

**THE PERSONNEL RULES**  
**OF**  
**THE CITY OF LAGUNA BEACH**

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Also see: Police, Fire, Municipal and Season Lifeguard MOUs

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## **Rule 1.0 Personnel Administration**

- 1.1 Duties of the Personnel Services Manager: The Personnel ~~Officer~~ Services Manager shall interpret, apply, and administer these rules and shall make amendments as required.
- 1.2 Amendment of Rules: Amendments to these rules shall be submitted through the Personnel Services Manager for adoption by the City Council. Advance notice shall be given to recognized employee organizations on any amendments which affect wages, hours, and other terms and conditions of employment. Upon request, the City shall provide the opportunity to meet with any employee organization so requesting regarding amendments affecting wages, hours and other terms and conditions of employment, as specified in the City's Employer/Employee Relations Resolution. As provided in Section 3500 et seq. of the Government Code, in case of emergency, when the City Council determines that amendment(s) to these Rules must be adopted immediately without prior notice or meeting with a recognized employee organization, the City shall provide such notice and opportunity to meet at the earliest practicable time following the adoption of the amendment(s). Amendments shall become effective upon adoption of the City Council, unless otherwise specified.
- 1.3 Violation of Rules: Violation of these rules may be grounds for disciplinary action.
- 1.4 Personnel Board: The Personnel Board shall hold meetings at such time and place within the City as shall be designated by the chairperson of the Board. Any meeting may be adjourned to a time certain and to a place designated by the chairperson. In addition, the Board may hold special meetings upon the call of the chairperson or a majority of members of the Board. A majority of the Board shall constitute a quorum for the transaction of business. Meetings shall be conducted in accordance with such rules and procedures as may be adopted by the Personnel Board.
- 1.5 Hearings of the Personnel Board: Hearings related to the appointment, employment or dismissal of a City employee or a complaint or charge brought against an employee by the City shall be held in private unless such employee requests a public hearing. The Board may exclude from any such public or private meeting, during the examination of witnesses, any or all other witnesses in the matter being investigated by the Board. The meeting need not be conducted according to technical rules relating to evidence and witnesses. The Board may appoint a Hearing Officer to conduct the proceedings of the hearing and make rulings as specified by the Board.
- 1.6 Rules of Appeal to the Personnel Board:
  - 1.6.1 Right of Appeal:

Employees Represented by Municipal or Police Association - Any regular

employee in the competitive service shall, within 7 days, have the right of appeal to the Personnel Board any disciplinary action indicated under Section 2.24.120 of the Laguna Beach Municipal Code, except in instances where the right of appeal is specifically prohibited by the Personnel Ordinance or these Rules.

Employees Represented by the Fire Association - Any regular employee in the competitive service shall, within seven (7) business days from service of a notice of disciplinary action, have the right of appeal to the Personnel Board of any disciplinary action indicated under Section 2.24.120 of the Laguna Beach Municipal Code, except in instances where the right of appeal is specifically prohibited by the Personnel Ordinance. In addition, any regular employee shall have the right to appeal any written reprimand. The first step of appeal of any written reprimand shall be review of the reprimand by the Fire Chief. The employee shall submit a written request for review within five (5) business days of service of the reprimand on the employee. Within ten (10) business days of the request for review, the Fire Chief will review the appeal and will render and notify the employee of his/her final decision. Any appeal from the Fire Chief's decision shall then be filed with the Personnel Board within seven (7) days of receipt of the Fire Chief's decision in the manner set forth in Sections 1.6.2 and 1.6.4.

#### 1.6.2 Method of Appeal:

Employees Represented by Municipal or Police Association - Appeals shall be in writing, signed by the appellant, and filed with the Personnel Services Manager, who shall, within ten (10) days after receipt of the appeal, inform each member of the Personnel Board, the appointment power, and such other persons named or affected by the appeal or the filing of the appeal. The appeal shall be a written statement, addressed to the Personnel Board, explaining the matter appealed from and setting forth therein a statement of the action desired by the appellant, with his/her reasons. The formality of a legal pleading is not required.

Employees Represented by the Fire Association - Appeals from disciplinary actions, including written reprimands, shall be in writing, signed by the appellant or his/her representative, and filed with the Personnel Services Manager. The appeal shall be a written statement, explaining the matter appealed from and setting forth therein a statement of the action desired by the appellant, with his/her reasons and any election by the employee to submit the matter for hearing to a Hearing Officer in lieu of the Personnel Board.

The Personnel Services Manager shall, within ten (10) business days after receipt of the appeal, inform each member of the Personnel Board, the appointment power and such other persons named or affected by the appeal of the filing of the appeal. In the event the appellant requests with the agreement of the Association, that the matter be submitted to a Hearing Officer in lieu of the Personnel Board, the Personnel Services Manager shall notify the Hearing

Officer within ten (10) business days after the Hearing Officer has been selected, the appointment power and such other persons named or affected by the appeal or the filing of the appeal.

1.6.3 Notice:

Employees Represented by Municipal or Police Association - Upon the filing of an appeal, the Personnel Services Manager shall set a date for a hearing on the appeal not less than ten (10) days, or more than thirty (30) days, from the date of filing. The Personnel Services Manager shall notify all interested parties of the date, time and place of hearing at such places as the Personnel Board shall prescribe.

Employees Represented by Fire Association - Upon the filing of an appeal, a date shall be set for the hearing on the appeal. The scheduling to set a hearing shall take place not less than ten (10) business days, nor more than thirty (30) business days, from the date of filing. The Personnel Services Manager shall notify all interested parties of the date, time and place of hearing at such places as the Personnel Board or Hearing Officer shall prescribe.

1.6.4 Hearing Forum for Employees Represented by Fire Association – Any employee appealing a disciplinary action in this section, including appeal of a written reprimand, may request that the matter be submitted to a Hearing Officer in lieu of the Personnel Board. Said election shall be made at the time of the filing of the written appeal and must also be authorized in writing by the Association attesting to its determination to proceed with a Hearing Officer. The cost of the Hearing Officer shall be equally borne by the City and the Association. Absent mutual agreement, the city's personnel office shall request the California State Mediation Conciliation Service to provide a list of seven (7) hearing officers acceptable to that organization. The parties shall alternatively strike names from that list until only one (1) person remains. The individual shall be the Hearing Officer. The determination as to which party strikes first shall be made by random means, such as a coin flip. If there is no request for a Hearing Officer at the time the appeal is filed, the matter shall be submitted to the Personnel Board.

1.6.5 Hearings:

Employees Represented by Municipal or Police Association - The appellant shall appear personally unless physically unable to do so, before the Personnel Board at the time and place of the hearings. He/she may be represented by any person or attorney as he/she may select and may at the hearing produce on his/her behalf relevant oral or documentary evidence. The City shall state its case first, and at the conclusion, the appellant may then present his/her case.

Cross-examination of witnesses shall be permitted. The conduct and decorum of the hearing shall be under the control of the Personnel Board by its chairperson,



unless a Hearing Officer has been appointed by the Board, with due regard to the rights and privileges of the parties appearing before it. Hearings need not be conducted according to technical rules relating to evidence and witnesses. Hearings shall be closed unless the appellant, in writing, requests an open hearing.

Employees Represented by Fire Association - The appellant shall appear personally at the time and place of any appeal hearings, unless physically unable to do so. He or she may be represented by any person or attorney as he/she may select. For appeal hearings before the Personnel Board or a Hearing Officer, the appellant may produce on his or her behalf relevant oral or documentary evidence. The City shall state its case first, and at the conclusion, the appellant may then present his or her case. Cross examination of witnesses for Personnel Board or Hearing Officer hearings shall be permitted. The conduct and decorum of the hearings shall be under the control of either (1) the Personnel Board by its chairperson, unless a Hearing Officer has been appointed by the Board, or (2) the Hearing Officer mutually selected by the parties, with due regard to the rights and privileges of the parties before it. Hearings before the Personnel Board or a Hearing Officer need not be conducted according to technical rules relating to evidence and witnesses. Hearings shall be closed unless the appellant, in writing, requests an open hearing.

#### 1.6.6 Findings and Recommendations:

Employees Represented by Municipal or Police Associations - The Personnel Board shall, within ten (10) days after the conclusion of the hearing, certify its findings and recommendations in writing to the appellant, to the person from whose action the appeal was taken and to the City Manager. The City Manager shall review the findings and recommendations of the Personnel Board with the person from whose action the appeal was made with a view toward implementing the recommendations of the Personnel Board and may then affirm, revoke or modify the action taken as, in his/her judgment, seems warranted. The action taken by the City Manager shall be considered final. Any member of the Personnel Board may submit a minority or supplemental finding and recommendations. In case of suspension, discharge or demotion, the appointing power shall reinstate any employee to his/her former status if a finding is made by the City Manager that the action taken was unwarranted and/or in error.

Employees Represented by Fire Association - The Personnel Board or a Hearing Officer, following a review of all evidence and argument, shall certify its findings and recommendations in writing within twenty (20) business days after the conclusion of the hearing to the appellant, to the person from whose action the appeal was taken and to the City Manager. The City Manager shall review the findings and recommendations and may then affirm, revoke or modify the action taken as, in his or her judgment, seems warranted. The action taken by the City Manager shall be considered final subject to judicial review pursuant to Code of

Civil Procedure Section 1094.5. Any member of the Personnel Board may submit a minority or supplemental findings and recommendations. In case of suspension, discharge or demotion, the appointing power shall reinstate any employee to his or her former status if the City Manager finds that the action taken was unwarranted and/or in error.

- 1.6.7 Extension of Time Limitations: For employees represented by the Fire Association, any or all of the time limitations mentioned above with reference to filing and response may be extended by mutual agreement between the employee and the City.

## **Rule 2.0 Definitions**

- 2.1 Regular Employees: means a full-time or regular part-time employee in a regular position who has successfully completed a probationary period of employment with the City.
- 2.2 Probationary Employee: means a full-time or regular part-time employee in a regular position who has not successfully completed a probationary period of employment with the City.
- 2.3 Regular Part-Time Employee: means an employee who works at least 20 hours but less than 40 hours per week on a regularly scheduled basis in a regular part-time position, designated as such in the current adopted budget. "Regularly scheduled" shall mean that the employee shall work the same number of hours per week, each week, as specified in the budget for that position.
- 2.4 Hourly Employee: means an employee who is appointed to a non-regular position funded under a temporary or part-time salary account in the current adopted budget, or a relief Firefighter.
- 2.5 Management Employee: means an employee designated as such by the City Council.
- 2.6 Appointing Authority: means the City Manager and those employees of the City to whom the power to make appointments has been delegated by the City Manager.
- 2.7 Eligibility List: means a list of individuals, composed according to final scores, who have achieved a minimum qualifying score in an examination for employment with the City of Laguna Beach.
- 2.8 Open Examination: means any recruitment and selection process which invites qualified applicants from the public at large as well as City employees.
- 2.9 Promotional Examination: means any recruitment and selection process which invites only qualified full-time employees as applicants.
- 2.10 Transfer: means the reassignment of an employee from one classification to

another classification which has the same minimum salary and requires substantially the same qualifications. If the transfer involves a change from one department to another, both department heads must consent thereto unless the City Manager orders the transfer for reasons of economy and efficiency.

