

City of El Cerrito

PERSONNEL RULES AND REGULATIONS



ADOPTED BY: RESOLUTION 92-7
(2/18/92)

REVISED: RESOLUTION 96-104
(12/2/96)

REVISED: RESOLUTION 2001-8
(2/5/01)

REVISED: RESOLUTION 2002-6
(1/22/02)

REVISED: RESOLUTION 2003-68
(6/16/03)

Table of Contents

PART I - GENERAL PROVISIONS

Chapter 1	Concept of Rules	1
Chapter 2	Classification Plan.....	3
Chapter 3	Methods of Filling Vacancies	4
Chapter 4	Employment	6
Chapter 5	Examinations	8
Chapter 6	Probationary Period.....	10
Chapter 7	Transfer, Promotion, and Reduction in Classification.....	11
Chapter 8	Termination of Employment	12
Chapter 9	Compensation and Hours.....	14
Chapter 10	Vacation Leave	16
Chapter 11	Sick Leave	16
Chapter 12	Complaint and Grievance Procedure.....	18
Chapter 13	Disciplinary Guidelines and Appeal Procedure.....	21

CITY OF EL CERRITO

PERSONNEL RULES AND REGULATIONS

PART I. GENERAL PROVISIONS

Chapter 1. Concept of Rules

- 1.1 Concept. By adoption of the Civil Service System (ordinance Section 3.08), the City Council of the City of El Cerrito established the fundamentals of the personnel system for the city and directed that more detailed rules and regulations be adopted by subsequent resolution of the city council. The rules and regulations established herein, together with current memorandums of understanding, supplement the city's civil service system ordinance and constitute the city's personnel system.
- 1.2 Application of These Rules. These Rules and Regulations shall apply to all City employees except: elected officials, board and commission members, volunteers who receive no regular compensation from the City, the City Manager, the City Attorney and assistant attorneys, designated management personnel, temporary, provisional, seasonal and designated part-time employees.
- 1.3 Authority of the City Manager. The city manager, as appointing authority, has general control and supervision over the affairs of the city; the power to appoint all officers, heads of departments, and the employees of all city departments; and to remove the same for cause, subject to these rules and regulations. The city manager may delegate to department heads the authority to appoint persons to the municipal service.
- 1.4 Merit Principles. Appointments and promotions of city employees shall be made according to merit and fitness, to be ascertained as far as practicable by competitive examination.
- 1.5 Fair Employment. No questions in any test, or on any application form, or by any appointing authority, shall be so framed as to attempt to elicit information concerning race, color, ancestry, national origin, religious creed, or political opinions or affiliations of an applicant. No appointment to or removal from a position in the municipal service shall be affected or influenced in any manner by discrimination based on sex, age, race, color, ancestry, national origin, religious creed, sexual orientation, marital status, political opinion or affiliation or handicap. The city is an equal opportunity/affirmative action employer.

- 1.6 Violation of These Rules. Violation of these rules shall be grounds for disciplinary action or dismissal, as is specified in Chapter 13.
- 1.7 Amendment of These Rules. The city council may amend or revise these rules by resolution, consistent with those provisions of state law which pertain to the making of such amendments and/or revisions.
- 1.8 Types of Appointment
- a. Regular Full-Time: Employees who successfully complete their probationary period and who regularly work a minimum of 37.5 hours per week shall become regular full-time employees and are entitled to benefits herein provided. Regular full-time employees are appointed from a current eligible list to a budgeted position.
 - b. Regular Part-Time: Employees who work less than 37.5 hours but average 28 or more hours a week, who successfully complete their probationary period, shall become regular part-time employees. Regular part-time employees are appointed from a current eligible list to a budgeted position.
 - c. Part-Time: Employees who average less than 28 hours per week and receive only those benefits required by law. (Exempt from the provisions of this resolution.)
 - d. Temporary: Appointments limited to a maximum duration of 12 consecutive months. Employees may work full-time, or part-time and receive only those benefits required by law. (Exempt from the provisions of this resolution.)
 - e. Provisional: In the absence of a valid employment list and until a competitive examination process can be conducted, the appointing authority may select a person satisfying the minimum qualifications of the vacant position. Such provisional appointments may be made for six months and may be extended once by the City Manager for an additional six months. (Exempt from the provisions of this resolution.)
- 1.9 The following rules and provisions apply only to those employees who are not excluded either by definition or by the provisions of Chapter 1.2.

Chapter 2. Classification Plan

- 2.1 Definition. The city's classification plan consists of the position titles, job descriptions, and salary ranges for each position in the municipal service.
- 2.2 Classifications. A classification consists of the position title, job description, and salary range for an individual position or for a group of positions sufficiently similar to warrant use of the same position title, job description, and salary range.
- 2.3 Job Descriptions. Job descriptions shall include position title, a general description of job duties, illustrative examples of these duties, and a listing of minimum qualifications for the position.
- 2.4 Salary Range. The salary ranges include entry level and top-step pay for each position classification, and indicate step advancements for those classifications on a step plan. For those not on a step plan, the control point of the range is specified and forms the basis for the range with 25% above and 25% below the control point. Nothing in these Rules is intended to prevent the establishment of flexible compensation programs, including pay-for-performance, incentive pay, salary ranges without fixed steps or other systems, once approved by the City Council. In the event of conflict between the salary and compensation provisions of these rules and a written flexible compensation program approved by the City Council, the terms of the flexible compensation program will prevail. Nothing in this paragraph is intended to supersede applicable meet-and-confer requirements of state law.
- 2.5 Preparation and Maintenance of Classification Plan. The preparation and maintenance of the city's classification plan is the responsibility of the personnel officer or designee, who is authorized to examine records, consult with employees, conduct studies, and collect such information as may be required to ensure that the classification plan is proper.
- 2.6 Changes in Classification. Requests for changes in classification may be initiated by the city manager, the personnel officer, a department head or by an employee who believes his or her job is inconsistent with his or her job classification. Such requests shall be in writing and shall include the present classification, the proposed new classification, and the reasons for the proposed change. If a classification change is approved by the city manager, it will not become final until ratified by the city council. Changes in classification also may result from the "meet and confer" process between the city and designated employee representatives, subject to the ratification of the city council.

