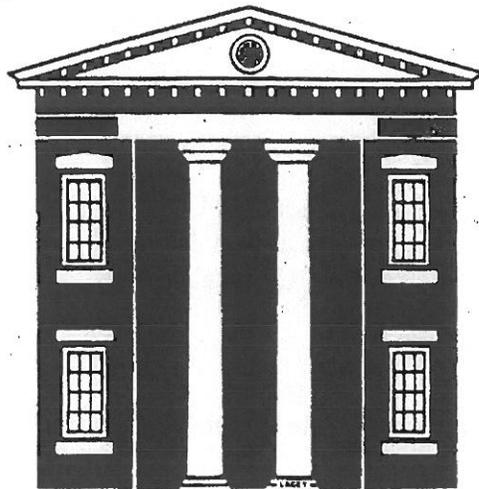


City of Benicia

Personnel
Rules

June 1, 1999



THE CITY OF
BENICIA
CALIFORNIA

CITY OF BENICIA

PERSONNEL RULES

ADOPTED JUNE 1999

These Personnel Rules have been designed to assist you in learning more about the functions of the existing personnel system, the Civil Service Commission, and to clearly outline how the Rules affect Employees of the City.

The recently revised and adopted Personnel Rules is the result of two years of dedicated review by the Civil Service Commission and the Personnel Department. The Personnel Rules is a "working" document. Revision to the existing Rules incorporates issues encountered since they were last revised in 1992, and additions or changes in Federal and State laws.

You are encouraged to review this booklet so that you might obtain a working knowledge of the practices, procedures and policies which are in effect within the City.

If you are covered under a Memorandum of Understanding (MOU) and there is a conflict between a specific area in the MOU and these Rules, the MOU prevails.

If you should have any questions regarding these Rules, please ask your immediate supervisor or contact the Personnel Department for assistance.

RESOLUTION NO. 99 - 58

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BENICIA APPROVING
THE REVISION OF THE PERSONNEL RULES FOR THE CITY OF BENICIA

WHEREAS, the City and the Benicia Civil Service Commission have worked to complete revisions to the Personnel rules; and

WHEREAS, the City Council of the City of Benicia pursuant to Chapter 2.70.070, ADOPTION AND AMENDMENT OF RULES issued legal Notice of a Public Hearing and held said public hearing at 8:00 p.m., June 1, 1999; and

WHEREAS, at said public hearing all persons were given an opportunity to speak for or against the adoption of the proposed Personnel Rules.

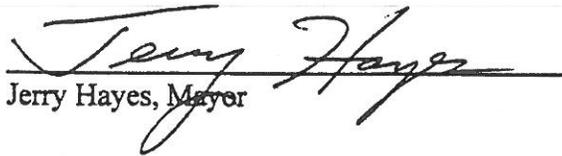
NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Benicia hereby approves the adoption of the Personnel Rules dated June 1, 1999 which are on file in the Personnel Department and the City Clerk's Office.

On a motion of Council Member Messina , seconded by Council Member Corbaley , the above resolution was introduced and passed by the City Council of the City of Benicia at the regular meeting of said Council held on the 1st of June, 1999, and adopted by the following vote:

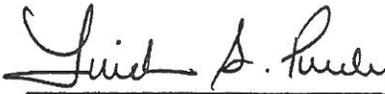
Ayes: Councilmembers Corbaley, Cox-Golovich, Gizzi, Messina and Mayor Hayes

Noes: None

Absent: None


Jerry Hayes, Mayor

ATTEST:


Linda S. Purdy, City Clerk

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SECTION 1.

GENERAL

1.1 Adoption of Personnel Rules

The following Rules have been approved by the City Council by resolution.

1.2 Powers of the City Manager/Personnel Officer

Pursuant to the Benicia Municipal Code, Section 2.70.030, the City Manager shall administer the City Personnel System and serve as the Personnel Officer. The City Manager may delegate any of the powers and duties conferred upon him as Personnel Officer to any other officer or employee of the City or may recommend that such powers and duties be performed under contract; the City Manager has the authority to establish, when not in conflict with these Rules, such other policies, procedures, rules and regulations as he deems necessary for the control and supervision of the affairs of the City; the power to appoint all employees of all City departments, and to remove the same, subject to these Rules and those reserved to the City Council by City ordinance. The City Manager may delegate to the department head the authority to appoint persons to the municipal service.

The City Manager may delegate the authority to administer the Classification Plan and the Salary and Wage Plan; implement the examining program and such other aspects of the overall personnel program as are necessary.

1.3 Powers of the Civil Service Commission

The duties of the Civil Service Commission, as provided by Ordinance and by the Personnel Rules, shall include the following:

- a. Hear and make final determinations on appeals submitted by any person in the competitive service relative to any disciplinary action of dismissal, demotion, reduction in pay, suspension, or alleged violation of the Personnel Ordinance or the Personnel Rules, and to certify its findings and recommendations;
- b. Review and approve class specifications for employees in the competitive service;
- c. Make recommendations to the City Council on adoptions and revisions to the Classification Plan;

- d. Consider and recommend to the City Council any adoption of and amendments to the Personnel Rules pursuant to Benicia Municipal Code Section 2.70.070;
- e. Approve requests for any variances to the Personnel Rules related to selection and hiring procedures for employees in the competitive service;
- f. Advise the City Manager and City Council on matters related to recruitment and selection processes for employees in the competitive service and on any other matters related to personnel administration. In serving in such capacity, the Commission may initiate inquiries and request investigations to be conducted in accordance with procedures outlined in the Personnel Rules and the Civil Service Commission Rules of Conduct.

1.4 Purpose and Policy

The purpose of these Rules is to facilitate effective and economical services to the public and to provide for a fair and equitable system of personnel management in the City of Benicia. These Rules set forth in detail those procedures which insure equal treatment for employees, and define the obligations, rights, privileges, benefits and prohibitions placed upon all City employees.

1.5 Personnel Policy

It is hereby declared the Personnel Policy of the City of Benicia that:

- a. Employment and promotion by the City of Benicia shall be based on merit and fitness without regard to race, religious creed, sex, color, age, national origin or ancestry, disability, medical condition or marital status.
- b. The California Fair Employment Practice Act shall govern all City employment and employment practices.
- c. Department heads may create rules and regulations more specific to the department's operation. None of the department rules, regulations or directives shall conflict with or supersede any provisions of the Personnel Rules, and in the event of any conflict, it shall be resolved in favor of these Rules. All departmental rules established by the department head shall be approved by the City Manager and a copy maintained by the Personnel Officer.

- d. The City Manager is authorized to issue such additional administrative policies to carry into effect these Rules. The City Manager is also authorized to approve supplementary department personnel rules not in conflict with these Rules.

1.6 Rules - Application & Exceptions

- a. **Pertinence:** Except as otherwise provided by these Rules, any current Memorandum of Understanding, the Benicia Municipal Code, or any other law or rule duly adopted by the City Council, these Rules shall apply to all employees in the competitive service of the City. The masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others whenever the context so indicates.
- b. **Exceptions:** As provided in Benicia Municipal Code Section 2.70.060, these Rules shall apply to all officers, positions and employments in the service of the City except:
- (1) Elected officers and any deputies appointed thereto.
 - (2) The City Manager and any assistants to the City Manager.
 - (3) Secretary to the City Manager
 - (4) The City Attorney and any assistant or deputy city attorneys.
 - (5) Members of appointive boards, commissions, and committees.
 - (6) All department heads, assistant department heads and division heads excluding those positions that are currently in the civil service system.

Those positions include:

- Police Captain
 - Police Lieutenant
 - Recreation Supervisor
 - Water Superintendent
 - Wastewater Superintendent
- (7) Persons engaged under contract to supply expert, professional, technical or any other services.
 - (8) Volunteer personnel, such as volunteer firefighters.
 - (9) All Council appointed City officers.
 - (10) Emergency employees who are hired to meet the immediate requirements of an emergency condition, such as extraordinary fire, flood, or earthquake which threatens life or property.
 - (11) Employees, other than those listed elsewhere in this section, who are not regular employees.
 - (12) Any employee hired to fill a position primarily funded under a state, federal or other grant or employment program.

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

The City Manager may, by written administrative policy, apply any provision or provisions of these Rules to any person or position exempted from these Rules included in Section 1.6.

- c. **Agreements & Scope of Bargaining:** Wherever any provision of these Rules conflicts with the provisions of a collective bargaining agreement, the provisions of the agreement shall prevail. Any rule or class specification which falls within the scope of bargaining shall not be established or revised by the Commission until completion of the bargaining process between the City and affected recognized employee organization(s).
- d. Where any provision of these Rules conflicts with the provisions of the "Public Safety Officers Procedural Bill of Rights Act" (Government Code Sections 3300 et seq.), the provisions of the Public Safety Officers Procedural Bill of Rights Act will prevail.
- e. Effective July 26, 1992, where any provision of these Rules conflicts with the provisions of the "Americans With Disabilities Act of 1990" (42 U.S.C. Section 12101 et seq.), the provisions of the Americans With Disabilities Act will prevail.
- f. **Violations:** Violation of any Rule herein or any department rule, regulation or order by a regular employee shall be grounds for disciplinary action and subject to the applicable appeals procedure provided herein.

1.7 **Amendments of Personnel Rules**

Personnel Rules and any amendments thereto shall be adopted by resolution of the City Council in accordance with Municipal Code Chapter 2.70.070. Notice of such action shall be publicly posted at least 5 days prior to City Council consideration.

Amendments and revisions to the Personnel Rules may be suggested by any employee and shall be submitted, in writing to the Personnel Officer with a copy to the Civil Service Commission. The Personnel Officer shall consider employee's recommendations and consult with appropriate parties prior to submitting a formal recommendation to the Civil Service Commission for amendment to Personnel Rules.

The Personnel Officer shall post notices in all City departments announcing the times of and describing the issues involved in any hearing before the Civil Service Commission and City Council related to an amendment to the Personnel Ordinance or these Rules.

The Personnel Officer shall give written notice to each recognized employee organization affected by the adoption or amendment of any personnel rule proposed to be adopted by the City Council. All amendments, changes and revisions to the Personnel Rules shall be reviewed by the Civil Service Commission prior to adoption by the City Council and made available to all employees of the City in the manner and form prescribed by the Personnel Officer.

1.8 Service of Notice

Unless specifically provided otherwise, notice required to be given under these Rules may be given by personal delivery or by deposit in the United States mail in a sealed envelope with prepaid postage addressed to the person at their last known address. Notice under these Rules shall be considered given upon the date of personal delivery or upon the date the notice is deposited in the United States mail.

1.9 Severability

Each section, paragraph, sentence, clause and phrase of these Rules is severable and if any section, paragraph, sentence, clause or phrase of these Rules is determined to be unconstitutional or illegal, such determination shall not affect the remaining sections, paragraphs, sentences, clauses or phrases.

SECTION 2.

DEFINITION OF TERMS

Administrative Leave: A temporary paid leave allowed to be imposed by these Rules.

Advancement: A salary increase within the limits of the pay range established for a job class.

Allocation/Reallocation: The official assignment or reassignment of an individual position to an existing classification and salary range in accordance with the duties performed and the authority and responsibilities exercised.

Applicant: Any person who has filed an application for employment with the Personnel Office of the City.

Appointing Authority: The City Manager is the appointing authority and is authorized to appoint persons to positions in the competitive service. The City Manager may delegate the appointing authority to any other officer or employee of the City.

Appointment: The selection of and acceptance by a candidate to a position in the competitive service in accordance with these Rules. (See Section 6.2)

Candidate: An applicant who has been accepted for participation in an examination.

City: The City of Benicia.

City Council: The City Council of the City of Benicia.

City Manager: The individual appointed by the City Council to manage all City operations, departments, policies and rules.

Certification: The submission of names of eligibles from an appropriate list to an appointing authority.

Classification (Class): A category into which is placed a single position or group of positions sufficiently similar in duties and responsibilities such that the same title, qualifications, recruiting standards and salary range can be applied with equity.

Classification Plan: Those class titles and attendant written class specifications for all positions in the City's service as approved by the City Council.

Classification Specification: A written statement of the general duties, responsibilities and qualification standards of positions included in a particular classification. The requisite parts of a classification specification typically include: a title, a definition, a statement of distinguishing characteristics, typical duties and responsibilities and minimum qualifications. Classification specifications shall be generally descriptive and are not to be interpreted as restrictive or all inclusive.