- 2.11 Promotion: means the appointment of an employee to a classification with a higher range following an examination process through which the employee has qualified for such an appointment.
- 2.12 Reclassification: means the placement of a position in a different category of work due to change of components of the job. A position may be reclassified to a class with a higher salary or to a lower paid class.
- 2.13 Reinstatement: means the re-appointment of a probationary or regular employee within twenty-four (24) months after he/she has resigned in good standing, to a position in the same or comparable class. No credit shall be received for prior service in terms of benefits accrued after reinstatement unless otherwise recommended by the department head and approved by the Personnel Services Manager. The employee shall begin a new probationary period.
- 2.14 Re-employment: means the appointment of an employee who was laid off within the preceding twelve (12) months, to a position in the same classification as his or her former position. Such an employee shall receive credit for former service when computing vacation, sick leave and advancement through the salary range.
- 2.15 Demotion: means the appointment of an employee to a classification having a lower salary range either as the result of disciplinary action or at the request of the employee. No employee shall be demoted to a position for which he or she does not possess the minimum qualifications. Pre-disciplinary procedures shall be complied with prior to the demotion of any employee for disciplinary purposes.
- 2.16 Suspension: means a disciplinary action taken by the appointing authority to prevent an employee from working his/her normal hours and thereby exempting him/her from compensation for those hours. Persons under suspension shall not accrue sick leave and vacation during such suspensions. Suspensions shall be immediately reported to the Personnel Services Manager. Pre-disciplinary procedures shall be complied with prior to the suspension of any employee.
- 2.17 Resignation: means the voluntary separation of an employee from employment with the City. In order to resign in good standing, an employee shall provide a written statement, indicating the last day of employment and reasons for leaving, at least two weeks prior to leaving. Once a resignation has been submitted, it may only be withdrawn by approval of the Personnel Services Manager upon the recommendation of the department head.
- 2.18 Termination: means the act of separation from employment for any reason other than discharge.

- 2.19 Discharge: means the disciplinary action separating the employee from employment with the City. Whenever an employee is to be discharged, the Personnel Services Manager shall be notified. Pre-disciplinary procedures shall be complied with prior to the discharge of any employee.
- 2.20 Layoff: means the separation of an employee from employment with the City when, in the judgment of the City Council, it becomes necessary to abolish positions.
- 2.21 Personnel Ordinance: means Chapter 2.24 of the Laguna Beach Municipal Code, which creates a personnel system for the City.
- 2.22 Competitive Service: means all employees hired through competitive procedures set forth in Rule 3. Exceptions are members of appointive boards, commissions and committees, all employees designated as management by resolution of the City Council, the City Attorney, elected officials, contractual employees, volunteer personnel, employees hired to meet immediate requirements of an emergency condition and those employees classified as temporary or regular part-time.

### **Rule 3.0 Recruitment and Selection**

- 3.1 Filling Vacancies: All vacancies in regular, full-time positions shall be filled by reinstatement, transfer, demotion, reemployment or appointment from an eligibility list following an open or promotional examination. In the absence of persons eligible for appointment in these ways, provisional appointments may be made in accordance with the Personnel Ordinance and these rules.
- 3.2 Provisional Appointments: In the absence of individuals eligible or acceptable for appointment from appropriate eligibility lists, a provisional appointment may be made by the appointing authority of an individual who meets the training and experience requirements for the position. Such an appointment may be made during the period of suspension of an employee or pending final action on proceedings to review suspension, demotion or discharge of an employee. Provisional appointments may also be made under other circumstances deemed by the Personnel Services Manager to be for the good of the service. A provisional employee may be removed at any time without rights to appeal or hearing. Provisional employees shall accrue the same benefits as probationary employees.
- 3.3 Fair Employment Practices: Any technique or procedure used in recruitment and selection of employees shall be designed to measure only the job related qualifications of applicants. No recruitment or selection technique shall be used which, in the opinion of the Personnel Services Manager, is not justifiably linked to successful job performance.
- 3.4 Applications: Application for employment with the City of Laguna Beach shall be made on forms provided by the Personnel Services Manager.

Any false statement or willful omission of information on the application form may be grounds for rejection of the application or subsequent discharge of the employee.

Applications must be signed by the applicant and received by the Personnel

Services Manager within the filing period prescribed on the job announcement.

The Personnel Services Manager may reject any application which, on its face, does not demonstrate that the applicant meets the minimum qualifications of the position or class for which the application was submitted.

- 3.5 Job Announcements: All examinations shall be announced in a bulletin which shall specify at least the major job responsibilities, minimum and desirable qualifications and the selection process to be used. Job announcements shall be posted on appropriate bulletin boards in City facilities. Special recruitment methods shall be utilized as necessary to insure that all segments of the labor market available to the City are utilized.
- 3.6 Examinations: Examinations for employment shall be competitive and shall include any technique which, in the opinion of the Personnel Services Manager, fairly measures the job related qualification of the applicants. These may include written tests, interviews, performance tests, medical examinations and background investigations. Examinations may be open or promotional at the discretion of the Personnel Services Manager.
- 3.7 Conduct of Examinations: The Personnel Services Manager shall construct, develop and administer all examinations for City employment except that the City may contract with any qualified agency, organization or individual to develop and administer examinations provided that the procedures utilized meet the specifications of subsection 1 of this section.
- 3.8 Eligibility Lists: An eligibility list shall be established following an examination listing the names of those applicants who have achieved a total weighted score meeting or exceeding a passing point specified on the job announcement. Such applicants shall be deemed as qualified for appointment, pending further review by the appointing authority and other qualifying procedures such as reference checks, medical examinations or background investigations. Eligibility lists shall be valid and in effect for a period of one year. An eligibility list may be extended beyond one year up to a maximum duration of two years, at the discretion of the Personnel Services Manager.

If fewer than five names of applicants, willing and able to accept appointment, are available on a list, the list may be declared invalid by the Personnel Services Manager and a new recruitment and examination announced.

Names of those not chosen from an eligibility list that is less than one year old may be merged with names on a newly established list for the same classification but such names shall not remain on the new list for more than 12 months from the date of their original examination unless the list is extended to 24 months.

- 3.9 Notification of Applicants: All applicants shall be notified in writing of the final score(s) they have achieved in an examination. An applicant may review the materials related to testing including his/her answer sheets and test copies except in cases where tests are of a stock or form nature and when contracts prohibit such review.

- 3.10 Certification of Eligibles: When a vacancy occurs, the appointing authority may request that the vacancy be filled by reinstatement, demotion, transfer, re-employment or by appointment from an appropriate eligibility list.

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

The Personnel Services Manager may certify names from a list for a higher classification in order to fill a vacancy in a lower classification, when job duties are of a similar nature. In no cases shall names be certified from a list for a lower classification to fill a vacancy in a higher classification.

- 3.11 Selection: The appointing authority shall immediately notify the Personnel Services Manager when a new employee has been selected. He/she shall cause the new employee to report to the Personnel Services Manager for orientation prior to the employee's first day on the job. Each new employee shall be required to pass a medical examination for fitness to perform the job to which he/she is appointed and shall be subject to a background investigation

- 3.12 Employment of Relatives: The appointing authority shall consider business reasons of supervision, security, morale, safety and potential conflict of interest in employment decisions involving close relatives or immediate family members of an employee or an elected or appointed official. The appointing authority shall also consider the above if employment decisions involving a person with which an employee or elected official has a personal relationship.

Immediate family members shall include the employee or elected or appointed official's spouse, domestic partner registered with the City, daughter, step-daughter, son, step-son, brother, step-brother, sister, step-sister, father, step-father, mother, step-mother, grandfather, grandmother, or step-grandparents.

A close relative shall mean the employee or elected or appointed official's mother-in-law, father-in-law, daughter-in-law, brother-in-law, sister-in-law, grandson, granddaughter, aunt, uncle, niece, or nephew.

An employment decision shall not be based on whether an individual has a spouse presently employed by the City except in accordance with the following criteria:

- a. For business reasons of supervision, safety, security or morale, the City may refuse to place one spouse under the direct supervision of the other spouse.
- b. For business reasons of supervision, security or morale, the City may refuse to place both spouses in the same department, division or facility if the work involves potential conflicts of interest or other hazards greater for married couples than for other persons.

If co-employees marry, the City shall make reasonable efforts to assign job duties so as to minimize problems of supervision, safety, security or morale.

- 3.13 Physical Requirements: The City may require that all applicants and employees be in such physical or mental condition to perform the duties of their jobs and may require periodic medical or psychological evaluation. No employee shall hold any position in a classification in which he/she cannot physically or mentally perform all the duties of the job adequately or without hazard to himself/herself or others. Within the limitations indicated, the City's policy shall be to make such efforts as are consistent with the provisions of these Rules to place physically disabled employees in such positions as are available in the City service where their disability will not affect their performance of duties. The employee's length of service, nature of past performance and the availability of openings may be considered in placing disabled employees.
- 3.14 Smoking Policy: The City has established a hiring preference for police officers, police recruits, reserve police officers, firefighters and lifeguards who are non-smokers or who agree to stop smoking before employment. Such employees shall refrain from smoking during the course of employment.

#### **Rule 4.0 Employee Evaluation, Training and Discipline**

- 4.1 Probationary Period: The first 12 months after an employee has been hired or promoted shall be a probationary period during which he or she will be considered to be in training. This period is an extension of the examination process and the employee's performance shall be carefully observed. Thirty days prior to the 12th month anniversary date of hire or promotion, the employee's performance shall be formally evaluated. If the employee's performance has been satisfactory, and advancement to regular status is warranted, the department head shall so state in the employee's evaluation report to the Personnel Services Manager. The employee shall then be advanced to regular status on the first day of the payroll period during which his/her anniversary date falls. If the employee's performance has not been satisfactory, the department head shall so state in the employee evaluation report and the employee shall be terminated on the day before their anniversary date of hire.

Probationary employees may be terminated at any time without the right of appeal. Notification of termination shall be in writing and shall be given to the probationary employee with a copy to the Personnel Services Manager.

Probationary periods may be extended under certain circumstances upon recommendation of the department head and approval of the Personnel Services Manager. Such extension shall be for no longer than six months.

- 4.2 Employee Performance Evaluation:

- 4.2.1 Policy: It is the policy of the City that regular reports be made as to the efficiency, competency, conduct and merit of its employees. To this end, it is declared to be the responsibility of the Personnel Services Manager to provide and prescribe the forms and procedures to be used in such reports of performance and to assist in the training of supervisory personnel of the City so that the program of performance reporting will be carried on in a sound and effective manner.

4.2.2 Schedule: Reports shall be prepared and a copy submitted to the Personnel Services Manager every three months for probationary employees. A report for regular employees shall be prepared within 30 days prior to the salary anniversary date each year and a copy shall be submitted to the Personnel Services Manager.

In addition, a report may be prepared at any time by request of the employee or at the discretion of the employee's supervisor.

4.2.3 Authority to Make Reports: The appointing authority shall have the authority to make reports of performance; however, he/she may delegate such authority to subordinate supervisors who are most familiar with the work of the employee to be evaluated. The appointing authority shall review and approve all performance evaluations of personnel under his/her justification.

4.2.4 Review with Employee: It is acknowledged that one of the prime benefits of a sound performance rating system is that it can bring together the employee and his/her supervisor in a constructive discussion of the employee's work performance and issues related to work performance. Therefore, each performance evaluation shall be thoroughly discussed with the employee to point out areas of successful performance and areas that need improvement. The employee shall also be encouraged to comment regarding his/her work performance, either in a written statement attached to the report or orally. The employee shall sign the performance report to acknowledge that he/she is aware of its contents and has discussed the report with the evaluator. The employee's signature does not necessarily mean that he/she fully agrees with the contents of the report.

4.2.5 Distribution of Reports: Reports shall be prepared with a copy to the employee, the department's file and to the Personnel Services Manager for retention in the employee's employment history file.

