

PERSONNEL POLICIES AND PROCEDURES MANUAL

This manual is provided to you as a Department Head of the City of Seaside. It is a general guide to personnel, its policies and procedures, and to your responsibilities as a Department Head. (It will be noted in the Employee Handbook that this manual will be available for employees review through Department Heads and the Personnel Office). It is not intended to take the place or supersede the Seaside Municipal Code, Council ordinances, resolutions, or motions, or official Administration Policies.

Amendments to this manual will be issued periodically along with instructions for insertion into the manual. It is your responsibility to insert them and keep your manual up-to-date.

No document can provide all the information you might want or need, and there will be changes in policies or procedures which are not immediately incorporated, so please contact the Personnel Office if you have any questions. (Ext. 6711).

You will be required to return this manual to the city upon leaving city employment, so do not lose, damage or destroy it.

INTRODUCTION

A. LEGAL REFERENCES

In general, the legal framework for personnel policies is in the Municipal Code and Council adopted Ordinances and Resolutions.

The principal authority for most personnel functions is the City Manager who delegates certain portions to the Personnel Officer and to Department Heads.

While the basic personnel policies are contained in the Municipal Code, Ordinances, and Resolutions; the City Manager authorizes the Personnel Policies and Procedures Manual and Standard Operating Procedures (SOP's) to manage the day-to-day personnel activities.

The following will serve as a guideline for the collection and release of personnel information:

I. EMPLOYEE ACCESS

1. Each employee will have access to his/her own personnel file, except letters of recommendation and such other documents as authorized by law.
2. This should be done in the presence of a person responsible for maintaining the files or records.
3. Prior to inspection by the employee, letters of recommendation from those outside of the City must be removed from the file and the employee should receive an explanation of what is being removed.

4. Employees also have the right to have placed into their personnel file any explanation they may desire, of derogatory information contained in any documents in the file.

II. MANAGEMENT PERSONNEL ACCESS

Access by management personnel should be on a "City need" basis. In general this will be determined by the responsible administrator. Any questions or dispute should be settled by the City Manager.

Employee information for use of employee organizations is subject to the laws and regulations as for any other usage. Information for organizational use, if provided to one organization, will be furnished to all other competing organizations on the same basis.

III. PUBLIC ACCESS

- A. Public information - may be released to anyone at any time under the guidelines of IV-5. However, personnel files are exempt from the definition of public records.

1. Name
2. Location of job and supervisor
3. Title of position
4. Internal city phone number
5. Range of pay for position
6. Date employment commenced and ended

- B. Not public - may be released only on written consent of employee:

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1. Information to be given out only by personnel who work directly with records.

2. Information is not to be given out by temporary employees.
3. Files and records are not to be removed from the Personnel Department.
4. Copies may be made under the supervision of the person having custody of the records.
5. Unusual and voluminous requests for information or copies will be made at the expense of the requester and provided only when time of personnel for such production is available.

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CITY OF SEASIDE PERSONNEL POLICIES

I. RULES AND REGULATIONS

The City Council has adopted Personnel Rules and Regulations and authorized the City Manager to administer and implement them.

PURPOSE: The purpose of this manual is to facilitate efficient and economical service to the public and to provide for a fair and equitable system of personnel management. This manual sets forth those procedures which result in fair treatment by establishing a system of personnel administration which will be consistent with merit principles in the recruitment, examination, appointment, training, promotion, transfer, layoff, removal and discipline of the employees covered by these Rules and Regulations. Fair treatment of applicants and employees will be assured in all aspects of personnel administration without regard to age, color, national origin, physical disability, political affiliation, religious creed, or sex. Employees will be assured of protection against coercion for partisan political purposes and will be prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or nomination for office.

If any rule, section, paragraph, sentence, clause, or phrase of these Rules is declared unconstitutional or void for any reason, such declaration shall not affect the validity of the remaining portion of these Rules. The City Council hereby declares that it would have prescribed and adopted these Rules, and each rule, section, paragraph, sentence, clause, and phrase hereof, irrespective of the fact that any one or more rules, sections, paragraphs, sentences, clauses, or phrases be declared unconstitutional or void,

PERSONNEL POLICY: It is the Personnel Policy of the City of Seaside:

- a. That employment and promotion shall be based on merit, free of personal and political consideration and in no way be influenced by race, religion, creed, color, national origin, ancestry, age or sex unless age or sex is a bona fide occupational qualification.
- b. That tenure of employees covered by these Rules and Regulations shall be subject to satisfactory work performance and behavior, the necessity for the performance of work, and the availability of funds.
- c. That relations with employees will be maintained in an open and straight forward manner.

CITY MANAGER AUTHORITY: In accordance with the provisions of Sections 2.04.120 to 2.04.150 of the Municipal Code of Seaside, the authority to appoint all officers and employees except those specifically excluded, to remove same for cause, and general control and supervision over same is vested exclusively in the City Manager.

The Personnel System as established by Chapter 2 of the Municipal Code of Seaside shall be administered by the City Manager. From time to time, the City Manager shall establish such administrative procedures as may be necessary to implement the provisions of this manual.

EMPLOYMENT CONSTITUTES ACCEPTANCE OF RULES: In accepting employment with the City of Seaside, each employee agrees to be governed by and to comply with the Personnel Rules and Regulations, administrative rules and regulations established by the City Manager, and rules, regulations and directives of the department in which he or she is employed.

EXCEPTIONS TO POLICY: These Rules and Regulations shall apply to all offices, positions and employment's in the service of the City except those appointed by or subject to the direct control of City Council.

AMENDMENT OF RULES: The Personnel Officer or other appropriate official shall be responsible for proposing amendments to these Rules to maintain a proper and efficient system of personnel administration. Upon receipt of such a proposal, the City Manager may amend these Rules subject to complying with any required meeting and conferring obligations under State law. Any such proposed amendment shall be posted for a minimum of seven (7) consecutive calendar days prior to adoption. Upon adoption, changes in the Rules shall be in effect and shall be printed. No change in the Rules shall affect a case which has been properly filed with the Personnel Division and is pending final decision.

II. DEFINITIONS

APPOINTMENT

Emergency - An appointment made on an emergency basis to prevent disruption of essential city business, which may not exceed sixty (60) working days and is non-renewable.

Probationary - Appointment to a permanent position in the classified service.

Re-employment - An appointment made from a re-employment list, which consists of employees who have been laid off.

BULLETIN BOARD - The Personnel Office bulletin board, so designated, at City Hall, used for posting examinations and other public announcements.

CERTIFICATION - The process whereby the Personnel Office provides the names of persons from an eligible list to a Department Head for his/her selection process and recommendation to the City Manager as to appointment or appointments.

CLASS - A position or group of positions for which a common descriptive job title may be used.

CLASSIFICATION PLAN - All the classes which have been established together with the procedures for maintaining the plan and the specifications or descriptions of each of the classes.

ELIGIBLE - A person who has standing on an eligible list.

ELIGIBLE LIST - A list of names of persons who have passed an examination.

EMPLOYEE - All full-time persons employed by the City.

LAYOFF - Separation from a position because of lack of funds or work or abolishment of the position.

OPEN-COMPETITIVE EXAMINATION - An examination which is generally open to anyone who meets the terms of the examination announcement and wishes to apply.

POSITION - Duties and responsibilities assigned by competent authority to be performed by one individual on a full or part-time basis. It may be occupied or vacant, temporary or permanent.

POST - To place on the Personnel Office Bulletin Board.

PROMOTIONAL EXAMINATION (In-house) - An examination for which only City employees are eligible to compete.

SENIORITY - Seniority in a class is calculated from the date the employee was first reported on the timeroll as working, exclusive of any leave without pay or layoff.

SERIES - A division of an occupational group comprised of classes similar in kind of work but differing in level of difficulty and responsibility.

SERVICE - The City government service.

TIME PERIODS - Reference to time periods shall mean working days unless the rule specifically refers to calendar days.

UNCLASSIFIED (EXEMPT OR APPOINTIVE) POSITIONS - Positions specifically enumerated as being unclassified (i.e. temporary, hourly, seasonal, contract, etc.).

STATUS - A definition of classification for which an employee has worked or will work.

- a. Unclassified - means all workers not identified in the City's general classification plan. Any employee who is hired for a specific purpose or on a temporary or intermittent basis is in an unclassified position.
- b. Classified - means all workers identified in the City's general classification plan.

CURRENT STATUS - The definition of the current classification for which an employee works.

III. GENERAL PROVISIONS

PROHIBITED ACTS. No person shall willfully or corruptly make any false statement, certificate, mark, rating, or report in regard to any test, certification, or appointment, held or made, or in any manner commit or attempt to commit any fraud preventing the impartial execution of these provisions.

No person seeking appointment to, or promotion in, the career service of the City of Seaside shall either directly or indirectly give, promise, render or pay any money, service or other valuable thing to any person for, or an account of, or in connection with, his or her test, appointment, proposed appointment, promotion or promised appointment.

No employee or any other person shall defeat, deceive, or obstruct any person in his or her right to examinations, eligibility, certification, or appointment under these Rules, or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in the City service.

Discrimination against any person in recruitment, examination, appointment, training, promotion, retention, discipline, or any other aspect of personnel administration because of age, color, national origin, physical disability, political affiliation, religious creed, or sex is prohibited, except where age, sex or physical requirements constitute a bona fide occupational qualification.

EQUAL EMPLOYMENT OPPORTUNITY. The Personnel Officer, and Department Head shall be responsible for affirmative action to assure equal opportunity in recruitment and selection, job structure, promotion policies, training to improve job performance and upward mobility and all other related personnel procedures and practices.

COOPERATION WITH OTHER MERIT SYSTEMS. The Personnel Officer may cooperate with other governmental agencies and jurisdictions to further the merit principles of personnel administration.

RULE 1 - SALARY PLAN

BASIC SALARY PLAN. The salary ranges and the classes of positions shall be adopted annually by Resolution in the same manner and at the same time as the Budget.

CERTIFICATION OF PAYROLLS. Prior to the payment of any salary, wage or other compensation for personnel services, the Finance Director shall certify that each person named on the payroll has been employed in accordance with the appointment and classification procedures of these Rules and that the salary rates for all positions are those authorized by the Salary Plan.

DENIAL OF MERIT INCREASE. When an employee's performance has not been at the expected level, the department head may deny an employee a merit increase. The denial of merit increase shall be justified and an improvement plan developed and considered during future review sessions. In such cases, the employee's performance will be reviewed within three months, and if the employee's performance has improved to an acceptable level, the employee may be granted the merit increase. If the employee's performance has not improved to an acceptable level the denial of merit increase remains in effect.

LEAVE OF ABSENCE WITHOUT PAY. The City Manager may grant a leave of absence to any officer or employee appointed by him or her for a period not to exceed three (3) months, and may grant such a leave of absence in excess of three (3) months upon approval by the City Council. The Council may grant a leave of absence to any officer appointed by the Council. Military leave of absence shall be controlled by the provisions of the Military and Veterans' Code of the State of California. Persons on leave of absence shall not accumulate sick leave or vacation time, but may at his/her option remain in the health and life insurance program by paying all the premium from his/her own resources.

RULE 2 - CLASSIFICATION

CLASSIFICATION OF POSITIONS: All offices and position in the City service shall be classified on the basis of their duties and responsibilities. The classifications of positions for the purpose of this resolution shall be as contained in the City of Seaside Classification Plan. The classification of positions may hereafter be amended by the addition, division, consolidation, or abolishment of classes on recommendation of the City Manager and approval by the City Council. The City Manager shall keep a complete file showing all approved classes and the class specifications. All classified city employees paid on a monthly basis, rather than at an hourly rate, shall be considered "regular or full-time employees", as said words or phrases are used in this resolution, notwithstanding the fact that their particular position may not require employment on a full forty hour week basis. Said employees shall be entitled to vacation, sick leave, and all other benefits on a prorated basis of number of hours per week which the particular position requires, or in accordance to the memorandums of understanding. Persons employed on an hourly basis shall not accrue

vacation, sick leave, and other benefits.

ALLOCATION OF POSITIONS: Each position shall be allocated to the appropriate class on the basis of duties and responsibilities. The present allocation of positions may hereafter be changed on the recommendation of the Department Head and approval by the City Manager; provided the proposed change conforms with this resolution, with the established classification plan, and with the approved budget.

RESPONSIBILITY.

CLASSIFICATION PLAN: The Department Heads shall be responsible for recommending classification of all positions in the classified service on the basis of the kind and level of duties and responsibilities of the positions to the end that all positions in the same class shall be sufficiently similar to permit use of a single descriptive title, the same qualification requirements, the same test of competence, and the same salary schedule.

CHANGES IN CLASSIFICATION PLAN: Department Heads shall be responsible for notifying the Personnel Officer of any substantial change in the duties and responsibilities of any position within his/her department. The Personnel Officer shall, upon receipt and review of such information make a determination as to whether the duties and responsibilities of the subject position should be reallocated to a different classification.

RECLASSIFICATION.

REQUEST FOR REVIEW OF CLASSIFICATION: A Department Head or an incumbent of a position may, with the approval of the Department Head, request that the Personnel Officer review the classification of a position to determine whether it is properly classified as to its job duties and qualifications.

WHEN EFFECTIVE: A reclassification shall become effective upon adoption by the City Council.

EFFECT ON INCUMBENT.

RECLASSIFICATION TO A HIGHER CLASSIFICATION: When a position is reclassified and the duties and responsibilities of the position are allocated to a higher classification, the incumbent may be appointed to a higher level position provided that he or she meets the minimum qualifications established for the classification, the Department Head recommends such appointment and the City Manager approves the appointment.

RECLASSIFICATION TO A LOWER CLASSIFICATION: When a position is reclassified and the duties and responsibilities of the position are allocated to a lower classification, the incumbent will,

if feasible, be reassigned to a position in his or her regular classification. If reassignment of the incumbent is not feasible, the incumbent shall continue to be paid at the rate for his or her regular classification, however, no increases in salary shall be granted if the incumbent's salary equals or exceeds that of the highest increment established for the lower classification.

APPEAL FROM RECLASSIFICATION: Any incumbent who has career status in the classified service may appeal a reclassification action to the City Manager.

RULE 3 - RECRUITMENT

APPOINTMENT PROCEDURES: The Personnel Officer shall maintain separate lists of those persons eligible for appointment to fill vacancies by reason of re-employment, transfer, demotion, promotion or open competitive examination. All vacancies in the classified service shall be filled by eligibles from available lists for re-employment, transfer, demotion, promotion or open competitive examination.

In the absence of persons eligible for appointment in these ways provisional appointment may be permitted in accordance with this manual.

TIME OF FILING: Applications for selection procedures may be received at such times as may be set by the Personnel Officer.

RECRUITMENT: To assure that interested persons are informed and qualified persons are attracted to compete, job openings and examinations will be publicized to the maximum extent necessary to assure equal employment opportunity. Announcements shall be posted on the Personnel Office Bulletin Board and advertised to the extent that it will be available to all members of the community and other interested parties as deemed necessary by the Personnel Officer. Additional distribution may be made to newspapers, radio stations, educational institutions, professional and vocational societies, public officials, and community organizations. All recruitment literature shall contain the phrase "Equal Opportunity Employer".

JOB ANNOUNCEMENTS: Job announcements shall include:

- a. Class title, and salary information
- b. A description of the duties and responsibilities of the class
- c. Minimum qualifications
- d. A statement that the City of Seaside is 'An Equal Opportunity Employer'. Public announcement of all examinations to fill positions shall be made for no fewer than ten

(10) working days before the closing date for receipt of applications.

FILING APPLICATIONS: Application for employment shall be made on forms provided by the Personnel Office and must be filed with that office on or prior to the closing date specified in the announcement or postmarked before midnight of that date. Such applications may require information concerning education, experience, references, and other pertinent information. All applications shall be signed, and the truth of the statements contained therein certified by such signatures. Applicants must meet the minimum qualifications specified in announcements as to training and experience, but in no case shall admittance to the examination constitute assurance of a passing grade in the evaluation of training and experience if the same is a part of the examination.

RULE 4 - SCREENING AND EXAMINATIONS

GENERAL POLICY: Employment with the City of Seaside shall be based upon merit and fitness and is open to all who possess the qualifications necessary to perform the work, file an official City of Seaside application form, successfully complete the screening and examination procedures, are recommended by a Department Head after a selection evaluation and are confirmed by the appointing authority.

Examinations shall be practical in nature, non-discriminatory, job-related, constructed to reveal the capacity of the candidate for the particular class of positions for which he or she is competing, and shall be rated impartially. The examination may consist of an evaluation of training and experience or any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness or any combination thereof which validly serves the need to determine the relative fitness of applicants for the job.

REQUEST FOR TESTING: As a part of the request to fill a vacancy, the affected department shall note any special requirements for testing and designate department personnel to assist in the screening and examination process. When a vacancy is to be filled, the appointing authority shall indicate whether it is desired to fill the vacancy by reemployment, transfer, demotion, recommendation from an eligibility list, promotional recruitment or open-competitive recruitment. The Personnel Officer shall determine how the recruitment is to be announced, what type of tests and weighing of scores will make-up the screening and examination procedures, notify applicants of each test, administer the tests, grade the tests, notify applicants of the results of the process.

TYPES OF TESTS: Tests in the examination process may be of any type which will indicate ability to perform the duties of the classification on each test. The final score of an applicant shall be calculated by the weighing of test scores. Pass points are determined by the Personnel Officer based on performance of individual test groups or standards developed based on past experience with larger groups, and on projected needs. The following are examples of types of tests in the order that they are normally used. Not all types of tests are used for all positions.

- A. Application screening. This method is used for all classifications to determine whether basic qualifications are met. For some classifications, review of applications and resumes is the only test except for the oral interview test. In such cases, the Personnel Officer, in conjunction with the affected departments determines standards by which to rank applicants for selection for the oral interviews.
- B. Written test. A written test is usually used for classifications which have requirements that can be measured by a written test. Written tests may be purchased or developed by City staff. In either case, the Department Heads in which the classifications are used may be requested to assist in preparation, review or grading of the test.
- C. Performance test. Performance tests, such as typing, shorthand, physical ability or equipment operations are used for classifications that have requirements which can be evaluated by such tests. Performance tests, except for typing and shorthand, generally require assistance of the affected departments for administration.
- D. Oral interview test. An oral review board composed of at least two (2) persons interviews all applicants who have qualified on all of the qualifying tests given for the classification. One person alone may interview for part-time, seasonal or volunteer positions. Oral board members are selected for their knowledge of the duties and responsibilities of the classification and for their ability to evaluate applicants objectively. Oral board members rate each applicant immediately following each interview on a standardized form which includes all the factors relevant to the requirements for the specific classification.

Placement on the eligible list is determined by the relative total score but candidates may be disqualified from placement on the list for failure to meet standards on any of the following tests (medical examination, psychological test, background investigation).

- D.1 Composition of Oral Boards. When an oral examination forms a part or all of an examination, an oral examination board shall be appointed. The board shall consist of two (2) or more members, who are interested in the improvement of public administration and in the fair and impartial selection of efficient government personnel. At least one (1) member of the board shall be technically familiar with the character of the work in the position for which the applicants will be examined. If the position under examination clearly involves dealing with an identifiable public, a member of that public may be appointed a member of the oral board.
- D.2 Appointment of Employees to Oral Boards. Qualified employees of the City of Seaside may be appointed to serve as members of oral examination boards. Oral examination board members shall disclose each instance in which they know an applicant personally.

All applicants for the same class of positions who qualify for oral examination shall be rated by the same evaluation board. Department Heads or designee are exempted.

- E. Medical Examination. A pre-employment and pre-promotional medical examination may be conducted on an eligible applicant certified for a vacant position prior to appointment based on medical standard requirements. Psychological tests may be given for those classifications where emotional and mental stress is a significant factor in the job. Such tests are evaluated by a psychologist or psychiatrist, and a written report obtained from same as to the applicant's fitness for the-position. (Public safety classifications and some management classifications are required to take such tests). The Personnel Officer may determine by inspection and physical tests, whether applicants for any position possess the prescribed standards to qualify for participation in further selection procedures, including whether the applicant is qualified for certification to an eligible list. The result of such inspection, or mental and physical tests may be considered not only in determining the fitness of the applicant to proceed with selection procedures, but may be considered as a factor in determining whether the applicant is qualified for certification to an eligible list.

Selection procedures for positions in the City service shall be practical and relate to those matters which fairly test the relative capacity of the applicants to discharge the duties of the position to which they seek to be appointed. Where positions require special fitness, the Personnel Officer may re-examine the eligible to determine whether they continue to possess the same, prior to appointments.

