

# CITY OF LAGUNA NIGUEL

## Personnel Rules and Regulations



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## **Section 1. Introduction**

### 1.1 Purpose of Rules and Regulations

- A. These Personnel Rules and Regulations are designed to facilitate efficient and reasonable service to the public and provide a fair and equitable system of personnel management in the municipal government. These Personnel Rules and Regulations set forth policies and procedures to ensure similar treatment and define certain obligations, rights, privileges, benefits, and prohibitions which are placed upon all full-time and part-time City merit system employees.

### 1.2 Application of Policies and Procedures

- A. These policies and procedures apply to all employees of the City of Laguna Niguel.

### 1.3 Effect of Memorandum of Understanding

- A. If a provision of the rules and procedures is in conflict with a provision of an applicable collective bargaining agreement negotiated between the City and a recognized employee organization, the provision of the collective bargaining agreement shall supersede.

### 1.4 Employment Standards

- A. The City Council and the citizens of the City of Laguna Niguel have the right to expect that the City will employ qualified individuals that provide faithful and effective performance, proper personal conduct, and maintain qualifications for the position; and that each employee will be provided with the opportunities to train and further develop to ensure optimum performance.

### 1.5 Equal Employment Opportunity

- A. No person applying for employment with the City or employed by the City shall be discriminated against by reason of their actual or perceived age, ancestry, citizenship status, color, creed, disability (mental or physical), the exercise of rights relating to Family Care and Medical Leave, gender expression, gender identity, genetic information, marital status, medical condition, national origin, political affiliation (or political beliefs), pregnancy, race, religion, sex, sexual identity, sexual orientation, veteran status, or any other classification protected by law.

### 1.6 Violation of Rules

- A. Violation of a provision(s) of these Rules may constitute grounds for disciplinary action. A violation shall not make disciplinary action mandatory but shall be considered as appropriate given review of the circumstances. Discipline is subject to just cause as set forth in adopted MOU provisions.

## **Section 2. General Provisions**

### 2.1 Personnel Officer – Powers & Duties

- A. The City Manager, or designee, shall serve as the Personnel Officer. He or she shall have the authority to approve non-substantive changes to these Rules and Regulations and/or modify them to provide consistency with operating procedures as appropriate and/or to implement policy as established by the City Council. Changes to these Rules and Regulations will be communicated to the exclusive bargaining unit representative. The Personnel Officer shall:
- i. Prepare and recommend to the Council, as required, amendments to these Rules and Regulations and/or amend these Rules and Regulations to implement Council policy and/or new labor laws or statutes.
  - ii. Negotiate and prepare a Compensation Plan and revisions as required.
  - iii. Be responsible for the administration of the following procedures within the framework of these Rules and Regulations:
    - a) The formulation of specifications for each classification in the competitive service of the City;
    - b) The allocation of positions to a classification in the competitive service on the basis of duties, responsibilities, and requirements;
    - c) The announcement of vacancies and examinations and the acceptance of applications for employment;
    - d) The preparation and conduct of examinations and the establishment and use of eligibility lists containing names of persons eligible for appointment;
    - e) The certification and appointment of persons from eligibility lists to fill vacancies and the making of temporary and emergency appointments;
    - f) The coordination of evaluation of employees during the probationary period and annually thereafter;
    - g) The transfer, promotion, demotion, discipline, and reinstatement of employees in the competitive service;
    - h) The standardization of hours of work; attendance and leave regulations, and working conditions;
    - i) The development of employees' morale, welfare training, and safety;

- j) The separation and/or retirement of employees;
- k) The maintenance and use of necessary records and forms, including payroll certification;
- l) The establishment and maintenance of suitable methods of effective communication among all employees;
- m) The development of a pay and benefits package for employees not represented by a formally recognized employee organization and the presentation of this package to the City Council;
- n) Appoint all department heads and employees of the City, except the City Attorney, provided that the City Manager may delegate to any other department head or employee the authority to hire or discharge employees.

## 2.2 City Management Rights

- A. The City has the exclusive right to determine the mission of its constituent departments, commissions, and boards; set standards of service; determine the procedure and standards of selection for employment; hire; direct employees; take disciplinary action for cause; transfer; promote; lay off its employees from duty; determine the content of job classifications; contract and subcontract work; maintain the efficiency of governmental operations; determine the methods, means, and personnel by which government operations are to be conducted; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work.

## 2.3 Severability

- A. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or portion of these Personnel Rules is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of these Personnel Rules and Regulations.

## 2.4 Workplace Harassment and Discrimination

- A. It is the policy of the City of Laguna Niguel that all employees shall enjoy a working environment free from all forms of harassment and discrimination, including bullying and retaliation. The City of Laguna Niguel maintains a strict policy prohibiting harassment and discrimination in accordance with State and Federal law. This policy applies to all City employees, including non-management personnel, supervisors, managers, and executive staff, as well as non-employees, such as contract personnel, who have regular contact with City employees during

working hours. The City's harassment and discrimination policy can be viewed on the employee intranet, or as an attachment to existing adopted MOU documents.

## 2.5 Equal Employment Opportunity

- A. The City shall not discriminate unlawfully in matters affecting recruitment, hiring, promotion, discipline, compensation, assignments, benefits, training, layoffs, recall practices, and any other matters affecting employment.

## 2.6 Drug-Free Workplace

- A. It is the City of Laguna Niguel's policy that employees shall not be impaired by, or have in their biological system, alcohol or illegal drugs while on City property, at work locations, or while on duty or in a pre-arranged on-call status, and that employees shall not sell or provide drugs or alcohol to any other employee or person while on duty or in a pre-arranged on-call status. Employees shall not be in possession of illegal drugs at any time, and may only be in possession of alcohol if constituted as a gift that is not paid for with City funds.
- B. Substance abuse has been found to be a contributing factor to absenteeism, substandard performance, increased potential for accidents, poor morale, and impaired public relations. It is the goal of the City, therefore, to eliminate substance abuse in the workplace by clearly stating employee responsibilities and by providing Department Heads with guidelines and procedures for the detection of such abuse and the enforcement of related policies and regulations.
- C. The City of Laguna Niguel, in compliance with the Drug-Free Workplace Act of 1988, has adopted a Drug-Free Workplace Policy which can be viewed on the employee intranet, or as an attachment to existing adopted MOU documents.

## 2.7 Smoking

### A. Smoking in City Vehicles

- i. In order to preserve the health, safety, and welfare of employees, the City of Laguna Niguel prohibits smoking in City vehicles. In addition to cigarettes, this includes the use of smokeless tobacco, e-cigarettes, and any other technology-based instrument or practice involving any smoking or tobacco-related product. Smoking in an employee's personal vehicle is not monitored nor prohibited by the City.

### B. Smoking in City Facilities and Grounds

- i. In order to preserve the health, safety, and welfare of employees, the City of Laguna Niguel prohibits smoking in City facilities and on city facility grounds. In addition to cigarettes, this includes the use of smokeless tobacco, e-cigarettes,



and any other technology-based instrument or practice involving any smoking or tobacco-related product.

## 2.8 Safety

- A. Every employee is entitled to a safe and healthful place in which to work. To this end, a reasonable effort will be made in the interest of accident prevention, fire protection, and health preservation.
- B. The City will maintain a safe and healthful workplace. It will provide safe working equipment, necessary personal protection and, in the case of injury, provide first-aid as appropriate.
- C. The City shall abide by all regulations as they pertain to governmental agencies, which are set forth in Federal and State standards, and good practices as dictated by location and circumstances.
- D. An employee who has a safety concern should report that concern to any available supervisor. No employee shall be required to work under conditions dangerous to the employee's health or safety.
- E. The City shall make every reasonable effort to provide and maintain a safe place of employment. Employees shall be alert to unsafe practices, equipment, and conditions and report any such unsafe practices, equipment, or conditions to their immediate supervisors. Employees shall follow safe practices and obey reasonable safety rules during the hours of their employment.
- F. The City shall furnish all equipment which is necessary for employees to perform their job in a safe manner.
- G. Whenever practical, the City shall provide the necessary first aid kits in each location.
- H. The City shall provide a quarterly safety meeting comprised of representatives from City departments.

## **Section 3. Employment**

### 3.1 Workweek

- A. The official workweek for full-time employees shall be forty (40) hours and shall begin on each Friday and end with the following Thursday. Part-time employee schedules vary depending on the need of the hiring department. Assigned work schedules are set by the City and may include varying work schedules that support the service needs of the department. Regular schedules are assigned by the Department Head, and any changes must be approved by the City Manager in

writing. Department Heads shall consider an employee's request on an individual basis. Refer to each respective bargaining unit's Memorandum of Understanding for established workweek and applicable Fair Labor Standards Act (FLSA) provisions. Changes to the workweek will comply with any existing provisions in adopted MOUs.