Commission: The Civil Service Commission as established according to Benicia Municipal Code Section 2.40.010.

Competitive Service: All classes and positions so designated by Benicia Municipal Code Section 2.070.060.

Compensation: Any salary, fee, or allowance paid to an employee for performing the duties and exercising the responsibilities of a position.

Continuous Testing: Recruitments open for application on a continuing basis, where testing is conducted incrementally, and the names of eligible candidates are merged onto an existing eligible list.

Day: Calendar day, except where the term "work day" or "working day" is used.

Demotion: Reduction in employment classification to a classification having lesser responsibilities and duties and a lower maximum salary.

Department: An administrative unit of the City government, designated under the City budget as a "department".

Department Head: The administrative head of an established office or department and having the responsibility to manage all phases of the operation of the department or office.

Department Rules: Rules that departments may establish relating to specific departmental needs. These rules must conform to related laws and Memorandums of Understanding and must not conflict with these Rules.

Discharge (Dismissal): Involuntary termination from City employment.

Disciplinary Reduction in Pay: A disciplinary withdrawal of salary advancements granted for merit, efficiency and length of service. (See Section 9.3(c) of these Rules.)

Disciplinary Appeal: An appeal by an employee of a discharge, demotion, reduction in pay or suspension without pay as provided in Section 9.10.

Division: A major unit of the municipal organization within a department.

Eligible: A person whose name is recorded on an eligible list.

Eligible List: A record of the names of persons who have been found qualified through suitable examination for employment in a specific classification. Pursuant to Section 5.2 there are four types of eligible lists: (1) **Lay off (Reinstatement) List** consisting of employees who have been involuntarily laid off; (2) **Re-Employment List** consisting of the names of those employees who voluntarily resigned in good standing from City service; (3) **Promotional List** consisting of the names of employees who have qualified as eligibles through promotional examination; (4) **Open (Competitive) List** consisting of candidates who have qualified as eligibles through open competitive examination.

Employee: A person having exempt, emergency, temporary, interim, probationary or regular employment status with the City.

Emergency Employee or Appointment: A person employed by the City for a temporary period of time to meet immediate requirements of an emergency as defined in Section 3.6 of these Rules.

Exempt Positions: Any position exempted from the competitive service and not covered by the Personnel Rules or as provided in Benicia Municipal Code Section 2.70.060.

Examination: The process of measuring and evaluating the qualification or rank order of merit by the appropriate testing procedures.

Examination Appeal: An appeal to the Personnel Officer and the Civil Service Commission by a candidate regarding an adverse result in the examination process as provided in Sections 4.7, 4.8, 4.9 and 4.10 of these Rules.

Full-Time Employee: The standard hours of work for a full-time regular employee is 2080 hours annually except as otherwise provided in a relevant Memorandum of Understanding.

Grievance: An alleged violation, misinterpretation or misapplication of these Personnel Rules or the Personnel Ordinance.

Grievant: An employee who has filed a disciplinary appeal or an employee or applicant who alleges that they were adversely affected by an alleged violation, misinterpretation, or misapplication of these Personnel Rules or the Personnel Ordinance.

Immediate Family: Spouse, children, father, mother, brothers, sisters, mother-in-law, father-in-law, sister-in-law, brother-in-law, grandparents, grandchildren and members of the employees household.

Interim Appointment: An appointment made pursuant to Section 6.2(c) of these Rules.

Layoff: The involuntary separation of an employee in the competitive service as a result of the elimination of a position in the competitive service as the result of a lack of work, a lack of funds, a material change in or reorganization of duties, or for other good business reason.

Leave of Absence: Any authorized absence from City Service as described in Sections 12 through 14 of these Rules.

Memorandum of Understanding: A binding agreement on wages, hours, benefits and other conditions of employment for designated classes that has been adopted by the City Council.

Open (Competitive) Examination: An examination open to all candidates who meet the qualification standards as set forth in the examination announcement.

Oral Reprimand (Warning Notice): An informal procedure used by a supervisor to caution an employee regarding work performance and/or conduct.

Part-Time Employee: A person employed in a regular position in the competitive service whose normal work schedule is at least 1040 hours annually but less than 2080 hours annually and who is compensated at the hourly rate equivalent of the range and step at which they are appointed.

Performance Evaluation: An evaluation of the quality and quantity of work performed, and other characteristics which shall be considered in rating and reporting the ability, performance and efficiency of the respective employee and the merit of the employee to the City service.

Personnel Officer: The City Manager or designated agent responsible for administering the City's personnel system pursuant to Benicia Municipal Code Section 2.70.030 of the Benicia Municipal Code and these Rules.

Personnel Ordinance: Benicia Municipal Code Section 2.70.010 which creates a personnel system for the City.

Position: A single office or employment, whether occupied or vacant, calling for the performance of certain duties and responsibilities by one individual.

Probationary Period: An extension of the testing process during which an employee is required to demonstrate the ability to perform the duties and responsibilities of the position.

Probationary Employee: An employee serving a probationary period in accordance with Section 7 of these Rules. This includes employees serving an original probationary period upon initial employment with the City and those serving a probationary period as a result of a promotional appointment.

Promotion: A change in the status of an employee from a position in one class to a position in another class having more difficult duties and responsibilities, higher minimum qualifications, and typically a higher rate of compensation.

Promotional Examination: An examination open only to qualified regular employees of the City who meet the requirements of the classification for which the examination is to be held.

Notice: Unless otherwise noted in these Rules, notice shall constitute either personal delivery or the depositing in the U.S. Mail of a certified first class letter, addressed to the employee's last known address.

Reclassification: The official movement of an individual position to a more appropriate classification based upon a change in the duties performed and the authority and responsibilities exercised.

Recognized Employee Organization: Any employee organization that has been officially recognized by the City Council pursuant to the City's Employer-Employee Relations Resolution.

Regular Employee: A person employed in the competitive service who has successfully completed a probationary period and has been retained according to the provisions of these Rules.

Reinstatement: The return to City employment of a laid-off employee through re-employment from a Reinstatement List.

Release From Probation: The termination of an employee during the probationary period, resulting in termination from initial City employment, or in the case of promoted employees, reinstatement to a previous position held, if vacant, pursuant to Section 7.4(b) of these Rules.

Resignation: A voluntary separation of an employee from City service.

Rules: The Personnel Rules of the City of Benicia as contained in this document.

Salary or Pay Range: A designated schedule of salaries with five steps within specified minimum and maximum amounts.

Salary Step: A specific amount of salary as adopted within a salary range.

Salary and Wage Plan: A schedule of salary rates and ranges, salary steps, and hourly rate equivalents established by resolution adopted by the City Council.

Shall/May: As used in these Rules have the following meanings: SHALL is mandatory and MAY is permissive.

Suspension: The temporary removal of an employee from his/her position with or without loss of pay for reasons allowed by these Rules.

Temporary Competitive Service Appointment: An appointment of limited duration to a classification in the competitive service of the City which is temporarily vacant as a result of an authorized leave of absence.

Temporary Exempt Service Appointment: An appointment of a limited duration to an exempt classification and not covered under these Rules.

Termination: The separation of an employee from City service. Termination may be by discharge, lay off, resignation, retirement, work completion, release during probationary period, or death.

Transfer: The movement of an employee in the competitive service as defined in Section 6.4 of these Rules.

Vacancy: Any unfilled position in the competitive service that is not filled.

Work day: A day on which administrative offices of the City of Benicia are open for business.

Written Reprimand: Official notification to the employee that there is cause for dissatisfaction with the employee's performance or conduct and that further disciplinary or corrective measures may be taken if said cause is not corrected.

Year: The calendar year, unless specifically designated otherwise.

Y-Rate: The "freezing" of an employee's salary when such salary exceeds the maximum rate authorized in the Salary and Wage Plan for the classification of said employee.

Meanings of Words: Words used in these Rules in the present tense include the future; the singular number includes the plural; the plural indicates the singular; and writing includes printing and typewriting.

SECTION 3.

CLASSIFICATION PLAN

3.1 Adoption

The Classification Plan shall include those class titles and attendant written class specifications for all regular positions in the City service as approved and listed by the City Council in adopting, amending or revising the Salary and Wage Plan. The Civil Service Commission shall approve and recommend to the City Council any changes or amendments to the Classification Plan which pertain to classifications covered by these Rules. The City Council shall have final approval on any additions, changes or amendments to the Classification Plan and the Salary and Wage Plan.

3.2 Preparation and Maintenance

Class specifications shall be prepared and classification of positions shall be performed by or under the direction of the Personnel Officer, subject to approval of the Civil Service Commission and the City Council. Maintenance of existing classification specifications shall be performed by or under the direction of the Personnel Officer.

It shall be the responsibility of the Personnel Officer to recommend to the Civil Service Commission and City Council the establishment of new classes, or the combination, alteration, revision or abolishment of existing classes to insure the efficient and equitable operation of the Classification Plan.

The Personnel Officer shall have the right to initiate and conduct studies of any position in the City service to determine if such position is properly classified.

3.3 Classification Procedure

Whenever one or more new positions are under consideration for possible establishment, or whenever, because of any revision, reorganization or change in methods, a major change of the duties or responsibilities of any existing position is to be made which may require the reallocation of such position, or whenever a position is under consideration for reclassification because of a change in duties and/or responsibilities which have already occurred, or whenever a new class is created to which any position may be more appropriately allocated, or whenever, because of the abolishment or combination of any existing positions or classes, an amendment to the Classification Plan is required, one or a combination of the following procedures shall be observed:

- a. The department head shall promptly report the significant facts relating to such possible changes in writing to the Personnel Officer.

- b. The Personnel Officer, upon written request of any employee or after consultation with the department head concerned, may undertake an inquiry of the classification and position.
- c. If the Personnel Officer elects to undertake an inquiry of the classification and position, the Personnel Officer shall make a study of the assigned duties and responsibilities of any such position, the qualifications required and the relationships of such positions to other classifications in the Classification Plan.
- d. On the basis of such investigation, the Personnel Officer shall either make no change in the allocation of positions; or reallocate the position to a more appropriate class in the existing Classification Plan; or recommend to the Commission that the position be reclassified; or recommend to the Commission a new class to which the position would be allocated, whichever the Personnel Officer deems is appropriate action. Whenever a position is reclassified or reallocated, the existing position is to be deleted and a new position created in the class to which the position is to be assigned.
- e. The Commission may recommend to the City Council the establishment of new classes and class specifications, as it deems appropriate.

3.4 Status of Incumbents in Reclassified Positions.

When a position has been reclassified to a class which has a higher salary range than the previous class, the position shall be filled by appointment or promotion from an eligible list established for that class.

However, when there is an incumbent in a position allocated to a class which is reclassified to a class at the same or higher salary range, the employee occupying the position may be retained in the position after it has been reclassified, without further competitive examination, provided that the department head concerned and the Personnel Officer determine each of the following criteria have been met:

- a. The reclassification results from an official recognition of a change in duties and/or responsibilities which has already occurred;
- b. The incumbent possesses the knowledge, skills and abilities, and/or other qualifications of the different class;

- c. The incumbent has demonstrated a high level of performance in the quality, quantity and efficiency of changed duties and/or responsibilities of the different class for at least six months;
- d. The incumbent has had regular status in the class to which the position was formerly allocated.

Reclassification shall not be used for the purpose of avoiding restrictions concerning demotions and promotions.

3.5 Classification for Temporary Appointments

Whenever a position is required for the efficient and economical operation of a department, and in the absence of an appropriate class, a temporary classification and appropriate salary may be authorized by the Personnel Officer. A classification established under this Section shall meet the criteria set forth in the Benicia Municipal Code Section 2.70.060.

A department head may request a temporary classification by submitting justification for it to the Personnel Officer and such other information as the Personnel Officer may require. The Personnel Officer may then establish a temporary classification, salary range, time period and recommendation on the need for such a class. The Personnel Officer may then immediately classify the position involved irrespective of the other provisions of this section.

A temporary classification is excluded from the competitive service and is not subject to these Rules.