Chapter 3. Methods of Filling Vacancies

3.1 Eligible List.

When a vacancy is to be filled, the personnel officer shall be notified and shall advise the department head as to qualified persons on eligible lists described in Chapter 3.2, who may be considered for employment.

3.2 Kinds of Eligible Lists

- a. Reemployment lists, consisting of employees who have been laid off.
- b. Promotional lists, consisting of employees who have qualified through promotional examination.
- c. Transfer lists, consisting of employees who desire to be transferred from one position to another with an equal or lower maximum rate of pay.
- d. Reinstatement lists, consisting of employees who have resigned in good standing from a position of permanent status.
- e. Open competitive lists, consisting of candidates who have qualified through open examination. Lateral entry lists are considered to be open competitive lists.
- f. Continuous testing lists, consisting of candidates, who have qualified through a continuous examination process. Said examinations may be conducted as deemed appropriate or as applications are received. The names of the successful candidates shall be inserted on the eligibility list in order of their final score.

3.3 Duration of Eligible Lists

- a. Reemployment lists shall remain in force for two years after date of layoff.
- b. Promotional lists shall remain in force for one year, except fire promotional lists shall remain in force for two years.
- c. Open competitive lists shall remain in force for one year.
- d. Reinstatement lists and transfer lists shall remain in force for one year.

- e. Names of successful candidates shall remain on a continuous testing list for one year.

The city manager may extend any of the above-stated lists for an additional one-year period.

Promotional, open competitive and reinstatement lists are considered exhausted whenever the appointing authority declines to make a selection from the list.

3.4 Priority of Eligible Lists. Eligible lists shall be used in the following order to fill vacant positions.

- a. Reemployment list
- b. Promotional list
- c. Transfer list
- d. Reinstatement list
- e. Open competitive, lateral entry or continuous testing lists as provided for in these rules.

The appointing authority may appoint any eligible applicant from a list, regardless of rank or final score, or decline to make an appointment from a list.

3.5 Reemployment Lists. Laid-off employees shall be placed on a reemployment list. Reemployment shall be in the reverse order of layoff, that is, employee laid off last in any classification shall be the first to be rehired in the event of an appropriate vacancy.

3.6 Promotional Appointments. In the absence of a reemployment list, it is the city's policy to use promotion lists whenever possible.

3.7 Transfer Lists. An employee desiring to transfer to another department may have his/her name placed on a transfer list. Candidates for transfer shall be ranked in order of seniority with the city.

3.8 Reinstatement. An employee who resigns may be reinstated upon recommendation of the department head, approval of the city manager, and a favorable medical report from a medical examiner. No such person shall be appointed unless his/her application for such appointment has been filed within one year of the date of his/her resignation. No such person shall be reappointed if there is a reemployment for promotional list in effect for the position for which reappointment is sought.

- 3.9 Open Competitive Lists or Continuous Testing Lists. When a vacancy is not filled by use of a reemployment list, a promotion list, a transfer list, or a reinstatement list, an open competitive list or continuous testing list shall be used.

Chapter 4. Employment

- 4.1 Equal Employment Opportunity. It is the policy of the City of El Cerrito to provide equal employment opportunity to all persons regardless of race, color, religion, sex, age, orientation, political affiliation or handicap.
- 4.2 Citizenship. Employment is open to qualified persons who are citizens of the United States and to qualified persons who are not citizens of the United States but who have complied with state and federal laws defining the eligibility of noncitizens for employment in state and local government.
- 4.3 Employment Announcements. Employment announcements for positions shall be made by posting notices in public places and by such other methods as are suited to obtaining appropriate publicity. Announcements shall be made not less than two weeks (14 calendar days) before the last date for filing applications. Date of initial posting will be noted in lower left corner of announcement. The announcement may set forth the nature of the duties and responsibilities of the position, the qualification requirements, the scope of the examination to be given, the prescribed rates of pay for the position, and any other information deemed pertinent by the personnel officer.
- 4.4 Application. Candidates for employment shall file an application form with the city. The format of such form shall be as prescribed by the personnel officer. Applications may be rejected for reasons outlined in Section 4.7. The personnel officer shall notify in writing those persons whose application have been rejected.
- 4.5 Veterans' Preference. Veterans for purposes of this section are defined in California Government Code Section 18973, as persons who served full time for 30 days or more in the armed forces in time of war or in time of peace in a campaign or expedition for service in which a medal has been authorized by the government of the United States, or during the period September 16, 1940, to January 31, 1955, or who has served at least 181 consecutive days since January 31, 1955, and who has been discharged or released under conditions other than dishonorable, but does not include any

person who served only in auxiliary or reserve components of the armed forces whose service therein did not exempt him or her from the operation of the Selective Training and Service Act of 1940.

Veterans, who have successfully completed all phases of the testing process and whose names have been placed on an eligibility list for any of the entry level positions listed herein will be given preference in the selection process. Any veteran, as defined above, whose final score is within five (5) percentage points of the top scoring candidate on the eligibility list will automatically be given further consideration for employment. Such further consideration shall typically consist of an interview with the appointing authority, but may be background processing or some other "next step" in the selection process depending upon the position. The entry level positions to which this veterans' preference apply are: Firefighter, Police Recruit, Maintenance Worker-Entry, Recycling Worker-Entry, Building Inspector I, Administrative Clerk and Custodian.

- 4.6 Selection Process. Applicants whose applications are approved shall take examinations as prescribed in Chapter 5.