4.2.6 Effects of Requires Improvement or Not Satisfactory: Any employee who receives an overall "not satisfactory" or "requires improvement" rating will not be eligible to participate in any promotional examination until a satisfactory rating is established.

An overall "not satisfactory" rating shall result in the withholding of any merit increase for which the employee may be eligible. An overall "requires improvement" rating may result in withholding any merit increase upon the recommendation of the appointing authority.

When an employee receives an overall "requires improvement" or "not satisfactory" rating, he/she shall be reevaluated within 3 months to document performance. If the employee's performance has improved to such an extent that the appointing authority believes it is justified, the improvement shall be indicated on the report and he/she may specifically recommend the restoration of any merit step increase which had been withheld, effective the first day of the pay period following the date of the report. The employee will then have a new salary anniversary date.



4.2.7 Performance Pay Plan: In accordance with the Administrative Guidelines of the Performance Pay Plan, an employee performance evaluation report and a performance pay plan justification shall be prepared and submitted to the City Manager with all recommendations for early step advancement or performance pay bonus.

#### 4.3 Pre-Disciplinary Procedures and Discipline:

4.3.1 Policy: Prior to the discharge, demotion or pay reduction for disciplinary purpose, or suspension of any regular employee pursuant to provisions of the Personnel Ordinance and these Rules, the following procedure shall be complied with:

4.3.2 Written Notice: Written notice of the proposed disciplinary action shall be given to the employee. Such notice shall include a statement of the reason(s) for the proposed action and the charge(s) being considered.

4.3.3 Employee Review: The employee shall be given an opportunity to review the documents or materials upon which the proposed disciplinary action is based, and if practicable, he/she shall be supplied with a copy of the documents.

4.3.4 Employee Response: Within five (5) working days after the employee has had the review opportunity provided above, he/she shall have the right to respond, orally or in writing, or both, at the employee's option, to the appointing authority concerning the proposed action.

4.3.5 Temporary Leave With Pay: Notwithstanding the provisions of this section, upon the recommendation of the Personnel Services Manager, the City Manager may approve the temporary assignment of an employee to a status of leave with pay pending conduct or completion of such investigations or hearings as may be required to determine if disciplinary action is to be taken.

4.3.6 Representation: In the above procedure, the employee may be represented by an officer of the recognized employee group under whose representation the employee's classification falls or a representative of the employee's choice who is not involved in the matter.

### **Rule 5.0 Grievance Procedure**

5.1 Matters Subject to Grievance Procedure: A grievance shall be a claim, filed by an employee on his/her own behalf, contending that the City has violated or misapplied an obligation expressed and written in the Personnel Ordinance or these Rules.

5.2 Informal Grievance Procedure: The informal grievance procedure may be utilized to resolve grievances by an employee or group of employees having to do with specific working conditions, safety, unfair treatment or discrimination. Every effort shall be made to resolve a grievance through discussion between the employee(s) and his/her immediate supervisor. If, after such discussion, the employee does not feel that the grievance has satisfactorily been resolved, he or she shall have the right to discuss the matter with the supervisor's supervisor, if any, within the departmental organization. Otherwise, the employee shall have the right to discuss the matter with

the department head.

- 5.3 Formal Grievance Procedure: If the employee is not in agreement with the decision rendered in the informal grievance procedure, he or she will have the right to present a formal grievance, in writing, to the department head. If such a formal grievance has not been submitted within ten (10) regular workdays from the date of receiving the informal decision, the informal decision shall be considered as final.

When discussing the formal grievance with the department head, the employee shall have the right to appear with his/her representative who may also participate in the discussion. The department head receiving the grievance shall review it, render his/her decision and comments in writing and return them to the employee within ten (10) regular workdays after receiving the formal grievance. If the employee does not agree with the decision reached, he/she may present an appeal in writing to the City Manager within ten (10) regular workdays. Failure of the employee to take further action within ten (10) regular workdays after receipt of the decision of the department head will constitute withdrawal of the grievance.

- 5.4 Appeal to the City Manager: Upon receipt of an appeal, the City Manager or his/her representative shall discuss the grievance with the employee, the representative, if any, and other appropriate persons. The City Manager may designate a fact-finding committee, an individual not in the normal line of the employee's supervision, or the City Attorney to render advice concerning the appeal. Within 15 regular working days, the City Manager shall render a formal decision, in writing, to the employee. Such decision shall be considered as final.
- 5.5 Extension of Time Limitations: Any or all of the time limitations mentioned above with reference to filing and response may be extended by mutual agreement between the employee and the city.

## **Rule 6.0      Layoff**

- 6.1 Intent of Procedure: For reasons of economy or efficiency, or in the interest or mandate of the public, reductions or curtailments of City services may be required. In such an event, it may be necessary to lay off one or more City employees. The following procedure is intended to give primary consideration to seniority and job performance whenever layoff of employees is necessary. The City's decision to abolish a position is not subject to the employee's right of appeal or grievance.

### **6.2      Procedures:**

- 6.2.1 Abolition of a Position: When a position within a department or division is abolished, all employees in that department or division in the subject classification shall be listed in order of their length of service with the City. The department head shall choose from among their number the least senior employee to be laid off for each position abolished. If in any case length of service should be equal, the appointing authority may take job performance into consideration in determining the employee to be laid off. Employees to be laid off shall be given two (2) weeks written notice of the action.

6.2.2 Transfer or Demotion to Avoid Layoff: Any employee who is to be laid off may request, in writing, to be transferred to a vacant position, subject to Rule 2.10 of these Rules, within the two week notification period.

An employee who has held regular status in a lower classification within the same department and/or division may request, within the two week notification period, demotion to a position in said lower classification or an equivalent class in order to avoid layoff. If the employee makes such a request, a list of employees as prescribed in Section 6.2.1 of this Rule shall be prepared and subject employee shall have his/her name placed among the other names on said list according to his/her total length of service in said class and any higher class within that department and/or division. Thereafter, the appointing authority shall choose an employee to be laid off according to the provisions of Section 6.2.1 of these Rules.

6.3 Severance Pay: A regular employee of the City who has been employed for a minimum of two years and has been laid off because of either the abolition of his/her position or as a result of a demotion of another employee to avoid layoff will be eligible for two weeks of severance pay (5 shifts in the Fire Department). A regular employee who is similarly laid off and who has worked for the City a maximum of ten years will be eligible for three weeks' salary upon layoff (7.5 shifts in the Fire Department).

6.4 Reemployment Lists: The names of all regular employees who were laid off or who were demoted to avoid layoff shall be placed on a reemployment list for two years. Whenever a vacancy occurs in the classes from which employees were laid off, the qualifying employees on the layoff list will be notified of the vacancy, prior to announcing an open or promotional recruitment, and shall be offered the opportunity to apply for the position.

In such an event, the appointing authority shall consider the former employee(s) from the layoff list prior to considering other candidates. However, the appointing authority shall retain the right not to appoint said former employee(s) and may request an examination to establish a new eligibility list.

**Rule 7.0 Employee Benefits**

7.1 Vacation Accrual: Each full-time regular and probationary employee shall accrue vacation leave with pay as follows:

Employee Group	Hours of Vacation Accrued	
Municipal and Police Employees	0 thru 5 yrs. service	3.70 hrs. biweekly
	6 thru 9 yrs. service	5.24 hrs. biweekly
	10 + yrs. service	6.77 hrs biweekly
All Sworn Fire	0 thru 5 yrs. service	4.62 hrs. biweekly
	6 thru 9 yrs. Service	7.39 hrs. biweekly

Employees

10+ yrs. service

9.24 hrs. biweekly

Vacation time accrues from the date of hire at bi-weekly rates consistent with the above schedule.

No vacation pay is allowable to temporary employees. A temporary employee who is filling a position in which a person on Military Leave has regular classification and the right to return, shall be entitled to vacation leave as provided elsewhere in this Rule.

- 7.1.1 Use of Vacation: Vacation leave may be taken as it accrues. The dates of vacation leave may be selected by the employee but shall be approved by the department head who shall consider the wishes of the employee and the needs of the City.

Municipal and Police Department Employees: The City may limit the approval of vacation for deployment operational reasons. Once it is approved, the City may cancel vacation only in the event of an unavoidable emergency.

Fire Department Employees: Requests for more than one person off on vacation at a time will be granted only when other qualified personnel agree to work the overtime necessary to cover the vacancy, following the procedure for the filling of overtime. The City will guarantee one person off on vacation per day. The total amount of vacation time taken in one calendar year will not exceed the vacation accrual rate of all current fire department employees. Employees will be permitted to select not more than their annual accumulation of vacation at the time of the annual vacation selection process.

- 7.1.2 Holidays Within Vacation Leave: If a holiday falls within a scheduled vacation period, 8 additional hours of vacation shall be granted except for Fire and Police Department personnel on a shift schedule.

- 7.1.3 Vacation for Regular Part-time Employees: Regular part-time employees as defined in Rule 2.3 shall also receive holidays, vacations, sick leave and other similar time off benefits at a ratio determined by the actual number of hours worked. Their accrual rates will change after the same number of years of employment as full time employees.

- 7.1.4 Pay for Vacation Time: Upon request of the department head and with approval of the City Manager, an employee may be paid the straight time hourly equivalent of his/her salary in lieu of vacation time off.

- 7.1.5 Payment for Unused Vacation Upon Termination: Any employee who is about to terminate his/her employment and who has unused vacation time on record shall be paid for such vacation time in his/her final paycheck. It shall not be necessary to carry such employee on the payroll for the vacation period and the vacancy thus created may be filled at any time after the effective date of termination. When termination is caused by death of the employee, payment shall be made to the employee's designated beneficiary.

## 7.2 Holidays:

7.2.1 Recognized Holidays: The following holidays shall be observed by the City of Laguna Beach with respect to all employees of the City, except shift employees of the Police and Fire Departments.

1. New Year's Day - January 1st
2. Martin Luther King, Jr. Day – 3<sup>rd</sup> Monday in January
3. President's Day - 3<sup>rd</sup> Monday in February
4. Memorial Day - Last Monday in May
5. Independence Day - July 4<sup>th</sup>
6. Labor Day - 1<sup>st</sup> Monday in September
7. Veterans Day - November 11<sup>th</sup>
8. Thanksgiving Day - 4<sup>th</sup> Thursday in November
9. The Day after Thanksgiving
10. Christmas Day - December 25<sup>th</sup>

Employees represented by the Municipal Employees Association will be paid for the holiday provided that they receive pay the day before and the day after a holiday.

7.2.2 Police Department Employees: Shift employees shall be paid eight hours salary at straight time in lieu of time off for earned holidays not taken during each fiscal year. Holidays shall be paid at the straight time rate during the first pay period in June of each fiscal year.

7.2.3 Fire Department Employees: Shift personnel will be granted 132 hours of holiday time per year. 108 of the 132 hours the employee shall receive as payment.

The 24 hours given in time off shall be credited to the employee's vacation balance in the first pay period of each fiscal year.

The 108 hours that the employee will receive in payment shall be added to the hourly rate. The employee's hourly rate shall be increased by 3.71%.

7.2.4 Weekend Holidays: For those employees whose normal workweek begins on Monday, when a holiday falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day observed. If a holiday falls on a Saturday in the case of employees whose normal workweek ends on Friday, the employee shall be entitled to the Friday prior to the holiday.

For those employees who work an alternate work schedule, e.g., 9/80 plan, when a holiday falls on a regularly scheduled day off, the first work day following the observed holiday shall be deemed to be a holiday, e.g., Tuesday, when the observed holiday falls on a Sunday or Monday.