3.6 Classification of Emergency Appointments:

Whenever a position is required to meet the immediate requirements of an emergency condition, such as an extraordinary fire, flood, or earthquake which threatens life or property, and in the absence of an appropriate class, an emergency and appropriate classification title, salary and time period may be authorized by the City Manager. The Personnel officer may then immediately classify the position for the duration of the emergency.

A classification established under this Rule shall meet the criteria set forth in Benicia Municipal Code Section 2.70.060.

An emergency classification is excluded from the competitive service and is not subject to these Rules.

3.7

General

The classification or reclassification of any position in the competitive service shall not be negotiable or appealable to the Civil Service Commission under these Rules. However, any employee or recognized employee organization may submit in writing to the Personnel Officer their recommendations regarding the Classification Plan. The City shall provide information on any proposed classification change to the respective employee organization.

SECTION 4.

EMPLOYEE RECRUITMENT

4.1 Application Form

All applicants for employment shall file an application form with the City of Benicia Personnel Office. The form and content of such form shall be as prescribed by the Personnel Officer.

4.2 Announcements

Notice of vacancies for all positions in the competitive service shall be posted on the official bulletin board of the Personnel Office and may further be posted, distributed or advertised in such a manner as determined will yield maximum effectiveness and benefit to the City in securing the largest number of qualified applicants. Special recruiting shall be conducted, if necessary, to insure that all segments of the community and possible candidates are aware of the forthcoming examination. The Personnel Officer shall prepare a formal announcement specifying the classification title and pay range of the position for which an examination is announced including the nature of the work to be performed, minimum and desirable qualifications, the date, time, place and manner of making applications, the closing date for receiving applications, the types of tests to be administered in the examination, and other pertinent information.

4.3 Qualification of Applicants

Applicants for examinations must meet the qualification standards for the classification by the date set forth in the announcement and/or job description for that classification. Any license requirements, however, shall be met by the time of appointment.

4.4 Disqualification

The Personnel Officer has the authority to disqualify applicants, candidates or eligibles consistent with the provisions of these Rules. The following shall constitute grounds for disqualification of an applicant, candidate or eligible:

- a. Failure to meet any of the requirements or qualifications established for the examination, as published in the announcement and/or job description for that classification.
- b. False statement of material fact or actual or attempted deception, fraud or misconduct in connection with the application or the examination.

- c. Use or attempted use of political pressure or bribery to secure an examination or appointment.
- d. Conviction (including pleas of guilty or nolo contendere) of a felony or misdemeanor if the Personnel Officer determines that the conviction has a rational relationship to the position for which application is made. It shall be the duty of the Personnel Officer to determine whether every eligible whom the appointing authority intends to appoint has been convicted of a felony or misdemeanor. In making the determination, the Personnel Officer shall consider the duties and responsibilities of the position, the nature of the conviction, the length of time since the conviction, the circumstances surrounding the crime, and the candidate's record since the conviction. In the case of applicants, candidates or eligibles for peace officer (as defined in Penal Code Sections 830, et seq.) positions, a felony conviction shall automatically disqualify the individual.
- e. Lack of any of the qualifications or requirements set forth in the Personnel Ordinance or the class specification for the class of position for which application is made.
- f. Present inability, after reasonable accommodation, to perform the essential job functions of the position and/or present inability to perform the essential job functions, after reasonable accommodation, in a manner which would not endanger his or her health or safety or the health and safety of others.

4.5 Incomplete Applications

Incomplete applications may be returned to the applicant for additional information and/or completion. Such applications may be resubmitted and accepted by the Personnel Officer. Acceptance in this case will be based on such resubmitted applications received on or before the previously announced final date for filing.

4.6 Notice of Rejection

Whenever an application is rejected, notice of such rejection shall be mailed to the last known address of the applicant by the Personnel Officer.

4.7 Examination Process

Examination(s) shall be in any form or forms which will fairly evaluate the qualifications of applicants without duplicating examinations given as a prerequisite to obtaining a diploma or certificate in certain professional training. The probationary period shall be considered as a continuation of the examination process.

- a. **Conduct of Examinations:** The Personnel Officer shall determine the type of qualifying testing and be responsible for the conduct of examinations for City positions. The Personnel Officer may delegate any qualified person(s) or agency to conduct and score the examination.
- b. **Type of Test or Examination:** The type of test or examination shall be decided by the Personnel Officer after receiving a recommendation from the department head concerned. The examination may be assembled, unassembled, written, oral, or by demonstration, evaluation of education, experience, skills, or any test of manual skills or physical fitness which fairly evaluates the relative capacities of the candidates. Physical, background and psychiatric examinations may be made a part of any examination when required.
- c. **Promotional Examinations:** Promotional examinations shall be those competitive examinations in which only regular employees of the City who meet the requirements set forth in the examination announcement, shall be allowed to compete. Promotional examinations shall be scheduled in the manner prescribed by the Personnel Officer.
- d. **Open (Competitive) Examinations:** The Personnel Officer shall have prepared an examination announcement for each scheduled examination as provided by Section 4.2 of these Rules. Open examinations shall be open to all candidates who meet the qualification standards as set forth in the examination announcement.
- e. **Rating Examinations and Qualifying Scores:** The minimum rating for which eligibility may be achieved on an examination or any part of an examination will be established by the Personnel Officer. A candidate's final rating in a given examination shall be the score or combination of scores attained on each competitive part of the examination, as prescribed in the examination announcement. Failure in one part of the examination may be grounds for declaring a candidate's or disqualification from competing in subsequent parts of the examination. The Personnel Officer may specify, as parts of an examination, tests which are qualifying only.

- f. **Notification of Test Results:** Each candidate taking an examination shall be given written notice of their test score, final rating, and if successful, their position on the subsequent eligible list. Candidates shall have the right to inspect their test papers and the key examination booklet, except where standardized examinations are used. An error in grading or rating, if called to the attention of the Personnel Officer in writing within five (5) working days after notification of the results of the examination, shall be corrected and appropriate changes to any Eligible List made. All other test information and documents, including but not limited to, results of other candidates and interview board scoring sheets shall not be made available to the public unless subject to an order of a court of competent jurisdiction.

4.8 Protests/Appeals to Personnel Officer:

- a. **Rejection of Application:** Within five (5) working days of the mailing of the notice of disqualification based on rejection of the application, an applicant may file an appeal in writing with the Personnel Officer. Such appeal shall contain information in sufficient detail to enable the Personnel Officer to reevaluate the applicant. Within ten (10) working days of receipt of the appeal, the Personnel Officer shall review the issues involved and render a decision in writing to the appellant.
- b. **Protest of Written Test Items:** Within five (5) working days of the examination date, a candidate may submit a written protest to any item in the examination not excluded under Section 4.7(f) of these Rules.

Protests should cite authorities or references in support and/or reason for challenge to keyed items in sufficient detail to enable the Personnel Officer to understand the objection and to complete any research which is necessary to evaluate the soundness of the protest. A protest based purely on personal opinion without cited authority may not be entertained by the Personnel Officer.

The Personnel Officer shall review the basis for the protest and within ten (10) working days of receipt of the appeal make a determination that the item shall stand as keyed, or be eliminated from the test, or that the key be modified and that the test shall be scored or re-scored accordingly.

- c. **Notification of Decision of Personnel Officer:** The appellant shall be notified by mail, at their last known address, of the Personnel Officer's decision.

If the issue is not resolved at this point, the appellant may appeal in writing to the Civil Service Commission as provided in Section 4.9 below within five (5) working days from the date the Personnel Officer's decision was mailed.

4.9 Appeals to the Civil Service Commission

The Commission shall consider appeals only after such appeals are heard by the Personnel Officer and denied. Appeals may be filed under the following circumstances:

- a. From disqualification of applicants, candidates or eligibles by the Personnel Officer provided by Section 4.7 of these Rules or of final ratings in any examination.
- b. Where the candidate alleges personal prejudice or prohibited discrimination was exercised in the conduct and/or scoring of the examination or part of the examination.
- c. Where collusion, malpractice or fraud is alleged to have been perpetrated in any part of the examining process.

4.10 Appeal Procedure

The appeal to the Civil Service Commission must be submitted in writing to the Commission within ten (10) working days from the date which the Personnel Officer's decision was mailed.

Within ten (10) working days of the receipt of such an appeal, the Commission shall commence to conduct such hearings and investigations as it deems necessary. If it finds the allegations of the appellant to be matters of fact, it may take the appropriate action as provided in these Rules and the Personnel Ordinance. Appropriate action may include the declaration of the subject examination and all lists resulting therefrom to be null and void, the granting of an appropriate make-up examination to the aggrieved candidate, the disqualification of any other candidate in said examination under the provisions of Section 4.4 of these Rules, or any combination of these or other authorized actions as are appropriate. The Commission's decision is final and not subject to further review.

4.11 Status of Being Protested or Appealed:

Normally, scoring of written tests will not be completed pending disposition of protests. However, the need to provide efficient City service may require the filling of vacancies from an employment list in an expeditious manner. As such, tests may be scored, names certified, and other parts of the appointment process completed prior to the receipt of, or answer to a protest. Appointments made in this manner are not subject to legal deficiency even if subsequent test re-scoring alters the established order of the employment list.

SECTION 5.

ESTABLISHMENT AND USE OF ELIGIBILITY LISTS

5.1 Establishment of Eligible Lists

The names of candidates on the eligible list shall be kept in the numerical order in which they had been rated. The final rating shall be determined from the total of the scores received by each candidate on each test, and a relative value (weight) assigned to each test in the examination process.

5.2 Types of Eligible Lists

There are four (4) types of eligible lists: layoff (reinstatement), re-employment, promotional and open.

- a. **Lay Off (Reinstatement) Lists:** The Lay Off (Reinstatement) List shall consist of employees who have been involuntarily laid off from City employment. Such employees shall be considered for reinstatement on the basis of length of service. An individual's name shall remain on the list for a period of not more than one year.
- b. **Re-employment Lists:** The Re-employment List shall consist of the names of those employees who voluntarily resigned in good standing (under Section 8.1) from the City service. An individual's name shall remain on the re-employment list for a period of not more than one year from the date of their resignation.
- c. **Promotional Lists:** Promotional lists shall consist of employees who have qualified through promotional examination and from which promotions or advancements to classes with higher salary ranges may be made.
- d. **Open (Competitive) Lists:** Open competitive lists shall consist of candidates who have qualified through open competitive examination and from which appointments may be made.

5.3 Duration of Eligible Lists

Eligible Lists shall become effective upon the approval of the Personnel Officer. Eligible Lists shall remain in effect for one year and may be extended by the Personnel Officer in six (6) month increments. If a promotional list is determined to have been substantially depleted (Fewer than five (5) eligibles) a new list may be developed. Eligibles remaining on the list will be notified that a new list is being developed.

5.4 Removal of Names from Eligible List

The Personnel Officer may remove the name of any eligible from an eligible list for any of the following reasons:

- a. The eligible is determined to be disqualified as provided in Section 4.4 of these Rules.
- b. Upon personal or written notice from the eligible declining appointment.
- c. If there is no response by the eligible within five (5) days of notice of departmental interview and the eligible cannot be reached by the postal authorities at the last known address.
- d. If a eligible is certified three times for appointment consideration and is not appointed.
- e. If a report of a background investigation, reference check, medical or psychological examination is unsatisfactory or the Personnel Officer determines that employment of the eligible would not be in the best interests of the City.
- f. If the eligible requests such removal from the list in writing.
- g. The eligible declines three offers of employment.
- h. The eligible accepts appointment to a regular position with the City from the list from which he was appointed.
- i. The eligible is dismissed from employment by the City for cause.
- j. The eligible does not appear for a scheduled departmental interview.
- k. The eligible does not meet the physical requirements for the position and is not recommended for hire based upon a physician's statement.
- l. The eligible is released from a probationary appointment.

5.5 Request to Fill Vacancies

Whenever a position in the competitive service is to be filled, the appointing authority shall notify the Personnel Officer and make a request for the certification of eligibles and provide such information as is required. The Personnel Officer shall advise the department head as to the availability of persons for employment into a position.

5.6 Eligible List Priority

The Personnel Officer shall refer eligibility lists to the department head in the following order:

- a. Layoff (reinstatement) list for the position, if any;
- b. Promotional list, if any; and
- c. Open list, if any.

In addition, when referring either a promotional list or an open list, the Personnel Officer may refer the re-employment list, if any, for the position.