- F. Background Investigation. A background investigation is required for Police and Fire personnel and may be done for other classifications where the job duties so indicate. The background investigation may include a criminal check, credit check, driving record, and reference check. The Department Head reviews the findings of the background investigation and relays the findings to the Personnel Officer and/or City Manager. The Department Head and/or City Manager consider the findings along with any other available information about the candidate (including psychological evaluations as noted in E. above) as part of the final selection evaluation. For the Police and Fire Departments, background investigations may include the polygraph to the extent authorized by law.
- G. Assessment centers. Applicants may be required to engage in a variety of job related simulations specifically designed to bring out behavior that is relevant to skills determined to be critical to successful performance for the classification. Observers will rate applicants' performance in the assessment centers.

SELECTING OR CONSTRUCTING THE SCREENING AND EXAMINATION COMPONENTS.

Department personnel designated to assist in the screening and examination process will work with the Personnel Officer to:

- A. Outline the criteria for appraisal and evaluation of previous experience and education;
- B. Review validated written tests to determine whether such should be purchased. Draft questions or "test items" when a City developed test covers subject matter knowledge;
- C. Design performance test events;
- D. Serve as members of oral interview tests to record their estimates of the qualities measurable by that process;
- E. Research and design assessment center materials and criteria;
- F. Cooperate with the Personnel Officer in studies of the comparative performance of employees on tests and on the job to insure that tests actually measure what they purport to measure;
- G. Meet with the Personnel Officer from time to time to discuss aspects of the screening and examination procedures to seek improvements and report experiences that will facilitate such improvements;

TEST ADMINISTRATION

- A. Disqualification of applicants. The Personnel Officer may refuse to examine an applicant, or after examination, may disqualify such applicant or remove his or her name from an eligible list or refuse to certify an eligible on a list or may consult with the Department Head in taking steps to remove such person already appointed if:
 - 1. It is found that the person does not meet any one of the preliminary requirements established for the class of positions;
 - 2. The person is disabled so as to render him or her unfit for the performance of the essential duties of the position with or without reasonable accommodation as indicated by a medical examination;
 - 3. The person uses alcoholic beverages or controlled substances to the extent that the performance of essential duties would constitute a safety or security risk.
 - 4. The person has made false statement of material fact in the application process;
 - 5. The person has used or attempted to use political pressure or bribery to secure an

advantage in the selection process;

6. The person has directly or indirectly obtained information regarding an examination to which, as an applicant, he or she was not entitled;
 7. The person has failed to submit an application within the prescribed time limits;
 8. The person has taken part in the compilation, administration, or correction of the examination for which he or she is an applicant;
 9. The person has a criminal conviction record which in relation to job requirements indicates unsuitability for a particular position;
 10. The person has otherwise willfully violated the provisions of these Rules.
- B. Verification of qualifications. Applicants may be required to furnish proof of good character, temperate habits, and, to the extent authorized by law, physical ability to perform the duties of positions applied for. Proof of previous dismissal from employment for cause of any applicant or eligible may be deemed sufficient cause to exclude them from selection procedures or for removal from an eligibility list.
- C. Fraud. Fraudulent conduct or false statements by an applicant, or by others with his or her connivance, in any application or selection procedure, shall be deemed cause for exclusion from a selection procedure, removal from an eligible list, or for discharge from the service after appointment; provided, that such person shall be given an opportunity to be heard by the Personnel Officer in his or her own behalf.
- D. Records. All records and documents received from an applicant, in connection with selection procedures, shall form part of the official records of the Personnel Officer and excepting for applicant's birth certificate, cannot be returned to the applicant.
- E. Notice to applicants. Due notice of the time and place of selection procedures shall be sent to each applicant by mail, to the address or place of residence given in his or her application, or the last address of which he or she shall have given notice to the Personnel Officer in writing.
- F. Change of address. Applicants changing their post office or place of residence, after filing an application, should notify the Personnel Officer of such changes in writing, immediately. Failure to do so will be treated as the fault of the applicant and may result in his or her failure to be notified of an examination, or his or her failure to be certified for appointment, or to receive any other notice or communication which the Personnel Officer may send him or her.

- G. Selection procedure regulations. Applicants shall attend at the place designated by the Personnel Officer for the conduct of selection procedures, at the exact time for which they are scheduled, and that any applicant who appears late may be excluded. Applicants will only be admitted to the place at which selection procedures are conducted upon the production of the notice sent to them. Examinations shall be conducted in places convenient for applicants and practicable for administration as determined by the Personnel Officer.
- H. Cheating. Applicants are forbidden to bring to any room where an examination is being conducted as a part of the selection procedure, or to have in their possession at any such examination, any book, paper, memorandum, or anything which might be of use or assistance in such examination.
- I. Instructions. All necessary explanations as to procedure will be made to the whole group by the person in charge, or will be found printed on selection procedure papers or notices. Persons conducting selection procedures are forbidden to explain to the group, or to individuals, the meaning of any question, or to make remarks or suggestions that may assist in its solution.
- J. Grading. The grading given by the person in charge shall be deemed prima facie correct. No examination paper or any part thereof, or any record of statement rated as part of a selection procedure or in connection therewith, shall be subject to alteration or to addition or amendment by the applicant; except that the Personnel Officer may correct any manifest error or mistake of grading or rating appearing in any selection procedure paper, or any record or statement rated as part thereof.
- K. Grades. Applicants shall be graded on a scale of 100, or such other scale as shall represent relative results and no person shall be certified to an eligible list unless he or she shall attain the passing grade established by the Personnel Officer.
- L. Notice of results. Notice shall be sent by mail to each applicant, giving the result of his or her selection procedure as it pertains to him or her, as soon as practical after completion of the selection procedure and the establishment of the eligible list.
- M. Test review. Applicants may review their written test answer sheets for clerical errors within seven (7) days. They may not review oral interview rating forms.

RULE 5 - ELIGIBLE LISTS

RESPONSIBILITY FOR MAINTENANCE OF ELIGIBLE LISTS. It shall be the duty of the Department Heads to notify the Personnel Office as far in advance as possible of vacancies which may occur in the departments. The Personnel Officer shall be responsible for the establishment and maintenance of appropriate eligible lists for all positions and for the determination of the adequacy

of existing lists.

OPEN-COMPETITIVE ELIGIBLE LISTS. After each open-competitive examination, a list of persons who have qualified may be prepared. A Department Head or the Personnel Officer may determine that an eligibility list need not be prepared if no persons qualify.

DURATION OF ELIGIBLE LISTS. The normal life of an eligible list shall be for one (1) year from the date of the establishment of such list unless sooner exhausted. An eligible list may, upon approval of the City Manager, be extended for not more than one (1) year beyond the original date of its expiration. Upon expiration of an eligible list all eligible will be notified.

REMOVAL OF NAMES FROM THE ELIGIBLE LIST.

REASONS FOR REMOVAL. The Personnel Officer may, after hearing all the evidence, remove the name of an eligible from a list:

1. For any of the causes stipulated in the Rules entitled "Disqualification of Applicants"
2. On evidence that the eligible cannot be located by telephone, postal authorities, or if the eligible has failed to respond within seven (7) calendar days to a letter of inquiry regarding availability for appointment;
3. On receipt of a statement from the eligible stating that he/she no longer desires consideration for a position in that class if two (2) offers of probationary appointment to the class for which the list was established have been declined by the eligible.

NOTIFICATION OF REMOVAL. Whenever an eligible's name is removed from a list for reasons cited above, the eligible shall be notified of this action.

DISQUALIFICATION OF APPLICANTS.

RE-EMPLOYMENT LISTS. Any employee with status who has been laid off, in accordance with the Layoff Resolution, shall be entitled to have his/her name placed on a re-employment list for the class of position from which laid off. The order in which such names are arranged on each re-employment list shall be determined by the Personnel Officer, who shall give consideration to qualifications and performance appraisals, conduct and seniority in service. Eligibility to remain on the re-employment list shall expire two (2) years from the effective date of the layoff or separation. During such period the re-employment list shall have precedence over any other list in existence or established for the same classification.

PROMOTION LISTS. Competitive promotional examinations may be held on a city wide basis.

After each competitive promotional examination, a list of persons who have qualified may be prepared.

CHANGE OF ADDRESS. In all cases of change of address, the Personnel Office must be notified in writing separately for each eligible list on which he or she has standing. Notice of change of address to the post office and/or in the case of employees, the employee's current department, will not be a reasonable excuse for special consideration in case of failure to respond to any notice within time limits.

RULE 6 - CERTIFICATION OF ELIGIBLE

CERTIFICATION FROM ENTRANCE LISTS. The Personnel Officer shall advise the appointing authority as to the availability of employees for, re-employment, requests for transfers, or demotions and of eligible on eligible or promotional lists for the class.

If appointment is to be made from an eligible list, the Personnel Officer shall furnish the names of three (3) persons, if there be that number, from the eligible list for each position to be filled, or if there be more than one (1) position in the same grade and class to be filled, the Personnel Officer shall furnish four (4) more names of eligible than the number of positions to be filled if there be that number on the eligible list. Names of persons certified, but not appointed, shall be returned to their original position upon the eligible list. Any candidate certified more than three (3) times for any one classified position may be removed from the eligibility list at the discretion of the Personnel Officer.

CERTIFICATION FROM A RE-EMPLOYMENT LIST. If a re-employment list exists for the classification in which a vacancy occurs, the Personnel Officer shall certify only the name of the top person on the list. If it is determined by the Department Head that the top person on the re-employment list does not meet the requirements of the position, the next person on the list shall be certified.

PRECEDENCE OF ELIGIBLE LIST FOR CERTIFICATION. If more than one (1) eligible list exists for a class of positions, certifications from the lists shall be made in the following order:

- A. Re-employment lists
- B. Promotional lists
- C. Open-competitive lists

ABSENCE OF A LIST. If a vacancy exists and no appropriate list is available from which to make a certification, action shall be initiated to establish a list. If the appointing officer certifies that it is essential that the position be filled without delay, a provisional appointment may be made.

DURATION OF CERTIFICATION. The life of a certification list from which an appointment can

be made shall be thirty (30) calendar days from the date of issue, and the list shall not be subject to any change during that period, for non-sworn positions.

FAILURE OF ELIGIBLE TO RESPOND. An eligible may be considered not available for certification if he or she fails to respond to a written or telephone inquiry to his or her last known address within seven (7) calendar days from the date of such inquiry.

PERMANENT POSITIONS. An eligible may be considered as not available for certification if he or she had previously declined certification to a permanent position in the same classification on two (2) previous occasions. In such cases, the eligible's name may be removed from the eligible list.

TEMPORARY POSITIONS. An eligible may make a blanket declination of certification to positions considered temporary in nature, or may decline such positions on an individual basis without prejudicing his or her standing on the eligible list.

SELECTIVE CERTIFICATION. The Personnel Office shall not honor any request for selective certification based on age, race, sex or any other non-merit factor unless mandated by a specific act, law, rule or regulation, and then only after an affirmative opinion has been rendered by the City Attorney that said selective factors are based on job related criteria or a legal mandate.

RULE 7 - SELECTION

SELECTION FROM ELIGIBLE LIST. The Department Head shall recommend to the City Manager of the selection of a person or persons to fill a vacancy or vacancies from among the names certified.

RESPONSE PERIOD. Eligible are required to appear at the Personnel Office or submit a letter accepting a job offer within seven (7) days of notice of selection for a position.

FAILURE TO RESPOND. Failure of an eligible to respond within the prescribed time limits constitutes an automatic forfeiture of all rights to the position, and may, at the discretion of the Personnel Officer result in the removal of the eligible's name from the eligible list.

RULE 8 - APPOINTMENTS

TYPES OF APPOINTMENTS. All vacancies in the classified service, except as specifically authorized in this Rule, which are not filled by transfer, promotion, or demotion shall be filled by probationary appointment, re-employment, emergency appointment or provisional appointment.

PROBATIONARY APPOINTMENT. The appointment to a permanent position in the classified service through the certification and selection procedures contained herein shall constitute probationary appointment.

RE-EMPLOYMENT. The appointment of an eligible to a permanent position in the classified service from a reemployment list shall be considered a probationary appointment, and the appointee shall be required to serve a probationary period.

EMERGENCY APPOINTMENTS. The appointment of an employee without regard to the other requirements of these Rules, when in the judgment of competent authority immediate service in the position is required to prevent stoppage of essential public business, shall be considered an emergency appointment. An emergency appointment may not exceed sixty (60) working days duration and is non-renewable.

CONDITIONS OF APPOINTMENT. When it is essential to fill a vacancy and the Personnel Office is unable to certify eligibles for such vacancy because there is no existing appropriate list, or because there is an insufficient number of persons on the appropriate list who are willing to accept appointment, the vacancy may be filled by means of a provisional appointment.

QUALIFICATIONS FOR APPOINTMENT. A provisional appointee must possess the minimum qualifications for the class of positions to which appointed as determined from the class specifications.

DURATION OF APPOINTMENT. A provisional appointment shall expire when an appropriate list of eligible has been established, or in any event shall expire six (6) months from the date of such appointment.

SUBSTITUTE OFFICER OR EMPLOYEE. In all cases where it is necessary to continue the performance of the work or duties of such officer or employee during a leave of absence, the work and duties shall be performed by a substitute officer or employee. Whenever any officer or employee obtains such a leave of absence for military service there is hereby created a substitute office or employment for the office or employment held by such officer or employee at the time of entry into service, and the same shall be filled under provisions of this chapter.

The substitute employment shall be temporary, and shall continue only for the duration of the leave of absence described in the preceding Sections and upon the return of the officer or employee to his/her position with the City, at which time such substitute office or employment shall terminate forthwith. A person certified to fill a position, where a leave of absence has been granted, shall be deemed to be acting in the position during such leave of absence only; and such position shall be known and titled as a substitute position. Such employment shall be temporary only.

RULE 9 - PROBATIONARY PERIOD

PURPOSE. The probationary period is an essential part of the examination and selection process and shall be utilized to evaluate the performance of new employees, and elimination of those employees whose performance or conduct does not meet established standards for City employees.

ORIGINAL APPOINTMENT. Full-time appointments are subject to a six (6) month probationary period except in the police and fire service associations which are subject to a twelve (12) month probationary period. Appointments will not be considered permanent until successful completion of the probationary period, which may be extended.

PROMOTION OR RECLASSIFICATION. On accepting a promotion, or an appointment to a different classification, an employee serves a new probationary period. Promotions or reclassification will not be permanent until the successful completion of this probationary period.

WRITTEN EVALUATION. Approximately one week prior to the completion of an employee's probationary period the Department Head or supervisor shall prepare and present to the Personnel Office a written evaluation of the employee's performance, containing one of the following recommendations:

- a. That the employee be continued with a one (1) step salary increase if applicable
- b. That the employee be terminated, or
- c. That the employee be continued with no salary increase and the probationary period extended.

EVALUATION DURING PROBATION: Evaluation of an employee's performance during the probationary period is a continuing process; however, written evaluations are not required except as provided in the above paragraphs titled "Promotion or Reclassification" and "Written Evaluation".

TERMINATION OF PROBATIONARY APPOINTMENT: If at any time during the probationary period it is determined that an employees performance is unsatisfactory, upon recommendation of the Department Head and approval of the City Manager the probationary appointment may be terminated at any time without the right of appeal or hearing except in cases of alleged discrimination or as may be otherwise required by law.

VOLUNTARY TERMINATION OF PROBATIONARY APPOINTMENT: Prior to completion or termination of the probationary period, the appointee may, upon written request and approval of the Personnel Officer be reinstated to a vacant position in the class from which advanced.

RULE 10 - EMPLOYEE PERFORMANCE

PERFORMANCE APPRAISAL: The Personnel Officer shall, in cooperation with Department

Heads and other concerned officials, develop a system for appraising the performance of employees in the classified service for purposes of employee development and improving work performance.

CONTINUOUS APPRAISAL: Employee performance appraisal is a continuous process. Accordingly, employees will be given feedback on a regular basis which will afford them an opportunity to improve their performance and to participate in defining their job requirements.

ANNUAL APPRAISAL: Employees will be given an annual written performance appraisal based on the criteria developed by the Personnel Officer. The appraisal will be made by the employee's supervisor and reviewed by the next higher supervisor in line of authority over the appraising supervisor. The appraising supervisor will discuss the assigned performance rating with the employee, who shall have the opportunity to comment on the appraisal both orally and in writing.

RULE 11 - PROMOTION, TRANSFER AND DEMOTION

PROMOTION POLICY: Vacancies in the service may be filled by promotion from within the service whenever practicable and in the best interest of the City. Promotions shall be based upon merit and shall be made in accordance with the procedures established in these Rules.

TYPES OF PROMOTIONS: A promotion is the filling of a vacancy by the advancement of an employee from a position having a lower salary grade. Promotions may be made on either a competitive or noncompetitive basis in accordance with the appropriate sections of these Rules. Appropriate consideration will be given to the qualifications, performance appraisals, conduct and length of service of applicants for promotion.

COMPETITIVE IN-HOUSE PROMOTIONS: In filling a vacancy by promotion on a competitive basis, the Personnel Office shall administer a competitive examination which shall be open to all employees who meet the necessary requirements and/or who are serving in an appropriate class as determined by the Personnel Office. No employee shall be deemed eligible for a promotional examination whose last performance evaluation was not satisfactory. The Personnel Office shall prepare an eligible list as provided in the Rule entitled Eligible Lists and shall certify to the Department Head the names of the highest three (3) candidates. If more than one (1) vacancy occurs in the same class of position under the same department, the Personnel Office shall certify the name of one (1) additional candidate for each additional vacancy. Selection shall be recommended by the Department Head.

NON-COMPETITIVE PROMOTIONS: Non-competitive promotions are effected by a qualifying examination, supervisory appraisal of performance, or any other noncompetitive method approved by the Personnel Officer.

TRANSFER WITHIN A DEPARTMENT: A Department Head may transfer any employee from a

position of a class to another position of the same class within his/her organizational unit.

BETWEEN DEPARTMENTS: Two (2) Department Heads may transfer an employee from a position of a class to another position in the same class between their respective organizational units upon mutual agreement, including the employees, and with approval of the City Manager.

TO A POSITION IN A RELATED CLASS: The transfer of an employee with status from a position of a class to a position in a related class of the same grade may be made by a Department Head or Department Heads when two (2) units are involved, subject to the prior approval of the City Manager and only if the classes involved are so related that the experience in and entrance qualification requirements of one (1) class, are such as to qualify the employee in a reasonable manner for the other class.

DEMOTION/REDUCTION IN PAY: The movement of an employee with status to a position in a lower class or at a lower step in the same class is a demotion. For this purpose a lower class means a class having a salary lower than the grade of the position in which the individual is employed.

REASONS FOR DEMOTION: An employee with status may be demoted for lack of work in his class, or for cause. An employee with status may appeal his demotion for cause in accordance with the Rule entitled Disciplinary Actions.

VOLUNTARY DEMOTION: If, for personal or other reasons, an employee requests in writing that he or she be assigned to a position of a lower class, the Department Head may, with the approval of the City Manager, make such a demotion. In such cases, the demotion will be deemed to have been made on a voluntary basis, from which there shall be no appeal.

RULE 12 - DISCIPLINARY ACTIONS (This rule may be superseded by individual bargaining unit agreements).

1.01 GENERAL PROVISIONS: The tenure of an employee with status shall continue during the satisfactory performance of his or her duties. If the employee's work performance becomes unsatisfactory, appropriate corrective efforts shall normally be taken. Such efforts may include counseling and performance evaluation. When these efforts are not successful in bringing about the desired changes in an employee's performance, disciplinary action shall be taken. In the case of unacceptable conduct, while principles of progressive discipline will normally be utilized in an effort to resolve the problem, in more serious cases severe disciplinary action up to and including discharge may be immediately imposed.

1.02 FORMS OF DISCIPLINARY ACTION: The form of disciplinary action shall be that which the supervisor or department head considers justified by the circumstances, and a severe action shall normally be preceded by a less severe action or other corrective efforts. To achieve positive results,

disciplinary actions should be taken on a timely basis and employees should be given a reasonable period of time to improve their conduct or performance.

