

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FULLERTON ADOPTING PERSONNEL RULES AND REPEALING RESOLUTIONS NO. 7083, 7124, 7748 AND 8024.

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WHEREAS, Chapter 2.33 of the Fullerton Municipal Code establishes a Personnel System for the City of Fullerton; and

WHEREAS, Chapter 2.33 authorizes the adoption of rules for the selection, employment, classification, advancement, discipline, and compensation of employees.

NOW, THEREFORE, be it resolved by the City Council of the City of Fullerton that the following personnel rules are hereby adopted:

Section 1: Purpose.

To establish an equitable and uniform procedure for dealing with personnel matters, to attract to municipal service the best and most competent persons available, to assure that appointments and promotions of employees will be based on merit and fitness, to establish a basic compensation plan and procedures, and to provide a reasonable degree of job security for qualified employees.

Section 2: Application.

This resolution is applicable only to regular and probationary employees. It does not apply to elected officials, members of appointive boards, commissions and committees, unpaid volunteers, exempt, non-regular and contract employees.

Section 3: Administration.

The City Manager is authorized to issue written guidelines to implement and enforce this resolution, and to make adjustments to avoid or eliminate inequities resulting from its application. Such guidelines shall be consistent with applicable State and Federal laws, regulations and guidelines.

It shall be the duty of the City Manager to recommend to the City Council the establishment of new classes of employment, alteration or abolishment of existing classes, and to investigate existing compensation ranges and rates and to recommend such changes therein as he/she may deem just and proper when such new classes or changes are deemed necessary.

Section 4: Implementation and Amendment.

These Rules supersede previous rules and practices and may be amended or revised by Agreements with recognized employee organizations. Such changes shall become effective when authorized by the City Council.

Proposed amendments to these Rules shall be submitted to the City Manager for review and recommendation prior to submittal to

the City Council. Advance notice shall be given to recognized employee organizations of any amendments which affect compensation, hours and other terms and conditions of employment. Upon request, the City Manager shall provide any employee organization so requesting with the opportunity to consult regarding amendments affecting compensation, hours and other terms and conditions of employment. As provided in Section 3500 et seq., of the Government Code, in cases of emergency, when the City Council determines that amendment(s) to these Rules must be adopted immediately without prior notice or meeting with a recognized employee organization, the City shall provide such notice and opportunity to meet at the earliest practicable time following the adoption of the amendment(s). Amendments shall become effective upon adoption by the City Council or at such other time as the adopting resolution may provide.

Section 5: Definitions.

- (A) City Employee. A City employee is defined as any individual who receives a City payroll check for services rendered.
- (B) Regular Employee. A regular employee is one who has successfully completed a probationary period in a continuing benefitted position.
 - (1) Full-Time Employee. A full-time employee is one assigned to work, on a continuing basis, the full work schedule for his/her classification and receives applicable compensation benefits.
 - (2) Part-Time Employee. A part-time employee is one assigned to work, on a continuing basis, less than the full work schedule for his/her classification, and receives certain compensation benefits proportionate to time worked.
- (C) Probationary Employee. A probationary employee is one who is serving a probationary period in a continuing benefitted position. Employees serving a promotional probationary period retain their regular status and all rights associated with that status. See Section 11.
- (D) Non-Regular Employee. A non-regular employee is one appointed to a classification listed on the salary resolution for hourly employees, or one appointed to a regular classification on an hourly basis. Such employees typically work less than 40 hours per week on a seasonal, substitute, casual or temporary basis. Non-regular employees shall not work full time (i.e., 40 hours per week) for more than six months. Non-regular employees receive no benefits except worker's compensation coverage and the Social Security substitute program.
- (E) Exempt Employee. An exempt employee is anyone who is appointed by the City Council.

Section 6: Equal Employment Opportunity.

Consistent with existing policies, the City of Fullerton is committed to equal employment opportunity and affirmative action. These policies extend equal employment opportunities to all persons without regard to race, creed, color, religion, political affiliation, national origin, age, physical or mental disability, medical condition, marital status or gender. Recognizing that mere prohibition of discriminatory practices will not assure equal opportunity of employment, the City has established an Affirmative Action Program with a goal of equality of opportunity in all personnel actions. Special recruitment efforts among minorities, women and disadvantaged individuals do not conflict with the merit

system, and assure quality of opportunity in employment with the City.

Section 7: Classification Plan.

The classification plan shall consist of classes of positions defined by class specifications, including title, a description of the duties and responsibilities of each class and a statement of the training, knowledge, skill, ability, physical and mental requirements, experience and other qualifications sought from applicants for positions in each class. Class specifications are explanatory, but not restricting. The listing of all particular tasks shall not preclude the assignment of other related kinds of tasks or jobs requiring lesser skills. The classification plan shall be so developed and maintained that all positions substantially similar with respect to duties, authority, character of work and qualifications, are included within the same class, and that the same schedule of compensation is applied with equity under like working conditions to all positions in the same class.

