



**City of Lafayette**

**Personnel**

**Rules**



**Effective July 1, 2016**

# Table of Contents

---

<b>1. ADMINISTRATION AND DEFINITION OF TERMS</b> .....	1
1.1 APPLICATION .....	1
1.2 FAIR EMPLOYMENT PRACTICES .....	1
1.3 PERSONNEL OFFICER .....	1
1.4 ADOPTION AND AMENDMENTS TO THE RULES .....	1
1.5 DISTRIBUTION OF THE RULES .....	1
1.6 VIOLATION OF THE RULES .....	1
1.7 DEFINITION OF TERMS .....	2
<b>2. CLASSIFICATION PLAN</b> .....	5
2.1 PURPOSE OF THE PLAN .....	5
2.2 PREPARATION OF THE PLAN .....	5
2.3 ADOPTION OF THE PLAN .....	5
2.4 CREATION OF NEW POSITIONS .....	5
2.5 RECLASSIFICATION OF POSITIONS .....	5
<b>3. SALARY AND PAY PLAN</b> .....	7
3.1 PURPOSE OF THE PLAN .....	7
3.2 STRUCTURE OF THE PLAN .....	7
3.3 ADOPTION OF THE PLAN .....	7
3.4 ADMINISTRATION OF THE PAY PLAN .....	7
3.5 SALARY ADJUSTMENTS FOR FULL AND PART-TIME REGULAR EMPLOYEES AND FOR TERM EMPLOYEES .....	8
3.6 COMPENSATION FOR REGULAR PART-TIME EMPLOYEES .....	10
3.7 COMPENSATION FOR TEMPORARY EMPLOYEES .....	10
3.8 COMPENSATION ON PROMOTION .....	11

3.9	COMPENSATION ON DEMOTION.....	11
3.10	COMPENSATION ON REINSTATEMENT .....	11
3.11	COMPENSATION FOR OVERTIME .....	11
3.12	COMPENSATION FOR COURT TIME .....	13
3.13	COMPENSATION FOR ON-THE-JOB INJURIES.....	13
3.14	COMPENSATION FOR WORKING OUT-OF-CLASS.....	13
3.15	PAY REDUCTION FOR PERIODS NOT WORKED .....	14
3.16	BANKING HOURS FOR PART-TIME REGULAR EMPLOYEES .....	14
<b>4.</b>	<b>RECRUITMENT, SELECTION AND APPOINTMENT .....</b>	<b>16</b>
4.1	FAIR EMPLOYMENT PRACTICES .....	16
4.2	JOB ANNOUNCEMENTS .....	16
4.3	APPLICATIONS .....	16
4.4	EXAMINATIONS .....	18
4.5	ELIGIBILITY LISTS.....	18
4.6	NOTIFICATION OF APPLICANTS.....	18
4.7	FILLING VACANCIES.....	19
4.8	SELECTION .....	19
4.9	APPOINTMENT .....	19
4.10	PHYSICAL REQUIREMENTS .....	19
4.11	PROVISIONAL APPOINTMENTS .....	20
<b>5.</b>	<b>EMPLOYEE EVALUATION AND TRAINING .....</b>	<b>22</b>
5.1	PROBATIONARY PERIOD .....	22
5.2	EMPLOYEE PERFORMANCE EVALUATION.....	23
5.3	REEVALUATIONS .....	24
5.4	EMPLOYEE TRAINING PROGRAM AND POLICY .....	24

<b>6. RESIGNATION, REINSTATEMENT, RE-EMPLOYMENT, TRANSFER, DEMOTION, SUSPENSION, DISCHARGE, ADMINISTRATIVE LEAVE, REDUCTIONS-IN-FORCE, AND DISCIPLINARY ACTIONS .....</b>	<b>26</b>
6.1 RESIGNATION .....	26
6.2 REINSTATEMENT AND RE-EMPLOYMENT .....	26
6.3 TRANSFER .....	26
6.4 DEMOTION .....	26
6.5 ADMINISTRATIVE LEAVE .....	27
6.6 SUSPENSION.....	27
6.7 DISCHARGE .....	27
6.8 GROUNDS FOR DISCIPLINARY ACTION .....	27
6.9 REDUCTIONS-IN-FORCE.....	29
6.10 SEVERANCE PAY FOR REDUCTIONS-IN-FORCE.....	30
6.11 RE-EMPLOYMENT LISTS.....	30
6.12 ON-THE-JOB DISABILITY .....	30
6.13 EXIT INTERVIEWS .....	31
<b>7. PRE-DISCIPLINARY PROCEDURES AND PROGRESSIVE DISCIPLINE .....</b>	<b>32</b>
7.1 POLICY.....	32
7.2 SEQUENCE OF PROGRESSIVE DISCIPLINE.....	32
7.3 AUTHORITY OF DISCIPLINARY ACTION.....	32
7.4 PROCEDURES FOR WRITTEN REPRIMAND.....	33
7.5 NOTICE OF INTENDED DISCIPLINE .....	33
7.6 NOTICE OF DISCIPLINE.....	33
7.7 APPEAL OF DISCIPLINARY ACTION.....	34
7.8 ACCESS TO PERSONNEL FILES .....	35
7.9 PURGING OF PERSONNEL FILES .....	35
<b>8. GRIEVANCE PROCEDURE .....</b>	<b>36</b>

8.1	MATTER SUBJECT TO GRIEVANCE PROCEDURE .....	36
8.2	INFORMAL GRIEVANCE PROCEDURE .....	37
8.3	FORMAL GRIEVANCE .....	38
8.4	REPRESENTATION .....	39
<b>9.</b>	<b>ATTENDANCE, LEAVE, AND BENEFITS .....</b>	<b>40</b>
9.1	APPLICATION .....	40
9.2	ATTENDANCE .....	40
9.3	HOURS .....	40
9.4	ATTENDANCE RECORDS .....	41
9.5	DETERMINING HOURLY RATES .....	41
9.6	PAY PERIODS FOR EMPLOYEES .....	41
9.7	PAY DAY .....	41
9.8	MEAL BREAKS .....	41
9.9	REST BREAKS .....	42
9.10	LEAVE OF ABSENCE WITHOUT PAY .....	42
9.11	SICK LEAVE .....	43
9.12	VACATION LEAVE .....	48
9.13	HOLIDAY LEAVE .....	49
9.14	EXECUTIVE LEAVE .....	51
9.15	BEREAVEMENT LEAVE .....	51
9.16	PREGNANCY LEAVE .....	51
9.17	FAMILY LEAVE .....	52
9.18	JURY DUTY AND COURT APPEARANCES .....	52
9.19	DOMESTIC VIOLENCE LEAVE .....	59
9.20	ELECTION OFFICIAL LEAVE .....	59
9.21	VOTING LEAVE .....	60

9.22	MILITARY LEAVE .....	60
9.23	ATTENDANCE AT ALE MEETINGS .....	61
9.24	RETIREMENT CONTRIBUTION .....	61
9.25	RETIREMENT MEDICAL BENEFIT .....	62
9.26	INSURANCE BENEFITS .....	62
9.27	COBRA .....	64
9.28	IRS 125 PLAN .....	64
9.29	PROFESSIONAL DEVELOPMENT .....	64
9.30	UNIFORMS .....	64
9.31	MILEAGE ALLOWANCE .....	65
9.32	MEAL ALLOWANCE .....	65
9.33	EMPLOYEE ASSISTANCE PROGRAM .....	65
9.34	LIFE INSURANCE .....	65
9.35	DISABILITY INSURANCE .....	65
<b>10.</b>	<b>OTHER RULES AND PROGRAMS .....</b>	<b>66</b>
10.1	INJURY PREVENTION PROGRAM .....	66
10.2	ANTI-HARASSMENT POLICY .....	67
10.3	GUIDELINES ON ACCEPTING AND PROVIDING GIFTS & SERVICES .....	69
10.4	OUTSIDE EMPLOYMENT .....	69
10.5	NEPOTISM .....	70
10.6	ADDRESS NOTIFICATION .....	70
<b>11.</b>	<b>APPENDICES .....</b>	<b>72</b>
11.1	SAMPLE APPEALS HEARING PROCEDURE .....	72
11.2	SAMPLE NOTICE OF INTENT TO IMPOSE DISCIPLINARY ACTION AND TERMINATE (SKELLY NOTICE) .....	72
11.3	TYPES OF LEAVE .....	72
11.4	PERFORMANCE REVIEW FORM .....	72
11.5	EXIT INTERVIEW QUESTIONNAIRE .....	72

11.6 INDEX ..... 72

# 1. ADMINISTRATION AND DEFINITION OF TERMS

---

## 1.1 Application

These rules establish the personnel system for the City of Lafayette. These rules shall apply to all employees of Lafayette except the City Manager and those employees designated as volunteer, temporary, or contract. These employees hold their positions at the will of the City Council or City Manager and are not obligated by or entitled to benefits provided by these rules. All employees, including the City Manager, volunteer, temporary and contract employees are expected to comply with other rules and regulations such as the Lafayette Municipal Code and Administrative Regulations.

## 1.2 Fair Employment Practices

Any technique or procedure used to determine recruitment, selection, promotion, or pay increases of employees shall be related only to job-related measures of performance of applicants and employees. No technique shall be used which, in the opinion of the City Manager, is not justifiably linked to successful job performance. The City will not make employment decisions based on race, color, age, sex, ancestry, religious creed, disability, sexual orientation, or political affiliation.

## 1.3 Personnel Officer

The City Manager or his or her designee shall perform the duties of the personnel officer for the City of Lafayette and shall have the responsibility of administering the personnel system and rules. The City Manager or his or her designee shall interpret, apply, and administer these rules and shall recommend amendments to the City Council, as required.

## 1.4 Adoption and Amendments to the Rules

These rules were adopted in conjunction with the 2012 negotiations with City employees and comprise part of the consideration for the negotiated changes in salaries, benefits, and certain terms set out in these rules. As such, these rules supersede all prior conditions of employment for all employees and all prior personnel rules. Amendments to these rules shall be submitted through the City Manager for adoption by the City Council.

## 1.5 Distribution of the Rules

The Administrative Services Director shall distribute a copy of the Personnel Rules to all regular full- and part-time employees. Employees are expected to read the rules upon receipt and conduct themselves according to these rules.

## 1.6 Violation of the Rules

Violation of these rules may be grounds for disciplinary action, including termination.



## 1.7 Definition of Terms

### a. *ALE*

ALE means the Association of Lafayette Employees. ALE is an organized group of employees intended to facilitate communication with management on compensation and work rules. It is not a union. Membership is not mandatory, and no dues are involved.

### b. *Benefits*

Benefits means advantages, payments or services as set forth in this handbook, that include medical, dental, disability, and life insurance, vacation, sick, and other employee leave, salary increases, professional development, uniforms, mileage, or meal allowance, employee assistance program, and IRS 125 or fringe/flex plan benefits.

### c. *Contract Employee*

Contract Employee means employees that are hired under a contract to perform specific duties for a specific sum and are not eligible for fringe benefits.

### d. *Dependent*

Dependent means a child, spouse, spousal equivalent or parent defined as follows:

- “Child” means an employee’s child and includes biological, adopted, foster or stepchild, legal ward.
- “Parent” means the biological or adoptive parent of an employee when the employee was a child.
- “Parent-in-law” means the biological or adoptive parent of an employee’s spouse or spousal equivalent.
- “Spouse” means a husband or wife as defined or recognized under California State law for purposes of marriage.

### e. *Exempt*

Exempt means that various executive, administrative and professional employees are exempt from the overtime requirements of the Fair Labor Standards Act (FLSA). The City makes this determination, which can be found in the job description for each classification.

### f. *Intern*

Intern means an employee who works for a limited term, generally between three and twelve months. Interns may work up to 40 hours per week and may be paid or unpaid. Interns receive no benefits; serve at the will and pleasure of the City; and may be terminated without any right of appeal.

*g. Non-exempt*

Non-exempt means employees that are covered by the overtime requirements of the Fair Labor Standards Act (FLSA). The City makes this determination, which can be found in the job description for each classification.

*h. Personnel Subcommittee*

Personnel Subcommittee means the two Council members appointed by the Mayor to serve as the personnel subcommittee of the City Council.

*i. Probationary Employee*

Probationary Employee means a full time or part-time employee in a regular budgeted position who has not successfully completed a probationary period of employment with the City.

*j. Provisional Employee*

Provisional Employee means an employee who possesses the minimum qualifications established for the position and who is appointed due to an emergency or due to the absence of an eligibility list. A provisional appointment may not exceed twelve months. Provisional employees receive the same benefits as regular employees.

*k. Regular Full Time Employee*

Regular Full Time Employee means an employee who continuously works a minimum of 40 hours per week as a paid City employee, who receives a monthly salary and fringe benefits, and who has successfully completed a probationary period of employment with the City.

*l. Regular Part-Time Employee*

Regular Part-Time Employee means an employee who continuously works a minimum of 20 hours but less than 40 hours per week as a paid City employee, who receives an hourly salary and fringe benefits, and who has successfully completed a probationary period with the City. A regular part-time position is designated as such in the current adopted budget and excludes temporary and seasonal employees.

*m. Seniority*

Seniority means the total time of paid service for the City as a regular, term or probationary employee. Paid leave time shall be included in the calculation of seniority time. However, unpaid leave time, time as an intern, or time as a temporary or provisionary employee shall not be included in the calculation. Should an employee resign from the City and return to work in any classification as a regular, probationary or term employee within 12 months, the seniority earned during the prior employment period will be reinstated. In the event that seniority

becomes an issue between employees with the same hire date, the seniority tie will be broken by a coin toss.

*n. Supervisory Personnel*

Supervisory Personnel means the City Manager and those employees of the City to whom the authority to advise and recommend on personnel matters has been delegated by the City Manager.

*o. Temporary Employee*

Temporary Employee means an employee who is regularly assigned fewer than twenty (20) hours per week or is assigned work on an irregular basis. Temporary employees are hired for short periods or to work on specific projects. Seasonal employees are temporary employees hired for a specific event or to assist during the City's busy season and may work more than twenty (20) hours per week during that short period. Generally, temporary employees work for fewer than twelve (12) months, unless the term is extended by the City Manager. Temporary employees receive no benefits; serve at the will and pleasure of the City; and may be terminated without any right of appeal.

*p. Term Employee*

Term Employee means an employee who is employed for a specific time period with a beginning and ending date that is set at the time the employee first renders service for the City. Term employees receive the same benefits as regular employees.

## **2. 2. CLASSIFICATION PLAN**

---

### **2.1 Purpose of the Plan**

The purpose of the classification plan is to group all positions in the City service into standard classes. Each class shall include those positions similar in duties and responsibilities.

### **2.2 Preparation of the Plan**

The City Manager or his or her designee shall be responsible for the preparation and maintenance of class specifications or job descriptions for all regular full- and part-time positions. The job descriptions shall include, but not be limited to, a list of typical duties and a statement of the minimum qualifications required for appointment.

### **2.3 Adoption of the Plan**

The City Manager or his or her designee shall present the classification plan and all amendments thereto to the City Council to be adopted by resolution of the City Council. The classification plan includes job descriptions and salary ranges.

### **2.4 Creation of New Positions**

No person shall be appointed or employed to fill any position in the City service until the classification plan has been amended to provide an appropriate class and the appropriate eligibility list has been established.