1. **Oral Reprimand.** The oral warning verbally notifies the employee that his/her performance or behavior must be improved. Oral warnings may be given by the employee's immediate supervisor when counseling has failed to produce the desired changes.
2. **Written Reprimand.** A written warning is a formal notice to an employee that further disciplinary action will be taken unless his/her behavior or performance improves. The employee is advised in writing of the consequences of failing to improve his/her performance. A written reprimand is prepared by the employee's immediate supervisor or higher authority and is included in his/her personnel file.
3. **Suspension.** Suspension is the temporary removal of an employee from his/her duties without pay. Suspensions are normally taken in cases involving relatively serious misconduct or failure to improve previously cited work performance and/or behavior. An employee may in some instances be suspended on the spot. Such action is reserved for cases where, for example, the employee's continued presence constitutes a threat to the safety of the employee, to other employees, to the public or to public property. Normally, suspension action is initially proposed by the supervisor.
4. **Demotion/Reduction in Pay.** When an employee's performance or conduct has not been at an acceptable level, the Department Head may demote an employee by removing the employee from his/her present class to a lower paying class or to a lower step in the same class. In such cases, the employee's performance will be reviewed within three months, and if the employee's performance has improved to an acceptable level, the employee may be reinstated to the former paying position or former salary step. If the employee's performance has not improved to an acceptable level the demotion remains in effect.
5. **Dismissal.** Dismissal is the permanent removal of an employee from service. This action is taken when management is satisfied that the employee has been given reasonable opportunity to meet performance or behavior standards and has failed to do so, or when the employee is guilty of serious misconduct. The department head or other designated official may recommend dismissal.

1.03 RESIGNATION IN LIEU OF DISCIPLINARY ACTION An employee may be offered the opportunity to resign instead of facing disciplinary action. The employee must be advised that by doing so, the employee loses the right of appeal. The decision to resign in lieu of disciplinary action is completely voluntary, and the employee is allowed a full working day in which to freely exercise the option.

1.04 CAUSES FOR DISCIPLINE (up to and including dismissal): Any employee may be disciplined for just cause, including but not limited to the following forms of conduct if found to exist:

1. Furnishing false information to secure employment.
2. Incompetence, which shall mean that the employee lacks adequate ability, knowledge, motivation, training or fitness to satisfactorily perform the duties which are within the scope of employment.
3. Physical or Mental Ability, which shall mean the ability to perform the essential duties of a class and shall be applied in a manner consistent with local state, and federal statute and regulations, with respect to employment of the physically and mentally disabled.
4. Inefficiency in performance of work which results in performance lower than that which is typically expected of a similar position.
5. Neglect of duty.
6. Insubordination, which shall mean refusal or failure to follow a direct, lawful order which the employee is capable of following.
7. Any act of moral turpitude which adversely reflects on the employee's ability or fitness to perform his/her duties.
8. Soliciting or receiving for personal use a fee, gift or other valuable thing in the course of the employee's work, or in connection with the contributing party's expectation or hope of receiving favorable or better treatment than that afforded other persons.
9. Taking an active part during scheduled working hours in receiving or contributing money toward the nomination or election of any elective candidate for a City of Seaside municipal office, or using official position to support any elective candidate.
10. Disclosure of confidential information to an unauthorized source.
11. Nonobservance of work hours.
12. Refusal to take and subscribe to say oath or affirmation which is required by law in connection with employment by the City.
13. Conduct either during or outside of duty hours which damages the City or its reputation.

14. Falsification of time sheets or any City records or documents.
15. Misuse of sick leave or other benefits of employment.
16. While on duty or being required to be immediately available for duty, being under the influence of an alcoholic beverage; and, unless legally authorized and approved by a superior to do so, possessing or consuming an alcoholic beverage while on duty. The absence of a blood alcohol level test shall not preclude imposition of discipline under this section.
17. Selling or offering for sale, and, unless legally authorized and approved by a superior to do so, using, consuming, injecting, possessing, or being under the influence of, while on duty, any drug or any controlled substance as the latter term is defined in the California Health and Safety Code.
18. Addiction to the use of any "controlled substance", as that term is defined in the California Health and Safety Code subject to the mandates of State and Federal Law.
19. Excessive absenteeism, tardiness, or absence without authorized leave.
20. Conviction of a criminal offense involving moral turpitude, where the offense bears a rational relationship to employment.
21. Discourteous or disrespectful treatment of the public, other employees, or City officials.
22. Violation of City personnel rules, administrative policies and procedures, departmental rules and regulations, safety rules, resolutions, ordinances or codes.
23. Damage to or waste of public property, equipment or supplies. Personal or other unauthorized possession, removal or use of public property, supplies, equipment or computer software.
24. Any conduct related to employment which impairs, disrupts or causes discredit to the employee's employment or the public service, including but not limited to conduct which is or would be cause for discipline under any other provisions of this section.
25. Sexual, racial, ethnic, or religious harassment.
26. Willful failure or refusal to properly perform official duty.
27. Gross carelessness in the discharge of official duty.

28. Malfeasance in office.
29. Refusal to report to an official call in an emergency.
30. Leaving the work station without supervisory permission.
31. Engaging in non-City business during work hours.
32. Failure to wear city belt restraints, or, as operator, permitting passengers to not wear city belt restraints while in a City vehicle weighing less than 6,000 pounds.

1.05 IMPLEMENTATION OF DISCIPLINARY ACTION

1. The procedure set forth in this Rule shall be complied with in connection with suspensions without pay, reductions in pay, demotions and discharges of permanent classified non-probationary employees.
2. Written notice of the proposed Disciplinary Action shall be given to the employee. This notice shall be given prior to the imposition of the action, except that in the case of short-term suspensions of five (5) days or less, the notice may be given promptly after the suspension is implemented.
3. The written notice shall include a statement of the reason(s) for the proposed action and the charges being considered.
4. The employee shall be given an opportunity to review any documents and materials upon which the proposed action is based. If practicable, copies of such documents should be attached to the written notice.
5. Within five (5) working days after the written notice, the employee has the right to respond, orally or in writing, to a management official designated in the written notice.
6. If the employee timely indicates that he/she wishes to respond orally, a response meeting is scheduled. The meeting is an informal opportunity for the employee to state his/her views concerning the proposed action.
7. The management official will thereafter issue written notification whether the proposed action will proceed, will be set aside or will be modified. If disciplinary action is implemented, the notice shall advise the employee of his/her appeal rights.

1.06 APPEALS

1. Within the five (5) working days of the written notice implementing the disciplinary action, the employee may file a notice of appeal by giving written notice of appeal to the Personnel Officer. A time for an appeal hearing shall be established by the City Manager which shall not be less than ten (10) working days, nor more than thirty (30) working days, from the date of the filing of the appeal. All interested parties shall be notified in writing of the date, time and place of the hearing at least five (5) working days prior to the hearing.
2. The City Manager, or his/her designee, shall be the hearing officer to hear appeals. If the City Manager determines that he/she is so personally embroiled in the disciplinary proceedings that he/she cannot be neutral, or upon timely written request by the affected employee alleging personal involvement, the City Manager may, in his/her discretion, designate another hearing officer to hear the appeal. Where the affected employee is a member of the City Manager's staff, the City Manager shall designate a hearing officer to hear the appeal.
3. Where the affected employee is a department head, an independent hearing officer shall be selected by the City Council, upon recommendation of the City Manager. The hearing officer so selected shall be authorized to hold a hearing and take evidence on behalf of the City Council.
4. All hearings shall be private, provided however, that the appellant may request a hearing open to the public.
5. The hearing need not be conducted in accordance with technical rules related to evidence and witnesses but hearings shall be conducted in a manner most conducive to determinations of the truth. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in conduct of serious affairs, regardless of the existence of any common law or statutory rules which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining 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 recognized as in civil actions, and irrelevant and unduly repetitious evidence may be excluded. Decisions made by the hearing officer shall not be invalidated by any informality in the proceedings, and shall not be bound by technical rules of evidence.
6. The hearing officer shall rule on the admission or exclusion of evidence.
7. Each party shall have these rights: to be represented by legal counsel or other person of his/her choice; to call and examine witnesses; to introduce evidence; to cross examine opposing witnesses on any matter relevant to the issue; to impeach any and to rebut the evidence against him/her. If the employee does not testify in his/her own behalf, he/she may be called and

examined as if under cross-examination.

8. Oral evidence shall be taken only on oath or affirmation.
9. The hearing shall proceed in the following order, unless the hearing officer, for special reason, otherwise directs:
 - (a) The party imposing discipline shall be permitted to make an opening statement.
 - (b) The appealing party shall be permitted to make an opening statement.
 - (c) The party imposing disciplinary action shall produce the evidence on his/her part.
 - (d) The party appealing from such disciplinary action may then open his/her defense and offer his/her evidence in support thereof.
 - (e) The parties may then, in order, respectively offer rebutting evidence only, unless the hearing officer for good reason, permits them to offer evidence upon their original case.
 - (f) Arguments shall be permitted in the discretion of the hearing officer.
10. The hearing officer shall determine relevancy, weight, and credibility of testimony and evidence, and shall base his/her findings on the preponderance of evidence.
11. During the examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing upon motion of either party.
12. No still photographs, moving pictures, or television pictures shall be taken in the hearing chamber during a hearing.
13. The hearing officer, prior to or during a hearing, may grant a continuance for any reason he/she believes to be important to reaching a fair and proper decision.
14. The hearing officer shall render his/her findings and recommendations as soon after the conclusion of the hearing as possible and in no event later than thirty (30) calendar days after conducting the hearing, unless otherwise agreed upon by both parties. His/her decision shall set forth the recommendations as to each of the charges and the reasons therefore.
15. The hearing officer may sustain or reject any or all of the charges filed against the employee. He/she may sustain, reject, or modify the disciplinary action invoked against the employee.

1.07 DECISION OF HEARING OFFICER FINAL.

1. The decision of the hearing officer shall be final and conclusive in all cases, except when the affected employee is a department head.
2. When the decision of the hearing officer is final, he/she shall file notice of the decision with the charged employee, the City Manager, if applicable, and the personnel officer, and shall set forth all findings and conclusions.

1.08 DECISION OF HEARING OFFICER ADVISORY.

1. When the hearing officer has been selected by the city council to hear the appeal of a department head, on behalf of the City Council, the decision of the hearing officer is advisory. The hearing officer may recommend the sustaining or rejecting of any or all of the charges filed against the employee. He/she may recommend sustaining, rejecting or modifying the disciplinary action invoked against the employee. The decision shall be filed with the charged employee, the City Manager and the City Council and shall set forth all findings and conclusions.
2. Either the appellant or the city may file a written objection to the decision, findings and conclusions of the hearing officer selected by the city council, within ten (10) working days of the hearing officer's decisions.
3. Either the city or the appellant may request a transcript for review by the city council within ten (10) working days of the hearing officer's (advisory) decision. If the City requests a transcript, there is no charge to the appellant other than copying costs. If the appellant requests a transcript, he/she shall pay the sum of one hundred and no/100ths (\$100.00) to the clerk as a deposit at the time the request is made. This amount shall be applied toward the cost of preparing the record. When the total cost of the preparation of the record has been ascertained by the clerk, the appellant shall pay the amount of the cost thereof within forty-eight (48) hours after being notified by the clerk. If the cost of the record is less than one hundred and no/100ths (\$100.00) dollars, any amount in excess of the actual cost shall be refunded to the appellant. The hearing officer shall not be held responsible for faulty taping equipment and the consequences thereof.
4. Within fifteen (15) working days of (a) the expiration of the ten-day objection period, or (b) the filing of objections, whichever period is later, the city council shall review the (advisory) decision of the hearing officer, any objections filed, and the record, if one is requested by a party. The city council may ratify, modify, or reverse the decision of the hearing officer, including the findings, conclusions and/or discipline recommended. The decision of the city

council shall be final.

1.09 ALTERNATIVE METHOD OF REVIEW (APPEAL): As an alternative to a de novo review of the matter, an appellant may request, in the appeal letter, that the hearing officer review the decision of the department based solely upon the record before the department, including the written notice of the proposed action and supporting documents, together with the written response relating thereto, and the department's answer to the response. The hearing officer shall then make a determination in accordance with the provisions of this Rule.

1.10 TIME FOR SEEKING JUDICIAL REVIEW: Any judicial action taken by appellant in any manner to set aside, annul or vacate any final decision of the city pursuant to this Rule relating to the suspension, demotion or dismissal of an employee shall be filed within the time limits prescribed by Code of Civil Procedure section 1094.6.

1.10 PROBATIONARY EMPLOYEES

1. A probationary employee who has achieved that status as a result of promotion, shall be afforded the same rights under this Rule as a permanent employee, with the exception of the decision to make the promotion permanent. Failure to make the promotion permanent shall not constitute disciplinary action and the procedures enumerated in sections 1.05 through 1.09, inclusive, shall not be applicable to the probationary employee.

2. (a) A probationary employee who is in a probationary status as a result of his/her original appointment, may be rejected by the appointing authority during the probationary period for reasons relating to his/her qualifications, the good of the city, or failure to demonstrate merit, efficiency, fitness or moral responsibility. He or she shall not be rejected for any cause constituting prohibited discrimination as set forth in Government Code sections 19700 to 19703, inclusive. The failure of a probationary employee to achieve permanent status shall not constitute disciplinary action and the procedures enumerated in sections 1.05 through 1.09 inclusive, shall not be applicable to the probationary employee.

- (b) A rejection during probationary period is effected by the service upon the probationer of a written notice of rejection which shall not be later than the last day of the probationary period; and a statement of the rejection. Service of the notice shall be made prior to the effective date of the rejection, and the notice of rejection shall be served prior to the conclusion of the prescribed probationary period.

1.11 PUBLIC SAFETY OFFICERS: If any of the provisions herein conflict with the Public Safety Officers Procedural Bill of Rights Act, Government Code sections 3300 through 3311, that Act shall

prevail for public safety officers, as the same are defined in Government Code Section 3301.

1.12 ADMINISTRATIVE PROCEDURES: The City Manager may establish any necessary administrative procedures required to carry out the intent of this Rule to assure a uniform and well understood process.

1.13 DISCIPLINE OF COUNCIL APPOINTEES: The City Council shall have sole responsibility for the discipline of its appointed officers.

RULE 13 - RESIGNATION

NOTICE REQUIRED: An employee who intends to resign shall communicate this in writing to the Personnel Office via his or her Department Head at least two (2) weeks prior to the effective date of the resignation. Failure to comply with this provision may jeopardize any future opportunities for employment with the City of Seaside.

PERSONNEL ACTION: A copy of an employee's resignation may be attached to the payroll action effecting the separation and be filed in the employee's personnel folders.

AUTOMATIC RESIGNATION: Absence from duty without proper authorization in excess of five (5) continuous working days, shall constitute abandonment of the position and shall be reported to the Personnel Office and recorded as an automatic resignation. Such resignation shall be subject to reconsideration by the City Manager, if so requested by the employee, within thirty (30) calendar days from the beginning date of the unauthorized absence.

If the employee can present proof that he/she was incapable of communicating with the appointing authority, the automatic resignation shall then be subject to reconsideration by the City Manager.

RULE 14 - GRIEVANCE PROCEDURE (This rule may be superseded by individual bargaining unit agreements).

A grievance shall be any matter for which appeal is not otherwise provided or prohibited, concerning:

1. A dispute about the interpretation or application of a Memorandum of Understanding, Ordinance or Personnel Rule governing personnel practices or working conditions;
2. A dispute about the practical consequences of a City decision on wages, hours and other terms and conditions of employment;
3. A decision affecting the employment of any permanent or probationary employee over which the City Manager has partial or complete jurisdiction.

- A. **Informal Grievance Procedure:** An employee who has a problem or complaint should first try to get it settled through discussion with his immediate supervisor without undue delay - within one or two work days of the event grieved. If, after this discussion, he/she does not believe the problem has been satisfactorily resolved, he/she shall have the right to promptly discuss it with the supervisor's immediate superior, if any, in the administrative service. Every effort should be made without delay to find an acceptable solution by informal means at the lowest possible level of supervision. If the employee is not in agreement with the decision reached by discussion, he/she shall then have the right to file a formal grievance in writing within ten (10) calendar days after receiving the informal decision of his/her supervisor or supervisor's immediate superior on matters within the statutory scope of representations.
- B. **Formal Grievance Procedure:**
1. **First Level of Review:** A grievance shall be presented in writing to the employee's immediate supervisor within ten calendar days of the informal process decision or of the event giving rise to the grievance, whichever is later. The supervisor shall render his/her decision and comments in writing and return them to the employee within ten calendar days after receiving the grievance.
 2. **Further Level or Levels of Review as Appropriate:** The supervisor's immediate superior receiving the grievance shall review it, render his/her decision and comments in writing, and return them to the employee within ten (10) calendar days after receiving the appeal.
 3. **Department Review:** The Department Head receiving the grievance, or his designated representative, should discuss the grievance with the employee, his representative, if any, and with other appropriate persons. The Department Head shall render his decision and comments in writing, and return them to the employee within ten (10) calendar days after receiving the appeal. If the employee does not agree with the decision reached, or if no answer has been received within ten (10) calendar days, he may present the appeal in writing to the City Manager. Failure of the employee to take further action within ten (20) days after receipt of the decision, or within a total of twenty (20) days if no decision is rendered, will constitute withdrawal of the grievance.
 4. **City Manager:** The City Manager or his/her designated representative should discuss the grievance with the employee, his/her representative, if any, and with other appropriate persons. The City Manager may designate a "fact-finding committee," or an officer not in the normal line of supervision, to advise him/her

concerning the grievance. The appointing power shall render a decision in writing to the employee within twenty (20) days after receiving the grievance.

C. Conduct of Grievance Procedure:

1. The time limits specified above may be extended to a definite date by mutual agreement of the employee and the reviewer concerned.
2. The employee may request the assistance of another person of his/her own choosing in preparing and presenting his grievance at any level of review.
3. The employee and his representative may be privileged to use a reasonable amount of work time as determined by the appropriate Department Head in conferring about and presenting the grievance.
4. Employees shall be assured freedom from reprisal for using the grievance procedure.

RULE 15 APPEALS - APPEALABLE ACTIONS. (This rule may be superseded by individual bargaining unit agreements).

ACTION HAVING ADVERSE EFFECT ON EMPLOYEES: Except as provided for in "Termination of Probationary Appointment", an employee has the right to appeal the following specified actions which has an adverse effect on his or her employment.

EXAMINATION REJECTION: Any employee whose application for admission to an open-competitive, promotional examination has been disqualified may file a request with the Personnel Office for reconsideration of his or her qualifications and for admission to the examination. The request must be in writing and presented before the scheduled date of the examination. If the request is denied, the employee shall have the right to appeal to the City Manager. He or she may be conditionally admitted to an examination pending consideration of an appeal. Admission to a written examination under such circumstances, however, shall not constitute the assurance of qualification or a passing grade in training and experience.

EXAMINATION RATING: Any applicant or employee who has taken an examination may request that the Personnel Office review their rating in any part of such examination to assure that uniform rating procedures have been applied equally and fairly. The appeal must be made within five (5) working days of the examinations. If the applicant or employee is not satisfied with the findings of the Personnel Office, they may appeal to the City Manager.

REMOVAL FROM ELIGIBLE LIST: An eligible whose name has been removed from a list by the

Personnel Office for the reasons specified in Rule 5 paragraph titled "Reasons for Removal" may appeal such action to the City Manager.

DISCRIMINATION: Any applicant or employee who alleges unlawful discrimination in any aspect of employment may appeal for relief direct to the appointing authority, who shall, upon receipt of the appeal from alleged discrimination, inform the appellant of his or her right to file a discrimination complaint with the City Manager. When such complaints are filed with the City Manager, the complaint will be processed in accordance with the Standard Operating Procedure and the decision of the City Manager shall be final. Such shall not diminish the right of in applicant or employee to file a complaint with any State or Federal Agency exercising authority in matters of discrimination (e.g. Equal Employment Opportunity Commission).

RULE 16 - POLITICAL ACTIVITY

PROHIBITED POLITICAL ACTIVITIES: The following activities are prohibited. Employees engaging in such activities are subject to disciplinary action, including dismissal.

- a. Employees shall refrain from using their official position or influence to coerce political actions of others or to solicit political contributions from fellow officers and employees.
- b. Employees are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.
- c. Employees are prohibited from engaging in political activity during their duty hours for the purpose of promoting an election or promoting the passage or defeat of a ballot measure.
- d. Employees may not engage in political activity while in official uniform. No button, sign, insignia advocating the election of a candidate or the passage or defeat of a ballot proposition may be worn on a City uniform or be placed on City-owned property.
- e. Employees may not use a City owned vehicle or claim mileage for operation of a privately owned vehicle for transportation to a political activity in which the employee intends to participate.
- f. Involvement of employees in City, State and Federal elections may create conflicts which are disruptive of morale and government efficiency. Therefore, employees seeking nomination or who become candidates for elective office shall immediately apply for leave of absence from their position in the City service if it is deemed by the City Manager that such action will have adverse effects on the performance of their duties.