- (A) Specifications. All employees shall be placed within classes established by the City Council for which class specifications are maintained in duplicate, one in the custody of the City Clerk and one in the Personnel Office. No class specification or allocation of a class to a salary range shall be valid unless approved by resolution of the City Council.
- (B) New positions. When a new position is created, no person shall be appointed or employed to fill the position until it has been properly classified.
- (C) Reclassification. Reclassification is the allocation of a position and/or of its incumbent to a more appropriate class accompanied by a change in salary. Reclassification occurs after an evaluation has determined that the qualifications, duties and responsibilities of a position have materially changed.
- (D) Change of Classification. A change of classification involves the assignment of an individual to a position in a different classification without a change in salary.

Section 8: Filling Vacant Positions.

Vacant positions shall be filled by regular appointment from a list of eligible candidates certified by the Director of Personnel or by temporary appointment.

- (A) Regular appointments. Regular appointments may be affected in any of the following ways:
 - (1) Demotion. Demotion is the movement of an employee from one classification to another having a lower maximum rate of pay. A demotion may occur at the request of the employee, by Department Head action for job performance that falls below accepted standards, for disciplinary purposes (upon completion of all applicable due process requirements) or to fill a position that is vacant on other than a temporary basis. No employee shall be demoted to a position for which he/she does not possess the qualifications. In the case of all demotions, written notice of the demotion and reasons will be given to the employee prior to the effective date, and a copy will be placed in his/her personnel file.
 - (2) Transfer. A transfer is the movement of an employee from one position to another in the same classi-

fication. A transfer allows for maximum employee utilization to meet the City's staffing needs. It may occur within one department or be from one department to another and may be initiated by the City Manager, the Department Head or the employee, and is subject to approval of the City Manager. For all transfers between departments, Department Heads must agree on the date the transfer is to take place. Absent their agreement, the City Manager shall determine the effective date of transfer. Transfers shall not be used to effectuate a promotion or demotion or for disciplinary reasons.

- (3) Underfilling. The underfilling procedure provides that a candidate whose name is on an eligible list may be appointed to a vacancy below that of the class for which the candidate originally gained eligibility, provided it is within the same job family and no current eligibility list exists for the vacant position. A lower classification is one that has a lesser salary range.
- (4) Rehire. Rehire is the employment of a regular employee who has resigned or retired subsequent to his/her initial probationary period. At the individual's request and provided that he/she has resigned in good standing, he/she shall be placed on an eligible list for two (2) years following the date of resignation without going through the regular recruitment procedure. If selected, the individual may be rehired to a vacant position in the same, comparable or lower classification in the same job family, and shall be subject to the probationary period described in Section 12 (A). In contrast with reemploying a laid-off employee, a rehired employee begins with new employee status with regard to vacation, sick leave and other compensation benefits. The salary step shall be determined by the Department Head, subject to approval of the City Manager.
- (5) Reemployment.
 - (a) Laid-Off Employees Placed on Reemployment List. The names of employees laid off or bumped pursuant to Section 13(C) shall be placed upon the reemployment list for the class from which they were laid off. Names on the reemployment list shall be in order of seniority as defined by these rules.
 - (b) Employees With Equal Seniority. If two or more employees subject to rehire have equal class hire date seniority, then the rehire offer shall be made to the employee with the earliest initial regular hire date in the City. If the initial regular hire dates are equal, the rehire offer shall be made to the employee whose performance and attendance is judged by the City to be superior.
 - (c) Eligible for Reemployment for 12 Months. Laid-off employees are eligible for reemployment in the class from which they were laid off for a 12-month period starting from the date of the actual layoff, and shall be employed in the reverse order of layoff. Their reemployment shall take precedence over any other type of employment, defined or unde-

fined, in these Rules. In addition, they shall have the right to apply for promotional and transfer positions, and use their seniority therein for a period of 12 months following layoff. Upon written request to the Personnel Department, an employee on a reemployment list shall be notified of promotional and/or transfer opportunities.

Following this 12-month period, laid-off employees shall be eligible for rehire as provided in Section 8(A)(4).

- (d) Offer of Reemployment and Acceptance. An employee who is laid off and is subsequently determined by the Personnel Department to be eligible for reemployment based upon his/her seniority shall be notified in writing by the Personnel Department.

An employee shall notify the Personnel Department of his/her intent to accept or refuse reemployment within ten working days following the receipt of the reemployment notice. If the employee accepts reemployment, the employee must report to work within eleven working days following such acceptance. An employee who rejects more than one offer of reemployment shall be removed from the reemployment list.

- (e) Reemployment in Highest-rated Class Available. Employees shall be reemployed in the highest-rated job classification available (but not higher than their previous class), in accordance with their length of service, in the classification series from which they were laid off. Employees who accept a position lower than their former class shall retain their original 12-month right to the higher-paid position.

- (f) Compensation. Reemployment shall be at the salary range of the new class, and the step closest to the range and step held by the employee prior to layoff, without exceeding the previous range and step. All other compensation and benefits shall be at the level attained prior to layoff.

- (g) Probationary Period. A probationary period is not required for reemployment.

- (6) Recruitment. Recruitment involves the attempt to attract suitable candidates for the position with the goal of selecting those best qualified. When this method of filling vacancies is utilized, it shall be the policy of the City to recruit from within the organization whenever practical, and a sufficient number of applications are received except that all Department Head recruitments shall also be opened to outside candidates. A sufficient number is defined as at least three bona fide, qualified applicants for each vacancy anticipated to occur during the life of the eligible list. If an insufficient number of bona fide applications is received from qualified City employees, recruitment may be opened to outside candidates.