### **2.5 Reclassification of Positions**

When the duties of a position or the hours required to complete the duties of a position have substantially and consistently changed, an employee and/or the employee's immediate supervisor may request the reclassification of his/her position to a more appropriate classification. Such a request shall be made in writing to the City Manager, and shall include the reasons for such a request. Based on the merits of the request, the City Manager may reclassify the position. The City Manager or his/her designee may also initiate reclassification of a position to a more appropriate classification.



### **3. SALARY AND PAY PLAN**

---

#### **3.1 Purpose of the Plan**

The purpose of the salary and pay plan is to ensure that all classifications substantially similar in duties, responsibilities, authority, and character of work are compensated equitably under like working conditions.

#### **3.2 Structure of the Plan**

The basic compensation for each classification shall consist of an individual salary range which shall have ten steps with a 3% increase between each step to allow for salary advancement.

#### **3.3 Adoption of the Plan**

The salary and pay plan and all amendments thereto shall be presented by the City Manager to the City Council to be adopted by resolution of the City Council.

#### **3.4 Administration of the Pay Plan**

##### ***3.4.1 Salary surveys***

Salary surveys for all regular positions shall be conducted in February of the odd numbered years as specified in Section 3.5.1. When a new position is created for which a salary range does not exist, the range shall be set at the time the position is created. In addition, the City Council may have the discretion to increase but not decrease, the salary ranges of any position as necessary to respond to specific market conditions.

##### ***3.4.2 Starting Salary***

At the time of appointment, a new employee's starting salary rate will normally be at the first step the salary range for the position.

When there is a scarcity of qualified personnel or when a qualified applicant has substantially superior education, training, or comparable experience as to justify a starting salary above the beginning of the salary range, and upon recommendation of the supervisory personnel, the City Manager may set a starting salary rate up to Step 5 of the salary range. If the proposed starting salary rate is above Step 5 of the salary range, the City Manager shall set the rate of compensation with the prior approval of the personnel subcommittee of the City Council.

##### ***3.4.3 Salary Increases***

Annually, the City Manager shall establish a salary rate for each employee within the appropriate salary range adopted by the City Council and subject to available

funding that reflects the employee's performance during the preceding year as set forth in the employee's annual evaluation as specified in Section 3.5.2.

### 3.5 Salary Adjustments for Full and Part-Time Regular Employees and for Term Employees

Employees shall receive salary adjustments to their current base rate of pay as follows:

#### 3.5.1 *Range adjustments*

In February of the odd numbered years, the Administrative Services Director shall conduct a salary survey for each position. The survey shall include Benicia, Danville, El Cerrito, Martinez, Menlo Park, Mill Valley, Moraga, Orinda, Pinole, Pleasant Hill, and San Ramon.

New salary ranges for the City's positions shall be computed by taking the arithmetic median of the survey maximum for each of the positions. That median will become the top step (Step 10) for the range. Each step will then be calculated as 3% less than the prior step.

Where there are differences in title and duties between that of the City and surveyed cities, the City Manager or his or her designee, shall exercise discretion to establish a fair salary range and shall, upon request, provide an explanation to the affected employee as to how the salary range was established. New ranges shall be subject to the review and approval of the City Council during the normal budget process.

In even years, salary ranges will be adjusted by a percentage equal to the annual Bay Area CPI-W but will not exceed 2.5%

#### 3.5.2 *Annual merit pay opportunity*

The City will institute a merit-based step system for compensation, with these features:

- The performance evaluation will be based on a 4 point rating scale with the option of adding an additional 1 point for "Rare & Exceptional" achievements for a maximum of 5 points. Periodically, the City of Lafayette management and supervisory team, in conjunction with the Association of Lafayette Employees and its general membership will review the evaluation form and process and assess any proposed changes.
- Ranges will be divided into ten steps and every employee's pay rate will correspond to a step. Each step will be equal to a 3% pay increase.
- On July 1, 2012, every employee's pay rate will be moved to the step closest to but not lower than their current pay rate.

- On July 1, 2012 and every July thereafter, employees with six or more months tenure will be eligible to move a maximum of one step upward. In order to do so, the employee must receive an overall performance rating of 3.0 or better from his/her supervisor. Employees who receive evaluation ratings less than 3.0 will remain at their current step.
- In salary survey years, all ranges will be adjusted according to the formula for determining salary ranges that is described in Section 3.5.1. In rare instances when the survey calculations demand that a range be moved downward, employees in that class will be placed on the step of the new range that is nearest, but not lower than their existing pay rate, after which the step increase, if warranted, will be granted. Employees whose salaries fall outside the range will remain at their current salary until the range catches up (i.e. "Y-rated")

In rare instances when ranges move upward by more than 10%, employees will either be placed at the bottom of the range or on the step closest to but not more than 10% of their current pay, whichever is higher. The step increase, if warranted, will then be granted.

- In non-salary survey years, all ranges will be increased by the Consumer Price Index (CPI-W for the Bay Area), using the annual average as of 12/31 of the previous year, provided that the increase is limited to 0% on the low end at 2.5% as a cap. Y-rated employees will not receive any CPI adjustments.
- All employees will be paid within ranges determined by the bi-annual salary survey and approved by the Council except for those that have been Y-rated as a result of the bi-annual salary survey.
- Lump sum merit bonuses of 2.5% annually will be limited to a number of employees according to the following conditions:
  - Bonuses are paid only to employees on the top step who reached the top step in the prior fiscal year or are Y-rated (i.e. no employee shall receive both a step increase and a merit bonus in the same year);
  - Bonus payments are limited to employees that receive evaluations of 3.0 or better;
  - No fringe benefit amount is paid or increased as a result of the bonus, other than Social Security/Medicare, as mandated by law.
- i. The City Council authorizes the City Manager to acknowledge regular employees for exceptional outcomes, boost employee morale, effective teamwork and encourage continued high level performance through discretionary pay for performance rewards as set forth in this section and as funded each year by the City. The City Council will determine each year



during its annual and mid-year budgeting processes whether funding will be made available for such rewards.

- The City Manager is hereby authorized to grant annual pay for performance rewards to individual employees, all employees within a work group, or to all employees in the entire organization. The rewards may be cash payments or other forms of recognition that are approved by the City and within its authority. Such rewards, if any, shall be granted in December of each year.
- No individual payments awarded may exceed \$10,000, and the total value of all rewards (if any) may not exceed the pooled amount equivalent of five percent (5%) of the budgeted amount for all annual salaries for that calendar year.
- To be eligible, an employee must be currently employed at the time rewards are granted, must have had an evaluation at or above 2.0 and no disciplinary actions (a written warning or greater) during the preceding 12 months.
- Whether any rewards will be awarded at all and the total pool (up to the cap above) shall be determined annually by the City Council. The actual amount of any individual payment and the recipients (if any) are entirely subject to the discretion of the City Manager.
- All monetary payments awarded under this procedure are subject to applicable payroll taxes and withholdings but are not included when calculating contributions to employees' 401(a) or fringe benefits accounts.

### 3.6 Compensation for Regular Part-Time Employees

Regular part-time employees shall be paid an hourly rate that is equivalent to a monthly salary rate for the classification to which they are assigned. They shall be eligible for annual salary adjustments based on performance during the preceding year as set forth in the annual evaluation.

### 3.7 Compensation for Temporary Employees

Temporary employees shall be paid an hourly rate established by the City Manager or his or her designee as appropriate for the work to be performed.

### 3.8 Compensation on Promotion

Employees promoted to a higher paid classification shall be placed on the new salary range at a rate that is 5% more than their current salary rate or at the bottom of the salary range, whichever is higher. However, in no event will employee be paid above the top of the range. If the 5% promotional increase puts the employee's salary above the top of the range, the salary will be placed at the top of the range.

### 3.9 Compensation on Demotion

A disciplinary demotion is the result of adverse action taken in response to unsatisfactory work performance or a behavior problem on the part of the employee. See section 6.4.

A non-disciplinary demotion may occur due to strategic personnel realignments.

An employee who is demoted to a position with a lower salary range shall be placed on the new lower range at a salary rate as follows:

- a. *If a non-disciplinary demotion* the step closest to but not lower than the rate the employee was paid prior to being demoted.
- b. *If a disciplinary demotion or a demotion requested by the employee, the salary is subject to the discretion of the City Manager as follows:*
  - 1) a salary step that is at least five percent (5%) less than the current rate the employee was paid prior to demotion or the top of the range of the new position, whichever is lower, or
  - 2) a salary that is the same as the current rate of pay, but frozen until the salary is within the range of the lower position.

### 3.10 Compensation on Reinstatement

An employee who resigned in good standing, within two years of such resignation and upon recommendation of the Department Head and approval of the City Manager, may be reinstated in a vacant position in the class in which he/she had previously served. Upon such reinstatement, the employee shall be placed at the same salary step that he/she previously received prior to the separation. If the reinstatement occurs less than twelve (12) months after the resignation, the employee will receive credit for prior years' tenure. Otherwise, the employee's new anniversary date shall be based upon the date of reinstatement.

### 3.11 Compensation for Overtime

Executive, administrative, and professional personnel employees, as defined by the Federal Fair Labor Standards Act (FLSA) and State law, shall not be eligible for overtime

pay. The FLSA and State law, to the extent it explicitly governs municipalities, shall govern the eligibility for overtime pay.

Overtime work must be approved in advance by the employee's manager.

Overtime work shall be paid at one and one-half (1-1/2) times an employee's base hourly rate-of-pay for all hours worked in excess of forty hours per week.

Overtime will not be included in calculations for contributions to employees' 401(a) and fringe benefit accounts.

All overtime worked in less than one-hour increments shall be compensated in the following manner:

<b><i>Overtime Minutes Worked</i></b>	<b><i>Overtime Compensation</i></b>
0 – 7	None
8 – 22	15 minutes
23 – 37	30 minutes
38 – 52	45 minutes
53 – 60	60 minutes

All overtime worked in increments over one hour shall be compensated as provided above.

In lieu of overtime compensation, an employee may request compensatory time off at one and one-half (1-1/2) times the employee's base rate of pay. Accumulated compensatory time may not exceed eighty (80) hours.

When employees go from a non-exempt to an exempt position, they must use their accrued compensatory time within ninety (90) days or it will be paid out in cash to the employee at the non-exempt rate of pay.

The City shall count all time actually worked during the week for the purpose of computing overtime and compensatory time off. Sick leave, vacation leave, and other leaves shall not be included in the calculation of the number of hours actually worked during the week.

### 3.12 Compensation for Court Time

An employee who is called or required to serve as a juror shall be entitled to be absent from his/her duties during the period of such service. The employee shall continue to earn his/her regular salary and all benefits for the duration of this leave, but the employee shall submit to the City any payment, except travel pay, received for such duty from the Court.

An employee who is subpoenaed or otherwise required to appear in Court on a matter regarding an event, transaction, or other City business that transpired in the normal course of his/her duties as a City employee, shall do so without loss of salary or benefits.

An employee who is subpoenaed or otherwise required to appear in Court on a matter unrelated to his/her duties as a City employee shall be permitted time off without pay, or if the employee so chooses, to use accrued vacation. The period of unpaid leave shall not exceed five (5) days.

### 3.13 Compensation for On-the-Job Injuries

An employee who is injured while on the job shall be paid his or her regular salary and benefits for the day of the injury. The employee may use accumulated sick, vacation, executive or compensatory leave to cover the waiting period until Workers Compensation benefits begin, and may use accumulated sick or vacation leave to cover the difference between Workers Compensation benefits and the amount the employee receives for regular pay and benefits.

### 3.14 Compensation for Working Out-of-Class

An employee who is assigned to perform a substantial part of the duties of the position in a higher salary range, as approved by the City Manager in writing, shall receive "Out-of-Class" pay for that specified period of time.

Out-of-class pay shall be equal to the minimum rate of pay of the temporarily assigned position, or 5% greater than the employee's current rate of pay, whichever is greater.

An employee shall receive out-of-class or acting pay when the employee is assigned to perform a substantial part of the duties of a position in a higher salary range for a period exceeding fifteen (15) or more working days, cumulative within each fiscal year.

The assignment must be approved by the City Manager. Out-of-class pay shall be effective on the sixteenth (16) day of the assignment and during the remaining term on the assignment.

If the employee is a temporary, provisional, or probationary employee, the City Manager shall approve of any change to the employee's duties, in writing, prior to the employee performing such duties. Under no circumstances shall the performance of

such duties be deemed to be “out-of-class” duties nor give rise to a change in employment status of the employee.

3.15 Pay Reduction for Periods Not Worked

A non-salaried employee who is absent from his/her job site during his/her shift for reasons such as tardiness, early departure without leave, or other leave without authorization shall not be paid for the period of non-attendance. The employee's pay will be docked in units of six minutes.

3.16 Banking Hours for Part-Time Regular Employees

All part-time regular employees may choose to bank hours worked in excess of the number of hours per week for which they are budgeted. Banking shall occur on a one-to-one basis such that one excess hour worked shall be equivalent to one hour banked. The employee may choose to be paid or, upon agreement with the employee's supervisor, use the banked hours to take time off. In the event that the employee works in excess of 40 hours in any week, the time worked in excess of 40 hours shall not be banked but shall constitute overtime with compensation paid in accordance with Section 3.11.



## 4. RECRUITMENT, SELECTION AND APPOINTMENT

---

### 4.1 Fair Employment Practices

The City of Lafayette does not discriminate on the basis of race, sex, color, religion, national origin, age, handicap, sexual orientation, or veteran status in provision of employment opportunities and benefits. The City does not discriminate in the programs and activities which it operates, pursuant to the requirements of Title VI of the Civil Rights Act of 1964, Pub. L. 88-352; Pub. L. 92-318; and Section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112; the Americans with Disabilities Act of 1990, Pub. L. 101-336, and the Age Discrimination in Employment Act of 1967, Pub. L. 90-202, respectively. Inquiries concerning Section 504, the Americans With Disabilities Act, or the Age Discrimination in Employment Act should be directed to the City Manager, City of Lafayette, 3675 Mt. Diablo Blvd. #210, Lafayette, CA 94549; (925) 284-1968. Charges of violation of the above policy should also be directed to the City Manager.

### 4.2 Job Announcements

Whenever it is decided to fill a vacant position or create a new position, the job announcement shall be made to all current employees, including temporary, contract, intern, or seasonal employees and to any qualified employees on the reemployment list established pursuant to Section 6.9. The announcement shall be made via the City's e-mail, in addition to being displayed at each location in a spot designated as a "jobs board".

If an outside recruitment will be undertaken, the announcement shall be posted in a conspicuous place in the City offices and otherwise publicized by advertisement and/or mailing of announcements or by such other methods as the City Manager or his/her designee deems necessary to insure that all reasonable segments of the labor market available to the City are contacted.

### 4.3 Applications

#### 4.3.1 *Application Process*

- a. When a current employee or a displaced employee who is on a reemployment list applies for a vacant position, supervisory personnel shall consider such employees.
- b. Applications for employment with the City of Lafayette are required and shall be made on forms provided by the City.
- c. Applications must be signed by the applicant and received by the City within the prescribed filing period.
- d. If, for any given recruitment, a large number of applicants possess the minimum qualifications required for the position as stated in the position

description, the City Manager or his or her designee may invite a limited pool of applicants to participate in the employment examination at his/her discretion.