- B. The City's traditional work schedule is Monday- Friday, 8:00 am to 5:00 pm. Full-Time employees in good standing may request to work an alternative work schedule, including a 9/80 work schedule, or a 1-day per work week telecommute schedule option. All work schedules are to be determined by the Department Head with final approval or denial by the City Manager or designee.
- i. The 9/80 Work Schedule shall be defined as working nine days for eighty hours in a two week pay period by working eight days at nine hours per day and working one day for eight hours. The 9/80 work schedule shall not reduce service to the public, departmental effectiveness, productivity and/or efficiency as determined by the Department Director and City Manager, or designee. Work and business hours are 7:30 am – 5:30 pm Monday- Thursday, 8:00 am – 5:00 pm every Friday.
    - a) To continue to provide services to the public every Friday, employees in good standing who elect to be on the 9/80 work schedule, are to be divided between two schedules, known as the "A" schedule and the "B" schedule, based upon the departmental needs to ensure continuity of service and appropriate staff supervision.
  - ii. Full-time employees in good standing (Meets Expectations, Exceeds Expectations, Outstanding, Not on a Performance Improvement Plan) who have the capability and desire to successfully complete assigned duties in a remote working environment may request the option to telecommute 1-day per workweek. Schedule to be recommended by Department Head.
    - a) Schedule to be recommended by Department Head.
    - b) May be approved, denied, rescinded by the City Manager.
    - c) May not be the day before or after a vacation day, floating holiday, approved leave or City observed holiday.
    - d) Day may vary depending on workload and department schedule.
      - Full-time employees who do not have the ability to fully perform their duties in a telecommuting capacity, may request to perform administrative duties related to their position in a telecommuting environment for up-to 8 hours per week, to be scheduled in a time period not to exceed two days per assigned work week, for more than 4 hours per day.
    - e) Full-time Employees approved to participate in the 1-day per work week telecommute schedule shall not be eligible to participate in any other alternative schedule, or to telecommute on Friday.

### 3.2 Attendance and Absenteeism

- A. Employees shall be in attendance in accordance with the rules and regulations governing hours of work, leaves, and holidays. All departments shall maintain attendance records for all employees.
- B. Each employee shall be at work and ready to work at starting time and will work until the end of their shift, unless otherwise approved.
- C. Any employee who is absent from work shall be responsible for notifying their supervisor as soon as possible, indicating when the employee will report back to work. Any employee who fails to comply with this rule will be subject to disciplinary action.

### 3.3 Abandonment of Position

- A. An employee is deemed to have resigned if the employee is absent for five (5) consecutive business days without prior authorization and without notification during the period of absence.
- B. Employees separated from employment for job abandonment will be reinstated with such charge removed from the employee's record upon presentation of justification for absence such as severe accident, severe illness, false arrest, or mental or physical impairment, which made it impossible not only to come to work but also to communicate that inability to their supervisor.

### 3.4 Duties in the Event of an Emergency

- A. City employees are designated disaster service workers. In the event of a local, regional, state, or national emergency, all employees shall be required to report for work. Assigned schedules and duties may vary from normal schedules and duties. Employees will be contacted by the City Manager's designee regarding reporting to work.

### 3.5 Outside Employment

- A. The Purpose of this section is to establish guidelines for full-time City employees regarding outside employment that may conflict with City employment.
- B. As a public agency, the City must be particularly sensitive to real, potential, or perceived conflicts of interest. The City expects all employees to adhere to the highest ethical and professional standards. Because of their knowledge and expertise, outside employment or other income opportunities may become

available to City employees. If an employee is considering such an opportunity, it is in the best interest of the City and the employee to fully disclose the employment opportunity to the City and to have it carefully reviewed to avoid a conflict of interest.

- C. An employee may not engage in outside employment, other than his/her job with the City, except with the approval of his/her department head. Such employment shall not interfere with the performance of assigned duties, does not constitute a conflict of interest, and does not expose employee to significant legal risk. A reason for denial will be provided to the employee if such outside employment interferes as is described above.
- D. An employee must be covered by such outside employer's workers' compensation insurance and if injured during outside employment, the employee may not concurrently use his/her accrued sick leave credit during an outside employer's workers compensation claim period.
- E. The supervisor shall inform the City Manager, or designee, of any potential conflict, and the City Manager, or designee, shall determine if a conflict exists.
- F. For the purpose of this section, City employees shall not serve as a member of any Laguna Niguel City Council appointed Board, Committee, or Commission.

### 3.6 Reduction in Force/Layoffs

#### A. Layoff Authority

- i. The City may, in its sole discretion, abolish any position or employment due to lack of work, lack of funds, reorganization, or other legitimate reason or business purpose. The employee holding such position or employment may be laid off without disciplinary action and without the right of appeal.

#### B. Seniority and Employee Performance

- i. Seniority and employee performance shall govern the layoff of employees. Seniority shall be determined as the total number of years of full-time employment in the classification within the Department where the position is to be eliminated. Employee performance shall be determined on the basis of the most recent annual performance evaluation. A rating of "Outstanding" shall increase the employee's seniority by two (2) years. A rating of "Exceeds Expectations" shall increase the employee's seniority by one (1) year. A rating of "Meets Expectations" shall neither increase nor decrease the employee's seniority. A rating of "Needs Improvement" shall decrease the employee's seniority by one (1) year. A rating of "Unsatisfactory" shall decrease the employee's seniority by two (2) years.

### C. Order of Layoff

- i. Layoffs shall be made by classification within a Department. The order of layoff shall be established by the City Manager or their designee. The order of layoff will begin with the employee with the least total seniority as determined in accordance with subsection 3.6(B)(i). If two (2) or more employees have the same seniority, the City Manager, after consideration of Citywide seniority and consultation with the Department Head, shall determine the order of layoff for these employees. No regular full-time employee shall be laid off until all probationary, limited-term, and part-time employees holding positions in the same class in the Department are first laid off.

### D. Notice of Layoff

- i. Employees to be laid off shall be given at least fourteen (14) calendar days notice.

### E. Voluntary Demotion to Previously Held Position

- i. A regular full-time employee who receives a final layoff notice may, within seven (7) calendar days of receipt of the notice, request voluntary demotion to a previously held position in a lower classification that remains budgeted. In that event, the employee's seniority and position on the layoff list shall be re-evaluated in accordance with subsection 3.6(B)(i); provided, however, that seniority shall include the total number of years of full-time employment in the current classification and previously held position.

### F. Re-employment List and Recall

- i. The names of regular and probationary full-time employees laid off or demoted in lieu of layoff shall be placed on re-employment lists for one (1) year. When a vacancy occurs in the subject classification, the appointing authority shall consider the former employees from the re-employment list. It is the responsibility of the employee on a re-employment list to keep the City informed of his/her current address and telephone number and availability for work.

## 3.7 Recruitment and Selection

### A. Job Announcements

- i. Positions to be filled competitively shall be publicized by posting the announcement on the City website, employee intranet, and other methods deemed appropriate by the Administration Department.
- ii. The announcement will include a job description which will include the title and pay range of the classification; the nature of the work to be performed; essential

job functions of the position; preparation desirable for the performance of the work of the classification; the dates, time, place, and manner of making applications; the closing date for receiving applications; the date of the first review; the minimum requirements for the position, and other pertinent information.

- iii. In instances, however, where posting a job announcement would detrimentally delay the filling of a vacancy, the City, in its sole discretion, may dispense with these requirements and fill the position in a temporary capacity from immediately available sources until a recruitment can take place as is approved by the City Manager, not to exceed 9 months.

#### B. Applications

- i. Applications shall be made available by the Personnel Officer or designee. Such applications shall require information covering training, experience, educational background, and other pertinent information as deemed necessary by the Personnel Officer. All applications must be completed and submitted digitally through the City's designated application platform.
- ii. Applications shall be made only on forms provided by the Personnel Officer or designee. Such forms shall require information covering training, experience, and educational background, and other information deemed pertinent by the appointing authority. All applications must be received by the Personnel Officer or designee within a filing period prescribed by the Personnel Officer or designee.

#### C. Rejection of Applications

- i. The Personnel Officer or designee may reject any application which is not completed or which indicates on its face that the applicant does not possess the minimum qualification for the position.
- ii. Applications may also be rejected for reasons including, but not limited to:
  - a) The applicant's inability to perform the essential job functions of the position sought, taking into account reasonable accommodations which do not create an undue hardship.
  - b) The applicant has been convicted of a crime that may have an adverse impact on the ability to perform the job for which the applicant is applying.
  - c) The applicant is not legally permitted to work within the United States.

- d) The applicant has made any false statement of any material fact or practiced or attempted to practice any deception or fraud in making an application for employment.
- e) The applicant has previously been separated for cause.
- f) The applicant fails to meet special conditions of employment.

#### D. Physical Requirement

- i. The City requires that all applicants be able to perform the duties/essential functions of their jobs. No employee shall hold any position in a classification in which the employee cannot physically, or mentally, with reasonable accommodation if disabled, perform all essential job functions adequately, without creating a direct and imminent threat to the health and/or safety of the employee or others. Within the limitations indicated, the City's policy is to employ physically and mentally disabled individuals in positions in the City service where their disabilities can be reasonably accommodated and essential job functions and duties can be safely and efficiently performed.

#### E. Examinations

- i. The Administration Department will evaluate the qualifications of the applicants examined to perform within the class by using one or more examination techniques as deemed by the Personnel Officer or their designee to be appropriate for the position.
- ii. Examination techniques may include but are not limited to application review, supplemental questionnaire, oral interview, written test, performance test, and evaluation of work samples or daily work performance.
- iii. Examinations may be open or promotional at the discretion of the Personnel Officer or designee, who shall consider the recommendations of the Department Heads.