- (a) Continuous Recruitment. Positions which have a frequent rate of turnover or are difficult to fill may be recruited for on a continuing basis. This is a process in which applications are accepted at any time and are processed continuously.
- (b) Non-continuous Recruitment. With non-continuous recruitment, applications are received during a specified time period and processed as a group.
- (c) Lateral Entry.

- (1) Police Officer. The position of Police Officer may be filled by lateral entry. A person who has successfully completed a Basic Academy certified by the California Commission on Peace Officer Standards and Training may be appointed without taking the standard pre-employment written test.

Lateral entry candidates shall, however, be required to pass all other phases of the Police Officer selection process, which may include, but are not limited to, oral interviews, physical exam, polygraph test, psychological exams, and background check.

- (2) Firefighter. The position of Firefighter may be filled by lateral entry. A person currently employed as a full-time Firefighter by a recognized fire department or district who has completed an accredited basic recruit academy whose curriculum is equivalent to material presented for Firefighter I certification may be appointed.

Lateral entry candidates for Firefighter are not required to pass a written examination; however, they shall pass all other requirements of the position, which may include, but are not limited to, oral interviews, physical examination, physical agility test, and a background check.

- (B) Temporary Appointments. In the absence of individuals eligible for regular appointment, provisional, emergency and acting appointments may be made by the cognizant Department Head with the City Manager's approval.

- (1) Provisional Appointment. A provisional appointment may be made, preferably of an individual meeting the position's qualifications, to cover a military leave, jury duty, extended leave of absence, illness or injury, or after a promotion, demotion, suspension or transfer.

A provisional appointment shall be limited to movement within the same or lower classification or job family. A provisional employee may be removed at any time without the right of appeal or hearing. No position shall be filled by a provisional appointment for more than six months in any 12 month period without approval of the City Manager. Such appointments shall be on a non-regular basis.

- (2) Emergency Appointment. To meet the immediate requirements of an emergency condition such as fire, flood, war, earthquake, etc., which threatens life or property, the City Manager may employ such persons as may be needed for the duration of the emergency without regard to the rules and regulations affecting appointments. If a local emergency is declared, emergency workers are covered by workers' compensation. No emergency appointment shall exceed 60 working days, nor shall an individual hold successive emergency appointments without approval of the City Manager. Such appointments shall be on a non-regular basis.
- (3) Acting Pay Appointment. Acting Pay compensates employees who are temporarily appointed to perform the duties of a position in a classification with a higher base salary than the classification regularly held by the employee.

Acting appointments may be made only to fulfill the responsibilities of a vacated position until such time as a regular appointment is made, or the incumbent has returned to duty. No position shall be filled by an Acting Pay appointment for more than six (6) months in any twelve (12) month period without the approval of the City Manager.

Prior to recommending an Acting Pay appointment, the Department Head shall make the following determinations:

- (a) The duties and responsibilities of the position to be filled are of such nature that they cannot remain unassigned until a regular appointment is made.
- (b) It is not practicable to assign the duties of the vacant position to any other employee or employees in the same or a higher classification.
- (c) The work assumed shall encompass the majority of the typical duties listed in the specification for the acting classification.

Acting Pay assignments shall be made in writing by the Department Head (subject to the City Manager's approval) no later than the first day of the assignment. Acting Pay assignments may be terminated at any time without prior notice to the employee; however, the employee shall be notified in writing of the end of the Acting Pay assignment as far in advance as possible.

Employees in the following categories shall not be assigned to Acting Pay Work unless specifically authorized by the City Manager or City Council:

- (a) Probationary employees.
- (b) Employees voluntarily participating in a training program involving work above their normal class.
- (c) Non-regular employees, except when temporarily assigned to a regular position.
- (d) Executive employees.
- (e) Employees whose classifications are part of the Fullerton Management Association who routinely assume the responsibilities of a superior during the latter's absence.

Payment will be in accordance with Section 15(D) of this resolution.

Section 9: Selection Devices.

Selection devices are the methods which fairly measure the qualifications of an individual seeking appointment. Every effort shall be made to ensure that the language and other demands of the selection devices are job related.

- (A) Types of Selection Devices. Selection devices include, but are not limited to, application screening, written and performance tests, supplementary forms, interviews, physical and psychological exams, assessment centers, physical agility tests, reference checks, background evaluations, polygraph examinations, evaluations of daily work performance, conduct, attendance and work habits, and probationary periods.
- (B) Principal Selection Devices. The principal selection devices are:
 - (1) Application Screening. Employment applications provide the City with a record of all applicants, a tool for evaluation of knowledge, skills, abilities, education and experience, a source for reference and background checks, as well as a basis for recruitment analysis. Applications are used in coordination with other selection devices to predict potential job success and in making final selections.
 - (a) Announcement. All recruited positions shall be publicized by methods the City Manager deems appropriate for the position, which may include posting announcements in City Hall, on bulletin boards, and in newspapers and periodicals. The announcement shall specify the title and pay of the vacant position; the nature of work to be performed; any licenses, certificates or degrees needed; the physical and mental requirements; the knowledge, skill and ability desired or required; the method of making application; the last date for filing applications; and other pertinent information.
 - (b) Application Form. Applications shall be made in accordance with instructions on the announcement. Applications shall require information covering knowledges, skills, abilities and other job-related data. No application form shall require information concerning an applicant's race, creed, color, religion, political affiliation, national origin, age, physical or mental disability, medical condition, marital status or gender. All applications must be signed in ink by the individual applying.
 - (c) Disqualifications. Any application can be rejected which, on its face, indicates that: 1) it is not properly completed; 2) it was not received by the deadline shown on the job announcement; or 3) the applicant does not possess the qualifications necessary for the position. Applications may also be rejected if an applicant:

- Has made any false statement of any material fact;
- Has omitted any material fact;
- Has practiced or attempted to practice any fraud or deception on the application;
- Has been dismissed from prior employment for any reason stated as a violation in the City Manager's disciplinary guidelines;
- Has been convicted of a crime involving moral turpitude or a crime which would impede his/her ability to perform the job for which he/she is applying;
- Is addicted to the habitual use of narcotics, drugs or intoxicating liquor;
- Is not legally permitted to work within the United States;
- Reasons, other than those stated herein, which would indicate that the applicant is unfit for the position.

Information as to the reason for rejection may be made available to the applicant. Incomplete or defective applications may be returned to the applicant to amend, provided that the time limit for accepting applications has not expired. When any of the above stated causes for rejection are determined to exist, the applicant may be removed from the eligible list or dismissed from employment at any time.

(2) Written and Performance Tests. Written and performance tests are measures of an individual's ability to perform the duties defined in the class specification. They are used in conjunction with other selection devices to predict potential job success and in making final selections. They must measure skills and other attributes that are demonstrably relevant to the actual position. The City will use no test that does not actually predict job performance or is not job-related.

(a) Written Tests. Written tests involve questions requiring a written or selected response. They can take the form of essay, true/false, multiple choice, math and other tests.

(b) Performance Tests. Performance tests involve a sample of actual or closely simulated work. Examples include typing, radio, equipment or computer operation.

(c) Test Scoring. After a written or performance test is complete, a minimum acceptable passing score will be statistically established. This point will be reasonable and consistent with normal expectations of proficiency within the classification and scores obtained by the candidates in the applicant pool. Those applicants at or above the passing score will continue in the selection process or be placed on the eligible list if the selection process is completed. Those applicants below the pass point will be notified that they are not being considered further. Upon request, a candidate shall have the right to review his/her exam results with a Personnel Department representative. The test itself shall not be available for review.

- (3) Interviews. The purpose of an interview is communication, screening, selection and placement. Depending upon the nature of other selection devices being used, the interview may be a structured oral examination, or be a personal interview with the individual responsible for hiring.
 - (4) Physical and Psychological Exams. After a job offer is made, a physician designated by the City must certify that the prospective employee is able to physically and mentally perform the essential duties of the position on a regular and continuing basis. The City shall pay for a pre-employment exam for that purpose, and reserves the right to have an employee examined, at the City's expense, at any time for the same purpose.
 - (5) Probationary Period. The probationary period shall be considered a part of the selection process, in accordance with Section 12, herein.
- (C) Examination Weights. For selection processes which include more than one selection device, each device will be assigned a percentage weight which represents its relative value in determining the overall fitness of the applicant. For each selection process, all relative weights shall total 100 percent. Failure in one part of the selection process may be grounds for declaring the applicant as failing in the entire process, or as disqualified for subsequent parts of the selection process.

Section 10: Eligible Lists.

- (A) Types of Eligible Lists. Eligible lists include candidates who have qualified for rehire, reemployment, transfer or as a result of retirement.
- (B) Certification. After qualifying examinations have been weighted and scored, the attainment of a passing score entitles a candidate to be placed on the eligible list. The Director of Personnel shall certify a list of candidates eligible for appointment to the cognizant Department Head, and shall notify each candidate of the results. Names on each eligible list will be listed alphabetically. The results of the selection process shall be available only to the Personnel Department, the cognizant Department Head and others involved in the selection procedure. Upon request, each candidate shall be apprised of his/her own score.
- (C) Duration. Eligible lists become effective on the date the Director of Personnel certifies in writing that the list of candidates is eligible for appointment. Unless sooner exhausted or abolished by the Director of Personnel, eligible lists shall remain in effect for one year, except for rehire, reinstatement and certain sworn Police and Fire lists which may last two years. If an eligible list contains less than three bona fide, qualified candidates for each vacancy anticipated to occur during the life of the list, the list may be abolished and a new eligible list may be established. Persons whose names remain on the abolished list may be included on the new list without competing in the selection process which establishes the new list. An eligible list may be extended for up to one additional year provided it contains a sufficient number of candidates.
- (D) Removal From the Eligible List. A candidate's name may be removed from the eligible list by oral or written

request of the candidate; failure of the candidate to respond to or accept offers of appointment to three different positions within five working days following such offers; or for any reason aforementioned for disqualification of application.

Section 11: Appointments.