#### *4.3.2 Disqualification of Applications*

The City Manager or his or her designee may reject an application, or after examination, may disqualify or remove the applicant's name from an eligible list, if the applicant:

- a. Has made false statements or any material fact or practiced any deception or fraud on the application. Any false statement or willful omission of information on the application form may also be grounds for subsequent discharge of the employee.
- b. Is found to lack any of the requirements, certifications, or minimum qualifications for the position involved.
- c. Is physically or mentally unable to perform the essential functions of the job and the City cannot provide reasonable accommodation.
- d. Is a current user of illegal drugs.
- e. Has been convicted of a crime, either a misdemeanor or felony that relates to the position duties that the applicant would perform.
- f. Used or attempted to use political pressure or bribery to secure an advantage in the examination or appointment.
- g. Failed to submit the employment application correctly or within the prescribed time limits.
- h. Has had his or her driver's license revoked or suspended if driving is job related.
- i. For any material cause which in the judgment of the City Manager or his or her designee would render the applicant unsuitable for the position, including a prior resignation from the City, termination from the City or a significant disciplinary action.

#### *4.3.3 Appeal of Disqualification of Applications*

If the application is rejected, the applicant can appeal rejection to the City Manager or his or her designee within 5 working days of notice. The City Manager, or his or her designee, shall review the appeal and affirm the rejection or reinstate the applicant. The City Manager or designee's decision is final.



#### 4.4 Examinations

##### 4.4.1 *Types of Examination*

Examinations for employment as regular employees shall be competitive and shall include any technique, which, in the opinion of the City Manager or his designee, fairly measures the job-related qualifications of applicants. These may include written tests, interviews, performance and agility tests, medical examinations, and background investigations. Examinations may be open or promotional, at the discretion of the City Manager. Open examinations will be open to anyone who wishes to apply, whereas promotional examinations will be limited to current regular full- or part-time employees. The probationary period shall be considered as an extension of the examination process.

##### 4.4.2 *Administration of Examinations*

The City Manager, or his or her designee, 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 Section 4.1.

#### 4.5 Eligibility Lists

Following a competitive examination, an eligibility list shall be established listing the names of those top applicants who are deemed qualified for appointment, pending review of references, medical examinations, and background investigations.

Eligibility lists shall remain in effect for a period of six months. An eligibility list may be extended beyond six months up to a maximum duration of two years, at the discretion of the City Manager.

If less than five names of applicants, willing and able to accept appointment are available on a list, the list may be declared invalid by the City Manager, or his or her designee, 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.

#### 4.6 Notification of Applicants

Those applicants who are summoned for interviews shall be notified of the results of their job applications with the City. An applicant may review the materials related to testing according to California Labor Code section 432, which allows an employee to obtain a copy of any document he or she signed in the course of obtaining or holding employment. The City is not compelled to provide copies of tests or review materials

that are not signed. Examination results are confidential and not subject to an employee's right to inspect. Examination results will not be included in employee files.

#### 4.7 Filling Vacancies

All vacancies in the classified service shall be filled from names of persons on the various eligibility lists or by a transfer. In the absence of an appropriate eligibility list or a qualified transfer, a provisional appointment may be made in accordance with Section 4.11.

#### 4.8 Selection

When there is a vacancy, the supervisory personnel shall notify the City Manager. The City Manager may fill the vacancy by transfer.

If the City Manager does not consider it in the City's best interest to fill the vacancy by transfer, the City Manager, or his or her designee shall certify the names of qualified candidates for review by supervisory personnel.

The supervisory personnel shall review the job-related qualifications of those certified, conduct interviews of the candidates and recommend appointment. Whenever there are fewer than five names of qualified candidates willing to accept appointment, the supervisory personnel may request the City Manager, or his or her designee, to establish a new eligibility list. The City Manager may accept or reject this request at his/her discretion.

The City Manager, or his or her designee, 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 case shall names be certified from a list for a lower classification to fill a vacancy in a higher classification.

#### 4.9 Appointment

After interviewing candidates and investigating references, the supervisory personnel shall recommend to the City Manager an appointment from among those certified. The City Manager shall approve all appointments. The City Manager, or his or her designee, must sign letters confirming appointment.

The person accepting appointment shall report to the City Manager, or his or her designee, on the first day of actual work for processing of employment documents. All appointments shall be contingent upon passage of an appropriate physical examination. Appointees may be subject to a background investigation at the City Manager's discretion.

#### 4.10 Physical Requirements

The City requires that all applicants and employees be in such physical and mental condition as to be able to perform the essential duties of their jobs and may require

periodic physical and psychological evaluations at City expense to establish this fact. No person shall hold a position when he or she cannot, with reasonable accommodation, perform all the essential duties of the job.

The City's policy is to make reasonable accommodations and modifications in accordance with state and federal laws to place physically disabled employees in positions in which the disability will allow them to perform adequately without jeopardizing the safety of fellow employees or the public.

#### 4.11 Provisional Appointments

In the absence of an appropriate eligibility list, a provisional appointment may be made for a period not exceeding twelve months of an individual who meets the minimum education, 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 for the good of the City service by the City Manager. 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. If a provisional appointee is later selected for a regular position with the City, the time served as a provisional appointee shall be counted as time toward the fulfillment of the required probationary period.



## 5. EMPLOYEE EVALUATION AND TRAINING

---

### 5.1 Probationary Period

The first 12 months after an employee has been hired or promoted shall be a probationary period during which the employee will be considered in training. This period is an extension of the examination process during which the employee's performance shall be carefully observed. Probationary employees may be terminated at any time without cause and 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 City Manager.

#### 5.1.1 *Probationary Evaluations*

Thirty days prior to the end of the probationary period, the employee's performance shall be formally evaluated. If advancement to regular status is warranted, the supervisory personnel shall so state in the employee's evaluation report to the City Manager. The employee shall then be advanced to regular status.

If advancement to regular status is not warranted, the supervisory personnel shall so state in a performance evaluation report and the employee shall be released from probation on or before the day prior to the anniversary date of hire. In the event that the employee had attained permanent status in a lower position and was promoted to a position in the same division but was not able to successfully complete the probationary period for the promoted position, the employee shall be returned to the lower position for which he/she attained permanent status if the position still exists.

If the time period for performing the evaluation cannot be met, for whatever reason, the employee shall be evaluated as promptly as possible and the probationary period shall be extended to allow for a 30 days' notice to the employee concerning the status of his or her probation. The employee shall not be considered a permanent employee during the extension of the time period.

At the City Manager's discretion, probationary evaluations given sufficiently close to the regular review periods (i.e., May, November) may serve in lieu of the regular evaluation for salary adjustment and other purposes.

#### 5.1.2 *Extending the Probationary Period*

Probationary periods may be extended upon recommendation of the supervisory personnel and approval of the City Manager. Such extension shall be one time only, and for no longer than six months.

Periods of time on paid or unpaid leave exceeding five (5) days, consecutive or not, shall automatically extend the probationary period by the number of days the employee is on leave.

## 5.2 Employee Performance Evaluation

It is the policy of the City of Lafayette that regular employee evaluations are made as to the efficiency, competency, and merit of its employees. The performance evaluation may serve as documentation should the employee be subject to disciplinary action, up to and including termination.

### 5.2.1 *Procedures and Forms*

The City Manager shall establish and provide forms and procedures to be used for employee evaluations and shall assist in the training of supervisory personnel so that the program of performance evaluation will be carried out in a sound and effective manner. Periodically, the City of Lafayette management and supervisory team, in conjunction with the Association of Lafayette Employees and its general membership will review the evaluation form and process and assess any proposed changes.

### 5.2.2 *Schedule*

Evaluations for all employees shall be prepared in June and December and shall be the basis for establishing the salary rate for each employee. See Appendix A for the Employee Performance Evaluation Form.

### 5.2.3 *Authority to Make Performance Evaluations*

Supervisory personnel shall have the authority to make performance evaluations. However, this task may be delegated to subordinate supervisors who are most familiar with the work of the employee to be evaluated. The supervisory personnel shall review and approve, disapprove, or modify all performance evaluations prepared by subordinate personnel.

### 5.2.4 *Review with Employee*

It is acknowledged that one of the prime benefits of a good performance rating system is that it can bring together the employee and his or 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 or her work performance, either orally or in a written statement attached to the performance evaluation.

Following the evaluation conference, the employee will sign the performance evaluation form to acknowledge that he or she is aware of its contents and has discussed the performance evaluation with the evaluator. The employee's signature does not necessarily mean concurrence with the evaluation but only that the employee has reviewed and discussed the contents of the performance evaluation.

#### *5.2.5 Appeal of Performance Evaluations*

Employees may appeal their performance evaluations to the City Manager. Appeals must be made within 30 days of the evaluation being given. The City Manager's decision regarding the appeal is final.

#### *5.2.6 Distribution of Performance Evaluations*

The completed evaluation form shall be signed by the City Manager and filed in the employee's personnel file. The City Manager shall provide each employee with a copy of the completed evaluation.

#### *5.2.7 Evaluations for Non-Regular Employees*

Evaluations may be made for temporary, term, or provisional employees by the employee's supervisor for the purpose of advising the employee of the efficiency and competency of their services. If an evaluation is made, it shall not be deemed to grant the employee status, rights, or any other benefits of a regular employee.

### 5.3 Reevaluations

When an employee receives an overall merit rating of less than one (1) on the performance evaluation form, or otherwise at the recommendation of the employee's immediate supervisor to supervisory personnel, the employee shall be reevaluated within three months to document performance. If the employee's performance has improved to such an extent that the supervisory personnel believes it is justified, the improvement shall be indicated on the evaluation. If the employee's performance is unchanged or worse, it shall be so noted. An employee that is reevaluated shall not receive an adjustment to any merit increase until the next June performance evaluation.

### 5.4 Employee Training Program and Policy

It is the policy of the City of Lafayette to develop maximum performance and efficiency in its employees by providing training of all employees in the performance of their official duties and by assisting City employees in becoming well informed citizens of the community.

With the assistance of supervisory personnel, the City Manager will prepare an annual training program and budget. The City Council shall review the training program as a

part of the budget review process and approve funds to meet the training needs of the City.



## 6. RESIGNATION, REINSTATEMENT, RE-EMPLOYMENT, TRANSFER, DEMOTION, SUSPENSION, DISCHARGE, ADMINISTRATIVE LEAVE, REDUCTIONS-IN-FORCE, AND DISCIPLINARY ACTIONS

---

### 6.1 Resignation

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. The resignation should be submitted at least two weeks prior to the employee's last day on the job. Once the resignation is submitted, it may only be withdrawn with the approval of the City Manager.

### 6.2 Reinstatement and Re-employment

#### 6.2.1 *Reinstatement*

A regular employee may be reinstated within twenty-four (24) months after resignation in good standing to a vacant position in the same classification upon recommendation from the department head and approval from the City Manager. A request for reinstatement must be made in writing to the City Manager. If the reinstatement occurs within twelve (12) months after the resignation, the employee will receive credit for prior years' tenure. Otherwise, the employee's new anniversary date shall be based upon the date of reinstatement. A reinstated employee will begin a new probationary period.

#### 6.2.2 *Re-employment*

Employees who come back to work for the City in any classification within twelve (12) months after their resignation will receive credit for prior years' tenure. A re-employed employee will begin a new probationary period.

### 6.3 Transfer

The City Manager may transfer an employee at any time from one position to another position of a comparable class. For transfer purposes, a comparable class is one that involves the performance of similar duties, and requires substantially the same minimum qualifications.

### 6.4 Demotion

The City Manager may demote an employee whose ability to perform his or her required duties falls below the standards required for the position the employee holds. No employee shall be demoted to a position for which the employee does not possess the minimum qualifications.

Pre-disciplinary procedures shall be complied with prior to the demotion of any employee for disciplinary purposes.

6.5 Administrative Leave

At any time, the City Manager has the discretion to immediately place an employee on Administrative Leave for an indefinite period of time with full pay.

6.6 Suspension

The City Manager may take disciplinary action by suspending an employee without pay (note: exempt employees shall not be subject to disciplinary pay docking for less than one week increments, except for violations of major safety rules). Pre-disciplinary procedures shall be complied with prior to the suspension of any employee for disciplinary purposes.

6.7 Discharge

The City Manager may initiate pre-disciplinary procedures to discharge an employee for cause at any time.

6.8 Grounds for Disciplinary Action

Disciplinary action may be taken for any just cause. Cause for disciplinary action shall include, but shall not be limited to, any of the following:

- a) Fraud of any kind; or misstatement or untruths or omissions of any material fact in the application process or in securing appointment or promotion; or falsification or untruths concerning records, fellow employees, or work performed.
- b) Incompetence, inefficiency or carelessness in the performance of required duties; Less than satisfactory performance.
- c) Neglect of or inattention to job duties, including the conduct of personal affairs during working hours.
- d) Insubordination, willful disobedience, or failure to obey any proper direction made and given by a superior officer or supervisor.
- e) Misconduct - willful or wanton disregard of the interests of the City, or deliberate violation or disregard of behavioral norms/expectations
- f) Conduct unbecoming an employee of the City.
- g) Any acts or omissions, which are either incompatible with or unfavorable to the public service, or which tend to bring reproach or discredit to the City.

- h) Discourteous or non-cooperative treatment of the public, City elected officials, employees, or volunteers; offensive or obscene language in public, or towards the public, City elected officials, or employees.
- i) Dishonesty or immorality on the job.
- j) Endangering self or others, or failure to follow adopted safety practices, or failure to properly use required personal protective gear or equipment.
- k) Reporting for duty or being on duty under the influence of any intoxicant or absencing oneself from duty or rendering oneself unfit to perform fully one's duties for reasons attributable to or produced by intoxicants; failure to notify a supervisor, in writing, when the employee is taking prescription medication that can impair judgment or performance.
- l) Failure to report to work as scheduled or failure to notify supervisor, in accordance with department standards, of one's inability to report to work;
- m) Abuse of sick leave privileges.
- n) Failure to immediately report a vehicle accident.
- o) Intimidation or interference with the rights of any employee; fighting, assault and/or battery on the public, City elected officials, employees or volunteers.
- p) Failure to maintain the necessary license or certification required by the class specification.
- q) Sleeping on the job.
- r) Conviction of a crime, the nature of which has a direct bearing on continued employment.
- s) Unauthorized leave of absence; failure to report to work after an authorized leave of absence has expired or after a requested leave of absence has been disapproved, revoked or canceled; or any other unauthorized absence from work.
- t) Misuse or misappropriation of City property or funds; carelessness or negligence with the monies or other property of the City; appropriating to the employee's own use any property of the City, or loaning, selling or giving away such property without legal authorization.
- u) Theft or sabotage of City property or funds.
- v) Using or attempting to use political influence in attempting to secure promotion, leave of absence, transfer, change of rate of pay or character of work.
- w) Violation of any federal, state, regional, or local laws.

