

CITY OF RIVERBANK



PERSONNEL RULES AND REGULATIONS

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TABLE OF CONTENTS

CHAPTER 1.00 – GENERAL PROVISIONS.....	7
1.01 PURPOSE.....	7
1.02 CONFLICT WITH OTHER POLICIES.....	7
1.03 SEVERABILITY.....	7
1.04 ADMINISTRATION OF PERSONNEL RULES AND REGULATIONS	7
1.05 FAIR EMPLOYMENT.....	7
1.06 AMENDMENT OF PERSONNEL RULES AND REGULATIONS	8
1.07 EMPLOYMENT CONSTITUTES ACCEPTANCE OF RULES	8
CHAPTER 2.00 – PERSONNEL TERMS/DEFINITIONS	8
2.01 DEFINITION OF TERMS	8
CHAPTER 3.00 – CLASSIFICATION DESCRIPTION PLAN.....	9
3.01 CLASSIFICATION PLAN	9
3.02 AMENDMENT OF PLAN	10
3.03 SPECIFICATION OF POSITIONS	10
3.04 NEW POSITIONS	10
3.05 RECLASSIFICATIONS.....	10
CHAPTER 4.00 – RECRUITMENT AND SELECTION PROCESS.....	10
4.01 CITIZENSHIP	10
4.02 ANNOUNCEMENT	11
4.03 APPLICATION FORMS	11
4.04 DISQUALIFICATIONS.....	11
SECTION 5.00 – EMPLOYMENT EXAMINATIONS.....	12
5.01 EXAMINATIONS PROCESS	12
5.02 TYPE OF EXAMINATIONS	12
5.03 PROMOTIONAL EXAMINATIONS.....	13
5.04 OPEN COMPETITIVE EXAMINATIONS.....	13
5.05 SCORING EXAMINATIONS AND QUALIFYING SCORES	13
5.06 INSPECTION OF EXAMINATION PAPERS	13
5.07 APPEAL OF SCORE	13
CHAPTER 6.00 – EMPLOYMENT LISTS.....	14
6.01 PLACEMENT ON EMPLOYMENT LIST	14
6.02 DURATION OF EMPLOYMENT LIST	14
6.03 REMOVAL OF NAMES FROM LIST.....	14
6.04 RE-EMPLOYMENT LIST.....	14
6.05 REINSTATEMENT LIST	14
CHAPTER 7.00 – FILLING VACANCIES.....	15
7.01 TYPE OF APPOINTMENTS	15
7.02 APPOINTMENTS	15

CHAPTER 8.00 – PROBATIONARY PERIOD.....	15
8.01 PROBATIONARY PERIOD	15
8.02 OBJECTIVE OF PROBATIONARY PERIOD	15
8.03 REJECTION DURING INITIAL PROBATION.....	16
8.04 REJECTION FOLLOWING PROMOTION	16
CHAPTER 9.00 – EMPLOYMENT STATUS.....	16
9.01 PROBATIONARY.....	16
9.02 REGULAR FULL-TIME EMPLOYMENT.....	16
9.03 PART-TIME STATUS	16
CHAPTER 10.00 – SALARY AND COMPENSATION PLAN PROVISIONS	17
10.01 EMPLOYEE COMPENSATION PLAN.....	17
10.02 COMPENSATION PROVISION	17
10.03 ADMINISTRATION OF SALARIES	17
10.04 OUT OF CLASS PAY	18
10.05 EFFECTIVE DATE OF SALARY ADJUSTMENTS.....	19
10.06 SALARY DEDUCTIONS	19
CHAPTER 11.00 – HOURS OF WORK AND PAY PROVISIONS.....	19
11.01 HOURS OF WORK.....	19
11.02 EXCEPTIONS TO STANDARD WORK PERIODS	20
11.03 COMPENSATION OF SALARIES.....	20
11.04 OVERTIME POLICY.....	20
11.05 OVERTIME COMPUTATION.....	21
11.06 OVERTIME COMPENSATION.....	21
11.07 CALLBACK PAY	21
11.08 STANDBY PAY	21
11.09 OVERTIME EXCEPTIONS.....	22
11.10 LONGEVITY PAY.....	22
SECTION 12.00 – LEAVES OF ABSENCE.....	23
12.01 ATTENDANCE.....	23
12.02 SICK LEAVE	23
12.03 FAMILY CARE AND MEDICAL LEAVE	25
12.04 VACATION LEAVE	32
12.05 HOLIDAYS	33
12.06 BEREAVEMENT LEAVE	34
12.07 CATASTROPHIC LEAVE	34
12.08 MILITARY LEAVE	35
12.09 PREGNANCY LEAVE	35
12.10 TIME OFF TO VOTE.....	36
12.11 JURY DUTY AND COURT APPEARANCE.....	36
12.12 ADMINISTRATIVE LEAVE	36
12.13 LEAVE OF ABSENCE WITHOUT PAY.....	36
12.14 UNAUTHORIZED LEAVE OF ABSENCE.....	37
12.15 COMPENSATORY TIME OFF	37
12.16 SCHOOL LEAVE	37

CHAPTER 13.00 – PERFORMANCE APPRAISALS	37
13.01 PERFORMANCE APPRAISALS.....	37
13.02 PROCEDURES.....	38
13.03 PERFORMANCE APPRAISAL REVIEW	38
CHAPTER 14.00 – EMPLOYEE BENEFITS AND ALLOWANCES	38
14.01 GROUP INSURANCE BENEFITS	38
14.02 WORKERS’ COMPENSATION.....	38
14.03 STATE DISABILITY INSURANCE	39
14.04 COMPENSATION FOR TRAINING TIME	39
14.05 TUITION REIMBURSEMENT	39
14.06 MILEAGE REIMBURSEMENT.....	40
14.07 UNIFORMS AND PROTECTIVE CLOTHING	40
CHAPTER 15.00 – PERSONNEL ACTIONS	40
15.01 RESIGNATION	40
15.02 RETIREMENT	40
15.03 TRANSFERS.....	40
15.04 PROMOTIONS	40
15.05 DEMOTIONS.....	41
15.06 LAYOFF	41
CHAPTER 16.00 – DISCIPLINARY ACTION	42
16.01 PURPOSE OF DISCIPLINARY ACTION	42
16.02 TYPES OF DISCIPLINARY ACTION	42
16.03 CAUSES FOR DISCIPLINARY ACTION	42
16.04 WRITTEN NOTICE OF PROPOSED DISCIPLINARY ACTION	43
16.05 FINAL NOTICE.....	44
16.06 APPEALS OF DISCIPLINARY ACTION	44
16.07 HEARING	44
16.08 REPRESENTATION	44
16.09 NOTICES TO WITNESSES: COST.....	45
16.10 FAILURE OF EMPLOYEE TO APPEAR AT HEARING	45
16.11 DECISIONS	45
CHAPTER 17.00 – GRIEVANCE PROCEDURES	45
17.01 PURPOSE OF GRIEVANCE PROCEDURES.....	45
17.02 GRIEVANCE	45
17.03 INFORMAL GRIEVANCE PROCEDURE.....	46
17.04 FORMAL GRIEVANCE PROCEDURE.....	46
17.05 CONDUCT OF GRIEVANCE PROCEDURE	46
CHAPTER 18.00 – EMPLOYER/EMPLOYEE RELATIONS	47
18.01 PURPOSE OF EMPLOYER/EMPLOYEE RELATIONS	47
18.02 DEFINITIONS	47
18.03 DESIGNATION AND RECOGNITION OF BARGAINING REPRESENTATIVE	48
18.04 BARGAINING PROCEDURE.....	49
18.05 SCOPE OF REPRESENTATION	50
18.06 RIGHTS AND DUTIES OF CONFERENCE REPRESENTATIVES AND RECOGNIZED EMPLOYEE ORGANIZATIONS	50
18.07 NO DISCRIMINATION	51