#### F. Recruitment and Selection Type

- i. Vacancies may be filled by either an open competitive or promotional recruitment and selection process. Any person meeting the requirements specified in the job announcement of an open competitive recruitment may be eligible to compete in the examination process.
- ii. Promotional recruitments may be used to fill vacancies when determined by the Personnel Officer to be in the best interest of the City. Only employees who meet the requirements set forth in the job announcement for a promotional recruitment may compete in the examination process.

- iii. Open examinations may be conducted at the discretion of the Personnel Officer or designee after consultation with the Department Head.

#### G. Conduct of Examinations

- i. The Personnel Officer or designee shall determine the manner, methods, applicant pool, and by whom examinations shall be prepared and administered. Examinations shall be competitive and may consist of written tests, oral tests, performance tests, evaluations of prior training and performance, experience and education, interviews, style assessments, file review, or any combination thereof.
- ii. The scoring system for each examination process shall be established as deemed appropriate by the Personnel Officer or their designee.

#### H. Notification of Results

- i. Applicants who meet the requirements for admission to the eligibility list will be notified that they have achieved minimum rank. Each candidate in an examination shall be given notice of the results within a reasonable amount of time.

#### I. Eligibility List

- i. An eligibility list shall be established and certified by the Personnel Officer or their designee following all applicable examinations. These applicants will be considered qualified for appointment, pending further review by the appointing authority and other qualifying procedures, including, but not limited to, background investigations, reference checks, credit checks, and medical examinations as may be required in the appointing authority's discretion.
- ii. Eligibility lists shall be valid and in effect for a period of one year. An eligibility list may be extended upon the recommendation of the department head and by the action of the Personnel Officer for additional six-month periods, but in no event shall a list remain in effect for more than eighteen (18) months.
- iii. Names may be removed from an eligibility list for any of the following reasons:
  - a) If an eligible candidate requests orally or in writing that his/her name be removed.
  - b) If an eligible candidate fails to accept an offer of employment within five (5) days following the forwarding of such offer.
  - c) If an eligible candidate on a promotional list resigns from the organization.



- d) If a person on the eligibility list leaves no forwarding address or contact information.
  - e) Other lawful reasons.
- iv. Eligibility Lists serve as a resource to the Personnel Officer and are intended to facilitate the City in employing the most qualified applicant. The Personnel Officer or their designee has the sole discretion on if an eligibility list will be utilized to fill a classification. The existence of an eligibility list does not obligate the City to any applicants on the said eligibility list.

### 3.8 Personnel Files

- A. The official personnel file for each City employee shall be maintained by the Personnel Officer or designee. Employees have the right to review their official personnel file by scheduling a specific date and time, twenty-four (24) hours in advance, with the Personnel Officer or designee. Documents designated by law as confidential shall not be subject to review by the employee.
- B. A copy of any commendations, written warnings or reprimands, disciplinary actions, Personnel Action Forms, and performance reviews placed in the employee's personnel file will be provided to the employee.
- C. Written reprimands shall be retained for at least two (2) years. If after two (2) years no similar or other unacceptable behavior is reported, the employee may request in writing that the reprimand be purged from his or her file. Upon review and approval of the Department Head, the written reprimand shall be removed from the employee's file.

### 3.9 Probationary Period

- A. Any new or re-employed employee in a full-time position shall serve a probationary period for a period of twenty-six (26) weeks from the date of appointment or hiring. Management has full discretion to extend the probationary period for up to an additional 26 weeks if an employee needs additional time to be evaluated. Any extension of the probationary period is not contestable by the employee.
- B. Any employee who is promoted shall also serve a probationary period commencing on the date of promotion and ending on the first day of the pay period following the completion of twenty-six (26) weeks. A promotional probationary employee may be returned to their prior position during the probationary period without right of due process, appeal, or hearing.
- C. A probationary employee (other than a promotional probationary employee) may be separated from service without cause at any time during any probation period without right of appeal or hearing.

### 3.10 Promotion

#### A. Promotional Opportunities

- i. The City's promotion policy is to promote from within whenever possible and consistent with the City's interests. Job flyers will be posted to keep employees informed of current openings, and qualified employees are encouraged to apply. Employees interested in promotional opportunities shall follow the procedure below:
  - a) Interested employees should complete a City application and submit it to the Administration Department by the position's stated closing date.
  - b) Employees will be notified by the Administration Department if they will be interviewed or tested for the position.
  - c) After successfully completing the selection process, and upon their Department Head's recommendation and the City Manager's approval, employees will be notified by the Administration Department of their appointment to the promoted position.
  - d) Full-time employees who are promoted will be subject to a six-month probationary period.

### 3.11 Performance Reviews

- A. The City shall maintain a system of employee performance ratings designed to give a fair evaluation of the quantity and quality of work performed by an employee. Such ratings shall be prepared and recorded in the employee's personnel file for all regular full-time and part-time employees at least once each year; and in addition, for employees on probationary status, at least once near the middle of the probation period.
- B. The City shall discuss with the employee the specific ratings prior to such ratings being made part of the employee's personnel file.
- C. When a performance evaluation is recorded in the personnel file of an employee, a copy of such evaluation, together with any attachment relating thereto, shall be given to the employee. Any written response by the employee to the performance evaluation shall be attached to such evaluation in the personnel files.
- D. Employee performance evaluations shall be provided in a timely manner. If an employee's performance evaluation is not completed when it is due, the employee shall notify his/her Department Head/Supervisor in writing and request completion of the evaluation. If an employee's performance evaluation is not completed within

30 days of when it is scheduled to be due, the employee shall notify the Personnel Officer or their designee in writing to request the completion of the evaluation.

- E. The Performance Evaluation process will be a collaborative process with the supervisor and employee, with the employee having prior notice to any items that need improvement in the evaluation.

### 3.12 Pay-for-Performance

- A. The City has implemented a merit-based Pay for Performance Program. This Program is subject to the following. Employees shall receive annual performance reviews on or around their employment anniversary date. For employees with a base rate of pay below the maximum of their salary range, merit increases shall be granted as follows:

|                      |             |
|----------------------|-------------|
| Unsatisfactory       | No increase |
| Needs improvement    | No increase |
| Meets expectations   | 1.5%        |
| Exceeds Expectations | 2.25%       |
| Outstanding          | 3.0%        |

Effective July 1, 2024, the merit-based Pay for Performance Program merit increases shall be granted as follows:

|                      |             |
|----------------------|-------------|
| Unsatisfactory       | No increase |
| Needs improvement    | No increase |
| Meets expectations   | 3.0%        |
| Exceeds Expectations | 4.0%        |
| Outstanding          | 5.0%        |

- B. Any portion of a salary increase that exceeds the salary maximum shall be paid as a one-time non-pensionable lump sum bonus. A bonus received under the Pay for Performance Incentive Pay program is not considered base salary and is a lump sum payment separate from the base rate of pay.
- C. If an employee receives a performance evaluation of Unsatisfactory or Needs Improvement, the employee will be re-evaluated in six months and again on his/her subsequent anniversary date. If performance has not improved, the City shall take appropriate action as described in their respective MOU.

### 3.13 Relatives Working for the City

- A. For the purpose of this subsection, a spouse is defined as an individual's state of marriage, non-marriage, divorce or dissolution, separation, widowhood, annulment, or other marital state. For the purpose of this subsection, a relative shall be defined as a spouse, domestic partner, child, step-child, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, cousin, or in-laws of those enumerated by marriage or domestic partnership.

B. The City retains the right:

- i. To refuse to place one spouse, domestic partner, or relative under the direct or indirect supervision of the other party to the same relationship.
- ii. To refuse to place both spouses, domestic partners, or relatives in the same department, division, or facility where there is a potential for creating an adverse impact on supervision, safety, security, or morale or involves potential conflicts of interest.
- iii. To disqualify one spouse, domestic partner, or relative for a position privy to confidential personnel matters who has a relative already in the City's employment when the relationship may compromise confidential information.
  - a) If a City employee marries/enters into a domestic partnership with another person employed by the City within the same department, both employees shall be allowed to retain their respective positions provided that a supervisorial relationship does not exist at the time of marriage between these two positions. During the period of employment, no supervisory position shall exist between the two employees.

3.14 Exit Interview

- A. Employees may receive an exit interview upon request when separating from employment. The interview will be conducted by the Personnel Officer's representative. If a represented employee is interested in participating in a separate exit interview with the exclusive representative unit, they may do so by contacting the representative unit.

**Section 4. Classifications**

4.1 Preparation of Classification Plan/Job Descriptions

- A. The Classification Plan/Job Descriptions provides a complete list of all positions in the City service and an accurate description and specifications for each job classification. The Classification Plan/Job Descriptions standardizes titles, each of which is indicative of a definite range of duties and responsibilities and has the same meaning throughout the City.
- B. Preparation of Plan/Descriptions
  - i. A Classification Plan/Job Descriptions defines each class by a class specification, including title, a description of typical duties and responsibilities/essential job functions, and a statement of the education, training, experience, and other qualifications to be required of applicants and incumbents of the classification. The Classification Plan/Job Descriptions maintains all positions substantially similar with respect to duties,

responsibilities, authority, and character of work within the same class. Changes to the Classification Plan/Job Descriptions will comply with any existing provisions in adopted MOUs.