If the observed holiday falls on a Friday or Saturday, the holiday in lieu shall be the last workday prior to the observed holiday, e.g. Thursday.

- 7.3 Sick Leave: Every full-time, regular employee except sworn shift employees of the Fire Department (see rule 7.3.8) shall accrue sick leave time at the rate of 6 hours per month. Sworn shift employees of the Fire Department shall accrue sick leave at the rate of 8.4 hours per month. Regular part-time employees accrue sick leave at a ratio determined by the actual number of hours worked. Unused sick leave may be accumulated without limit. Sick leave with pay can only be granted by the recommendation of the appointing authority of the employee, in the case of disabilities due to illness, injury or pregnancy.
- 7.3.1 Evidence of Illness: The appointing authority may require evidence in the form of a physician's certificate, or otherwise, of the adequacy of the reason for an employee's absence during the time for which sick leave was requested.
- 7.3.2 Penalty for Sick Leave Abuse: When, in the judgment of the appointing authority, the employee's reasons for being absent because of alleged sickness are inadequate, he/she shall indicate on the payroll time report that the absence was without pay. In addition, the appointing authority may impose such disciplinary action as in his/her discretion seems warranted, following procedures set forth in Rule 4.3 of these rules.
- 7.3.3 Sick Leave and Temporary Disability: A City employee who is entitled to temporary disability indemnity under the State Labor Code may elect to take that number of hours or portions of hours of his/her accumulated sick leave, or his/her accumulated vacation, as when added to the disability indemnity will result in a payment to the employee of his/her full salary. When accumulated sick leave, or vacation, or both, are exhausted, the employee is still entitled to receive disability indemnity.
- 7.3.4 Sick Leave for Dependent Care: A regular employee shall be eligible to use accrued sick leave in accordance with Federal and State laws to care for an ill parent, spouse or child.
- 7.3.5 Illness While on Vacation: An employee who becomes ill while on vacation may have such a period of illness charged to his/her accumulated sick leave instead of to vacation provided that:
- a. immediately upon returning to duty, the employee submits to the appointing authority a written request for sick leave and a written statement signed by the employee's physician stating the nature and the dates of the illness;
  - b. the appointing authority recommends and the Personnel Services Manager approves the granting of such sick leave.
- 7.3.6 Holidays During Sick Leave: Observed holidays occurring during sick leave shall not be counted as a day of sick leave.
- 7.3.7 Payment for Unused Sick Leave: Payment for accrued sick leave will be available as follows:

- a. Sick Leave Earned Before June 13, 1988 - Upon death, retirement for disability or for service, resignation or layoff, but not if dismissed or terminated for cause, each employee may elect to receive payment for unused accumulated sick leave, at his/her final rate of pay as follows:

Years of Service	Sick Leave Paid
After 1 year	5%
After 2 years	10%
After 3 years	15%
After 4 years	20%
After 5 years	25%
After 10 years	35%
After 20 years	50%

This payment shall be in a lump sum in the employee's final payroll check. Accrued sick leave hours earned before June 13, 1988 will be paid upon retirement at 50% of the final hourly rate of pay for members with more than 20 years of service, and at 35% of the final hourly rate for members with more than ten years but less than 20 years service.

Accrued sick leave may also be converted to service credit under the "Credit for Unused Sick Leave" option of the Public Employees' Retirement System.

- b. Sick Leave Earned Commencing June 13, 1988 - Sick leave earned after June 13, 1988 shall be available for cash-in at full value upon death, retirement for disability or for service, resignation or layoff, but not if dismissed or terminated for cause, to the extent that it is not used each fiscal year. Cash-in can be requested during October and May of the fiscal year or upon termination. Sick leave not cashed in may be carried over for cash-in during October and May of future fiscal years. Sick leave earned after June 13, 1988 shall be used before sick leave earned prior to June 13, 1988.

7.3.8 Fire Department Employees: Sworn shift employees of the Fire Department accrue sick leave at the rate of 8.4 hours per month. All other sworn employees of the Fire Department shall earn sick leave at a rate of 6 hours per month. All other provisions of this rule shall apply with respect to sick leave for shift employees of the Fire Department.

7.3.9 Pay for Sick Time: Employees may request to be paid for earned sick leave hours twice each year, once in October and once in May of each fiscal year. Pay-off may be made one additional time each year under extraordinary circumstances if approved by the Department Head and the Personnel Services Manager. This rule applies to Police and Municipal employees. Fire employees can receive a payout of sick leave in July.

7.4 Bereavement Leave: Whenever any employee is compelled to be absent from duty

by reason of the death, or critical illness where death appears to be imminent, of either the members of the immediate family of the employee, the employee's spouse or domestic partner, such person shall be entitled to a maximum of 24 hours absence with pay, as to each such instance of death or critical illness, up to a maximum of 48 hours per year. In instances involving extraordinary circumstances, an additional 48 hours may be granted, upon approval of the department head, with the proviso that such time will be deducted from accumulated sick leave. (See Admin. Pol. 2-6) Immediate family shall be defined as: father, mother, step-parent, brother, sister, step-siblings, wife, husband, child, step-child, grandmother, grandfather, or any relative of the employee or employee's spouse residing in the employee's household for two or more years.

For sworn employees of the Fire Department, whenever a Fire Department employee assigned to a 24 hour shift is compelled to be absent from duty by reason of the death, or critical illness where death appears to be imminent, of either the members of the immediate family of the employee, such person shall be entitled to a maximum of 1.5 shifts (36 hours) of bereavement leave with pay as to each such instance of death or critical illness, up to a maximum of 48 hours per year. In instances involving extraordinary circumstances, an additional 48 hours may be granted, upon approval of the department head, with the proviso that such time will be deducted from accumulated sick leave. Whenever a Fire Department employee assigned to a 40 hour work week schedule is compelled to be absent from duty by reason of death or critical illness as described above for 24 shift employees, such person shall be entitled to a maximum of 24 hours of Bereavement Pay per instance, up to a maximum of 48 hours per year. "immediate family" of the employee, the employee's spouse or domestic partner shall be construed to mean: father, mother, step-parent, brother, sister, step-siblings, wife, husband, child, step-child, grandmother, grandfather, or any relative of the employee or employee's spouse residing in the employee's household for two or more years.

- 7.5 PERS Disability Benefit Program: The purpose of this program is to provide a percentage of base salary to employees who are disabled from all employment, and who have filed for and are awaiting approval of a disability retirement from the Public Employees' Retirement System.
- 7.5.1 Eligibility: All employees who have five years of service or more under the Public Employees' Retirement System and who have exhausted their accumulated sick leave and vacation benefits may be eligible for disability benefits hereunder.
- 7.5.2 Amount of Benefit: An eligible employee will receive a monthly benefit which is approximately equivalent to the benefit the employee would receive when disability retirement becomes effective.

The Personnel Services Manager will obtain an estimate from the Public Employees' Retirement System as to what benefit the employee is entitled and will recommend the amount of the benefit. The benefit will commence on the first day of the payroll period following the last day of sick leave or vacation available to the employee. The disability benefit will cease on the last day on the city payroll before the effective date of the disability retirement.



If the employee is receiving disability benefits from another source, the City's disability benefit will be no greater than the difference between the benefit provided by the other source and the anticipated benefit under PERS.

- 7.5.3 Status of the Employee: The eligible employee will be considered to be on disability leave and will not accrue any other benefit provided by the City.

The Personnel Services Manager shall establish rules and regulations for the determination of whether an employee is disabled from all employment.

- 7.5.4 Disability Benefit: For disability retirements initiated by the City, if the retirement system has not taken action on the retirement by the employee's last day on the payroll, the City Manager may authorize lending an amount equal to the estimated retirement benefit to the employee on an interest-free basis on the condition that the loan be repaid within 30 days of receipt of retroactive payment of the retirement by the Public Employees' Retirement System. Such agreement shall be made in writing. There shall be no liability to the employee if the retirement is denied.

- 7.6 Education Reimbursement Program: The purpose of this program shall be the reimbursement for tuition and book expenses to employees attending classes on their own time which are to the direct benefit of the individual employee and the City. The approval of a request is subject to budgetary limitations.

- 7.6.1 Eligibility: All regular employees shall be eligible for reimbursement under this program. Employees who have not completed their probationary period may also be eligible for reimbursement under this program if the job performance of such employees, as indicated by the department head, appears to show promise of completing the probationary period.

- 7.6.2 Procedure: The department head will determine what types of courses will be allowed for reimbursement prior to commitment by the employee. Courses considered by the department head for reimbursement shall be designed to directly improve the knowledge of the employee in the public service which will improve performance and enhance advancement opportunities. The department head may recommend reimbursement upon the successful completion of college or professional conference courses. Each Fire, Police, Municipal and Management employee is limited to a maximum payment of one thousand dollars (\$1,000) per fiscal year, dependent upon the availability of budgeted monies.

The City Manager may authorize payment of additional educational reimbursement beyond the maximum payment for employees who are seeking formal degrees. The maximum reimbursement for these expenditures shall be 75% of the actual cost.

- 7.7 Salary Continuance (4850 Rule): The purpose of this rule is to provide a uniform policy and procedure for implementing Section 4850 of the State Labor Code which provides a one-year salary continuance for safety employees who cannot work due to job incurred injury or illness.

### 7.7.1 Definitions

- A. Safety Employees - All employees covered by Labor Code Section 4850.
- B. 4850 Pay - Compensation provided to safety employees pursuant to Section 4850 of the Labor Code.

### 7.7.2 Salary Continuance Policies and Procedures

- A. If a safety employee is released from work by a physician due to an on-the-job illness or injury, that employee shall be placed on 4850 pay.
- B. The employee shall remain on 4850 pay until one of the following occurs:
  - 1. The employee has received 4850 pay for 52 weeks which is 2080 hours for most employees and 2912 hours for shift employees of the Fire Department.
  - 2. The employee is released by a physician to return to work either with or without restrictions.
  - 3. The City in good faith determines that the injury is not job related or that the employee is capable of assuming his regular assignment.
  - 4. The employee is determined to be permanently disabled from his or her normal occupation and an application for disability retirement has been filed with the Public Employees' Retirement System. (4850 pay shall terminate on the day before the effective date of the disability retirement.) The City may provide advance disability pension payments pursuant to PERS law.
  - 5. The employee voluntarily resigns his/her position with the City.

7.7.3 Light Duty: When an employee is authorized by a physician to return to work with restrictions, the City may assign and schedule the employee on a temporary basis to perform departmental duties from which the employee has not been restricted and which the employee has been found capable of performing. These duties need not be duties which are required or included as part of the employee's normal assignment. The employee shall suffer no reduction in salary or benefits upon such temporary assignments. Light duty shall continue until the total time on 4850 pay plus light duty equals 52 weeks.

7.8 Payroll Deductions: Deductions of authorized amounts may be made from employees' pay for the following purposes:

- Withholding tax
- Contributions for retirement benefits
- Payment of premiums for authorized insurance programs
- The Orange County Employees Credit Union
- Employee organizations pursuant to Rule 10.14
- The United Way

- Deferred Compensation
- Medicare
- Any other purposes as may be authorized by the City Council and/or the City Manager

7.9 Workers' Compensation: The City shall provide workers' compensation insurance as required by State law as it may be amended from time to time.

7.10 Unemployment Compensation: The City shall provide unemployment compensation insurance as required by State law as it may be amended from time to time.