18.08 CLASSIFICATIONS RESTRICTED FROM REPRESENTING RECOGNIZED EMPLOYEE ORGANIZATIONS	51
18.09 SAVINGS CLAUSE	51
CHAPTER 19.00 – MISCELLANEOUS PROVISIONS.....	51
19.01 REPORTS OF CHANGE OF STATUS	51
19.02 GRATUITIES	51
19.03 OUTSIDE EMPLOYMENT	51
19.04 POLITICAL ACTIVITY.....	52
19.05 CONFLICTS OF INTEREST	52
19.06 REPLACEMENT OF DAMAGED PERSONAL PROPERTY	52
19.07 NEPOTISM POLICY.....	52
CHAPTER 20.00 DRUG AND ALCOHOL ABUSE POLICY.....	53
<u>APPENDIX</u>	
A) ANTI-HARASSMENT POLICY	59
<u>ATTACHMENTS</u>	
A) AUTHORIZATION FOR TESTING	63
B) AUTHORIZATION FOR RELEASE AND USE OF TESTING INFORMATION	65
C) ACKNOWLEDGEMENT OF RECEIPT	67

CHAPTER 1.00 – GENERAL PROVISIONS

1.01 Purpose

The following Rules and Regulations have been approved by the City Council by Resolution pursuant to the authority granted in Title 3, Chapter 35, §35.01 of the Riverbank City Code. The objective of these Rules and Regulations is to facilitate effective and economical services to the public and to provide for a fair and equitable system of personnel management in the municipal service. These Rule and Regulations set forth in detail those procedures, which insure equal treatment for applicants and employees, and define the obligations, rights, privileges, benefits, and prohibitions placed upon all employees in the municipal service. These rules do no create any contract of employment, express or implied, or any rights in the nature of a contract.

This Personnel Manual supersedes all previous versions.

1.02 Conflict With Other Policies

If a provision of these Rule and Regulations conflicts with any provision of an applicable collective bargaining agreement entered into by the City and a recognized employee organization, to the extent of such conflict, the provision of the collective bargaining agreement shall prevail.

1.03 Severability

If any section, subsection, sentence, clause, or phrase of these personnel Rule and Regulations is for any reason held illegal, invalid, or unconstitutional by decisions of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions.

1.04 Administration of Personnel Rules and Regulations

The City Manager is the Chief Personnel Officer for the City. The Chief Personnel Officer shall administer the Personnel Rules and Regulations and may delegate any of his/her duties that he/she may deem appropriate in connection with the administration of these Rules and Regulations. The City Manager in accordance with the provisions of Title III, Chapter 31, §31.03, (H), (3) of the Riverbank City Code, wherein the power to appoint all officers, department heads, and the employees of all City Departments, and to remove the same, is vested in the City Manager, subject to these Rules and Regulations. The Rules and Regulations encourages the use of a chain of command to resolve issues among employees or employee organizations

1.05 Fair Employment

Personnel actions will comply with all applicable laws prohibiting discrimination against applicants and employees based on race, religious creed, color, national origin, ancestry, mental handicap, physical handicap, medical condition, marital status, sex, pregnancy, sexual orientation or age. Any technique or procedure used in recruitment and selection of employees shall be designed to measure only the job related qualifications of applicants. No recruitment or selection technique shall be used which, in the opinion of the City, is not related to successful job performance.

1.06 Amendment of Personnel Rules and Regulations

The Chief Personnel Officer or designee may, at any time make recommendations for amendment and revision of these Rules and Regulations to the City Council. However, amendments and revisions shall not be made until after consultation in good faith with representatives of recognized employee organizations representing employees of the City. Where the City is required to meet and confer under the law due to the nature of the issue, the City shall meet and confer with recognized employee organizations representing employees of the City.

1.07 Employment Constitutes Acceptance of Rules

In accepting employment with the City of Riverbank, each employee agrees to be governed by and to comply with the Rules and Regulations, administrative rules and procedures established by the City Manager pursuant thereto, and rules, regulations, and directives of the department in which he/she is employed. Each employee will receive a copy of these Rule and Regulations and are expected to read and be familiar with its contents and provisions and shall sign the "Acknowledgment of Receipt" form acknowledging acceptance.

All employees holding a position in the municipal service on the effective date of these Rules and Regulations shall thereafter be subject in all respect to the provisions herein except where excluded from coverage.

CHAPTER 2.00 – PERSONNEL TERMS/DEFINITIONS

2.01 Definition of Terms

The following terms, whenever used in these Rules and Regulations, shall be defined as follows:

Classification Plan shall mean a list of titles of the classes of all regular positions in the municipal service, and a written specification which shall include the class title and general description of the work, a summary statement of duties and responsibilities, and desirable qualifications, including training, for appointment, and may include other such pertinent information the City Manager may deem desirable.

Continuous Service shall mean employment on a regular basis which is not interrupted by termination, or leave of absences without pay for a period in excess of one year, other than military leave.

Discharge shall mean disciplinary termination of employment.

Disciplinary Probation shall mean a form of disciplinary action as distinguished from probation for new employees as set forth in §8.01 for a specified time not to exceed one year. Persons placed on disciplinary probation may be terminated for failure to meet requirements. Rights, benefits, and privileges shall be reduced in conformance with §16.02.

Demotion shall mean the movement of an employee from one class to another class having a lower maximum rate of pay.

Examination

- a) Open competition examination shall mean an examination for a particular class which is open to all persons meeting the qualifications for the class.
- b) Promotional examination shall mean an examination for a particular class which is open only to employees meeting the qualifications of the class.
- c) Continuous examination shall mean an open competitive examination which is administered periodically. As a result of this examination an eligibility list will be established on the basis of final scores. This list will be maintained for a period of not more than one year.

Non-pay Status shall mean the period in which an employee is not at work and has been granted a leave of absence without pay.