AUTHORIZED POLITICAL ACTIVITIES: Nothing in the above section, Prohibited Political

Activities, shall be construed to limit employees from freely expressing their political opinions and supporting a candidate of their choice. Further, employees are encouraged to exercise their rights as citizens and vote in any election for which they are eligible.

RULE 17 EMPLOYER - EMPLOYEE RELATIONS (Updated May 2008)

WHEREAS, the Meyers-Millias-Brown Act provides for the establishment of uniform and orderly methods of communication between employees and the public agencies by which they are employed and for resolving disputes regarding wages, hours and other terms and conditions of employment;

WHEREAS, the City Council desires to implement local rules and regulations governing employer-employee relations within the City of Seaside and has consulted in good faith with the representatives of employee organizations regarding said rules and regulations.

NOW, THEREFORE, BE IT RESOLVED that the following constitutes the employer-employee relations policies and procedures.

SECTION 1: PURPOSE

This Resolution implements Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500 et seq.) captioned “Local Public Employee Organizations”, by providing orderly procedures for the administration of employer-employee relations between the City and employee organizations. However, nothing contained herein shall be deemed to supersede the provisions of State law, City ordinances, resolutions and rules which establish and regulate the personnel system, or which provide for other methods of administering employer-employee relations. This resolution is intended, instead, to strengthen methods of administering employer-employee relations.

It is the specific purpose of this Resolution:

- 1.1 To establish an orderly system for conducting employer-employee relations within the City.
- 1.2. To establish a system to facilitate communication between management and employees and to provide for the exchange of information and ideas.
- 1.3 To clarify in writing the rights and obligations of each employee, employee organizations, and City management in the conduct of employer-employee relations activities.

- 1.4 To provide a system whereby employees may make a free and unencumbered choice as to what method of representation rights and privileges they so desire to govern their working relationship with their employer.

SECTION 2: DEFINITIONS

As used in this Resolution, the following terms shall have the meaning as indicated.

- 2.1 “Council” The City Council of the City of Seaside.
- 2.2 “Certification” means formal recognition by the City that an employee organization is the “exclusively recognized” bargaining representative of an appropriate representation unit as set forth in SECTION 10.5.
- 2.3 “Confidential Employee” Means any employee who, in the regular course of her/his duties, has access to or possesses information related to her/his employer’s employer-employee relations. Confidential positions shall be designated by the City Council following a meet and consult (only) process with employee organizations.
- 2.4 “City” means the City of Seaside and, where appropriate, refers to the Council or any duly authorized City Representative.
- 2.5 “Day” means calendar day unless expressly stated otherwise.
- 2.6 “Decertification” means the process whereby the City formally withdraws the exclusively recognized status of an employee organization after a vote of employees in the representation unit that the organization has represented as set forth in SECTION 10.6.
- 2.7 “Emergency” means an unforeseen circumstance requiring immediate action.
- 2.8 “Employee” means any person employed by the City, excepting those persons elected by popular vote, appointed to fill the unexpired term of an elected office, or appointed to office by the Governor of the State of California.
- 2.9 “Employee Organization” means an organization which includes

employees of the City and which has as one of its prime purposes representing such employees in their relations with the City. Such employee organizations include only those registered in accordance with SECTION 6.

- 2.10 “Employer-Employee Relations” means the relationship between the City and its employees and their employee organization, or when used in a general sense, the relationship between City management and employees or employee organizations.
- 2.11 “Exclusively Recognized Employee Organization” means a registered employee organization which has been formally certified by the City and has the exclusive right to represent the employees in a representation unit pursuant to a vote of the employees in that unit as set forth in SECTION 10.5.
- 2.12 “Extra Help Employee” means any employee who is not a regular full-time employee and is paid on an hourly basis.
- 2.13 “Fact Finding” means the investigation of an impasse by an impartial third party for the purpose of describing the issues in dispute, stating the positions of the representatives of the City and the exclusively recognized employee organization, and making findings of fact on issues in dispute. It is advisory in nature and shall not include recommendations as to settlement of the dispute unless so specified at the time it is agreed to be used.
- 2.14 “Impasse” means a deadlock in negotiations between an exclusively recognized employee organization and representatives of the City concerning matters about which they are required to meet and confer.
- 2.15 “Management Employee” means an employee having significant responsibilities in formulating and/or administering City policy. This shall include those that act on behalf of a department head in her/his absence. Management employees are designated by the Council without a meet and confer or meet and consult process.
- 2.16 “Mediation” means the effort of an impartial third party functioning as an intermediary, to assist the representatives of the City and an exclusively recognized employee organization in reaching a voluntary resolution of an impasse through interpretation, suggestion, and advice.

- 2.17 “Meet and Confer” means the process whereby representatives of the City and of exclusively recognized employee organizations in good faith, personally exchange information, opinions and proposals for a reasonable period of time in an attempt to reach agreement on wages, hours and other terms and conditions of employment, as contemplated by Government Code Section 3505.
- 2.18 “Meet and Consult” or “Consultation” means to communicate orally or in writing for the purposes of presenting and obtaining views or advising of intended actions and does not involve either the exchange of proposals and counter-proposals in an endeavor to reach agreement or the impasse procedure set forth in SECTION 11.
- 2.19 “Registered Employee Organization” means an employee organization which has been acknowledged by the City as an employee organization that represents employees of the City.
- 2.20 “Regular Full Time Employees” means all permanent and probationary salaried employees, excluding extra help employees.
- 2.21 “Unit or Representation Unit” means a unit determined by the City Manager to be appropriate for employee representation as established in accordance with SECTION 10.1.

SECTION 3: CITY RIGHTS

In order to maintain the efficiency of City operations, the City of Seaside, through its management representatives, shall retain the exclusive right, in accordance with applicable laws and regulations to manage and supervise its employees including but not limited to the following:

- 3.1 To hire, promote, transfer, assign, classify positions, retain employees, and to suspend, demote, discharge or take other disciplinary action against employees.
- 3.2 To lay off or demote employees from duties because of lack of work, lack of funds, in the interest of economy, or other legitimate reasons.
- 3.3 To determine the standards, procedures, methods, means and personnel by which City operations are to be conducted.

- 3.4 To take whatever actions may be necessary to carry out the mission of the City in situations of emergency.

SECTION 4: EMPLOYEE RIGHTS

Except as otherwise provided by state and federal law, employees of the City of Seaside shall have the right to form, join and participate in activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations. City employees also have the right to refuse to join or participate in the activities of employee organizations, and shall have the right to represent themselves. However, the right to individual self-representation does not include the right to meet and confer with City representatives regarding the terms and conditions of employment.

SECTION 5: UNFAIR EMPLOYMENT RELATIONS PRACTICES

In their dealings with each other, management and employee organizations shall be prohibited from the following practices:

5.1 Management

5.1.1 Interfering with, restraining or coercing any employee in the exercise of the rights assured by the Government Code or the City of Seaside Employer-Employee Relations Policy.

5.1.2 Encouraging or discouraging membership in any employee organization by discrimination in regard to hiring, tenure, promotions or other conditions of employment.

5.1.3 Dominating or interfering with the administration, policies and programs of an employee organization or its members' participation therein.

5.1.4 Disciplining or otherwise discriminating against any employee because he/she has filed a complaint or given testimony under the provisions of this Employer-Employee Relations Policy.

5.1.5 Refusing to accord appropriate recognition to an employee organization qualified for such recognition.

5.2 Employee Organizations

5.2.1 Interfering with, restraining, or coercing any employee in the exercise of rights assured by the Government Code, or the City of Seaside Employer-Employee Relations Policy.

5.2.2 Attempting to induce department heads to coerce any employee in the enjoyment of his/her rights under the City of Seaside Employer-Employee Relations Policy and/or the Government Code.

5.2.3 Coercing or attempting to coerce an employee which results in hindering or impeding the performance of her/his duties.

5.2.4 Discriminating against any employee with regard to the terms or conditions of membership because of race, color, religion, creed, national origin, disability, age, sex, marital status or sexual orientation.

5.2.5 Disruptive activities which are detrimental to the conduct of the City's affairs.

5.2.6 Unauthorized use of City facilities.

5.2.7 No organization shall on City time engage in organization activities or distribute pamphlets or brochures or similar literature the major purpose of which is organizational in nature.

5.2.8 Refusing to consult, or meet and confer in good faith with management representatives of the City of Seaside as required by Government Code Section 3505.

5.2.9 Directing requests for information dealing with City policy matters, to anyone other than the City Manager or her/his designee. Requests dealing with department matters only may be directed to department heads.

SECTION 6: EMPLOYEE ORGANIZATIONS; REGISTRATION

An employee organization that desires to become a registered employee organization shall file with the Personnel Officer a written application for registration which shall include:

- 6.1 Name and mailing address of the organization, its local officer and/or representatives;

- 6.2 The names and mailing address of each area, state, national association, and other organizations with which it is directly affiliated;
- 6.3 Certified and complete copies of the Articles of Incorporation or Constitution, the Bylaws, and any other written rules or regulations governing the organization, along with all amendments thereto.
- 6.4 A designation of those persons, not exceeding two in number, and their addresses, to whom notices, sent by regular United States mail will be deemed sufficient notice to the organization for any purposes.
- 6.5 A statement that the organization has no restriction on membership based on race, color, religion, creed, national origin, disability, age, sex, marital status or sexual orientation.

All statements and accompanying documents shall be signed and certified by the President and Secretary of the organization.

SECTION 7: REGISTERED EMPLOYEE ORGANIZATIONS: RIGHTS

- 7.1 Representation: Registered employee organizations may consult with the appropriate levels of City management on matters of concern to the organization and its members. The City is not, however, obligated to meet and confer in good faith or to enter into written agreement with registered employee organizations unless they are recognized pursuant to Section 10.
- 7.2 Copies To Be Made Available: Each registered employee organization shall, upon request to the City Manager, be provided with a copy of any negotiated agreement and of this Policy.

SECTION 8: EMPLOYEE ORGANIZATIONS: RECOGNITION

The Council shall grant exclusive recognition to employee organizations which have been certified pursuant to SECTION 10 of this Policy.

SECTION 9: RECOGNIZED EMPLOYEE ORGANIZATIONS: RIGHTS

In addition to the rights provided a registered employee organization, a recognized employee organization shall have the following rights:

- 9.1 The right to meet and confer in good faith with authorized management representatives of the City regarding wages, hours and other terms and conditions of employment within the scope of representation as provided in Government Code Section 3505. If agreement is reached by the representatives of the City and a recognized employee organization, they shall prepare a written memorandum of such understanding, which shall not be binding, and present it to the Council for acceptance. If the Council adopts the written Memorandum of Understanding, it shall become binding on the parties. The City is under no obligation to meet and confer in good faith with any employee organization, unless it has been certified as a recognized employee organization.
- 9.2 The right to reasonable notice and appropriate information in advance of matters affecting its membership as set forth in Paragraph 9.1 above. However, in emergencies, pursuant to Government Code 3504.5, the Council may take action on a particular item without such advance notice provided that such notice shall be furnished as soon as practicable.
- 9.3 The right to be heard prior to the resolution of any matter set forth in Paragraph 9.1 above.
- 9.4 The right to a reasonable amount of time during regular working hours or at such other times as the Council may direct by Minute Order, to represent its members before the Council, or appropriate management representatives, on matters set forth in Paragraph 9.1 above; such time allowance during regular working hours to be limited to a maximum of three (3) employee members of the organizations, except that:
- The Council may direct by Minute Order that additional employees be allowed to attend a specific meeting on City time.
- 9.5 The right to the reasonable use of existing bulletin board space in each building or department at a location agreed upon by the organization and the department, under the following conditions:
- 9.5.1 Material shall be posted on space as designated.
- 9.5.2 Posted material shall bear the identity of the organization.
- 9.5.3 Posted material shall not be misleading, contain any deliberate

misstatements or violate any Federal, State or City laws.

9.5.4 Material shall be neatly displayed and shall be removed when no longer timely.

9.6 The privilege of using City facilities for meeting purposes only provided that appropriate advance arrangements are made. A Charge at the prevailing City rates may be made to offset the cost of such use.

9.7 The right to have an authorized representative contact members of his/her organization in City facilities and leave literature and material for distribution, provided he/she has first made arrangements with the department head, or his/her representative, to provide for a time which does not disrupt City business.

9.8 Employee organizations may adopt reasonable restrictions regarding who may join and make reasonable provisions for the dismissal of individuals from membership.

SECTION 10: REPRESENTATION PROCEEDINGS

10.1 Policy and Standard for Determination of Appropriate Units. The policy objectives in determining the appropriateness of units shall be the effect of a proposed unit on (1) the efficient operations of the City and its compatibility with the primary responsibility of the City and its employees to effectively and economically serve the public, and (2) providing employees with effective representation based on recognized community of interest considerations. The purpose of these policy objectives is to promote determination of an appropriate unit that represents the broadest feasible grouping of positions that share an identifiable community of interest and that avoids fragmentation and/or proliferation of units. Factors to be considered shall include but are not limited to the following:

10.1.1 Similarity of the general kinds of work performed, types of qualifications required, and the general working conditions.

10.1.2 History of representation in the City and similar employment; except, however, that no unit shall be deemed to be an appropriate unit solely on the basis of the extent to which employees in the proposed unit have organized.

10.1.3 Consistency with the organizational patterns of the City.

10.1.4 Number of employees and classifications, and the effect on the administration of employer/employee relations created by the fragmentation of classifications and the proliferation of units.

10.1.5 Effect on the classification structure and impact on the stability of the employer/employee relationship of dividing a single or related classification series among two or more units.

Notwithstanding the forgoing provisions of this section, managerial and confidential responsibilities, as defined in SECTION 2 are determining factors in establishing appropriate units hereunder, and therefore such managerial and confidential employees may only be included in units consisting exclusively of managerial and confidential employees. Managerial and confidential employees may not represent any employee organization which represents other employees on matters within the scope of representation.

The City Manager shall, after written notice to and meeting and consulting with recognized employee organizations, allocate new classifications or positions, delete eliminated classifications or positions, and retain, reallocate or delete modified classifications or positions from units in accordance with the provisions of this Resolution.

10.2 Filing of Recognition Petition by Employee Organization. A registered employee organization that desires to become the recognized employee organization of a representation unit shall file with the City Manager a petition for certification as a recognized employee organization. The petition shall (1) describe the proposed representation unit in detail, (2) state the approximate number of employees in the proposed unit eligible for inclusion therein, and (3) be accompanied by proof of support of at least 30% of those in the proposed unit.

Any list of members of any organization, either in form of an application for recognition or on file with the City, is confidential and shall not be open to public inspection.

10.3 City Response to Recognition Petition. Upon receipt of such petition, the

City Manager shall determine whether;

10.3.1 There has been compliance with the requirements of SECTION 10.2, and

10.3.2 The proposed representation unit is an appropriate unit in accordance with SECTION 10.1.

If an affirmative determination is made by the City Manager on the foregoing two matters, he/she shall so inform all employee organizations, shall give written notice of such request for recognition to the employees in the proposed unit and shall take no action on said request for thirty (30) days thereafter. If either of the foregoing matters are not affirmatively determined, the City Manager shall offer to consult thereon with such petitioning employee organization and, if such determination thereafter remains unchanged, shall inform that organization of the reasons therefor in writing. The petitioning employee organization may appeal such determination in accordance with this Resolution.

10.4 Open period for Filing Intervening Petition. Within thirty (30) days of the date written notice was given to effected employees that a valid recognition petition for an appropriate unit has been filed, any other employee organization may file a competing petition to be formally acknowledged as the recognized employee organization of the employees in the same or in an overlapping unit (one which corresponds with respect to some but not all the classifications or positions set forth in the recognition petition being challenged). Competing employee organizations must also evidence proof of employee support in the unit claimed to be appropriate of at least thirty percent (30%), and otherwise in the same form and manner as set forth in SECTION 10.2. Only signatures of employees in the proposed unit shall count toward the thirty percent (30%) required hereunder. If such intervening petition seeks establishment of an overlapping unit, the City Manager shall call for a hearing on such overlapping petitions for the purpose of ascertaining the more appropriate unit, at which time the petitioning employee organizations shall be heard. Thereafter, the City Manager shall determine the appropriate unit or units in accordance with the standards in SECTION 10.1, and shall provide notice of the unit determination to the petitioning employee organizations. The petitioning employee organizations shall have fifteen (15) days from the date of notice to amend their petitions to confirm to such

determination, or to appeal such determination pursuant to SECTION 10.8.

- 10.5 Election Procedures. The City Manager shall arrange for a secret ballot election as soon as practical after a final unit determination has been made in accordance with this section. All employee organizations who have duly submitted petitions which have been determined to be in conformance with this SECTION shall be included on the ballot. The ballot shall also reserve to employees the choice of selecting no employee organization to represent them in their employee relations with the City. Employees eligible to vote in such election shall be those persons employed for at least six (6) months in positions within the designated appropriate unit as determined by the City Manager, and who were employed during the pay period immediately prior to the date which ended at least fifteen (15) days before the date the election commences, including those who did not work during such period because of illness, vacation, or other authorized leaves of absence, and who are employed by the City in the same unit on the election.

An employee organization shall be formally acknowledged as the exclusively recognized employee organization for the designated appropriate unit as determined by the City Manager following an election or run-off election if it receives a numerical majority of all valid votes cast in the election. A vote is "valid" if it was cast by an eligible voter, it is readily apparent which selection has been made on the ballot, and only one choice is marked in response to each voting category on the ballot unless the ballot specifies otherwise. In an election involving three or more choices, where none of the choices receives a majority of the valid votes cast, a run-off election shall be conducted between the two choices receiving the largest number of valid votes cast. The rules that govern an initial election are also applicable to a run-off election.

The City Manager shall provide a written report to the City Council regarding the outcome of the election. If satisfied as to the validity of the process, the Council shall formally certify the winning organization, if any, as the exclusively recognized employee organization for that representation unit.

In the event that the parties are unable to agree on a third party to conduct an election, the election shall be conducted by the State Mediation and Conciliation Service.

Costs of conducting elections shall be borne in equal share by the City and by each employee organization appearing on the ballot. By way of example if there are three (3) organizations on the ballot, each organization and the City would each pay twenty-five percent (25%) of the costs incurred. Arrangements for the election, such as polling places and times, shall be made with mutual consent of all parties.

Any petitioning employee organization may withdraw its petition upon five (5) days prior notice. In the event that any other employee organization has qualified for the ballot pursuant to SECTION 10.4, the competing employee organization shall have the option to proceed with the election as if it were the original petitioning employee organization. Withdrawal of a petition under this provision shall result in a six (6) month bar against the filing of a new petition by the withdrawing employee organization.

- 10.6 Procedure for Decertification of Exclusively Recognized Employee Organization. A decertification petition alleging that the incumbent exclusively recognized employee organization no longer represents a majority of the employees in an established unit may be filed with the City Manager only when a contract bar is not in place.

If No MOU is in Effect:

A contract bar is in place, and thus no decertification petition may be filed during the first twelve (12) months after exclusive recognition is granted, commencing the date of formal certification by the Council if no Memorandum of Understanding (MOU) is in effect.

If An MOU is in Effect:

A contract bar is also in place, and thus no decertification petition may be filed, during the entire term of a Memorandum of Understanding except during the thirty (30) day “window period” as described below.

MOU with Term of Three Years or Less:

If a Memorandum of Understanding (MOU) is in effect which has a term of three (3) years or less, including extensions, a contract bar is in place during the entire term of the MOU except during the thirty (30) day window period beginning ninety (90) days prior to the termination date of the MOU and ending sixty (60) days prior to the termination date of the MOU.

MOU with Term of More than Three Years:

If a Memorandum of Understanding is in effect which has a term of more than three (3) years, including extensions, a contract bar is in place during the entire term of the MOU except during the thirty (30) day window period beginning ninety (90) days prior to the end of the first three (3) year period of the MOU and ending sixty (60) days prior to the end of the first three (3) year period of the MOU. The thirty (30) day window period begins again ninety (90) days prior to the end of the next three (3) year period of the MOU and ends sixty (60) days prior to the end of the next three (3) year period of the MOU. Likewise, the window period begins ninety (90) days prior to the end of each subsequent three (3) year period of the MOU and ends sixty (60) days prior to the end of each subsequent three (3) year period of the MOU.

A decertification petition shall include the following:

10.6.1 The name, address and telephone number of petitioner and a designated representative authorized to receive notices or requests for further information; and

10.6.2 The name of the established appropriate unit and of the incumbent recognized employee organization sought to be decertified as the representation of that unit; and

10.6.3 An allegation that the incumbent recognized employee organization no longer represents a majority of the employees in the appropriate unit, and any other relevant and material facts relating thereof; and

10.6.4 Proof of employee support that at least thirty percent (30%) of the employees in the established appropriate unit no longer desire to be represented by the incumbent recognized employee organization. Such proof shall be submitted by confirmation to the City Manager or to a mutually agreed upon disinterested third party, any time when a contract bar is not in place.