The examination process will be impartial and will relate to those areas which, in the opinion of the personnel officer, will indicate adequately and fairly the relative abilities of the candidates under consideration to execute the duties and responsibilities of the position to which they seek appointment. (See Chapter 5.)

Upon completion of the examination process, an eligible list shall be established.

- 4.7 Exception to Selection Process - Lateral Entry. When it is determined by the city manager that it is in the best interest of the city to hire employees for the classifications of police officer and firefighter, the examination requirements as set forth herein may be waived.

In order to meet the requirements for lateral entry, the applicant must have been employed or be presently employed in the capacity to which lateral entry is sought; pass an oral interview; and may be required to successfully complete physical and psychiatric examinations and background investigations.

- a. Upon application, persons who have completed the POST Certified Basic Course may be considered for the position of police officer.
- b. Upon application, persons who have completed the necessary requirements for and have been certified by the State of California as

Firefighters I and Certified Emergency Medical Technicians may be considered for the position of firefighter.

- 4.8 Ineligibility or Disqualification. The city manager or designee may disqualify any applicant from consideration whose appointment is deemed contrary to the best interests of the city. Reasons for disqualification may include but shall not be limited to any of the following deficiencies.
- a. Failure to meet any of the requirements established for the examination or the position.
 - b. Physical or psychological unfitness for the performance of the position duties which cannot be reasonably accommodated. This includes, but is not limited to, impairment caused by current abuse of alcohol or drugs.
 - c. Conviction of a felony, or a misdemeanor which relates to the position duties applicant would perform. Conviction includes pleas of guilty or nolo contendere.
 - d. Revocation or suspension of his or her privilege to operate a motor vehicle in the State of California, if driving is a job requirement.
 - e. For any material cause, which in the judgment of the city manager or designee would render the applicant unfit for the position, including prior resignation from the City, resignation to avoid dismissal, termination from the City or a significant, sustained disciplinary action.
 - f. Use of deception or fraud in making the application.
 - g. Use of political pressure or bribery to secure an advantage in the examination or appointment.
 - h. Failure to reply within a reasonable time, as specified by the personnel officer, to communications concerning availability for employment.
 - i. Request by applicant that his or her name be withdrawn from consideration.

Chapter 5. Examinations

- 5.1 Conduct of Examinations. The personnel officer or designee shall be responsible

for the conduct of examinations for city positions. The personnel officer may appoint any qualified person(s) or agency to conduct and score the examination.

5.2 Type of Test or Examination. Examinations may be assembled, unassembled, written, oral or by demonstration, and may include evaluation of education, experience, and skills, or any test of manual skills or physical fitness which fairly evaluates the relative capabilities of the candidates. Physical and psychiatric examinations may be made a part of any examination and when required shall be performed by a duly licensed physician at the city's expense. The city may review and investigate the candidate's personal background.

5.3 Oral Board Examination. An oral board shall include persons experienced in the subject field of work or in the selection process. Each interviewer is to make an independent rating of the candidate. The names of persons serving on the oral board shall not be given out in advance of the oral interview.

Written or other test scores from other phases of the examination process shall not be available to members of the oral board.

5.4 Promotional Examinations. Promotional examinations are competitive examinations in which only current employees of the city who meet the requirements set forth in the examination announcement are allowed to compete.

5.5 Open Competitive Examination. Open examinations are competitive examinations in which all persons who meet the requirements set forth in the examination announcement and in Section 4.2 above shall be allowed to compete. Open examinations shall be scheduled for entry-level classes and for such other classes as required to insure a competitive examination process and the selection of the most qualified person available.

Open examinations for entry-level classes may be a competition among candidates or competition against a standard established by the personnel officer.

5.6 Rating Examinations. The personnel officer shall establish minimum qualifying examination scores and may specify those parts of an examination which are qualifying only. Failure in one part of an examination may be grounds for disqualifications.

5.7 Notification of Results. Each candidate shall be notified in writing as to whether he/she qualified or failed to qualify on an examination. Qualifying candidates shall be advised of their final examination score. A candidate may review

his/her own written examination within five working days after the notices of results are mailed, providing that the examination is available to the city.

- 5.8 Protest of Written Examination. A protest of written examination may be made on the grounds that a question or questions in the examination are unfair. Such a protest must be made in writing within five working days after the notices of examination results are mailed. The personnel officer shall rule on all such protests.

Chapter 6. Probationary Period.

- 6.1 Objective of Probationary Period. The probationary period is regarded as part of the testing process and shall be utilized for closely observing the employee's work, for facilitating the effective adjustment of the employee to his or her position, and for rejecting any probationary employee whose performance does not meet acceptable standards.
- 6.2 Probationary Period
- a. Original appointments. The probationary period for original appointments shall be twelve months, except in the police and fire departments, which shall have an eighteen-month probationary period. The probationary period shall be time in actual service.
 - b. Promotional appointments. The probationary period for promotional appointments shall be twelve months, except in the police department, which shall have an eighteen-month probationary period.
 - c. Transfer appointments. Appointments by transfer shall be subject to a probationary period of twelve months.
- 6.3 Change to Regular Status. Upon the department head's recommendation and the city manager's approval, the personnel officer shall advance a probationary employee to regular status. This shall not be done without the written approval of the city manager. The employee shall be notified in writing of this advancement to regular status.
- 6.4 Employee Performance Reports. Supervisors shall meet regularly with each probationary employee for the purpose of performance evaluation and review. A final written evaluation by the supervisor and recommendation by the

department head shall be submitted to the personnel officer and the employee at least two weeks prior to the expiration of the probationary period.