- x) Inducing or attempting to induce a City employee to commit an unlawful act in violation of any lawful department or official regulation or order.
- y) Taking for personal use, from any person, a fee, gift or other valuable thing in connection with official work when such fee, gift or other valuable thing is given in the expectation of receiving favored treatment.
- z) Violation of or failure to abide by any condition of employment stipulated in the Municipal Code, Personnel Rules, any City Policies and Procedures, collective bargaining agreement (if any), administrative memorandum, or lawful official regulation or order of the City.
- aa) Failure to cooperate in an official inquiry or investigation into an alleged violation of these Personnel Rules.
- bb) Working overtime without supervisory authorization.
- cc) Engaging in outside employment without supervisory authorization.
- dd) Bringing a gun or any other dangerous weapon onto City property, unless such item is specifically required as part of the employee's job duties.
- ee) Unauthorized removal of City records or property;
- ff) Unauthorized soliciting;
- gg) Unauthorized posting;
- hh) Unauthorized or inappropriate use of City phones, computers, internet facilities or equipment;
- ii) Unauthorized departure from job;
- jj) Personal appearance that is detrimental to the City's reputation or business

## 6.9 Reductions-In-Force

For reasons of economy or efficiency, reductions or curtailments of City services may be required. In such an event, it may be necessary to relieve one or more City employees of their employment. The City Manager shall make reasonable efforts to give primary consideration to job performance and seniority within each job classification whenever reductions-in-force are necessary.

Employees shall be given at least 30 days notice of any proposed reduction in force.

The City's decision to reduce its workforce is not subject to the employee's right of appeal or grievance.

#### 6.10 Severance Pay for Reductions-In-Force

A regular employee of the City who has been employed for a minimum of two years and has been relieved of his/her position will be eligible for severance pay as follows:

- a. *If eligible for overtime pay, ten days severance pay at the current rate of pay;*
- b. *If not eligible for overtime pay, twenty days severance pay at the current rate of pay.*

#### 6.11 Re-Employment Lists

The names of all regular employees who have been relieved of their employment shall be placed on a re-employment list for two years.

Whenever a vacancy occurs in a class of positions from which employees were displaced, the qualifying employees on the re-employment list shall be notified of the vacancy prior to announcing the recruitment, and shall be offered the opportunity to apply for the position.

In such an event, the supervisory personnel shall consider the name(s) on the re-employment list prior to considering other candidates. The supervisory personnel shall recommend the name of any person on the re-employment list to be appointed. The City retains the right not to appoint former employees.

#### 6.12 On-the-Job Disability

##### *6.12.1 Placement After On-the-Job Disability*

The City will make a reasonable and interactive attempt in accordance with state and federal laws to keep an employee who has experienced an on-the-job and disabling injury while working for the City in their current position. If that is not possible, the City may place the employee into a vacant position for which the employee is qualified.

The City Manager shall approve all such appointments.

##### *6.12.2 Wage and Benefit Discontinuance After On-The-Job Disability*

An employee who has experienced an on-the-job disability injury while working for the City is entitled to exhaust all accrued vacation and sick leave and to continue to receive benefits during this period.

After accrued vacation and sick leave are exhausted, the City shall cease all wage and benefit payments to the disabled employee as allowed by State and Federal laws.

### 6.12.3 *Discharge After On-the-Job Disability*

If an employee experiences an on-the-job injury while working for the City and no vacant position for which the employee is qualified is available, the employee may be discharged after the treating physician's finding of "permanent and stationary" is issued. In such cases, the employee shall be given a notice of discharge with the right of review of the discharge by the City Manager and the right to appeal to the personnel subcommittee.

If the employee is an individual who falls within the definition of disabled for purposes of the Americans with Disability Act, the City shall investigate whether there are any reasonable accommodations that can be made to enable the employee to perform the essential functions of any vacant position for which the employee is qualified. If no reasonable accommodation can be made, or if the employee rejects an offer of a position, the employee shall be given a notice of discharge with the right of review of the discharge by the City Manager and the right to appeal to the personnel subcommittee.

### 6.13 Exit Interviews

Upon termination of employment, all employees shall be requested to submit a confidential exit interview questionnaire to the City Manager, or his or her designee, evaluating various aspects of City administration. Exit interviews will be conducted with regular full- or part-time employees who are involuntarily terminated or those who choose to resign. Employees may request an oral exit interview. The data will be collected and summarized to help the City Manager improve the organization. Completed forms will not be distributed beyond the City Manager's office, and will not be placed in the employee's personnel file.

Upon termination, employees will also be required to return all City-owned property to the City, such as keys, tools, office equipment, clothing, etc.

## **7. PRE-DISCIPLINARY PROCEDURES AND PROGRESSIVE DISCIPLINE**

---

### **7.1 Policy**

The City subscribes to the principles of progressive discipline and shall make reasonable efforts to provide progressive sequences of disciplinary actions where appropriate. However, it is within the City Manager's discretion to proceed directly to written notice of intent to impose disciplinary action (Skelly) up to and including termination.

Prior to suspension, demotion, pay reduction, or discharge for disciplinary purposes of any regular employee pursuant to provisions of these Rules, the employee shall have the opportunity to review and respond to the written notice of the proposed disciplinary action.

### **7.2 Sequence of Progressive Discipline**

A typical progressive sequence of disciplinary action used by the City is:

- a) Counseling - An informal discussion between the supervisor and the employee to clarify standards, evaluate strengths and weaknesses, or assist in clarifying and remedying a performance or behavior problem.
- b) Oral Reprimand - A verbal warning that specified performance or behavior must be improved.
- c) Written Reprimand - Written notice that further disciplinary action shall be taken unless specified performance or certain behavior improves.
- d) Suspension - The temporary removal of an employee from duty without pay in accordance with California and FLSA regulations. (Note: FLSA exempt employees shall not be subject to disciplinary pay docking for less than one week increments, except for violations of major safety rules.)
- e) Reduction in Pay - The temporary reduction in pay of an employee's rate of pay.
- f) Demotion - The removal of an employee from a presently assigned classification to a lower paying classification. (Note: This definition does not apply to assignment changes, reorganizations, or reductions in force [bumping] even where a pay differential is involved.)
- g) Termination - The permanent removal of an employee from City service.

### **7.3 Authority of Disciplinary Action**

Supervisors have authority to take disciplinary action. The Administrative Services Director shall be notified of any proposed or pending disciplinary action, beyond a

written reprimand. The decision of the City Manager or designee shall be final and not subject to review by or appeal to the City Council.

#### 7.4 Procedures for Written Reprimand

Employees may request a review by the Department Head regarding a written reprimand by submitting a written request within ten (10) days from the date of the written reprimand. The Department Head shall review the employee's submission, may meet with the employee within ten (10) days of the filing of the request and shall issue written findings within ten (10) days of the review/meeting. The employee shall be entitled to representation, but is not entitled to an evidentiary hearing or to present witnesses.

In the event the written reprimand was issued by the Department Head, the employee may request a review by the Administrative Services Director, per the procedure outlined above. When the reprimand is issued to a Department Head, the Department Head may request review by the City Attorney.

#### 7.5 Notice of Intended Discipline

Prior to receiving any suspension, reduction in step, involuntary demotion or termination, the employee shall receive written notice of the proposed disciplinary action containing the following:

- a. The proposed disciplinary action;
- b. The grounds on which the proposed discipline is based;
- c. A summary of the reasons for the proposed action;
- d. The documents, or access to the documents, upon which the proposed action is based;
- e. Notice to the employee of the right to respond to charges orally and/or in writing within seven (7) days from the service of the notice.

An employee who desires to respond orally may do so by appearing at the time and place agreed upon by the employee and the Department Head. The employee is entitled to representation, but is not entitled to an evidentiary hearing or to present witnesses. If the employee demonstrates good cause why he/she cannot respond within seven (7) days, the City Manager or his/her designee may grant a continuance.

#### 7.6 Notice of Discipline

No disciplinary action against an employee, excluding probationary and other at will employees, shall be imposed unless such action is recommended by the City in a written notice of disciplinary action. This notice shall be served on the employee and filed with



the Administrative Services Director no later than seven (7) days after the date of such action. The notice shall include:

- a. A statement of the disciplinary action;
- b. The effective date of the action;
- c. The grounds on which the discipline is based;
- d. A summary of the reasons for the proposed action;
- e. The documents, or access to the documents, upon which the proposed action is based;
- f. A statement addressing the responses to the charges by the employee or designated representative, if any;
- g. Notice to the employee of the right to appeal.

#### 7.7 Appeal of Disciplinary Action

A regular employee may appeal a disciplinary action to an administrative hearing before the City Manager by filing a written request with the City Manager within five (5) working days of the imposition of the disciplinary action.

An employee who reports directly to the City Manager may appeal a disciplinary action to an administrative hearing before the personnel subcommittee of the Lafayette City Council by filing a written request with the City Manager within five (5) working days of the imposition of the disciplinary action.

Failure by the employee to initiate the appeal within the prescribed time limits shall waive the right of the employee and the employee's representative from appealing the discipline.

##### 7.7.1 *Burden of Proof*

The burden of proof is placed on the appealing party and is defined as a preponderance of the evidence.

##### 7.7.2 *Due Process*

The appealing party has the right to:

- a. Be represented by legal counsel or another chosen representative;
- b. Call and examine witnesses on one's behalf;
- c. Introduce evidence;

- d. Cross-examine opposing witnesses on any matter relevant to the issues;
- e. Impeach any witness regardless of which party first called him or her to testify;
- f. Rebut evidence against him or her.

7.8 Access to Personnel Files

Employees shall have the right to view their personnel files upon request. Employees shall be provided with a copy of or the opportunity to review documents which are placed in their files prior to or concurrent with placement.

7.9 Purging of Personnel Files

Upon written request by employee, records of discipline shall be removed from an employee's file no sooner than five years after the date indicated on the notice of discipline and provided that there has been no recurrence of the misconduct upon which the original discipline was based.

## 8. GRIEVANCE PROCEDURE

---

### 8.1 Matter Subject to Grievance Procedure

A grievance shall be a claim, filed by an employee on his or her behalf, contending that the City has violated or misapplied an obligation expressed and written in the Personnel Rules and Regulations or applicable labor agreements. Disciplinary actions as defined in Section 7.2 are not subject to the grievance procedure.

#### 8.1.1 *Definition of Grievant*

A grievant is an employee, or group of employees adversely affected by an act or omission of the employer.

#### 8.1.2 *Grievance Procedure Exclusions*

The grievance procedure is not intended to be used for the following:

- a. *Resolve complaints, requests or changes in wages, hours and working conditions.*  
Disputes of this nature can be handled via a “meet-and-confer” process where the employee and an Association representative meet with management in order to resolve the issue. In most cases, changes in wages are spelled out in the Personnel Rules, so changes that occur outside those specific rules may be addressed according the grievance procedure.
- b. *Challenge the content of employee evaluations or performance reviews.*  
The right to evaluate employees on their performance is a management right. If an employee disagrees with his/her performance evaluation, they have the right to appeal it to the City Manager (Section 5.2.5) and to file a response to the performance evaluation in their personnel file
- c. *Challenge a reclassification, reduction-in-force, transfer, denial of reinstatement, denial of merit increase, or release from probation.*  
The ability to reclassify, layoff, transfer, reinstate and release employees from probation are all management rights and subject to the discretion of management as stated in the Personnel Rules. As long as these actions occur within the stated rules, they are not subject to the grievance procedure. The rules for each of these actions are stated in the following sections:

Section 2.5 – Reclassification of Positions

Section 5.1 – Probationary Period

Section 6.2 – Reinstatement and Re-employment

Section 6.3 – Transfer

Section 6.9 – Reductions in Force

Merit increases are directly related to performance evaluations as spelled out under the rules of the MOU, therefore, merit increases that fall within the guidelines are not are not subject to the grievance procedure. Challenges of the performance evaluation itself may be handled as stated in section b above.

- d. *Challenge written reprimands, demotions, suspensions or terminations as they are specified in Section 7.*

Disciplinary procedures are defined in the rules of Section 7, and they specifically include a process by which employees can appeal the process. This process supersedes the grievance process. Disciplinary actions taken that do not fall within the rules of Section 7 may be addressed through the grievance procedure.

- e. *Challenge violation of law or past practices.*

Violations of most laws are covered in the Personnel Rules, therefore violation of those laws (e.g. Sexual Harassment or Discrimination) also violate the Personnel Rules in which case they may be addressed through the grievance procedure. Other violations of law not specifically covered in the Personnel Rules can be handled through normal legal channels. Although past practices are often assumed to be the “unwritten rules” of the organization, they are not subject to the grievance process unless they specifically violate a written Personnel Rule. Disputes involving past practices should be resolved via “meet-and-confer” process where the employee and an Association representative meet with management in order to resolve the issue.

- f. *Challenge examinations or appointment to positions.*

The rules for administering examinations and making appointments are specified in Section 4. Some of these rules allow for the discretion of management, therefore as long as discretionary actions are taken in compliance with the stated rules they are not subject to the grievance procedure.

## 8.2 Informal Grievance Procedure

Every effort shall be made to resolve a grievance through discussion between the employee and his or her immediate supervisor. If, after such discussion, the employee does not feel that the grievance has been satisfactorily resolved, he or she shall have the right to utilize the formal grievance procedures set forth in Section 8.3.

Employees who wish to bring informal grievances to his or her supervisor's attention must do so within five (5) working days after the occurrence of the grievance-causing events, or within five (5) working days after the employee could be reasonably expected to be aware of them.

### 8.3 Formal Grievance

If the employee is not in agreement with the decision rendered under the informal grievance procedure, the employee shall have the right to present a formal grievance, in writing, to the employee's immediate supervisor with a copy to the City Manager.

#### 8.3.1 *Formal Grievance Procedure*

The grievance must be signed and dated by the employee submitting the grievance and include sufficient specific information such that the City Manager or his or her designee can investigate and respond appropriately.

The grievance must be submitted within ten (10) working days from (a) the date of receiving the informal decision, or, (b) the event causing the grievance.

Supervisory personnel receiving a formal grievance shall review it, render a decision in writing, and return it to the employee within ten (10) working days after receiving the formal grievance.

#### 8.3.2 *Formal Grievance Appeal*

If the grievance is not resolved under the formal grievance procedure, the employee may present an appeal in writing to the City Manager with ten (10) working days. Upon receipt of an appeal of a formal grievance, the City Manager shall discuss the grievance with the employee and the employee's representative, if any. Within fifteen (15) working days, the City Manager shall render a formal decision in writing to the employee. Such a decision shall be considered as final.

If an appeal to the City Manager to a formal grievance has not been submitted within ten (10) working days from the date of receiving the formal decision, the formal decision shall be considered as final.

#### 8.3.3 *Grievance Against City Manager*

If a grievance is against the City Manager, the employee need not follow the informal grievance procedure but instead shall file a formal grievance, in writing, to the City Attorney within ten (10) working days after the occurrence of the grievance-causing events, or within ten (10) working days after the employee could be reasonably expected to be aware of them. In the event that an employee has a grievance against both the City Manager and the City Attorney, the employee may submit the grievance directly to the City Council. The time frames set out in this Section as to the time for review, rendering a written decision, and presenting an appeal shall apply.

#### *8.3.4 Appeal of Grievance Against City Manager*

The decision of the City Attorney may be appealed to the City Council. The City Attorney shall set up a closed session meeting of the City Council for hearing the appeal. The grievant and an employee representative are permitted to attend the referenced "closed session". The decision of the City Council shall be considered as final. The City Council may appoint a fact finding committee to review and render advice on a grievance by any employee who reports directly to the City Manager. The City Council shall respond to the employee in writing within fifteen (15) regular working days. Such response shall be considered as final.

#### 8.4 Representation

Employee shall, after noticing the City Manager, have the right to representation at formal and informal grievances.

