

CITY OF NORWALK

PERSONNEL

RULES AND

REGULATIONS

November 19, 2003



**RULES AND REGULATIONS
FOR THE PERSONNEL SYSTEM
OF THE CITY OF NORWALK**

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**RULES AND REGULATIONS
FOR THE PERSONNEL SYSTEM
OF THE CITY OF NORWALK**

November 19, 2003

SECTION 1 - DEFINITIONS

All terms contained herein shall be consistent with the definitions set forth in Section 2.24.020 of the Norwalk Municipal Code. The system of rules and regulations for the City Personnel System set forth herein may hereinafter be referred to as the "City Personnel Rules."

SECTION 2 - APPLICATION

Unless otherwise specified herein, the City Personnel Rules shall apply to all General Unit employees, and shall not apply to persons in the offices, positions or employment set forth in Section 2.24.030 of the Norwalk Municipal Code and the City Manager, City Attorney and other positions designated management, hourly or temporary, except as outlined in Section 2.24.050 for hourly employees. Employees in these offices and positions serve at the will of the City Manager or City Council. Such employees may be discharged at any time without cause and without a right to a hearing.

SECTION 3 - QUALIFICATIONS FOR EMPLOYMENT

A. CITIZENSHIP

At the time of employment all persons employed by the City shall be citizens of the United States or legal residents for purposes of employment.

B. LOYALTY OATH

The Loyalty Oath set forth in Section 3 of Article XX of the Constitution of the State, as upheld by the California Supreme Court, shall be taken and subscribed by every employee and officer.

C. EMPLOYMENT OF EMPLOYEE RELATIVE PROHIBITED

Any relative of an elected or appointed official or of a City employee shall be prohibited from employment in any position in the same department as such official or employee or where such relative would have the potential for creating adverse impact on safety, or security or would be directly or indirectly supervised by or would be a supervisor of such official or employee. For purposes of this section, "relative" shall mean spouse, child, stepchild, parent, sister, brother, grandparent, grandchild, mother- or father-in-law, sister- or brother-in-law, daughter- or son-in-law, sister- or brother-in-law, daughter- or son-in-law, stepmother, stepfather, stepbrother, stepsister, half-sister or half-brother. Any employee whose immediate family member status may change as the result of marriage may continue employment, provided, that this does not create an adverse impact on supervision, safety or security. Should any such employee subsequently leave City employment, he/she will not be eligible for rehire except as set forth in this section.

SECTION 4 - COMPENSATION

A. SALARY STEPS

The letters, "A", "B", "C", "D", "E", respectively, shall denote the various steps in each salary range. Compensation shall generally be paid as follows:

- (1) Salary Step "A" upon initial employment for a period of one year from the salary anniversary date.
- (2) Salary Step "B" upon completion of one year of employment in Salary Step "A."
- (3) Salary Step "C" upon completion of one year of employment in salary Step "B."
- (4) Salary Step "D" upon completion of one year of employment in Salary Step "C."
- (5) Salary Step "E" upon completion of one year of employment in Salary Step "D."

Advancement from Steps "A", "B", "C", and "D" shall be made if the employee has demonstrated satisfactory job performance and normally increasing productivity as established by the employee performance evaluation, and upon recommendation of the department head, subject to the approval of the Director of Human Resources.

B. NONADVANCEMENT

If an employee is not advanced from one step to the next, the department head shall establish a period of time at the end of which the situation shall be reviewed to determine if a step advancement should be made, or another review period established. Any future step advancements shall be granted only pursuant to the provisions of Subsection "A" of this section, and the time periods for determining future step advancements shall be calculated from the date the step advancement following review is granted.

C. EMPLOYMENT AT HIGHER STEPS

When it appears that the educational background and/or previous training or experience of a potential new employee are substantially superior to those required of a position and justify a beginning salary in excess of the beginning Step "A" salary, the Director of Human Resources may authorize appointment to a position at an appropriate higher step.

D. SALARY ON CHANGE IN RANGE ASSIGNMENTS

Whenever a classification is reallocated to a higher salary range, the employees in such classifications shall be placed upon the same step in the higher salary range as they occupied in the old range. The employee shall retain the service time on such step which employee had at the time of the reassignment.

E. MERIT INCREASES

A merit increase is an advancement to a higher step made before completion of the normal step interval set forth in Subsection "A" of this section. A merit increase may be approved by the Director of Human Resources upon a recommendation of the department head, upon presentation of evidence indicating that the work of the employee has been outstanding in quality and quantity. A merit increase shall not affect the date on which step advancement would otherwise be made, and the employee may be advanced to the next step upon completion of one year from the date the employee began receiving compensation at the step prior to receiving the merit increase.

F. SALARY ON PROMOTION

An employee promoted to a position in a higher pay range from his/her present position which is an upward progression of related job duties from his/her present position shall be placed at a step in the new range which provides at least a five

percent (5%) salary increase, except that in no case will the employee receive a salary higher than the top step of the new range. The determination of the relationship between the old position and the new position shall be made by the Director of Human Resources. An employee acquires a new salary anniversary date upon promotion, and becomes eligible for subsequent step increases in accordance with the Salary Step schedule.

G. SALARY ON RECLASSIFICATION

Whenever a position is reclassified and the incumbent is to stay in the position, the incumbent will be placed at a step equal to the employee's current salary. If there is no step equal to the employee's current salary, the employee should be placed on the closest step that is above the employee's current salary. In the event the salary for the new position is below that of the employee's current salary, that employee shall retain the salary for the old position until the new salary range equals or exceeds the employee's current salary (y-rate).

H. HIGHER CLASSIFICATION PAY

Each employee who is required to perform the duties of a different classification with a higher salary range than the employee's current classification, shall be compensated at either 5% above their regular base rate (but in no case to exceed Step E) or be placed at Step A of the classification for which they are performing duties whichever is greater from the 11th consecutive working day on such assignment.

I. SALARY ON REEMPLOYMENT

A person reemployed may be placed upon the same step of the salary range as he/she occupied immediately prior to separation, and the anniversary date shall be the date of reemployment.

J. OVERTIME

(1) COMPENSATION

- (a) Overtime will be any time worked by the employee in excess of forty (40) hours per week. Flextime will be any time worked as overtime but intended and utilized as time off at straight time in the same work week in which it was earned. In determining overtime, vacation and paid holidays taken during the week shall be considered as hours worked. Any other leaves of absence or time spent in optional training shall not be considered as hours worked for the purpose of

calculating overtime. Prior to an employee working an extended schedule, the supervisor shall determine, upon request of the employee, whether the time is to be charged as overtime or flextime.

- (b) All overtime work shall be approved in writing and in advance by the department head; where this is impracticable, such approval in writing shall be sought by 9 a.m. of the following working day.
- (c) For overtime work, employees may be granted compensatory time off or payment at the discretion of the department head, taking into consideration budgeted funds of the department, and Fair Labor Standards Act regulations, if appropriate. When approval for the overtime is given, the employee shall determine from the department head whether compensation for such overtime shall be in the form of compensatory time or payment. Compensatory time off shall be during regular working hours. Compensatory time off shall first be taken during the same week in which it was earned if at all possible, and shall be equal time off for the number of overtime hours worked. If the time cannot be taken off during the same week, it can be accrued at the rate of one and one-half times the hours of overtime worked up to a maximum of 240 hours (160 hours worked). Compensatory payment shall be at the rate of one and one-half times the employee's regular hourly rate of pay.
- (d) For the health and welfare of employees, overtime work should be kept to the minimum consistent with protection of the lives and property of residents, and the efficient operation of the City departments and activities. Employees may be assigned to work overtime only if no qualified employees volunteer to work at such time. If an employee is assigned to work overtime he/she shall accept such assignment. Failure to work assigned overtime may be grounds for discipline, pursuant to the provisions of Section 12 of the City Personnel Rules.

(2) ASSIGNMENT

Whenever possible a list shall be drawn by each department of volunteers to work overtime/flextime. Overtime/flextime shall be assigned to employees who are qualified by management to work the overtime/flextime assignment in the following manner:

- (a) Workers still at the job site shall be canvassed in order of seniority.

- (b) If no worker present accepts the overtime assignment, the volunteer list shall be called until the first volunteer accepts the assignment.
- (c) If no volunteer is available and the overtime assignment is mandatory, the seniority list shall be called in inverse order to make an involuntary assignment.
- (d) In those cases where, for record keeping reasons, the preparation and maintenance of the list is too cumbersome, management shall assign overtime in compliance with paragraphs (a), (b), and (c) as much as possible.
- (e) In all cases, once an employee has worked overtime his/her name shall go to the end of the list.