- 6.5 Rejection of Probationary Employee. At any time during the probationary period an employee may be rejected by the city manager or the appointing authority without the right to appeal except where reasons for rejection stigmatize the employee's reputation as described in Section 13.2 (g). Written notification of such rejection shall be served on the probationary employee. A termination interview shall be conducted with each rejected probationary employee.
- 6.6 Rejection of Probationary Promotional Employee. Rejection of promoted employees during the probationary period shall not be subject to appeal. Such rejection shall be accompanied by a performance evaluation which shall indicate the reasons for the candidate's rejection in terms of "service value" as defined in Section 9.5.
- 6.7 Extension of the Probationary Period. The probationary period of a temporary employee who is appointed to a regular position shall begin on the date of such probationary appointment.
- 6.8 Extension of the Probationary Period. The probationary period may be extended upon approval of the city manager and personnel officer for a period of up to six months of actual and continuous service. If the probationary period is to be extended, the probationary employee shall be notified in writing prior to the expiration of the original probationary period.

Chapter 7. Transfer, Promotion, and Reduction in Classification

- 7.1 Transfer. A transfer is a change from one position to another with approximately the same (equal or lower) maximum salary which involves the performance of similar duties and which requires substantially the same basic qualifications. The city manager shall have the power to order a transfer. Seniority shall apply to transfers; that is, a mandatory transfer shall first affect the least senior employee in a classification and last affect the senior-most. Seniority will be given consideration in voluntary transfers; however, the appointing authority shall have the latitude to appoint or reject, giving consideration to previous work performance.
- 7.2 Promotion. A promotion is a change from one position to another with a higher maximum rate of pay. It is the policy of the city to encourage the advancement

of personnel within the city service. Promotional selection for vacancies shall be conducted as the needs of the city require.

A classified employee who is appointed to an exempt position in the city shall, in the event of removal from such exempt position, revert to the previously held classified position at the range and step held prior to promotion, unless the employee is terminated as described in Chapter 13 of these rules.

- 7.3 Demotion. A reduction in classification is a change from one position to another having a lower maximum rate of pay.

The city manager may reduce an employee in classification when the need for the position which an employee fills no longer exists. No employee shall be reduced to a classification for which he does not possess the minimum qualifications.

Seniority shall apply to reductions in classification, that is, the junior-most employee in a classification shall be the first so reduced.

Chapter 8. Termination of Employment

- 8.1 Resignation. An employee wishing to leave the service of the City in good standing by resignation shall file with the appointing authority a written resignation stating the effective date and reasons for leaving, at least two weeks prior to leaving, unless such time limit is waived by the department head. Failure to do so may be cause for denying future employment with the City.

- 8.2 Resignation Reappointment. A regular employee who has resigned from the city service in good standing may, upon written request, be considered for reappointment to a position in the same or similar class within one year of such resignation. Reappointment may be made without benefit of additional examination and may take precedence over eligible lists. Appointment shall otherwise be made in the manner as for original employment.

A reappointed employee shall be considered a new employee and shall have no vested interest in nor entitlement to any benefits accrued during any previous employment with the city, except those benefits expressly provided by the Public Employees Retirement System.

- 8.3 Layoff. Employees may be separated from employment for an indefinite period of time due to lack of work, lack of funds, or abolition of position(s). Layoff shall

be governed by seniority in classification; that is, an employee being laid off shall be that employee with the lowest seniority in the classification involved. Re-employment from layoffs shall be in the reverse order from which the layoffs occurred.

Any position may be abolished by the city council; and should such an abolished position be reinstated or any position involving substantially the same duties be created within two years, the laid-off employee shall be entitled to reemployment.

If there is a class of positions of a lower rank and in the same promotional line as the class of positions from which the layoff is made, the city manager shall demote the employee scheduled for layoff to a position in such lower ranking class. The employee with the lowest seniority occupying such lower ranking may in turn be laid off. Questions concerning the promotional line for a particular job class will be reviewed and a final decision made by the personnel officer.

If two or more employees in the same classification from which lay-off is to be made have the same seniority date, such employees may be laid off on the basis of the last performance evaluation rating in that class, providing that evaluation is no more than twelve (12) months old.

At the direction of the city manager, an employee subject to layoff may be transferred to an existing vacant position within the city if that position is at substantially the same level as the position from which the employee is being laid off.

The employee's salary would be adjusted to the new classification, and the salary step would be the same as in the former classification.

Layoff provisions in memorandums of understanding supersede this section.

- 8.4 Layoff - Exempt Personnel. Exempt personnel who were promoted from a nonexempt classification shall have the right to revert to the nonexempt classification held prior to promotion.
- 8.5 Layoff Procedure. Whenever there is a need for layoffs, employees within the classification involved shall be terminated in the following order:
- a. Emergency
 - b. Temporary and provisional

- c. Part-time
- d. Probationary
- e. Regular part-time
- f. Regular full-time

8.6 Layoff Notice. Regular employees scheduled for layoff shall be notified in writing by the department head with the approval of the city manager at least two weeks prior to the date of layoff.

8.7 Layoff Reinstatement. Regular employees who have been laid off shall be entitled to reinstatement to positions in the same classification when such positions are to be refilled during the period of their eligibility on the layoff list.

(See Section 3.3(a)) Any employee so reinstated shall retain all benefits accrued in prior service with the city.

Chapter 9. Compensation and Hours

9.1 Salaries. Salaries and benefits for positions represented by recognized employee organizations shall be established by memorandums of understanding between the city and the employee organization. Salaries and benefits for positions not so represented shall be specified in these rules in a form determined by the personnel officer. Memorandums of understanding and salaries and benefits for nonrepresented employees are subject to ratification by the city council.

9.2 Administration of Compensation Plans. The city council shall administer the compensation plans of the city attorney and city manager. The city manager or designee shall administer the compensation plans of all other employees.

9.3 Initial Employment. Initial employment shall be at the first step of the salary range unless the city manager designates a higher salary to obtain qualified applicants or to compensate an exceptionally well-qualified appointee. For those not on a step system, placement within the range will be between the lowest portion of the range and the control point, unless otherwise approved by the city manager.

9.4 Anniversary Dates. Anniversary dates shall be established as follows:

- a. Initial anniversary date shall be defined for employee benefit purposes as the initial date of appointment.