5.7 Use of Eligible Lists

- a. All vacancies in the competitive service shall be filled by transfer, demotion, promotion, or appointment from eligible lists established and certified by the Personnel Officer. In the absence of persons eligible in such manner, temporary appointments may be made under the provisions of Section 6.2.
- b. When making an initial appointment to positions covered by these Rules, the appointing authority may appoint any eligible from the list of names referred. If the appointing authority fails to appoint an eligible whose score is in the top five (5) scores, the appointing authority shall provide the Personnel Officer with a written statement of the reasons for selecting the eligible chosen and/or reasons for not selecting the eligibles on the list above the eligible chosen.
- c. When making a promotional appointment to positions covered by these Rules, the appointing authority may appoint any eligible whose score is in the top five (5) scores.
- d. Appointments under this Rule shall be subject to the eligible meeting all applicable requirements for employment as provided in Rule 4.
- e. If five (5) or fewer eligibles are on the eligible list initially, or remain on the list after removal of names under Rule 5.4, upon request of the appointing authority, the Personnel Officer may cancel the eligible list and establish a new list. Where an eligible list is created as the result of continuous testing for a specific class, the eligibles will be merged into the eligible list as determined by their rating score for a period of one year.

SECTION 6.

APPOINTMENTS

6.1 General Requirements for Appointment

- a. **Oath of Office:** No person shall be granted an appointment of any category who has not taken a loyalty oath, as prescribed by state law.
- b. **Fingerprints:** Any person appointed to full-time employment shall have their fingerprints recorded and filed with the Police Department of the City. Any person appointed to any employment with the City may, if required by the appointing authority, have their fingerprints recorded and filed with the Police Department of the City.

The Personnel Officer shall cause a fingerprint record check to be made of each person fingerprinted. Such a record check shall include the submission of said person's fingerprints to the Federal Bureau of Investigation and/or the California Bureau of Criminal Identification and Investigation for a report of all prior convictions. The information resulting from such a police record check shall be provided to the Personnel Officer who shall have the responsibility to notify the appointing authority of any findings not provided or provided inaccurately by said person in their application for employment.

- c. **Authorization for Employment:** The City of Benicia must comply with the Immigration Reform and Control Act of 1986. The Personnel Department is responsible for implementing this law and insuring compliance. As a prior condition of City employment, candidates will be directed to supply proof of legal residence entitling them to work in the United States. Candidates who fail to provide acceptable documentation will not be allowed to work. City employees whose employment authorization has expired shall be subject to termination from City employment unless they provide new acceptable documentation prior to the expiration date of the prior documentation.
- d. **Medical Examination and Drug Screening:** Following the offer of employment, and prior to appointment to a position in the competitive or exempt service, a person must qualify in a medical examination and drug screening, which shall be arranged by and conducted at the City's expense. Such medical examination may be waived at the discretion of the Personnel Officer for those being selected for promotion.

6.2 Types of Appointments

Following are categories of personnel appointments:

- a. **Regular Full-Time:** Appointment from an eligible list to the competitive service to fill a budgeted full-time position allocated in the Salary and Wage Plan Resolution.
- b. **Regular Part-Time:** Appointment from an eligible list to the competitive service to fill a budgeted part-time or seasonally occurring position allocation in the Salary and Wage Plan Resolution. A candidate appointed to a regular part-time position from a valid eligible list may be converted to regular full-time status without further testing upon reallocation of the position by City Council.
- c. **Interim Appointments:** In the absence of a list of certified eligibles, subject to the approval of the Personnel Officer, a department head may appoint, on an interim basis, a person to a competitive position. The person appointed under this Rule must meet the minimum qualifications for the position. An interim appointment may be made for a period not to exceed six (6) months, provided, however, that the Personnel Officer may extend the period for any interim appointment to a competitive position for not more than ninety (90) additional days. Any interim appointment made in the absence of an eligible list shall terminate thirty (30) days after a new eligibility list is established and certified.

Any employee appointed on an interim basis, who meets the minimum qualifications for the position and is otherwise eligible for regular appointment must compete for placement on the eligibility list and regular appointment to the position.
- d. **Temporary (Exempt) Appointments:** Appointment to a temporary job-title. (See Section 3.5.) Temporary, exempt appointments are not covered by these Rules.
- e. **Temporary (Competitive) Appointments:** Appointment, on a temporary basis to a competitive job classification, which is temporarily vacant due to the incumbent's authorized leave of absence or vacation. Temporary competitive appointments may also be made, at the discretion of the department head or Personnel Officer to perform other work considered necessary because of temporary, limited term or seasonal workload needs. Compensation associated with a temporary competitive appointment shall be governed by Section 15.

- f. **Emergency Appointments:** Appointment to an emergency classification. (See Section 3.6.) Appointments to emergency job titles are not covered by these Rules.
- g. **Exempt Appointments:** Appointments or election to positions exempt from these Rules as provided by the Municipal Code of the City of Benicia. These positions include, but are not limited to, elected and appointed officials.

6.3 Employment of Relatives

No member of the immediate family of any City employee or City official shall be appointed to, or placed in any position where one member of the immediate family would be subject to direct supervision, evaluation, discipline or dismissal by the other member of the immediate family. In addition, for business reasons of safety, security, or morale, the City may refuse employment to a member of the immediate family of a City employee or City official where that individual's employment involves potential conflicts of interest or other hazards.

For purposes of this Rule, if co-employees of the City marry, or if an employee marries a City official, and their respective positions would fall within the prohibitions of this Rule, the City shall attempt to make reasonable efforts to minimize problems of supervision, safety, security and morale. If reasonable accommodation will not minimize such problems, the individuals involved will be given thirty (30) days from the date of their marriage to decide which spouse will be transferred (consistent with these Rules) or terminated. In the absence of a decision by the individuals within that time, the City shall make the decision regarding transfer or termination.

6.4 Transfer

- a. **Transfer Between Classifications:** Upon approval by the Personnel Officer, an employee may be transferred by the appointing authority at any time from one position to another in a comparable class. For purposes of this Rule, a comparable class is one with substantially the same salary range, involving the performance of similar duties and requiring substantially the same basic qualifications. No regular employee shall be transferred to a position for which they do not possess the minimum qualifications.
- b. **Lateral Transfer Between Departments:** A regular employee may be transferred between departments or divisions with the consent of the employee and the approval of the department heads involved. The City Manager may offer such transfer for purposes of efficiency and/or economy.

- c. **Transfer Between Divisions Within a Department:** A regular employee may be transferred between divisions within a department at the discretion of the department head.
- d. **Compliance With Intent of Rules:** A transfer under this Section shall not be used to effectuate a promotion, demotion, each of which may be accomplished only as provided in these Rules.
- e. A transfer shall not result in the loss of vacation, sick leave, overtime or other accrued benefits.

6.5 Promotion

It is the policy of the City of Benicia to encourage the advancement of personnel within the City service. Promotional selection for vacancies shall be conducted as the needs of the City require and in accordance with Section 4 of these Rules.

- a. Regular employees who meet the requirements of the class for which examination is to be held shall be considered eligible to compete in such examination.
- b. In the case of promotion of any employee in the City service, such employee shall be entitled to receive the salary rate in the entrance step in the pay range for the class to which the employee has been promoted. In cases of promotion where the pay range overlaps, the employee shall be placed at such step in the pay range of the higher class to provide at least 5% more basic salary than the employee receives in the lower class. Provided, however, that the application of this provision does not exceed the highest salary step in the authorized pay range for the higher class.
- c. Effective on the date of the promotion, a new anniversary date shall be established for purposes for eligibility for consideration for future salary step advances within the pay range of the higher class. In the event the promotion occurs on the employee's anniversary date, such employee shall first receive any pay range increase to which the employee is otherwise entitled in the lower class, and then the promotional salary adjustment provided above.

6.6 Demotion

Upon approval of the City Manager, the appointing authority may demote an employee for any of the following reasons or conditions:

- a. An employee whose ability to perform their required duties falls below acceptable standards.
- b. For disciplinary reasons set forth in Section 9.
- c. When the need for a position which an employee fills no longer exists.
- d. When an employee requests such demotion.
- e. Upon reclassification of the position.
- f. For any other reasonable grounds as approved by the City Manager.

No employee shall be demoted to a classification for which they do not possess the minimum qualifications. The Personnel Officer shall give written notice to an employee at least five (5) working days before the effective date of the demotion.

Applicable Pay Following Demotion: In the case of any disciplinary demotion, the employee shall be assigned to a salary step which is one step less than the salary step at which the employee was in the class from which demoted. In the case of a disciplinary demotion, a new anniversary date shall be established as of the effective date of demotion.

Applicable Pay Following Non-Disciplinary Demotion: In the case of a non-disciplinary demotion, the employee shall be assigned to a salary step which is closest to the dollar amount of the employee's former salary step. In the case of a non-disciplinary demotion, the employee shall retain their previous anniversary date.

6.7 Re-Employment (Reappointment)

Any regular employee who has resigned from the City service in good standing as defined in Section 8.1 may, upon their written consent, be considered for reappointment to a vacant position in the same class in the competitive service within one (1) year of such termination. Such reappointment may be made without benefit of additional examination, and may take precedence over eligible lists. Public Safety employees who have been out of City service for over six (6) months may be subject to background, physical, polygraph, drug screening, and/or psychological examination. In no way shall it be mandatory for any appointing authority to reappoint a former employee should they desire not to do so. Appointment shall otherwise be made in the manner as for original employment.

Upon reappointment, any employee so reappointed shall be considered a new appointee and shall have no vested interest in or be entitled to any benefits accrued during any previous employment with the City with the exception of vacation leave accrual rate (prior service time counts towards accrual rate) or vested retirement benefits.

6.8 Physical Requirements of Employees

The City requires that prior to re-employment all employees be physically and mentally capable of performing the essential functions of their position with or without accommodation. At the discretion of the Personnel Officer, an employee may be subject to medical examination(s) to determine physical and/or mental capability to perform. The examination shall be conducted by a medical examiner selected by the Personnel Officer and shall be arranged by and paid for by the City.

SECTION 7.

PROBATIONARY STATUS

7.1 Objectives of Probationary Period

The probationary period shall be regarded as a part of the examination process and shall be utilized for closely observing the employee's work, for securing the most efficient training in adjustment of a new employee to the position.

7.2 Probationary Period (Duration/Extension)

All original and promotional appointments shall be tentative and subject to a probationary period of twelve (12) months for full-time appointments and 2080 hours of work for part-time appointments except where the applicable Memorandum of Understanding establishes a longer period of time. However, upon request of the department head, the Personnel Officer may extend the probationary period for any given employee an additional six (6) months upon finding that the length of the initial probationary period in relation to training and other requirements of the class is insufficient to evaluate adequately the probationary employee's fitness.

Upon the request of the department head, in the event of illnesses or injuries requiring absences totaling greater than 30 days from work, and at the discretion of the Personnel Officer, the number of days absent may be added to the length of the probationary period.

7.3 Probationary Performance Reports

Employee performance reports for probationary employees shall be prepared at three (3) month intervals or less through the entire probationary period as provided under Section 16.7 of these Rules.

These reports shall be submitted to the Personnel Officer on a form prescribed by the Personnel Officer and shall be filed for permanent record. Each report shall be discussed with the employee and the employee shall acknowledge in writing that they have seen the report and received a copy of it. If the employee disagrees with the contents of the report, the employee shall note that disagreement on the report next to their signature. If the employee refuses to sign the performance report, said report shall be annotated to that effect and placed in the employee's personnel file.

7.4 Failure to Successfully Complete Probation

- a. **Non-Promotional Probation:** During the probationary period an employee may be released at any time without cause by the department head. A probationary employee so released shall not have the right to appeal such release. Notification of release shall be in writing and shall be served upon the probationary employee.
- b. **Promotional Probation:** During the promotional probationary period an employee may be released at any time without cause by the department head. A probationary employee so released shall not have the right to appeal such release. An employee who has been promoted and successfully completes the designated probationary appointment period in a class in the competitive service to which promoted, gains regular employee status in the new class and gives up regular employee status in the former class. An employee released during the promotional probationary period shall be entitled to return to the position held prior to promotion at the range and step held prior to promotion, if a vacancy exists, unless the employee has been discharged for cause as provided in Section 9. If no vacancy exists in such position, they shall be placed on a re-employment list as provided in Section 6.