(3) PROFESSIONAL TIME

The City agrees to provide those employees who are determined to be exempt from the overtime provisions of the Fair Labor Standards Act and who are not management employees, with 16 hours off during the fiscal year to be used as Professional Time. The use of the days and their scheduling shall be at the employees' discretion with prior approval of supervisor.

Additionally, these employees shall have the right to accrue Professional Time on an hour for hour basis at straight time of up to 104 hours per year as compensation for work that extends beyond forty (40) hours in one week.

The professional time accrued in a fiscal year must be taken by the end of the fiscal year following the fiscal year in which it is earned.

A supervisor has the discretion to require an employee to utilize accrued Professional Time by the end of June of the fiscal year after it is earned or to pay for the accrued Professional Time as of June 30 of that fiscal year. For employees who are promoted to management status, the Professional Time shall be used within one year of change or paid by the City at the employee's last base salary rate at which it was earned.

Employees who are reclassified to exempt status from the Fair Labor Standards Act overtime provisions shall retain any accumulated bank of compensatory time. The compensatory time shall be used within one year of the change of status or paid by the City at the employee's last base salary rate at which it was earned.

(4) CALL BACK

All General Unit employees who are called out for emergencies after their normal work shift and have left work will receive their regular pay plus 50% premium pay (or compensatory time off at the discretion of the department head) for the hours actually worked.

All General Unit employees who are called out for emergencies will receive a minimum of two (2) hours call back time, from the time until the normal work day is completed until 12:00 midnight. Any call backs after 12:00 midnight until 5:00 a.m. will receive a minimum of three (3) hours callback time. If an employee is called out at 12:00 midnight and has to work until 5:00 a.m., employee will have the following options:

- (a) Employees will call the Division Supervisor and notify the supervisor of the situation. The Division Supervisor will then decide if the employee should (1) use call back time and stay at home, or (2) get an adequate amount of sleep and then report to work;
- (b) Accrue compensatory time;
- (c) Be paid for overtime

K. STANDBY

A General Unit employee who is released from active duty and is not required to remain at the work site but is required to leave word at his/her home or with his/her department where he/she may be reached, or be available by pager, shall receive a maximum of \$120.00 per each week he/she is assigned.

TRANSIT HOLIDAY STANDBY PAY

Transportation Operations Supervisors and Equipment Maintenance personnel required on holidays to leave word at his/her home or with his/her department where he/she may be reached shall receive \$33.00 standby pay for each holiday.

L. NIGHT SHIFT

Those General Unit employees whose regularly assigned shift includes 50% or more of the scheduled work hours between the hours of 6:00 p.m. and 6:00 a.m. (hereafter called nightshift) shall receive five percent (5%) greater compensation than other employees in the same classification who work during regular working hours.

Employees assigned to night shift schedules will not lose the differential pay when temporarily reassigned to cover open assignments due to incidental sick leave, vacation, emergencies, etc.

SECTION 5 - APPLICATIONS AND APPLICANTS

A. ANNOUNCEMENT OF EXAMINATION

- (1) Whenever an open competitive examination is to be given for a position, the Human Resources Department staff shall prepare a written announcement of distribution and posting in three public places within the City, and for mailing to such colleges, universities, and employment offices as the Director of Human Resources determines are appropriate for the position, including, but not limited to those located in minority areas. Announcements of all open and promotional openings shall also be posted on bulletin boards at the various City facilities for employees' review. The Director of Human Resources may also undertake whatever other recruiting activities he/she feels are necessary or desirable to fill a particular position in a way which meets the City's goal of obtaining the most qualified employees while implementing the City's Equal Employment, Affirmative Action Plan.
- (2) The Announcement shall include:
 - (a) Title and pay for the position;
 - (b) The nature of the work to be performed;
 - (c) The minimum qualifications;
 - (d) Whether the position is at-will;
 - (e) Whether the position is hourly or full-time;
 - (f) The time and place of examination, if known;
 - (g) The method of applying;
 - (h) The closing date for the application, if one is established;
 - (i) Whether the position is exempt or non-exempt from overtime;
 - (j) Whether or not a valid California driver's license is required.

- (k) Whether a preemployment physical including drug and/or alcohol screen and a psychological screen is required.
- (l) Such other information as seems desirable in the discretion of the Director of Human Resources.

B. APPLICATION FORMS

Job applications shall be made on forms provided by the Human Resources Department. All applications must be completed in full and signed by the person applying.

C. DISQUALIFICATION OF APPLICATIONS

The Director of Human Resources shall reject an application, or after examination, shall disqualify or remove the applicant's name from an eligible list, if the applicant:

- (1) Has made false statements of any material fact, or practiced any deception or fraud on the application, declarations or in securing eligibility or appointment;
- (2) Is found to lack any of the requirements, certifications, or qualifications for the position involved;
- (3) Is physically or psychologically unfit for the performance of the position duties and, if disabled, cannot be reasonably accommodated;
- (4) Is found to be a relative of an employee, or elected or appointed official, and is subject to Subsection "C" of Section "3" of these City Personnel Rules;
- (5) Has been convicted of a crime, either a misdemeanor or felony, that relates to the position duties that the applicant would perform;
- (6) Used or attempted to use political pressure or bribery to secure an advantage in the examination or appointment;
- (7) Directly or indirectly obtained information regarding examinations;
- (8) Failed to submit the employment application correctly or within the prescribed time limits.

- (9) The applicant has his/her privilege to operate a motor vehicle in the State of California suspended or revoked within the past twelve months if a drivers license is a requirement for the position.
- (10) For any material cause which in the judgment of the Director of Human Resources would render the applicant unfit for the position, including a prior resignation or termination from the City.

If a current employee's application is rejected because there are more qualified applicants, the employee will be told. If a current employee's application is rejected for reasons other than more qualified applicants have applied for the position, the employee shall be given specific reasons for that rejection. If the employee believes the reason(s) is(are) in error, the employee shall within two (2) days of notification of rejection provide the Director of Human Resources with specifics facts or information which prove an error has been made. The Director of Human Resources shall review the materials and notify the employee either in person or in writing whether or not the application has been reinstated. The Director of Human Resources' decision shall be final.

D. NOTICE OF REJECTION OF APPLICATION

Notwithstanding the provisions of Subsection "8" of Subsection "C" of this section, the Director of Human Resources may permit an applicant to make minor corrections on an application on file, provided that the time limit for receiving applications has not expired. Defective applications may be returned to the applicant with notice to amend and refile, provided that the time limit for receiving applications has not expired. Whenever an application is rejected, notice of such rejection shall be mailed to the applicant by the Human Resources Department.

SECTION 6 - EXAMINATIONS

A. NATURE AND TYPE

Examinations shall consist of selection techniques which will test fairly the qualifications of candidates such as, but not necessarily limited to, achievement and aptitude tests, evaluations of training and experience, other written tests, personal interviews, performance tests, physical agility tests, work samples, medical tests, successful completion of prescribed training, or any combination of these or other tests. The determination of which selection techniques shall be used for any particular position shall be solely within the discretion of the Director of Human Resources. The probationary period shall be considered as a part of the examination process.

Examinations shall be designed to provide equal opportunity to all candidates by being based on an analysis of the essential requirements of the position covering only factors related to such requirements. Prior to examination, the Director of Human Resources shall inform applicants of the selection technique chosen. All examinations shall be supervised by the Director of Human Resources or designee.

B. CONDUCT OF EXAMINATION

After the time limit for receiving applications for a particular position has expired, the Director of Human Resources shall determine the applicants who meet the minimum qualifications for the positions. The chosen applicants shall then be given further examination of the nature and type set forth in subsection "A" of this section in order to obtain a score and ranking on the eligible list. If the Director of Human Resources determines that the total number of applicants that meet the minimum qualifications is insufficient, he/she may terminate the process.

C. PROMOTIONAL

Promotional examinations may be conducted whenever the needs of the service require. Promotional examinations may include any of the techniques described in subsection "A" of this section, or any combination of them. Only City employees who meet the requirements set forth in the examination announcement may compete in promotional examinations.

D. OPEN COMPETITIVE

Open competitive examinations may be administered periodically as the needs of the city service require.

E. SCORING AND QUALIFYING GRADE

Failure in one part of the examination, or to meet established standards described in the job announcement may be grounds for declaring such applicant as failing in the entire examination or as disqualified for subsequent parts of an examination.

F. NOTICE OF RESULTS

Each applicant shall be notified by mail of the examination results, including the final earned score and ranking on the eligible list, if applicable.

G. INSPECTION OF EXAMINATION PAPERS

Any candidate shall have the right to inspect his/her own examination results during normal working hours within three business days after the notices of examination results are mailed. Any error in computation, or incorrectly scored written test answers which are called to the attention of and confirmed by the Director of Human Resources shall be corrected, and the final score shall be adjusted accordingly. Such corrections shall not, however, invalidate appointments previously made. Examination results of applicants are not subject to inspection by the public nor by other applicants. To the extent permitted by law, references and oral rating sheets shall be confidential and shall not be open to inspection by the applicant nor by the public.