- b. Employee granted salary step increases or performance pay based movement within a salary range shall have their anniversary date for pay purposes reestablished to the effective date of such salary increase.
- c. A temporary full-time employee who is appointed to regular status shall have as his or her initial anniversary date the date of appointment to the temporary position, for purposes of compensation and benefits only.

9.5 Advancement Within Salary Range. In order to properly compensate an employee, advancements in salary shall be based on a merit system. Advancements shall not be automatic but shall depend upon "increased service value" of the employee to the city. "Increased service value" shall include consideration of the employee's overall productivity and effectiveness on the job, as well as attendance record, attitude, ability to work effectively with others and personal conduct. It is the duty of the supervisor and department head to file a fair and unbiased evaluation of increased service value over time, based on the job performance of the employee.

Evaluations will be scheduled in a regular and timely manner and will occur prior to advancement in salary and no less than annually. Evaluations should be viewed as an opportunity for the employee and the supervisor to communicate and clarify expectations. Advancements shall be made only upon recommendation of the department head and with the approval of the city manager.

9.6 Reduction Within Salary Range. A department head or the city manager may order a reduction in salary from a higher to a lower step or from higher to lower salary (for those not on a step system) within a salary range in the event that there has been a decrease in the service value. An employee who believes his or her salary has been unjustly reduced may file an appeal.

9.7 Salary Following Promotion. On promotion, an employee shall be entitled to the lowest step or the salary point in the new range that provides a salary increase. The city manager may, however, approve assignment to a higher step or a higher salary (for those not on a step system) in the salary range.

9.8 Salary Following Demotion. A demoted employee shall be assigned to a salary step or salary point (for those not on a step system) in the new class as recommended by the department head and approved by the city manager.

9.9 Attendance. Employees shall be in attendance at their work or assigned duties at the time and place prescribed by the department to which they are assigned.

Each department head shall prepare attendance records of all employees and make reports of the same to the personnel officer in the form and on dates prescribed.

9.10 Pay Periods

- a. The pay period is two weeks; paychecks are distributed every other Friday.
- b. The method of distribution of payroll warrants shall be established by the city manager.

9.11 Deductions. Deductions from employees' wages shall be made in accordance with prevailing laws, contracts, rules and regulations.

Chapter 10. Vacation Leave

10.1 Eligibility. Regular employees shall be eligible for a paid vacation at the end of the first year of continuous service, and annually thereafter. The one-year eligibility requirement may be waived by approval of the city manager. Temporary employees shall not earn vacation leave; however, if a temporary employee receives a probationary appointment, vacation leave shall be credited for the time served in temporary status. Further provisions regarding vacation leave may be found in subsequent sections and current Memoranda of Understanding.

Chapter 11. Sick Leave

11.1 Statement of Policy. Sick leave shall accrue according to the provisions of memorandums of understanding and the rules to follow. Sick leave shall be requested only for cases of actual personal or immediate family sickness or disability or medical or dental treatment. An employee requesting sick leave shall notify his or her supervisor or department head prior to the time set for reporting to work or when taken ill during working hours. Sick leave with pay shall not be allowed unless the employee has completed a city absence report and the city has approved such a payment.

11.2 Eligibility.

- a. Permanent and probationary employees shall be eligible to accrue sick leave.
- b. Regular part-time employees shall be eligible to accrue sick leave on a pro rata basis.
- c. Temporary employees shall not earn sick leave; however, if a temporary employee receives a probationary appointment, sick leave shall be credited for time served in a temporary status.

11.3 Use. Sick leave may be requested and used due to illness or injury to the employee or immediate family, or for routine and special examinations by health care providers if it is not feasible to schedule them on the employee's own time. Pay for approved sick leave shall be authorized until the employee's accumulated total of hours or shifts has been exhausted, at which time the employee shall receive no further pay for sick leave.

11.4 Depletion of Sick Leave Benefits - Medical Leave. In the event of continued illness after expiration of sick leave, absences may be charged to accrue compensatory time.

Upon depletion of accumulated leave, an employee may be granted a medical leave of absence without pay for a period not to exceed sixty days. If unable to work at the end of this period, the employee must request further medical leave, which will be subject to approval of the city manager. If further medical leave is granted, the city must be notified of the employee's health status every thirty days. If further leave is not granted, the employee's service with the city shall be considered terminated.

11.5 Workers' Compensation - Disability Payments. An employee receiving disability payments under the workers' compensation laws may use accumulated sick leave and vacation leave in order to receive regular income. The city will pay the difference between full salary and disability payments and will charge accrued sick leave and vacation leave accordingly.

11.6 Subpoena. Regular or probationary employees who are subpoenaed to appear as witnesses in behalf of the federal government or any of its agencies or the state of California or any of its agencies shall be granted leave of absence upon presentation of the subpoena to the department head. The employee shall receive full pay for such appearances, provided fees received for such

appearances are remitted to the City. Compensation for expenditures of the employee for mileage or subsistence allowances shall not be considered fees and shall be retained by the employee.

- 11.7 Jury Duty. Regular or probationary employees required to report for jury duty shall be granted leave for this purpose. Said employee shall receive full pay for the time served on a jury, provided the employee remits to the city all fees received for such duties. Compensation for expenditures of the employee for mileage or subsistence allowances shall not be considered fees and shall be retained by the employee.
- 11.8 Unauthorized Leave of Absence. Unauthorized absence of an employee during regular working hours for a portion of a day, or more, shall be without pay and may be the basis for disciplinary action up to and including termination from employment. Any absence by an employee for three consecutive working days without leave shall constitute automatic resignation. Such automatic resignation may be canceled if the employee requests and investigation shows that this is warranted.
- 11.9 Authorized Leave of Absence. Leave of absence without pay may be granted by the department head for up to two weeks and by the city manager for up to one year. Such leave is a privilege, not a right, and shall be granted only when consistent with the best interests of the city.