An employee organization may, in lieu of filing a Decertification Petition, file a Petition under this section in the form of a Recognition petition that evidences proof of employee support of at least thirty percent (30%) of those in the proposed unit, any time

a contract bar is not in place.

The City Manager shall initially determine whether the Petition has been filed in compliance with the applicable provisions of SECTION 10. If his/her determination is in the negative, he/she shall offer to consult thereon with the representative(s) of such petitioning employees or employee organization and, if such determination thereafter remains unchanged, shall return such Petition to the employees or employee organization with a statement of the reasons therefor in writing. The petitioning employees or employee organization may appeal such determination in accordance with SECTION 10.8. If the determination of the City Manager is in the affirmative, or if his/her negative determination is reversed on appeal, he/she shall give written notice of such Decertification or Recognition Petition to the incumbent exclusively recognized employee organization and to unit employees and shall take no action on said request for thirty (30) days thereafter. Within thirty (30) days of the date the written notice was given, any other employee organization may file a competing petition in accordance with SECTION 10.4.

In the event that the Decertification Petition complies with the request set forth herein, the City Manager shall thereupon arrange for a secret ballot election to be held on or about fifteen (15) days after the expiration of the thirty (30) day period described above, to determine the wishes of unit employees as to the question of decertification and, if a Recognition Petition was fully filed hereunder, the question of representation. The election and formal certification and/or decertification by the Council shall be conducted in conformance with SECTION 10.5.

If pursuant to this SECTION 10.6 a different employee organization is formally acknowledged as the recognized employee organization, such organization shall be bound by all the terms and conditions of any Memorandum of Understanding then in effect for its remaining term.

- 10.7 Procedure for Modification of Established Appropriate Units. Request by employee organizations for modifications of established appropriate units may be considered by the City Manager only when a contract bar is not in place, as specified in SECTION 10.6. Such request shall be submitted in

the form of a Recognition Petition, and shall contain a complete statement of all relevant facts and citations in support of the proposed modified unit in terms of the policies and standards set forth in SECTION 10.1. The City Manager shall process such petitions as other Recognition Petitions in accordance with SECTION 10.

The City Manager may propose that an established unit be modified when a contract bar is not in place. Such proposal shall be based on the determination that the established unit no longer adheres to the criteria set forth in SECTION 10.1. The City Manager shall give written notice of the proposed modification(s) to any affected employee organization and shall hold a meeting concerning the proposed modifications(s), at which time all affected employee organizations shall be heard. Thereafter the City Manager shall determine the composition of the appropriate unit or units in accordance with SECTION 10.1 and shall give written notice of such determination to the affected employee organizations. The City Manager's determination shall be final.

SECTION 11: IMPASSE PROCEDURES

11.1 Mediation. If after a reasonable period of time, representatives of the City and the recognized employee organization fails to reach agreement on matters within the scope of representation, mediation may be invoked, but only by mutual agreement of the parties. In selecting a mediator who is mutually acceptable to the parties, first consideration shall be given to those available at no expense to the parties. In the event that costs are incurred for mediation they shall be divided one-half to the City and one-half to the recognized employee organization or recognized employee organizations.

11.2 Fact Finding

11.2.1 If mediation does not result in settlement of the impasse, fact-finding may be invoked by mutual agreement.

11.2.2 The fact-finding may be either an individual or a three member Council.

11.2.2.1 An individual fact-finder shall be selected by mutual agreement of the parties. If the parties cannot agree upon a fact-finder, a list of five fact-finders shall be obtained from the

California State Conciliation Services or other mutually agreeable source, and each party shall alternately strike one name from the list until only one name remains. The first party to strike a name shall be determined by lot.

11.2.2.2 If the parties agree to the use of a fact finding panel, each party shall select one member of the panel and the two panel members thus selected will select the third who will be the chairperson. If the two designated members of the fact-finding panel cannot agree upon a third member, his/her selection shall be made in accordance with Paragraph 11.2.2.1 immediately above.

11.2.3 The report of the fact-finder shall:

11.2.3.1 Be confidential unless the parties agree to make it public.

11.2.3.2 Be submitted directly to the parties.

11.2.3.3 Be limited to the issues originally referred to the fact-finder, and

11.2.3.4 Include a recommendation if so specified at the time fact-finding is invoked.

11.2.4 Where fact-finding was selected, the parties shall attempt to reach an agreement by negotiation on the basis of the fact-finder's report. If the parties have not reached an agreement within fifteen (15) days after receiving the fact-finder's report, they shall, within the next seven (7) days, submit in writing their positions on the unresolved issues to the Council. The City Manager shall submit a copy of the fact-finder's report to the Council along with his/her own recommendations. The Council shall then take such action regarding the impasse as it deems appropriate, including implementation of new terms and conditions of employment for its employees in that representation unit, or maintaining the status quo. Nothing in this paragraph shall preclude the use of binding fact-finding upon mutual agreement of both parties.

11.2.5 Nothing shall preclude the fact-finder from attempting to resolve the impasse by mediation at any stage of the proceedings prior to

the issuance of the fact-finding report.

- 11.3 Cost. The cost of mediation and fact-finding proceedings shall be divided equally between the parties.
- 11.4 Impasse Resolution. If the parties are unable to come to agreement after mediation and/or fact-finding, the Council shall then take such action regarding the impasse as it deems appropriate, including implementation of new terms and conditions of employment for its employees in that representation unit, or maintaining the status quo.

SECTION 12: CONSTRUCTION

This resolution shall be administered and construed as follows:

- 12.1 Nothing in this resolution shall be construed to deny to any person, employee, organization, the City or any authorized officer, body or other representative of the City, the rights, powers and authority granted by Federal or State law.
- 12.2 This resolution shall be interpreted so as to carry out its purposes as set forth in SECTION 1.
- 12.3 Nothing in the resolution shall be construed as making the provisions of California Labor Code Section 923 applicable to City employees.

SECTION 13: SEPARABILITY

It is understood and agreed that this resolution is subject to all current and future applicable Federal and State laws and regulations and the current provisions of the City of Seaside. If any part or provisions of this resolution is in conflict or inconsistent with such applicable provisions of those Federal, State or City enactments or is otherwise held to be invalid or unenforceable by any court of competent jurisdiction, such part of provision shall be suspended and superseded by such applicable law or regulations, and the remainder of this resolution shall remain in effect.

RULE 18 - OATHS

Each person appointed to a position must, before he or she commences his or her duties, take the oath set forth in Section 3 of Article XX of the Constitution of California. Refusal to take such oath will invalidate any appointment and cause the person's name to be stricken from any eligible list.

RULE 19 - OUTSIDE EMPLOYMENT. Updated June 2016

I. POLICY

No full-time City employee, nor any employee of the City's Police Department, shall engage in any outside employment which is incompatible, inconsistent, in conflict with, or inimical to his or her duties as with his/her employment at the City. Employees must obtain written authorization from his/her Department Director prior to engaging in outside employment to determine compatibility and ensure the employment does not involve prohibited activities. Employees engaging in an outside employment without such authorization do so at their own risk, and may be subject to disciplinary action up to and including termination of employment.

II. DEFINITIONS

1. Employment: Employment is an activity, employment or enterprise where the individual receives monetary compensation in exchange for their work.
2. Outside Employment: Includes both self-employment and employment by others. It does not include the management of one's own investments.
3. Employment by others: Any employment relationship between the City employee and an employer other than the City of Seaside.
4. Prohibited Activities: Outside employment is prohibited if it is inconsistent, incompatible, in conflict with, or inimical (detrimental) to an employee's duties as a City employee or with the duties, functions, or responsibilities of the City. This includes outside employment that:
 - a. Involves unlawful activities.
 - b. Involves the use for private gain or advantage of City time, facilities, equipment and supplies, or the badge, uniform, prestige, or influence of one's City office or employment.
 - c. Involves receipt or acceptance by the employee of any money or other consideration for the performance of any act required of the employee in the course of his or her regular duties.
 - d. Involves the performance of any act which may later be subject directly or indirectly, to control, inspection, review, audit or enforcement by the City or any of its officers or employees.
 - e. Involves investigative or other activity which requires or encourages use of City information, records, files, correspondence, or other official documents which are not generally available to the public.
 - f. Impairs the efficiency or interferes in any way with the performance of the employee of his or her City duties.
 - g. Involves the time demands as would render performance of his or her duties as a local agency officer or employee less efficient.
 - h. Involves a Seaside Police Officer (of any rank) working as a private security

guard, private investigator, or other similar private security position.

III. PROCEDURES

1. Department Director Review of Outside Employment (original requests, annual renewals, and requests for reinstatement).
 - a. Employee: Prior to engaging in outside employment, the employee will complete the “Request for Review of Outside Employment” form (Attachment A), which is available from the Human Resources Department and on the City’s website, and submit it to his or the Human Resources Department.
 - b. Department Director: Within fourteen (14) calendar days of receiving the request, the Director, or his/her designee, will discuss the request with the employee’s immediate supervisor, and the employee as needed, and either “approve,” “approve with conditions,” or “deny” the request.
 - i. If denied, the Director will note the reason(s) for such disapproval on the form.
 - ii. After final disposition, the Director will send a copy of the completed form to the employee, the employee’s immediate supervisor, and the Human Resources Department.
 - iii. If the Director does not respond within 14 calendar days, the Human Resources Director will forward the request to the City Manager for his/her review.
 - c. The Human Resources Department will route the request forms to the appropriate Department Director/City Manager, maintain copies of all authorization forms in the employee’s personnel file, and track annual review period.

2. **Revocation/Suspension of Outside Employment Authorization**

Should a Department Director determine that a previously approved outside employment request should be revoked/or suspended. The Department Director will notify the employee in writing. Any outside employment authorization may be revoked or suspended when the employee’s conduct, or the outside employment, conflicts with the provisions of this policy.

This may include but is not limited to the following circumstances:

- a. The outside employment is deemed to constitute a prohibited activity.
- b. If an employee’s performance declines to a point at which his/her supervisor evaluates him/her as “needing improvement,” and the Department Director determines the outside employment authorization must be revoked in order for the employee to reach an overall level of competency. The revocation will stand until the employee’s performance has been reestablished at a satisfactory level and his/her supervisor recommends reinstatement of the outside employment authorization.

- c. As a term or condition of a sustained discipline related to the outside employment.

3. Less than Full Duty Capacity

When an employee is on light duty or otherwise unable to perform at a full duty capacity due to an injury or other condition, the Department Director may re-review the employee's outside employment to determine whether the outside employment impairs the employee's ability to perform his or her duties as a City employee. A Department Director may revoke or suspend outside employment authorization determined to adversely affect an employee's ability to perform his or her duties as a City employee.

4. Reinstatement of Revoked/Suspended Outside Employment Authorization

When the conditions that resulted in an outside employment authorization to be revoked or suspended cease to exist, the employee may submit an updated Outside Employment Request form to their Department Director to request reinstatement of authorization for outside employment.

5. Annual Review

Employees with approved outside employment authorizations are required to submit a request for renewal to their Department Director on an annual basis (based on the date the request is authorized). The Human Resources Director will send notice of termination of outside employment authorization to employees with outside employment requests that are not renewed thirty (30) calendar days after the year anniversary of the last approval.

6. Changes In Outside Employment Status

If an employee terminates his or her outside employment, the employee shall promptly submit written notification of such termination to the Department Director through the chain of command.

Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

Employees shall also promptly submit in writing to the Department Director any material changes in outside employment including any change in the number of hours, type of duties, or demands of any approved outside employment. Employees who are uncertain whether a change in outside employment is material are advised to report the change.

IV. APPEALS

An employee wishing to appeal the denial, revocation, or suspension of an outside employment authorization shall send a written request to the City Manager within fourteen (14) calendar days of the Department Director's decision. This written request will include an explanation as to why the employee believes the Department's decision should be overturned.

The City Manager will review the documentation and discuss the request with the Department Director, supervisor, and/or employee as he or she feels necessary. The City Manager will make a

determination on the request, after taking all factors into consideration, within fourteen (14) calendar days of receipt of the employee's written request and forward the final determination to the Human Resources Department for distribution. The City Manager's decision is final.

CITY OF SEASIDE
Request for Review of Outside Employment

Name: _____

Title: _____

Department: _____

Check one of the following:

- Original Request Modification of Request
 Termination of Request Reinstatement of Authorization Annual Renewal

Please provide the following information regarding the proposed outside employment situation:

Name of Proposed Employer: _____

Street Address: _____

City, State, Zip: _____

Telephone Number: (____) _____

Statement of duties to be performed (attach a job description if available): _____

If additional space is necessary, attach extra sheet(s) of paper to application.

Hours, Days, and Location of Work: _____

I request that the above outside employment be reviewed to determine if it is in violation of the provisions of the State Government Code.

Employee Signature

Date

See next page for routing instructions

Normal Routing – Send to the Human Resources Department for routing:

- Approved
- Approved with Conditions _____

- Disapproved _____

Department Director Signature Date

After review, keep a copy and send the original to Human Resources.

Appeal Routing – Send to the City Manager:

- Approved
- Approved with Conditions _____

- Disapproved _____

City Manager Signature Date

After review, send the original to Human Resources for distribution.

RULE 20 - SAFETY PROGRAM (Rescinded – Replaced with Injury and Illness Prevention Program (April 2007))

RULE 21 - FLEX TIME FOR EDUCATIONAL CLASSES. Formerly SOP#24.

In an effort to enhance the professional development of employees, the City will make an effort to support job-related educational programs through accommodating requests for flex-time schedules to attend regularly scheduled educational classes.

Requests for flex-time for educational pursuits must meet all of the following criteria:

1. Employee is on permanent full-time status.
2. Attendance at class does not disrupt the regular operation of the department's function or other staff.
3. The class is job-related and or fulfills requirements of an overall educational program (i.e. Certificate, AA, or BA degrees.)

The employee is willing to place his job first priority in emergency situations at work.

Documentation of approved requests for flex-time and the schedule should be filed with the Personnel Office. It is the responsibility of the Department Head to monitor class attendance and work-site production to prevent abuses of the flex-time. Cancellation of the flex-time will result from any abuse. Department Heads will ensure that the granting or denial of flex-time requests for educational classes is consistent with the above criteria and equal opportunity guidelines .

RULE 22 - POLICY AGAINST HARASSMENT, DISCRIMINATION, AND RETALIATION

A. PURPOSE

It is the purpose of this Policy to: establish a strong commitment to prohibit and prevent discrimination, harassment and retaliation in employment; to define those terms; and to set forth a procedure for investigating and resolving internal complaints. The City encourages all covered individuals to report – as soon as possible – any conduct that is believed to violate this Policy.

B. POLICY

The City has zero tolerance for any conduct that violates this Policy. Conduct need not rise to the level of a violation of law in order to violate this Policy. Instead, a single act can violate this Policy and

provide grounds for discipline or other appropriate sanctions.

This Policy prohibits harassment or discrimination against an applicant or employee by a supervisor, management employee, co-worker, contractor, or elected official on the basis of race, religion, color, sex, gender identity, sexual orientation (including heterosexuality, homosexuality and bisexuality), national origin, ancestry, citizenship status, uniformed service member status, marital status, pregnancy, age, medical condition, and physical or mental disability will not be tolerated. This Policy also prohibits retaliation against a person for filing a complaint or participating in the complaint resolution process is prohibited.

This Policy applies to all terms and conditions of employment, including, but not limited to, hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation, and training. Individuals found to have engaged in harassing, discriminatory, or retaliatory conduct in violation of this Policy will be subject to disciplinary action or other appropriate sanction, up to and including termination.

Any individual who has concerns that his or her conduct may violate this Policy, should not engage in the conduct, and instead, should seek guidance from a supervisor or the Personnel Services Manager.

C. DEFINITIONS

- 1. Protected Classifications:** This Policy prohibits harassment or discrimination because of an individual's protected classification(s). "Protected Classification" includes race, religion, color, sex, gender identity, sexual orientation (including heterosexuality, homosexuality and bisexuality), national origin, ancestry, citizenship status, uniformed service member status, marital status, pregnancy, age, medical condition, and physical or mental disability.
- 2. Policy Coverage:** This Policy prohibits all City officials, officers, employees, and contractors from harassing or discriminating against applicants, officers, officials, employees, and contractors because: (1) of an individual's protected classification, (2) of the perception that an individual has a protected classification, or (3) the individual associates with a person who has or is perceived to have a protected classification.
- 3. Discrimination:** This Policy prohibits treating individuals differently because of the individual's protected classification as defined by this Policy.
- 4. Harassment:** Harassment means unsolicited words or conduct which subjectively and objectively offend another person. Harassment includes, but is not limited to, the following examples of behavior undertaken because of an individual's protected classification:
 - a. Verbal harassment,** such as epithets (nicknames and slang terms), derogatory or suggestive comments propositioning, jokes or slurs, including graphic verbal commentaries about an individual's body, or that identify a person on the basis of his or her protected classification. Verbal harassment includes comments on

appearance and stories that tend to disparage those of a protected classification.

- b. Visual forms of harassment**, such as derogatory posters, notices, bulletins, cartoons, drawings, sexually suggestive objects, or e-mails related to a protected classification.
- c. Physical harassment**, such as assault, touching, impeding or blocking movement, grabbing, patting, leering, making express or implied job-related threats in return for submission to physical acts, mimicking, taunting, or any physical interference with normal work or movement.
- d. Sexual harassment**, such as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature or any of the above described conduct when:
 - i.** Submission to such conduct is either an expressed or implied term or condition of an individual's employment, or
 - ii.** Submission to or rejection of such conduct is used as the basis for employment decisions affecting such individual, or
 - iii.** Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating a hostile, intimidating or offensive work environment.

By definition, sexual harassment is not within the course and scope of an individual's employment with the City of Seaside.

- 5. Retaliation:** Any adverse conduct taken because an individual has reported harassment or discrimination, or has participated in the complaint and investigation process described herein.

D. ROMANTIC AND SEXUAL RELATIONSHIPS BETWEEN SUPERVISORS AND SUBORDINATES

Supervisors are prohibited from engaging in romantic or sexual relationships with employees they supervise. There is an inherent imbalance of power and potential for exploitation in such relationships. The relationship may create an appearance of impropriety and lead to charges of favoritism by other employees. A welcome sexual relationship may change, with the result that sexual conduct that was once welcome becomes unwelcome and harassing.

E. GUIDELINES FOR IDENTIFYING HARASSMENT

To help clarify what constitutes harassment in violation of this Policy, use the following guidelines:

1. Harassment includes any conduct which would be "unwelcome" to an individual of the recipient's same protected classification and which is taken because of the recipient's protected classification.
2. It is no defense that the recipient appears to have voluntarily "consented" to the conduct at issue. A recipient may not protest for many legitimate reasons, including the need to avoid

- being insubordinate or to avoid being ostracized.
3. Simply because no one has complained about a joke, gesture, picture, physical contact, or comment does not mean that the conduct is welcome. Harassment can evolve over time. Small, isolated incidents may be tolerated up to a point. The fact that no one is complaining now, does not preclude anyone from complaining if the conduct is repeated in the future.
 4. Even visual, verbal, and/or physical conduct between two employees who appear to welcome it can constitute harassment of a third party who observes the conduct or learns about the conduct later. Conduct can constitute harassment even if it is not explicitly or specifically directed at an individual.
 5. Conduct can constitute harassment in violation of this policy even if the individual engaging in the conduct has no intention to harass. Even well-intentioned conduct can violate this Policy if the conduct is directed at, or implicates a protected classification, and if an individual of the recipient's same protected classification would find it offensive (e.g., gifts, over attention, endearing nicknames).

F. RETALIATION

Retaliation against a person (and his or her associates) who reports or provides information about harassment or discrimination is strictly prohibited. Any act of reprisal violates this Policy and will result in appropriate disciplinary action. Examples of actions that might be retaliation against a complainant, witness or other participant in the complaint process include:

1. Taking sides against, shunning and avoiding, or spreading rumors about an individual because he or she reported harassment or discrimination or participated in a harassment or discrimination investigation;
2. Singling a person out for harsher treatment;
3. Lowering a performance evaluation;
4. Failing to hire, failing to promote, withholding pay increases, assigning more onerous work, abolishing a position, demotion or discharge; or
5. Real or implied threats of intimidation to prevent an individual from reporting harassment or discrimination.