## **9. 9. ATTENDANCE, LEAVE, AND BENEFITS**

---

### **9.1 Application**

The following rules governing attendance, leave, and benefits shall apply to all regular full time, regular part-time, provisional, and probationary personnel, unless otherwise specified.

Table of Employee Leave is included in the Personnel Rules Appendix delineating requirements and details of various types of leave.

Part-time employees shall receive pro-rated benefits based on scheduled hours, as a percentage of the full time schedule. An employee whose hours exceeds his/her regular work schedule by twenty percent (20%) or more in the course of one calendar month and who continues to work the increased work schedule thereafter, shall have his/her benefits adjusted accordingly.

### **9.2 Attendance**

All employees shall be in attendance at their work in accordance with the rules regulating hours, holidays, and leave.

An employee, who is absent without notification or authorization for three (3) or more consecutive days, is considered to have resigned his/her position and will be terminated.

Except in extraordinary circumstances, an employee who is unable to report for work at the beginning of his or her shift shall make his or her best effort to notify his or her supervisor no later than one hour after commencement of such shift. Failure to provide such notification may result in the absence being considered leave without pay. An employee who is absent without notification may be subject to disciplinary action, up to and including termination.

### **9.3 Hours**

The City's regular hours of operation shall be forty (40) hours a week, Monday through Friday, from 8:00 a.m. to 5:00 p.m. The regular workweek shall be forty (40) hours. The workweek shall begin at 12:01 a.m. on Sunday and end at Midnight on Saturday. The City offices shall be open for business from 8:00 a.m. until 5:00 p.m., except for Saturday, Sunday, holidays listed in Section 9.14 and other office closings authorized by the City Manager.

With the approval of the supervisor, and when it can be accommodated in the workday for the City's convenience, an employee may adjust his/her regular schedule so as to minimize the necessary use of paid leave for personal reasons.

Upon recommendation of the supervisory personnel and approval of the City Manager, an employee's work schedule may be adjusted to provide for flexible or reduced work hours. Pay and benefits shall be adjusted accordingly.

The work schedules for part-time and temporary employees shall be set by the supervisory personnel with the approval of the City Manager to meet the needs and practices of the department.

#### 9.4 Attendance Records

Each employee shall prepare attendance records for approval by his/her supervisor. Said records shall be reported to the accounting office for each pay period.

#### 9.5 Determining Hourly Rates

The hourly pay rate for each full-time position shall be determined by multiplying the monthly pay for that position by 12, dividing the product by 2,080 hours, and rounded to the nearest one cent.

#### 9.6 Pay Periods for Employees

Employees will be paid on a biweekly basis, with pay periods ending at midnight on every other Saturday.

An employee who works less than a full pay period shall be paid according to the following guidelines:

- ◆ For the initial pay period or the final pay period of employment, a salaried employee shall be compensated for the time actually worked in the initial or final pay period at the hourly equivalent of said employee's pay rate.
- ◆ "Time actually worked" shall include vacation, holiday and sick leave time that comes after the first day of actual work for a beginning employee and precedes the last day of employment for a terminating employee.
- ◆ "Initial pay period" or "final pay period" shall mean that pay period in which an employee is first or last employed in a position with the City.

#### 9.7 Pay Day

Pay day for all City employees shall be every other week. At its convenience, the payroll office may issue paychecks earlier than, but not later than, Friday of the week following the end of the pay period.

#### 9.8 Meal Breaks

Each employee shall receive a daily meal break of at least one-half hour scheduled closely to the middle of the shift when possible. Meal breaks are non-paid status.



## 9.9 Rest Breaks

Upon the discretion of the supervisor and as work permits, each employee may be granted one, fifteen-minute (15) paid rest break for each four (4) or more consecutive hours of work. Rest breaks, when granted will be scheduled as closely to the middle of the work schedule as the work permits in the judgment of the supervisor. Rest breaks will not be taken at the beginning or end of a work shift. Rest breaks shall not be cumulative.

No employee shall work continuously for more than sixteen (16) hours without approval from the City Manager.

## 9.10 Leave of Absence Without Pay

Upon the request of the employee and the recommendation of the department head, a leave of absence without pay, medical, LTD, or other benefits, or vacation or sick leave accrual may be granted by the City Manager. An employee shall not be entitled to a leave of absence as a matter of right, but only upon good and sufficient reason and at the discretion of the City Manager.

This policy shall not limit or prevent granting a leave of absence without pay for an indefinite period of time to an employee who is injured on the job, or has a serious illness, or mental or physical impairment.

### *9.10.1 Requests for Leave Without Pay*

Request for leave without pay or benefits shall state specifically the reason for the request, the date the employee desires to begin leave and the probable date of return. A leave of absence without pay may be granted for a period not to exceed twelve (12) weeks.

Failure of an employee to return to work upon the termination of any authorized leave of absence shall, except under extraordinary circumstances, constitute separation from service of that employee.

### *9.10.2 Benefits During Leave of Absence*

#### *a. Medical Benefits*

Employees who wish to continue receiving medical insurance coverage during the period of absence may purchase benefits at the group rate, provided that purchase arrangements are made prior to the beginning of the leave.

#### *b. Retirement Vesting*

For the purpose of retirement vesting, an authorized leave of absence shall not constitute a break in an employee's continuous service, nor shall unpaid

time count as vesting credit. Contributions shall cease upon any fifteen (15) calendar day or greater break in paid service, and shall recommence upon reinstatement.

c. *Vacation, Sick Leave, Salary Increases, Holiday Pay, Fringe Benefits*

Vacation and sick leave, increases in salary, all other paid leaves, holidays and fringe benefits and other similar benefits shall not accrue or be paid to a person granted a leave of absence without pay.

9.11 Sick Leave

Every regular full time and probationary employee shall earn sick leave at the rate of eight hours per month. Every regular part-time employee shall earn sick leave at a rate subject to the pro-rata formula indicated in Section 9.1.

*9.11.1 Sick Leave Payout*

Employees who have 10 or more years of tenure will be entitled to cash payment for 25% of their accrued and unused sick leave upon termination of employment. Employees with less than 10 years of tenure at the time of termination will not be entitled to cash payment for accrued and unused sick leave upon termination of employment. Payouts will be included in calculations for contributions to the employees' 401(a) and fringe benefit accounts.

*9.11.2 Use of Sick Leave*

Sick leave with pay may only be granted by the supervisory personnel for valid illness or injury. When there is reason to believe that the use of sick leave exceeds City norms, the supervisory personnel may require evidence, in the form of a physician's certificate, of the adequacy of the reason for an employee's use of sick leave.

Employees who are absent for five or more consecutive days are required to show a physician's certificate and may be put on Family and Medical Leave starting the sixth day of illness if the absence is due to a serious health condition as defined by law.

Sick leave may not be used in the same month that it is earned.

Unless other arrangements are made or the employee orders that the leave be unpaid, the City will deduct vacation time and / or compensatory time and / or executive leave for employees who are ill and who have exhausted their sick leave account.

Employees who have exhausted their sick leave account may request sick leave from the Sick Leave Bank per Section 9.11.9.

### *9.11.3 Penalty for Sick Leave Abuse*

When the supervisory personnel has reason to believe an employee's sick leave request is not for a valid illness or injury, the supervisory personnel shall report the reasons to the City Manager. The City Manager shall review the reasons with the employee. If in the judgment of the City Manager the justification given for the sick leave request is not valid, the City Manager shall notify the employee that the request for sick leave is not approved. An employee may be subject to disciplinary action for abuse of sick leave.

### *9.11.4 Sick Leave for Dependent Care*

Regular employees may use a maximum of ten (10) days of sick leave per calendar year for the care of a dependent. For record-keeping purposes, dependent care leave must be indicated by the employee on the employee's time card. A physician's note may be required by the City for absences longer than five (5) consecutive days. Upon approval of the City Manager, employees may use up to an additional five (5) days of sick leave to care for a dependent.

### *9.11.5 Supervisory Discretion to Relieve Employees from Duty*

Supervisors shall have the discretion to place employees on sick leave when, in the judgment of the supervisor, the presence of the employee at work would endanger the health and welfare of other employees or where the illness or injury of the employee interferes with the performance of such employee's duties.

### *9.11.6 Illness While on Vacation*

An employee who becomes ill while on vacation may have such period of illness charged to his/her accumulated sick leave instead of vacation, provided that:

- a. Immediately upon return to duty, the employee submits to the supervisory personnel a written request for sick leave and a written statement signed by the employee's physician stating the nature and dates of the illness; and,
- b. The supervisory personnel recommends the leave and the City Manager approves the granting of such sick leave.

### *9.11.7 Holiday During Sick Leave*

Observed holidays occurring during sick leave shall not be counted as a day of sick leave.

### *9.11.8 Sick Leave and Worker's Compensation Insurance*

An employee who is entitled to receive Worker's Compensation Insurance for a temporary injury or disability under the State Labor Code may elect to take that

number of hours or portions of hours of his/her accumulated sick or vacation leave, as when added to the insurance payment will result in a payment to the employee of his/her full take home salary. An employee must have a signed treating doctor's release to return to work after being absent due to a worker's compensation related injury.

#### *9.11.9 Sick Leave Bank*

Regular employees suffering from a catastrophic illness and who have exhausted their sick leave, vacation, compensatory and executive leave accounts may receive donations of sick leave from the sick leave bank.

A catastrophic illness is defined as an illness that will keep the employee from returning to his or her job for more than thirty consecutive calendar days. Either the employee or the employee's supervisor can request withdrawals from the sick leave bank but the City Manager must approve all requests for sick leave bank withdrawal and a physician's certificate will be required prior to authorization.

Transfer of sick leave is allowed only for the employee's own illness and not for care associated with the illness of the employee's family members or dependents. An employee can take a maximum of 60 days from the sick leave bank over a rolling three-year period.

Donations to the sick leave bank shall be solicited by Financial Services, any time the bank falls below a total of 240 hours or as needed. Financial Services will annually solicit sick bank donations January 1. The solicitation shall include an accounting of the current hours in the bank. Employees who wish to donate sick leave may do so in increments of one day or more but may not exceed 25% of the employee's available sick leave or 40 hours per year, whichever is less. Donations to the sick leave bank are irrevocable. Donations to the bank will not be accepted from employees who have given or received a notice of termination.

#### *9.11.10 Sick Leave for Temporary Employees*

Effective July 1, 2015, California's Paid Sick Leave law requires the City of Lafayette to provide paid sick leave to temporary and seasonal employees under the following conditions:

- a. Employees begin to accrue paid sick leave at the rate of one (1) hour of paid sick leave for every thirty (30) hours worked beginning on the first day of employment.

- b. Employees are not eligible to begin using any accrued paid sick leave until the 90th day of employment with the City of Lafayette.
- c. Employees are only allowed to use up to a maximum of 24 hours of paid sick leave in a 12-month period.
- d. Any unused accrued paid sick leave does carryover year to year while continuously employed but an employee can only accrue paid sick leave up to a cap of 48 hours.
- e. Employees who terminate employment with the City for a period of more than 12 months will not have prior unused sick leave restored to them upon subsequent re-hire. Employees who are re-hired within a 12-month period will have their prior unused sick leave restored to them.
- f. Employees who terminate employment with the City for a period of more than 12 months will not be able to use any accrued paid sick leave until the 90<sup>th</sup> day of re-employment with the City. Employees re-hired within a 12-month period may use prior employment towards the completion of the 90 day period.
- g. Employees may use 24 hours of accrued paid sick leave in a 12-month period for one of the following reasons:
  - For the employee's own diagnosis, care, or treatment of an existing health condition or preventative care.
  - For the diagnosis, care, or treatment of an existing health condition or preventative care for an employee's family member.
  - To obtain any relief or services related to being a victim of domestic violence, sexual assault, or stalking including the following with appropriate certification of the need for such services:
    - ✓ A temporary restraining order or restraining order.
    - ✓ Other injunctive relief to help ensure the health, safety or welfare of themselves or their children.
    - ✓ To seek medical attention for injuries caused by domestic violence,

sexual assault, or stalking.

- ✓ To obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence, sexual assault, or stalking.
- ✓ To obtain psychological counseling related to an experience of domestic violence, sexual assault, or stalking.
- ✓ To participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation.

- h. Employees shall provide reasonable advance notification of their need to use accrued paid sick leave to their supervisor if the need for paid sick leave use is foreseeable (e.g., doctor's appointment scheduled in advance). If the need for paid sick leave use is unforeseeable, the employee shall provide notice of the need for the leave to their supervisor as soon as is practicable.
- i. Employees who use paid sick leave must do so with a minimum increment of one hour of sick leave.
- i. Paid sick leave will not be considered hours worked for purposes of overtime calculation. Employees will not receive compensation for unused accrued paid sick leave upon termination, resignation, retirement or other separation from employment from the City.

9.12 Vacation Leave

Every regular full time and probationary employee shall earn vacation leave, as follows:

<b><i>Months of Service</i></b>	<b><i>Days Per Year</i></b>	<b><i>Hourly Equivalent</i></b>
0 through 12	11	88
13 through 24	12	96
25 through 36	13	104
37 through 48	14	112
49 through 60	15	120
61 through 72	16	128
73 through 84	17	136
85 through 96	18	144
97 through 108	19	152
Over 108	20	160

Regular part-time employees shall earn vacation leave subject to the pro-ration formula indicated in Section 9.1.

*9.12.1 Use of Vacation Leave*

Following six months satisfactory service, vacation leave may be taken as it is earned. The dates of vacation leave may be selected by the employee, but subject to the approval of the supervisory personnel who shall consider the wishes of the employee and the needs of the City. Vacation leave may not be used in the same month that it is earned.

Prior to six months of service, vacation leave must be approved by the City Manager.

*9.12.2 Cap on Accumulation of Vacation Leave*

Vacation leave may be accumulated up to a maximum of 320 hours.

### *9.12.3 Holidays During Vacation Leave*

If a holiday falls within a scheduled vacation period the employee shall be entitled to the holiday leave in lieu of vacation leave.

### *9.12.4 Pay for Vacation Time*

There shall be no cash payment for unused vacation leave except upon termination or resignation and as provided in Section 9.12.5. In the event of the death of an employee, payments of unused vacation leave shall be made to the employee's designated beneficiary.

### *9.12.5 Vacation Buy Back*

All employees are eligible to be reimbursed for unused vacation days up to a maximum of five (5) vacation days per year. To be eligible for this benefit, an employee must:

- a. Have been employed during all twelve (12) months of the previous calendar year;
- b. Have used at least forty (40) hours of vacation and/or executive leave in the calendar year that is ending; and
- c. Notify the Financial Services Manager in writing of their intent to pursue vacation reimbursement during the year-end 30-day Vacation Buy Back window established by the Financial Services Manager.

Employees may be reimbursed for an additional five (5) vacation days provided they use at least an additional forty (40) hours of vacation and/or executive leave in the calendar year that is ending. Vacation days shall be reimbursed at the employee's current rate of pay. Payouts will be included in calculations for contributions to employees' 401(a) and fringe benefits accounts.