7.11 Retirement: The City contracts with the Public Employees' Retirement System for administration of the retirement program. Coverage for regular full-time employees is as follows:

7.11.1 Municipal Employees (Including Management): Members of this group, with the exception of Regular Full-Time Ocean Beach Lifeguards, are covered by the 2.5% at 55 formula for Municipal employees and have, as optional benefits, the one year final compensation, the 1959 Survivor (level IV), and service credit for accrued sick leave. The City pays the 7% member contribution rate. The above retirement benefits shall be provided to regular part-time employees in proportion to hours worked.

7.11.2 Sworn Police and Sworn Management Employees: Effective June 30, 2008, members of this group are covered under the 3% at 50 formula. They are also provided with the one-year final compensation, 1959 Survivor (level IV), and service credit for accrued sick leave as optional benefits. The City will pay PERS the employee contribution up to 9% and the employer contribution rate.

7.11.3 Sworn Fire: Safety members in this group are covered by the 3% at 50 formula. They are also provided with the one-year final compensation, 1959 survivor (level IV) and the service credit for unused sick leave optional benefits. The City pays up to 9% of the member contribution rate.

7.11.4 Regular Full-Time Ocean Beach Lifeguards: Members of this group are covered by the 3% at 55 formula for safety employees. They are also provided with the one-year final compensation, the 1959 survivor (level IV), and service credit for accrued sick leave optional benefits. The City pays up to 9% of the member contribution rate.

7.12 Medical Benefits: All regular full-time employees are eligible for enrollment in the Medical, Vision and Dental Benefit plans as agreed to between the City and Associations. Recurrent Hourly Lifeguards are eligible for medical coverage as agreed to between the City and the Association.

7.12.1 Rates: The City will pay 100% of the cost of health care coverage for the employee, 75% of the cost for employee plus one dependent, and 75% of the cost of the employee plus two or more dependents, with the employee responsible for the remaining 25%. Medical and dental coverage shall be provided to domestic partners under the same terms as other dependents.

7.12.2 City Contribution Maximum: For Police, Municipal, and Fire employees, the City's contribution to any employee's medical insurance premium shall be limited to the amount of the contribution under the above premium sharing formula for the HMO plan rate for an employee plus two or more dependants, regardless of the employee's choice of medical plan.

For Employees Represented by the Municipal Association Only: In the fiscal years starting July 1, 2010, July 1, 2011, and July 1, 2012, any proposed increase in the active employees' contribution amount towards medical insurance coverage as a result of premium increases which take place after the 2010 renewal will be absorbed by the City and will not be the responsibility of the active employee, i.e., the City will pick up any premium increases during those three years. As long as there are no cost of living adjustments to municipal employee salaries during this time, the employee will not be responsible for any increase in employee contribution amounts until after July 1, 2013.

7.12.3 Flexible Spending Plan: The City will make a flexible spending plan available to employees pursuant to relevant IRS Code Sections. The purpose of this plan is to allow an employee to contribute a portion of his or her income each year on a pre-tax basis into an account from which he/she may pay for certain benefits, including premiums for medical and dental insurance, and dependent care.

7.12.4 Medical Plan Coverage for Retirees: The option of continuing membership in the City's medical plan shall be available to employees who retire from employment with the City after a minimum of three years' service. The employee will be responsible for the entire premium.

7.12.5 Medical and Dental Plan Coverage for Regular Part-Time Employees: Employee-only medical and dental benefits shall be provided to regular part-time employees. Dependent medical and dental premiums for regular part-time employees shall not be paid by the City. Regular part-time employees shall, therefore, pay the full cost of medical and dental plan premiums for dependent coverage.

7.12.6 Domestic Partners: Medical coverage shall be provided for domestic partners. Dental coverage shall be provided to domestic partners under the same terms as other dependents.

7.12.7 Medical Insurance Waiver: All Police, Municipal and Management employees who are able to demonstrate to the City's satisfaction that they are covered by health insurance other than that which is available through the City, may opt out of participation in the City's plan and will be paid 60% of the HMO employee only rate.

7.13 Life Insurance: All regular full-time employees are covered by a \$50,000 Life and Accidental Death and Dismemberment policy.

7.14 Long Term Disability: Regular full-time employees are eligible for Long Term Disability Insurance coverage of 60% of the first \$5,000 of salary after a sixty-calendar day elimination period. Employees are eligible for coverage after sixty days of employment.

7.15 Uniform Policy: For sworn members of the Fire Department, the City shall maintain a

complement of 5 complete Nomex uniforms for each member. Additional uniforms shall be provided as needed on a direct exchange basis. The City will clean the uniforms. Association members agree to wear only Nomex uniforms.

Employees represented by the Municipal Employees' Association may be required to wear uniforms provided by the City, or provide appropriate work attire for themselves.

The City shall provide a maximum reimbursement of \$125 per fiscal year to all field employees of the Municipal Services Department who are required to wear safety footwear such as steel-toed, oil and slip resistant soles, or other type of safety shoes, as approved by the Municipal Services Department. The City will provide appropriate personal protective equipment when deemed necessary for safety purposes.

Police Officers assigned to Investigation shall be provided a monthly clothing allowance of \$100.

- 7.16 Use of City Vehicles: Police officers assigned to motorcycle duty may use the motorcycle to commute to and from work if they live within 30 miles of City Hall and within Orange County. The Chief of Police or his designee may in his sole discretion waive either the thirty miles or County residency limitations. In addition, they are entitled to three hours off per week, at the beginning or end of shift, to clean and maintain their motorcycles, provided that they have worked three full days of the workweek. The three hours per week allotment shall not accrue nor accumulate.
- 7.17 Paramedic Pay: The premium pay for Firefighters, Fire Engineers, or Fire Captains who are assigned to work as paramedics shall be equal to 10% of the top salary step (base pay) of the Fire Engineer classification as it is adjusted from time to time. Firefighters, Fire Engineers, and Fire Captains who are working as paramedics shall receive premium pay equal to 12.5% of the top salary step of the Fire Engineer classification upon submission of proof of paramedic recertification through the County of Orange while a member of the Laguna Beach Fire Department. A premium pay amount equal to 15% of the top salary step of the Fire Engineer classification shall be provided upon the second paramedic recertification while a member of the Laguna Beach Fire Department. A bonus of \$200 every two years shall also be available upon submission of proof of certification, assuming the employee has maintained continuous paramedic status.
- 7.18 Damaged Personal Property: All employees are eligible for up to \$200 per year reimbursement for lost or damaged personal property, subject to budget limitations.
- 7.19 Mileage: The reimbursement rate for use of personal vehicles for City business shall be the standard mileage rate allowed by the Internal Revenue Service.
- 7.20 California State Fire Officer Certification Plan: A one-time bonus of \$200 shall be available for a sworn Fire employee who is or becomes California State Fire Officer certified. Reimbursement for the \$50.00 certification fee will be available through the City's tuition reimbursement plan.

## **Rule 8.0 Classification and Compensation**

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

The Personnel Services Manager shall be responsible for preparing and maintaining class specifications for all positions. The specifications shall include, but not be limited to, a list of typical duties and a statement of the minimum qualifications required for appointment. It shall be understood that all positions require the ability to read, write and speak the English language; to follow written and oral instructions; and to maintain satisfactory relations with co-workers and the public.

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

- 8.2 **Administration and Maintenance of Classification Plan:** The City Manager shall be responsible for, but may delegate, the administration and maintenance of the classification plan. At least annually, the City Manager shall direct a review of the existing classification plan to insure that it is effectively maintained and that it reflects any significant changes in duties and responsibilities of positions. Such a review may involve only selected classes or the entire classification plan.

Reclassification of a position may be made at any time. An employee in a position which is reclassified may be required to qualify through an examination to retain a position that is reclassified upward. Downward reclassification shall not require the incumbent to requalify for the position.

- 8.3 **Pay Plan Structure:** The basic pay range for all classifications shall consist of monthly salary steps, each approximately 5% greater than its predecessor.

- 8.4 **Advancement Through the Pay Plan:** The numbers 1, 2, 3, 4, 5, 6, 7 and 8 respectively denote the various steps in the pay range.

**Salary Step 1**, an entry-level step, shall be paid upon initial employment and for a period of six months from the anniversary date.

Upon recommendation of the department head, initial employment at a salary step other than entry level may be authorized by the City Manager when a particularly difficult recruiting problem for a class is found to exist.

**Salary Step 2** may be paid after six months at Salary step 1 where the employee has demonstrated satisfactory job progress and normally increasing productivity and upon recommendation of the department head and approval of the City Manager.

**Salary Step 3** will be paid upon completion of one year of employment in Salary Step 2 where the employee has demonstrated satisfactory job progress and productivity and upon recommendation of the department head and approval of

the City Manager.

**Salary Step 4** will be paid upon completion of one year of employment in Salary Step 3 where the employee has convincingly demonstrated job progress and productivity and upon recommendation of the department head and approval of the City Manager.

**Salary Step 5** will be paid upon completion of one-year employment in Salary Step 4 where the employee has demonstrated job progress and productivity and upon the recommendation of the department head and approval of the City Manager.

**Salary Step 6** will be paid upon completion of one-year employment in Salary Step 5 where the employee has demonstrated job progress and productivity and upon the recommendation of the department head and approval of the City Manager.

**Salary Step 7** will be paid upon completion of one year in Salary Step 6 where the employee has demonstrated job progress and productivity and upon the recommendation of the department head and approval of the City Manager.

**Salary Step 8** will be paid upon completion of one year in Salary Step 7 where the employee has demonstrated job progress and productivity and upon the recommendation of the department head and approval of the City Manager.

In the case of an employee employed or re-employed at any step above Step 1, said employee may be advanced to the next higher step in his/her range no sooner than one year from the anniversary date of his/her employment.

- 8.5 Compensation - Regular Part-time Employees: Regular part-time employees shall be paid the hourly equivalent of the monthly salary paid to a full-time employee in the classification to which they are assigned. They shall be eligible for step increases based on their anniversary date.
- 8.6 Compensation - Temporary/(Hourly) Employees: Temporary (hourly) employees shall be paid an hourly rate established by the appointing authority as appropriate for the work to be performed and within the budgeted amounts in temporary employee salaries.
  - 8.6.1 Compensation - Relief Firefighters: Relief Firefighters shall be paid an hourly rate established by the appointing authority as appropriate for the work to be performed.
- 8.7 Compensation on Promotion: Any employee who is promoted to a position in a class with a higher salary range shall be placed on the step in the new higher range which is at least 4% but no more than 6% over the step he/she held in the former range in the basic salary schedule. Sworn Fire Department employees shall receive a step at least 5% over the step in the lower range. An employee thus promoted is therefore assigned to a new salary anniversary date effective on the date of promotion. An employee who, on his/her salary anniversary date, is promoted to a class with a higher salary range shall first receive any within range increase to which he/she is entitled and then the higher step as provided in this section.

8.8 Compensation on Demotion: Any employee who is demoted to a position in a class with a lower salary range shall have his/her salary reduced to the salary step in the range for the lower class which is:

*If a disciplinary demotion*: to any designated salary step in the lower range which is at least one step less than that received in the salary range for the class from which demoted. A new anniversary date shall be established.

*If a non-disciplinary demotion*: to that salary in the dollar amount he/she would have received in that lower class if his/her services had been continuous in said lower class. He/she shall retain his/her current anniversary date.

8.9 Compensation on Reinstatement: An employee who resigned in good standing may, within two years of such resignation and upon recommendation of the appointing authority, be reinstated in a position in the class in which he/she previously received prior to his/her separation and his/her anniversary date shall be based upon the date of reinstatement.

8.10 Compensation on Transfer: Any employee who is transferred from one position to another position in the same class, or to another position in a class having the same salary range, shall be compensated at the same step in the salary range as he/she previously received and his/her salary anniversary date shall not change.