Well-intentioned attempts to insulate or protect a complainant by changing his or her work environment, or schedule, or duties, or by transferring the complainant to another office, may be retaliatory. Before a supervisor takes such action, the supervisor should contact the Personnel Services Manager. Any act of retaliation will be treated as a separate and distinct incident, regardless of the outcome of the harassment or discrimination complaint.

G. COMPLAINT PROCEDURE

An applicant, employee, officer, official, or contractor who feels he or she has been harassed, discriminated against or retaliated against in violation of this Policy should report the conduct immediately. All employees involved in the complaint process may be represented by a person of their choosing and at their own expense.

1. Filing a Complaint. Any employee, job applicant, or contractor who believes he or she has been harassed, discriminated against, or retaliated against may make a complaint verbally or in writing to any of the following individuals. There is no need to follow the chain of command:

- a. Immediate supervisor;
- b. Any supervisor or manager within or outside of the department;
- c. Department Head; or
- d. Personnel Services Manager.

Any supervisor or Department Head who receives a harassment, discrimination, or retaliation complaint must notify the Personnel Services Manager immediately.

2. City's Response to a Complaint. Upon receipt of a complaint of alleged harassment, discrimination, or retaliation, the Personnel Services Manager will be responsible for coordinating a thorough investigation (unless he/she is named in the complaint). The Personnel Services Manager may coordinate the investigation with the complainant's department head and may hire an outside investigator if the City deems appropriate. The type of investigation undertaken, and the party chosen to conduct the investigation, will depend on the nature of the complaint made and will be determined by the Personnel Services Manager. The Personnel Services Manager will report the status of investigations to the City Manager as appropriate.

The City will take reasonable steps to protect the complainant from further harassment, discrimination, or retaliation. The City will also take reasonable steps to protect the complainant from retaliation as a result of communicating the complaint. The Personnel Services Manager, in concurrence with the City Manager, may take interim action to diffuse volatile circumstances, such as placing the alleged perpetrator on paid administrative leave or temporarily transferring the alleged perpetrator. Generally, no interim action should be taken to change the complaining individual's working conditions unless the complaining individual voluntarily consents to the temporary change.

The City takes a proactive approach to potential Policy violations and will conduct an investigation if its officers, supervisors, or managers become aware that harassment, discrimination or retaliation may be occurring, regardless of whether or not the recipient of the alleged action or a third party reports a potential violation.

3. Duties of the Investigator. The investigator will review the complaint allegations in an objective manner and to the extent that the City deems necessary. The investigation will normally include interviews with the reporting individual, the accused, and any other person who is believed to have relevant knowledge concerning the allegations. The investigator will remind all witnesses to maintain the confidentiality of the interview and that retaliation against those who report alleged harassment or who participate in the investigation is prohibited.

4. Remedial and Disciplinary Action. If the investigation determines that the alleged conduct occurred and that the conduct violated this Policy, the City will notify the complainant and perpetrator

of the general conclusion(s) of the investigation and take effective remedial action that is designed to end the violation(s). Any employee or officer determined to have violated this Policy will be subject to disciplinary action, up to and including termination. Disciplinary action may also be taken against any official, supervisor or manager who condones or ignores potential violations of this Policy, or who otherwise fails to take appropriate action to enforce this Policy. Any official or contractor found to have violated this Policy will be subject to appropriate sanctions.

5. Closure. At the conclusion of the investigation, the Personnel Services Manager will notify the complainant in general terms of the outcome of the investigation.

6. Confidentiality. Every possible effort will be made to assure the confidentiality of complaints made under this Policy. Complete confidentiality cannot occur, however, due to the need to fully investigate potential Policy violations and take effective remedial action. An individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview, except as otherwise directed by a supervisor or the Personnel Services Manager. Any individual who discusses the content of an investigatory interview will be subject to discipline or other appropriate sanction. The City will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or a court order.

7. Option to Report to Outside Administrative Agencies. An individual has the option to report harassment, discrimination, or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH). The nearest offices are listed in the government section of the telephone book or employees can check the posters that are located on employer bulletin boards for office locations and telephone numbers.

H. RESPONSIBILITIES OF EMPLOYEES, MANAGEMENT AND SUPERVISORY EMPLOYEES

- 1. Employees.** In order to establish and maintain a professional working environment, while at the same time preventing harassment, discrimination, and retaliation, all employees are expected to:
 - a. Set an example of acceptable conduct by not participating in or provoking behavior that violates this Policy. Employees are expected to treat others with respect and consideration and should model appropriate behavior.
 - b. Report harassment, discrimination, or retaliation as quickly as possible, whether the employee is the target of the conduct or a witness.
 - c. If an employee witnesses harassment, he or she should tell the individual being harassed that the City has a policy prohibiting such behavior, and that he or she can demand that the harasser cease the behavior.
 - d. Maintain confidentiality as required by this Policy.
 - e. Participate in periodic training.
 - f. Fully cooperate with the City's investigation of complaints made under this Policy, including responding fully and truthfully to all questions posed during an investigation.

- 2. Managers and Supervisors.** In addition to the responsibilities listed above, managers and supervisors are responsible for the following:
- a. Implementing this Policy by taking all complaints seriously and modeling behavior that is consistent with this Policy.
 - b. Directing all complaints of harassment, discrimination, or retaliation to the Personnel Services Manager.
 - c. Reporting potential violations of this Policy of which he or she becomes aware, regardless of whether a complaint has been submitted, to the Personnel Services Manager.
 - d. Taking positive steps to eliminate any form of harassment, discrimination, or retaliation observed or brought to his/her attention.
 - e. Making sure no department director, supervisor, or other employee retaliates through any action of intimidation, restraint, coercion, or discrimination.
 - f. Monitoring the work environment and taking appropriate action to stop potential Policy violations.
 - g. Following up with those who have complained to ensure the behavior complained of has ceased.
 - h. Implementing appropriate disciplinary and remedial actions.
 - i. Assisting, advising, or consulting with employees and the Personnel Service Manager regarding this Policy and the complaint procedure.
 - j. Informing complainants of their option to contact the EEOC or DFEH regarding a potential Policy violation.

I. MANDATORY TRAINING

As part of its commitment to ensuring a work environment free from harassment and discrimination, the City requires that all of its employees receive training on this Policy at least once every two years. The Personnel Division will schedule multiple training sessions every year to ensure that employees are able to attend the mandatory training. Attendance at the training will be documented.

J. DISSEMINATION OF POLICY

All employees shall receive a copy of this Policy when they are hired. The Policy may be updated from time to time and redistributed.

RULE 23 - TELEPHONE USE. Formerly SOP #26.

TELEPHONE USE POLICY

City telephones are to be used to transact City Business. Personal use of City telephones is discouraged. To ensure that City telephones are properly used by City Employees, the following

telephone use policy is established.

Procedure

1. The intent of this policy is to ensure that employees accept the financial responsibility for non-City calls.
2. The regular work time of employees should not be used for non-City calls. If the need arises for an employee to make a non-City call, judgment should be used by the employee so that the call occurs at a time it does not interfere with the workload; such calls should be brief and infrequent. The immediate supervisor has the authority and responsibility to exercise judgment in this matter.
3. If a or toll call is placed on a City phone for non-City purposes, the employee is expected to make the call collect or use a "bill to" procedure or reimburse the City for the amount of the call.
4. Each Department Head has the full responsibility for administering this policy within his/her department. Department Heads will ensure that charges for personal calls made by their employees will be reimbursed by payment to the Finance Department.

RULE 24 - INDUSTRIAL DISABILITY RETIREMENT. Formerly SOP #33.

INDUSTRIAL DISABILITY RETIREMENT

A. Introduction

Under State law, it is the responsibility of the City to make determinations relating to disability retirement applications for its employees who are safety members of the Public Employee Retirement System, and relating to reinstatement of such retirees.

As authorized by Government Code Section 21034, the City Council has, with its Resolution No. 85-89, delegated this responsibility to the City Manager or his designee and authorized and directed the City Manager to establish appropriate rules and procedures to implement the Resolution. (Attachment 1).

The following procedures have been established by the City Manager pursuant to the Council's Resolution. In the event of a conflict between the Administrative Procedures Act (APA) and these City regulations, the APA shall control.

B. Filing of Application for Disability Retirement By Employee

1. The P.E.R.S. Application for Retirement form shall be completed, the employee shall send the original to P.E.R.S. at the indicated P.E.R.S. address in Sacramento, and file a copy of

the completed form with the Department Head.

2. This form must be fully completed and signed by the applicant, and have attached any supporting documentation, in order to be actioned by the city.

C. Filing of Application by Disability Retiree for Reinstatement

Pursuant to Government Code Section 21101, an employee previously retired from City service for disability may apply for reinstatement on the basis that he is no longer incapacitated by submitting to the Department Head, in writing, all the facts and circumstances forming the basis for his application for reinstatement.

D. Filing of Application to Amend Regular Service Retirement to Industrial Disability Retirement

An employee previously retired from city service may apply to amend regular service retirement to industrial disability retirement. Upon receipt of such application, the Fiscal Services Officer shall investigate the facts and circumstances pertaining to the retiree's application as he/she deems appropriate.

E. Submission of Employee's Application

The Department Head shall within ten (10) calendar days of receipt submit the employee's application to the City Manager.

F. Acknowledgement of Application by City

Within fifteen (15) calendar days of receipt of the duly completed application with supporting documentation, a notice shall be sent by the City Manager, to the employee and the representative designated in his/her application (if any) acknowledging receipt of the application, and transmitting to the applicant or his/her representative, a copy of these rules and procedures.

G. Investigation and Proposed Disposition

1. The Fiscal Services Officer shall have the authority and duty to investigate the facts and circumstances pertaining to the employee's or retiree's application as he/she deems appropriate. Such fact-finding may include ordering the employee or retiree to submit to medical examinations, securing by subpoena duces tecum or otherwise medical and other reports, records, and documentation for review, and taking statements by deposition or otherwise of the employee, retiree, and/or other persons.
2. The Fiscal Services Officer shall thereafter, based upon the investigation, make a proposed disposition to the employee or retiree with copies to the designated representative, if any, and the Department Head.

a. This notice shall indicate the proposed disposition and that the City Manager shall certify such disposition to P.E.R.S. unless an objection is filed with the City Manager by the applicant prior to the expiration of fifteen (15) calendar days from the date of the notice.

H. Final Disposition of Application or Recommendation In Absence of Objection(s)

If no objection is received within fifteen (15) calendar day period, the City Manager shall certify the proposed disposition to the P.E.R.S.

I. Informal Conference if Objection(s) Timely Filed

1. If timely objection is received, the Fiscal Services Officer shall schedule a conference in no less that 10 nor more 20 calendar days, with written notice to the employee or retiree, his designated representative, if any, and such other involved City personnel or agents as he/she deems appropriate. Such notice shall be deposited in the United States Mail at least ten (10) calendar days prior to such conference. The Fiscal Services Officer designee shall preside over the conference.

2. The purpose of the conference shall be to afford the parties an opportunity to reach agreement as to final disposition of the matter, and if no such agreement is reached, to ascertain if any parties in interest request a hearing on the application or recommendation and, if so, to frame issues, enter into stipulations, and discuss dates for the commencement of the hearing, which shall be no later than ninety (90) days (if there is no rehabilitation evaluation pending), or one hundred eighty (180) calendar days (if the employee is being evaluated for rehabilitation), from the date of the conference.

J. Filing of Medical Reports and Documentary Evidence

No later that twenty (20) calendar days before the scheduled commencement of the hearing, each party shall file with the City Manager and serve on the other party, any and all medical reports and records and other documentary evidence to be relied upon in the presentation of their case.

K. Hearing Continuances

Scheduled hearing dates may be continued by the City Manager or his designee pursuant to stipulation of the parties or pursuant to written motion of one of the parties made as least two (2) weeks prior to the hearing date, for compelling cause (with a copy of such written motion served on the other party).

L. Conduct of Hearing

1. The conduct of the hearing shall be under the direction of the City Manager or his designee.
2. The proceedings at the hearing shall be recorded by a certified court reporter, or, if stipulated by all parties in interest, may be electronically recorded.
3. The issues to be considered at the hearing, by stipulation and/or the presentation of evidence, are:
 - a. Disability - Is the employee or retiree substantially incapacitated at the present time from the performance of duties of his/her current or last job classification and if so, is such incapacity permanent or of an uncertain and extended duration?
 - b. If the employee is found to be disabled due to mental disorder, is he competent to act on his behalf in legally binding retirement matters?

Industrial Causation - If the employee is disabled, did the disability arise out of and in the course of City employment?
 - d. Should the employee be certified to P.E.R.S. for:
 1. Industrial disability retirement, or
 2. Non-industrial disability retirement, or
 3. Regular service retirement, or
 4. No retirement benefits?
 - e. What is the effective date of any retirement?
 - f. Has a rehabilitation program been offered to the employee, and if so, what is the status of such program?
 - g. Is there any third party liability related to the injury which caused the disability?
4. The moving party shall proceed first, and shall have the burden of proof.
5. The City Manager or his designee shall not be bound by technical rules of evidence, and shall be guided in conducting the hearing by the normal rules applicable to administrative proceedings.
6. Each party has the right to be represented, to present relevant evidence, to examine and cross-examine witnesses, and to object to, rebut and argue the probative value of such evidence.
7. An Attorney provided by the insurance carrier shall be available to advise the City Manager or his designee on points of evidence and law at all points in the proceedings.

8. The hearing shall continue from day-to-day until the proceedings are concluded or continued to a date certain within the discretion of the City Manager or his designee.

M. Costs

1. The parties shall each bear all costs incurred by each such party, including the costs of their witnesses and representatives, and the costs of a transcript of the hearing ordered by such party; and shall share equally the mutually incurred costs of the hearing, including the charges of the court reporter or the other means used for recording the proceedings.

N. Findings and Conclusions

Within thirty (30) calendar days of the closing of the record, the City Manager shall provide the parties in interest and their representatives with his/her written findings of facts and conclusions, which shall constitute the City's final action on the employee's or retiree's application, and it shall so certify to the P.E.R.S. within said thirty (30) day period.

O. Decision of Hearing Officer Advisory

When a hearing officer has been designated by the City Manager to hear the appeal, the decision of the hearing officer is advisory. The hearing officer may recommend the sustaining or rejecting of the determination against the employee. The decision shall be filed with City Manager and shall set forth all findings and conclusions.

The City Manager may sustain, reject or modify the findings, conclusions and recommendations of the hearing officer. The decision of the City Manager shall be final.

P. Further Appeal

An aggrieved party may appeal the City Manager's final decision in the manner and to the extent provided by state law.

RULE 25 - USE OF SICK LEAVE. Formerly SOP #60.

USE OF SICK LEAVE

This rule may be superseded by individual bargaining unit agreements.

Use of accumulated sick leave with pay can be granted only upon the approval of the Department Head in case of a bona fide illness or injury of an employee precluding the employee from performing his/her duties. Evidence may be required in the form of a physician's certificate in determining the adequacy of

the reasons for any employee's absence during the time for which sick leave is requested. The Department Head may request a physician's certificate anytime an employee requests sick leave. If necessary, release of relevant medical records may be requested.

All employees shall submit a physician's certificate to the Department Head when:

- Requested by the Department Head, or
- Sick leave request is the fourth or more request for a full day/shift during current fiscal year or
- Sick leave request is for more than (3) consecutive days.

All employees requesting sick leave for more than three days in succession shall submit a physician's certificate to the Department Head. The Fire Department's shift personnel requesting sick leave for more than one shift in succession shall submit a physician's certificate to the Fire Chief.

Exceptions to the requirement for a physician's certificate may only be granted by the City Manager at the request of the Department Head.

The physician's certificate shall state the reason for granting sick leave and a date upon which the employee may return to work.

It shall be management's right and responsibility to monitor sick leave usage. The misuse of sick leave or excessive absenteeism shall be grounds for disciplinary action.

AUTHORIZATION TO RELEASE MEDICAL RECORDS OR INFORMATION
(CIVIL CODE 5611)

TO: _____

I, the undersigned, authorize the above-named provider of service to release to

any and all medical records, charts, notations, correspondence, reports, photographs and films, except
unless specifically excluded below:

The disclosure of records authorized herein is required for the following purpose:

This authorization shall become effective immediately and shall remain in effect as long as is necessary
for Requester to fulfill the obligations required by the activities undertaken, but nevertheless shall
expire on the conclusion of my matter or 90 days from the date below whichever comes first.

This is an informed consent for the release of my records, and I have a right to receive a copy of this
authorization upon request.

A photocopy of this signed authorization shall be deemed as valid as the original.

I hereby also specifically consent to the release of any and all alcohol, drug abuse, or psychiatric
treatment records under the same conditions as outlined above.

(Signature)

(Date)

(Patient Name)

(Date of Birth)

RULE 26 - LEAVE DONATION POLICY (updated August 2016)

I. PURPOSE

There have been occasions when an employee, due to an unforeseen illness or injury, has exhausted all forms of paid time off. Such seriously ill or injured employees have been forced to go without compensation for a length of time after the exhaustion of their paid time off. This Policy is designed to address such circumstances. The purpose of this Policy is to establish a program and procedures for employees to voluntarily donate a portion of their accumulated leave time for use by fellow employees who meet the criteria for eligibility. Participation by donors and/or recipients in the Leave Donation Program is entirely voluntary.

II. CREATION OF LEAVE BANK

As a result, the City shall establish a City-wide leave bank where donated leave will be held for the future use under the terms of this Policy.

III. VOLUNTARY LEAVE DONATIONS

Employees may voluntarily donate leave, subject to the following requirements:

- A. Employee Status:** Any full-time employee who has obtained “regular” non-probationary status with the City, is eligible to participate as a donor in this program.
- B. Request to Donate:** A donating employee must prepare and submit to the Human Resources Director a “Request to Donate to Leave Donation Bank” form. The Human Resources Director may deny any request to donate that does not comply with this Policy.
- C. Donation upon Separation:** A separating employee may donate up to 80 hours of sick leave to the leave bank. Donated leave will be removed from the separating employee’s leave bank and will not be used for CalPERS sick leave service credit purposes.
- D. Minimum Donations:** Employees may only donate from their accumulated sick leave and vacation leave balances. The donation must be in a minimum of eight (8) hours. Donations must be in whole-hour increments; no fractions of hours may be donated.
- E. Minimum Leave Balance:** An employee donating leave must retain at least eighty (80) hours of accumulated sick leave in their own personal leave balances. If a donation would require an employee’s total accumulated sick leave balance to drop below eighty (80) hours immediately after the donation the employee shall not be eligible to make a donation.

- F. Approval/Denial:** The Human Resources Director shall approve or deny each offered donation, if any, to the Leave Donation Bank in accordance with the requirements of this Policy.
- G. Transfer to Leave Donation Bank:** The City’s Finance Division will transfer approved donated leave into the Leave Donation Bank from the accrued leave balances of the employee making the donation.
- H. Donations Irreversible:** Donations of leave transferred to the Leave Donation Bank will be dispersed as the need arises. Time is released on a pay period by pay period basis. All donations are irreversible and retroactive donations are not permitted.
- I. Prohibition on the Sale of Leave:** The sale of accrued leave to any employee is not permitted.
- J. Confidentiality of Donations:** Under no circumstances shall the City disclose participants in the program, either employees donating leave or employees requesting use of donated leave. All leave donations shall be confidential.
- K. Taxation:** Pursuant to IRS Ruling 90-29, leave donated under this program shall not be considered wages for the donating employee and will therefore not be included in the donating employee’s gross income or subject to withholding.