Chapter 12. Complaint and Grievance Procedure

12.1 Definitions

- a. Grievance: A complaint or grievance may be filed regarding an alleged violation, misinterpretation or misapplication of a specific written provision of Title 3 (Personnel) of the El Cerrito Municipal Code, these rules and regulations, or any written agreement or understanding between the city and an employee organization.

Complaints concerning disciplinary actions are processed through the disciplinary appeals procedures described in Chapter 13. An employee may not utilize both the grievance and disciplinary appeals procedure for a single action or event. The appropriate procedure should be employed.

- b. Grievant: A grievant is an employee or group of employees adversely affected by acts or omissions of the employer.

12.2 Procedure

Step 1 - Informal Discussion. An employee who has a problem or complaint should try first to settle it through informal discussion with his or her immediate supervisor. The employee or employee's representative must bring the complaint to the supervisor within ten (10) calendar days of the occurrence, or such time as the employee could have reasonably been aware of the occurrence. Failure to bring the matter to the supervisor's attention within ten (10) calendar days will be deemed a waiver by the employee of his or her right to submit a grievance.

The supervisor must render a decision on the complaint to the employee (or representative) within ten (10) calendar days from the date the complaint was submitted.

If an action of the immediate supervisor is being grieved and it is inappropriate for that supervisor to hear the grievance, it may be brought to the appropriate supervisor at the next level.

Step 2 - Department Head Review. If the grievance is not resolved by informal discussion, the employee must prepare a written grievance memorandum which provides all relevant facts concerning the grievance, including:

- a. The specific rule or rules allegedly violated, misinterpreted or misapplied.
- b. The specific act or omission which gave rise to this alleged violation, misinterpretation or misapplication.
- c. The date or dates on which the violation, misinterpretation or misapplication occurred.
- d. What documents, witnesses or other evidence support the employee's position.
- e. The result of informal discussion with the supervisor.
- f. The remedy requested.

The grievance memorandum must be signed by the employee and submitted to the employee's department head within ten (10) calendar days from the date of the supervisor's decision or the grievance will be considered invalid. A copy of said memo will be filed with the personnel officer. The department head may

confer with the employee and must respond in writing to the employee within ten (10) calendar days of receipt of the memorandum, unless the employee filing the grievance agrees to extend this response period.

Step 3 - City Manager Review. If the grievance is not resolved to the satisfaction of either the employee or the department head, the grievance memorandum and the department head's response to the grievance shall be submitted by the employee or the department head to the city manager for review within ten (10) calendar days.

The city manager or designee may meet with any or all of the parties involved in the grievance and request any additional information or documentation required to render a fair and impartial decision. The city manager's decision shall be communicated to the grievant and the department head within ten (10) calendar days of receipt of the grievance memorandum and the department head's response.

Step 4 - Acceptance of City Manager Decision or Appeal to Civil Service Commission. The grievant may accept the city manager's decision or appeal it through the personnel officer to the Civil Service Commission within ten (10) calendar days of its issuance.

Step 5 - Civil Service Commission Hearing. In hearing a grievance, the Civil Service Commission will receive and investigate the evidence and will make written findings and a written decision. Hearings of the commission will be informal in nature and, so long as due process is observed, the judicial rules of evidence need not be applied. The Civil Service Commission may be advised by the city attorney or other counsel provided by the city. The chairman of the commission will have full authority at all times to maintain orderly procedure. Civil Service Commission hearings will be public unless appellant is otherwise entitled under law to a private hearing and makes a written request for a private hearing.

Step 6 - City Council Decision. The city council will review the findings and decision of the Civil Service Commission within thirty (30) calendar days of issuance. The city council will make the final decision regarding the grievance. The decision of the city council will be final and binding on all parties. The city council need not hear additional evidence. If, however, the City Council decides to reject or modify the decision of the Civil Service Commission, it will review the entire record of testimony and related evidence. The city council also may seek whatever additional information it may need to reach a fair decision.

12.3 General Provisions

- a. Time limits may be extended by mutual consent. The party initially requesting an extension must confirm the extension in writing.
- b. An aggrieved employee may be represented by any person or organization of his choice at any stage of these proceedings. This representative is entitled to be present at all meetings and hearings at which the employee is entitled to be present.
- c. Failure on the part of the city or grievant to appear in any case before the Civil Service Commission, without good cause, will result in forfeiture of the case and responsibility for payment of all direct costs incurred in providing for the hearing.
- d. Notice of time and place set for hearing(s) will be mailed or otherwise promptly furnished to the appellant and his or her designated representative. Such notice shall be addressed to the appellant at his or her last known post office address and sent by registered mail at least five (5) calendar days prior to the hearing.

Chapter 13. Disciplinary Guidelines and Appeal Procedure

13.1 Purpose and Scope of Disciplinary Guidelines. The guidelines and procedures set out below are intended to assist supervisors in administering disciplinary actions in such a manner that such actions will be reasonable, fair, impartial and objective and will thereby be more likely to achieve their objective of assuring the highest possible levels of conduct and performance by employees in the rendering of City service to the public.

13.2 Definitions - Disciplinary Actions.

- a. Counseling: Counseling includes any informal discussion with an employee designed to assist him or her to develop or improve his or her skills, abilities or conduct. The counseling session may clarify standards, evaluate the employee's strengths and weaknesses, seek information or solve problems.
- b. Oral Reprimand: An oral reprimand verbally notifies the employee that his or her performance or behavior must be improved. The reprimand should define for the employee the areas of performance or behavior

which require improvement, and suggest corrective actions leading to such improvement. The supervisor also must inform the employee that failure to improve his or her performance will result in more serious action.