H. APPEAL OF GRADE

Within the time period permitted for inspection by subsection "G" of this section, an applicant may appeal the grade assigned on any part of an examination. The appeal shall be in writing and shall state the specific grounds for reconsideration. All appeals and correspondence relating thereto shall be submitted to the Director of Human Resources for consideration. The Director of Human Resources may permit the appellant to be heard. Within five (5) working days from receipt of appeal, the Director of Human Resources shall make a determination of the final grade, which shall be final for all purposes.

SECTION 7 - METHOD OF FILLING VACANCIES

A. ELIGIBLE LIST

After completion of an open or promotional examination, the Director of Human Resources shall prepare and keep available an eligible list consisting of the names of candidates who passed the examination, arranged in order of final score, from the highest to the lowest. Notwithstanding any other provision of these rules, if there are less than four names on an eligible list, the Director of Human Resources may declare such list void and fill the position(s) by any method permitted by these Personnel Rules, including, but not limited to, undertaking new recruiting and testing procedures. Eligible lists shall become effective upon certification by the Director of Human Resources.

B. ELIGIBLE LIST DURATION

Eligible lists shall remain in effect three months, unless sooner exhausted or unless extended by the Director of Human Resources. The Director of Human Resources

may abolish a list with less than four names or may extend the list at any time prior to the expiration of the list if he/she determines that it is in the best interest of the City to do so.

C. REMOVAL OF NAME

The name of any person appearing on an eligible list shall be removed by the Director of Human Resources or designee if the eligible so requests in writing, or fails to respond to a notification of an opening from the Director of Human Resources or designee.

D. TYPE OF APPOINTMENTS

Vacancies may be filled by reemployment, promotion, transfer, demotion, appointment of hourly employees, or from the appropriate eligible list, if available. No specific list shall have priority over other lists. The Director of Human Resources shall decide in what manner the vacancy is to be filled.

E. REQUEST TO FILL VACANCY

Whenever a position is to be filled, the department head shall notify the Director of Human Resources in writing.

F. APPOINTMENTS

- (1) The Director of Human Resources shall make all appointments. When a position is to be filled from a promotional or open eligible list, the Director of Human Resources shall choose from the specified list one of the top ten (10) candidates on the eligible list. If no person among the top ten (10) candidates indicates a willingness to accept the appointment, the Director of Human Resources may make the appointment from among the remaining names on the eligible list, may request a new examination and establish a new eligible list, or may fill the position by any other method authorized by these Personnel Rules.
- (2) The person accepting appointment shall report to the Director of Human Resources or designee on the date designated by the Director of Human Resources; otherwise, the applicant shall be deemed to have declined the appointment.

SECTION 8 - PROBATIONARY PERIOD

A. TIME

The probationary period shall be six (6) months of actual and continuous service.

B. EXTENSION

Upon request of the department head, the Director of Human Resources may extend an employee's probationary period beyond six (6) months under either of the following circumstances:

- (1) Should a probationary employee be on leave whether paid or unpaid (except for holidays) for a total of five or more days, whether consecutive or not, during the six-month probationary period, the probationary period shall be extended by the number of working days the employee was on leave during the probationary period;
- (2) If the department head determines that further time is required to observe the employee's work performance to determine if the employee is performing satisfactorily and otherwise fulfilling all requirements of employment. Such extension shall not exceed six (6) months.

C. COMPLETION OF PROBATIONARY PERIOD

Fifteen days prior to the termination of the probationary period the department head shall notify the Director of Human Resources in writing whether or not the service of the probationer shall be continued or terminated, or whether he/she requests that the probation be extended pursuant to subsection "B" of this section. A copy of said notice shall be placed in the employee's personnel file. The provisions of this section are for administrative purposes only, and shall not be deemed to give a probationer any additional rights.

SECTION 9 - PERFORMANCE EVALUATION AND REPORTS

A. PERFORMANCE EVALUATION

Performance evaluation is an on-going process and the Director of Human Resources shall provide a method of reporting of individual employee performance which may relate to quantity and quality of work, ability, reliability, discipline, attendance, and other factors. The Director of Human Resources or designee shall prescribe forms for such performance evaluations and shall be responsible for assuring that such

evaluations are adequate to provide information to both the employee and the City for the purposes set forth in this section. An employee must give satisfactory performance and meet expected standards in order to be eligible for an increase in salary or promotion. Deficiencies in performance by an employee may result in a decrease in salary, demotion, or dismissal.

B. PERFORMANCE REPORTS

Department heads shall periodically rate the performance of each employee, provided, however, that the department heads may delegate the responsibility for rating the performance of specified employees in their departments to that employee's supervisor. Interim reports may be completed as necessary when changes in work performance occur. Each employee shall be informed in such reports of his/her strengths and weaknesses. The reports may be inspected by the employee, the employee's departmental supervisor(s), the employee's department head, the Director of Human Resources, and other management staff as appropriate and the City attorneys, but shall not be open to any other persons, unless the employee specifically authorizes such other person to inspect the report(s), or the Director of Human Resources determines the report(s) to be relevant evidence in any hearing procedure conducted under these Personnel Rules.

C. APPEAL OF PERFORMANCE REPORT

A General Unit employee shall have the right to appeal any performance report in accordance with the appeal procedure in the Personnel System.

SECTION 10 - ATTENDANCE AND LEAVES

A. ATTENDANCE, REQUIRED TIMES, AND HOURS OF WORK

Employees shall be in attendance at their work in accordance with the rules regulating hours of work, holidays, and leaves. City offices and facilities, except those for which special regulations may be required, shall be open for business on all days of the year except Saturdays, Sundays, and holidays. The basic work week shall be forty hours. Employees for whom necessity requires a different schedule shall work according to regulations prepared by the respective department head and approved by the Director of Human Resources.

B. ABSENCE FROM WORK

Employees shall not be absent during working hours for any reason without the prior approval of the department head. If an employee finds it necessary to be absent, such

absence must be reported to the immediate supervisor or department head at least one-half hour before the start of the work schedule, if telephones are in operation, or as soon as the switchboard is open. Failure on the part of an employee to report an absence shall be cause for disciplinary action unless waived by the Director of Human Resources for extenuating circumstances.

C. RECORDS

All departments shall keep daily attendance records of employees.

D. HOLIDAYS

- (1) Municipal offices shall be closed and all full-time employees shall receive paid time off for the observance of the following holidays:

New Year's Day
Dr. Martin Luther King, Jr. Day
President=s Day
Memorial Day
Independence Day
Labor Day
Veteran's Day
Thanksgiving Day
Friday after Thanksgiving
Christmas Day
Floating Holidays*
Such other days as may be authorized by City Council

*All regular full-time employees will be entitled to two (2) floating holidays at the beginning of each fiscal year. If an employee does not complete the probationary period prior to June 30, the employee will not be eligible for the two (2) floating holidays for that fiscal year. All floating holidays must be taken within the fiscal year credited, with prior approval of the department head.

(2) POLICY

Unless City Council directs otherwise, whenever an actual City Holiday ("Actual Holiday") falls on a Sunday, then the following Monday shall be considered the City Holiday ("Recognized Holiday"); when an actual City Holiday falls on a Saturday, the preceding Friday shall be considered the City Holiday ("Recognized Holiday"). When, pursuant to authorization by a department head, a General Unit employee is required to work on an Actual

or Recognized Holiday, the General Unit employee shall be compensated at the rate of one and one-half times regular pay (premium pay), or shall receive time off during regular working hours equal to the actual number of hours worked on the holiday (compensatory time). If a General Unit employee works both the Actual Holiday and the Recognized Holiday, the General Unit employee shall receive premium pay or compensatory time for the Actual Holiday only, and shall receive regular pay for the Recognized Holiday. Prior to working on the holiday, the General Unit employee shall determine from the department head whether compensation shall be in the form of premium pay or compensatory time. This holiday policy does not apply to exempt employees.

E. SICK LEAVE

- (1) Sick leave is not a right which an employee may use at his/her discretion but shall be allowed only in case of actual sickness or disability, including the first three days of work-connected disability;
- (2) No sick leave with pay shall be granted while an employee is in his/her probationary period, but if permanent status is achieved, sick leave credit will be allowed for time served as a probationer;

A 3,000 hour Hourly Unit employee who is promoted to a full-time position, shall have the right to use any previously earned sick leave while serving their probationary period in the new promotional classification. However, the probationary period will be extended by the amount of time used.