## 4.2 Procedure for Requesting Reclassification of a Position

- A. Requests for reclassification shall follow a three-step process as outlined by each respective bargaining unit's MOU.
- i. An employee who believes his or her position is not properly classified may submit a written request to his or her Department Head and the Personnel Officer, or designee that a classification study be conducted. Requests shall state the reasons the employee believes the present class is not appropriate and which class the employee believes is appropriate based on the employee's present duties. Such request shall be submitted in January to permit consideration as part of the City's budget review and adoption process.
  - ii. The Personnel Officer, or designee shall perform a job analysis of the employee's duties and responsibilities, as well as the duties and responsibilities of incumbent employees within the class to which the employee seeks reclassification. The job analysis may include, but is not limited to: completion of job questionnaires or position description forms, interviews with key employees and supervisors, observation of performed duties, desk audits, etc. The findings and recommendations of the Personnel Officer, or designee shall be provided to the employee, the employee's Department Head and the City Manager.
  - iii. If the Personnel Officer, or designee recommends that the employee be reclassified, and the City Manager concurs, the City Manager shall recommend such reclassification in the proposed City Budget for the ensuing fiscal year. If the Personnel Officer, or designee recommends that the reclassification request be denied, the employee may file a grievance as outlined in subsection 7.8 (A)(iii) of the grievance procedure.
- B. Limitations on Classification Studies:
- i. An employee may not request a classification study if the position has been evaluated during the preceding two (2) years.

## **Section 5. Leaves**

### 5.1 Annual Vacation Leave

- A. An employee may not use or be compensated by vacation accruals for more than eighty (80) regularly scheduled hours of work in any pay period. Accrued vacation hours are provided upon completion of each pay period. No vacation accrual shall be given during any paid period or for any portion of a pay period during which the employee terminates from City service.

- B. A new employee shall accrue 0.382 hours vacation for each hour of pay during his or her regularly scheduled work week (up to a maximum of 40 hours in a work week). The maximum allowable vacation accrual at any one time shall be two hundred (200) hours. Once an employee reaches the maximum accrual, no additional vacation accrual will be provided until such time as the leave bank is reduced below the maximum.
- C. After a full-time employee has been paid for six thousand two-hundred forty (6240) regularly scheduled hours (approximately 3 years), he or she shall earn .0577 hours vacation for each hour of pay during his or her regularly scheduled workweek (up to a maximum of 40 hours in a workweek). The maximum allowable vacation accrual at any one time shall be two hundred eighty (280) hours. Once an employee reaches the maximum accrual, no additional vacation accrual will be provided until such time as the leave bank is reduced below the maximum.
- D. After an employee in a full-time position has been paid for twenty thousand eight hundred (20,800) regularly scheduled hours (approximately 10 years), he or she shall earn .077 hours vacation for each hour of pay during his or her regularly scheduled workweek (up to a maximum of 40 hours in a workweek). The maximum allowable vacation credit at any one time shall be three hundred sixty (360) hours. Once an employee reaches the maximum accrual, no additional vacation accrual will be provided until such time as the leave bank is reduced below the maximum.
- E. The minimum increment of time for use of vacation accrual shall be one-half (1/2) hour; additional actual absence over one-half (1/2) hour shall be charged to the nearest half hour. Additional vacation time earned during any vacation period may be taken during the pay period in which it is earned.
- F. The Department Head is responsible for scheduling the vacations of his/her employees in such a manner as to achieve the most efficient functioning of the City. An employee separating from the City shall be paid for all accrued vacation in a lump sum payment with their final paycheck.
- G. Employees who wish to cash-out vacation must do so by submitting an irrevocable election form. The timeline for submitting this form will be outlined in the respective Memorandum of Understanding.
  - i. The payment shall be made via payroll with the last paycheck in the following December after receipt of the irrevocable election form.
  - ii. Employees who do not submit an irrevocable election form by December 15th will be deemed as foregoing participation in the optional annual leave cash-out program for that following calendar year.

- iii. In the event an employee has less hours in their vacation bank at the time the cash-out is to be paid than they had previously elected to cash-out, the employee shall only be paid for up to the amount remaining in their vacation bank at the time of the actual cash-out.
- iv. An employee who experiences an unforeseeable emergency may be permitted to make a new irrevocable election and/or to increase the amount of a previous election, subject to the same value that was permitted at the time the annual irrevocable election forms were due.
- v. For these purposes, an “unforeseeable emergency” means a financial hardship to the employee resulting from any of the following:
  - a) Accident, illness, injury, or death of the employee or an immediate family member. For this purpose, an “immediate family member” is restricted to a spouse, registered domestic partner, child/legal dependent, or parent;
  - b) Loss or extensive damage to the employee’s property due to casualty;
  - c) Other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant.
- vi. Whether an occurrence is an unforeseeable emergency shall be solely determined by the City Manager or designee.

## 5.2 Accumulation of Sick Leave

- A. Sick leave with pay shall be earned at the rate of eight hours for each calendar month (96 hours per year) of service for full time employees.
- B. Sick leave may be applied to:
  - i. An absence caused by illness or injury to an employee.
  - ii. Medical and dental office appointments for examinations when absence during working hours for this purpose is authorized by the Department Head.
  - iii. Absence from duty by an employee because his or her presence is needed to attend to the critical illness of a member of his or her immediate family where death appears imminent, but FMLA is not triggered, provided that such absence shall be limited to a maximum of forty-eight (48) hours per calendar year. For purposes of this section, immediate family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, stepbrother, sister, step-sister, spouse, registered domestic partner, child, grandparent, grandchild, legal guardian or other individuals whose relationship to the employee is that of a dependent or near dependent.



- iv. In instances where FMLA is not triggered, absence from duty by an employee to attend to the diagnosis, care, or treatment of an existing health condition of, or preventative care for, a child, parent, spouse, registered domestic partner, parent-in-law, grandparent, grandchild or sibling; provided, however, that such absence shall be limited to a maximum of forty-eight hours per Calendar Year.
  - v. An absence of an employee who is a victim of domestic violence, sexual assault, or stalking.
- C. The minimum increment of time to use sick leave accruals shall be one-half (1/2) hour and additional absences over one-half (1/2) hour shall be charged to the nearest half hour (1/2).
- D. Any employee who is absent from work must report his or her absence to his or her immediate supervisor at or before the scheduled work time each day of absence. In the case of prolonged periods of absence due to serious illness, employees may arrange, at the discretion of their immediate supervisor, to report less frequently.
- E. Upon separation, retirement with benefits from CalPERS, or death, an employee or the employee's estate shall be paid for a portion of the employee's unused sick leave in an amount computed as provided below:

For full-time employees hired before October 1, 1994:

| <u>Years of Service</u> | <u>Percentage of Unused Sick Leave Paid For</u> |
|-------------------------|---|
| Less than 2             | None  |
| 2 or more               | 50%   |

For full-time employees hired on or after October 1, 1994:

| <u>Years of Service</u> | <u>Percentage of Unused Sick Leave Paid For</u> |
|-------------------------|---|
| Less than 10            | None  |
| 10 or more              | 25%   |

- i. No unused sick leave benefit shall be paid to any employee who is terminated for just cause.
- F. Full-time employees hired before October 1, 2011, shall have the option to convert accrued but unused sick leave, in excess of 176 hours, to additional floating holidays for the calendar year. The conversion rate shall be twenty-five percent (25%). For example, thirty-two (32) hours of sick leave may be converted to eight (8) hours of floating holiday. No more than ninety-six (96) hours of sick leave may be converted to no more than twenty-four (24) hours of floating holiday in any

calendar year. Any unused floating holiday hours will be forfeited at the end of a calendar year.

- G. New employees hired on or after October 1, 2011, shall not be paid for any portion of unused sick leave upon separation, termination, or retirement from the City and shall not have any right to convert accrued unused sick leave to additional floating holidays or any other form of paid leave during their course of employment with the City.

### 5.3 Bereavement Leave

- A. Full-time employees shall be granted five (5) days leave of absence on account of the death of any member of his or her immediate family. For purposes of this Section, immediate family shall mean father, father-in-law, mother, mother-in-law, step-parent, brother, stepbrother, sister, step-sister, spouse, registered domestic partner, child, grandparent, grandchild, legal guardian or other individuals whose relationship to the employee is that of a dependent or near dependent.

### 5.4 Authorized Leave Without Pay

- A. The Manager may authorize leave of absence without pay for a period not to exceed one (1) year provided that any such leave shall commence after all accumulated compensatory time, vacation, and sick leave (if applicable) accruals have been exhausted.
- B. All requests for leaves of absence without pay shall state the reason, therefore, the commencement date, and the probable date of return.
- C. Each employee granted leave of absence without pay shall give the City Manager two (2) weeks prior notice of his or her intent to return to work.
- D. Except for mitigating circumstances approved by the City Manager, the failure of any employee to return to work upon the expiration of his/her leave of absence shall be deemed an abandonment of his/her position.
- E. Vacation and sick leave shall cease to accrue during any period of leave without pay. An employee may continue to participate in the City's health and other insurance plans at his or her own expense.

### 5.5 Jury Duty Leave

- A. An employee who is called for jury duty or for examination for jury duty shall be compensated at the employee's base hourly rate of pay for those hours of absence due to the jury duty which occur during the employee's regularly scheduled working hours provided the employee deposits the employee's fees for such hours of jury

duty, exclusive of mileage, with the City. Fees for jury duty performed during hours other than regularly scheduled working hours may be retained by the employee.