8.11 Compensation on Change in Range Assignment:—Whenever a class is reassigned to either a higher or lower salary range by the Council, the salary of each incumbent in such class on the date the reassignment is effective shall be adjusted to the step in the new range that corresponds to the step he/she was receiving in the former range and he/she shall retain the same salary anniversary date. When a salary range reassignment becomes effective on the same date as an employee's salary anniversary date, he/she shall first receive any within range increase to which he/she is entitled and then receive the corresponding step adjustment.

8.12 Compensation on Position Reclassification: The salary of an employee in a position that is reclassified shall be determined as follows: if the position is reclassified to a class with the same salary range as the previous class, and if the incumbent is appointed to the reclassified position, the salary rate and salary anniversary date of the employee shall not change. This provision shall also apply to a change of class title.

If the position is reclassified to a class with a higher salary than the previous class, and if the incumbent is appointed to the reclassified position, the salary of such employee shall be the comparable step in the higher classification, or the step in the new salary range which is at least 4% but not more than 6%, over the previous salary, whichever is less. Sworn Fire employees shall be compensated at a minimum of 5% upon reclassification. When an employee is appointed to a reclassified position and his/her salary is at least 4% greater than the salary in the previous class, a new anniversary date shall be assigned, effective the date of the reclassification.

If the position is reclassified to a class with a lower salary than the previous class, and



if the incumbent is appointed to the reclassified position, his/her salary shall not change. If the employee's salary is greater than the maximum step of the lower salary range, his/her salary shall be "Y rated" until such time as any general cost-of-living increases, equity adjustments, or other salary increases result in the monthly salary appropriate for the class. The employee's salary anniversary shall not change and he/she shall not be required to serve a new probationary period.

- 8.13 Compensation When Acting Out of Classification: The City will pay all sworn and non-sworn personnel, except Fire Department, five percent (5%) of the employee's current base salary for working out of classification for 15 or more consecutive work days. Out of classification work shall mean that the employee is performing a significant part of the duties of a position in a higher salary range. The acting pay will commence on the first day of the pay period during which the employee worked the 16th consecutive day.

Written notification shall be made to employees represented by the Municipal Employees' Association when an assignment is made to work out of classification and when such assignments are terminated.

"Acting pay" for a Firefighter acting as an Engineer or Engineer acting as a Captain shall be 10% of the employee's current base pay. "Acting pay" for a Firefighter acting as a Captain shall be 15% of the employee's current base salary. In each case, acting pay shall be paid for actual hours worked, starting with the first hour worked. "Acting pay" for a Captain acting as a Battalion Chief/Division Chief shall be 10% of the employee's current base pay.

- 8.14 Attendance: Employees shall be in attendance at their work in accordance with the rules regarding hours of work, holidays and leaves. All departments shall keep daily attendance records of employees which shall be reported to the Director of Administrative Services in the form and on the dates he/she shall specify. Failure on the part of an employee, absent without leave to return to duty within 24 hours after notice to return shall be cause for immediate discharge, and such employee automatically waives all rights under the Personnel Ordinance and Rules. The depositing in the United States mail of a first class letter, postage paid, addressed to the employee's last known place of address, shall be reasonable notice.

For the purpose of computing entitlement of leaves of absence, an employee's continuous service shall be based on the effective date on which he/she received initial probationary appointment in the City service. Such date shall be the employee's anniversary date for vacation and sick leave purposes, subject to the provisions contained herein.

- 8.15 Hours of Work: Daily hours of work (or shifts) for employees within departments shall be assigned by department heads as required to meet the operational requirements of said department.

No authorization may be made for an employee to work less than the scheduled workweek without direct proportionate decrease in compensation.

Any foreseeable absence or deviation from regular working hours desired by an employee shall, in advance, be cleared through the office of the Personnel Services Manager, and such absences shall be noted on the employee's time sheet.

Employees may not begin or terminate employment on a holiday (except shift workers whose regular shift begins on a holiday).

- 8.16 Leave of Absence Without Pay: Based on the department head's recommendation, the City Manager may grant a regular or probationary employee leave of absence without pay or seniority for a period not to exceed four months. After four months, the leave of absence may be extended if authorized by City Council. No such leave shall be granted except upon written request of the employee, setting forth the reason for the request. The approval, if granted, will be issued in writing. Upon expiration of a regularly approved leave or within a reasonable period of time after notice to return to duty, the employee shall be reinstated in the position held at the time leave was granted. Failure on the part of an employee on leave to report promptly at its expiration, or within a reasonable time after notice to return to duty shall be cause for discharge. The depositing in the United States mail of a first class letter, postage paid, addressed to the employee's last known place of address shall be reasonable notice.

The granting of any leave of absence without pay exceeding fourteen (14) calendar days shall result in a new salary anniversary for the employee. Such date shall be based on his/her original salary date plus the number of calendar days of his/her leave in excess of fourteen (14) calendar days. In cases of leave of absence for which the cause is a job related injury, the employer-paid premiums for medical, dental, long term disability, and life insurance will continue to be paid by the City until the employee either returns to work or terminates employment.

Department heads may grant a regular or probationary employee leave of absence without pay for not to exceed one calendar week. Such leaves shall be reported to the Personnel Services Manager.

- 8.17 Military Leave: Military leave shall be granted in accordance with the provisions of state law. All employees entitled to military leave shall give the appointing power an opportunity within the limits of military regulations to determine when such leave shall be taken.

- 8.18 Overtime: The following subsections define overtime work as it applies to the different employee groups:

- 8.18.1 Fire Department Employees: Overtime for call-backs or holdovers shall be paid at time-and-one-half. The minimum number of hours for which call-back pay will be given is two. Compensatory time off shall not be provided.

Authorized leaves of absence (i.e., vacation, sick leave, and holidays) shall be counted as actual hours worked in the computation of overtime hours in accordance with the Fair Labor Standards Act. Although the City has declared Fire Captains exempt under the Fair Labor Standards Act, the City shall compensate Fire Captains in the same manner as Firefighters and Fire

Engineers. The overtime premium shall be paid at the rate of 3.0 hours of straight time overtime every two weeks.

- 8.18.2 Police Department Employees: Sworn shift personnel in the Police Department shall receive compensatory time or overtime pay, at the request of the employee and subject to the approval of the Chief of Police, at the rate of time-and-one-half for all actual hours worked in excess of a regularly scheduled shift.

For all non-sworn employees assigned to a "9/80" alternate work schedule, the pay period shall begin on alternating work weeks at the mid-point in the scheduled eight-hour day, thereby dividing the FLSA "work period" into two 40 hour work weeks. Employees so assigned shall receive compensatory time or overtime pay at the rate of time-and-one-half for all actual hours worked in excess of 40 hours in a given work week.

Non-sworn employees assigned to a five day, forty-hour work week shall be considered Municipal Employees in accordance with Rule 8.18.3 i.e., such personnel shall receive compensatory time or overtime pay at time-and-one-half only for actual hours worked in excess of 40 hours in a given work week.

Actual hours worked shall be defined as (1) time the employee is on duty performing assigned tasks and otherwise carrying out the duties of his/her position, and (2) leave time taken as vacation, sick, holiday, or bereavement time. Therefore, compensatory time shall not be counted as actual hours worked when computing hours in excess of a regularly scheduled shift or hours in excess of 40 in a workweek.

Briefing or shift preparation time of up to 30 minutes may be added to a shift employee's workday. Compensation for this time shall be paid at the straight-time rate.

Sworn, shift personnel who are called with less than 24 hours notice to report to work on a regularly scheduled day off, or called back to work following completion of a shift, shall receive a minimum of four hours pay. Non-shift personnel shall receive compensation at time-and-one-half pay for all hours worked as the result of a call-back.

On-call pay for Police Officers waiting to be called into court shall equal two hours pay in the morning and one hour in the afternoon, pursuant to Personnel Rule 8.22. Officers shall receive a minimum of three hours compensation for actual hours present in court.

A maximum of 80 hours of compensatory time may be accrued by employees represented by the Police Association.

- 8.18.3 Municipal Employees: Employees other than shift personnel in the Police and Fire Departments, excluding Management employees, shall receive compensatory time off or pay at the rate of time-and-one-half for all hours in excess of forty hours actually worked. Holidays, vacation, and sick leave shall count as hours actually worked. The employee may request compensatory time off or pay subject to the approval of the appointing authority. All employees

represented by the Association shall receive 8 (eight) hours of holiday pay and 8 (eight) hours of overtime pay for work on a holiday if the employee works the remaining 32 (thirty-two) hours during the work week in which the holiday falls. All employees represented by the Association, other than full time lifeguards, may request compensatory time off or pay subject to the approval of the appointing authority. All employees represented by the Association may accumulate a maximum of 8 hours of compensatory time at the employee's option. An additional 16 hours of compensatory time may accumulate with management approval. Full time lifeguards may accrue up to 96 hours of compensatory time. Use of the compensatory time is subject to management approval and may be used between October 1<sup>st</sup> and May 15<sup>th</sup> each year. The compensatory time may be used from May 16<sup>th</sup> through September 30<sup>th</sup> of each year in extreme cases and with management approval. Management has the option to reduce the accrual from 96 hours to 60 hours with 30 days notice. Emergency call-back and hold-over time will be paid at time-and-one half to eligible regular employees. The minimum number of hours paid for call-back for employees of the Marine Safety Department shall be three hours; for Sewer Division employees it is 2.5 hours and all other municipal employees, the minimum is two hours. For Sewer Division personnel, the procedure for counting the number of consecutive call-backs after each shift is as follows: The first and second call-back shall each be compensated a minimum of 2.5 hours. Starting with the third call-back, a minimum 2.5 hour block of time begins; therefore, subsequent call-backs that occur within this 2.5 hour block of time shall be counted as one call-back. The time for each subsequent call-back (after the second call-back) begins when the employee arrives to the work site and ends when the employee leaves the work site. A regular employee assigned to standby duty shall be required to respond to an emergency call-out during the period of assignment and shall receive special pay for such assignment as follows:

Monday through Sunday - \$40 daily rate.

The rate shall be increased to \$50 if the stand by duty is on a scheduled City Holiday.

The above standby pay rates shall apply based on the agreement of Sewer Division personnel working a 7-day per week operation schedule. If for any reason the 7-day per week operation schedule is suspended or terminated, then this section is null and void and former standby pay rates prevail.

8.18.4 Recurrent Hourly Lifeguards: Recurrent Hourly Lifeguards may request compensatory time off subject to the approval of the appointing authority. They may accumulate a maximum of 8 hours of compensatory time at the employee's option. An additional 16 hours of compensatory time may accumulate with management approval. Use of the compensatory time is subject to management approval on a request by request basis. This agreement may be revoked by management with 30 days' notice to the Association.

8.19 Jury Duty: Every employee of the City who is called or required to serve as a trial

juror shall be entitled to be absent from duties with the City during the period of such service or while necessarily being present in court as a result of such call. No deductions shall be made from the salary of an employee while on jury duty if he/she has waived or remitted to the City the fee for jury duty. If he/she has not so waived, or remitted the jury fee, he/she shall be paid only for the time actually worked in his/her regular position. An employee accepted for jury duty shall immediately notify his/her department head in writing.

8.20 Exceptional Performance Pay: Municipal employees: In accordance with the administrative guidelines of the performance pay plan, the City Manager may authorize an early step advancement or a lump sum bonus of any amount up to 5% of gross annual salary for employees whose performance merits such an increase.

Sworn Police and Fire Employees: The available bonus shall be an amount up to 5% of gross annual salary. The total of a performance pay bonus and an educational incentive award, when added together, shall not exceed 7.5%.