- (3) Credit for sick leave with pay shall accrue at the rate of eight (8) hours for each calendar month of service for General Unit employees. Any sick leave used shall be deducted from the accrued credit. Unused sick leave credit may be accumulated up to a total of 720 hours. Every General Unit employee accruing unused sick leave days beyond the maximum number provided in this section shall receive on the first pay day following the employment anniversary date payment for any sick leave accrued in excess of the maximum accumulation permitted. Monetary compensation for sick leave accrued in excess of the maximum shall be payable at the same rate as ordinary sick leave;
- (4) An employee intending to be absent on sick leave shall advise his/her immediate supervisor on each day of absence at least thirty minutes before the start of his/her daily duties, providing telephones are in operation, or as soon as the switchboard is open. An employee hospitalized or convalescing from surgery, illness, or injury may state the estimated time of absence on

such sick leave at the first report and need not make any further report for such period, but would be required to report within 2 days if such period changes. Failure to meet any reporting requirements may lead to discipline up to and including termination. Failure to report may be excused for good cause by the Director of Human Resources.

With sick leave that is for three or more consecutive working days, a physician's certificate stating the cause of absence shall be required unless waived by the Director of Human Resources. Where a supervisor or department head suspects abuse of this leave article, said department head may require the employee to provide a physician certificate stating the cause of absence when sick leave is for one or two days. Sick leave absence reports must be submitted by the employee to the department head on the first day he/she returns to work. The department head may request the supervisor to advise the employee of the requirement. Any employee absent for an extended period due to surgery, injury, or long illness may be required to undergo a physical examination by a City-designated physician before returning to his/her position duties.

- (5) Compensation for sick leave shall be in the amount the employee would earn during the sick leave period if working at his/her current rate of pay and work schedule without the inclusion of overtime earnings;
- (6) Sick leave pay shall not be allowed in the following situations:
 - (a) While an employee is on an authorized vacation, unless hospitalized during this time, or leave of absence without pay;
 - (b) While an employee is laid off;
 - (c) While an employee is absent from duty on account of disability arising from any sickness or injury purposely self-inflicted or caused by his/her willful misconduct;
 - (d) If the employee is not, in fact, sick or incapacitated from performing his/her job;
 - (e) If the employee has performed private or other public work while on sick leave;
 - (f) For doctor's visits or treatment required by an employee following an absence for a work-connected disability, unless the employee provides written documentation satisfactory to the Director of Human

Resources that the visit or treatment is not available during the employee's off-duty hours; or,

- (g) If the absence from work is for any other reason without approval of the Director of Human Resources.
- (7) City Holidays occurring during sick leave shall not be counted as days of sick leave.
- (8) No credit for accrued sick leave shall be permitted when an employee's employment terminates with less than five (5) years service. If a General Unit employee has five (5) or more years of service, upon termination the employee shall be compensated at his/her current rate of pay for a percentage of the total accumulated unused sick leave, calculated in accordance with the following schedule:

<u>Years of Continuous Service</u>	<u>Compensation Rate</u>
Less than five	0%
At least five but less than ten	25%
At least ten but less than fifteen	50%
At least fifteen but less than twenty	75%
Twenty or more	100%

When termination is caused by the death of a General Unit employee with five (5) or more years of service, payment shall be made in accordance with the schedule set forth above to the estate of such employee; however, the City may, at its option, pay said sum to a surviving spouse or to such other person or persons as the employee shall have designated in writing, filed with the City prior to death, if no probate or administration of the employee's estate is contemplated.

(9) Family Sick Leave

- (a) A General Unit or 3,000 hour Hourly Unit employee shall be authorized six (6) months accrual of sick leave to attend to an illness of a child, parent or spouse. Child shall include biological, foster, adopted, step-child, legal ward or child standing in loco parentis. Parents shall include biological, foster, adoptive, step-parent or legal guardian.

Restrictions placed upon the use of sick leave by an employee as set forth in Article 19 of the MOU shall apply to the use of Family Sick Leave.

This benefit is not cumulative.

The City may require a doctor's certificate to verify the illness or disability of the family member.

- (b) Up to 12 workweeks of leave without pay for family and medical care leave will be granted employees who have worked a minimum of 1250 hours in the 12 months preceding the date of the leave as is outlined in the Family and Medical Leave Act. As specified in the Act, the City will maintain the level of benefits the employee is entitled to per the Memorandum of Understanding with the employee responsible for maintaining a timely schedule of payments for any employee portion of cost.

With a timely request by the employee and verification, such leave will be approved in the following instances:

- (1) for the birth or adoption of a child of the employee
- (2) to care for a newborn child of the employee
- (3) to care for the employee's parent, child or spouse who has a serious health condition
- (4) for placement of a child for foster care or
- (5) for the employee's own serious health condition which makes the employee unable to perform his/her job.

F. VACATION

(1) Vacation Accrual

All General Unit employees who have completed one (1) year of continuous service shall earn vacation as follows:

Years of Continuous Service

Length of Vacation

Less than 5 years

80 hours

5 years, but less than 10 years

120 hours

10 years or more

160 hours

(2) Vacation Scheduling

Employees will be given the opportunity to request vacation dates in blocks of five (5) consecutive work days or more each year, or in one week increments in the event of other than 5/8 shifts. The employee shall submit a written request to his/her supervisor by the last working day of the year by the following method. Vacation requests will be for the twelve (12) month period commencing the following February 15. The employee's supervisor will respond by January 30 as to approval or denial of the employee's request.

In those circumstances where employees wish to break their vacation into several increments of five or more days, their first choice shall be granted by seniority. After all first choices have been granted, second choices shall be allocated by seniority, etc.

Vacation time requested after the last working day of the year shall be granted in compliance with paragraphs 1 and 2 above but will in no case conflict with the vacation time requested in advance of the last working day of the year.

Choices of vacation dates shall be granted wherever practical, but the operating requirements of the City, as determined by the director of each department, shall prevail. Where more employees than can be spared request a particular period, preference will be in order of seniority, provided the remaining employees are qualified to do the work. Management's needs to fill operating requirements of the City shall prevail in paragraphs 1, 2, and 3.

(3) Holidays During Vacation

If a legal holiday occurs while an employee is on vacation, such holiday time shall not be deducted from the amount of vacation to which the employee is entitled.

(4) Unused Vacation

Where possible, vacation leave should be taken annually and not accumulated from year to year. However, if employees are not able to take the vacation accrual time before their subsequent anniversary date, employees may, with

approval of their department head, defer the accrued vacation for use in succeeding years. Employees shall not accumulate vacation in excess of the equivalent number of days earned in the immediately preceding twenty-four (24) month period. The employee shall be paid for accrued vacation in excess of the equivalent number of days earned in the immediately preceding twenty-four (24) month period.

(5) Management Employees

Vacation accruals for management employees will be limited to one year following the year in which the vacation was earned. If vacation leave is not taken within 12 months following the year in which it was accrued, then the employee will receive an automatic payoff for that vacation at the end of the fiscal year.

Management employees may receive a voluntary payoff at the end of each fiscal year for unused vacation leave which has accumulated during that year.

Under extraordinary circumstances, as determined by the City Manager, the City Manager may authorize a carryover of accumulated vacation leave for an additional six (6) months; but, in no case will a second extension be granted without approval by the City Council.

(6) Vacation Upon Termination

General Unit employees who terminate their employment with the City shall be paid for all accrued vacation, if any.

In the event of the death of an employee, payment shall be made to the estate of such employee if probate of the estate is contemplated. If probate or administration of the employee's estate is not contemplated, the City may, at its option, pay said sum to a surviving spouse, or to such other person or persons as the employee shall have designated in writing to the City prior to his/her death.

G. LEAVE OF ABSENCE WITHOUT PAY

An employee who desires a leave of absence without pay, not to exceed one year, shall file a written request with the department head for approval by the Director of Human Resources or City Manager stating his/her position, title, the beginning and ending dates of the proposed leave, and reasons for such request. Leaves of absence without pay may be granted for illness exceeding accumulated sick leave, child care absences exceeding maternity disability leave, special duty for another governmental

agency, extension of vacation time, or any other reason which is deemed to be in the best interests of City government. The Director of Human Resources shall have the authority to grant leaves of absence without pay for periods not to exceed one month.

Requests for leaves of absence without pay for periods exceeding 30 calendar days shall require City Manager approval.

Leaves of absence without pay shall constitute a break in employment for the purpose of determining employment status and shall constitute a termination of all rights and benefits of employment except the right to reemployment as provided herein. Upon return following an approved leave of absence, the employee shall resume the status and have the rights, benefits, and accumulations thereof which he/she had on the last day preceding such leave of absence. Failure on the part of an employee on leave to report promptly at its expiration may be cause for disciplinary action including discharge. Employees on family and medical leave shall be entitled to a continuation of medical benefits without pay.