#### 5.6 Witness Leave

- A. An employee who is called to answer a subpoena as a witness during the employee's work hours shall be compensated at his or her base hourly rate of pay for all hours of absence from work due to answering the subpoena provided the employee shows proof of such subpoena and deposits witness fees received for such hours, exclusive of mileage, with the City. Fees for answering a subpoena as a witness during hours other than regularly scheduled working hours may be retained by the employee.

#### 5.7 Family and Medical Leave

- A. The City will comply with the Family Medical Leave Act (FMLA). For further information please refer to the City Policy pertaining to FMLA.

#### 5.8 Maternity Leave

- A. The City will comply with the California Family Rights Act (CFRA) and Pregnancy Disability Leave Act. For further information please refer to the City Policy pertaining to Maternity Leave on the employee intranet.

#### 5.9 Industrial Accident Leave

- A. In the event that it is determined that an employee is absent from work as a result of any injury or disease arising solely out of the employment with the City.
  - i. Temporary disability benefits shall be coordinated with accrued sick leave, vacation, compensatory time and any other benefits so that the employee shall receive the difference between the Worker's Compensation payments and his or her regular salary. Coordination of benefits shall cease at such time that the employee's condition is deemed permanent and stationary as determined by the City's appointed doctor. This shall be in compliance with workers' compensation laws.
  - ii. An on-the-job injury or accident must be reported to the employee's immediate supervisor within twenty-four (24) hours after said injury or accident, if practicable. In the event of an on-the-job injury or accident resulting in loss of time beyond that required for immediate medical attention, such employee may be required to be examined by a licensed physician appointed by the City of Laguna Niguel. An employee may be required to perform light-duty or restricted work if medically released to perform such work by the City's physician.

- iii. The employee shall continue to accrue Sick Leave and Vacation Leave during the term of the Industrial Accident Leave taken.

#### 5.10 Military Leave

- A. An employee having a probationary or regular appointment shall be entitled to such benefits as are provided in the California Military and Veterans Code and the Uniformed Services Employment and Reemployment Rights Act (“USERRA”). An employee requesting such Military Leave shall present a copy of his or her military orders to his or her Department Head prior to the beginning of the Leave.
- B. Employees are entitled to a temporary Military Leave of Absence not to exceed 180 calendar days per year. Employees having one (1) year or more of continuous service and granted a temporary Military Leave of Absence are entitled to receive the equivalent salary up to the first thirty (30) calendar days of leave. Weekend drills are excluded from meaning of ordered Military Leave which means employees do not receive salary in excess of their regular salary for these drills.
- C. The City’s collective bargaining unit agreements do not cover all circumstances covered by California law or USERRA. Where there is a conflict, California law and USERRA govern.

#### 5.11 Administrative Leave

- A. Effective the first pay period in January of each year, each active full-time Middle Management, Professional and Supervisory employee will receive fifty-six (56) hours of Administrative Leave for use during the subsequent calendar year. For employees hired after the first pay period of a calendar year, hours of Administrative Leave will be prorated based on the month of hire (4.67 hours/month). Administrative Leave may be requested and scheduled, subject to approval of the Department Head. Administrative Leave may not be accrued, accumulated, or carried over from year to year. Any unused Administrative Leave remaining at the end of a calendar year shall be forfeited.

### **Section 6. Compensation (Salary Ranges)**

#### 6.1 Compensation Plan/Salary Schedule

- A. A Compensation Plan/Salary Schedule covering all classes of positions in the City service is in place, showing the minimum and maximum rate of pay. In arriving at salary ranges, consideration shall be given to prevailing rates of pay for comparable work in public and in private employment, including the consideration of conditions of work; current costs of living; suggestions of Department Heads; the City’s ability to recruit and retain good employees; internal equity; and the City’s financial conditions and policies. The City may conduct studies considering the factors set forth above.

- B. The City will amend and adopt the Compensation Plan/Salary Schedule by resolution.
- C. An update to the Compensation Plan/Salary Schedule that involves represented employees is subject to the meet and confer process as is standard in the MOU negotiation process with the appropriate representatives of recognized employee organizations.

## 6.2 Wage Administration

- A. Employees occupying a position in the City service shall be paid a salary or wage within the range established for that position's classifications in accordance with the compensation plan and any associated MOU provisions.
  - i. An employee having a regular, probationary, or acting appointment that is on a full-time basis shall be paid bi-weekly, based on the monthly rate specified in the Compensation Plan. The hourly rate of pay is the monthly rate multiplied by twelve (12) and divided by two-thousand and eighty (2080) hours.
  - ii. Temporary, provisional, part-time, and emergency employees shall be compensated at an hourly rate, paid bi-weekly.

## 6.3 Salary on Promotion

- A. A regular or probationary employee who is promoted to a position in a class with a higher salary range shall receive the minimum rate of pay of the salary range for the higher class or such higher amount as would constitute at least a five (5) percent increase over the salary received prior to the promotion not to exceed the maximum salary rate or top step on the new range. A new merit increase eligibility date shall be established which will be the first day of the pay period following completion of the first twenty-six (26) weeks of service in the new class.

## 6.4 Salary on Reduction

- A. When an employee is demoted to a position in a lower class for reasons of unsatisfactory performance, his or her salary shall be reduced to the salary rate or step of the new range that would constitute a 5% decrease from the salary received prior to the reduction, or he or she shall receive the maximum step of the range of the new class, whichever is lower. His or her merit increase eligibility date shall be the first day of the pay period following completion of fifty-two (52) weeks of service in the new class unless he or she thereby occupies the recruiting salary rate or step of the new range, in which case his or her merit increase eligibility date shall be the first day of the pay period following completion of twenty-six (26) weeks of service in the new class.

- B. When an employee in good standing is reduced to a position in a lower class for reasons other than unsatisfactory performance, he or she shall receive the highest salary in the new salary range that does not exceed his or her rate of pay immediately prior to reduction and shall retain his or her merit increase eligibility date.
- C. When a probationary employee is reduced to a class he or she has not previously occupied, he or she shall be placed at a rate of pay that is 5% below the current rate of pay or the top step of the lower classification (whichever is lower) for the lower class and shall receive a new merit increase eligibility date as determined by the City Manager. A promotional probationary employee reduced to a class he or she formerly occupied in good standing shall have the step status, probationary status and merit increase eligibility date he or she would have achieved if he or she had remained in the lower class throughout the period of his or her service in the higher class.

#### 6.5 Acting Status Pay

- A. When an employee has been temporarily assigned to perform the duties of a higher classification for one-hundred sixty (160) consecutive hours, the employee will be temporarily promoted to the higher classification for the duration of the assignment and the employee's salary will be temporarily adjusted in accordance with the subsection 6.3(A).

#### 6.6 Pay for New Employees

- A. A new employee shall be appointed at the minimum salary rate or step of the salary range in effect for the particular class of position to which the appointment is made.
- B. The City Manager may authorize a particular position be filled at any salary rate or step within the range.
- C. Under no circumstance shall the salary rate for any full-time employee or part-time employee be more than the maximum salary rate, or less than the minimum salary rate, of the salary range established for the employee's job classification.

#### 6.7 Overtime

- A. It is the policy of the City to make available overtime work only in instances that are necessary. In cases of emergency, or whenever public interest or necessity requires, any non-exempt employee may be directed to perform overtime work.
- B. Notification of Overtime
  - i. If work beyond the employees assigned regular hours of work/work schedule of an employee is required, the employee who may be asked to perform such

overtime shall be notified of the apparent need for such overtime as soon as practical prior to when the overtime is expected to begin.

#### C. Distribution of Overtime

- i. Overtime opportunities shall be offered to employees capable of performing the work. The City shall distribute overtime work among those employees that are qualified and available to perform the work, in an equitable manner.
- ii. If the responsible supervisor determines that overtime is necessary on work that started on an assigned shift, the assigned employee(s) may continue with that work as an extension of the assigned shift.
- iii. The City and the respective recognized employee association shall upon request of either party meet and confer and, in so doing, shall attempt to reach agreement regarding specific provisions for the distribution of overtime among employees of various individual work units.

#### D. Payment for Overtime

- i. Authorized work performed in excess of forty (40) hours worked in a work week by non-exempt employees shall be paid as overtime pursuant to the Fair Labor Standards Act (FLSA). Paid leave does not count as hours worked for FLSA overtime eligibility.
  - a. An exchange of an exempt employee's individual work shift may be granted within the same workweek, by the Department Head or designee, for justifiable reasons that benefit the City. Such exchange of work shift shall be scheduled and approved in advance and tracked per Department. Exempt employees remain ineligible for overtime and the Department head, or designee, will make all efforts to approve such requests for individual work shift exchange requests unless they have an adverse effect on the operation of the Department or the City.
- ii. Overtime may be converted to compensatory time or paid for at the option of the employee subject to a maximum accrual of forty (40) hours. Employees with existing compensatory time balances of forty (40) hours shall be paid for all overtime work performed in excess of that amount.
- iii. Employees requesting to use compensatory time must provide reasonable notice of their request to use accrued comp time. A supervisor may not deny a timely request for compensatory time off unless the time off would be unduly disruptive to the City.
- iv. All overtime worked must have the prior authorization of the Department Head prior to the commencement of such overtime work. Exception may be made in

instances that are deemed to be an emergency or where communication cannot be established between the employee and supervisor. Failure to comply with the department pre-authorization procedure for overtime may result in disciplinary action.