8.21 Educational Incentive Pay: In accordance with the administrative guidelines of the performance pay plan, sworn Police and Fire Department employees may be eligible for an educational incentive bonus of 2.5% for an AA degree, or a bonus of 5% for a BA or BS degree.

8.22 On Call Court Pay: Employees represented by the Police Association who are placed on call by the court shall receive two hours compensation in the morning and one hour in the afternoon. No payment shall be made if they receive court pay. Officers shall receive a minimum of three hours compensation for actual hours present in court.

## **Rule 9.0 Management Compensation Plan**

9.1 Management Employees: The following positions are designated as management employees, and are designated as "at will" employees having no specified term of, or guarantee of, continued employment:

City Manager

Assistant City Manager

Police Chief

Fire Chief

Director of Public Works/City Engineer

Director of Administrative Services

Director of Community Development

Director of Community Services

Director of Finance and Information Technology

Finance Officer

Assistant City Engineer  
Deputy Director of Public Works  
Fire Deputy Chief  
Fire Battalion Chief  
Fire Division Chief  
Police Captain  
Police Lieutenant  
Chief of Marine Safety  
Building Official  
Parks and Buildings Manager  
Zoning Administrator  
Planning Manager  
Personnel Services Manager  
Project Director  
Director of Water Quality  
Executive Assistant  
City Clerk and City Treasurer (Management benefits only; salary adjusted by Council)

- 9.2 Salary on Appointment: The City Manager may grant a new management employee a beginning salary not to exceed the maximum for the affected class. Such salary should reflect a judgment as to the ability of the employee to achieve expected performance standards within anticipated time frames.
- 9.3 Yearly Evaluation: Management employees shall be evaluated for salary step increases in June of each fiscal year, with any changes to be effective in July. The amount of any one increase shall be determined by the City Manager.
- 9.4 Exceptional Performance Pay: In addition to the salary received as a result of application of the foregoing salary plan, management employees shall be eligible for Exceptional Performance Pay of 2.5% or 5%. An additional 5% shall be available for one year or longer at the discretion of the City Manager.
- 9.5 Applicability of Other Benefit Program: The Management Compensation Plan shall apply to all employees classified as management. Such employees shall continue their eligibility for existing or future compensation programs which may be applicable to other employees unless made inapplicable by Council action.
- 9.6 Vacation Accrual: Management employees shall accrue vacation according to the following schedule:

5.24 hours/biweekly for 0 through 9 years

6.77 hours/biweekly for 10+ years

- 9.7 Administrative Leave: Management employees are eligible to take a maximum of ten (10) days per fiscal year of administrative leave. Such leave is granted by the City Manager for each individual management employee from zero to ten days annually and will be added each year to accrued vacation leave.

Fire Department Chief Officers are eligible to take a maximum of nineteen (19) days per fiscal year of administrative leave. Such leave is granted by the City Manager for each individual Chief Officer from zero to nineteen days annually and will be added each year to accrued vacation leave.

Fire Department Chief Officers shall receive reimbursement for time committed to strike team assignments. Compensation can be obtained through either (1) financial reimbursement or (2) compensation time. The rate of the compensation will be equivalent to the rate the City was reimbursed.

- 9.8 Medical Plan: The City shall pay 100% of the management employee's premium of medical insurance and charge one-half the non-management rates for dependent coverage as described in section 7.12.1 and 7.12.2.

Prior to employment, the City will provide a complete physical examination for each management employee. Thereafter, the City will provide for reimbursement of \$300 each year, at a rate not to exceed \$900 over any given three-year period, for expenses incurred for a general examination to determine physical fitness. The first such reimbursement shall not occur until at least two years after the pre-employment physical exam. Pre-employment examinations are optional for City Clerk and Treasurer. If the physical is not taken, eligibility for reimbursement begins immediately upon taking office.

The City shall provide a life insurance policy for management employees which shall have as its maximum benefit \$50,000.

The City shall provide a long-term disability insurance policy for management employees as described in Rule 7.14.

- 9.9 Flexible Spending Plan: The City will make a flexible spending plan available to employees pursuant to relevant IRS Code Sections. The purpose of this plan is to allow an employee to contribute a portion of his or her income each year on a pre-tax basis into an account from which he/she may pay for certain benefits, including premiums for medical and dental insurance, and dependent care.

- 9.10 Deferred Compensation Plan: At the discretion of the City Manager, the City will contribute 2% of the base salary of management employees to a deferred compensation plan. Such a contribution shall be awarded by the City Manager, based on meritorious performance or at the time of appointment.

- 9.11 Education Reimbursement: Management employees shall be eligible to receive a maximum of \$1,000 per fiscal year under the Education Reimbursement Program.

- 9.12 Automobile Allowance: Management employees shall be eligible to receive an automobile allowance of up to \$350 per month. An automobile allowance shall be granted at the discretion of the City Manager.
- 9.13 Unrepresented Supervisory Employees: The following supervisory classifications are not represented by a recognized employee group and are hereby deleted from Rule 10.4.b.: None (Positions may be added in the future)
- 9.14 Compensation of Unrepresented Supervisory Employees: All wages, hours, and other terms and conditions of employment granted to employees in the recognized employee group, of which employees were most immediately and recently members, and to which the employees are seeking a modification per Section 10.4 (e.g. police public safety employee group), shall remain in full force and effect for unrepresented supervisory employees referenced in Rule 9.12 during the entire term of the applicable agreement unless mutually agreed to the contrary by both parties hereto. Such employees shall not be considered "at will" employees, and shall be afforded all rights and protections available to other non-management employees, including overtime.
- 9.15 Changes in Compensation and Working Conditions: Prior to consideration of any changes in compensation, management shall meet with unrepresented employees in order to discuss proposed or desired changes in compensation and working conditions.
- 9.16 Recognition: Prior to March 31 of any calendar year, if a majority of employees within any unrepresented classification so elect, the classification shall automatically revert to recognized status within the groups designated in Section 10.4 of these rules. Notice of said election shall be given to the City Manager within fourteen (14) days.

## **Rule 10.0 Employer/Employee Relations**

- 10.1 Purpose: The purposes of this rule are: To fulfill the provisions of Section 3500, et seq. of the Government Code of the State of California, familiarly referred to as the "Meyers-Milias-Brown Act"; to provide for procedures for the recognition, suspension and revocation of recognition status of employee organizations; and to establish a reasonable and orderly method for the meet and confer process.
- 10.2 Definitions: The following words and phrases shall, respectively, for the purpose of this Rule, be defined as hereinafter set forth, unless the context clearly requires a different interpretation:
- 10.2.1 Act: The Meyers-Milias-Brown Act, as contained in the California State Government Code, Sections 3500-3510, inclusive.
- 10.2.2 Appointing Authority: The City Manager and those employees designated as such pursuant to Rule 2.6.
- 10.2.3 City: The City of Laguna Beach
- 10.2.4 City Manager: The Chief Administrative Officer of the City or his/her



designated representative during periods of his/her absence or inability to perform.

- 10.2.5 City Council: The officials elected to govern the City pursuant to the applicable laws.
  - 10.2.6 Elected Official: Members of the City Council and such employees as are so designated in Section 10.9 hereof.
  - 10.2.7 Confidential Employee: Those employees designated as such herein.
  - 10.2.8 Management Employee: Those employees designated as such herein.
  - 10.2.9 Regular Employee: Those employees who have successfully completed their probationary period and have been appointed to regular status.
  - 10.2.10 Employee Group for Representation: Those groups as defined in Section 10.4 hereof.
  - 10.2.11 Employee Organization: Those organizations defined as such in the Act.
  - 10.2.12 Meet and Confer: The process described and contemplated by the Act and the provisions hereof.
  - 10.2.13 Memorandum of Understanding: A written instrument described as such in the Act and in Section 10.7.6 of this Rule.
  - 10.2.14 Municipal Employee: All employees other than Public Safety Employees.
  - 10.2.15 Proposal: A written proposal as described in Section 10.7 hereof.
  - 10.2.16 Public Safety Employee: For purposes of this Rule, those employees holding the following positions are designated as Public Safety Employees: Fire Captain, Fire Engineer, Fire Fighter, Police Sergeant, Police Officer, Marine Safety Lieutenant, Marine Safety Officer, Marine Safety Captain and Regular Lifeguard.
  - 10.2.17 Recognition: That process by which an employee organization attains the status of a Recognized Employee Organization, pursuant to the provisions hereof.
  - 10.2.18 Recognized Employee Organization: The status of those organizations qualified and accredited as such, pursuant hereto.
  - 10.2.19 Regulations: The provisions of this Rule as set forth herein.
  - 10.2.20 Authorized Representative: Those persons designated by an employee group for representation pursuant to this Rule as authorized spokesmen and agents for the meet and confer process contemplated hereunder.
  - 10.2.21 Rules: Those rules established pursuant to Section 10.11 hereof.
- 10.3 City Rights: Except as otherwise specifically provided in this Rule, or amendments or revisions thereto, and subject to the right of an affected employee, personally or through his/her authorized representative, to dispute the actual application and impact of City actions, and of a Recognized Employee Organization to claim that the

exercise thereof violates the express provisions of an existing Memorandum of Understanding between the City and said Organization, the City has and retains the sole and exclusive rights and functions of management, including, but not by this enumeration intended to be limited to the following:

- 10.3.1 To determine the merits, necessity, nature or extent of services to be performed, as well as the right to determine and implement its public function and responsibility, and the mission of its consistent departments, commissions and boards; and to determine budgets and appropriations of funds and to set municipal fees and charges.
- 10.3.2 To decide upon and manage all facilities and operations carried on by or in behalf of the City, including the locations, methods, means and personnel by which the City's functions are to be conducted.
- 10.3.3 To establish, modify and change working hours, schedules and shifts, job content, methods, techniques, processes and standards and allot and assign work.
- 10.3.4 To control and determine the use of location of City's plants, facilities, property, material, machinery and equipment.
- 10.3.5 To determine the size and composition of the working force, and to direct the working forces, including the right to hire, promote, demote, discharge or transfer any employee.
- 10.3.6 To determine the layout, the machinery, the equipment and the materials to be used, and to introduce new, improved, adjusted or different methods of operations or to change existing methods.
- 10.3.7 To determine the policy and procedure affecting the selection or training of new employees.
- 10.3.8 To establish, implement and use employee performance standards, including, but not limited to, quality and quantity appraisal standards, the frequency and criteria of employee performance appraisals, and the application and results of said appraisals.
- 10.3.9 To determine measures to promote safety and to protect health and property.
- 10.3.10 To transfer work from one job to another or from one plant or unit to another.
- 10.3.11 To relieve employees from duty for lack of work, lack of funds or for other reasons deemed by management to be in the public interest.
- 10.3.12 To promote, grant pay increases and otherwise reward employees and to reprimand, suspend, discharge or otherwise discipline employees. The judgment of management shall govern except for a manifest abuse of discretion.
- 10.3.13 To establish and determine job classifications.
- 10.3.14 To contract for the performance of city services, construction, maintenance, distribution or any other work outside private entities.

10.3.15 To take such other and further action as may be desirable or necessary to organize and operate the City in the most efficient and economical manner for the best interest of the public it serves.