H. WORKER'S COMPENSATION.

- (1) Any employee who suffers bodily injury or sickness occurring in the course and scope of employment as contemplated by the Worker's Compensation Law of the State of California shall be entitled to benefits as provided by that Law. If the employee wishes to go to his/her own doctor he/she must have a memo placed in the employee's file in the Human Resources Department indicating the name, address and phone number of the physician. If a note is not in the file, the employee must go to the employer's doctor for the first 30 days.
- (2) A leave of absence for an industrial injury shall not be considered a break in service for the purpose of rights to salary adjustment, sick leave, vacation, or seniority to which an employee would be entitled if not absent. If on the day of the accident the employee is sent home by the doctor, he/she will receive full salary for that day. If the employee has to be off beyond the day of the accident, he/she may request the use of accumulated sick leave or vacation for the next three days of absence. Beginning the fourth day of industrial leave, the employee will be paid disability compensation as stipulated by California State Law, and will be allowed to supplement such compensation to full base salary with accrued benefits such as sick, vacation or other paid leave. Upon return to work from an industrial leave, if the employee's doctor sends him or her home at some future date for the same injury or illness, the employee will also receive full salary for the remainder of that day.

- (3) An employee will only receive payment for absences authorized in writing by the attending physician. The employee must provide his/her department head with these written authorizations within 24 hours after the visit to the doctor.

I. MILITARY LEAVE

- (1) Military leave for active duty shall be granted in accordance with the provisions of State and Federal law. Employees entitled to military leave shall furnish the department head with a copy of the military order to serve and shall give the department head an opportunity within the limits of military regulations to determine when such leave shall be taken.
- (2) No person shall be appointed in probationary or regular status to a position in place of an employee on military leave.

J. DEATH OR ILLNESS OF FAMILY MEMBER

(1) Bereavement Leave

Family, for purposes of Bereavement Leave, shall include: employee's parent (or stepparent, mother-in-law, father-in-law), spouse, son, daughter (or stepson, stepdaughter, son-in-law, daughter-in-law), brother, sister (or brother-in-law, sister-in-law), grandmother, grandfather, or grandchild, court appointed or other verifiable guardian, as approved by the Director of Human Resources.

In the event of a death in the family of a General Unit or 3,000 hour Hourly Unit employee, upon the request of the employee, the employee shall be authorized up to three regularly scheduled days leave of absence with pay, referred to as Bereavement Leave, respectively to make household adjustments or to attend funeral services.

(2) Death or Illness

In the event of death or illness of a General Unit or 3,000 hour Hourly Unit employee's family member, the department head may authorize immediate vacation leave to the employee so the employee can be with the family member, make household adjustments, or arrange for medical services.

The employee will notify the City prior to actually taking the paid leave and to provide the City with adequate verification of death in the family to support the payment of salary upon return from leave.

K. JURY DUTY

A General Unit employee who is required to report for jury duty shall be granted leave for such purpose under the following conditions:

- (1) The jury notice must be submitted to the department head.
- (2) A letter shall be requested to be submitted by the Human Resources Department if a hardship to the City would be imposed by the employee's absence.
- (3) The employee shall be excused from work each day for the time required to report to the court and shall return to work for the remaining portion of the work shift.
- (4) The employee shall receive his/her regular base salary for the time served up to a maximum of five (5) days per calendar year.
- (5) With adequate notice to the department head and if feasible by the department, employees granted such leave shall be temporarily assigned to work the day shift, with a Monday through Friday work week.

L. SUBPOENA

- (1) An employee served with a subpoena shall, upon service, request such compensation for services as is legally due, and shall immediately notify his/her department head. Absence with pay is authorized whenever the court proceeding relates to an incident arising out of City employment, so long as the employee is not a party in an action against the City, a criminal matter, or a civil matter not originated by the employee, for the time required in court plus a reasonable length of time to report and return. Such employee shall be at work the remaining hours of the work day or be considered absent without pay.
- (2) An employee absent with pay shall promptly pay over to the City all fees received for court attendance, excluding travel, parking and meal allowance, or have an identical amount withheld from the subsequent payroll check.
- (3) Absence for court appearances or other absence mandated by law is authorized whenever the employee initiates legal action over a matter primarily for the employee's own benefit, provided, however, such absence shall be on employee's own time, such as vacation, compensatory time, or floating holiday.

SECTION 11 - REASSIGNMENT, TRANSFER, PROMOTION, AND REEMPLOYMENT

A. REASSIGNMENT

An employee may be reassigned by the Director of Human Resources at any time from one position to another position which is the same or comparable. For reassignment purposes, a comparable position is one with the same maximum salary, involves the performance of similar duties, and requires substantially the same basic qualifications. Reassignments shall not be used to effectuate a promotion, demotion, advancement, or reduction, each of which may be accomplished only as provided in these Personnel Rules.

B. TRANSFER

The Director of Human Resources may approve a request for transfer by an employee to a different position at the same maximum salary to which the employee meets the minimum requirements. After such transfer, the employee shall be subject to a probationary period, but the employee's salary in the new position will depend upon the ability of the employee to perform the duties of the position.

C. PROMOTION

Insofar as practical, and consistent with the best interests of the City Personnel System, all vacancies shall be filled from within the City service after a promotional examination has been given and a promotional eligible list established. If, in the opinion of the Director of Human Resources, the best interests of the City will be served by filling the position by open competitive examination or any other method authorized by these Personnel Rules, instead of by promotional examination, an open competitive examination shall be arranged for the purpose of establishing an open eligible list, or such other action taken as required to fill the vacancy.

D. REEMPLOYMENT

With the approval of the Director of Human Resources, an employee who resigned in good standing may, within two years of such resignation, be reemployed without examination in the same or a comparable position. Upon reemployment, the General Unit employee shall be subject to a six-month probationary period in accordance with these Personnel Rules. No credit for former employment shall be granted in computing benefits.

SECTION 12 - REPRIMAND, SUSPENSION, DEMOTION AND DISCHARGE

A. BASIS FOR ACTION

Employees shall at all times conduct themselves in such a manner as not to reflect discredit upon the City. Every employee is required to provide good conduct and fit and efficient service. Any employee, other than those listed in Section 2.24.030 of the Norwalk Municipal Code, the City Manager, the City Attorney, those positions designated management, and those positions designated hourly, temporary, may be reprimanded, suspended, demoted, reduced in pay, or discharged for any of the following reasons:

- (1) Incompetency or inefficiency;
- (2) Insubordination, or abuse of the employee's position in dealing with other employees or the public;
- (3) Neglect of duty;
- (4) Disruptive, disorderly, or unfavorable conduct;
- (5) Mental or physical incapacity to perform duties, and if disabled are unable to be reasonably accommodated or present a direct threat to the health and safety of others;
- (6) Damage to, misappropriation or waste of public equipment, property, or supplies due to negligence or willful acts;
- (7) Conviction of a misdemeanor or felony where the type of crime is related to their employment;
- (8) Unauthorized absence from duty;
- (9) Outside employment without authorization;
- (10) Excessive absenteeism or tardiness;
- (11) Dishonesty;
- (12) Workplace violence;
- (13) Discourteous treatment of public or other employees;

- (14) Working overtime without authorization;
- (15) Violation of the provisions of the Personnel System, these Personnel Rules, or department rules;
- (16) Other conduct not consistent with the employee's status as an employee of the City.

These reasons are indicative and not restrictive and discipline may be based on reasons other than those specifically mentioned above.

B. TYPES OF ACTION

- (1) The City follows a system of progressive discipline depending upon the grounds for discipline. It is further the policy of this City that a system of progressive discipline be utilized with the objective of correcting inappropriate employee conduct before such conduct has an adverse effect on the Personnel System and City generally, or becomes impractical to correct.
- (2) Disciplinary actions listed in order of severity, are as follows:
 - (a) Reprimand. A written statement placed in the employee's personnel file, describing the deficiencies in the employee's conduct, the corrective action required and period of time allowed for correction;
 - (b) Suspension. A period of time during which the employee is not permitted to exercise his/her duties or to appear at his/her work place. Suspension may be with or without pay and for any period of time;
 - (c) Salary Decrease. A decrease in salary to the next lower step within the salary range;
 - (d) Demotion. A transfer of an employee to a position in the Personnel System having a lower maximum rate of pay. No employee shall be demoted to a position for which he/she does not possess the minimum qualifications;
 - (e) Discharge. A termination of an employee's services.
- (3) Discipline-Suspensions of three (3) days or more, salary decreases, demotions or dismissals.

This section provides the sole, exclusive method of appealing suspensions for three (3) days or more, salary decreases, demotions or dismissals. Appeals of discipline for suspensions of one or two days and written reprimands are provided in Section 21 - Grievance Procedure of these rules.

- (4) The disciplinary actions of reprimand, and suspension for a period not exceeding ten (10) working days may be imposed by a department head or the City Manager. More severe disciplinary actions may be recommended by a department head, but shall only be imposed by the City Manager.