## 9.13 Holiday Leave

The following holidays shall be observed by the City of Lafayette with respect to all employees of the City:

- ◆ New Year's Day - January 1
- ◆ King Day - 3rd Monday in January
- ◆ President's Day - 3rd Monday in February
- ◆ Memorial Day - Last Monday in May
- ◆ Independence Day - July 4



- ◆ Labor Day - 1st Monday in September
- ◆ Columbus Day - 2nd Monday in October
- ◆ Veterans Day - November 11
- ◆ Thanksgiving Day - 4th Thursday in November
- ◆ Day after Thanksgiving
- ◆ December 24<sup>th</sup> & 25<sup>th</sup>

#### *9.13.1 Weekend Holidays*

When a holiday falls on a Saturday, it shall be observed on the preceding Friday. When a holiday falls on a Sunday, it shall be observed on the following Monday. If the preceding Friday or succeeding Monday is also a holiday then the holiday is observed on the next preceding or succeeding work day.

#### *9.13.2 Paid Holiday Leave for Regular Part-Time Employees*

Regular part-time employees, if scheduled to work on a day that is an observed holiday, shall be paid according to the pro-ration formula indicated in Section 9.1.

#### *9.13.3 End of Year Furlough*

City Offices will be closed between the Christmas and New Year holidays. Employees may use vacation, compensatory time, or executive leave during the furlough period. Managers may develop a specific work plan for employees during that week and if approved by the City Manager, those employees will be allowed to work and not be required to take other days off in lieu of the furlough. Employees who are not assigned work during the period will be sent home and not paid unless they opt to use accrued vacation, compensatory or executive leave.

#### *9.13.4 Holidays in Lieu*

Regular employees who are not scheduled to work on one of the City's 12 recognized holidays will be encouraged to take a day off in lieu of the holiday during the same pay period with approval from their supervisor. If the day off cannot be accommodated during the same pay period, the employee will have the hours added to a "holiday bank" so that they can take the time off in the future. Hours in the holiday bank will expire within 30 days of the original holiday and are not eligible for the vacation buy back nor are they payable upon termination.

9.14 Executive Leave

Recognizing that exempt employees typically work more than 40 hours per week, exempt employees can take up to 80 hours per year of executive leave for any purpose, subject to approval by their supervisor and at the discretion of the supervisor.

Executive leave will not be accrued from year to year and will be tracked by the Accounting Department. For the purposes of executive leave, the year will begin on January 1 and end on December 31. Employees who start work or are transferred to exempt status after January 1 will receive a pro-rated amount of executive leave based on the number of full months remaining until December 31. Employees who start prior to the 15<sup>th</sup> of the month can consider that month the first full month; employees who start after the 15<sup>th</sup> of the month will have their executive leave prorated from the 1<sup>st</sup> of the following month.

Executive leave is not payable upon resignation or termination.

9.15 Bereavement Leave

At the request of an employee and with the approval of the City Manager, the City shall provide up to five (5) days of bereavement leave with pay for the death of a spouse, spousal equivalent, dependent, child, sibling, parent or grandparent, or for the death of parent, child, sibling or grandparent of the employee's spouse or spousal equivalent. Employees may take an additional five (5) days funded by sick leave, vacation, compensatory time, and/or executive leave, upon approval of the employee's immediate supervisor.

9.16 Pregnancy Leave

A pregnant employee shall be entitled to a leave of absence without pay for up to four months so long as the employee's attending physician certifies that she is physically unable to work due to pregnancy, childbirth or related medical condition.

The City will require a physician's certification if the pregnancy leave is to start prior to the actual birth. In addition, a physician's certification will also be required to extend the pregnancy leave after the birth for longer than 6 weeks for a normal birth and 8 weeks for a Caesarean birth. During this leave of absence, the employee has the option of using accumulated sick leave, compensatory time, executive leave and/or vacation credits.

Upon expiration of the approved leave, the employee shall be reinstated to her former position or to a comparable one in terms of pay, location, job duties and promotional opportunities. Prior to the employee being reinstated, a physician's certification will be required asserting that the employee is physically capable of resuming the regular

duties of her position. Failure to return to work after the authorized leave expires causes the employee to have no reinstatement rights. An employee who plans to take such a leave should give reasonable notice of the date the leave shall commence and the estimated duration of the leave.

Employees on pregnancy leave shall continue to accrue seniority.

#### 9.17 Family Leave

Pursuant to the Family Medical Leave Act (FMLA) and the California Family Rights Act (CFRA), any employee who has been employed by the City for at least 12 months and who has at least 1,250 hours of service with the City during the previous 12 - month period, shall be eligible to take unpaid family care or medical leave pursuant to applicable state and federal law.

Family care and medical leave may be used for the following reasons:

- a. Birth of the employee's child, and in order to care for the newborn child
- b. Placement of a child with the employee for foster care or in connection with the employee's adoption of the child
- c. To care for the employee's child, parent, spouse, or domestic partner with a serious health condition
- d. Because of the employee's own serious health condition that makes the employee unable to perform the functions of his/her position
- e. Leave for a "qualifying exigency" arising out of the fact that an employee's spouse, son, daughter, or parent is on covered active duty or call to active duty status (under the FMLA only, not the CFRA) (see 9.17.1 Military Family Leave Entitlements below)
- f. Leave to care for a spouse, son, daughter, parent, or "next of kin" who is a covered service member of the United States Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces. This leave can run up to 26 weeks of unpaid leave during a single 12-month period under the FMLA only, not the CFRA.

##### *9.17.1 Military Family Leave Entitlements Under the FMLA*

Eligible employees with a spouse, son, daughter, or parent on covered active duty or call to covered active duty status in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying

exigencies. Qualifying exigencies include: (1) short-notice deployment; (2) military events and related activities; (3) childcare and school activities; (4) financial and legal arrangements; (5) counseling; (6) rest and recuperation; (7) post-deployment activities; (8) parental care; and (9) additional activities as permitted by law.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a spouse, child, parent, or next of kin who is a covered service member during a single 12-month period. A covered service member is (1) a member of the United States Armed Forces, including a member of the National Guard or Reserves, who, for a serious injury or illness, is undergoing medical treatment, recuperation, or therapy; or is otherwise in outpatient status; or is otherwise on the temporary disability retired list; or (2) a veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness, and who was a member of the Armed Forces, including a member of the National Guard or Reserves, within five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

#### *9.17.2 Definition of "serious health condition"*

For the purposes of FMLA and CFRA, serious health condition means an illness, injury, impairment, or physical or mental condition that involves either:

- a. Inpatient care in a hospital, hospice, or residential medical care facility and any subsequent treatment in connection with such inpatient care; or
- b. Continuing treatment or continuing supervision by a health care provider that includes:
  - A period of incapacity for three consecutive calendar days
  - Any period of incapacity or treatment for such incapacity due to a chronic serious health condition
  - A period of incapacity which is permanent or a long-term condition
  - Conditions requiring multiple treatments
  - Any period of incapacity due to pregnancy or for prenatal care (FLMA only)

### 9.17.3 *Duration of leave*

Family care and medical leave shall not exceed 12 workweeks during any 12 - month period. The 12-month period for calculating leave entitlement shall commence on the date the employee's first family care or medical leave begins.

The 12 workweeks of family care and medical leave to which an employee is entitled under state law shall run concurrently with the 12 workweeks of family care and medical leave to which an employee is entitled under federal law, except that any leave taken under state law for family care or medical leave shall run consecutively to an employee's leave entitlement on account of disability due to pregnancy, childbirth, and related medical conditions.

If both parents of a child work for the City, their family care and medical leave related to the birth or placement of the child shall be limited to a total of 12 weeks during the 12-month period following the birth or placement of child. In any case in which spouses both employed by the City are entitled to leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to 26 workweeks during any 12-month period if leave is taken to care for a covered service member.

An employee may take leave intermittently or on a reduced leave schedule if the leave is being taken due to an employee's own serious health condition or for the purpose of caring for a spouse, domestic partner, child, or parent with a serious health condition, provided that taking leave in this manner is medically necessary.

An employee may also take leave intermittently for the birth, adoption, or placement of a child for foster care; however such leaves shall be taken for a minimum duration of two consecutive weeks, except that an employee shall be entitled to leaves of less than two consecutive weeks but at least one day on two occasions, within 12 months following the birth of the child.

The City may temporarily assign an employee requesting intermittent leave that is foreseeable based upon planned medical treatment to an alternative position with equivalent pay and benefits that better accommodates the employee's intermittent or reduced leave schedule.

Leave taken for a birth, or placement for adoption or foster care placement of a child, must be concluded within one (1) year of the birth or placement for adoption or foster care.

#### *9.17.4 Use of Accrued Leave Time Concurrently*

An employee who takes leave because of his or her own serious health condition shall be required to substitute all accrued paid leave, including but not limited to administrative, sick, compensatory and vacation, for unpaid leave.

An employee who takes leave for the reason of the birth, adoption, foster care placement of a child, or for the purpose of caring for a parent, child, domestic partner or spouse with a serious health condition, shall be required to substitute all accrued paid leave for unpaid leave. Employees may not use sick leave beyond what is allowed under Section 9.11.4 (Dependent Care Sick Leave) if the leave is not for the employee's own serious health condition.

The employee's entitlement to unpaid leave under FMLA/CFRA shall run concurrently with the employee's use of paid leave for the same purpose.

#### *9.17.5 Benefits While On Leave*

During the period of family care or medical leave, the employee shall continue to be entitled to participate in the City's health plan and the City shall continue to pay health care premiums under such plan on the same terms as if the employee had continued to work during the period of the leave. However, for any unpaid leave granted in excess of the maximum number of weeks under the appropriate leave entitlement in any 12-month period (i.e., 12 weeks, 26 weeks, or 4 months, depending on the reason for leave), the employee will be required to pay the health care premium for the remainder of the leave. Any premium payments required to be paid by the employee during such a leave must be paid at the same time as they would have been due if paid by payroll deduction.

The City may recover the premium that the City paid as required by state and federal law for maintaining coverage for the employee under the group health plan if both of the following conditions occur:

- a. The employee fails to return from leave after the period of leave to which the employee is entitled has expired; and
- b. The employee's failure to return from leave is for a reason other than the continuation, recurrence, or onset of a serious health condition that entitles the employee to leave under state or federal law or other circumstances beyond the control of the employee.

Employees will continue to receive contributions to their 401(a) plan while on leave as well as continue to accrue seniority. If the leave is unpaid, employees have the option to continue to contribute their portion of the 401(a) match. If employees choose not to do so, the City's matching contribution will not be

made.

Other City paid benefits such as life and disability insurance will continue to be paid during the FMLA/CFRA leaves. Accruals of vacation and sick leave and all other benefits will cease once appropriate accrued leave has been exhausted.

#### *9.17.6 Requests, Certifications and Notice*

If an employee learns of the need for family care or medical leave more than 30 days before the leave is to begin, he/she shall give the City at least 30 days advance notice. If the employee learns of the need for family care or medical leave fewer than 30 days in advance, he/she shall provide such notice as soon as practicable.

If leave is needed for a planned medical treatment, the employee shall make a reasonable effort to schedule the treatment or supervision to avoid disruption of the City operations. This scheduling shall be subject to the health care provider's approval.

On or before the first day of an employee's family care or medical leave, the employee shall notify the City of his or her anticipated date of return to work. The City may require periodic updates on the employee's intent to return to work. If, because of changed circumstances, an employee requires more or less leave than originally anticipated, such employee shall give the City at least two business days' notice of his or her intent to return to work.

An employee's request for leave to care for a child, spouse, or parent who has a serious health condition shall be supported by a certification from the health care provider of the person requiring care. This certification shall include:

- a. The date, if known, on which the serious health condition began.
- b. The probable duration of the condition.
- c. An estimate of the amount of time the health care provider believes the employee needs to care for the eligible family member.
- d. A statement that the serious health condition warrants the participation of a family member to provide care during a period of the treatment or supervision of the child, parent, or spouse.

As a condition of an employee's return from leave taken because of the employee's own serious health condition, the employee shall obtain certification from his or her health care provider that the employee is able to

perform the essential job functions of his or her position with or without reasonable accommodation.

If additional leave is needed when the time estimated by the health care provider expires, the City may require the employee to provide recertification as specified above.

An employee's request for leave because of his/her own serious health condition shall be supported by a certification from the employee's health care provider. The certification shall include:

- a. The date, if known, on which the serious health condition began.
- b. The probable duration of the condition.
- c. A statement that, due to the serious health condition, the employee is unable to perform the functions of his/her position.

If the employee is requesting leave for intermittent treatment or leave on a reduced leave schedule for planned medical treatment, the certification must also state the medical necessity for the leave, the dates on which treatment is expected to be given, the duration of the treatment and the expected duration of the leave.

Any required medical certification shall be provided within 15 days of the City's designation of the leave as FMLA/CFRA qualifying.

In any case in which the City has reason to doubt the validity of any certification provided to support an employee's request to take leave because of the employee's own serious health condition, the City may require that the employee obtain the opinion of a second health care provider designated or approved by the City, at the City's expense, concerning any information contained in the certification.

In any case in which the second opinion described above differs from the opinion in the original certification, the City may, at the City's expense require that the employee obtain the opinion of a third health care provider, designated or approved jointly by the City and the employee, concerning any information contained in the certification, which shall be final and binding on the City and the employee.

#### *9.17.7 Reinstatement and Non-Discrimination*

Upon granting an employee's request for family care or medical leave, the City shall guarantee to reinstate the employee in the same or a comparable position



when the leave ends “to the extent required by law. At the employee's request, the City shall provide this guarantee in writing.

Notwithstanding the preceding paragraph, the City may refuse to reinstate an employee if all of the following apply:

- a. The employee is among the highest paid 10 percent of City employees; and
- b. The refusal is necessary to prevent substantial and grievous economic injury to the operations of the City;
- c. The City has given the employee written notice at the time the employee gives notice of the need for FMLA leave that he or she qualifies as a key employee, and of the potential consequences with respect to reinstatement and maintenance of health benefits if the City should determine that substantial and grievous economic injury to the City's operations will result if the employee is reinstated; and
- d. The City notifies the employee of the intent to refuse reinstatement on such basis at the time the City determines the refusal is necessary under subparagraph b.

In any case where the leave has commenced at the time that the employee receives the notice of intent to refuse reinstatement, the employee must receive a reasonable time in which to return to work, taking into account the circumstances, such as the length of the leave and the urgency of the need for the employee to return.

An employee who takes leave has no greater right to reinstatement than if he/she had been continuously employed during the leave period. If the City reduces its work force during the leave period and the employee is laid off for legitimate reasons at that time, he/she is not entitled to reinstatement.

The City shall not refuse to hire and shall not discharge, fine, suspend, expel, or discriminate against any employee because he/she exercises his/her rights under this rule or gives information or testimony regarding his/her or another person's family care or medical leave in an inquiry related to such leave.

In accordance with the law, the City shall notify employees of their right to request family care and medical leave.

#### 9.18 Jury Duty and Court Appearances

An employee who is called or required to serve as a juror shall be entitled to be absent from his/her duties during the period of such service. The employee shall continue to

earn his/her regular salary and all benefits for the duration of this leave, but the employee shall submit to the City any payment, except travel pay, received for such duty from the Court.

An employee who is subpoenaed or otherwise required to appear in Court on a matter regarding an event, transaction, or other City business that transpired in the normal course of his/her duties as a City employee, shall do so without loss of salary or benefits.

An employee who is subpoenaed or otherwise required to appear in Court on a matter unrelated to his/her duties as a City employee shall be permitted time off without pay, or if the employee so chooses, to use accrued vacation. The period of unpaid leave shall not exceed five (5) days.