Pay Status shall mean the period in which an employee is at work, on vacation leave, sick leave, compensatory leave as the result of an industrial accident, leave with full pay in lieu of temporary disability benefits, compensatory time off, paid temporary military leave of absence, or on an approved leave of absence with pay.

Promotion shall mean the movement of an employee from one class to another class having a higher maximum rate of pay.

Salary Range shall mean the composite of all salary ranges assigned to specific positions in the municipal service.

Suspension shall mean the temporary removal of an employee from pay status for pending disciplinary action, for disciplinary action, for disciplinary reasons, or for other just cause.

Termination shall mean the voluntary or involuntary separation of an employee from municipal service.

Transfer shall mean the movement of any employee from one job classification to another wherein the same salary range is assigned to both job classifications.

Where definitions are not provided herein, words or terms shall be as defined in Webster's Dictionary, or as interpreted by State and Federal Courts.

CHAPTER 3.00 – CLASSIFICATION DESCRIPTION PLAN

3.01 Classification Plan

All positions in all departments of the City shall be allocated to classifications as established and set forth by the City Council. Such classifications and allocations of positions shall constitute the classification plan of the City.

The purpose of the classification plan shall be to designate each kind of employment in City service which shall encompass within it all positions having duties and responsibilities sufficiently similar so that the same descriptive title and the same requirements and

qualifications as to education, experience, knowledge, skills and abilities may be required of incumbents and so that the same schedule of compensation may be made to apply with equity.

3.02 Amendment of Plan

The classification plan shall be adopted and may be amended from time to time, by the City Council. Any proposed amendments or revisions to the classification plan shall be submitted by the Chief Personnel Officer or designee who shall provide a recommendation to the City Council. The City Manager has the authority to replace one authorized budgeted position with another already authorized position.

3.03 Specification of Positions

The Chief Personnel Officer or designee may amend from time to time the written specifications of the positions in the Classification Plan. Each class specification shall describe the essential nature of the work, characteristics of positions of the class, with examples where appropriate, and also shall include a statement of minimum qualifications and knowledge, skills, and abilities necessary to perform the duties assigned. The class specifications shall be considered as descriptive rather than restrictive. They shall be used to indicate the kinds of positions that should be allocated to the respective classes and not as prescribing what the duties or responsibilities of any position shall be, or as modifying the power of an agency head or supervisor to assign duties, direct, control, or evaluate the work of any employee.

3.04 New Positions

A new position shall not be created and permanently filled until the classification plan has been amended to provide therefore and an appropriate employment list established for such position.

3.05 Reclassifications

The Department Head may recommend a position be reclassified when the duties and responsibilities of said position have changed significantly. Upon approval of the City Council such position may be reclassified to a different classification or a new classification may be created. Prior to the reclassification, the Chief Personnel Officer or designee may conduct a classification study and salary survey. Salary increases or decreases may, at the City's discretion accompany a reclassification. Position reclassification is neither considered a promotion nor demotion.

CHAPTER 4.00 – RECRUITMENT AND SELECTION PROCESS

4.01 Citizenship

Except as otherwise provided by State Law, employment is open to qualified individuals eligible under appropriate federal regulations to work in the United States. It is the policy of the City of Riverbank to hire only citizens of the United States or others authorized to work in the United States. Documentation of eligibility to work in the United States will be required as a condition of employment.

4.02 Announcement

All examinations for classifications in the City service shall be publicized by distributing electronic or hard copy announcements of the examination to all City departments and/or posted on bulletin boards at various City facilities. In addition announcements for open competitive examinations shall be advertised in one or more local newspapers of general circulation. The Chief Personnel Officer or designee may also undertake whatever other recruiting activities he/she feels are necessary or desirable to fill a particular position in a way which meets the City's goal of obtaining the most qualified employees.

The announcement shall include the title and pay for the position; the nature of the work to be performed; the minimum qualifications; whether the position is at will or regular; the method or methods of examinations which may be used; the method of applying; the closing date for the application, and such other information as desirable in the discretion of the Chief Personnel Officer or designee.

4.03 Application Forms

All applications for employment must be made on official, standard forms furnished by the Personnel Office, unless otherwise specified. Such forms shall require information covering training, experience, and other pertinent information and may include any other certificates deemed necessary by the Chief Personnel Officer or designee.

In order for an application to be considered, it must be thoroughly completed. Applications may be submitted by private mail service, United States Postal Service, or in person. The application must bear an original signature of the applicant. Failure to conform to these requirements shall result in rejection of the application by the Chief Personnel Officer or designee.

4.04 Disqualifications

Not all candidates will be invited to participate in any or all phases of the selection process. Applicants may be rejected or disqualified based on application materials, test results, the number of well-qualified candidates or for any other job-related reason during any or all phases of the selection process. In addition, the Chief Personnel Officer or designee may withdraw anyone from consideration whose appointment will be deemed contrary to the best interest of the City or after examination, may disqualify or remove the applicant's name from an eligible list. Reasons for disqualification or rejection may include, but not limited to the following deficiencies:

- A. Is found to lack any of the requirements, certifications, or qualifications established for the examination or position which is involved;
- B. Is physically or mentally unable to perform the essential functions of the position to which appointment is sought, with or without reasonable accommodation;
- C. Excessive use of intoxicants;
- D. Is a current user of illegal drugs;
- E. Conviction of a felony, or conviction of a misdemeanor, involving moral turpitude;
- F. Dismissal from any position for any cause which would be cause for dismissal by the City;
- G. Resignation from any position to avoid dismissal;
- H. Has made false statements of any material fact, or practiced any deception or fraud on the application, declarations or in securing eligibility or appointment;
- I. Request by applicant that his/her name be withdrawn from consideration;

- J. Failure to reply within a reasonable time, as specified by the Chief Personnel Officer or designee, to communication concerning availability for employment;
- K. Disqualification or unsuitability for employment as specified in any City or pertinent department rules or regulations;
- L. Arrives at the examination site after the starting time;
- M. Is a relative of an employee, and is subject to the Nepotism Policy in §19.07;
- N. Has been convicted of a crime, either a misdemeanor or felony, that relates to the position duties that the applicant would perform;
- O. Used or attempted to use political pressure or bribery to secure an advantage in the examination or appointment;
- P. Directly or indirectly obtained information regarding examinations;
- Q. Failed to submit the employment application correctly or within the prescribed time limits;
- R. Has had his or her privilege to operate a motor vehicle in the State of California suspended or revoked, if driving is job related;
- S. For any cause which in the judgment of the Chief Personnel Officer or designee would render the applicant unsuitable for the position, including prior resignation from the City, termination from the City, or a significant disciplinary action.

If the application is rejected, the applicant can appeal the rejection to the Chief Personnel Officer or designee within ten (10) working days of notice. The Chief Personnel Officer or designee shall review the appeal and affirm the rejection or reinstate the applicant. The Chief Personnel Officer or designee's decision is final.