Any person whose name appears on the eligible list may be appointed by the cognizant Department Head, subject to the City Manager's approval. No appointment shall be final until the candidate has successfully passed all applicable reference, background, medical and other exams and the required probationary period has been successfully completed.

Section 12: Probationary Period.

The probationary period is part of the selection process. All persons regularly appointed, including promotional appointments, shall be required to successfully complete a probationary period before a regular appointment in that classification is made. Since examinations cannot predict with absolute accuracy an applicant's ability to perform the job satisfactorily, the probationary period is necessary to determine if a regular appointment is warranted.

- (A) Duration. The length of the probationary period varies with the type of appointment. All original, lateral, rehire and promotional appointments shall be tentative and subject to the probationary period listed below. Two extensions may be granted for two months each for performance reasons.

(in months)	Promo- Orig.	Promo- tional	Lateral	Re- Hire	Extension		Maximum Probation Allowed
					#1	#2	
Police Safety Appointments (After Academy) and Police Dispatcher	12	12	12	3	2	2	16 mos.
Fire Safety Appointments (After Academy)	12	12	12	12	2	2	16 mos.
All other Classifications	6	6	N/A	3	2	2	10 mos.

- (B) Evaluation During Probationary Period. The supervisor shall evaluate, in writing, the probationer's performance no less than every two months to indicate how effectively the probationer is performing his/her duties. A review of these performance appraisals should give an accurate picture of the probationer's progress and indicate if a regular appointment in that classification is warranted.

- (C) Action Before Conclusion of Probationary Period. Prior to expiration of the probationary period, the probationer will be either appointed to regular status in that classification, continued on an extension of the probationary period, returned to a position in the same or similar class from which he/she was promoted, or separated from City employment. After successfully completing the probationary period, the probationer's status becomes that of a regular employee in that classification.

Probationary employees do not have property or vested rights to their position with the City. During the probationary period, an employee's probationary appointment may be rescinded at any time by the Department Head without cause and without the right of appeal. Written notice of such action shall be served on the probationer, and a copy shall be filed with the Director of Personnel.

Any employee whose appointment is rescinded during the probationary period following a promotional appointment shall be reinstated to a position in the same or a similar class from which he/she was promoted unless charges are filed and he/she is discharged.

- (D) Interruption in Probationary Period. In the event of illness or injury requiring a leave of absence, probation will commence from the time accumulated prior to leave, upon probationer's return.

Section 13: Separations.

Separations involve fair and orderly termination of employment initiated by either the employee or the City.

- (A) Retirement. Municipal Code Section 2.32.010 and the City's contract with the Public Employees' Retirement System (P.E.R.S.) govern all retirement matters. All employees wishing to retire shall notify the Personnel Department and the Department Head at least ninety days in advance of their planned retirement to allow sufficient time to process the necessary documents with P.E.R.S.

- (B) Resignation. An employee wishing to resign in good standing shall give written notification at least two weeks in advance of the effective resignation date, unless a shorter notification period is approved by the Department Head. This shall be filed with the Department Head, stating the effective date and reason for leaving. The Department Head shall evaluate the employee's performance on the personnel action form. The written resignation and the personnel action form shall then be filed with Personnel. The same procedure shall be followed by Department Heads, except the written resignation will be originally filed with the City Manager.

A resignation may be withdrawn only upon approval of the Department Head and the Personnel Director. A Department Head's resignation may be withdrawn only upon approval of the City Manager. Failure to give notice as required by this rule may be cause for denying future employment with the City. Any employee who resigns in good standing may request his/her name be included on a rehire list effective for two years.

Any absence without prior approval and failure to report to work or call in for three consecutive work days or shifts shall constitute abandonment of employment and the employee will be deemed to have voluntarily resigned and shall be separated from City service without right to appeal, subject to the due process requirements of law.

- (C) Layoff. The City Council may eliminate any position when, in the judgment of the City, such action becomes necessary in the interest of economy, reorganization, budget reductions, or decrease in workload. Any employee holding such a position may be laid off without a right to appeal, subject to the following terms and conditions.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FULLERTON AMENDING RESOLUTION NO. 8485 PERTAINING TO PERSONNEL RULES TO AUGMENT AND CLARIFY EXISTING LANGUAGE

THE CITY COUNCIL OF THE CITY OF FULLERTON HEREBY RESOLVES AS FOLLOWS:

1. Section 13(C)(2), paragraph one, of Resolution No. 8485, Personnel Rules, is hereby amended to read:

"Bumping Rights. An individual laid off from a particular classification may "bump" or move into a classification for which the City determines he/she is qualified. Qualification is presumed when the person has held the position previously with the City or when a lower position is in a normal line of promotion and the employee in the higher position has seniority in the classification series over another employee and meets the qualifications guidelines and requirements for that position. After an employee is informed of an impending layoff or "bump down" he/she must inform the Personnel Department within five working days of his/her intent to take the option of the layoff or the "bump down." The process will be repeated at the next classification level to which an employee bumps, thus creating a surplus in that classification."

ADOPTED BY THE FULLERTON CITY COUNCIL on August 3, 1993.

SIGNED AND APPROVED on August 4, 1993.

