointed Officials, Managers, and Supervisors are responsible for:

1. Modeling appropriate and respectful behavior.
2. Informing employees, volunteers, and contractors of this Policy.
3. Taking all steps necessary to prevent harassment, discrimination, retaliation or bullying from occurring.
4. Receiving complaints in a fair and serious manner, and documenting steps taken to resolve complaints.
5. Monitoring the work environment and taking immediate appropriate action to stop potential violations, such as removing inappropriate pictures or correcting inappropriate language and behavior.
6. Following up with those who have complained to ensure that the behavior has stopped and that there are no reprisals.
7. Informing those who complain of harassment, discrimination, retaliation or bullying of his or her option to contact the EEOC or DFEH regarding alleged Policy violations.
8. Assisting, advising, or consulting with employees and the Director of Human Resources regarding this Policy and Complaint Procedure.
9. Assisting in the investigation of complaints involving employee(s) in their departments and, if the complaint is substantiated, recommending appropriate corrective or disciplinary action in accordance with the City's Personnel Rules and Regulations, up to and including termination.
10. Implementing appropriate disciplinary and remedial actions.
11. Reporting potential violations of this Policy of which he or she becomes aware, regardless of whether a complaint has been submitted, to the Director of Human Resources or the department head.
12. Participating in periodic training and scheduling employees for training.

Each employee or contractor is responsible for:

1. Modeling appropriate and respectful behavior.

2. Treating all employees, volunteers, and contractors with respect and consideration.

3. Participating in periodic training.

4. Fully cooperating with the City's investigations by responding fully and truthfully to all questions posed during the investigation.

5. Maintaining the confidentiality of any investigation that the City conducts by not disclosing the substance of any investigatory interview, except as directed by the department head or Director of Human Resources.

6. Reporting any act he or she believes in good faith constitutes, harassment, discrimination, retaliation or bullying as defined in this Policy, to his or her immediate supervisor, or department head, or Director of Human Resources.

Section 9: Mandatory Training.

As part of its commitment to ensuring a work environment free from bullying, harassment, and discrimination, the City requires that all of its supervisors and elected officials receive training on this Policy at least once every two years. Human Resources will schedule multiple training sessions in the Spring biennially to ensure that employees and elected officials are able to attend the mandatory training. Attendance at the training will be documented.

Section 10: Dissemination of Policy.

All Elected Officials and City employees, supervisors and managers shall receive a copy of this Policy. All management personnel will be informed of their responsibilities in enforcing this policy. The Policy may be updated from time to time and redistributed with a form for the employee to sign and return acknowledging that the employee has received, read, and understands this Policy.

This Policy shall be posted in appropriate places.

RULE XX – COOPERATION

Section 1: Cooperation of Municipal Officers and Employees. Every officer and employee of the City of Buena Park shall cooperate with the Personnel Officer in order to completely fulfill the objectives and purposes of the Civil Service System Ordinance and these Personnel Rules.

Section 2. All previous resolutions establishing personnel system rules and regulations are hereby repealed.

PASSED AND ADOPTED this 28th day of August 2018 by the following called vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

I, Adria M. Jimenez, MMC, City Clerk of the City of Buena Park, California, hereby certify that the foregoing resolution was duly and regularly passed and adopted

Resolution No.

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at a regular meeting of the City Council of the City of Buena Park, held this 28th day of August 2018.

City Clerk