SECTION 5.00 – EMPLOYMENT EXAMINATIONS

5.01 Examinations Process

After the time limit for receiving applications for a particular position has expired, the Chief Personnel Officer or designee shall determine the total number of applicants who meet the minimum qualifications for the position. If there are more than twenty (20) qualified applicants for a particular position, and the Chief Personnel Officer or designee determines that giving an examination of the nature and type appropriate to all the qualified applicants would unnecessarily burden the City, the Chief Personnel Officer or designee may rank, for qualifying purposes only, the applications submitted on the basis of the applicants' experience, education, training, and work history as related to the particular position, and may choose at least six (6) applicants whom he or she determines would best fit the position. The chosen applicants shall then be given further examination in order to obtain a score and ranking on the eligible list.

5.02 Type of Examinations

The selection techniques used in the examination process shall be impartial and relate to those subjects which fairly measure the relative capacities of the persons examined to execute the duties and responsibilities of the class to which they seek to be appointed. Examinations shall consist of selection techniques which are designed to test fairly the qualifications of candidates such as, but not necessarily limited to, an achievement and aptitude test, other written tests, personal interviews, performance tests, evaluation of daily work performance, work samples, physical agility tests, review and investigation of personal background and references, fingerprinting, medical examination, including drug screening as allowed by state and federal law, successful completion of prescribed training, or any combination of these or other tests. The probationary period shall be considered as a portion of the examination process.

5.03 Promotional Examinations

Because it is the policy of the City of Riverbank to encourage the advancement of personnel within the organization, promotional examinations for vacancies may be conducted as the needs of the City require. Promotional examinations may include any of the selection techniques mentioned in Section 5.02 of these Rules and Regulations. Only regular employees (full-time or part-time) who have successfully completed their initial probationary period and who meet the requirements set forth in the promotional recruitment announcements may compete in promotional examinations. For the purpose of this section only regular part-time employees who have worked for the City 1,040 hours or more may compete in promotional examinations.

5.04 Open Competitive Examinations

The Chief Personnel Officer or designee may give open examinations as the needs of the City require. This allows any interested individuals (including City employees) to apply for posted job vacancies according to normal procedures and compete in the selection process. Open competitive examinations may include any of the selection techniques mentioned in Section 5.02 of these Rules and Regulations.

5.05 Scoring Examinations and Qualifying Scores

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

All applicants shall be notified of their status in a recruitment process as soon as practical. Information regarding the next step(s) in the process shall be included as appropriate.

5.06 Inspection of Examination Papers

Any candidate shall have the right to inspect his or her own examination paper during normal working hours within five (5) calendar days after the notices of examination results are mailed. Any error in computation, or incorrectly scored written test answers which are called to the attention of and confirmed by the Chief Personnel Officer or designee shall be corrected, and the final score shall be adjusted accordingly. Such corrections shall not, however, invalidate appointments previously made. Examination papers of applicants are not subject to inspection by the public or by other applicants.

5.07 Appeal of Score

Within the time period permitted for inspection stated in Section 5.06, an applicant may appeal the grade assigned on any part of an examination. The appeal shall be in writing and shall state the specific grounds for reconsideration. All appeals and correspondence relating thereto shall be submitted to the Chief Personnel Officer or designee for consideration. The Chief Personnel Officer or designee may permit the appellant to be heard. Within five (5) working days from receipt of appeal, the Chief Personnel Officer or designee shall make a determination of final grade which shall be final for all purposes.

CHAPTER 6.00 – EMPLOYMENT LISTS

6.01 Placement on Employment List

After completion of open or promotional examination, the Chief Personnel Officer or designee shall prepare an employment eligible list consisting of the names of candidates who passed the examination, arranged in order of final score, from the highest to the lowest. Notwithstanding any other provision of these rules, if there are less than three (3) names on the employment eligibility list, the Chief Personnel Officer or designee may declare such list void and fill the position(s) by any method permitted by these Rules and Regulations, including but not limited to, undertaking new recruiting and testing procedures. Eligible list should become effective upon the certification by the Chief Personnel Officer or designee.

6.02 Duration of Employment List

Employment lists shall remain in effect one year, unless the Chief Personnel Officer or designee abolishes the list, the list is exhausted or extended by the Chief Personnel Officer or designee provided, however, that eligible lists for classes for which there is continuous recruitment shall remain in effect indefinitely. The Chief Personnel Officer or designee may abolish or extend the list at any time prior to the expiration of the list if he or she determines that it is in the best interest of the City to do so.

6.03 Removal of Names From List

The name of any person appearing on any employment list shall be removed by the Chief Personnel Officer or designee if the eligible so requests in writing, or fails to respond to a notification of an opening from the Chief Personnel Officer or designee. It shall be the responsibility of the eligible to keep the Chief Personnel Officer or designee informed of their current address and telephone number.

6.04 Re-Employment List

An employee who is laid off in accordance with these Rules and Regulations shall automatically be placed on a re-employment list for the former classification. Where more than one employee in the same classification is laid off, the names of such employees shall be placed on the list according to the date of layoff. Employees placed on such lists shall remain eligible for recall for a period of one year from the effective date of layoff. Re-employment may be to the employee's former classification, to a comparable classification, or to a lower classification which does not carry the same maximum rate of pay; all of which the employee must be qualified to perform in order to be placed in the classification. Recall shall be in the reverse order of layoff with the last employee laid off being the first employee offered re-employment. An employee refusing or waiving two times an appointment to re-employment in either the former classification or in a comparable or lower classification shall automatically be removed from the re-employment list.

6.05 Reinstatement List

Employees who resign in good standing may request within 30 days of resignation that they be placed on a reinstatement list. If such request is granted, former employee will be placed on the reinstatement list for the class or position from which he/she separated. Former employees placed on such list shall be eligible for reinstatement for six (6) months from the effective date of resignation. Reinstatements made within six (6) months from the date of resignation may be

made with reinstatement of prior seniority, sick leave, and pay rate. A former employee refusing or waiving one time an appointment in the former classification shall automatically be removed from the reinstatement list.

CHAPTER 7.00 – FILLING VACANCIES

7.01 Type of Appointments

Vacancies in the classified service may be filled by re-employment, promotion, transfer, demotion, appointment of hourly employees, reinstatement, or from an appropriate eligible list, if available. Re-employment from layoff shall have first priority.

7.02 Appointments

Whenever a vacancy in the classified service is to be filled, the Chief Personnel Officer or designee shall provide to the department head the names of the top three certified individuals from one of the employment list in accordance to Section 7.01 of these Rules and Regulations. After an interview and background check the department head shall make a selection and recommendation to the Chief Personnel Officer for appointment.

When there are no eligible candidates available from the above employment lists to fill a vacancy, acting or temporary appointment may be made in accordance with these Rules and Regulations. If no current active employment lists exist in which to fill the vacancy, recruitment to establish a list may begin.