The supervisor should write a confirming memorandum to the employee noting the date, time, and context of the reprimand; however, no record will be placed in the employee's permanent personnel file unless further disciplinary action is required.

c. Written Reprimand: A written reprimand is a formal notice to an employee that his or her performance or behavior must be improved and that further disciplinary action will be taken unless his or her performance or behavior is improved. The content of the written reprimand should include the following:

- (1.) A description of the action or activities necessitating a written reprimand.
- (2.) The date(s) and time(s) of the action or activity causing the written reprimand.
- (3.) What rule, policy or contract provision has been violated.
- (4.) What the employee is directed to do to correct the situation.

The written reprimand should be prepared in triplicate and presented to the employee for his or her signature acknowledging receipt. It should then be distributed as follows:

- (1.) One copy retained by the supervisor.
- (2.) One copy to the employee.
- (3.) One copy to the personnel officer for review and filing in the employee's personnel file.

An employee shall have thirty (30) calendar days within which to respond to any adverse comments entered in his or her personnel file. Such response shall be attached to the adverse comment. An employee has the right to appeal a written or oral reprimand to the city manager. There is no higher level of appeal for a written or oral reprimand.

- d. Suspension: Suspension is the temporary removal of an employee from his or her duties without pay. Suspension without pay shall not exceed thirty (30) consecutive calendar days, nor thirty (30) days in any fiscal year.

An employee may be suspended effective immediately in cases where the employee's continued presence constitutes a threat to the safety of other employees, or to the public, or to public property.

An employee who is suspended will not forfeit any salary-related benefits, except vacation, sick leave and pension contribution (salary-based).

- e. Reduction in Pay: A reduction in pay represents a temporary or permanent lowering of an employee's salary rate.
- f. Demotion: A demotion is the removal of an employee from his or her existing position to a lower paying position. A demotion may be effected either for disciplinary purposes, or in cases where an employee's abilities to perform his or her required duties fall below standard. If demoted, an employee may be placed at any step or any point (for those not on a salary step system) within the new range, at the discretion of the department head.
- g. Discharge: Discharge is the permanent removal of an employee from City service. This action represents the final action in the progressive discipline system; or may be used as discipline for a first offense in cases where the employee's actions are so serious that no other response is appropriate.

Actions to suspend, demote, reduce in pay or discharge except in the case of a probationary employee - should follow the guidelines described below in Paragraph 13.5, Disciplinary Procedures.

13.3 Causes for Disciplinary Action. Causes for disciplinary action may include the following

- a. Fraud in securing appointment.
- b. Incompetency, inefficiency, inexcusable neglect of duties or failure to perform duties.
- c. Insubordination.

- d. Dishonesty, involving employment.
- e. Intoxication on duty.
- f. Use of illegal drugs.
- g. Unexcused absence without leave and excessive absenteeism.
- h. Willful disobedience.
- i. Violation of City or departmental rules.
- j. Misuse or misappropriation of City property funds.
- k. Negligence or willful misconduct resulting in damage of public property or waste of public supplies.
- l. Failure to follow adopted safety practices, or failure to properly use required personal protective gear or equipment.
- m. Conviction of a misdemeanor involving moral turpitude or any felony.
- n. Engaging in any employment, activity, or enterprise which is inconsistent, incompatible, in conflict with or inimical to performance of services, functions and duties of the City and its employees.
- o. Any other conduct which seriously discredits the City.

13.4 Persons by Whom Disciplinary Action May be Taken
(Disciplinary Authorities).

- a. The city manager may take any disciplinary action specified in section 13.2 for any cause or combination of causes specified in section 13.3.
- b. The department head may take any disciplinary action specified in section 13.2 for any cause or combination of causes specified in section 13.3, except: (1) Suspensions of four or more days require approval of the city manager; (2) discharge shall require an order of the city manager.

Authority to impose discipline may be delegated by department heads to supervisory personnel.

13.5 Disciplinary Procedures. In suspending, demoting, reducing in pay, or discharging a regular full-time or regular part-time employee, the procedures described in subparagraphs (a) through (c) below shall be followed except in extraordinary situations.

a. Written Notice of Intention to Discipline ("Skelly Pre-Action Procedure"): The department head shall provide a pre-disciplinary written notice of intention to suspend, demote, or discharge the employee for whom disciplinary action is proposed, to be served personally or by certified mail. Such notice shall state the following:

- (1.) The disciplinary action intended.
- (2.) The date on which the proposed action will take effect.
- (3.) The specific charges upon which the action is based and a factual summary of the grounds upon which charges are based.
- (4.) A copy of any known written materials, reports or documents upon which the discipline is based.
- (5.) That the employee has the right to respond orally or in writing, or both, to the proposed action.

The written notice will be prepared in triplicate with copies distributed as follows.

1. One copy retained by the department.
2. One copy to the employee. A copy may be forwarded to the employee's representative at the employee's request.
3. One copy to the personnel officer for review and filing in the employee's file.

Such written notice of intention to discipline is not required in the case of a written reprimand which does not result in the loss of employee salary.

b. Leave Status of the Employee Following Written Notice: The city manager may effect the temporary assignment of an employee to limited

duty or paid leave pending completion of investigations or the response period during which the final disciplinary action is determined. The city manager also may effect the immediate suspension of an employee where the employee's continued presence constitutes a threat to the safety of other employees, or to the public, or to public property.

- c. Employee Review and Response. The employee for whom discipline is proposed will be given an opportunity to review the charges, any documents or materials upon which the proposed disciplinary action is based, and will be supplied with a copy of such documents.

Within ten (10) calendar days after the employee has had the opportunity to review the charges and any documents or materials supporting the charges, the employee has the right to respond, orally or in writing, or both, at his or her option, to the person proposing the disciplinary action.

The employee may request an extension of time for review and response from the party proposing the disciplinary action. The ten-day response period may be extended at the City's discretion.

The supervisor, within ten (10) calendar days, will advise the employee in writing whether he/she upholds, modifies or reverses the proposed disciplinary action.