C. EXEMPTIONS

Any probationary employee, City Manager, City Attorney or positions designated as management, hourly, or temporary may be discharged or subject to other disciplinary measures without cause and without right of appeal or hearing.

D. PROCEDURES

No disciplinary action shall be taken without compliance with these provisions and those stated in Section 21 of these rules unless imposed on those employees listed in Section 2.24.030 of the Norwalk Municipal Code who may be disciplined at any time without cause and without a right of appeal or hearing.

(1) Notice of Intent

Whenever the appropriate authority intends to suspend for three (3) days or more, reduce in pay, demote or dismiss a non-probationary General Unit employee, the appropriate authority shall give the employee a written Notice of Intent to Discipline which states:

- (a) The disciplinary action intended;
- (b) The specific charges upon which the action is based;
- (c) A factual summary of the grounds upon which the charges are based;
- (d) Notice of the employee's right to respond to the charges either orally or in writing to the appropriate authority;
- (e) The employee's right to review and copy all the materials upon which the intended discipline is based;

- (f) The date, time and person before whom the employee may respond in no less than five (5) working days;
- (g) Notice that failure to respond at the time specified shall constitute a waiver of the right to respond prior to final discipline being implemented.

(2) Final Notice

If, after the response or the expiration of the employee's time to respond to the Notice of Intent, the appropriate authority decides to proceed with the disciplinary action, a Final Notice shall be served upon the employee either in person or by mail.

(3) Removal of Employee from Duty

- (a) The City shall not discharge a non-probationary General Unit employee, other than those listed in Section 2.24.030 of the Norwalk Municipal Code and the City Manager, City Attorney, and other positions designated management, temporary or hourly, without cause;
- (b) Where retention in active work status would be detrimental to the best interest of the City, the employee or other employees, the employee may be removed from duty immediately or within less than ten (10) working days after the Notice of Intent. However, such removal shall not cause the employee loss of pay or benefits.

(4) Appeal

- (a) Within ten (10) working days after service upon the employee of the Final Notice (15 days if service is by mail), the employee may appeal the disciplinary action to the Personnel Appeals Board.
- (b) Every appeal shall be taken by way of written Notice of Appeal filed with the Director of Human Resources prior to the expiration of the appeal period.
- (c) An appeal shall contain a notice of the employee's intent to appeal, setting forth specific facts upon which the appeal is based, a specific reference to the disciplinary action upon which the appeal is taken and the nature of the relief sought. Every Notice of Appeal shall be signed by the appellant or the appellant's representative.

- (d) The Director of Human Resources shall, as soon as possible, undertake all necessary actions to convene the Personnel Appeals Board, including scheduling a request for approval of the composition of the Board by the City Council. The hearing before the Personnel Appeals Board shall be conducted as set forth in the procedure for hearings. The decision of the Board shall be advisory only. The Board shall decide whether to recommend to the City Manager that the action complained of be sustained, rejected or modified.

The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the penalty recommended by the Board, if any.

- (e) The recommendation of the Personnel Appeals Board and the record of the proceedings held before it shall be filed with the City Manager. The City Manager shall consider such record and recommendation and shall make a final determination affirming, rejecting, or modifying the prior determination on the matter. The final determination of the City Manager shall be in writing and shall be delivered to the employee personally or by registered mail, and to the department head, and a copy shall be placed in the employee's personnel file.
- (f) Within ten (10) working days after receipt of a copy of the final determination reached by the City Manager, the employee may file with the City Clerk a written request for a hearing of the issue before the City Council. At its next regular meeting the City Council shall determine whether to hear the matter, and if so, whether such hearing shall be de novo or limited to a review of the record of the hearing before the Personnel Appeals Board, to determine if the City Manager's decision was supported by substantial evidence. Any hearing shall be conducted pursuant to the rules of procedure set forth in Municipal Code, Section 2.24.120. Upon the conclusion of any review or hearing the Council shall cause its findings and decision to be prepared in writing, adopted by motion or resolution of the Council and filed as a permanent record by the Director of Human Resources. Copies shall be forwarded to all persons affected. The decision of the Council shall be final.
- (g) Failure of an employee to take any action required by this Article within the time limits permitted shall be deemed a waiver of all further rights of appeal.

- (h) An employee may have a representative of his/her choice with him or on his/her behalf at each stage of the appeal process.

The Discipline Article provides the sole, exclusive method of appealing discipline listed in section 1 above. Appeal of discipline for suspensions of 1 to 2 days and written reprimands is provided in the Grievance Procedure.

SECTION 13 - LAYOFF AND RESIGNATION

A. LAYOFF

The Director of Human Resources may layoff an employee because of material change in duties or organization, or shortage of work or funds. The Director of Human Resources shall notify the employee affected and the department head of the reasons for the action. The decision to layoff an employee shall not be subject to appeal. If the reduction in personnel is necessary solely for economic reasons, the seniority rule shall be observed in putting the reduction into effect, with seniority to be determined among persons in the same classification.

In the event of a layoff, employees shall be laid off by inverse seniority within the same classification. Employees to be laid off shall have the option to revert to a lower classification previously held. The least senior employee in the lower classification shall be laid off or have the option of bumping to a previously held lower classification in lieu of layoff.

B. RESIGNATION

- (1) An employee wishing to leave City service in good standing shall file with the department head, at least two weeks before leaving the City Service, a written resignation stating the effective date and reasons for leaving.
- (2) The resignation letter shall be forwarded to the Director of Human Resources with a statement by the department head as to the resigned employee's service performance and other pertinent information concerning the cause for resignation.

SECTION 14 - MEDICAL REQUIREMENTS

A. MEDICAL (AND/OR PSYCHOLOGICAL) EXAMINATION

- (1) All persons appointed to a General Unit position in the City service shall be required to pass a medical examination by a City-designated, licensed physician or surgeon immediately upon such appointment which may include drug and alcohol screening for certain specified classifications. New appointees may be required to pass a psychological examination prior to initial appointment.
- (2) Any employee transferred or reassigned to a position requiring more exacting physical qualifications shall be examined by a City-designated, licensed physician prior to assuming the duties of the new position.
- (3) Personnel may periodically be interviewed regarding personal health history and examined by a licensed physician. The Director of Human Resources, with the assistance of the various department heads, shall determine, upon the basis of the type of work and other pertinent factors, the frequency of such examinations.
- (4) The Director of Human Resources may require an employee returning from illness or injury to undergo a physical examination by a City-designated physician before returning to his/her position duties.
- (5) Whenever an examination discloses a condition that is not a danger to others, but which may probably affect efficient service, it is the responsibility of the employee to correct the condition, if possible, or to accept whatever action must be taken by the City because of his/her failure to perform satisfactorily on the job.
- (6) Whenever a General Unit employee is found to have a condition that may reasonably be expected to be a danger to his/her co-workers or to the public, or which render him/her unable to perform the functions required of his/her position, it will be the responsibility of the Director of Human Resources and the department head to take such action as is necessary to assure the safety of other employees and of the public. If the employee cannot be placed in a different job with the same or a comparable position or classification and be able to perform the functions required in such job, he/she may be demoted or discharged. Whenever an employee is demoted or discharged for such cause, the Director of Human Resources shall advise the employee in writing of the reasons and the date such action shall become effective.

- (7) A General Unit employee who is disciplined because of medical or physical conditions may appeal such action pursuant to the procedures in these Personnel Rules. The disciplinary action shall be stayed until the conclusion of such appeal, unless the condition is a threat to public safety.

B. MEDICAL STATEMENT

- (1) Appointments, transfers, or periodical examinations shall be subject to a statement by the examining physician filed with the Director of Human Resources to the effect that:
 - (a) The candidate does have the health and physical qualifications for the position as outlined in specifications developed pursuant to Subsection "D" of this section;
 - (b) Any physical incapacities found are not such that job performance will be below the accepted level for the position, and will not constitute a danger to the candidate or to others; and,
 - (c) The candidate has been advised of any problems which should or could be remedied.
- (2) The detailed history and record of the physical examination shall be kept in the files of the Human Resources Department, and shall not be available for inspection unless such inspection is authorized by the employee or on a needs to know basis as determined by the Director of Human Resources.

C. ARRANGEMENT FOR EXAMINATIONS

All required medical examinations shall be at the expense of the City by physicians approved by the City Council.

D. PHYSICAL SPECIFICATIONS

The Director of Human Resources and the various department heads may work out for the various positions the physical specifications and health requirements which shall be considered by examining physicians.

SECTION 15 - LIGHT-DUTY POSITIONS

The City will make every attempt to establish temporary light duty assignments on an as needed basis for physically and/or mentally disabled employees who are disabled as a result

of their work-related injury. Female employees who, because of pregnancy, child birth or related medical condition request, with the advice of their health care provider, an accommodation shall be given if such an accommodation is reasonable.