/s/ Molly McClanahan
Molly McClanahan, Mayor

ATTEST:

/s/ Anne M. York
Anne M. York, City Clerk

CERTIFICATE OF CLERK

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Fullerton City Council at its regular meeting on August 3, 1993, by the following vote:

AYES: COUNCILMEMBERS: McClanahan, Catlin, Bankhead, Norby, Sa
NOES: COUNCILMEMBERS: None
ABSENT: COUNCILMEMBERS: None

IN WITNESS WHEREOF, I have set my hand this 4th day of August, 1993.

/s/ Anne M. York
Anne M. York, City Clerk

APPROVED:

Mark H. Flannery
Mark H. Flannery
Director of Personnel
& Employee Relations

R.K. Fox
R.K. Fox
City Attorney

(1) Order of Layoff. Whenever a regular employee is laid off, the order of layoff within the class shall be determined by cumulative time served. The employee who has been employed the least time in the class, plus equal or consolidated classes shall be laid off first. "Cumulative time served" shall be defined as all service of that employee as a regular or probationary employee in the class, plus any service in equal or consolidated classes.

(a) The City shall grant service credit for time spent on paid leaves.

(b) All unpaid leaves of more than ten working days shall not count towards earning "length of service" seniority credit. Employees taking unpaid leaves of more than ten working days shall have their classification hire date adjusted on a day-for-day basis for the duration of the unpaid leave.

(c) If two or more employees subject to layoff have equal cumulative time served, preference shall be given to the employee with the earliest initial regular hire date in the City. If initial regular hire dates are equal, preference shall be given to the employee whose performance and attendance is judged by the City to be superior.

(2) Bumping Rights. An individual laid off from a particular classification may "bump" or move into a classification for which the City determines he/she is qualified. Qualification is presumed when the person has held the position previously with the City or when a lower position is in a normal line of promotion and the employee in the higher position has seniority in the classification series over another employee. After an employee is informed of an impending layoff or "bump down" he/she must inform the Personnel Department within five working days of his/her intent to take the option of the layoff or the "bump down." The process will be repeated at the next classification level to which an employee bumps, thus creating a surplus in that classification.

*Amended by
Dir. 8521
dated 8/4/93*

An employee who "bumps" into a classification shall be placed at the salary range of the new class, and then to that step closest to the employee's base hourly rate in the higher classification, without exceeding the previous base hourly rate.

(3) Retraining. The City shall endeavor to retrain employees who are subject to layoff to perform the duties of a classification to which they may bump.

(4) Voluntary Demotion or Transfer. An employee who will be laid off may accept a voluntary demotion to a vacant position in a lower class or a transfer to an equal class as long as the City deems the employee qualified to perform the duties of the new class.

An employee who accepts a demotion in lieu of a layoff shall be placed at the salary range of the lower class, and then to that step closest to the employee's base hourly rate in the higher classification without exceeding the previous hourly salary rate.

An employee who accepts a lateral transfer to an equal class shall be placed at the same salary range and step as the previous position.

- (5) Layoff Versus Temporary Positions. No regular employee shall be laid off from any position while non-regular employees are retained in positions or the same class, unless the regular employee refuses assignment to a temporary position.
- (6) Acceptance of Substitute or Temporary Employment. An employee who has been laid off and who is on a reemployment list may be employed as a substitute or temporary employee in his/her original class or any other class for which qualified (as determined by the Personnel Department), but only for 30 working days in a six-month period. Such employment shall in no way jeopardize or otherwise affect his/her status or eligibility for reemployment.
- (7) Refusal of Temporary Employment. Refusal of an offer of temporary employment shall not affect the standing of any employee on a reemployment list.
- (8) Notice of Layoff. The City shall notify affected employees in writing a minimum of 30 calendar days prior to any layoff.
- (9) Advance Notification to Employee Representative. If a position or individual employee is identified for elimination/layoff and is represented by a bargaining unit, the City and the bargaining unit representative shall meet to review the proposed layoffs prior to the layoff notices being mailed. A copy of each layoff notice will be sent to the bargaining unit X.

At such time as a staff recommendation to lay off employees is placed on the City Council agenda, the City shall commence the meet-and-confer process on this subject with the appropriate bargaining unit.

- (10) Contents of Layoff Notice. Any notice of layoff shall include the following:
 - (a) The name and classification of the employee designated for layoff.
 - (b) The reason for the layoff.
 - (c) The employee's displacement rights, if any.
 - (d) The employee's reemployment rights.
 - (e) The right to an exit interview with the Personnel Department, to be held during working hours and with a representative of the employee's bargaining unit (if applicable to the position) present.
 - (f) A statement that the employee may have a right to unemployment insurance.
 - (g) The City's decision as to whether the employee is to continue working until the date of layoff, or if the employee will be placed on paid administrative leave until the date of layoff.

- (D) Dismissal. Any employee may be dismissed from City employment. Guidelines for taking disciplinary action have been established by the City Manager and shall be consistent with the requirements of State law.

Section 14: Outside Employment.

No regular City employee shall be permitted to have outside employment which is inconsistent or incompatible with his/her City employment and without first obtaining approval from his/her Department head.

Section 15: Administration of Compensation Plan.

(A) Definitions.