7.5 Regular Appointment

The Personnel Officer shall notify a department head prior to the expiration of an employee's probationary period. At least ten (10) days prior to the expiration of the probationary period, the department head must file a written statement with the Personnel Officer stating his recommendation for release or retention of a probationary employee.

SECTION 8.

TERMINATION OF EMPLOYMENT

8.1 Resignation

- a. An employee, in order to be considered as having resigned in good standing, shall submit a written notice of resignation to their department at least ten (10) working days prior to the effective date of said resignation. Such written notice shall include the reason for and the effective date of the resignation.
- b. The department head or the Personnel Officer may authorize a resignation in good standing when, in their opinion, there are sufficient reasons to waive the requirements of this section.
- c. An employee who resigns gives up their regular status and employment rights effective on the date of resignation, except as otherwise provided by these Rules, the Personnel Ordinance, or other policies, procedures, or administrative directives, or an appropriate Memorandum of Understanding dealing with personnel matters.

8.2 Disciplinary Action

An employee may be terminated at any time by disciplinary action as provided in Section 9 of these Rules.

8.3 A probationary employee may be released at any time as provided in Section 7 of these Rules.

8.4 Retirement

All regular employees in the City service who shall become eligible to and do retire under the provisions of any present or subsequent retirement policy and plan shall be deemed, for the purposes of these Rules, to have been separated from the City service in good standing.

8.5 Physical or Mental Incapacity

An employee who becomes physically or mentally incapacitated from performing the essential duties of their job may be terminated, transferred or demoted provided that the illness or injury did not arise out of or in the course of employment with the City.

At any time, the City may require an employee to submit to an examination by a medical doctor to evaluate the capacity of the employee to perform the duties of their job.

The employee shall be entitled to full access to all medical reports and documentation resulting from the examination. The City shall pay for the costs of any examination ordered by the City. The employee may submit medical or other evidence to the examining medical doctor and to the City. The employee shall pay for any such exams.

If, after considering the medical reports, documentation and evidence, the City Manager determines that the employee is physically or mentally incapacitated from performing their essential job duties, the City Manager may terminate, transfer or demote the employee. Prior to such action, the employee shall be advised of alternative options, including retirement for disability.

The decision of the City Manager shall become effective upon the date of written notice served on the employee. The employee may appeal the decision of the City Manager under Section 10 of these Rules.

It is the intent of this Rule that the City attempt, where possible, to accommodate the employee and allow the employee who is likely to return to employment in the future to use accrued leaves.

8.6 Lay-Off Procedure

- a. **Reason for Layoff:** The City Manager may eliminate a position and lay off an employee in the competitive service whenever there is a lack of work, a lack of funds, a material change in or reorganization of duties, or good business reason for doing so. The decision of the City Manager to eliminate a position and layoff an employee shall not be subject to any right of appeal or hearing under these Rules. However, an employee subjected to lay off may appeal an alleged violation of these Rules as they pertain to the implementation of the City Manager's decision to eliminate a position and lay off an employee in the competitive service.
- b. **Order of Layoff:** Employees *within the class of position involved* shall be laid off in the following order of appointments: Temporary Part-Time Probationary, Full-Time Probationary, Part-Time Regular, and Full-Time Regular. The order of layoff of Part-Time Regular and Full-Time Regular employees shall be based on the length of service in the class of the employee. Where the length of service is equal between two (2) or more affected employees, the employee with the more positive current performance evaluation shall be retained.

c. **Notice of Layoff:** Regular employees to be laid off shall be notified in writing by the department head at least ten (10) working days prior to the date of layoff. The notice shall contain the reasons for the layoff. Regular employees shall have their names placed on the appropriate reinstatement list in accordance with Section 5.2.

d. **Transfer or Demotion in Lieu of Layoff:** In lieu of layoff, an employee may elect to transfer or be demoted to a vacant position in a classification in which the employee previously held regular status. In addition, in lieu of layoff, an employee may elect to transfer or be demoted to a position in a classification in which the employee previously held regular status provided the employee to be laid off has greater seniority than the least senior employee in the lower classification. In such a case, the less senior employee in the lower classification shall be laid off.

If an employee has "bumping rights" to a previously held lower classification, then the affected employee's overall City seniority becomes the determining factor for layoff in that lower classification.

e. **Reinstatement After Layoff:** Regular employees who have been laid off shall be entitled to reinstatement to positions in the same class where such positions are to be refilled during the period of their eligibility on the layoff list. Any employees so reinstated shall retain all benefits accrued in prior service with the City. During such layoff, no benefits will accrue and their anniversary date shall be adjusted if such layoff time exceeds thirty (30) consecutive days. Prior to reinstatement the employee must meet all applicable hiring requirements as set forth in Section 6 and all background, physical and psychological examinations (where applicable). Any probationary employee so reinstated must complete their probationary period upon reinstatement.

f. A layoff under this Rule shall not be used to effectuate a promotion, demotion or advancement, each of which may be accomplished only as provided in these Rules.

8.7 Cash Payment of Unused Vacation, Administrative Leave and Compensatory Time Off.

Unused vacation, Administrative Leave and compensatory time balances as of the last working day shall be paid and included in the employee's final pay check.

SECTION 9.

DISCIPLINARY ACTION

9.1 Disciplinary Action - General

- a. Every regular employee in the competitive service shall be subject to disciplinary action for cause as provided in this Section.
- b. All other employees of the City shall be subject to disciplinary action at the discretion of the appointing authority and may be terminated with or without cause at the discretion of the appointing authority. The remaining provisions of this Section shall not be applicable to employees who are not regular employees in the competitive service.

9.2 Cause for Disciplinary Action

Causes for disciplinary action shall include, but is not limited to:

- a. Fraud in securing employment;
- b. Incompetency, inefficiency or neglect of duty, including but not limited to inept, substandard or untimely performance of assigned work;
- c. Violation of safety rules;
- d. Excessive or habitual tardiness;
- e. Unauthorized absence;
- f. Excessive absences and/or abuse of sick leave;
- g. Being under the influence of alcohol any illegal substance and/or non-prescribed drug during working hours;
- h. Use, possession, sale, transfer, and/or solicitation of an illegal drug while on duty;
- i. Insubordination, willful disobedience, refusal, and/or failure to perform assigned work;
- j. Violation of any City or department rule, regulation, or ordinance or violation of any Federal, State, County or other applicable law, rule, regulation or ordinance;

- k. Conviction of any felony (including conviction by plea of guilty or nolo contendere); or conviction of any misdemeanor involving moral turpitude;
- l. Offensive, discourteous or abusive treatment of the public or a fellow employee;
- m. Abuse, misuse, misappropriation or theft of City property or funds;
- n. Dishonesty or falsification of City documents or records;
- o. Improper political activity as defined by these Rules or by law;
- p. Conflict of interest or acceptance of gifts or gratuities, services or favors offered due to City employment;
- q. Any act or conduct either during or outside duty hours which is incompatible or inconsistent with City employment or which is conduct unbecoming City employment;
- r. Refusal to take or subscribe to any oath or affirmation which is required by law in connection with employment;
- s. Failure to maintain required licenses or certifications.

9.3 Types of Disciplinary Action

The following types of disciplinary action may be imposed:

- a. **Discharge (Dismissal)** - Involuntary termination from City employment.
- b. **Demotion** - Reduction in classification to a classification having lesser responsibilities and duties and a lower maximum salary. The employee shall be placed at the same appropriate salary step determined in accordance with Section 6.6.
- c. **Reduction in pay (step within range)** - Withdrawal of step advancements granted for merit, efficiency and length of service. Withdrawal of step advancements may be temporary or permanent.
- d. **Suspension without pay** - Suspension from duty without pay for up to 30 calendar days. An employee who is suspended shall forfeit all rights, privileges and salary but shall not forfeit health and welfare benefits or retirement benefits.

Employees exempt from the overtime requirements of the Fair Labor Standards Act shall not have their predetermined salary reduced during a workweek in which they performed any work or be subject to a demotion (unless intended at the time imposed to be permanent) except for infractions of security regulations of major significance promulgated by the City or another government agency, or for infractions of safety rules of major significance intended to prevent serious danger to the workplace or to other employees.

- e. **Written Reprimand** - Official notification to the employee that there is cause for dissatisfaction with the employee's performance or conduct and that further disciplinary measures may be taken if said cause is not corrected. Written reprimands shall be made a part of the employee's personnel file and shall be considered as relevant evidence in any hearing resulting from subsequent disciplinary action. A written reprimand may not be appealed under these Rules. However, an employee may attach a written rebuttal statement to the written reprimand within 10 days of the issuance of the written reprimand. After three (3) years from the date of a written reprimand, the employee may request that the reprimand be removed from their personnel file. The request shall be directed to the Personnel Officer who shall have discretion regarding the granting of the request.
- f. **Oral Reprimand (Warning Notice)**: An informal procedure used by a supervisor to caution an employee. An oral reprimand (warning notice) shall be issued verbally and will be recorded in writing. Warning notices shall not be placed in the employee's personnel file, however, they shall be considered as relevant evidence in any hearing resulting from subsequent disciplinary action.

9.4 Authority to Impose Disciplinary Action

The City Manager shall have the authority to impose disciplinary action on any regular employee in the competitive service in accordance with Section 9.1.

A department head shall also have the authority to impose disciplinary action on any regular employee in the competitive service. In accordance with Section 9.1, a department head's determination to discharge, demote, reduce salary or suspend for more than three (3) working days (24 hours) must be ratified by the City Manager. A department head may delegate to a supervisor the authority to issue written and oral reprimands.

Disciplinary action shall be imposed consistent with the principles of progressive discipline. The level of disciplinary action shall be consistent with the level of severity of the conduct.

The Personnel Office shall be notified of any contemplated disciplinary action.

9.5 Administrative Leave Pending Investigation or Under Emergency Conditions

The City Manager may place an employee on administrative leave with pay pending investigation and review of a potential disciplinary action. During such administrative leave, the employee shall be subject to the direction of the City Manager. The City Manager may also place an employee on administrative leave with pay under emergency circumstances when the best interests of the City dictate that the employee be immediately removed from the job site. Such authority may be delegated to a department head or other supervisor.

Under either circumstance, the employee shall be notified, in writing, of the administrative leave as soon as reasonably possible. In addition, the Personnel Office shall also be notified of the administrative leave as soon as possible.

9.6 Right to Representation

At any step in the disciplinary process, the employee shall have the right to represent themselves or shall have the right to be represented by counsel, another individual, or by a representative of the employee organization representing the employee.

9.7 Predisciplinary Procedure

Where the proposed discipline is discharge, demotion, reduction in pay, suspension without pay for more than three (3) working days (24 hours), the employee shall be provided with written notice of the following prior to the imposition of discipline:

- a. A statement of the proposed disciplinary action to be taken against the employee and the proposed effective date;
- b. A statement of the facts upon which the disciplinary action is based;
- c. A statement indicating the cause(s) for disciplinary action as set forth in Section 9.2;

- d. A statement advising the employee of the right to respond, either orally or in writing, to the authority initially imposing the disciplinary action at an informal conference;
- e. A statement advising the employee of the right to be represented at the informal conference; and
- f. A copy of, or access to, all the materials upon which the disciplinary action is based.

The above written notice shall be served upon the employee either personally or by certified mail, return receipt requested, and addressed to the last known address of the employee.

At the informal conference, the authority imposing discipline shall consider the employee's responses. Within ten (10) working days subsequent to the informal conference, the authority imposing discipline shall affirm, rescind, modify or otherwise resolve the disciplinary matter. If the authority imposing discipline determines disciplinary action is appropriate, they shall issue a final Notice of Disciplinary Action in accordance with Section 9.8.

9.8 Notice of Disciplinary Action

After completion of any applicable predisciplinary procedures set forth in this Rule, the authority imposing discipline shall issue a written Notice of Disciplinary Action which shall include the following:

- a. Notice of the disciplinary action to be imposed upon the employee;
- b. Notice of the effective date of the disciplinary action;
- c. Notice of the reasons for the disciplinary action, including causes for disciplinary action as set forth in Section 9.2;
- d. Notice of the right and time limit, if any, to appeal the disciplinary action in accordance with Section 9.9.