10.4 Designation of Employee Groups for the Purpose of Representation: The City Council has studied the service performed by its employees, their working conditions, job duties, and the necessity for the maintenance of efficient operations in conjunction with the requirement of establishing sound provisions for employee-employer relations. The City Council has concluded that the following employee groups for recognition purposes are appropriate:

- a. Public safety employees of the Fire Department in the positions of Firefighter, Fire Engineer and Fire Captain.
- b. Public safety employees of the Police Department, including Police Sergeant, Police Corporal, Police Officer, Senior Records Specialist, Records Specialist, Computer Operator (Police), Public Safety Dispatcher, Senior Public Safety Dispatcher, Animal Services Officer, Parking Services Officer, Community Services Officer, Community Services Officer II (Crime Prevention and Photo ID Technician), Kennel Manager and Kennel Aide, Supervisor of Support Services, Police Civilian Supervisor
- c. Regular municipal employees of the City, including the Marine Safety Captain, Marine Safety Lieutenant and Marine Safety Officer positions.
- d. Seasonal Ocean lifeguards, including Rookie Lifeguard, Ocean Lifeguard I, Ocean Lifeguard II, Ocean Lifeguard III and Recurrent Hourly Lifeguard.

Requests for modification to the above employee groups for the purpose of representation may be submitted to the City Manager for determination. New classification shall be assigned to an employee group as appropriate by the City Manager after advising the affected employee organization, if any, and further the affected employee organization may submit recommendations within fourteen (14) calendar days.

If a dispute arises regarding the employee groups for representation, an appeal may be filed to the City Council. Upon receipt of said appeal, the City Council shall set a time and place for a public hearing to consider the appeal. Its findings shall be final and conclusive.

The City Council, pursuant to Section 3503 of the Act, acknowledges that nothing in this Rule shall prohibit any employee from representing himself/herself in his/her employment with the City.

10.5 Recognition by City of Employee Organization: An employee organization which desires to be formally accredited as a Recognized Employee Organization, representing employees in any one of the Employee Groups, shall submit to the City Manager a written request for recognition containing the following information:

10.5.1 Name of the employee organization and its status (i.e., corporate or

otherwise); and

- 10.5.2 Names and titles of each of the then officers and directors of such employee organization(s); and
- 10.5.3 The names and addresses of the members of such employee organizations who are designated to accept, for all purposes, written notice on behalf of such employee organization; and
- 10.5.4 A statement as to whether the employee organization is a subordinate body of, or affiliated with, directly or indirectly, any regional, state, national, international organization, and the name of such other organization; and
- 10.5.5 A designation of the Employee Group for which such organization desires to represent; and
- 10.5.6 A statement that the employee organization has proof of employee support to establish that a majority of employees in the unit are members of the employee organization. Such written proof shall be submitted concurrently with the request for recognition in the form of payroll deduction cards, signature bearing membership cards showing current good standing or other proof satisfactory to the City Manager and shall be subject to confirmation of him/her.

A copy of the Constitution and/or By-Laws, or Articles of Incorporation or documentation of any other organizational existence, purposes and policies shall accompany the request. If a copy of the Constitution By-Laws or Articles of Incorporation has been submitted in a request of recognition in the previous twelve months, only the changes in such documents which have occurred since shall be submitted.

After receiving acknowledgment of its status as a Recognized Employee Organization, as set forth in Section 10.6, its representatives shall forthwith advise the City Manager of any change with reference to the information required by subsections 10.5.1 through 10.5.6 of this Section.

## 10.6 Recognition Procedure:

- 10.6.1 **Qualification of Organization:** The City Manager shall formally acknowledge and certify an employee organization as a Recognized Employee Organization as to the Employee Groups for Recognition designated in the request, only if he/she finds;
  - a. Such organization has complied with all of the requirements in Sections 10.5 and 10.6 hereof; and
  - b. More than fifty percent (50%) regular employees of those employed in the Employee Group for Recognition are members of such organization.
- 10.6.2 **Recognition Limitation:** Not more than one (1) employee organization shall be acknowledged as a Recognized Employee Organization for any one Employee Group for Recognition, at any one time. If two (2) or more

employee organizations request recognition relating to the same Employee Group for Recognition, each organization shall submit to the City Manager, on forms to be prepared by him/her a statement of membership in such employee organization, signed by each regular employee-member, to be considered by the City Manager; each such form shall be signed and dated by each employee within a period of thirty (30) days of its submission to the City Manager. Through this procedure, the City Manager shall determine which organization represents more than fifty percent (50%) of the regular employees in the Employee Group for Recognition. If, in the opinion of the City Manager, there still appears to be reasonable doubt of which employee organization represents more than fifty percent (50%) of the regular Employee-Members of the Employee Group for Recognition, he/she shall use such other methods as he/she deems appropriate. If, after an employee organization has been designated as a Recognized Employee Organization for an Employee Group for Recognition, one or more additional employee organizations file an otherwise qualified request for recognition relating to the same Employee Group for Recognition, the City Manager shall take no action until the expiration or revocation of recognition of the employee organization which has been formerly recognized. Such determination shall thereupon be made as to the appropriate employee organization, if any, to be recognized in accordance with this section.

- 10.6.3 Dates: Requests for recognition and/or revocation of recognition shall be received only in January or February of any calendar year.
- 10.6.4 Expiration of Recognition Status: Except as provided by a Memorandum of Understanding, the recognition status of an employee organization shall expire on February 28 of each succeeding year, subject to the provisions of Paragraph 10. 6. 5 hereof. Such expiration may be noticed by the City to the employee organization. Not more than thirty (30) days nor less than ten (10) days before expiration of the recognition status, an application by a Recognized Employee Organization for renewal of such status shall be made in the same manner as a request for initial recognition pursuant to the provisions hereof.
- 10.6.5 Revocation of Recognition: The status of an Employee Organization as a Recognized Employee Organization shall be revoked or suspended only if the City Manager finds:
- a. That the Recognized Employee Organization no longer complies with the provisions of this Rule relating to its qualifications; or
  - b. That the Organization or any of its officers, employees, agents, representatives, or other person acting under color of authority thereof has interfered with, intimidated, restrained, coerced or discriminated against any public employee who is exercising, or who desires to exercise, rights pursuant to the Act; or
  - c. That the Employee Organization by its actions has interfered or

encouraged, aided or assisted its member employees to interfere with the normal operations and services of the City.

When it is alleged that grounds exist for the revocation of recognition as to a Recognized Employee organization, the City Manager shall set a time and place for hearing upon the issue of revocation and shall give at least seven (7) calendar days' written notice thereof to the President of the Recognized Employee Organization.

At the time set for such hearing, the City Manager, acting as the hearing officer, shall consider all relevant, competent evidence relating to such charge(s) and based upon the evidence so presented, shall determine whether or not the recognized status of the organization should be revoked. The decision of the City Manager shall be final and conclusive.

## 10.7 Meet and Confer Process

- 10.7.1 Designation of Representatives of Recognized Employee Organizations: Within thirty (30) days after an employee organization is designated as a Recognized Employee Organization, pursuant to the provisions thereof, such organization shall, in writing, advise the City Manager of the names, addresses and telephone numbers of the persons who will act as representatives of such organization for the meet and confer process. It shall be the responsibility of each employee organization to forthwith advise the City Manager of any change in such representation. The City Manager or a designated representative shall be required to meet only with those persons currently designated as representatives from that organization.
- 10.7.2 Representation of Membership: For the purpose of the meet and confer process, the Recognized Employee Organization shall represent only the members of its organization.
- 10.7.3 Proposals: Only a Recognized Employee Organization, by and through its designated representatives, at any time subsequent to January 1 and prior to April 1 of any calendar year, may submit to the City Manager a written proposal in such form as the Recognized Employee Organization deems appropriate, indicating the items and matters it wishes to submit for discussion in the meet and confer process as required pursuant to the provisions of said Act. Any Recognized Employee Organization which does not, within the time permitted therefore, submit such a written proposal shall be deemed, for all purposes, to have waived its right to engage in the meet and confer process during that calendar year, provided, however, that meet and confer sessions will be held at other times than specified herein upon mutual consent of the representatives of the City and the Recognized Employee Organization; and the City will give a Recognized Employee Organization the opportunity to meet with it at other times regarding the effect of any proposed action of the City relating to matters within the scope of representation unless foreclosed by a Memorandum of Understanding then in

force between the City and the Recognized Employee Organization.

10.7.4 Matters Subject to the Meet and Confer Process: The scope of representation shall include all matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours and other terms and conditions of employment, except, however, that the scope of representation shall not include consideration of the merits, necessity or organization of any service or activity provided by law or executive order, the existence of those City rights indicated in Section 10.3 of this Rule, any subject preempted by applicable laws, nor any proposed amendments to this Rule.

10.7.5 Proposal Meeting: At such time as a Recognized Employee Organization submits a proposal, the City Manager shall review the same, and within not to exceed thirty (30) calendar days after April 1 he/she shall establish a time and place for the commencement of the meet and confer process. He/she shall give a least 24 hours' written notice to the representatives of such organization of the time and place of such proposal meeting, which notice shall include an agenda containing the items to be discussed at such meeting. Only matters set forth on such agenda shall be discussed as a part of such proposal meeting of the representatives of the City and the employee organization.

The notice provisions contained herein need not be observed where a proposal meeting is continued to another time and place by mutual consent of such representatives. Additional items may be added to an agenda upon the written request of either party provided that such requests are made not less than 24 hours in advance of a scheduled meeting, and only if such times are the proper subject matter of such meet and confer process. Except as otherwise provided herein, attendance at such meeting shall be limited to not more than three designated representatives of the recognized Employee Organization submitting the proposal and three or less representatives of the City.

10.7.6 Memorandum of Understanding: At the conclusion of the meet and confer process, if agreement is reached, the representatives of such Recognized Employee Organization and the City Manager or his/her designated representative shall execute a memorandum of such understanding. The memorandum shall be transmitted to the City Council for its determination.

10.8 Notices: Except as otherwise provided herein, notices required, pursuant to the provisions of this Rule or the Act, shall be given by United States mail, postage prepaid, addressed to the recipient at his last-known address. In lieu of mailed notices required, personal delivery of such notices may be made in order to assure timely receipt thereof. Notice shall be deemed, for all purposes, to have been given upon physical delivery thereof, or upon its deposit in the custody of said postal service.

10.9 Designation of Ineligible Employees: The following classes of employees of the City

shall be deemed, for all purposes, management, elected and/or confidential employees, as hereinafter indicated; such employees shall not be eligible to serve as representatives of any Recognized Employee Organization for the purpose of the meet and confer process.

Management: Management employees designated as such in Rule 9.1.

Elected Officials: City Clerk and City Treasurer.

Confidential: Personnel Specialist/Senior Personnel Specialist and Office Specialist/Senior Office Specialist for the Personnel Division of the Administrative Services Department.

- 10.10 Violation of Act: Any officer or employee of the City who interferes, intimidates, restrains, coerces, or discriminates against any other City officer or employee with respect to the exercise of such officer or employee's rights, pursuant to the Act, shall be subject to disciplinary action.
- 10.11 Administrative Rules: The City Manager is hereby authorized and directed to prepare and issue, after reasonable consultation with any and all Recognized Employee Organizations, such supplementary rules as he deems appropriate relating to employer-employee relations which are not in conflict with the express provisions of this Rule.
- 10.12 Employee Activities: No City employee on behalf of an employee organization shall engage in any type of activity relating to an employee organization during such time as employee is on duty, except as expressly provided in said Act; nor shall anyone use any City supplies, equipment or facilities in conjunction with any activity for any such employee organization, except as may be provided in the rules referred to in Section 10.11 hereof.
- 10.13 Payroll Deduction: The City shall provide a payroll deduction for use by each Recognized Employee Organization as authorized by each individual employee on an employee payroll deduction authorization. Monies collected in this way shall be provided to the appropriate Recognized Employee Organization who shall hold the City harmless against any claim which is made as a result of the deduction.