- (1) Anniversary Date. The anniversary date defines when an employee first entered a particular classification on a regular employee basis.

The anniversary date for persons employed or promoted between the first day of the month and the fifteenth of the month, inclusive, shall be computed from the first day of the month in which employed or promoted; for persons employed or promoted between the sixteenth day of the month and the last day of the month, inclusive, the anniversary date shall be computed from the first day of the month following the date of appointment or promotion.

- (2) Salary Review Date. A salary review date defines when an employee's salary is to be reviewed, either in conjunction with a probation period, for a step increase, or some other reason. Salary review dates do not automatically fall on the same date as a performance review date or a probation review date.

The salary review date shall be that date which is the start of the pay period following six months (for those appointed at the bottom step) or one year of service (for those appointed above the bottom step) and which is closest to the six-month or one-year review date. For instance, an employee promoted effective November 10, 1990, to Step "4" would be eligible for advancement to Step "5" effective November 9, 1991. (Exception: If two dates are equidistant, use the earlier date.)

A merit increase does not change the salary review date.

To the extent possible, all initial appointments, promotions, reclassifications, etc., are to occur on the first day of the payroll period.

(B) Appropriate Salary Step.

- (1) Initial Appointment. The rate of compensation in case of initial appointment to any class shall be at the minimum, provided that the City Manager may approve a higher step within the range if he/she finds that the person appointed is reasonably entitled, because of his/her experience or ability, or that it is impractical to obtain qualified appointees at the established minimum rate. In no instance shall the rate of compensation allowed for any class be less than the minimum prescribed therefor.

- (2) Promotion. When an incumbent is promoted to a class allocated to a higher salary range, he/she shall be advanced to the lowest step in such range which will provide not less than one step increase in compensation, or to the top step, whichever is lesser.
- (3) Demotion. When an incumbent is demoted to a class allocated to a lower salary range, such employee shall, unless otherwise recommended by the Department Head and approved by the City Manager, be assigned to a salary step in such lower range which will result in a reduction in pay of at least one step.
- (4) Disciplinary Reduction in Salary. The salary of any employee may be adjusted downward by one or more steps within the salary range by the City Manager upon the recommendation of the Department Head for unsatisfactory job performance or disciplinary reasons. All applicable due process requirements shall be met in such cases.
- (5) Reallocation to a Higher or Lower Range. All incumbents within a classification which is allocated to a higher or lower salary range than that previously established, shall retain the same salary step and anniversary date for purpose of advancement within the range established by this resolution; provided, however, that the City Manager may, at his/her discretion, place the incumbent in such step and make such adjustment in the anniversary date as may be deemed appropriate.
- (6) Compensation in Excess of Maximum ("Y" Step). The adoption of this resolution shall not increase the compensation of an incumbent who is receiving in excess of the maximum step in the range for his/her class. Such employee shall receive no further increase so long as his/her classification is allocated to a range establishing a compensation range below the rate then being paid such employee.
- (7) Except as otherwise provided by Council resolution or Minute Order, an individual who has left City employment must be on the City payroll when Council authorizes an adjustment in order to receive said adjustment. An individual not on the City payroll when Council authorizes an adjustment will not receive said adjustment.

(See note)

(C) Advancement of Base Salary Step Within a Range.

- (1) Step Increases. After an employee has been placed on the appropriate salary step, in accordance with (B) above, the employee's salary may be increased via step increases, as follows:

	<u>If appointed at the Bottom Step</u>	<u>If appointed above the bottom step</u>
Full-Time	After six months	After 12 months
Part-Time	After 1,040 hours	After 2,080 hours

Thereafter, a full-time employee is eligible for additional step increases each year until the top step is reached; a part-time employee is eligible after each 2,080 hours until the top step is reached.

(2) All salary step increases shall be effective only when the employee's services for the entire period in question have been approved as satisfactory by the City Manager or his/her designee.

(3) Merit Increases. When an employee demonstrates exceptional ability and performance in his/her job, such employee may be advanced to the next higher step by the Department Head with City Manager approval.

(D) Acting Pay.

(1) An employee on Acting Pay shall receive one additional step in the salary range of his/her regular classification, or that step of the salary range assigned to the classification being filled, which represents an increase of his/her regular salary step, whichever is the higher amount.

(2) For employees normally assigned to other than Fire Department shift work, Acting pay shall be granted beginning on the eleventh (11th) consecutive working day of an assignment.

(3) For an employee assigned to Fire Department shift work, Acting Pay shall be granted beginning on the sixth (6th) consecutive working shift of his/her regular working schedule, except that such pay shall not be granted to an employee replacing a vacationing employee until the sixteenth (16th) consecutive working shift of his/her regular working schedule.

(4) Acting Pay assignments which entail moving an employee into a classification represented by an employee unit other than that which represents his/her regular classification shall not include any change in fringe benefits for the affected employee. Similarly, a non-regular employee temporarily filling a regular position shall receive no fringe benefits, nor shall he/she be subject to retirement system payments.

(5) While working in an Acting Pay assignment, an employee will continue to accrue, and have recorded, general, special, or normal salary step increases in the employee's regular position. However, such salary increases will be paid only to maintain at least a 5% differential above the salary to which an employee is entitled in his permanent position.