SECTION 16 - TRAINING OF EMPLOYEES

A. TRAINING OF EMPLOYEES

Responsibility for developing training programs for employees shall be assumed by the Director of Human Resources and department heads. Training programs may include lecture courses, demonstrations, assignment of reading matter, and such other devices as may be available for the purpose of improving the effectiveness and broadening the knowledge of municipal employees in the performance of their duties.

B. REIMBURSEMENT POLICY

- (1) The Director of Human Resources may authorize General Unit employees to attend training courses in approved schools or programs, excluding graduate and extension courses, at the City's expense. Courses or training must be related to the employee's position or to a position in the City to which he/she may reasonably expect to be promoted in the future.

Prior to enrollment, an employee shall submit a tuition reimbursement request form outlining the course or program and costs, and shall obtain the department head's and Director of Human Resources' approval. Supplies and transportation must be obtained at the employee's expense. The expense of required textbooks will be paid for by the City.

All educational reimbursement shall be subject to the availability of funds budgeted in each fiscal year, and it shall be the responsibility of the employee to determine if sufficient monies remain in the fund before submitting a request for reimbursement. Funds will be issued on a first-come, first-served basis.

An employee shall complete a college or university course or a training course with a grade of C or better or reimburse all funds authorized by the City. An employee who receives training pursuant to this section shall remain in City employment for one year from the date the class or program begins, or reimburse the City one-half of the tuition expense. The conditions may be waived only by the Director of Human Resources.

- (2) The fund for educational reimbursement shall be \$3,500 per year. Any unused educational funds from the preceding year will be added to the current year's fund of \$3,500 up to a maximum fund of \$5,000. At no time will the City be required to contribute more than \$3,500 in any one year to the Educational Reimbursement fund.
- (3) Employees wishing to be reimbursed for educational expenses shall have until August 31 of each year (April 30 for summer courses) to submit his/her request for reimbursement (up to a maximum of 12 units per semester). All approved requests received prior to required dates will receive an equitable portion of the existing fund. Requests received after the required dates will be processed on a first-come, first-served basis if any funds remain.
- (4) Reimbursement for courses taken will be paid at the rate of the cost of the course up to the current maximum dollar amount for 3 unit courses offered at California State Universities in effect during the school year in which the course was taken.

C. CREDIT FOR TRAINING

Participation in and successful completion of special training courses may be considered when making advancements and promotions. Evidence of such activity shall be filed by the employee with the Director of Human Resources.

SECTION 17 - REPORTS AND RECORDS

A. SERVICE RECORDS

The Director of Human Resources shall maintain a service or personnel record for each employee showing the name, titles of position(s) held, department(s) to which assigned, salaries, changes in employment status, information required under the Equal Employment, Affirmative Action Plan of the City, and such other pertinent information as the Director of Human Resources deems necessary.

B. CHANGE-OF-STATUS REPORT

Every appointment, transfer, promotion, demotion, change of salary rate, and any other temporary or permanent change in the status of any employee shall be reported to the Director of Human Resources.

C. DESTRUCTION OF RECORDS

Service and payroll records shall be kept permanently. All other records relating to personnel, including correspondence, applications, examinations, and reports, may be destroyed two years after any employee has left employment, unless otherwise required by law.

D. PERSONNEL FILES

(1) Viewing Files

An employee, or employee's representative, with written consent and waiver of privacy rights, shall be entitled to review all of the employee's personnel file.

If an employee wishes to view his/her personnel file, employee will schedule an appointment with the Human Resources Department staff a minimum of 24 hours in advance of viewing time.

(2) Photocopy Charge

If an employee wishes to have a photocopy of any of the documents in his/her personnel file, employee will pay the fee charged by the City at that time for photocopies.

(3) Placing Documents in Personnel Files

An employee shall be provided with copies of all documents that are to be placed in employee's personnel file and shall have the right to add his/her written response to negative documents, and or performance evaluations within ten (10) working days of receipt of the copy.

(4) Letters of Reprimand

Once an employee receives a letter of reprimand he/she will have ten (10) working days to respond in writing explaining why the letter of reprimand is being challenged and request a meeting with the Director of Human Resources. The Director of Human Resources will then determine whether or not the reprimand letter should be placed in the employee's personnel file as written or in a modified form.

(5) Removal of Documents from Personnel File

An employee may request that letters of reprimand be removed from his/her personnel file after a period of three (3) years. The employee shall submit a written request to the Director of Human Resources. If the Director of Human Resources determines that it is appropriate to remove the reprimand letter from the personnel file, the document shall be placed in a sealed file kept separate from the personnel file. Both the Director of Human Resources and the employee shall initial the file over the sealing tape and the file can only be opened by legal process, written consent of employee or if employee puts the reprimand in issue.

SECTION 18 - RULES AND REGULATIONS

A. RULES AND REGULATIONS

The City Manager may, by Administrative Order, establish and publish reasonable Rules and Regulations consistent with the requirements of the Norwalk Municipal Code and these Personnel Rules, to further guide employees in their personal conduct, to deal with other personnel and employment relationships, and to assist in the observance and effectuation of the principles and provisions of the City Personnel System and these Personnel Rules.

B. POLICIES

Employees shall comply with all Policies of the City Manager. Failure to comply with any Policy may be grounds for discipline under the provisions of Section 12 of these Personnel Rules.

SECTION 19 - APPLICATION TO CITY MANAGER

These Personnel Rules shall be deemed to apply to the City Manager, but only to the extent they do not contradict any provision of Norwalk Municipal Code Section 2.24.030, specific exclusions set forth herein or any contractual agreement to which the City Manager may be subject.

SECTION 20 - APPLICATION TO MANAGEMENT EMPLOYEES

A. GENERAL APPLICATION

The provisions of these Personnel Rules shall not apply to management employees except where expressly included. The City Council shall determine those employees who are deemed to be management employees, and shall set forth such determination in the resolution establishing the Table of Organization.

Management employees serve at the will of the City Manager and may be removed at any time without cause and without a hearing or appeal except as provided by Section 2.24.100 of the Norwalk Municipal Code.

B. APPOINTMENT OF DEPARTMENT HEAD

The City Manager shall be responsible for all appointments to the position of department head, and may use any method of filling such position which he/she determines will result in the most qualified person available being hired for the position; provided, however, that the provisions of the City's Equal Employment, Affirmative Action Plan shall be complied with.

C. TEMPORARY PROMOTION TO DEPARTMENT HEAD

The City Manager may grant a salary increase to any employee temporarily appointed to a management position.

D. OVERTIME AND MANAGEMENT LEAVE.

- (1) Management employees shall not be entitled to any compensation for overtime work pursuant to Subsection "J" of Section "4" of these Personnel Rules.
- (2) Management employees shall be entitled to sixty-four (64) hours of Management Leave per fiscal year, which shall be credited to the employee on the date of their appointment prorated on an hourly basis for that fiscal year and on the first day of the fiscal year. Prior approval of the supervisor shall be obtained before a management employee may take time off as Management Leave.
- (3) Any time off taken as Management Leave shall be scheduled so as not to inconvenience or interfere with the functioning of the City.

- (4) Management leave must be used within the fiscal year it is credited.
- (5) Upon termination of employment, management employees shall not be entitled to any compensation for accrued management leave.

E. NONPROBATIONARY POSITIONS

Management employees do not serve in positions for which a probation period is established. Any management employee may be discharged without cause or be subjected to other disciplinary measures, and shall have no right of hearing or appeal, except as provided by Section 2.24.100 of the Norwalk Municipal Code.

SECTION 21 - GRIEVANCE PROCEDURE - (GENERAL UNIT)

A. DEFINITION OF GRIEVANCE

A grievance shall be defined as a timely complaint by an employee concerning the interpretation or application of the express provisions of a Memorandum of Understanding and/or Personnel and/or Departmental Rules excluding disciplinary terminations, pay decreases, demotions and suspensions without pay for three (3) business days or more. For suspensions of three (3) days or more, demotions or discharges see Section 12-D of these rules. Disciplinary letters of reprimand and suspensions of up to two (2) business days, and appeals of performance evaluations can be appealed up through Level Three of this appeals procedure.

B. BUSINESS DAYS

Business days shall mean calendar days, exclusive of Saturdays, Sundays, and legal holidays recognized by the City.

C. TIME LIMITS FOR FILING WRITTEN FORMAL GRIEVANCES

The time limit for filing written formal grievances shall be strictly construed but may be extended by mutual written agreement evidenced and signed by a duly authorized representative of the City and the grieving party. If a grievance is not appealed to the next level within the specified time limit, or any agreed extension thereof, it shall be considered settled on the basis of the City's last answer. If the City does not answer a grievance or an appeal thereof within the specified time limits, the grieving party may elect to treat the grievance as denied at that level and may immediately appeal the grievance to the next level.