CHAPTER 8.00 – PROBATIONARY PERIOD

8.01 Probationary Period

All original and promotional appointments to regular municipal service positions shall be tentative and subject to a probationary period of not less than six (6) months of continuous service. Periods of time on paid or unpaid leave exceeding ten (10) consecutive working-days shall automatically extend the probationary period by that number of days the employee is on leave. If a probationary period is interrupted by military leave for a period which extends beyond half of the probationary period, then the employee shall serve a new probationary period upon return.

The probationary period may be extended with the approval of the City Manager for a period not to exceed an additional six (6) months of actual and continuous service, upon the recommendation of the Department Head that unusual conditions justify such extension. If it is determined that the probationary period be extended, the probationary employee shall be given a notice in writing prior to the expiration of the original probationary period.

8.02 Objective of Probationary Period

The probationary period shall be regarded as a part of the testing process and shall be utilized for closely observing the employee's work, for securing the most effective adjustment of a new employee to his/her position.

8.03 Rejection During Initial Probation

During the initial Probationary Period, the City Manager or any department head may suspend, demote, or terminate a probationary employee under his or her control from their position at any time without cause and without the right of appeal or to submit a grievance.

8.04 Rejection Following Promotion

Any employee who fails to satisfactorily complete the probationary period following a promotional appointment shall be reinstated to the position and pay range held prior to promotion or a comparable vacant position, unless charges are filed and the employee is discharged in the manner provided in Chapter 16.00 herein.

Employees who elect a voluntary demotion after the six (6) months probationary period for a promotional appointment may be reinstated to the position from which he was promoted or to a comparable position.

CHAPTER 9.00 – EMPLOYMENT STATUS

Employment status in the municipal service is divided into the following categories:

9.01 Probationary

Probationary employees are those who, have been appointed to an authorized position and serve a probationary period as set forth in §8.00 of these Rules and Regulations. This includes all original and promotional appointments.

9.02 Regular Full-Time Employment

Regular Full-Time employees are those who have been appointed to an authorized position and are regularly assigned to work forty (40) hours per week (or a full-time schedule equivalent), and who have successfully completed their initial probationary period.

9.03 Part-Time Status

Employees who are not regular employees as defined in §9.02 of these Rules and Regulations, or probationary employees as defined in §9.01 of these Rules and Regulations are deemed to be part-time employees. Thus, employees are hired to work:

- A. In an authorized position but are assigned to work less than the standard forty (40) hour-week but no more than 1,000 hours per fiscal year, or
- B. Employees, who can work up to forty (40) hours per week on a temporary basis for a period not to exceed twenty-six (26) weeks.

Part-time employees are not eligible for City provided benefits. Part-time employees serve at the pleasure of the appointing authority and may be suspended, demoted, or terminated at any time without cause and without recourse to the appeal and grievance procedure provided in sections 16.00 and 17.00 of these Rules and Regulations.

CHAPTER 10.00 – SALARY AND COMPENSATION PLAN PROVISIONS

10.01 Employee Compensation Plan

An Employee Compensation Plan shall be established to provide salary schedules, salary rates, and salary ranges. There shall be five (5) steps in the salary ranges with approximately a 5% spread between each step. Rates of the ranges may be hourly, bi-weekly, monthly, or annual or any combination thereof. Each class in the City Classification plan shall be assigned to a salary range or a rate established by the Compensation Plan. All persons employed by the City shall be compensated in accordance with the Compensation Plan then in effect.

10.02 Compensation Provision

The Compensation Plan shall be modified periodically to reflect Council-approved general salary adjustments, classification actions, and other actions impacting range assignments. The City Council shall set compensation for management employees.

10.03 Administration of Salaries

A. New Employees

Appointments of new employees shall be made at the first step of the class as specified in the salary schedule of the Compensation Plan. A Department Head may recommend appointments above the first step when in his/her opinion, it is difficult to obtain qualified personnel at the starting salary, or when the education or experience of a proposed employee is substantially superior to that required of the class and justifies a beginning salary above the first step. All appointments above the first step of the class must be approved by the Chief Personnel Officer.

B. Salary at Promotion

Any employee who is promoted shall start at the step of the classification's pay range which will result in at least a five (5%) percent increase in the employee's salary; provided, that, in no event shall the new salary be higher than the maximum of the salary range of the class to which the employee is promoted. If the employee is promoted to a supervisory level position, the employee shall start in that step in which his/her annual salary is at least five (5%) percent more than the salary of those he/she supervises.

C. Salary Anniversary Date

The beginning of the pay period following an employee's successful completion of the required probationary period for either initial or promotional appointments shall become the employee's salary anniversary date. Such date shall be used for purposes of conducting employee performance appraisals and granting salary advancements within the range.

D. Advancement Within Salary Range

Advancement within a salary range shall not be automatic but based on merit and performance, and upon the recommendation of the Department Head.

Employees may be eligible for advancement to the next step following satisfactory completion of six (6) months continuous service as stated in Section 8.02 of these Rules and Regulations. Thereafter, eligibility for advancement to the remaining steps of the salary range may be made annually on their salary anniversary date following satisfactory completion of twelve (12) months continuous service, until the employee reaches the maximum salary step of the specific salary range.

Salary step increases shall be effective on the first day of the payroll period following the employee's salary anniversary date.

E. Special Merit Increase

Notwithstanding the provisions of this section, upon recommendation of the Department Head and approval of the Chief Personnel Officer a special merit increase may be granted to regular employees for outstanding performance prior to the employee's salary anniversary date.

Written justification supporting outstanding performance must accompany special merit increase recommendations. The granting of a special merit increase shall not change an employee's salary anniversary date. Only one special merit increase may be given in a twelve-month period and the special merit increase is in addition to the employee's regular step increase. This provision does not apply to employees on the fifth step of the salary range.

F. Demotion

Any employee who is demoted to a position in a class having a salary lower than the class from which he/she was demoted, shall be placed at that step of the lower salary range which is closest to his/her salary prior to being demoted. However, in the event the closest salary step would result in an increase in salary, the employee shall be assigned to the next lower salary step. In no case shall a demotion result in an increase in salary.

The employee's salary anniversary date for step advancement shall not change. Further salary advancements within the lower salary range shall be made in accordance to Section 10.03.

G. Salary on Reclassification

When a position is reclassified to a new or an already created position that has an increase in salary, said incumbent shall start at that step of the classification's pay range which will result in at least a five (5%) percent increase in salary. Upon recommendation of the department head and approval of the Chief Personnel Officer, an increase of a higher amount may be granted. When the reclassification has a decrease in salary the incumbent shall start at the step with a salary closest to his/her former salary.

10.04 Out of Class Pay

An employee who is temporarily required to perform the work and duties of a higher-level classification may receive additional compensation for performing such duties. An employee shall receive a five percent (5%) increase in salary if performing the duties thereof for two full pay-periods. Out of class pay shall start at the beginning of the third pay period.