The above written notice shall be served upon the employee either personally or by certified mail, return receipt requested, and addressed to the last known address of the employee.

9.9 Effective Date of Discipline

The effective date of the disciplinary action shall be determined by the authority imposing discipline in accordance with Section 9.8. An appeal by the employee under Section 9.10 shall not stay imposition of the disciplinary action.

9.10 Appeal of Disciplinary Action - City Manager

Within ten (10) working days of a notice of disciplinary action as provided in Section 9.8, an employee may appeal a discharge, demotion, reduction in pay, or suspension without pay to the City Manager. The appeal should be in writing and should state the grounds for the employee's appeal. The employee or City Manager may request that a meeting be held between the employee and the City Manager to personally discuss the disciplinary action. After reviewing the matter, within ten (10) working days of receipt of the appeal, the City Manager shall affirm, rescind, modify or otherwise resolve the disciplinary matter.

9.11 Appeal of Disciplinary Action - Civil Service Commission

An employee may appeal a discharge, demotion, reduction in pay, or suspension without pay either through the applicable Memorandum of Understanding procedure or to the Civil Service Commission in accordance with Section 10 by filing a Notice of Appeal within ten (10) working days after receipt of the City Manager's decision pursuant to Section 9.10.

An employee receiving a written reprimand or an oral reprimand (warning notice) shall not be entitled to appeal such reprimand under this Section. The employee shall only have the right to attach written comments to the written reprimand for entry in the employee's personnel file in accordance with Section 9.3 (e) of these Rules.

SECTION 10.

GRIEVANCE AND DISCIPLINARY APPEAL PROCEDURE

10.1 Purpose and Intent

The purpose of the grievance and disciplinary appeal procedures is to insure orderly methods whereby employee grievances and disciplinary appeals are considered rapidly, fairly and without fear of reprisal. It is the intent of these procedures to promote resolution of grievances and disciplinary appeals at the lowest possible level of authority. Where the grievance of the employee may also constitute a grievance under the applicable Memorandum of Understanding, the employee must elect between filing a grievance under these Rules or under the Memorandum of Understanding. The election must be made at the time of the filing of the grievance with the department head.

10.2 Definitions

- a. **Disciplinary Appeals** - An appeal by an employee of a discharge (dismissal), demotion, reduction in pay or suspension without pay as provided in Section 9.10. Disciplinary appeals under this Rule shall begin at Step II.
- b. **Appellant** - An employee who has filed a disciplinary appeal.
- c. **Grievance** - An alleged violation, misinterpretation or misapplication of these Personnel Rules or the Personnel Ordinance. The review of grievances under this Rule shall begin at Step I.
- d. **Grievant** - An employee or applicant who alleges that they were adversely affected by an alleged violation, misinterpretation or misapplication of these Personnel Rules or the Personnel Ordinance.
- e. **Work Day** - A work day is defined as a day on which administrative offices of the City of Benicia are open for business.

10.3 Step I - Immediate Supervisor

An employee or applicant who believes they have a grievance as defined in Section 10.2 (c) shall first present the grievance orally to the immediate supervisor (only in the case of an applicant, the grievance shall be filed with the Personnel Officer) within ten (10) working days after the grievant knew, or reasonably should have known, of the circumstances which form the basis for the grievance. Failure to do so will render the grievance null and void. The immediate supervisor or the Personnel Officer shall hold

discussions and attempt to resolve the matter within ten (10) working days after the presentation of the grievance. The supervisor or the Personnel Officer shall document the discussion and the responses. It is the intent of this informal level that at least one personal conference be held between the grievant and the immediate supervisor/Personnel Officer. The supervisor shall provide the employee with a copy of Section 10 of the Personnel Rules. This shall constitute notification to the employee of his/her right to appeal the grievance through the Steps to Step IV - Civil Service Commission.

Applicants may file grievances with the Personnel Officer pursuant to Section 4.8. Applicants appealing the denial of a grievance by the Personnel Officer may do so under the circumstances stated in Section 4.9 according to the procedures outlined in Section 4.10. The Personnel Officer shall provide applicant with a copy of Section 4.8, 4.9, and 4.10 of the Personnel Rules.

10.4 Step II - Department Head

If the grievance is not settled during the informal conference and the grievant wishes to pursue the matter, the grievant shall present the grievance in writing to the department head within ten (10) working days after receipt of the written decision of the immediate supervisor. Disciplinary appeals begin at this Step.

The written grievance appeal information shall include:

- e. a description of the specific grounds of the grievance, including names, dates, and places necessary for a complete understanding of the grievance;
- f. a listing of the provisions of these Rules which are alleged to have been violated, misinterpreted or misapplied;
- g. a listing of the reasons why the immediate supervisor's proposed resolution of the problem is unacceptable;
- h. a listing of specific actions requested of the City which will remedy the grievance; and
- i. a description of the employee's right to appeal.

The department head shall provide grievant/appellant with a written decision within ten (10) working days after receiving the grievance or the written appeal of the disciplinary matter. If the department head does not respond within the time limits, the grievant/appellant may appeal to the next step. Within the above time limits either party may request a personal conference.

10.5 Step III - City Manager

If the grievant/appellant is not satisfied with the decision at Step II and wishes to pursue the matter, the grievant/appellant must within ten (10) working days of the receipt of the decision of the department head, appeal the decision in writing to the City Manager. The appeal shall include a copy of the original grievance/notice of discipline (with any attachments) and appeal documents from Step II, and a clear, concise statement of the reasons for the appeal.

The City Manager shall communicate his/her decision in writing to the grievant/appellant within ten (10) working days. If the City Manager does not respond within the time limits provided, the grievant/appellant may appeal to the next Step. Within the above time limits, either party may request a personal conference.

10.6 Step IV - Civil Service Commission

- a. **Filing of Appeal** - If the grievant/appellant is not satisfied with the written decision of the City Manager and wishes to pursue the matter, the grievant/appellant must within ten (10) working days of the receipt of the decision of the City Manager appeal the decision in writing to the Civil Service Commission. The appeal to the Civil Service Commission shall include a statement explaining the matter appealed and stating the action desired by the grievant/appellant. The notice of appeal to the Civil Service Commission shall be filed with the Personnel Officer. The notice of appeal shall be considered filed as of the date of receipt by the Personnel Officer.
- b. **Setting a Hearing Date Before the Civil Service Commission** - Within seven (7) working days after receipt of the appeal, the Personnel Officer shall inform each member of the Civil Service Commission, the appointing authority and other such persons or officers named or affected by the filing of the appeal. The Personnel Officer shall set a date for the hearing on the appeal of not less than ten (10) calendar days and not more than thirty (30) calendar days from the date of the filing of the appeal. The Personnel Officer shall notify in writing all interested parties of the date, time, and place of the hearing at such places as the Civil Service Commission shall prescribe.
- c. **Investigation** - Upon the filing of an appeal, the Civil Service Commission may make any independent investigation of the matter as it may deem necessary. The results of such investigation shall be made a part of the record of the proceedings and the grievant/appellant will have the right to have reasonable time in which to answer or present evidence in opposition to the findings of this independent investigation.

d. **Appearance and Testimony by Grievant/Appellant** - The grievant/appellant shall appear personally before the Civil Service Commission at the time and place of the hearing, unless physically unable to do so. Failure of the grievant/appellant to appear and testify at the hearing shall be grounds for dismissal of the appeal by the Civil Service Commission and the decision of the City Manager shall be final.

e. **Right of Representation** - The appointing authority and the grievant/appellant shall have the right to representation at any and all stages of these procedures.

f. **Rules for Conduct of Hearing**

1. **Public Hearing** - All hearings conducted by or on behalf of the Commission under this Section shall conform to the requirements of Government Code Section 54950, et seq. as those Sections now exist or as they may be amended, supplemented or renumbered. All disciplinary appeal proceedings shall be held in closed session unless the appellant requests, in writing, an open hearing. Where the hearing or any part thereof has been closed, no person other than the appellant, the appointing authority and their respective representatives shall be present unless specifically authorized by the Commission. All grievance hearings shall be held in open session unless the Civil Service Commission approves a request from either party to hold the hearing in closed session.

2. **Burden of Proof** - In disciplinary appeals, the appointing authority bears the burden of going forward and the burden of proof. In grievance appeals, the grievant bears the burden of going forward and the burden of proof.

The quantum of proof required shall be the "preponderance of evidence" test utilized in ordinary civil actions.

3. **Subpoena of Witnesses** - The Commission shall have the power to compel the attendance of a witness or production of documents by subpoenas to be issued in the name of the City, and attested by the City Clerk. It shall be the duty of the Chief of Police or his/her designee to cause all such subpoenas to be served. Refusal of a person to attend or produce the documents shall subject the person to prosecution in the same manner set forth by law for failure to appear before the City Council.

4. Pre-Hearing Documents - The Commission may request that the parties present to the Commission, in advance of the hearing, relevant documents which are expected to be produced at the hearing.
5. Conduct - The conduct and the quorum of the hearing shall be under the control of the Civil Service Commission by its Chairperson with due regard to the rights and privileges of the parties appearing before it. (See Government Code Section 54950.) Unless otherwise directed by the Commission, any witnesses to be called (except for the appellant, their representatives, the appointing authority and their representatives) shall be excluded from the hearing unless actually testifying or until excused as a witness.
6. Opening Statement - Each party shall be afforded an opportunity to make an opening statement prior to the presentation of evidence. Such statements shall be limited to a presentation of those facts that the party expects to be proven by the evidence. Arguments shall not be permitted in the opening statement. The party with the burden of proof shall go first.
7. Rules of Evidence - Oral evidence shall be taken only on oath or affirmation. Each member of the Commission shall have the power to administer oaths to witnesses. Each party shall have the right to cross examine witnesses. Rebuttal matter which is not repetitive may be allowed at the discretion of the Civil Service Commission. The hearing need not be conducted according to technical rules relating to evidence and witnesses. The presiding officer of the Commission shall rule on any objections made to the admissibility of evidence or otherwise relating to the conduct of the hearing. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to relying on in the conduct of serious affairs, regardless of the existence of common law or statutory rule which 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, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privileges and of official or judicial notice shall be effective to the same extent as in civil actions. Irrelevant and repetitious evidence shall be excluded. The Commission shall follow the procedures of Government Code

Section 6250 et seq. and any other pertinent provisions of law with respect to the discovery of confidential records, files and memoranda.

8. Closing Argument - Each party shall be afforded an opportunity to make closing argument after the presentation of evidence. Closing argument must be based on evidence produced at the hearing. The party with the burden of proof shall go first. Both parties shall be allowed brief rebuttal argument.
 9. Written Arguments - At the conclusion of the hearing, the Commission may request submission of written arguments to be submitted by the parties on a date set by the Commission. The hearing shall not be deemed closed until submission of the written arguments.
 10. Court Reporter - A certified court reporter shall be retained to record the hearing. Each party shall share equally the cost of the services of such court reporter.
 11. Continuances/Waiver of Time Limits - Any time limit herein provided may be waived upon consent of both parties. In addition, the Commission may grant a continuance of any hearing upon such terms and conditions as it may deem proper. Any request for a continuance made less than forty-eight (48) hours prior to the time set for the hearing will be denied unless good cause is shown for the continuance.
- g. **Findings and Recommendations** - The Civil Service Commission shall within ten (10) days after the conclusion of the hearing, certify its findings and recommendations in writing. These written recommendations shall be submitted to the grievant/appellant and to the City Manager. Any member of the Civil Service Commission may submit a minority or supplemental finding and recommendation. The action of the Civil Service Commission shall be final. In each grievance hearing, the Commission shall be confined to the interpretation of the express provisions of these Rules. The Commission shall not have authority to add to, subtract from, alter, amend or modify any Rule, nor shall the Commission impose any limitations or obligations not specifically provided for in these Rules. The Commission shall be without the authority to make any decision which requires the City or management to do an act prohibited by law. In addition, the Commission shall not change existing wage rates, salary schedules or employee benefits. In disciplinary appeals, the Commission may uphold, modify or revoke the disciplinary action.

10.7 Waiver/Withdrawal of Appeal

At any time after an appeal has been filed, a grievant/appellant shall have the right to withdraw their appeal by written notification to the City Manager.