D. REPRESENTATIVE IN PRESENTATION OF GRIEVANCES

The grieving party may request the assistance of another person or persons of his/her own choosing in presenting the grievance at any level of the formal process or may represent himself/herself.

E. INFORMAL PROCESS

Level One - Immediate Supervisor

An employee must first attempt to resolve the grievance on an informal basis by discussion with his/her immediate supervisor within ten (10) business days after the first occurrence giving rise to the grievance, or within ten (10) business days after the employee, through the use of reasonable diligence, should have obtained knowledge of the first occurrence of the event giving rise to the grievance. The supervisor will give his/her answer to the employee by the end of the tenth (10th) business day following the presentation of the grievance. The giving of such answer will terminate Level One. An employee may have a representative of his/her choice present during the informal grievance meeting with the immediate supervisor.

F. FORMAL PROCESS

Level Two - Department Head

If the grievance is not settled at Level One, the grievant may, within ten (10) business days after the termination of Level One, appeal the grievance in writing to the department head on the form provided by the City. The department head shall schedule a meeting with the grievant to take place within ten (10) business days from the date the grievance is referred to Level Two. The department head shall render a written decision regarding the grievance by the end of the tenth (10th) business day following the date of the meeting. The giving of such reply will terminate Level Two.

Level Three - Director of Human Resources

If the grievance is not resolved at Level Two, the grievant may, within ten (10) business days after the termination of Level Two, appeal the grievance in writing on the City-provided form to the Director of Human Resources. The Director of Human Resources shall schedule a meeting with the grievant to take place within ten (10) business days from the date the grievance is referred to Level Three. The Director of Human Resources shall render a written decision regarding the grievance by the end of the tenth (10th) business day following the date of the meeting. The giving of such decision shall terminate Level Three.

Level Four - City Manager

If the grievance is not resolved at Level Three, the grievant may, within ten (10) business days after the termination of Level Three, appeal the grievance in writing on the City-provided form to the City Manager, or his/her designee. The City Manager, or his/her duly authorized designee, shall schedule a meeting with the grievant and his/her designee, if any, to take place within ten (10) business days from the date the grievance is referred to Level Four. The City Manager, or his/her designee, shall render a written decision regarding the grievance by the end of the tenth (10th) business day following the date of the meeting. The giving of such decision shall terminate Level Four.

Level Five - Personnel Appeals Board

If the grievance is not resolved at Level Four, the grievant may, within ten (10) business days after the termination of Level Four, file a written request with the Director of Human Resources requesting a hearing before the Personnel Appeals Board. The Director of Human Resources shall, as soon as possible, undertake all necessary actions to convene the Personnel Appeals Board. The hearing before the Personnel Appeals Board shall be conducted as set forth in Section 21 of these Rules and Regulations. The decision of the Board shall be advisory only. The Board shall, within thirty (30) days following the completion of the hearing, decide whether to recommend to the City Manager that the action complained of be sustained, rejected or modified. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the action, if any, recommended by the Board.

The recommendation of the Personnel Appeals Board and the record of the proceedings held before it shall be filed with the City Manager. The City Manager shall consider such record and recommendation and shall make a final determination affirming, rejecting, or modifying the prior determination on the matter. The final determination of the City Manager shall be in writing and shall be delivered to the grievant personally or by certified mail. The giving of such determination will terminate Level Five.

Level Six - City Council

If the grievance is not resolved at Level Five, the grievant may, within ten (10) business days after the termination of Level Five, file a written request with the City Clerk requesting a hearing before the City Council. The City Council shall, at its

next regularly scheduled meeting, determine whether to hear the matter. If it is determined to hear the matter, the City Council shall determine whether the hearing shall be de novo or limited to a review of the record of the hearing before the Personnel Appeals Board to determine if the City Manager's decision was supported by substantial evidence. Any hearing shall be conducted pursuant to the rules of procedure set forth in the Personnel Rules and Regulations. Upon the conclusion of any review or hearing, the City Council shall cause its findings and decision to be prepared in writing, adopted by motion or resolution of the Council, and filed as a permanent record by the Director of Human Resources. The decision of the City Council shall be final. A certified copy of the decision shall be submitted to the grievant or his/her designee.

SECTION 22 - PERSONNEL APPEALS BOARD HEARINGS

A. HEARINGS

All hearings, before the Personnel Appeals Board shall be private, provided, however, that the employee may request that a hearing be open to the public.

B. SUBPOENAS - The Appeals Board shall if legally authorized, issue subpoenas at the request of either party prior to the commencement of the hearing.

C. PRIOR NOTICE - Five (5) working days prior to the date set for the hearing, each party shall serve upon the other party and submit a list of all witnesses and all exhibits to the Director of Human Resources. The employer's exhibits shall be designated "Management (number)". The employee or Union exhibits shall be designated by "Employee (number)" or "Union (number)". Neither party will be permitted to call during the parties' case-in-chief a witness not identified pursuant to this section nor use any exhibit not provided pursuant to this section unless that party can show that they could not reasonably have anticipated the prior need for such witness or exhibit.

D. ORAL EVIDENCE

Oral evidence shall be taken only on oath or affirmation, which shall be given by the chairperson of the Personnel Appeals Board, the Mayor, or the reporter, as appropriate.

E. RIGHTS

Both parties to the action shall have these rights: to call and examine witnesses; to subpoena witnesses (pursuant to the procedures of the Government Code); to

introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; and to impeach a witness regardless of which party first called him to testify; and to rebut the evidence against him/her. If the employee does not testify in his/her own behalf, he/she may be called and examined as if under cross-examination.

F. CONDUCT OF HEARINGS

The hearing need not be conducted according to technical rules relating to evidence and witnesses, but shall be conducted in a manner most conducive to determination of the truth. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing, and irrelevant and unduly repetitious evidence shall be excluded. The chairperson of the Personnel Appeals Board or the Mayor, as appropriate, shall rule on the admission or exclusion of evidence; he/she may obtain assistance from the legal advisor to the Board or Council in making such determination.

G. OFFICIAL NOTICE

Official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this State. Parties present at the hearing shall be informed of the matters to be noticed, and those matters shall be noted in the record, referred to therein, or appended thereto. Any such party shall be given a reasonable opportunity on request to refute the officially noticed matters by evidence or by written or oral presentation of authority.

H. HEARING ORDER

The hearing shall proceed in the following order, unless the hearing body, for special reason, otherwise directs:

- (1) The party imposing discipline or the grievant shall be permitted to make an opening statement;
- (2) The appealing party in a disciplinary matter or the respondent in a grievance shall be permitted to make an opening statement;

- (3) The party imposing disciplinary action or the grievant shall produce the evidence on his/her part;
- (4) The party appealing from such disciplinary action or the responding party in a grievance may then open his/her defense and offer his/her evidence in support thereof;
- (5) The parties may then, in order, respectively offer rebutting evidence only, unless the hearing body for good reason, permit them to offer evidence upon their original case;
- (6) Arguments shall be permitted only in the discretion of the hearing body. The party with the burden of proof shall have the right to close the hearing by making the last argument.

I. WITNESS

During the examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing upon motion of either party.

J. HEARING BODY DETERMINATIONS

The hearing body shall determine relevancy, weight, and credibility of testimony and evidence. It shall base its findings on the preponderance of evidence.

K. PUBLIC/CLOSED SESSIONS

Whether the hearing is held in a public or closed session, after the conclusion of the hearing, the hearing body may deliberate its decision in closed session. No person other than members of the hearing body shall be permitted to participate in the deliberations. The hearing body may request the attendance of legal counsel at any or all discussions solely for the purpose of rendering legal advice to it.

L. CONTINUATION

The hearing and deliberations may be continued from time to time.

M. RECORD OF PROCEEDINGS

A record shall be kept of all proceedings before the hearing body by tape recording and/or a certified court reporter, as determined by the City Manager. A copy of said record shall be provided upon request to the employee whose case is being considered, provided said employee reimburses the City for the cost of reproducing such record.

N. ADDITIONAL, SUPPLEMENTAL RULES

The hearing body may adopt such additional or supplemental rules, regulations and procedures as may be necessary for the fair, orderly and expedient conduct of its business.

NORWALK CITY EMPLOYEES
ASSOCIATION, Local Lodge
1957, District Lodge 947, IMAW

CITY OF NORWALK

Janet Wright
JANET WRIGHT, PRESIDENT DBR

Eddie L. Adams
EDDIE L. ADAMS, DIR. OF H.R.

Antonio L. Rivera
ANTONIO L. RIVERA

11-24-03
DATE

11-24-03
DATE