Requests for out of class pay shall be made in writing and in advance to the Chief Personnel Officer who shall provide the review and necessary approval and processing. Retroactive requests will not be considered. Out of class pay shall not be paid for more than six pay periods.

10.05 Effective Date of Salary Adjustments

All salary adjustments resulting from an employee's step or merit increase, promotion, demotion, or reclassification shall become effective on the first day of the payroll period coinciding with or following the employee's salary anniversary date, special merit, promotion, demotion, or reclassification.

10.06 Salary Deductions

In the event an employee is erroneously overpaid by the City, regardless of fault, the City shall recoup overpayment by deduction from that employee's regular paycheck, either the full amount of the overpayment or an amount agreed by the City and employee, and continue said deduction for as many consecutive pay periods as is necessary until full overpayment is recouped. The City shall not commence recoupment by payroll deductions until written notification, which includes all the details of the overpayment, the amount of overpayment and the schedule of recoupment, has been given to the employee at least ten (10) working days in advance.

CHAPTER 11.00 – HOURS OF WORK AND PAY PROVISIONS

11.01 Hours of Work

- A. Workday – The standard workday for full-time employees, exclusive of lunch time, shall be eight (8) hours. Exceptions to this schedule must be approved by the appointing authority, and provided for by the applicable Memorandum of Understanding.
- B. Workweek – Except as otherwise provided below or by the applicable Memorandum of Understanding, the standard workweek for full-time employees shall be forty (40) hours within a seven (7) day work period to be worked within five (5) consecutive days followed by two (2) days off.
- C. The work-day for part-time employees shall be established as directed by the Department Head.
- D. Pay Period – Shall begin on a Sunday and end on the second Saturday thereafter. Full-time employees shall be scheduled to work eighty (80) hours in each work period.
- E. Rest Period – Two compensated rest period of fifteen (15) minutes shall be provided to all employees during a workday. One rest period should be taken at the first half of the shift and the other at the second half of the shift. The rest periods may not be combined to shorten the workday or extend the lunch break.
- F. Lunch Period – A non-compensated lunch period of thirty (30) minutes to one (1) hour shall be provided to all employees which shall be scheduled generally in the middle of the workday.

11.02 Exceptions to Standard Work Periods

The City Manager is hereby authorized to designate other work periods and working hours for employees when, in his opinion, the best interest of the City may be served by such adjustment of the standard work periods and hours. The procedure for making adjustment in the standard work periods and hours shall be consistent with the provisions of §3504.5 of the Government Code. (*Government Code Section 3504.5 provides that, except in cases of emergency, notice and an opportunity to meet and confer shall be given prior to enacting any ordinance, rule, resolution or regulation directly relating to matters within the scope of representation.*)

11.03 Compensation of Salaries

A. Bi-Weekly

All employees shall be compensated on a bi-weekly basis. Salaries will be paid every other Tuesday of each month following the completion of a pay period. If a payday falls on a City recognized holiday, paychecks will be distributed one day prior.

Except for employees being terminated, salaries will be paid only on regular paydays, unless early payment is approved by the City Manager.

B. Pay at Termination

When an employee is terminated or laid off from City service, said employee shall receive the final paycheck on his/her last day of work, provided that written clearance has been submitted by his/her department head that said employee has returned all City-owned tools, clothing, keys, and equipment. The final paycheck must include earned and unpaid wages up to and including the last day of work, as well as any accrued unused vacation leave.

C. Pay at Resignation

When an employee resigns from City service, said employee shall receive final paycheck within 72 hours of resignation. If employee gives notice of resignation at least 72 hours in advance said employee shall receive final paycheck on his/her last day of work. Final paycheck must include earned and unpaid wages up to and including the last day of work, as well as any accrued unused vacation leave.

The method of distributing payroll checks shall be established by the City Manager.

11.04 Overtime Policy

All non-exempt employees may be required to work overtime in case of operating emergencies; to handle peak workloads or to finish incomplete work when it is not possible or practical to employ additional personnel; to meet temporary conditions where the City is unable to secure qualified personnel to fill authorized positions; and on other occasions as deemed necessary in the judgment of the responsible supervisor or other management officials.

All overtime hours worked shall be authorized in advance by the appropriate department head or designee specifically vested with this authority. Employees working overtime without prior approval by the department head or supervisor may be subject to discipline.

11.05 Overtime Computation

All non-exempt employees who work in excess of their regular work schedule, normally eight (8) hours in a workday, or forty (40) hours in a workweek, shall be entitled to overtime compensations at the rate of time and one-half their regular rate of pay, except as otherwise provided for in these Rules and Regulations or in the applicable Memorandum of Understanding.

Overtime compensation provisions shall not apply to contract employees and management members of the Executive Management Bargaining Unit.

11.06 Overtime Compensation

All overtime shall be compensated by compensatory time or by cash payment at the rate of one and one-half the employee's regular hourly rate of pay. Overtime shall be compensated by cash payment only after the employee has accumulated 100 hours of compensatory time.

Non-exempt employees may earn compensatory time to a maximum of one hundred (100) hours. Compensatory time may be "cashed in" once a year for a total of forty (40) hours only if the employee has at least forty (40) hours of compensatory time on the books. Employees separating themselves from the City service shall be allowed to use compensatory time earned prior to the effective separating date.

Compensatory time earned by an employee who is required to work in excess of the normal workweek, shall be recorded by the immediate supervisor of the employee on the time card.

11.07 Callback Pay

Except as otherwise provided for in these Rules and Regulations or in the applicable Memorandum of Understanding, an employee who is called back to work after leaving his/her place of employment or on a regular scheduled day off, shall be compensated for a minimum of two (2) hours at time and one-half Monday through Saturday and double time on a Sunday or City recognized holiday at the employee's regular rate of pay. Any time worked in excess of the two (2) hours shall be paid at the applicable rate.

Call back pay shall commence at the time an employee reaches the place where he/she is directed to report and shall continue until he/she is released or the work is completed, whichever is the earlier. However, employees shall not again be compensated at a minimum two (2) hours of overtime pay for subsequent callbacks occurring within the time frame of an earlier response.

11.08 Standby Pay

Employees assigned to standby shall be available and ready to work when needed for a seven (7) consecutive day period to handle situations occurring outside of standard working hours. Said employee should respond to the specified work site within a half hour.

Employees on standby shall be compensated as follows: one hour per day, Monday through Saturday at the rate of one and one-half the employee's regular rate of pay; one (1) hour double time at the employee's regular rate of pay for Sundays and City recognized holidays.

Employees who are on standby and called back to work for any reason shall be compensated as stated in §11.07 in addition to his/her standby pay. Employees on standby will be provided a City vehicle to take home in order to facilitate response to emergency service request.