- v. An employee separating from the City service shall be paid for accumulated compensatory time at the regular rate of pay with their final paycheck.

## 6.8 Stand-By-Pay

- A. Stand-By-Pay only applies to classifications in which the respective bargaining unit has incorporated the provision in their respective Memorandum of Understanding
- B. When an employee is assigned stand-by duty, the employee shall, whenever practical be informed in writing at least five (5) days in advance of the dates and inclusive hours of such assignment. The employee shall be compensated at one-fourth (.25) (twenty-five percent) of his or her basic hourly rate for the entire period of such assignment. Stand-by duty requires the employee so assigned to:
  - i. Be ready to respond immediately (within 30) minutes to calls for his/her service.
  - ii. Be reachable by telephone or cell phone
  - iii. Remain within a specified distance from his/her workstation that would result in the ability to respond to a location of the work within 30 minutes from receipt of a call; and
  - iv. Refrain from activities which might impair his/her ability to perform his/her assigned duties.
- C. Employees on standby who are called to return to work are paid for actual hours worked beginning at the time they arrive at the work site. Employees on standby are not provided with minimum pay as described in the call-back pay section of their respective Memorandum of Understanding.

## 6.9 Call-Back Pay

- A. Call-Back Pay only applies to classifications in which the respective bargaining unit has incorporated the provision in their respective Memorandum of Understanding.
  - i. When an employee returns to work because of a request made after the employee has completed his or her normal work shift and left the workstation, the employee shall be credited with two (2) hours work plus any hours of work in excess of two (2) hours in which the employee is continuously engaged in work for which he or she was called.



- ii. There shall not be any duplication or pyramiding of rates paid under this Section. For example, an employee who was on standby is not eligible for call-back pay.

#### 6.10 Payroll Deductions

- A. The following payroll deductions may be made from the salary of employees, where applicable:
  - i. Health and Life Insurance Benefits
    - a) The City will make deductions of those amounts authorized by the employee equal to the employee's share of the health and life insurance benefits made available to the employee.
- B. The City, upon authorization by the employee, shall deduct amounts as determined by the employee, including union dues for represented employees.

#### 6.11 Holidays

- A. All full-time employees, and specifically designated part-time employee classifications, shall be eligible for those holidays provided in the appropriate salary resolution and/or MOU, subject to the other provisions of this section.
- B. When a holiday falls on a Sunday, the next day shall be observed as the holiday. When a holiday falls on a Saturday, the preceding day shall be observed as the holiday. For a full list of City holidays and the City's holiday procedures, refer to the respective MOU.

#### 6.12 Deferred Compensation Plan

- A. The City shall provide a deferred compensation plan to provide employees a mechanism by which they may reduce their salary and pay for supplemental retirement benefits with pre-tax dollars. The City will contribute 50 cents for every \$1 (one dollar) of salary contributed to the deferred compensation plan by an employee. The City's contribution shall not exceed 3% of an employee's annual base salary. In no event shall the City's and Employee's combined contribution exceed the applicable annual limit set by the Internal Revenue Code. The City's contribution shall be limited to full-time employees and will be contributed on a monthly basis.
  - i. The City, upon authorization by the employee, shall deduct eligible amounts as determined by the employee for contribution to the Deferred Compensation Program.

### 6.13 PERS Retirement Plan

- A. The City shall provide retirement benefits through the Public Employee's Retirement System (PERS). The benefit shall be based upon the following PERS Local Miscellaneous formulas, as follows:
  - i. Tier 1- PERS 2% @ 55
    - a) Full time employees and PERS eligible part time employees hired on or before March 23, 2012, shall contribute 7% of their salary toward the Employee Contribution Rate. The retirement allowance is based on the highest one-year final compensation.
  - ii. Tier 2- 2% @ 60
    - a) Full time employees and PERS eligible part time employees hired after March 23, 2012, shall contribute 7% of their salary toward the Employee Contribution Rate. The retirement allowance is based on the highest 36-months compensation.
  - iii. Tier 3- 2% @ 62
    - a) New City employees hired after January 1, 2013, who are "new members" under the CalPERS regulations shall contribute one-half the normal cost as determined annually by CalPERS. The retirement allowance is based on the highest 36-months compensation.

### 6.14 Education Reimbursement

- A. The City will provide an Educational Reimbursement Program for full-time employees. Eligible employees may request reimbursement, not to exceed \$1,000 per fiscal year, for actual expenses incurred for tuition, books, and fees for college-level, job-related courses, certifications, training courses, or degree curricula. All requests must be approved in advance by the Department Head and City Manager. Reimbursement for a course will only be made after satisfactory completion of the course with a grade of C or better.
- B. The City will annually budget \$40,000 in the Educational Reimbursement Program account. Educational reimbursement requests will be handled on a first-come, first-serve basis. Forms for approval and reimbursement can be found on the employee intranet under *Human Resources Forms & Templates* tab.

### 6.15 Mileage Reimbursement

- A. The City will provide mileage reimbursement, at the IRS-approved rate, to employees who are required to use their personal vehicle for City business. Forms

for reimbursement can be found on the employee intranet under *Human Resources Forms & Templates* tab.

## **Section 7. Grievance Procedures and Problem Solving**

### 7.1 Grievance Procedure

- A. The purpose of the grievance procedure is to enhance communications between employees and employer by providing a fair and impartial review and consideration of grievances within a reasonable time period without jeopardizing employees' positions or employment.

### 7.2 Scope of Grievance

- A. A grievance may be filed concerning the interpretation or application of specific provisions of any Memorandum of Understanding or other written Personnel rules or regulations which adversely affects an employee.

### 7.3 Basic Rules

- A. If an employee does not present a grievance/appeal or does not appeal the decision rendered his or her grievance/appeal within the time limits, the grievance/appeal shall be considered resolved.
- B. If a City representative does not render a decision to the employee within the time limits, the employee may within seven (7) calendar days thereafter appeal to the next step in the procedure.
- C. If it is the judgment of any management representative that he or she does not have the authority to resolve the grievance/appeal, he or she may refer it to the next step in the procedure. By mutual agreement of the City and the respective recognized employee organization, any step of the procedure may be waived.
- D. Upon written consent of the parties (i.e., the representative of the City and the employee or his or her representative), the time limits at any step in the procedure may be extended.
- E. Every reasonable effort shall be made by the employee and the City to resolve a grievance/appeal at the lowest possible step in the grievance/appeal procedure.

### 7.4 Submission of Grievance

- A. Any employee or group of employees or the recognized employee organization shall have the right to present a grievance. No employee or group of employees shall be hindered from or disciplined for exercising this right.

- B. If any two (2) or more employees have essentially the same grievance they may, and if requested by the City must, collectively present and pursue their grievance if they report to the same immediate supervisor.

#### 7.5 Employee Representation

- A. An employee may represent himself or herself or may be represented by a recognized employee organization representative in the formal grievance/appeal procedure.
- B. Authorized grievance/appeal representatives shall be designated by a recognized employee organization to represent employees for the purposes of the grievance/appeal procedure. The recognized employee organization shall notify Department Heads of the names and titles of such representatives and send a copy of such notice to the Personnel Officer quarterly.

#### 7.6 Time off for Processing Grievances/Appeals

- A. Reasonable time off without loss of pay shall be given to:
  - i. An employee who has a grievance/appeal in order to attend a meeting with his or her supervisor or other person with authority under the grievance/appeal procedure to resolve the matter or to meet with his or her grievance/appeal representative;
  - ii. An authorized grievance/appeal representative in order to attend a meeting with the represented grievant's/appellant's supervisor or other person with authority under the grievance/appeal procedure or to obtain facts concerning the action grieved/appealed through discussion with the grievant/appellant or other employees or through examination of appropriate records or locations relating to the grievance/appeal.
- B. The following restrictions shall apply in all cases to activity as outlined in 7.6.A. above.
  - i. Before performing grievance/appeal work, the grievant/appellant or grievance/appeal representative shall obtain permission of his or her supervisor and shall report back to the supervisor when the grievance/appeal work is completed.
  - ii. Neither the grievant/appellant nor the grievance/appeal representative shall interrupt or leave his or her job to perform grievance/appeal work if his or her supervisor determines that such interruption or absence will unduly interfere with the work of the unit in which the grievant/appellant or representative is employed. However, an effort will be made to grant such time off as soon as it is feasible to do so.

## 7.7 Form of Grievance

- A. All grievances must be submitted in writing, on forms provided by the City, and must contain the following:
  - i. Employee's name, title, department and division.
  - ii. The name of the individual or organization, if any, representing the employee in the grievance procedure.
  - iii. The date the grievance is being submitted.
  - iv. The nature of the grievance, including a statement of the specific provisions of the Memorandum of Understanding, personnel rules or regulations which are alleged to have been violated, the date the alleged violation occurred, and the specific decision or action which constituted the alleged violation.
  - v. The facts and/or circumstances which gave rise to the grievance.
  - vi. Any available supporting documentation or other material which is to be considered in conjunction with the grievance.
  - vii. A statement of the remedy which the employee is seeking.