Failure of the grievant/appellant to file an appeal within the periods specified in Section 10 constitutes a waiver of appeal.

SECTION 11.

EMPLOYER & EMPLOYEE RELATIONS

In the best interest of the City of Benicia, its citizens and its employees, there shall be adopted by the City Council, Ordinances, Resolutions, Memorandums of Understanding, rules, regulations and procedures through which full communication between the City as the employer, and its employees, shall be promoted; reasonable methods of resolving disputes regarding wages, hours, and other terms and conditions of employment shall be established; and the continued improvement of personnel management and employer-employee relations shall be pursued.

Such Ordinances, Resolutions, Memorandums of Understanding, rules, regulations and procedures shall be adopted as a document separate from, but complementary to, the Personnel Rules of the City of Benicia.

SECTION 12.

SICK LEAVE

12.1 Statement of City Policy

- a. Sick leave shall be requested only in cases of actual personal sickness or disability, medical or dental treatment, or as authorized under Section 12 of these Rules, employee agreements, Memorandums of Understanding, Family Medical Leave Act [FMLA], California Family Rights Act [CFRA] or other applicable federal or state law. The employee requesting sick leave shall notify their supervisor or department head prior to or within one (1) hour after the time set for reporting to work. Sick leave with pay shall not be allowed unless the employee has complied with the provision of these Rules and obtained the approval of their department head.
- b. In order to determine eligibility for sick leave benefits, the department head may require a written statement from the attending physician or dentist or from a physician or dentist of City approval, that the employee is or was incapacitated and unable to perform their duties. Prior to the employee's return, the department head may require a written statement from the attending physician or dentist or from a physician or dentist of the City's approval, that the employee is capable of and released to return to the performance of all the duties of their position.
- c. An employee shall not engage in any work or other activities which would be in conflict with their inability to report for work.

12.2 Eligibility

- a. Regular Employees: Regular full-time employees shall be eligible for sick leave as provided in Section 12.3 of these Rules.
- b. Temporary Employees: Temporary employees shall not be eligible for sick leave.
- c. Probationary Employees: Probationary employees shall accrue sick leave during their period of probation in the same manner as regular employees. However, probationary employees shall not be eligible to utilize sick leave during the first six (6) months of their employment.

- d. Regular Part-Time Employees: Regular part-time employees appointed pursuant to Section 6.2(b) may accrue sick leave on a pro-rated basis upon approval of the City Manager.

12.3 Accrual

Sick leave shall be accrued at the rate of eight (8) hours for each calendar month that an employee has worked regularly scheduled hours or as specified in the respective Memorandum of Understanding. Employees shall accrue full sick leave while on paid leave of absence, including sick leave and jury leave.

12.4 Accumulation

Accrued sick leave may be accumulated without limit.

12.5 Permissible Usage of Sick Leave

Employees eligible for sick leave may use paid sick leave following the completion of six (6) months of employment with the City. The City Manager shall maintain records of sick leave for all City employees.

- a. With the prior approval of an employee's department head, an employee may use accumulated sick leave for personal, medical or dental appointments and for medical or dental appointments for dependent children.
- b. With prior approval of the employee's department head, an employee may use accumulated sick leave up to a maximum of five (5) days per year to attend a seriously ill member of the employee's immediate family. Such time off includes time to take a member of the employee's immediate family to or from the hospital. In addition to five (5) days per year to attend a seriously ill member of the employee's immediate family, three (3) days of accumulated sick leave may be used with prior approval of the employee's department head for critical illness in the immediate family when death appears to be imminent.
- c. Sick leave granted in accordance with the provisions of Section 12.5. (a) and (b) shall be so documented on the employee's time sheet and in the employee's personnel records.

12.6 Non-Permissible Usage of Sick Leave

No employee shall be entitled to use sick leave with pay while absent from duty under any of the following conditions:

- a. Disability arising from sickness or injury purposely self-inflicted or caused by employee's willful misconduct;
- b. Disability arising from sickness or injury sustained while on unpaid leave of absence;
- c. Disability arising from sickness or injury related to compensated employment other than that with the City;
- d. Disability arising from sickness or injury while receiving compensation from the City for an industrial accident pursuant to Section 12.9;
- e. For absence caused by intoxication or substance abuse.

12.7 Incentive

Pursuant to employee agreement or Memorandum of Understanding, and upon the employee's election, the City shall reimburse an employee after one year of service to the City, 25% of their annually accrued, but unused, sick leave during December of each year. Sick leave reimbursed under this section shall be deducted from the employee's accumulated sick leave.

12.8 Expiration of Sick Leave Benefits

In the event of an employee's continued illness after expiration of their sick leave, such absence may, with approval of the department head, be charged to compensatory time, personal leave, and vacation time accrued. Except where excluded in their respective memorandum of understanding, upon depletion of paid leave benefits, an employee may apply to the Sick Leave Bank pursuant to Section 12.10 of these Rules. Alternatively, a medical leave without pay may be granted by the department head with the approval of the City Manager, not to exceed thirty (30) calendar days. If the employee has not returned to work by the end of such period, they may request further medical leave without pay which will be subject to approval of the department head and City Manager. If further leave is granted, the employee must notify the department head of their intent to return to duty every thirty (30) days. If further leave is not granted, the employee's service with the City shall be considered terminated in accordance with Section 8.4 of these Rules.

An employee on authorized leave under Family Medical Leave Act [FMLA], California Family Rights Act [CFRA] or other federal or state law shall be governed by the provisions of said regulations.

12.9 Paid Industrial Accident (PIA) Leave

- a. An employee suffering an industrial injury must immediately report the injury to their supervisor or, if the supervisor cannot be contacted, the employee must immediately notify the police communication center. An employee who fails to provide proper notification of an industrial injury shall not be eligible for paid industrial accident leave under this Section.
- b. In addition, in order to be eligible for Paid Industrial Accident leave, the employee's claim for State Workers' Compensation must be accepted and approved by the City with the City paying full basic salary during such leave.
- c. An employee who is unable to return to work due to an industrial injury and who meets the eligibility requirements in Section 12.9 (a) & (b), above, shall be granted Paid Industrial Accident leave. The leave shall begin on the first day of absence due to industrial injury and shall cease upon the employee's ability to return to work or one year, whichever is sooner. If at the end of one year the employee is unable to return to work, the employee's service with the City may be considered terminated in accordance with Section 8.4 of these Rules.
- d. During Paid Industrial Accident leave in excess of one pay period, the employee shall not be charged vacation or sick leave. In addition, the employee shall not be eligible for a step increase while on Paid Industrial Accident leave and the employee's anniversary date shall be adjusted so that no service time will accrue for step increase eligibility during the leave.
- e. Employees eligible to receive benefits under Labor Code Section 4850 shall be provided with such benefits in accordance with Labor Code Section 4850.

12.10 Sick Leave Bank

The City shall establish a "Sick Leave Bank" in lieu of providing State Disability Insurance for accidents or illnesses which are not job related. Eligibility for the Sick Leave Bank shall be governed by current employee agreements and Memorandums of Understanding. The Sick Leave Bank will be governed by procedures set forth by administrative policy.

12.11 Effect of Termination on Sick Leave Accumulation

Employees leaving City service shall forfeit all accumulated sick leave.

SECTION 13.

VACATION LEAVE

13.1 Eligibility

- f. Regular Employees: Regular full-time employees shall be eligible for vacation leave as provided in Section 13.2 of these Rules.
- g. Temporary Employees: Temporary employees shall not be eligible for vacation leave.
- h. Probationary Employees: Probationary employees shall accrue vacation leave during their period of probation in the same manner as regular employees.
- i. Regular Part-Time Employees: Regular part-time employees appointed pursuant to Section 6.2(b) may accrue vacation on a pro-rated basis upon approval of the City Manager.

13.2 Vacation Accrual

All regular full-time employees shall accrue vacation leave at the rate specified in a current memorandum of understanding or employee agreement. Employees shall accrue full vacation leave while on paid leave of absence, including vacation leave, sick leave and jury leave.

- a. Vacation leave is not earned by an employee on unpaid leave of absence.
- b. Full vacation leave shall be earned by:
 - 1. A regular employee on sick leave with pay;
 - 2. A regular employee on paid leave of absence on account of disability created by an on-the-job injury while working for the City;
 - 3. A regular employee on jury leave.
- c. Vacation leave may be accumulated to a maximum of 320 hours unless otherwise provided by Memorandum of Understanding or Employee Agreement with the City of Benicia. An employee who has accrued the maximum and is unable to take a vacation due to the workload in their department shall be allowed to accumulate additional vacation leave upon notification to, and written approval by the City Manager for a specified period of time.

13.3 Use of Vacation

- a. Vacation leave is accrued from the date of hire. However, no vacation leave may be taken by an employee during their first six (6) months of employment. At the completion of six (6) full months of service, an employee is eligible to use vacation benefits accrued under Section 13.2 of these Rules.
- b. The department head and the employee shall schedule the times at which vacation leave is to be taken in accordance with departmental rules which shall take into consideration the desires of the employee and the operational needs of the department.

13.4 Holidays During Vacation Leave

- a. In the event that a City holiday falls during an employee's vacation leave, that day shall not be charged against the employee's accrued vacation leave.
- b. This section shall not apply when an employee receives holiday pay in lieu of time off for recognized holiday observances.

13.5 Sick Leave During Vacation Leave

Upon approval of the department head an employee may change vacation leave to sick leave upon submission of a doctor's certificate that the employee is ill and unable to work.

13.6 Payment of Accrued Vacation Leave Upon Termination

Employees leaving City service with accrued vacation leave shall be paid for all such leave accrued prior to the date of termination at their current rate of pay, including any additional pay allowances.

SECTION 14

OTHER LEAVES OF ABSENCE

14.1 Authorized Leave of Absence Without Pay

A leave of absence is a privilege which may be granted to an employee in good standing wishing to leave the City service for a limited period of time without pay.

- a. A request for a leave of absence without pay must be made by the employee to the department head in writing stating the dates of leave of absence requested and the reason for the request.
- b. A department head may grant an employee a leave of absence without pay for not more than ten (10) working days when it is in the best interest of the City. The City Manager must approve a leave of absence without pay exceeding ten (10) working days.
- c. An employee shall be entitled to payment for any earned vacation and accumulated overtime at the beginning of an approved leave of absence without pay. However, during the period of leave of absence without pay the employee shall not accumulate seniority or benefits.

14.2 Unauthorized Leave of Absence

- a. The failure of an employee to return to duty upon the termination of an authorized leave of absence is an unauthorized leave of absence. In addition, failure of the employee to follow specified procedures and receive proper authorization for use of sick leave or vacation leave may be deemed an unauthorized leave of absence.
- b. An unauthorized leave of absence is grounds for disciplinary action, including termination.
- c. The unauthorized leave of absence shall be treated as time not worked. The City shall deduct from the employee's pay, an amount equal to time absent from City service.
- d. The employment and pay anniversary date of an employee on an authorized leave of absence without pay for thirty (30) days or longer shall be extended by the period of the leave.

14.3 Bereavement Leave

- a. An employee shall obtain the approval of the employee's department head in advance of an absence due to a death in the employee's family. Failure to obtain the department head's approval shall result in ineligibility for benefits under this Rule.
- b. In the event of a death in the immediate family of an employee, they shall, upon request, be granted such time off with pay as is necessary to make arrangements for the funeral and attend same, not to exceed three (3) regularly scheduled working days. However, up to an additional two (2) days may be granted for out-of-state funerals. This provision does not apply if the death occurs during the employee's paid vacation, or while the employee is on leave of absence, layoff, or sick leave.
- c. A department head may allow an employee leave of absence up to one day to attend the funeral of a person other than a member of the employee's immediate family, chargeable to sick leave, compensatory time, or vacation leave. Additional time may be charged to compensatory time or vacation leave.

14.4 Military Leave

Military leave shall be granted in accordance with the provisions of State and Federal Law. All employees entitled to military leave shall give the department head an opportunity within the limits of military regulations to determine when such leave shall be taken. Whenever possible, the employee involved shall notify their department head of such leave request ten (10) working days in advance of the beginning date of such leave.