11.09 Overtime Exceptions

A. Cheese & Wine Festival

Public Works Personnel shall not be required to work overtime as a result of the Cheese and Wine Festival. Any Public Works employee who agrees to work overtime for the Cheese and Wine Festival will be paid at the rate of one and a half (1½) time the regular compensation except Sunday call outs which will be reimbursed at (2) times the regular compensation. Any person called out will be paid a minimum of four (4) hours compensation.

B. Non-Standard Work Periods

Overtime for employees assigned to non-standard work periods and working hours as provided in §11.02 herein, shall be defined as any time worked over 40 hours in a given workweek and any time worked in excess of eight (8) hours in a day when 40 hours have been paid during the workweek.

11.10 Longevity Pay

Longevity Pay is designed to provide for certain eligible and qualified employees of the City, compensation in addition to their regular base pay. The maximum merit salary increase an employee may be granted in any one fiscal year is two and one-half percent. The total longevity pay increase any employee can receive during their term of employment is five percent.

A. Eligibility & Qualifications

An employee may be eligible for a longevity pay increase only if he/she has been with the City ten (10) consecutive years and has remained at Step E (final step) for five (5) years.

The increase is based strictly on exceptional performance and merit. To minimally qualify for the increase an employee would:

1. Need to have fifty percent of his/her performance appraisal ratings in the four or five category;
2. Have no rating in the one or two category; and
3. Be recommended for an increase by his/her supervisor and/or department head.

B. Appeal

Within five (5) days after receiving the performance appraisal, the employee may request in writing, a review of the appraisal with the Chief Personnel Officer. Within five days after said review, the Chief Personnel Officer shall either accept the original performance appraisal, a modified appraisal, or cause a new appraisal to be prepared which shall be entered into the personnel file as the official performance appraisal. The

official appraisal shall bear the Chief Personnel Officer's signature. The decision of the Chief Personnel Officer shall be final.

A longevity pay increase will only be considered during the employee's annual performance appraisal.

SECTION 12.00 – LEAVES OF ABSENCE

12.01 Attendance

Any unauthorized absence may be cause for disciplinary action, up to and including discharge from employment. Authorized absence is defined as: Permission to be absent from duty for a specified purpose, with the right to return before or upon the expiration of the leave period.

Employees shall be in attendance at their work in accordance with the Rules regarding the hours of work, leave and related provisions. Department Heads shall be responsible for maintaining employee attendance records which shall be transmitted to the Personnel Office on standardized forms and at times specified by the Personnel Officer or designee.

12.02 Sick Leave

1. Purpose of Sick Leave

The purpose of sick leave is to provide continuity of regular bi-weekly compensation to eligible employees while absent from duty due to personal illness, injury, or medical condition or for illness, injury, or medical condition of a member of the employee's immediate family.

For the purpose of this section an employee's immediate family shall consist of the employee's spouse, children, step-children, parent, brother, sister, or a close relative residing in the household of the employee.

2. Sick Leave Eligibility

Regular and probationary employees shall be eligible to accrue sick leave. Such employees shall be entitled to sick leave, as authorized in this Section, upon the completion of one (1) month of continuous employment with the City.

3. Sick Leave Accrual

All eligible employees shall accrue sick leave at the rate of eight (8) hours per month (3.6923/hrs per pay-period) and shall be credited on a bi-weekly basis when an employee is in pay status for fifty (50%) percent or more of the work days in a given pay-period. There shall be no limit to the amount of sick leave that may be accrued.

4. Sick Leave Use

A. Sick leave shall not be considered as a right which an employee may use at his/her own discretion, but shall be allowed only in case of necessity and actual personal illness, injury, medical condition, or for medical, dental or optical appointments; for the care of or

attendance upon the sickness, medical, dental or optical appointments of members of the employee's immediate family as defined in §12.02 (1).

- B. In order to receive compensation while absent on sick leave, the employee shall notify his/her immediate supervisor prior to or within one hour before the time established as the beginning of the employee's work-day, unless the City determines that the employee's duties require more restrictive reporting.
- C. Sick leave shall not be granted to any employee absent from duty: as a result of any sickness, injury or disability purposely self-inflicted or caused by willful misconduct; after separation from city service, or during a City authorized leave of absence without pay, or any other absence from duty not authorized by the City.
- D. An employee may be required at any time, by his/her Department Head, to file a physician's certificate, at City's expense stating when he/she can resume work. However, when an employee is absent due to illness or injury for more than three (3) consecutive working days, a physician's certificate may be required.
- E. Employees granted a leave of absence with pay or other approved leave with pay shall accrue sick leave as provided herein. Sick leave shall not be accrued by an employee absent from duty after separation from City service, or during a City authorized leave of absence without pay, or any other absence from duty not authorized by the City.

5. Sick Leave Deductions

Employees shall be charged sick leave at the rate equal to their regular workday for each day absent. Absences less than a regular workday will be charged at the rate of one-half (½) hour sick leave for each one-half (½) hour absent.

Any employee scheduled to work on a holiday who reports sick will be charged sick leave at the appropriate rate and the holiday will be accrued.

6. Vacation and CTO as Sick Leave

An employee absent from duty due to an injury or illness and has used all of his/her sick leave, may request the use of earned compensatory time, accrued vacation, or other accrued paid leave in such order as though it was sick leave.

7. Holidays During Sick Leave

If a City Holiday falls within the period for which sick leave is granted, said holiday shall not be charged against the employee's sick leave accrual.

8. Medical Leave Without Pay

Upon depletion of accumulated sick leave, CTO, accrued vacation and other accrued paid leaves for an injury or illness, and upon the recommendation of the Department Head, an employee may be placed on medical leave of absence without pay for a period not to exceed sixty (60) days. If the employee is unable to return to work at the end of this period, further medical leave must be requested which will be subject to approval of the Chief Personnel Officer or designee. If further leave is granted, the employee must notify the City

of the intent to return to work every thirty (30) days. If further leave is not granted, the employee's service with the City shall be considered terminated.

9. Excessive Sick Leave Use or Abuse of Sick Leave

- A. An employee who is excessively absent may be subject to disciplinary action. Excessive absenteeism shall be defined as absence in excess of the average annual Departmental sick leave usage. Excessive absenteeism may occur regardless of the employee's accrual.
- B. An employee shall be subject to disciplinary action for abuse of sick leave who claims entitlement to sick leave but who does not meet the requirements of sick leave as defined in § 12.02 (4).
- C. This policy shall be administered according to Labor Code § 234 which prohibits sick leave taken pursuant to Section 233 from serving as the basis for discipline, discharge, demotion, or suspension.

10. Sick Leave at Separation

Accumulated sick leave shall be forfeited by employees upon separation from municipal service whether voluntarily or involuntarily except upon separation due to retirement. Upon retirement employees may convert all of accrued sick leave toward PERS retirement service credits.