## 7.8 Formal Grievance/Appeal Steps

- A. The grievance/appeal procedure shall consist of the following steps, each of which must be completed prior to any request for further consideration of the matter unless waived by mutual consent or as otherwise provided herein.
  - i. Immediate Supervisor
    - a) An employee shall formally and concurrently submit a grievance to the immediate supervisor and the Personnel Officer within fourteen (14) calendar days from the occurrence which establishes the basis for the grievance. Within seven (7) calendar days after receipt of the written grievance, or a date mutually agreed upon by both parties, the immediate supervisor shall meet with the grievant. Within seven (7) calendar days thereafter, or a date mutually agreed upon by both parties, a written decision shall be given to the grievant.
  - ii. Department Head
    - a) If the grievance is not resolved under subsection 7.2 (A)(i)(a), it may be presented to the Department Head. The grievance shall be submitted within seven (7) calendar days after the receipt of the written decision from 7.2

(A)(i)(a). Within seven (7) calendar days after the receipt of the written grievance, or a date mutually agreed upon by both parties, the Department Head or his or her representative(s) shall meet with the grievant. Within seven (7) calendar days thereafter, or a date mutually agreed upon by both parties, a written decision shall be given to the grievant.

iii. City Manager

If the grievance/appeal is not settled under subsection 7.2 (A)(ii)(a), it may be appealed in writing to the City Manager within seven (7) calendar days after receipt of the written decision from subsection 7.2 (A)(ii)(a). Within fourteen (14) calendar days after receipt of the written grievance/appeal, the City Manager or his or her representative shall meet with the grievant/appellant. Within fourteen (14) calendar days thereafter, a written decision shall be given to the grievant/appellant.

iv. Arbitration

- a) If a grievance is not resolved under subsection 7.2 (A)(iii)(a), an arbitration request may be presented in writing to the Personnel Officer within (7) calendar days from the date a decision was rendered at subsection 7.2 (A)(iii)(a). Within 30 days of the submission of the arbitration request, the City and the OCEA will meet and confer and enter into a Side Letter Agreement to set forth the general provisions and costs associated with the arbitration.

7.9 Informal Complaint Resolution Procedure

- A. Employees shall have the right to informally discuss individual complaints or concerns with their individual supervisor and/or Department Director in an attempt to come to a mutual solution before filing any grievance.
- B. It is the intent that every reasonable effort be made between the parties to resolve differences at the earliest possible Step to avoid a grievance.

**Section 8. Discipline**

8.1 Disciplinary Authority

- A. The City shall have the right to demote, discharge, reduce in pay, or suspend any employee for just cause. A suspension without pay shall be for a period of not less than five (5) nor more than thirty (30) working days.

8.2 Just Cause

- A. The Employer shall not discipline employees without just cause.
- B. Just cause includes, but is not limited to, the following:

- i. Violation of any Federal, State, or local law directly impacting the employee's employment.
- ii. Using, possessing, dealing, distributing, or being under the influence of intoxicating beverages/substances, unprescribed narcotics or unlawful drugs while on duty or at work locations, or reporting to work or operating City vehicles or equipment under the influence of alcohol/substance or any unlawful or unprescribed drug.
- iii. Failure or refusal to comply with a lawful order or to accept a reasonable and proper assignment from an authorized supervisor or City management official.
- iv. Inefficiency, incompetence, carelessness, or negligence in the performance of duties.

- v. Sexual harassment or other unlawful harassment, discrimination, or retaliation of another employee.
- vi. Chronic or excessive absenteeism or inconsistent attendance.
- vii. Rude or discourteous treatment of other employees or the public.
- viii. Inattention to duty, tardiness, carelessness or negligence in the course and scope of employment or in the care and handling of City property.
- ix. Loss or misuse of City funds, including, but not limited to, theft, embezzlement, misappropriation of City funds, including via a City credit card or use of City funds for personal purposes. Personal purposes are those activities which are for personal enjoyment, private gain or advantage, or an outside endeavor not related to City business.
- x. Improper or unauthorized personal use of City vehicles, buildings, facilities, tools, equipment, office machines, stationery, supplies or other City real or personal property.
- xi. Misuse of sick leave.
- xii. Furnishing false information to secure appointment, or falsification of timecards or other records and reports.
- xiii. Absence from duty without authorized leave, failure to report after leave of absence has expired or after such leave of absence has been disapproved, revoked, or canceled.
- xiv. Violation of Departmental rules and policies, or any written policies that may be prescribed by the City.
- xv. Acceptance of any bribe, gratuity, kickback, or other item of value when such is given in the hope or expectation of receiving preferential treatment.
- xvi. Outside work that creates a conflict of interest with City work, or detracts from the efficiency of the employee in the effective performance of City functions.
- xvii. Failure to obtain or maintain necessary qualification, certificate, or license, which is required as a condition of employment.
- xviii. Possession of an unsafe driving record for those employees required to operate City vehicles.



- xix. Possession of an unsafe driving record for those employees required to operate City vehicles.
- xx. Accepting a gift or gifts with a value in excess of the gift restriction limit set forth in the MOU.
- xxi. Other just cause.

### 8.3 Pre-Disciplinary Procedures for Suspension, Demotion, Reduction, or Discharge

- A. Prior to suspending, demoting, reducing or discharging an employee, a written notice of such proposed disciplinary action shall be served on the employee personally, or by certified mail, at least ten (10) calendar days prior to the effective date of the proposed action. Such written notice shall contain:
  - i. A description of the proposed action and its effective date(s);
  - ii. A statement of the reasons for such proposed action, including the acts or omissions on which the proposed action is based;
  - iii. Copies of material on which the proposed action is based;
  - iv. A statement of the employee's right to respond, either orally or in writing, prior to effective date of such proposed action;
  - v. A statement of the employee's rights to representation;
  - vi. A statement of the employee's rights to appeal should such proposed action become final.
- B. Prior to the effective date of such suspension, demotion, reduction or discharge, an employee will be given an opportunity to respond either orally or in writing, at the employee's option, to his or her Department Head.
- C. An employee shall receive written notice either sustaining, modifying or canceling the proposed disciplinary action prior to the effective date of such action.
- D. Should a proposed suspension, demotion, reduction or discharge become final, an employee shall have the right to appeal such action pursuant to subsection 8.4.
- E. An employee shall be given reasonable time off without loss of pay to attend a pre-disciplinary meeting with his or her Department Head and any disciplinary appeal hearing pursuant to this subsection.

- F. An employee may represent himself or herself or may be represented by a representative of his/her choice in a pre-disciplinary meeting with his or her Department Head and any disciplinary appeal hearing pursuant to Section 8.

#### 8.4 Disciplinary Appeals

- A. An appeal of a suspension without pay, demotion, reduction in pay or discharge may be appealed to the City Manager. The appeal shall be presented to the City Manager within ten (10) calendar days following the employee's receipt of the Department Head's written notice of discipline pursuant to subsection 8.3 (C) of this Section. All disciplinary appeals shall be in writing and shall be signed by the employee or by a representative of a recognized employee organization.
- B. The City Manager may hear the appeal personally, or may refer the appeal to a Hearing Officer for hearing and an advisory recommendation; provided, however, that all discharge appeals shall be referred to a Hearing Officer for an advisory recommendation. In the case of a discharge appeal, the employee may request a Hearing Officer be selected from the State Mediation and Conciliation Service or the American Arbitration Association. If the parties are unable to mutually agree upon a Hearing Officer, they shall request the selected organization to supply a panel of seven (7) names of persons experienced in hearing disciplinary cases for cities. Each party shall alternately strike a name until only one name remains. The remaining panel member shall be the hearing officer. The order of striking shall be determined by flipping a coin. The hearing will be conducted as soon as practical following the City Manager's receipt of the appeal. The cost of a hearing officer shall be paid by the City.
- C. The issue in all disciplinary appeals shall be: Was (employee's name) (suspended without pay, demoted, reduced in pay, discharged) for just cause and was the penalty imposed appropriate?
- D. The City Manager may sustain, reduce or rescind an appealed disciplinary action. If an action to suspend, demote or reduce in pay is reduced or rescinded, the appellant shall be entitled to restoration of pay and/or fringe benefits in a manner consistent with the City Manager's decision. If an action to discharge is reduced, the appellant shall be restored to a position in his or her former class subject to forfeiture of pay and fringe benefits for all or a portion of the period of time the appellant was removed from duty as determined by the City Manager. If an action to discharge is rescinded, the appellant shall be reinstated in a position in his or her former class and shall receive pay and fringe benefits for all of the period of time he or she was removed from duty. The City Manager shall issue a final decision within thirty (30) calendar days after the matter is closed, including the filing of any final briefs.
- E. Disciplinary appeal hearings shall be private.