IV. REQUESTING AND USING DONATED LEAVE

- A. Eligibility of Employee for Leave Donations:** To be eligible to receive donated leave from the Leave Donation Bank, an employee must meet all the following conditions:
 - 1. Meet the criteria for use of leave in accordance with City Personnel Rules and/or applicable memorandums of understanding.
 - 3. Have been employed by the City in a regular position for at least one year.
 - 4. Be on an approved leave of absence.
 - 5. Submit the FMLA/CFRA Certification of Health Care Provider form to the Human Resources Director which indicates:
 - a) That the employee’s absence is due to one of the following qualifying reasons:
 - i. The employee has a “serious health condition,” as defined by the Federal Family and Medical Leave Act and the California Family Rights Act, that requires the employee's absence from work for longer than five (5) consecutive work days,

including intermittent absences that are related to the same "serious health condition"; or

- ii. The employee is caring for his or her spouse, registered domestic partner, or parent (including biological, foster, adoptive or step-parents or legal guardians), parent-in-law, child (including biological foster, adopted or step-child, legal ward child of a registered domestic partner, or child of a person standing in loco parentis), sibling, grandparent, or grandparent-in-law, brother-in-law, sister-in-law, or any person who is a legal dependent of the employee. ("Immediate Family Member"), who has a "serious health condition" that requires the employee's absence for longer than two (2) pay periods.

and

- b) Estimates the duration of the employee's absence from work.
6. Have applied for short-term disability or long-term disability insurance, if any, for Workers' Compensation benefits, if eligible, or for other supplemental benefits
 7. Have exhausted all earned leave balances (including vacation, compensatory time, and administrative leave), but have not begun receiving short-term or long-term disability benefits. However, the Human Resources Director may approve the request for leave donations prior to all balances being exhausted when the physician's statement and existing leave balances indicate that all such balances will be exhausted within the five (5) consecutive work days.
- B. Request for Donated Leave:** Eligible employees must submit to the Human Resources Director a Request for Donated Leave form accompanied by the statement from their treating physician described above. The request and accompanying physician's statement must be submitted in a sealed envelope labeled "Confidential – Request for Donated Leave." If the requesting employee is unable to make the request on his/her own behalf, the employee's authorized agent may submit a request on the employee's behalf.
- C. Approval of Request:** The Human Resources Director will approve or deny the Request for Donated Leave.
- D. Payment of Leave:** Donated leave shall be paid to the employee from the first pay period following the approval date, and payments are not retroactive.
- E. Return to Work:** Should the requestor return to work prior to the leave payout

being utilized, the remaining leave payout will be re-credited to the Leave Donation Bank.

- F. Use of Donated Leave:** While using leave from the Leave Donation Bank, the recipient will be treated as though he/she was using his/her own leave (for example, at their regular rate of pay, based on their regular work schedule, etc.) except that they will not accrue paid leave. Donated leave payments will be reduced as of the date the employee becomes eligible to begin receiving wage replacement benefits, including but not limited to short-term disability benefits, long-term disability benefits, and workers' compensation benefits. An employee receiving wage replacement benefits may use donated leave to make up the difference between wage replacement benefits and his/her base wages; however, use of donated leave shall not allow an employee to exceed his/her base wages.
- G. Maximum Use:** No employee will be eligible to use more than 240 hours of donated leave in a 5 year period. Any donations made to the donated leave bank will during a 5 year period will off-set any time used during that same period.
- H. Taxation:** The donated hours used by the recipient are taxable to him/her in accordance with Internal Revenue Service regulations and are subject to withholdings as required by law.
- I. No Guarantee:** There is no guarantee of the availability of leave donations under this Policy, and this Policy does not entitle employees to extra leave during an unforeseen illness or injury.
- J. Multiple Participants:** If more than one employee requests participation in the leave donation program at the same time, the participants will draw leave from the leave bank until it is exhausted or until their approved leave ends. Preference will not be afforded to one employee over the other.

V. LEAVE DONATION BANK

The Leave Donation Bank and program shall be administered as follows:

- A. Administration:** The Human Resources Director will administer the Leave Donation Bank and coordinate the leave donation program, with review and oversight provided by the Finance Division. The Leave Donation Bank may be abolished at any time, at the discretion of the City, subject to the meet and confer process on the effects of the abolishment.
- B. Accounting for Donated Leave:** Leave donated to the Leave Donation Bank shall be converted to a cash value based on the donating employee's hourly rate of pay. Leave paid out shall be converted to leave hours based on the recipient employee's hourly rate of pay.

- C. Taxation:** State and Federal income tax on the value of the leave shall be reported as income and taxable to the recipient, in accordance with Internal Revenue Service regulations, and are subject to withholdings as required by law.
- D. Confidentiality:** All persons who coordinate the leave donation program shall emphasize the voluntary nature of the contribution. The collection and distribution of leave time shall be done in a way to ensure confidentiality for the donors and the recipients. The names of the donors and recipients shall not be disclosed. The Human Resources Director will receive an employee's request for leave and confidential statement from the requestor's physician in a manner consistent with the Federal Family and Medical Leave Act and the California Family Rights Act.
- E. Leave Drive:** At any time, or when the Leave Donation Bank is depleted, the Human Resources Director may hold a leave donation drive for eligible employees to donate leave under this program. Donors and recipients will not be disclosed.
- F. Modification/Termination:** The City has sole discretion to modify this Policy as it deems necessary subject to the meet and confer process on the effects of that decision. This Policy and the Leave Donation Bank may be abolished at any time, at the discretion of the City. If hours are remaining in the Leave Donation Bank at the time it is abolished, the City will credit all donors' leave balances with a pro rata share of the hours remaining in the Bank in accordance with the number of hours each donor contributed, during the preceding 12 months.
- G. No Grievance:** An employee who has been denied the right to receive donated leave under this Policy, or denied the ability to donate leave, may file a written request for review with the City Manager. The request for review must be filed with the City Manager within 5 working days of knowledge of the incident upon which the request for review is based and must contain (1) a brief statement as to the date of the occurrence of which the review is requested, (2) the facts as the employee sees them, and (3) the provision in this Policy on which the review is requested. The City Manager shall provide a response within 10 working days of receipt of the employees request for review. The City Manager's decision shall be final and not subject to any City grievance process or any collective bargaining agreement grievance process.

Donated Leave Bank Pledge Form

CONFIDENTIAL

I have read Rule 26 of the Personnel Policies and Procedures Manual and wish to donate leave as follows:

I, _____ (print name), voluntarily donate:

_____ hours of sick leave (minimum of 8 hours) and

_____ hours of vacation time (minimum of 8)

to the City's Donated Leave Bank. I understand that my donation is irrevocable and my donated leave will not be returned to me.

Employee Signature

Date

Human Resources Director Authorization:

Approved: _____ Date: _____

Denied: _____ Date: _____

Reason for Denial:

Request for Donated Leave

CONFIDENTIAL

I read Rule 26 of the Personnel Policies and Procedures Manual and wish to participate in the Leave Donation Program.

I certify that I meet the eligibility criteria in Section IV. (A) of Rule 26 including:

1. I have a serious health condition which will preclude me from working for longer than 5 consecutive work days; or my Immediate Family Member has a serious health condition which will require my absence from work for longer than two pay periods.
2. I have exhausted all of my earned leave, or my leave balances will be exhausted within the next five working days.
3. I provided the Human Resources Director with a completed FMLA/CFRA Certification of Health Care Provider form on which my physician certified that my absence is for a FMLA/CFRA qualifying reason.
4. I understand that I cannot use more than 240 hours of Donated Leave in a 5 year period.

Employee's Signature

Date

Human Resources Director Authorization:

Approved: _____ Date: _____

Denied: _____ Date: _____

Reason for Denial:

RULE 27 - MILITARY LEAVE OF ABSENCE. Formerly SOP #68.

POLICY STATEMENT

Purpose

To reiterate the City's commitment to equal employment opportunity to all applicants and employees who are members of the military or naval reserves, National Guard or State Militia and whose employment with the City is voluntarily or involuntarily interrupted by active military duty or by reserve training duty including weekly or weekend drills or by having to report for fitness examinations for military service.

Policy

No officer or employee of the City shall discriminate against any officer, warrant or enlisted man or woman of the military or naval reserves, National Guard or State Militia because of his or her membership therein. No member of such military forces, reserves, Guard or militia shall be prejudiced, injured, hindered or prevented by any officer or employee of the City with respect to his or her employment, appointment, position or status or be denied or disqualified or discharged from his or her employment or position by virtue of his or her performance of any ordered military service or duty, drill or attendance at annual tours of training such as encampments and cruises, any special courses or instruction, as well as service required pursuant to a call-up for active duty. Any officer or employee violating any of the provisions of this policy is subject to appropriate disciplinary action.

Action

The procedures described in enclosure (1) will be followed in processing requests under this policy.

MILITARY LEAVE OF ABSENCE

General

Any City employee who is a member of the Ready Reserves or a Reserve component of any branch of the Armed Forces, National Guard or State Militia is entitled to a leave of absence from City employment to perform active military duty (call-up), weekly or weekend drills, annual tours of training duty such as: encampments, naval cruises, and any special courses of instructions or like activity or by having to report for fitness examinations for military service.

Definition

1. Active Duty - ordered periods of military duty on a full time basis for: training, start-up periods, annual tours of duty such as summer camps, cruises, any special courses or instructions and call-

up (war or national or state emergency).

2. Inactive Duty - weekly or weekend drills. Attendance at scheduled drills shall be on the employee's own free time, comp time or vacation time. If such reserve obligation falls on the employee's regular work shift, the supervisor or Department Head will make every attempt to change the employee's schedule to avoid the necessity of using vacation time or comp time, provided ten (10) working days notice is received from the employee.

Request for Leave of Absence

In order to be eligible for a military leave of absence, employees must submit a Form S-92, Request for Leave and written verification (copy of orders) from the appropriate military authority to their immediate supervisor ten (10) working days in advance of the date that the leave is to begin or as soon as orders are received. Request for military leave of absence must also include an approximate date of return to work.

Compensation

Any employee, who has been employed for not less than one year with the City immediately prior to the date upon which his or her military leave of absence begins, shall receive the same vacation, sick leave and holiday privileges and the same rights and privileges to promotion, continuance in office, employment, reappointment to office, or reemployment that he/she would have enjoyed had he/she not been absent; excepting that an uncompleted probationary period if any, must be completed upon reinstatement as provided by state and/or federal law. Such employee is also entitled to all pay and compensation for the first thirty (30) calendar days of such absence. Pay for such purposes shall not exceed thirty (30) calendar days for any one military leave or during any one fiscal year. For purposes of determining the one year of service with the City, all service of such employee in recognized military service shall be counted as public agency (City) service.

SECTION I: EMPLOYMENT RIGHTS - ACTIVE DUTY FOR TRAINING OR INACTIVE DUTY

Requirements

1. Must be a Reservists (including National Guard).
2. Must return to work at the beginning of the next regularly scheduled working period after expiration of the last calendar day necessary to travel from place of training to the place of employment following employee's release, or within a reasonable time thereafter if delayed return is due to factors beyond employee's control.
3. If hospitalized incidental to active duty for training or inactive duty, employee is required to report to work at the beginning of the next regularly scheduled work period after expiration of the time necessary to travel from the place of discharge from hospitalization to the place of employment, or within a reasonable time thereafter if delayed return is due to factors beyond

employee's release from active duty for training or inactive duty, whichever is earlier.

4. Employee's will be considered still qualified to perform the duties of the position formerly held if, with or without reasonable accommodation, such employee(s) can perform the essential functions of the position. The City will make reasonable accommodations to the known physical or mental limitations of an otherwise qualified person with a disability.
5. Failure to report to work at the next regularly scheduled working period shall make the employee subject to appropriate discipline according to City Personnel Policies & Procedures, SOP #27, Disciplinary Actions.

Benefits

1. If an employee is no longer qualified to perform the duties of the position formerly held by reason of disability sustained during active duty for training, but is qualified to perform the duties of any other position within the City, the employee will be offered employment that will provide such employee like seniority, pay and status, or the nearest approximation thereof consistent with the circumstances of the employee.
2. If employed with the City for not less than one year, upon return employee shall be returned to former position in the same locality with such seniority, status, pay, vacation and sick leave, holiday privileges and the same rights and privileges to insurance and health benefits, promotion, continuance in office, reappointment to office enjoyed prior to being on military leave. An uncompleted probationary period must be completed upon reinstatement.
3. If position has been abolished, employee is entitled to a position of like seniority, status and pay if one exists within the City.
4. If none exists, employee is entitled to the same rights and privileges such employee would have had if he/she occupied the position when it ceased to exist.
5. Employee's returning from active duty for training or inactive duty training shall not be denied retention in employment or any promotion or other incident or advantage of employment because of any military obligation.

SECTION II : REINSTATEMENT RIGHTS FOR RESERVIST ENTERING UPON ACTIVE DUTY

Requirements

1. Enters upon active duty (other than for training or fitness examination) in response to an order or call to active duty.
2. Responds voluntarily or involuntarily.

3. Must be released from active duty under honorable conditions.
4. The total of such active duty performed does not exceed four years (plus in each case any additional period in which such employee was unable to obtain orders relieving them from active duty), or five years, if additional service is at the request and convenience of the federal government.
5. Must apply for reinstatement within 90 days after release from active duty or from hospitalization continuing after discharge for a period of not more than one (1) year.
6. Still qualified to perform the duties of former position or able to become requalified with reasonable accommodations from the City.

Benefits

1. Any active duty that is voluntarily or involuntarily extended during a period when the President is authorized to order units of the Ready Reserve or members of a Reserve component to active duty shall have the service limitations governing eligibility for reemployment rights extended by such employee's period of active duty, but not to exceed that period of active duty to which the President is authorized to order units of the Ready Reserve or members of a Reserve component.
2. With respect to an employee who voluntarily enters upon active duty and whose active duty is voluntarily extended, reemployment rights apply only if the additional active duty is at the request of and for the convenience of the Federal government.
3. Considered to be on leave of absence.
4. Upon return and reentry to the office or employment, the employee shall have all of the rights and privileges in, connected with or arising out of the office or employment which he or she would have enjoyed if he or she had not been absent.
5. Such employee shall not be entitled to accrue sick or vacation leave during the period of active duty. Entitled to receive salary for the first 30 calendar days only.
6. Any employee other than a probationer who is restored to this or her former office or position shall not be discharged from their office or position without cause within one (1) year after restoration.
7. Entitled to participate in health insurance and other benefits offered by the City according to established rules and policies relating to other employees on furlough or leave of absence that were in effect at the time employee left his or her office or position due to military active duty.

SECTION III: RESERVISTS INITIAL PERIOD OF ACTIVE DUTY

Requirements

1. Must be a Reservists (including National Guard).
2. Ordered to an initial period of active duty of not less than twelve (12) consecutive weeks (3 months).
3. Applies for reinstatement within 31 days after: (1) release from active duty for training after satisfactory service, or (2) discharge from hospitalization incident to active duty for training or one (1) year after employee's scheduled release from training, whichever is earlier.

Benefits

1. Same as Section I, Active Duty for Training or Inactive Duty, except no discharge from employment without cause for six months.

SECTION IV: REEMPLOYMENT RIGHTS FOR EMPLOYEES INDUCTED INTO ARMED FORCES

Requirements

1. Inducted while employed and not in a temporary position.
2. Must receive a certificate of satisfactory military service upon completion of military service.
3. Must apply for reemployment within 90 days after release or 1 year from hospitalization continuing after discharge.

Benefits

1. Considered to be on leave of absence.
2. Entitled to be restored to former position of if position abolished, to a position of like seniority, status and pay.
3. All other benefits and entitlements as in Section I, Active Duty for Training or Inactive Duty, except no discharge from employment without cause for one year after restoration.
4. Restored in a manner as to give employee such status in employment as the employee would have enjoyed if employment had been continuous.
5. Entitled to any additional rights granted by state or local government.

SECTION V: REEMPLOYMENT RIGHTS OF EMPLOYEES WHO ENLIST IN THE ARMED FORCES

Requirements

1. Enlists in any branch of the Armed Forces after entering employment and out in a temporary position.
2. Enlists in other than a Reserve component of the Armed Forces.
3. The total of such employee's service does not exceed four years, and the total of service, additional or otherwise, does not exceed five years, if the service in excess of four years is at the request and convenience of the Federal government (plus in each case any period of additional service imposed pursuant to law).
4. Released from service under honorable conditions.
5. Applies for reemployment within 6 months after release from service or within 12 months of first date he or she could have terminated active service or from hospitalization after discharge from active service.

Benefits

1. The right to reentry into public office or employment provided for in this section includes the right to be restored to such city civil service status as the officer or employee would have if he or she had not so resigned; and no other person shall acquire city civil service status in the same position so as to deprive such officer or employee of his or her right to restoration as provided herein.

2. Considered to have been on furlough or leave.
3. All reemployment rights and benefits as provided in Section I, Active Duty for Training or Inactive Duty. Cannot be discharged without cause for one year after restoration.

SECTION VI: PREINDUCTION PHYSICAL EXAMINATION

Requirements

1. Any employee covered by Section IV above, shall be considered as having been on leave of absence during the period required to report for the purpose of being inducted into, entering or determining, by preinduction or other examination, physical fitness to enter the Armed Forces.

Benefits

1. Upon such employee's rejection, upon completion of such employee's preinduction or other examination or upon such employee's discharge from hospitalization incident to rejection or examination, such employee shall be permitted to return to such employee's position according to Section I, Active Duty for Training or Inactive Duty.

SECTION VII: RESERVISTS ORDERED TO ACTIVE DUTY UNDER PRESIDENT'S POWER TO MOBILIZE 100,000 RESERVISTS FOR 90 DAYS IAW 10 USC 673B

Requirements

1. Must be a Reservists.
2. Ordered to Active Duty (10 USC 673b).
3. Voluntarily or involuntarily.

Benefits

1. Same as Section II, Entering Upon Active Duty and Section I.

Compliance With Legal Requirements. Exceptions to this policy will occur wherever necessary to comply with applicable laws.

References:

Title 38, United States Code, Chapter 43, Sections 2021 - 2024
California Military & Veterans Code, Sections 394 - 395.4

RULE 28 - Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA) POLICY. Updated December 2012

GENERAL PROVISIONS

It is the policy of City of Seaside to grant or designate up to 12 weeks of federal Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA) during any 12-month period to eligible employees. Under FMLA, employees may also take an additional 14 weeks when the leave of absence qualifies under the Service Member Family leave provisions. An employee may take leave in consecutive weeks, may use the leave intermittently (periodically, as needed), or may use the leave to reduce the workweek or workday, resulting in a reduced work schedule.

City of Seaside will post notices explaining the rights and responsibilities under the Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA) on the bulletin board(s) or in other appropriate locations that are frequented by employees.

City of Seaside will not interfere with, restrain, or deny the exercise of any right provided by this law, or discharge or discriminate against any employee because of involvement in any proceeding related to FMLA and/or CFRA. All FMLA and/or CFRA leaves of absence will be administered in accordance with applicable federal and state laws.

Because an employee's specific needs may require coordination of various leaves and the provisions of this leave can be confusing, employees are encouraged to seek additional information from the *Personnel Services Manager*.

ELIGIBILITY

In order to qualify to take FMLA and/or CFRA under this policy, the employee must meet ALL of the following conditions:

- The employee must have worked for City of Seaside at least 12 months, or 52 weeks. The 12 months, or 52 weeks, need not have been consecutive. For eligibility purposes, an employee will be considered to have been employed for an entire week even if the employee was on the payroll for only part of a week or if the employee is on leave during the week. For FMLA, the 52 weeks must have been within the previous 7 years.
- The employee must have worked at least 1250 hours during the 12-month period immediately before the date when the leave would begin.
- Employee must have given notice of need for FMLA and/or CFRA leave at least 30 days in advance or as many days as reasonably possible prior to the beginning of the leave.

TYPES OF LEAVES COVERED

Leave under FMLA and/or CFRA may be taken for any one or more of the following reasons:

1. **BONDING:** Following the birth of a child or placement of a child for foster care or adoption, so long as the leave is concluded within 12 months of the birth and/or placement of the child

(CFRA provides this leave separately although it does not cover disability due to pregnancy);

2. **FAMILY CARE:** The care of the employee's spouse, domestic partner (CFRA only), child (defined to include child of domestic partner for purposes of CFRA) or parent with a "serious health condition;"
3. **EMPLOYEE'S SERIOUS HEALTH CONDITION:** The "serious health condition" (described below) of the employee, which prevents the employee from performing the essential functions of his or her job;
4. **PREGNANCY DISABILITY LEAVE (PDL – FMLA ONLY):** Medical disability due to pregnancy, childbirth or a related medical condition is covered under FMLA as the Employee's own Serious Health Condition. Because PDL does not have a length of service requirement similar to FMLA, see section below specifically regarding PDL;
5. **QUALIFYING EXIGENCY (FMLA ONLY):** A qualifying exigency arising out of the employee's spouse, child, or parent's call to active duty in the Armed Forces including the Reserves or National Guard (or notification of impending call or order to active duty) in support of a contingency operation. A "qualifying exigency" includes: short notice deployment, attendance at official military events or activities, arranging or providing child care, attending school or day care meetings, handling financial and legal matters, and rest and recuperation visits when the soldier is on leave;
6. **SERVICE MEMBER FAMILY LEAVE (FMLA ONLY):** To care for a covered service member with a serious injury or illness incurred in the line of duty on active duty if the eligible employee is the spouse, child, parent or next of kin of the service member.