#### 9.19 Domestic Violence Leave

Employees who are victims of domestic violence may take up to 30 days unpaid leave in any 12-month period of time to seek medical attention, obtain services from a domestic violence program, obtain psychological counseling, or participate in safety planning. This duration of the leave, when combined with any unpaid leave taken as family leave, may not exceed a total of 12 weeks.

When possible, an employee must give the City reasonable advance notice of his or her intention to take this leave. If an unscheduled absence occurs, the employee must provide a certification to the City within the time frame requested by the City (which will be at least 15 days after the request). Certification shall be sufficient in the form of any of the following:

- a. A police report indicating that the employee was a victim of domestic violence.
- b. A court order protecting or separating the employee from the perpetrator of an act of domestic violence, or other evidence from the court or prosecuting attorney that the employee has appeared in court.
- c. Documentation from a medical professional, domestic violence advocate, health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse resulting in victimization from an act of domestic violence.
- d. During this leave of absence, the employee has the option of using compensatory time, executive leave and/or vacation credits.

#### 9.20 Election Official Leave

An employee shall be granted an unpaid leave to serve as an election officer on Election Day.

#### 9.21 Voting Leave

An employee who does not have sufficient time outside of working hours to vote at a statewide election is entitled to take the required time, but no more than two hours, with pay, at the beginning or end of the regular shift in accordance with State law. The employee shall give at least two working days notice that time off is required.

#### 9.22 Military Leave

Military leave shall be provided to employees in accordance with State and Federal law. An employee is entitled to Military Leave in accordance with the following policy:

- a. Leave will be granted when ordered for active military training, encampment, naval cruises, and like activity.
- b. The employee will provide his or her supervisor with notice and evidence of the anticipated leave dates as soon as such information becomes available to the employee. Such notice will be placed in the employee's personnel file. Whenever possible, the employee shall request the leave ten (10) days in advance.
- c. Any regular employee will be granted time off without pay or may utilize earned accumulated leave, or a combination thereof, in accordance with State and Federal law. Upon termination of service or honorable discharge the employee shall be entitled to return to the position from which leave is granted if the employee is otherwise qualified.
- d. Regular employees who have completed one year or more of service with the City are entitled to receive full compensation, including supplemental benefits, for the first thirty (30) calendar days of Military Leave provided that the maximum ordered duty time does not exceed 180 calendar days.
- e. An employee granted Military Leave while serving in a probationary status shall have his/her probationary period extended by an amount of time equivalent to the amount of time on Military Leave.
- f. Unless circumstances have made it impossible or unreasonable, every officer and enlisted member of the California National Guard shall be considered as on leave of absence who:
  - i. Leaves a position to go on active duty pursuant to a Governor's proclamation of a state of insurrection or extreme emergency pursuant to Section 143 or when the California National Guard is on active duty pursuant to Section 146 of the Military and Veterans Code;
  - ii. Receives a certificate of satisfactory service; and,
  - iii. Makes application within forty (40) days after release from service.

### 9.23 Attendance at ALE Meetings

Employees may attend up to six (6) hours of ALE meetings per calendar year with pay. City offices may be closed during ALE meetings in order to accommodate employee attendance. ALE meetings will be scheduled, whenever possible, during lunch hour and shall not exceed two (2) hours in order to minimize disruptions of services. Unused meeting hours do not roll over to future calendar years.

### 9.24 Retirement Contribution

The City shall make a monthly contribution toward a retirement fund for each regular employee. The contribution shall equal 10% of the employee's base salary. In addition, if employees so choose, they may contribute another 5% of their salary which will be matched by the City.

Employees shall be allowed to invest in the city sponsored Retirement Plan Employees who are fully vested in the retirement system may borrow from the funds in the employee's retirement account in amounts and upon such conditions as established by the City and the Retirement Plan. The borrowed amounts shall be repaid in full to the employee's retirement account, by the employee, through automatic payroll deductions, together with an established interest on the amount borrowed.

Pursuant to certain IRS rules, employees over 50 years old may be allowed, at their own expense, to make additional contributions to retirement accounts. For year 2010, for example, an additional \$5,500 can be added as contributions to the Retirement Plan 457 program for employees 50 years old or over.

#### *9.24.1 Retirement Vesting*

The retirement contributions provided under paragraph 9.24 will be subject to the following vesting formula. At termination of employment, employee shall receive a percentage of contributions made to the employee's account by the City at the following rates:

- ◆ 20% after 12 months of service;
- ◆ 40% after 24 months of service;
- ◆ 60% after 36 months of service;
- ◆ 80% after 48 months of service;
- ◆ 100% after 60 months of service;
- ◆ 100% for employees who are 50 years or older;
- ◆ 100% of employee contributions from the first day of service.

All payments from the retirement contribution at termination, retirement or death shall be in accord with the vesting formula and shall include the employee's share of earned interest or appreciation.

For the purpose of vesting, an authorized leave of absence shall not constitute a break in an employee's continuous service, nor shall unpaid time count as vesting credit. Contributions shall cease upon any fifteen (15) calendar day or greater break in paid service, and shall recommence upon reinstatement. Retirement benefits are also fully vested upon the employee attaining the retirement age or otherwise fulfilling the conditions specified in the ICMA Plan.

#### 9.25 Retirement Medical Benefit

For employees retiring from the City of Lafayette after at least ten consecutive years of service and age 59 ½ or older, the City will pay the equivalent of half of the least expensive single-person medical coverage for Kaiser Permanente available to employees and retirees through the City's group health care plan or the Public Employees' Medical and Hospital Care Act (PEMHCA) minimum whichever is greater.

Once a retired employee qualifies for Medicare, City shall pay one-half of employee's cost equal to Kaiser Sr. Advantage available through the City's group health care plan or the PEMHCA minimum whichever is greater. The benefit will be paid directly to the medical plan if the retiree chooses to remain on the City's plan. Alternatively, at the retiree's option and direction, if the retiree prefers not to purchase medical coverage through the City's group health care plan, then the City will contribute an equivalent amount into a Health Reimbursement Arrangement or Health Retirement Account (HRA) established for the retiree. If the retiree selects a less expensive plan, then the City will contribute the difference between half of the least expensive single-person medical coverage for Kaiser Permanente available and the selected plan into a HRA established for the retiree. Spouses of retirees may purchase medical benefits for themselves at their own cost through the City's group medical insurance plan.

#### 9.26 Insurance Benefits

##### *9.26.1 Required and Optional Insurance Coverage*

Unless otherwise specified herein, all full-time and part-time regular employees must purchase and maintain individual medical insurance through one of the City's designated insurance plans.

Upon approval of the City's insurance carrier and with proof of medical insurance coverage through a private medical insurance carrier, an employee's requirement to purchase coverage under the City's medical insurance plan will be waived.

The City offers a dental insurance plan that all full-time regular and part-time regular employees may use.

The City will provide short and long-term disability (STD/LTD) and life insurance at no cost for full-time and part-time regular employees who work at least 20 hours per week.

#### *9.26.2 Medical Insurance Choices*

Employees can choose from any available CalPERS Health plan for medical insurance during the open enrollment period specified by CalPERS.

Information regarding the benefits and costs associated with each plan is available from the Administrative Services Director.

#### *9.26.3 Fringe Benefit Account*

At the end of each calendar month, the City will allocate an amount equal to fifteen percent (15%) of each regular employee's base earnings to the employee's individual fringe benefit account. This fringe benefit allocation is separate from and in addition to other State and Federal mandated programs such as unemployment insurance and OASDI.

The City shall deduct the employee's insurance premiums for the selected medical policy, and any selected dental insurance from the employee's fringe benefit account and all remaining balances within that account shall be paid to the employee's deferred compensation account (457 Plan), less applicable state and federal taxes. Under such circumstances, the City will only defer into an employee's deferred compensation account the maximum annual amount allowable by law. All remaining balances beyond this limit shall be placed in an IRA, a City approved annuity, or transferred to a life insurance policy in the name of the employee.

If an employee's fringe benefit allocation does not cover the cost for the insurance selected by the employee for him/herself and his/her dependents, the City will pay up to 95% of the cost of the lowest cost Kaiser plan offered by the City's health insurance provider as well as 95% of the offered dental plan consistent with the employee's family configuration (i.e. single, employee + 1, family). Employees must make up the difference by electing to have payroll deductions from their paychecks. The City shall provide an annual statement of how each employee's fringe benefit account is allocated for the employee's insurance plans and deferred compensation in January of each year.

#### *9.26.4 Impacts of New Law*

If the benefits described above are significantly impacted or superseded by new State or Federal health care reform policy, the City and the employees agree to meet and confer in good faith to develop a plan that is consistent with new law.

### 9.27 COBRA

Regular employees who are enrolled in the City's medical and/or dental programs are entitled to continued health coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA), at the sole expense of the employee.

Eligibility and coverage shall be governed by the applicable COBRA standards in effect at the time the employee applies for COBRA benefits.

An employee terminated from the City for gross misconduct may not be qualified for COBRA benefits.

The City's supervisory personnel shall provide to employees, as practical and feasible, information regarding changes in current state and federal laws that may affect employees. Employees may be referred to state and federal websites in lieu of written information

### 9.28 IRS 125 Plan

Employees shall have the option to designate a portion of pre-tax salary for dependent care, out-of-pocket medical/dental expenses, vision care, transit expenses or other allowed expenses in accordance with the provisions of Internal Revenue Service Code Section 125.

### 9.29 Professional Development

The City shall reimburse regular employees 80% of the cost of tuition and books for job-related course and educational programs. "Job-related" is defined as relating to the employee's current job, or to a job to which the employee might reasonably expect to be promoted.

Reimbursement (up to a maximum of \$1,000 per year) is contingent on the successful completion of the course or program (a grade of A, B, C, or pass). The course or program must have begun, been attended, and completed while the employee was in the continuous employment of the City and must be pre-approved by the City Manager. Annual reimbursement will be based on the fiscal year.

### 9.30 Uniforms

The City shall specify reasonable standards for uniforms for Public Works Services, Parks Maintenance Specialist, and Police Services employees, who shall be required to meet such standards on a daily basis. In order to assure that these standards are met, the City shall pay the cost of a uniform service for these employees. The City Manager, in consultation with these employees retains authority to define the terms of and select the uniform service.

The City will also reimburse regular City employees in Police Services that are required to wear uniforms for uniform costs up to \$200 per calendar year. The City will also

reimburse regular employees in Public Works, Parks Maintenance Specialist, Engineering, and Police Services the actual purchase price of steel-toed safety shoes up to \$200 per employee per calendar year. To receive reimbursement, the original receipt for the uniform or shoes shall be submitted with the request for reimbursement prior to December 31 of any year.

9.31 Mileage Allowance

Employees can request mileage reimbursement for all miles driven in personal vehicles while on City business. The City pays a mileage allowance equal to the level set by the Internal Revenue Service.

9.32 Meal Allowance

Employees who work in excess of twelve hours in one calendar day will be eligible for a \$10.00 meal allowance.

9.33 Employee Assistance Program

The City will pay 100% of the cost of an Employee Assistance Program (EAP) offered through the Contra Costa Municipal Risk Management Insurance Authority (CCCRMIA).

Details about the most current plan can be obtained from the Administrative Services Director.

9.34 Life Insurance

The City will purchase life insurance for every regular employee that works twenty (20) hours or more per workweek shall. The life insurance coverage shall equal one hundred (100) percent of an employee's annual salary with a maximum of \$50,000 coverage.

9.35 Disability Insurance

The City will purchase disability insurance for every regular employee that works twenty (20) hours or more per workweek. This includes short term disability with 30-day wait period and long term disability with a 90 day wait period.



## 10. OTHER RULES AND PROGRAMS

---

### 10.1 Injury Prevention Program

#### *10.1.1 Commitment to Health and Safety.*

The City of Lafayette seeks to maintain a safe and healthful workplace in compliance with all federal, state, and local safety laws. To that end, the Injury Prevention Program is intended to prevent workplace accidents, illnesses and injuries. All employees are encouraged to report any potential health or safety hazard.

#### *10.1.2 Responsibility for Administration of Program*

The City Manager is responsible for implementing and maintaining this program. The City Manager is authorized to appoint a health and safety committee. It is the responsibility of every employee to practice safe work habits, to assist in keeping work areas clean and hazard-free, and to abide by all safety rules and regulations.

#### *10.1.3 Identification and Evaluation of Workplace Hazards*

It is the responsibility of the health and safety committee to assist in identification and evaluation of workplace hazards and to keep the City Manager informed of hazards and potential hazards. All employees are required to report to their supervisors immediately any unsafe conditions or hazards they discover. No employee will be disciplined or discharged for reporting any workplace hazard or unsafe condition. Employees who wish to remain anonymous may report unsafe conditions or hazards without identifying themselves. All work related accidents will be investigated in a timely manner. Minor incidents and near misses will be investigated as well as serious accidents.

#### *10.1.4 Intent to Correct Unsafe or Unhealthy Conditions*

The City intends that, whenever possible and to the extent practicable, a hazard which gives rise to a risk of imminent harm will be abated. Corrective action will be taken as quickly as possible under the circumstances. In taking action the City will give consideration to the severity of the hazard, the severity of any illness or injury which may have arisen as a result of the hazard, and the potential risk of future illness or injury to employees.

#### *10.1.5 Occupational Safety and Health Training Program*

Awareness of occupational safety and health hazards and knowledge of how to prevent or control such hazards is essential to a safe and healthful work environment. The City of Lafayette is committed to employee safety and health and to that end will provide training to employees upon hiring, whenever an

employee is given a new job assignment for which training has not previously been provided, whenever new substances or equipment which represent a new hazard are introduced into the workplace, whenever the City is made aware of a new or previously unrecognized hazard and whenever the City Manager believes that additional training is necessary.

#### *10.1.6 Communication with Employees About Occupational Safety and Health Matters.*

The City will conduct safety meetings at least quarterly. During these meetings the following will be discussed: new hazards that have been introduced or discovered in the workplace, causes of recent accidents, injuries, or near misses, methods to prevent similar occurrences in the future, and any health and safety issue or concern to employees or issues deemed by the City Manager to require further discussion or reinforcement.

## 10.2 Anti-Harassment Policy

### *10.2.1 Freedom from Harassment*

The City of Lafayette is committed to providing a work environment free from harassment. The policy prohibits harassment based on race, religious creed, color, national origin, ancestry, disability (physical and mental), medical condition, marital status, sex, age, sexual orientation, pregnancy, childbirth or related medical conditions, and use of family and medical care leave.

The policy against harassment applies to all persons, including employees, applicants, vendors, and customers, and is intended to protect employees from unlawful harassment by any person in connection with the employees' performance of their job duties for the City.

### *10.2.2 Definition of Harassment*

Harassing conduct includes, but is not limited to, the following behavior:

- a. Verbal conduct such as epithets, derogatory jokes, comments, slurs, threats, or unwanted sexual advances, invitations, or comments;
- b. Visual conduct such as staring, demeaning or sexually oriented posters, photographs, cartoons, drawings, or gestures;
- c. Physical conduct such as assault, unwanted touching, blocking normal movement, or interfering with one's work; and,
- d. Retaliation for reporting or threatening to report harassment.