- F. The employee (or their representative) may request in writing at least twenty (20) calendar days prior to the scheduled hearing date, that the City provide copies of all documentary evidence to be used by the City at the hearing. Such evidence shall be provided no later than ten (10) calendar days prior to the scheduled hearing date. Any evidence not so provided may not be admitted or offered as evidence at the subsequent hearing except that any such documentary evidence discovered by a party after such request for copies but not soon enough to comply with the above time limits may be admitted providing it could not have been discovered sooner by reasonable means and provided further that a copy or copies of such evidence be afforded the requesting party as soon as practical after such discovery. Nothing contained herein shall operate to prevent either party from presenting additional documents by way of rebuttal.
- G. An employee shall not suffer loss of pay for time spent as a witness at a hearing held pursuant to this procedure. The number of witnesses requested to attend and their scheduling shall be reasonable.
- H. At the hearing, both the appealing employee and the City shall have the right to be heard and to present evidence. The following rules shall apply:
  - i. Oral evidence shall be taken only on oath or affirmation.
  - ii. Each party shall have these rights: to call and examine witnesses, 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, to impeach any witness regardless of which party first called the witness to testify and to rebut the evidence against the witness.
- I. The hearing need not be conducted according to technical rules relating to evidence and witnesses. 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 have made improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions and irrelevant and unduly repetitious evidence shall be excluded.
- J. Disciplinary action may be appealed through the grievance process outlined in subsection 7.8 (A) (iii): City Manager and may be appealed to subsection 7.8 (A) (iv): Arbitration.

## **Section 9. Standard of Conduct**

### 9.1 Dress and Appearance

- A. Employees of the City are required to dress appropriately for the jobs they are performing.
- B. General Guidelines
  - i. All clothing must be neat, clean, and in good repair.
  - ii. Prescribed uniforms and safety equipment must be worn.
  - iii. Footwear must be appropriate for the work environment and functions performed.
  - iv. Hair must be neat, clean, and well-groomed.
  - v. Beards, mustaches, and sideburns must be maintained in a neat and well-groomed fashion.
  - vi. Jewelry is acceptable unless it constitutes a health or safety hazard.
  - vii. Good personal hygiene is required.
  - viii. Dress must be appropriate to the work setting, particularly if the employee has public contact.
  - ix. Any visible tattoos shall not be obscene, sexually explicit, discriminatory to any legally protected category (including, but not limited to, national origin, race, religion, sex, and sexual orientation), extremist, and/or gang-related. Any non-conforming tattoos will be covered with clothing or a bandage while at work.
  - x. Ripped/torn jeans, shorts, sweatpants, and non-employment related t-shirts are inappropriate unless part of a required uniform or specifically authorized by the City Manager or Department Head.
  - xi. If an employee has a question about how any provision of this policy applies to him/her, the employee should discuss the matter with his/her supervisor for consideration and determination.

### 9.2 Political Activity

- A. The political activities of City employees must conform to the pertinent provisions of state and federal law.

### 9.3 Gifts Restrictions

- A. No employee shall accept any gift or gifts totaling \$100 or more in value during any 12-month period, from any person, firm or organization conducting or seeking to conduct business with the City.

### 9.4 Communication Equipment

#### A. General Telephone Usage

- i. Landline telephones in City facilities are for City business. Personal telephone calls are to be kept to an absolute minimum. Occasionally, personal calls may be necessary. Every effort must be made to limit personal calls to five (5) minutes or less, except for cases of emergency. Frequent and/or repeated personal calls are not appropriate.

#### B. City Issued Cell Phones and Smartphones

- i. Employees are eligible for a City-issued cell phone or smartphone if a valid business need exists. Each department head shall authorize/designate the employee(s) in his/her department who should be issued city-owned cell phones or smartphones due to business needs in the course of their regular job duties. Issuance of equipment is at the sole discretion of the City and may be revoked at any time.
  - a) Since the City issues a device to employees with a valid business need, City represented employees are not required to use personal devices for work, nor are they provided with a stipend. Employees are not expected to regularly use work phones outside of assigned work hours.

#### C. Damage, Theft, or Loss of City-Issued Equipment

- i. Employees are responsible for maintaining adequate physical protection of the equipment issued to them by the City. Employees shall immediately notify their department head and the Administration Department if any City-owned cell phones or smartphone is lost, damaged or stolen.

#### D. Privacy

- i. The City may be required to produce information transmitted through or stored on its information systems pursuant to a court order, subpoena, or statute. As such, all communications transmitted via the City's communication system are subject to request, with no expectation of privacy. In response to the information requested under the California Public Records Act, it may be necessary for the City to examine electronic communications records that users

may consider to be personal to determine whether they are public records that are subject to disclosure.

- ii. Employees should not communicate their private, privileged, or confidential information via the City's communication equipment. Employees who do communicate their private, privileged, or confidential information via the City's communication equipment will be deemed to have waived any privilege or privacy rights to those communications.

#### E. Personal Phones in the Workplace

- i. The use of personal phones for personal business should be kept to a minimum and must not interfere with work performance. During work hours, employees are expected to switch their personal cell phones/smartphones to silent/vibrate mode or turn them off. Employees who need to use their personal phone to attend to personal matters should do so during designated breaks or while at lunch, when practical.

#### F. Return of City-Issued Equipment

- i. Employees who leave City service are required to return all City-issued equipment to the Administration Department during the off-boarding process.

### 9.5 Computer and Use of Technology

- A. The purpose of this directive is to provide City employees with guidance on the proper use of its information technology resources, including but not limited to the Internet, the Intranet, e-mail, and the City's digital network and supporting systems and the data transmitted on those systems.
- B. The use of City technology resources is a privilege granted to employees for the enhancement of job-related functions. Employees may have limited access to these resources for personal use if they comply with the provisions of this policy. Violations of this policy may result in the revocation of this privilege. Misuse of such resources maybe just cause for discipline as improper use is outlined in adopted MOU documents.
- C. The City's comprehensive Computer and Use of Technology policy can be viewed in full on the employee intranet.

### 9.6 City Vehicles

- A. All employees who are required to operate a motor vehicle within their classification must acquire and maintain an appropriate, valid California Driver License.

## B. Revoked, Suspended, or Driving without a Driver's License

- i. An employee required to operate a motor vehicle whose Driver's License is revoked, suspended, or restricted for any reason must report the change in driving privileges to his or her supervisor immediately. Possession of an unsafe driving record for those employees required to operate City vehicles, or failure to maintain a valid license constitutes just cause for discipline.
- ii. Any employee who drives a City vehicle or a personal vehicle while on City authorized business without a valid California Driver's License may be subject to disciplinary action.

## C. Accidents

- i. All vehicle accidents must be reported immediately to the employee's supervisor. If the supervisor is not available, the employee must report the accident to his or her next higher level of supervision or to the City Manager's Office. An accident/incident report must be filed with the City's Risk Management Division.
  - a) For the purpose of this policy, immediately shall mean as soon as practical following any first aid or treatment of any injuries. If the City offices are closed, the accident must be reported at the start of the next business day following the accident.

## D. Truck, Vehicle, and Equipment Security

- i. All City owned trucks, vehicles, and equipment must be returned to the designated City premises every day.

## E. Unauthorized Use of Vehicle

- i. City vehicles are provided for the purpose of conducting official City business only. Improper unauthorized use of a City vehicle for any purpose other than official business is just cause for disciplinary action.

## F. Safety

- i. Employees shall obey all Federal, State, and local laws while operating either City owned or personally owned vehicles while conducting official City business.
- ii. When materials or tools are being transported, the vehicle operator is responsible for assuring that all items are properly secured.

- iii. It is the responsibility of the employee operating a City-owned vehicle to ensure that all persons in the vehicle use seat belts before operating the vehicle.
- iv. Employees should refrain from operating cell phones, laptop computers, tablets, and any other device that may cause a distraction while operating a City owned or a personally owned vehicle in the course of conducting official business. Drivers should make every attempt to properly park their vehicle(s) prior to using such devices.
- v. City employees shall make every reasonable effort to utilize City vehicles in the most efficient manner possible, including during break and lunch periods, while working within City limits. When use of a City vehicle is required for travel out of the City limits, it is understood that during break and lunch periods, a City vehicle may be utilized. If an employee has questions about use of a City vehicle during a break or lunch period, he/she is encouraged to speak with the Supervisor.

#### 9.7 Social Media

- A. Communicating with the citizens of Laguna Niguel and the public is a priority for the City. The use of social media provides an effective and efficient way to reach out to a diverse audience and is a reasonable business use of communicating information.
- B. Departments may designate an individual (or individuals) to be responsible for creating, maintaining, updating, and monitoring social media resources on behalf of the City. Please refer to the City Council Policy on social media for additional information.

#### 9.8 Telecommuting Policy

- A. The purpose of the Employee Telecommuting Policy (Policy) is to provide City employees in good standing with the opportunity to work in a remote, telecommuting capacity for up to 8 hours per workweek. The Policy maintains that all employee duties, deadlines, and responsibilities continue to be successfully performed while also providing for increased flexibility in schedule and work-life balance.
- B. The City Manager, or designee, shall designate and authorize specific times in which an Employee Telecommuting Agreement (Agreement) shall apply. Any Agreement is subject to the terms and conditions set forth in this Policy. The policy and accompanying Employee Telecommuting Agreement can be found on the employee intranet.



## 9.9 Lactation Accommodation Policy

- A. The City of Laguna Niguel encourages employees and management to have a positive, accepting attitude toward working women and breastfeeding in the workplace. As such, the City of Laguna Niguel is committed to providing a private room for use and a reasonable amount of break time to accommodate an employee's need to express their breast milk in reasonable proximity to their work area. The full policy can be found on the employee intranet.