DEFINITIONS FOR SERIOUS HEALTH CONDITION LEAVES

A "serious health condition" is one that requires in-patient care in a hospital or other medical care facility, or continuing treatment or supervision by a health care provider. This policy covers illnesses of a serious and long-term nature, resulting in recurring or lengthy absences. Generally, a chronic or long-term health condition which, if left untreated, would result in a period of incapacity of more than three days, would be considered a serious health condition. Employees with questions about what illnesses/health conditions are covered under FMLA and/or CFRA or under City of Seaside's sick time policy are encouraged to contact the Personnel Services Manager for assistance.

If an employee takes time off from work for reasons other than FMLA and/or CFRA, and incurs an injury or experiences a condition that progresses into a health condition that might be covered by FMLA and/or CFRA, he/she is required to contact City of Seaside for determination of eligibility. If the employee fails to notify City of Seaside of such occurrence, City of Seaside may designate the leave as FMLA and/or CFRA when they become aware that it may have met the qualification.

An employee may take a leave under FMLA and/or CFRA to care for his or her spouse, domestic partner (CFRA only), child (defined to include child of domestic partner under CFRA), parent or next of kin (only under FMLA Service Member Leave) only if the person receiving the care is unable to care for his or her basic needs or the employee is needed to provide psychological comfort

or safety, as certified in writing by a health care provider.

While FMLA, CFRA and PDL laws are similar and often run concurrently, the following types of leave have specific provisions that warrant further information as follows:

Leave Type – Pregnancy Disability Leave (PDL)

Definition For Pregnancy Disability Leave (PDL)

Time off from work because of a female employee’s medical disability due to pregnancy, childbirth or related medical condition is separate and distinct from her right to bond with the child under California's CFRA leave. An employee disabled due to pregnancy, childbirth, or a related medical condition, as certified by her health care provider, may take **up to** a maximum of four months (or 88 work days of what the employee normally works) of unpaid leave under Pregnancy Disability Leave (PDL).

For planning purposes it may be helpful for you to know that the typical period of disability for pregnancy and related medical conditions is often six to eight weeks – employees should discuss with the healthcare provider the anticipated period of disability for the pregnancy.

A female employee is eligible for PDL while disabled by pregnancy as certified by her health care provider and then also entitled to up to an **additional** 12 workweeks of CFRA leave to spend with her newborn child under for *Bonding Leave*, so long as the *Bonding Leave* is completed within one year of the birth of the child and the woman has met the qualifications for CFRA leave.

FMLA covers a woman’s pregnancy leave under the employee’s own “serious health condition” portion of the leave and also includes bonding time for either parent as a part of the 12 week maximum. If the woman does not exhaust her full 12 week period for her own serious health condition under FMLA, she is entitled to any balance which will run concurrently with CFRA bonding time.

Employees who are not eligible for FMLA and/or CFRA may be may be eligible for PDL; contact Personnel Services Manager for assistance.

Leave Type – Service Member Family Leave

Service Member Leave

Time off from work to care for a covered service member with a serious injury or illness if the eligible employee is the spouse, child, parent or next of kin of the service member may be taken only under FMLA leave. An employee may take **up to** a maximum of **26 weeks** of unpaid leave during a single 12-month period under

Service Member Family Leave per qualifying injury. This is a 14 week addition to any previously provided leave. The leave requires a health care professional's certification of a serious injury or illness that would render the service member medically unfit to perform the duties of the member's office, grade, rank, or rating. It also applies to Service Members who are on the temporary disability list. This leave is for any member of the Armed Forces, including a member of the National Guard or Reserves, who incurred the injury or illness while on active duty in a military conflict situation. Provisions such as benefits continuation, reinstatement, etc. are the same as for any other FMLA qualifying leave except they are for an extended time period of 26 weeks total per injury, compared with the 12 weeks of other FMLA leaves. Certifications must be signed by one of the following: Department of Defense (DOD) Health Care Provider; DOD TriCare network authorized private healthcare provider; or DOD non network TriCare authorized private healthcare provider. No employee will be entitled to more than a combined total of 26 weeks in a 12 month period for all leave taken under FMLA and the additional 14 weeks apply **only** to the Service Member Leave category.

PROCEDURE FOR REQUESTING LEAVE

Except where leave is not foreseeable, all employees requesting leave under this policy must submit the request in writing to their immediate supervisor, with copy to the Personnel Services Manager. When an employee plans to take leave under this policy, the employee must give 30 days notice. If it is not possible to give 30 days notice, the employee must give as much notice as is practicable. An employee undergoing planned medical treatment is required to make a reasonable effort to schedule the treatment to minimize disruptions to City of Seaside's operations.

If an employee fails to provide 30 days notice for foreseeable leave with no reasonable excuse for the delay, the leave request may be denied until at least 30 days from the date City of Seaside receives notice. While on leave, employees are requested to report periodically to the Personnel Services Manager regarding the status of the return to work date, and his or her intent to return to work.

Upon request for FMLA and/or CFRA City of Seaside will review the employee's eligibility and provide notice of eligibility or ineligibility. Upon confirmation of eligibility City of Seaside will preliminarily designate the leave as FMLA and/or CFRA, pending completion of any required documentation.

In cases where City of Seaside is aware that time off may qualify for FMLA and/or CFRA, City of Seaside may preliminarily designate the leave as FMLA and/or CFRA, pending completion of any required documentation.

DURATION OF LEAVE

Unless otherwise noted above, an eligible employee can take up to 12 weeks of FMLA and/or CFRA leave during any 12-month period and the 14 month extension in cases of Service Member Family Leave.

City of Seaside will measure the 12-month period as a rolling 12-month period measured backward from the date an employee uses any leave under this policy. Each time an employee takes FMLA and/or CFRA leave, City of Seaside will compute the amount of leave the employee has taken under this policy and subtract it from the 12 (or 26 for service member leave) weeks of available leave – the remaining balance is the amount the employee is entitled to take at that time.

Parents who are both eligible employees of City of Seaside for leave to care for a newborn child, for placement of a son or daughter with the employee for adoption or foster care, or in certain circumstances, for the care of the employee's parent with a serious health condition, are entitled to a combined total of 12 weeks of such a leave. For leave to care for a child with a serious health condition, this combined limit does not apply.

Employees who are both eligible employees of City of Seaside for Service Member Family leave for the same family member are entitled to a combined total of 26 weeks of such a leave. Service Member Family leave time per injury will be measured up to 26 weeks forward from the first day taken off for the maximum of 12 months

Employees whose 1) medical leave exceeds 12 weeks (26 weeks in the case of Service Member Disability leave), 2) who do not have another company-approved leave, or 3) who do not return to work on the first work day following an approved FMLA and/or CFRA leave will be deemed to have voluntarily resigned their employment from City of Seaside.

HEALTH INSURANCE DURING LEAVE

While an employee is on FMLA and/or CFRA, City of Seaside will continue the employee's health benefits (and dependent coverage as applicable) during the leave period at the same level and under the same conditions as if the employee had continued to work. Health benefits are continued for a maximum of 12 weeks during a 12-month period of paid coverage (or up to 26 weeks for Service Member Family Leave).

Any share of health insurance premiums which are paid by the employee prior to beginning FMLA and/or CFRA leave (including dependent premiums) must continue to be paid by the employee during the leave or insurance benefits may be discontinued. An employee who fails to make any payment of his or her premiums as required must reimburse City of Seaside for any payments the employer has made.

For leaves related to pregnancy and childbirth, the obligation to continue to pay health insurance premiums begins on the first day of concurrent PDL/FMLA leave and continues up to 4 months during a 12-month period. If the employee's leave lasts longer than 4 months, the employee may continue her group health insurance coverage through City of Seaside in conjunction with Cal/COBRA guidelines by making monthly payments to City of Seaside for the amount of the relevant premium.

If the employee chooses not to return to work for reasons other than a continued serious health

condition or other approved leave extension, or fails to work 30 calendar days once returning from leave, City of Seaside will require the employee to reimburse the amount it paid for the employee's health insurance premium during the unpaid portion of the leave period.

USE OF VACATION AND SICK TIME

**Please Note: If the employee is eligible for benefits from any disability insurance, such benefits from the applicable plans will be coordinated with the FMLA and/or CFRA leave. The Personnel Services Manager can assist in helping employees understand how these benefits work together.*

Type Of Leave	Vacation Pay Benefit	Sick Pay Benefit
Pregnancy Disability Leave (PDL)	MAY USE ALL AVAILABLE	MUST USE ALL AVAILABLE
Bonding (Baby/Adoption/ Foster Care)	MUST USE ALL AVAILABLE	N/A
Family Care	MUST USE ALL AVAILABLE	MAY USE ALL AVAILABLE
Employee's Serious Health Condition	Occupational: MAY USE ALL AVAILABLE Non-occupational : MUST USE ALL AVAILABLE	Occupational: MAY USE ALL AVAILABLE Non-occupational : MUST USE ALL AVAILABLE
Service Member Family Leave	MUST USE ALL AVAILABLE	MAY USE ALL AVAILABLE
Qualifying Military Exigency	MUST USE ALL AVAILABLE	MAY USE ALL AVAILABLE

OTHER BENEFITS DURING LEAVE

Fringe benefits (such as vacation and sick time) are not earned during unpaid leave. However, upon return from FMLA, CFRA and/or PDL, the employee will resume the accrual schedule at the same level and under the same conditions as if he or she had continued to work.

When available, employee benefit plans, such as ADD, life and retirement plans are provided under the same conditions as apply to unpaid leave taken for purposes other than FMLA and/or CFRA.

With respect to retirement plans, including pension plans, any period of unpaid FMLA and/or CFRA shall not be treated as or counted toward a break in service for purposes of vesting and eligibility to participate. Also, if the plan requires an employee to be employed on a specific date in order to be credited with a year of service for vesting, contributions or participation purposes, an employee on unpaid FMLA and/or CFRA on that date shall be deemed to have been employed on that date. However, unpaid FMLA and/or CFRA periods will not be treated as credited service for purposes of

benefit accrual, vesting and eligibility to participate. While City of Seaside will not make plan payments for an employee during the FMLA and/or CFRA period, employees covered by a retirement and/or pension plan may continue to make contributions in accordance with the terms of the plan during the period of the leave – contact the Personnel Services Manager for coordination of such contributions.

INTERMITTENT LEAVE OR A REDUCED WORK SCHEDULE

An employee may take FMLA and/ or CFRA in consecutive days, may use the leave intermittently (periodically, as needed), or may use the leave to reduce the workweek or workday, resulting in a reduced work schedule. Use of unpaid FMLA and/or CFRA in partial days by an employee currently classified as "exempt" from overtime under FLSA will not affect that employee's "exempt" status. In all cases, the leave may not exceed a total of 12 weeks over a 12-month period except for Military Service Member leave which may provide an additional 14 weeks for a combined total of 26 weeks.

If the employee is taking FMLA and/or CFRA leave for the employee's own serious health condition, or because of the serious health condition of a family member, certification of the medical necessity of an intermittent leave or reduced work schedule is required, as indicated in the next section of this policy. Upon receipt of the certification, the employer will discuss with the employee how to best meet both healthcare needs and business needs. City of Seaside may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule.

If the employee is taking CFRA and/or FMLA for birth, adoption, or foster care of a child (also known as the "bonding" time-period), the leave must be concluded within one year of the birth/placement of the child. The basic minimum duration of intermittent leave will be two weeks, however, City of Seaside will grant an employee's request for a leave of less than two weeks duration on any two occasions. If the employee is requesting an intermittent leave of less than two weeks or a reduced work schedule, the employee and City of Seaside must mutually agree to the schedule; City of Seaside will consider the request based on a variety of factors, but does not guarantee that all requests will be granted.

CERTIFICATION OF THE SERIOUS HEALTH CONDITION

An employee seeking FMLA and/or CFRA for the employee's own serious health condition or because of the serious health condition of a family member (or next of kin for Service Member Family leave requests) as defined above must provide City of Seaside with a medical certification from his or her health care provider establishing the need for the leave. The employee should respond to such a request as soon as possible and at least within 15 calendar days of the request, or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of leave. Medical certification must be provided by using the *Certification of Health Care Provider* form.

Certification of the serious health condition must include: 1) the date when the condition began; and, 2) its expected duration. For medical leave for the employee's own medical condition, the

certification must also include a statement that the employee is unable to perform work of any kind, or a statement that the employee is unable to perform the essential functions of the employee's position. For a seriously ill family member, the certification must include a statement that the patient requires assistance, and that the employee's presence would be beneficial or desirable.

If the employee plans to take intermittent leave or work a reduced schedule, the certification must also include dates and the duration of treatment, and a statement of medical necessity for taking intermittent leave or working a reduced schedule.

City of Seaside has the right to ask for a second opinion, (for employees, not family members) if City of Seaside has reason to doubt the certification. City of Seaside will pay for the employee to get a certification from a second doctor, which City of Seaside will select. In case of a conflict between the original certification and the second opinion, City of Seaside may require the opinion of a third doctor. City of Seaside and the employee will jointly select the third doctor, and City of Seaside will pay for the opinion. This third opinion will be considered final.

Prior to returning from FMLA and/or CFRA for an employee's own serious health condition including pregnancy disability, the employee will be required to provide City of Seaside with a **Physician's or Practitioner's Authorization to Return to Work** form fully completed by the employee's health care provider releasing him or her to return to work and/or listing any specific limitations. Employees will be provided either an **Analysis of Job's Physical Demands and Environmental Conditions** or a **Job Description** which completely describes all essential functions as well as the physical demands and environmental conditions, if the leave request is based on the employee's own serious medical condition.

Should the health care provider indicate specific physical limitations regarding the essential functions of the job, such limitations must be discussed with and approved by management. The City committed to engaging employees in ongoing, meaningful dialog regarding modifications at work.

CERTIFICATION FOR QUALIFYING MILITARY EXIGENCY LEAVE

An employee seeking FMLA for Qualifying Military Exigency Leave as defined above must provide City of Seaside with a certification establishing the need for the leave. The employee should respond to such a request as soon as possible and at least within 15 calendar days of the request, or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of leave. Exigent Circumstances certification must be provided by using the **Certification of Need for Exigent Circumstance Leave** form.

Upon return to work from FMLA Qualifying Military Exigency Leave, the employee will be required to provide City of Seaside with appropriate documentation of attendance or completion of required item which will include information allowing the employer to identify the actual time dedicated to such circumstances.

REINSTATEMENT AFTER LEAVE

An employee who takes leave under and meets the requirements of this policy will be able to return to the same job or a job with equivalent status, pay, benefits and other employment terms. The position will be the same or one that entails substantially equivalent skill, effort, responsibility and authority.

The provisions for leaves under this policy can be confusing. Employees are encouraged to seek additional information from the *Personnel Services Manager*.

RULE 29 - OFFICIAL BONDS

The following officers and employees of the City shall be bonded for the faithful performance of their duties in an amount set out after the position of each officer and employee hereinafter named, and such amount is hereby established as the amount of the faithful performance bond for the person occupying said position.

Position	Amount of Bond
City Manager	\$25,000
Director of Finance	\$25,000
All other employees	\$ 5,000

RULE 30 - LAY-OFF PLAN

Purpose

To provide a means by which employees are to be demoted or laid off when a reduction in force occurs.

Reduction in Force – Demotions

Except as otherwise provided, whenever there is a reduction in work force the appointing authority shall first demote to a vacancy, if any, in a lower classification for which the employee with the greatest length of continuous City service is qualified. Employees with the least continuous City service shall be demoted first. All persons so demoted shall have their names placed on the Classification Reinstatement Eligibility List.

Notices

The City shall uniformly provide for notices to employees to be laid off. Minimum notice shall be fifteen (15) calendar days. The employee association to which said employee to be laid off is a member shall also be given notice. The Personnel Officer shall send written notice to the last known address of each employee affected by a layoff at least fifteen (15) days prior to the effective date of the action. The notice shall include:

- Reason for layoff,
- Classifications to which the employee may demote within the department, if any

- Effective date of the action
- Seniority score of the employee
- Formula by which the seniority score is computed
- Appeal rights of the employee
- Conditions governing reduction on and reinstatement from Reemployment List
- Rules regarding waiver of reinstatement and voluntary withdrawal from the employee list
- Appointment for physical examination to record medical condition at time of layoff.

Determining Length of Employment

In determining continuous City service seniority, all uninterrupted employment including periods of authorized leaves of absence which require a retirement contribution and including all periods of time served prior to May 1, 1979, as a limited term or CETA employee shall be counted as continuous City service seniority. In determining classification seniority all time that an employee has been employed in a particular classification series, (e.g. Recreation Supervisor or Recreation Aide, etc.) shall be counted as classification seniority.

Order of Reduction in Force

In a reduction in force situation the following order of layoff shall be followed:

- Extra help and provisional employees in the affected classification series
- Limited term employees in reverse order of their classification seniority in the affected classification series
- City probationary employees in reverse order of their classification seniority in the affected classification series
- Should there be need for further reduction, regular employees in the affected classification series shall be voluntarily demoted in reverse order of their classification seniority
- Should a reduction still be necessary, regular employees should be laid off in reverse order of their classification seniority.

Determining Order of Layoff and Demotion for Employees with Identical Seniority.

Should two or more employees have identical classification seniority, the order of layoff and demotion will be determined by length of continuous City service seniority. Whenever two or more employees have identical City service seniority, the order of layoff and demotion shall be determined by random seniority.

Exceptions

Notwithstanding the foregoing, if the appointing authority determines that the public interest will not be served by application of the above criteria the appointing authority may depart therefore on the basis of a clearly demonstrable superiority in performance and/or classification. In such case, the appointing authority shall notify the employee to be laid off in writing specifically the basis for such determination in detail. The employee may within five (5) working days thereafter appeal the determination to the appointing authority who shall hold a

hearing within fifteen (15) days after receipt of the appeal and shall thereafter make a decision within five (5) days. That decision shall be final.

Bumping

An employee designated to be laid off may bump into the next lower classification within the same department if the employee has previously held permanent status in such classification with the City. An employee whose position is abolished.

Transfer

All efforts will be made by the Personnel Officer to transfer any employee who is to be affected by a reduction in force to another vacant position for which such employee may qualify. The length of eligibility for such transfer will be the period of notification but no longer than the effective date of such layoff or reduction in force.

Reinstatement of Employee Demoted as a Result of Reduction in Force

Employees who are demoted as a result of a reduction in force shall have their names placed on a Classification Reinstatement List in the order of their classification seniority. Vacant positions within a classification series shall first be offered to employees on this list.

Re-employment of Employees Laid Off as a Result of Reduction in Force

Employees who are laid off and who held permanent City status at the time of layoff shall have their names placed on a Reemployment List for classification in which they previously held status and for classification at the same or lower salary rank for which they qualified in the order of their classification seniority. The vacant positions in such classification will be offered to eligibles on the Reemployment list who qualify for such vacancies prior to an open or promotional recruitment.

Duration of Reinstatement and Re-employment List

The eligibility of individuals on the Reinstatement and Reemployment Lists shall extend for a period of two years from the date of demotion or layoff. Eligibles not responding to written notification of an opening within ten (10) working days shall have their names removed from the Reemployment or Reinstatement List.

Restoration of Benefits Upon Reemployment Following a Reduction in Force

Upon reemployment following a reduction in force, and individual will have the following benefits restored:

- Prior sick leave accruals (unless individual elected eligible cash payment at time of layoff)
- Seniority at time of layoff for purposes of determining merit increase, vacation accrual and further reduction in force
- The salaries paid to an employee who is reemployed shall be equivalent to that which was receiving immediately prior to layoff. If the employee chooses to be reemployed in a

classification which has a salary range lower than the classification from which he/she was laid off, the salary placement will be made at a point that is equivalent to the salary range held immediately prior to layoff. Or if the maximum of the salary range of the position to which the employee is to be reemployed is less than the employee's salary immediately prior to layoff, then the employee will receive a "Y" rating of the salary for the position assumed at the salary earned immediately prior to layoff.

Should an employee desire to continue in effect retirement and/or health benefits, he/she shall pay the full contribution that was paid by both the employee and the City prior to layoff, and benefits shall continue to be provided until the employee receives employment elsewhere or is reemployed upon which the original benefit package shall continue in full force as was the case prior to reduction in force.

Obligation to Serve Probationary Period

A person appointed from a Reemployment List or Classification Reinstatement List must serve a new probationary period in order to attain permanent status.

Obligation to Undergo Physical Examination

A person appointed from a Reemployment List or Classification Reinstatement List must undergo a physical examination to meet medical conditions recorded at time of layoff.

Pay Off of Accrual Upon Layoff

Laid off employees are to be paid for all accrued holidays, vacation, and overtime when separated as a result of a layoff.

NO DISCRIMINATION IN REDUCTION OF FORCE

Layoffs and demotions which result from a reduction in force shall be made without regard to an employee's race, color, national origin, religion, sex, age, citizenship, or physical handicap.