14.5 Parental Leave

- a. A pregnant employee shall be entitled to a maternity leave of absence without pay in accordance with applicable provisions of Federal and State law. Upon recommendation of the department head, the City Manager may approve an extension of maternity leave of absence. Any extension so granted when combined with the original leave shall not total more than twelve (12) consecutive calendar months.
- b. Requests for "family care leave" as defined in Government Code Section 12945.2(b)(3) will be processed in accordance with the "Family Rights Act of 1991" (Government Code Section 12945.2).

- c. An employee may opt to use accumulated vacation or compensatory time off under the provisions of this Rule.

14.6 Voting Time

Time off with pay to vote in any general, direct primary, or presidential primary election shall be granted as provided in the State of California Elections Code. Notice that an employee desires such time off shall be given in accordance with the provisions of the code.

14.7 Jury Duty

Regular or probationary employees required to report for jury duty shall be granted leave for such purpose, upon presentation of jury notice to the department head. Said employees shall receive full pay for the time served on a jury, provided the employee remits to the City all fees as soon as received by the employee for such duties. Payment for mileage or subsistence allowance shall not be considered as a fee and shall be retained by the employee.

14.8 Leave for Appearance Required by Subpoena

- a. Regular and probationary employees who are subpoenaed to appear as witnesses on behalf of the State of California or any of its agencies may be granted leaves of absence with pay from their assigned duties until released. Said employees shall receive full pay for the time served, provided the employee remits to the City all fees as soon as received by the employee for such duties. Payment for mileage or subsistence allowance shall not be considered as a fee and shall be retained by the employee.
- b. Regular or probationary employees subpoenaed to appear in court for the purpose of litigation of a private or personal civil nature shall use accumulated vacation or compensatory time off, if available.

14.9 Administrative Leave

The City Manager may place any employee on administrative leave where, in their judgment, such action would be in the best interests of the City service. This leave shall be with pay. Application of this Section may include, but is not limited to situations where disciplinary matters are pending.

15.1 Statement of Policy

A schedule of salary rates and ranges, salary steps, and hourly rate equivalents shall be established by resolution adopted by the Council. The classes in the competitive service shall be assigned by resolutions adopted by the Council to a salary rate, salary range and salary steps, or hourly rate equivalent which shall become the basic compensation for each class. Such classes shall then be listed alphabetically by class title in the salary schedule and indicating the salary range, salary steps or other rates of pay for each class as designated by the Council.

15.2 Preparation of the Plan

- a. The City Manager shall prepare a Salary and Wage Plan to which each classification shall be assigned a specific salary range or salary rate giving consideration to such factors as:
 - 1. The duties and responsibilities of the individual classification relative to those of related classifications in the City service.
 - 2. Existing levels of compensation for generally comparable work in public and private employment in the relevant labor market area.
 - 3. The availability of qualified personnel for the individual classification.
- b. The Plan shall be modified as necessary to reflect Council approved general or special salary adjustments, classification actions and other actions impacting upon the individual classification's salary level.

15.3. Salary Administration

The placement and movement of competitive service employees in the appropriate salary range shall be governed by the provisions set forth below. No such provision shall be construed to permit the assignment of any employee a salary which is less than the minimum or more than the maximum rate of pay applicable to the classification to which the employee's position is allocated.

- a. Upon original appointment, the employee shall be assigned the first step in the salary range applicable to the classification of appointment; provided, however, that the City Manager may appoint at a higher step in that range if it is determined that it is not feasible to recruit personnel at that level, or that the appointee possesses exceptional qualifications.

- b. Upon promotional appointment or upward reclassification, the employee shall be assigned that step in the new range which produces the equivalent of at least one full step salary increase over the employee's former salary rate. An employee so promoted or reclassified may be eligible for a merit increase after six (6) months of satisfactory performance if the appointment was made at the initial step in the new salary range. The City Manager may permit incremental upward salary adjustments as appropriate.
- c. Upon demotion for non-disciplinary reasons or downward reclassification, the employee shall be assigned that step in the new range which most closely corresponds to, but does not exceed, the employee's former salary rate. The City Manager may permit incremental or deferred salary reductions where circumstances warrant.
- d. When a salary range is adjusted downward, the affected employee may retain the same dollar amount of salary within the lower pay range, or if the present rate exceeds the maximum of the lower range, may continue to receive the same dollar amount and said amount shall be designated a "Y" rate. Employees so "Y" rated shall not receive additional salary increases until their rate of pay meets the maximum of the lower pay range. Said "Y" rate shall be canceled when the pay rates meet or the employee vacates the position.

15.4 Advancement within Salary Range

Advancement to higher steps within the employee's salary range shall not be automatic, but shall depend upon merit as is determined by such recommendations of the immediate supervisor and department head, current and prior performance evaluations and other relevant considerations. Eligibility for such step increases shall be as follows:

- a. Second Step: An employee may be considered for salary advancement upon satisfactory completion of six (6) months of the employee's probationary period.
- b. Third, Fourth and Fifth Steps: Upon satisfactory completion of twelve (12) months of service in each lower step.
- c. In order for any merit increase to be granted, and in accordance with Section 16.7 a performance evaluation must be submitted to the Personnel Officer prior to the date on which the employee will become eligible for such increase. This report must indicate at least satisfactory work performance.

- d. Final approval of all merit salary increases provided for in this Rule shall rest with the City Manager/Personnel Officer. It shall be the joint responsibility of the City Manager/Personnel Officer and department head to insure that the required performance evaluation is submitted in a timely and complete fashion. If an employee fails to receive an increase, they shall be notified in writing.
- e. The City Manager may adjust the salary rate of an employee to any step in the employee's existing salary range to correct inequities in salary or reward outstanding achievement and performance.
- f. The salary advancement eligibility periods contained in this Rule are subject to extensions as provided in Section 15.5 in regards to pay anniversary dates.

15.5 Anniversary Dates

- a. The employment anniversary date shall be the first day of the pay period if employment occurs during the first fifteen (15) days of the period; otherwise, the employment anniversary date is the first day of the next pay period. Irrespective of subsequent personnel transactions which affect an employee's pay status, the employment anniversary date shall remain unchanged and be controlling for purposes of establishing total time in service and for establishing eligibility for such service related benefits as vacation leave.
- b. Pay anniversary dates shall be modified to reflect changes in appointment status such as promotion, demotion, reclassification, or extension of probationary period. Modifications to such dates shall coincide with the effective date of the change in appointment status. The pay anniversary date shall be the first day of the pay period if the change occurs during the first fifteen (15) days of the period; otherwise, the pay anniversary date is the first day of the next pay period.

Following attainment of the top step in a salary range, the employee reverts to their original employment anniversary date.

- c. The employment and pay anniversary date of an employee on leave without pay for thirty (30) days or longer shall be extended by the period of the leave.

16.1 Personnel Files

- a. Every City employee shall have the right to inspect their personnel file, in accordance with Labor Code Section 1198.5. Letters of reference, confidential pre-employment information and records relating to the investigation of a possible criminal offense are excluded from inspection under this Section.
- b. Personnel Files subject to inspection above shall be made available within a reasonable period of time after an employee's request and without a loss of pay. Upon written request, the employee may obtain copies of the materials subject to inspection.
- c. Information of a negative nature developed after employment shall not be filed in an employee's personnel file unless the employee is provided with a copy thereof and given the opportunity to respond in writing. An employee shall have the right to file a written response to such negative information and the written response shall be retained with the negative information in the employee's personnel file.
- d. All official personnel records shall be retained in a central location in the City and supervised by the Personnel Department. Access to personnel files are restricted to the employees of the Personnel Department or an employee's supervisor or department head. Pursuant to California Civil Code Section 56 et seq, injury reports and medical records must be maintained in separate files.
- e. Each respective department may keep and maintain such personnel records as may be deemed necessary for the purpose of carrying out the provisions of these Rules and the functions of the department. Subject to other provisions of this section, Department heads, officers and employees shall make available to the Personnel Officer all department reports, records and documents dealing with personnel matters.
- f. Except for an order of a court of competent jurisdiction, or for the request of the City Manager, Personnel Officer or City Attorney or their designated representative, the written consent of the employee is required to release information from that employee's files, provided however, that the employee's job title, dates of employment, salary range, and departmental assignment shall be available without the consent of the employee.
- g. Access to the personnel files of public safety officers shall be in accordance with existing law.

16.2 Personnel Transaction

Transactions, including but not limited to transfer, promotion, change of salary rate, resignation, suspension, fine or vacancy, and any other temporary or permanent change in status of employment shall be reported to the Personnel Officer in such a manner as may be prescribed from time to time by the Personnel Officer. Such records shall be retained in the employee's personnel file with a copy provided to the department and employee.

16.3 Notification by Employee

All persons employed in the City service shall notify the department head and Personnel Officer of any change of address, telephone, marital status, group life insurance beneficiary, number of dependents, military status and education.

If the employee fails to provide accurate dependent information, they shall be responsible for repayment to the City for the cost of insurance premiums paid on their behalf.

16.4 Records Open to the Public

The records and information prepared and maintained by the Personnel Department shall be governed by the rules, policies and procedures established by the City in respect to their availability as public information. The Personnel Officer, with the approval of the City Manager, shall, however have the authority to designate certain records or types of records as confidential and not open for public inspection as long as the records are exempt from disclosure requirements and other applicable provisions of the Public Records Acts, Government Code Sec. 6250 et seq.

16.5 Destruction of Records

All records relating to personnel including personnel rosters, payroll records, correspondence, applications, examinations and reports may be destroyed pursuant to the laws of the State of California and by resolution of the City Council.

16.6 Official Roster

- a. The Personnel Officer shall maintain a complete official roster of employees, showing each employee's name, address, class title, salary, department to which assigned, sick leave, vacation, changes in salary, employment status and such other information as may be considered pertinent.
- b. The form and manner of such information shall be determined by the Personnel Officer.

16.7 Performance Evaluations

- a. Each regular employee's performance shall be reviewed and evaluated at least annually or on a more frequent basis as deemed appropriate under the circumstances.
- b. The performance evaluation shall be prepared in written form, dated, and discussed with the employee.
- c. The employee shall sign the performance evaluation to acknowledge its contents. The employee shall receive a copy of the performance evaluation and a copy shall be placed in the employee's personnel file.
- d. If the employee disagrees with the contents of the report, a written response may be submitted to the department head stating any objections in the initial performance evaluation. Such written response shall be filed with the department head within five (5) working days of the receipt of the performance evaluation by the employee.
- e. Any such written response shall be considered by the department head. The department head may meet with the affected employee and either modify or let stand the evaluation.
- f. If the department head does not modify the performance evaluation, a copy of the employee's written response shall be placed in the employee's personnel file.
- g. There shall be no right of appeal regarding a performance evaluation.

17.1 Incompatible Activity

- a. An employee shall not engage in any employment, activity or enterprise which is inconsistent, incompatible or in conflict with their assigned duties as a City officer or employee. Each department head shall determine and prescribe those activities which, for employees under their jurisdiction, will be considered inconsistent, incompatible or in conflict with their duties as City employees. In making this determination, the department head shall give consideration to employment, activity or enterprise, which:
 - 1. Involves the use for private gain or advantage of City time, facilities, equipment, supplies, or the badge, uniform, prestige or influence of one's City office or employment.
 - 2. Involves the soliciting or the acceptance by the employee of any money gift, gratuity, or other consideration from anyone other than the City for the performance of an act which the employee, if not performing such an act, would be required or expected to render in the regular course or hours of their City employment, or as part of their duties as a City officer or employee.
 - 3. Involves the performance of an act other than their capacity as a City employee, which act may later be subject to direct or indirect control, inspection, review, audit or enforcement by such employee or the agency by which he is employed.
- b. Each City employee shall, during the hours of duty as a City employee be subject to such rules and regulations as pertain thereto, devote their full time attention and efforts to his City office or employment.

17.2 Gifts and Gratuities

No officer or employee of the City shall solicit or accept any gift, reward, service or gratuity of any kind by reason of their employment.

17.3 Political Activities of Public Employees

City employees shall not engage in political activities of any nature during the hours in which they are working for the City; nor shall City funds, supplies, property or equipment be utilized in performing any activities of a political nature except in accordance with City policies regarding the use of City facilities. City employees, whether on-duty or off-duty, shall not participate in political activities of any kind while in uniform.

No solicitations for contributions shall be made on City time or City property.