(E) Overtime. No employee shall be permitted to work scheduled overtime or receive any payment or compensatory time for scheduled overtime unless the said overtime is approved by his/her supervisor.

Section 16: Group Insurance.

(A) Life Insurance. Each regular City employee must be covered by one of the City's group life insurance plans. For all covered employees, coverage begins on the first of the month following date of hire and ends immediately upon separation.

(B) Medical Insurance.

(1) Regular Employees. Each regular City employee must be covered by one of the City's group medical insurance plans.

- (2) Retired Employees. City employees retiring under the Public Employees' Retirement System shall be entitled to continue their medical insurance after retirement by paying the full premium, both the employee and employer's portion, for such coverage.
- (3) Contributions - City Council. Councilmembers shall receive at least the same benefits and contributions as granted the Management unit unless otherwise specified.

Section 17: Vacations.

- (A) First Vacation. A new employee's first vacation may not be taken until he/she has successfully completed his/her initial probation period with the City.
- (B) Department Head Approval. No vacation absence with pay may be taken without approval by the cognizant department head or, in the event of his/her refusal or failure to do so, by the City Manager. Each Department Head shall schedule and approve the vacation absences for their employees, as requested, or at such other time as will achieve the most efficient functioning of his/her department and so as to avoid any loss of allowable vacation absences by reason of the limitation on the accrual thereof herein provided. When any written request by an employee to take a vacation is presented to the Department Head, and refused, or not acted upon and he/she does not allow such employee other vacation time off to prevent a loss of vacation credits, and such employee thereby loses any vacation credits by reason of the accrual limit herein provided, such employee shall then be paid at the straight time salary rate then in effect, not only for the time worked, but also for the vacation time that would have been credited to him/her for so working were it not for said accumulation limit, until such time as he/she is permitted to take a vacation.

Section 18: Leave of Absence.

(A) Personal Leave.

- (1) Department Heads may approve a leave of absence without pay of up to two weeks for subordinate employees.
- (2) A leave of absence without pay not to exceed one year may be granted according to the following schedule:

<u>Applicant</u>	<u>Determination Made By</u>
City Manager, City Attorney, City Clerk	City Council
Library Director	City Council with recommendations from City Manager and Board of Library Trustees
Other Executive Employees	City Council with recommendations from City Manager
All Other Employees	City Manager with recommendations from cognizant Department Head

- (B) Medical Leave. Upon request, an employee disabled due to a non-work-related medical condition shall be granted a leave of absence by the Department Head with the Personnel Director's approval. Such request shall include a written certificate from the attending physician that the employee is unable to work due to the medical condition.

The term "non-work-related medical condition" encompasses temporary medical disabilities including, but not limited to, pregnancy, childbirth, and to care for the birth or adoption of a child or the serious illness of the employee or a family member, as defined in the California Family Rights Act of 1991. Such leave normally shall not exceed four months, but may be extended by the City Manager.

An employee on medical leave who is not receiving City-sponsored disability benefits must first use all his/her sick leave, and then may use any accrued vacation and compensatory time.

During the medical leave, the employee may be required to periodically submit proof of disability in the form of a doctor's statement. Upon returning from a medical leave, the employee must submit a statement from the attending physician that the employee is physically and/or mentally capable of resuming the duties of his/her position.

- (C) Insurance Coverage. Employees who are on an unpaid leave of absence from the City are entitled to remain on City insurance programs at their own expense. The City's contribution to insurance premiums will be suspended until the employee returns from the unpaid leave.

If the leave of absence is for medical purposes, the City's insurance premium contributions shall continue in the regular amount until the first of the month following 90 days after the unpaid leave starts. Following this 90-day period, all insurance premiums will be the responsibility of the employee while on unpaid leave. However, in no event shall the City pay more than a total of 90 days of coverage in any one calendar year. If an employee returns from disability in a new calendar year, the employee must work a minimum of thirty days to be eligible for a new 90-day period of coverage.

Section 19: Separability.

If any provision, policy or application of this resolution is held to be invalid, the remainder of this resolution, other than that which was held to be invalid, shall not be affected.

Section 20: Repeal of Prior Resolutions. Resolutions No. 7083, 7124, 7748 and 8024 are hereby repealed.

ADOPTED BY THE FULLERTON CITY COUNCIL on May 4, 1993.

SIGNED AND APPROVED on May 5, 1993.

/s/ Molly McClanahan
Molly McClanahan
Mayor

ATTEST:

/s/ Anne M. York
Anne M. York
City Clerk

CERTIFICATE OF CLERK

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Fullerton City Council at its regular meeting on May 4, 1993, by the following vote:

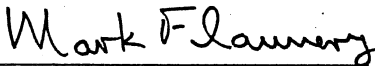
AYES: COUNCILMEMBERS: McClanahan, Catlin, Bankhead, Norby, Sa
NOES: COUNCILMEMBERS: None
ABSENT: COUNCILMEMBERS: None

IN WITNESS WHEREOF, I have set my hand this 5th day of May, 1993.

/s/ Anne M. York
Anne M. York
City Clerk

APPROVED:


R.K. Fox
City Attorney


Mark H. Flannery
Director of Personnel
& Employee Relations