### *10.2.3 Unlawful Situations*

Harassing conduct is unlawful under any circumstance, particularly:

- a. Submission to the conduct is made either an explicit or implicit term or condition of employment;
- b. Submission to or rejection of the conduct is used as the basis for an employment decision affecting an employee; or
- c. The conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creates an intimidating, hostile, or offensive work environment.

#### *10.2.4 Employee Recourse*

If you believe another person in the workplace is unlawfully harassing you, the City recommends you tell that person in a clear and unambiguous manner that his/her conduct is unwelcome and you want it to stop. However, if you are uncomfortable taking this action or if the conduct does not cease after you have warned the offending person(s) to stop, you should complain to your immediate supervisor/manager. Additionally, you can file a complaint directly with the Federal Equal Opportunity Commission (EEOC).

Who you complain to is your choice, depending on whom you feel more comfortable with. Supervisors and managers are instructed to immediately report complaints of sexual or other harassment to the City Manager. When complaining of unlawful harassment, you should provide the City with a description of the conduct, its frequency, the name(s) of the offending person(s), the names of all witnesses to the conduct, and your response to the conduct.

Who to Contact:

- Your Supervisor/Manager
- Federal Equal Employment Opportunity Commission (EEOC) at (415) 744-6500 or (800) 669-4000.

#### *10.2.5 City Responsibilities*

Every complaint of unlawful harassment reported will be investigated in a timely, thorough, and – to the extent possible – confidential manner. The City does not condone retaliation against any employee for filing a complaint or harassment, cooperating in an investigation into a complaint of harassment, or for making a truthful complaint regarding unlawful harassment.

If the City determines unlawful harassment has occurred, effective remedial action appropriate to the circumstances will be taken. Any employee(s) determined by the City to be responsible for unlawful harassment will be subject to appropriate disciplinary action, up to and including termination.

The City encourages all employees to report complaints of unlawful harassment as soon as possible so that the complaint can be timely and fairly resolved.

#### *10.2.6 Anti-harassment and Anti-discrimination Training*

The City will provide and all employees will be required to attend mandatory anti-harassment and anti-discrimination training every two years.

### 10.3 Guidelines on Accepting and Providing Gifts & Services

An employee and his or her immediate family shall not accept from or provide to individuals or companies doing or seeking to do business with the City of Lafayette gifts, entertainment, and/or other services or benefits unless the transaction meets all of the following guidelines. The gift:

- a. Is customary and gives no appearance of impropriety and does not have more than a nominal value (i.e., not to exceed \$50.00);
- b. Does not impose any sense of obligation on either the giver or the receiver;
- c. Does not result in any kind of special or favored treatment;
- d. Cannot be viewed as extravagant, excessive, or too frequent considering all the circumstances including the ability of the recipient to reciprocate at City expense;
- e. Is given and received with no effort to conceal the full facts by either the giver or receiver;
- f. Must be reported according to FPPC guidelines.

This section does not preclude gifts from an individual's spouse, spousal equivalent, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin.

### 10.4 Outside Employment

An employee shall not engage in any employment, activity, or enterprise which is inconsistent, incompatible, in conflict with, or inimical to his/her duties with the City.

The City Manager shall determine those activities that lessen the employee's effectiveness as a City employee.

No City equipment, vehicles, tools, supplies, or any other item shall be used by an employee while the employee is engaged in any outside employment or activity.

Employees engaging in substantive outside employment (i.e. more than 10 hours per week) shall notify the City Manager of such activity. Notification should include the nature of the work and the hours involved.

#### 10.5 Nepotism

The City of Lafayette seeks to hire and employ the most qualified candidates, regardless of background or familial ties. There shall, therefore, be no bars to the appointment of immediate family members in the same or different departments or divisions.

It is, however, the City's preference that no employee – regular, temporary, intern or otherwise, shall be supervised by an immediate family member. Due to the small size of the organization, this may not always be possible. In such cases, the City Manager may approve such an arrangement provided that there is a written plan which ensures that personnel matters including evaluation, retention, tenure, promotion, wages, hours and other terms and conditions of employment will not be decided based on the relationship as an immediate family member, and that an independent administrator is available to review all decision on personnel matters. The written plan shall be placed in the personnel files of all affected employees.

The Director of the department or division shall be responsible for investigating concerns about conflicts of interest or favoritism involving members of the same immediate family.

“Immediate family member” is defined as parent, child, grandparent, sibling, uncle, aunt, nephew, niece, first cousin, spouse, spousal equivalent, stepparent, stepchild, brother-in-law, sister-in-law, father-in-law, mother-in-law, son-in-law, daughter-in-law by guardianship and/or adoption or a person residing in the immediate household except live-in household employees or roomers.

#### 10.6 Address Notification

Employees shall notify the Finance Division of any change of name, address, or telephone number within ten (10) calendar days of change.



## **11. APPENDICES**

11.1 Sample Appeals Hearing Procedure

11.2 Sample Notice of Intent to Impose Disciplinary Action and Terminate (Skelly Notice)

11.3 Types of Leave

11.4 Performance Review Form

11.5 Exit Interview Questionnaire

11.6 Index

## Index

:appeal	
burden of proof .....	34
absent without notification .....	40
address.....	70
administrative hearing.....	34
administrative leave .....	27
adoption.....	1
Adoption and Amendments to the Rules	
personnel rules .....	1
ALE.....	61
amendments.....	1, 5, 7
announcements .....	16
appeal.....	17, 20, 22, 24, 29, 31, 36, 37, 38, 39
appeal of disciplinary action.....	34
appeal of grievance against City Manager	39
appeal of performance evaluation.....	24
disqualification of applications .....	17
due process .....	34
due process .....	34
formal grievance appeal.....	38
applications.....	16, 17, 18
disqualification of applications .....	17
process .....	16
appointment.....	3, 5, 7, 17, 18, 19, 20, 30, 37
provisional appointment.....	3, 19, 20
attendance .....	14, 40, 41
absent without notification .....	40
attendance records.....	41
hours .....	3, 12, 14, 40, 41, 65, 69
tardiness.....	14
work schedule.....	40, 41, 42
banking hours.....	14
benefits...1, 2, 3, 4, 13, 20, 24, 30, 40, 41, 42, 43,	60, 69
COBRA.....	64
disability insurance .....	65
employee assistance program.....	65
fringe benefits.....	2, 3, 43
IRS 125 .....	64
life insurance .....	65
medical insurance.....	42
mileage allowance .....	65
professional development.....	64
bereavement leave.....	51
break	
meal break.....	41
rest break .....	42
burden of proof .....	34



catastrophic illness .....	45	departure without leave .....	14
child .....	2, 69	dependent .....	2
classification .....	2, 3, 5, 7, 10, 11, 18, 19, 26, 29	child .....	2, 69
Classification .....	5	dependent care.....	44, 64
COBRA.....	64	parent .....	2, 69
compensation		spousal equivalent.....	2, 69
compensation for part-time employees.....	10	spouse.....	2, 69
compensation for temporary employees...	10	dependent care .....	44
compensation on promotion.....	11	disability	
compensation on demotion.....	11	on-the-job-disabilty .....	30, 31
compensation on reinstatement.....	11	disability .....	44
compensation for overtime.....	11	disability insurance .....	65
compensatory time .....	12, 51, 59	discharge.....	17, 20, 27, 31, 32
compensation for court time.....	13	disciplinary action.....	1, 17, 23, 27, 32, 44
compensation for on-the-job injuries .....	13	discipline.....	36, 37
compensation for working out-of-class.....	13	grounds for disciplinary action .....	1, 27
hourly rates .....	41	pre-disciplinary procedures .....	27
pay reduction .....	14	progressive discipline .....	32
pay period .....	41	suspension .....	20, 27, 32
pay day .....	41	written notice .....	32
pay for vacation time (see also Vacation Leave) .....	49	written reprimand.....	37
compensatory time .....	12, 51, 59	disqualification of applications.....	17
contract employee .....	2	distribution.....	24
court appearances.....	58	domestic violence leave .....	59
court time.....	13	due process.....	34
demote.....	26	election official leave .....	59
demotion.....	11, 20, 26, 27, 32, 37	eligibility list .....	3, 5, 18, 19, 20

employee	
contract employee .....	2
full time employee .....	3
part-time employee .....	3, 10, 43, 48, 50
probationary employee .	3, 13, 20, 22, 43, 48
provisional employee .....	3, 20
supervisory employee .....	4
temporary employee .....	4, 10
term employee .....	4
Employee Assistance Program.....	65
evaluation .....	8, 10, 24
performance evaluation	8, 10, 22, 23, 24, 36, 37, 66
reevaluation .....	24
examination .....	17, 18, 19, 22, 37
administration of examinations .....	18
types of examinations .....	18
executive leave .....	45, 51, 59
exempt.....	2, 12, 51
exit interview .....	31
fact finding committee.....	39
Fair Employment Practices.....	1
Fair Labor Standards Act.....	2, 11
family leave.....	52, 59
formal grievance .....	37, 38
formal grievance appeal .....	38
fringe benefits .....	2, 3, 43
full time employee.....	3
gifts.....	69
grievance.....	29, 36, 37, 38, 39
appeal of grievance against City Manager	39
definition of grievant .....	36
fact finding committee.....	39
formal grievance .....	37, 38
formal grievance appeal .....	38
grievance against City Manager .....	38, 39
grievance procedure exclusions .....	36
informal grievance .....	37, 38
representation.....	39
harassment .....	37
holiday.....	49, 50
holiday during sick leave .....	44
holiday during vacation.....	49
holiday leave .....	41, 43, 49, 50
paid holiday leave for regular part-time employees .....	50
weekend holiday.....	50
hourly rate .....	10, 12, 41
illness .....	42, 43, 44, 45, 66
catastrophic illness .....	45
informal grievance .....	37, 38
injury.....	13, 30, 31, 43, 44, 66
on-the-job injuries .....	13
injury prevention program.....	66
IRS 125 .....	64
job announcements .....	16

job description .....	2, 5	leave of absence .....	51, 59, 60, 62
jury duty .....	58	Life Insurance .....	65
leave .....	3, 23, 40, 42	meal allowance .....	65
administrative leave .....	27	meal break .....	41
benefits during leave of absence .....	42	medical insurance .....	42
bereavement leave .....	51	meet-and-confer .....	36, 37
court appearances .....	58	merit	
domestic violence leave .....	59	merit increase .....	36
election official leave .....	59	merit pay .....	8
executive leave .....	45, 51, 59	mileage allowance .....	65
family leave ( <i>see also Family Leave</i> ) ..	52, 59	military leave .....	60
holiday leave ( <i>see also Holiday Leave</i> ) ..	41, 43, 49, 50	negotiations .....	1
jury duty .....	58	non-exempt .....	12
leave of absence .....	42, 43, 51, 59, 60, 62	notice .....	17, 22, 29, 31, 32, 35, 52
leave without authorization .....	14	written notice .....	32
leave without pay .....	42	Notification of Applicants .....	18
military leave .....	60	occupational safety .....	66
physician's certificate .....	45, 51	Occupational Safety and Health Training Program .....	66
pregnancy leave .....	51	on-the-job injuries .....	13
requests for leave without pay .....	42	on-the-job-disability	
sick leave ( <i>see also Sick Leave</i> ) ..	30, 41, 42, 43, 44, 45, 51	discharge after on-the-job disability .....	31
unpaid leave .....	3, 23, 59	placement after on-the-job disability .....	30
vacation leave .....	12, 13	wage and benefit discontinuation after on- the-job disability .....	30
vacation leave ( <i>see also Vacation Leave</i> ) .....	30, 41, 42, 43, 44, 48, 49, 51, 59	out-of-class .....	13, 14
voting leave .....	60	outside employment .....	69
		overtime .....	2, 11, 12, 14, 30

parent .....	2, 69	physical examination .....	19
part-time employee .....	3, 10, 43, 48, 50	physical requirements .....	19
past practices .....	37	physician's certificate .....	43, 45, 51
pay .....	41	pre-disciplinary procedures .....	27
hourly rates .....	10, 12, 41	pregnancy leave .....	51
merit pay .....	8	probation .....	36
pay day .....	41	extending the probationary period .....	22
pay for vacation time (see also Vacation Leave) .....	49	probationary employee . 3, 13, 20, 22, 43, 48	
pay period .....	41	probationary evaluations .....	22
pay plan .....	7	probationary period. 3, 18, 20, 22, 23, 26, 60	
pay reduction .....	14, 32	professional development .....	64
performance evaluation .....	8, 10, 22, 23, 24, 37	progressive discipline .....	32
appeal of performance evaluation.....	24	promotion .....	1
authority to make reports .....	23	promotional increase .....	11
distribution of reports .....	24	provisional appointment .....	3, 19, 20
evaluation .....	8, 10, 36, 37, 66	provisional employee.....	3, 20
evaluations for non-regular employees.....	24	rating .....	23, 24
procedures and forms.....	23	reasonable accommodation .....	17, 20, 31
reevaluation .....	24	reclassification.....	5, 36
review with employee.....	23, 36	recruitment .....	1, 16, 18, 30
schedule .....	23	reduction-in-force .....	29, 36
personnel		severance pay .....	30
personnel file .....	35	re-employment .....	26, 30
personnel officer .....	1	reinstatement.....	11, 26, 36, 43, 52, 62
personnel rules .....	1, 36, 37	representation .....	39
personnel subcommittee.....	3, 7, 31	reprimand	
supervisory personnel.....	4, 30	written reprimand.....	37

resignation .....	11, 17, 26	supervisory discretion to relieve employees from duty .....	44
rest break .....	42	use of sick leave .....	43
retirement .....	61	spousal equivalent .....	2, 69
retirement contribution .....	61, 62	spouse .....	2, 69
vesting .....	42, 61, 62	supervisory personnel .....	4, 30
safety .....	20, 59, 65, 66, 67	suspension .....	20, 27, 32, 37
salary .....	3, 7, 10, 11, 13, 23, 43, 45, 64	tardiness .....	14
hourly rates .....	10, 12, 41	temporary employee .....	4, 10
pay day .....	41	tenure .....	11, 26, 43
pay period .....	41	term employee .....	4
salary adjustments .....	8, 10, 22	termination .. 1, 17, 22, 23, 31, 32, 37, 42, 43, 49, 60, 61, 62	
salary range .....	7, 8, 11, 13	training .....	20, 23, 24, 66
salary survey .....	7, 8	transfer .....	19, 26, 36
starting salary .....	7	uniforms .....	64
seniority .....	3, 29, 52	unpaid leave .....	3, 23, 59
severance pay .....	30	vacancy .....	19, 30
sexual harassment .....	37	vacation leave . 12, 13, 30, 41, 42, 43, 44, 48, 49, 51, 59	
sick leave .....	12, 30, 41, 42, 43, 44, 45, 51	cap on accumulation of vacation leave .....	48
dependent care .....	44	holiday during vacation .....	49
holiday during sick leave .....	44	pay for vacation time .....	49
illness while on vacation .....	44	use of vacation leave .....	48
leave .....	12	vacation buy back .....	49
sick leave abuse .....	44	vesting .....	42, 61, 62
sick leave and Worker's Compensation insurance .....	44	Violation of the Rules	
sick leave bank .....	43, 45	personnel rules .....	1
sick leave for dependent care .....	44		
sick leave payout .....	43		

voting leave .....60  
weekend holiday .....50  
work schedule.....40, 41, 42

worker's compensation..... 45  
workplace hazard ..... 66  
written notice ..... 32