If the employee does not agree with the response from the party proposing disciplinary action, he or she may appeal the proposed action to the department head or designee within ten (10) calendar days, advise the employee in writing whether the proposed disciplinary action is upheld, modified or reversed. The action, if any, will thereupon be implemented. Failure of an employee to respond within the specified time limits will constitute a waiver of these procedures, and disciplinary action will take effect on the date stated in the written notice of proposed action.

13.6 Right of Administrative Appeal to City Manager.

- a. An employee will have the right to appeal to the city manager or designee any disciplinary action involving written reprimand, suspension, demotion, reduction in pay, and/or discharge, except that probationary employees may not appeal an action of discharge. The procedures described in subparagraphs (b) through (e) below shall be followed for all

administrative appeals. The decision of the city manager or designee will be final for appeals of written reprimands.

- b. Notice of Administrative Appeal: Within ten (10) calendar days of receiving a written notice from the department head or designee of whether he/she upholds, modifies or reverses the proposed disciplinary action, the employee may submit a written request to the city manager for an administrative hearing on the employee's disciplinary action.
- c. Notice: The city manager shall give written notice at least ten (10) calendar days prior to the administrative hearing to the person upon whom the disciplinary action is proposed. The notice will state the date, time, and place of the hearing.
- d. Appearance, Representation, Witnesses, and Conduct of Administrative Hearing:
 - (1.) The employee and the department head each may be represented by any other designated person.
 - (2.) The city manager may request the city attorney or other counsel to serve as his or her legal advisor, and may delegate the function of conducting the hearing to any other person.
 - (3.) The hearing need not be conducted in accordance with technical rules relating to evidence and witnesses, but the hearing will be conducted in a manner most conducive to determination of the truth. Decisions made by the city manager shall not be invalidated by any informality in the proceedings, and the city manager will not be bound by technical rules of evidence.
 - (4.) The city manager will rule on the admission or exclusion of evidence and the application of other rules of procedure.
 - (5.) Prior to or during a hearing, the city manager may grant a continuance for any reason he or she believes to be important to reaching a fair and proper decision.
- e. City Manager Action:
 - (1.) No later than ten (10) calendar days following conclusion of the hearing, the city manager will make his or her findings and render

a decision.

- (2.) The city manager will determine whether the city has proven the charges in support of the disciplinary action and whether the discipline imposed was fair and equitable (if charges are proven). He or she will base his or her findings on the preponderance of the evidence.

The city manager will either:

- (a.) uphold the disciplinary action;
- (b.) reverse the disciplinary action; or
- (c.) take such other disciplinary action as he/she deems appropriate under the circumstances.

- 13.7 Appeal of Disciplinary Determination. A regular permanent employee will have the right to appeal determinations of disciplinary action to the Civil Service Commission. Such appeals must be filed with the personnel officer within ten (10) calendar days of receipt of written notice of disciplinary determination. If no appeal is filed within this time period, the employee will be considered to have accepted the disciplinary determination.

An appeal of disciplinary determination must be in writing, requesting a hearing before the Civil Service Commission. The appeal must be submitted to the personnel office.

- 13.8 Civil Service Commission Hearing. In hearing an appeal of disciplinary determination, the Civil Service Commission will receive and investigate the evidence and will make written findings and a written decision. Hearings of the commission will be informal in nature; and so long as due process is observed, the judicial rules of evidence need not be applied. Any relevant evidence may be admitted. Hearsay evidence may be used for the purpose of explaining direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible in civil actions.

The Civil Service Commission may be advised by the city attorney or other counsel provided by the city. The chairman of the commission has full authority at all times to maintain orderly procedure. Civil Service Commission hearings will be public unless appellant is otherwise entitled under law to a private hearing and makes a written request for a private hearing.

Rights of the appealing party:

- a. To be represented by legal counsel or another chosen representative;
- b. To call and examine witnesses on one's behalf'
- c. To introduce evidence;
- d. To cross-examine opposing witnesses on any matter relevant to the issues and to impeach any witness regardless of which party first called him or her to testify;
- e. To rebut evidence against him or her.

The Civil Service Commission will hear an appeal of disciplinary determination within twenty (20) calendar days of the date of appeal to the commission. Written findings will be issued within ten (10) calendar days. Said findings and decisions will be submitted to the city council as a recommendation for its action.

13.9 City Council Decision. The city council will review the findings and decision of the Civil Service Commission within thirty (30) calendar days of issuance. The city council will make the final decision regarding the grievance. The decision of the city council will be final and binding on all parties. The city council need not hear additional evidence. If, however, the City Council decides to reject or modify the decision of the Civil Service Commission, it will review the entire record of testimony and related evidence. The city council also may seek whatever additional information it may need to reach a fair decision.

13.10 General Provisions.

- a. Time limits may be extended by mutual consent, which should be confirmed in writing.
- b. An employee may be represented by any person or organization of his choice at these proceedings. This representative is entitled to be present at all meetings and hearings at which the employee is entitled to be present.
- c. Failure on the part of the city or the employee to appear in any case before the Civil Service Commission, without good cause, will result in forfeiture of the case and responsibility for payment of all direct costs incurred in providing for the hearing.

- d. Notice of time and place set for the public hearing will be mailed or otherwise promptly furnished to the appellant and his or her designated representative. Such notice will be addressed to the appellant at his or her past known post office address and sent by registered mail at least five (5) calendar days prior to the hearing.

13.11 Administrative Leave. Administrative leave is leave with full pay and employment benefits. An employee may be placed on immediate administrative leave by the department head or immediate supervisor, pending the completion of the disciplinary procedures described in sections 13.1 through 13.5. The placing of an employee on administrative leave is not a disciplinary action.

An employee on administrative leave will not report to work and shall not wear a city uniform or exercise the authority of his city position except as directed. An employee on administrative leave will be available for investigative purposes related to such leave or pending disciplinary action procedures.