12.03 Family Care and Medical Leave

1. Statement of Policy

To the extent not already provided for under current leave policies and provisions, the City of Riverbank (the "City") will provide family and medical care leave for eligible employees as required by the Federal Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA). The following provisions set forth certain of the rights and obligations with respect to such leave. Rights and obligations which are not specifically set forth below are set forth in the Department of Labor regulations implementing the FMLA of 1993 and the regulations of the CFRA. Unless otherwise provided by this article, "Leave" under this article shall mean leave pursuant to the FMLA and CFRA.

2. Definitions

- A. 12-Month Period – means a rolling 12-month period measured backward from the date leave is taken and continues with each additional leave day taken.
- B. Child – means a child under the age of 18 years, or 18 of age or older who is incapable of self-care because of a mental or physical disability. An employee's child is one for whom the employee has actual day-to-day responsibility for care and includes, a biological, adopted, foster or step-child, legal ward, or a child of a person standing in loco parentis.

A child is "incapable of self-care" if he/she requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living or instrumental

activities of daily living such as, caring for grooming and hygiene, bathing, dressing, eating, cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, etc.

- C. Parent – means the biological parent of an employee or an individual who stands or stood *in loco parentis* (in place of a parent) to an employee when the employee was a child. This term does not include parents-in-law.
- D. Spouse – means a husband or wife as defined or recognized under California state law for purposes of marriage.
- E. Serious Health Condition – means an illness, injury impairment, or physical or mental condition that involves:
 - 1. *Inpatient Care* (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (i.e., inability to work, or perform other regular daily activities due to the serious health condition, treatment involved, or recovery therefrom); or
 - 2. *Continuing treatment* by a health care provider: A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:
 - a) A period of *incapacity* (i.e., inability to work, or perform other regular daily activities due to serious health condition of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:
 - i) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision by a health care provider, or by a provider of health care services (e.g., a physical therapist) under orders of, or on referral by a health care provider; or
 - ii) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider. This includes for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. If the medication is over the counter, and can be initiated without a visit to a health care provider, it does not constitute a regimen of continuing treatment.
 - b) Any period of incapacity due to pregnancy or for prenatal care. (This entitles the employee to FMLA leave, but not CFRA leave. Under California law, an employee disabled by pregnancy is entitled to pregnancy disability leave.)
 - c) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
 - i) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

- ii) Continues over an extended period of time (including recurring episodes of a single underlying condition); and
- iii) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one day.
- d) A period of incapacity which is permanent or long term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by a health care provider.
- e) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.

F. Health Care Provider – means:

1. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State of California;
2. Individual duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, who directly treats or supervises treatment of a serious health condition;
3. Podiatrists, dentists, clinical psychologist, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California State law;
4. Nurse practitioners and nurse-midwives and clinical social workers who are authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law;
5. Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; and
6. Any health care provider from whom an employer or group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

3. Reasons For Leave

Leave is only permitted for the following reasons:

- a. The birth of a child or to care for a newborn of an employee;
- b. The placement of child with an employee in connection with the adoption or foster care of a child;

- c. Leave to care for a child, parent or a spouse who has a serious health condition; or
- d. Leave because of a serious health condition that makes the employee unable to perform the functions of his/her position.

4. Employee Eligibility

An employee is eligible for leave if the employee:

- 1. Has been employed for at least 12 months; and
- 2. Has been employed for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.

5. Amount of Leave

Eligible employees are entitled to a total of 12 workweeks of leave during any 12-month period.

A. Minimum Duration of Leave

If leave is requested for the birth, adoption or foster care placement of a child of the employee, leave must be concluded within one year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks. However, an employee is entitled to leave for one of these purposes (e.g., bonding with a newborn) for at least one day, but less than two weeks duration on any two occasions.

If leave is requested to care for a child, parent, spouse or the employee him/herself with a serious health condition, there is no minimum amount of leave that must be taken. However, the notice and medical certification provisions of this policy must be complied with.

B. Spouses Both Employed By City of Riverbank

If a husband and wife are both employed by the City of Riverbank and are entitled to leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to 12 workweeks during any 12-month period if leave is taken for the birth or placement for adoption or foster care of the employees' child (i.e., bonding leave). This limitation does not apply to any other type of leave under this policy.

6. Employee Benefits While On Leave

Leave under this policy is unpaid. While on leave, employees will continue to be covered by the City's group health insurance to the same extent that coverage is provided while the employee is on the job. However, employees will not continue to be covered under the City's Life Insurance, AFLAC and Colonial Insurance, or other non-health benefit plans.

Employees may make the appropriate contributions for continued coverage under the preceding non-health benefit plans by payroll deductions or direct payments made to these plans. Depending on the particular plan the City will inform you whether the premiums should be paid to the carrier or to the City. Your coverage on a particular plan may be dropped if you are more than 30 days late in making a premium payment. However, you will receive a notice at least 15 days before coverage is to cease, advising you that you will be

dropped if your premium payment is not paid by a certain date. Employee contribution rates are subject to any change in rates that occurs while the employee is on leave.

If an employee fails to return to work after his/her leave entitlement has been exhausted or expires, the City shall have the right to recover its share of health plan premiums for the entire leave period, unless the employee does not return because of the continuation, recurrence, or onset of a serious health condition of the employee or his/her family member which would entitle the employee to leave, or because of circumstances beyond the employee's control. The City shall have the right to recover premiums through deduction from any sums due the City (e.g. unpaid wages, vacation pay, etc.)

7. Substitution Of Paid Accrued Leaves

While on leave under this policy, as set forth herein, and employee may elect to concurrently use paid accrued leaves. Similarly, the City may require an employee to concurrently use paid accrued leaves after requesting FMLA and/or CFRA leave, and may also require an employee to use Family and Medical Care Leave concurrently with a non-FMLA/CFRA leave which is FMLA/CFRA-qualifying.

A. Employee's Right To Use Paid Accrued Leaves Concurrently With Family Leave

Where an employee has earned or accrued paid vacation, administrative leave, compensatory time, or personal or family leave that paid leave may be substituted for all or part of any (otherwise) unpaid leave under this policy.

As for sick leave, and employee is entitled to use sick leave concurrently with leave under this policy if:

1. The leave is for the employee's own serious health condition; or
2. The leave is needed to care for a parent, spouse or child with a serious health condition, and would be permitted as sick leave under the City's sick leave policy.

A. City of Riverbank's Right To Require An Employee To Use Paid Leave When Using FMLA/CFRA Leave

Employees must exhaust their accrued leaves concurrently with FMLA/CFRA leave to the same extent that employees have the right to use their accrued leaves concurrently with FMLA/CFR leave with two exceptions:

1. Employees are not required to use accrued compensatory time earned in lieu of overtime earned pursuant to the Fair Labor Standards Act; and
2. Employees will only be required to use sick leave concurrently with FMLA/CFRA leave if the leave is for the employee's own serious health condition.

B. City of Riverbank's Right To Require An Employee To Exhaust FMLA/CFRA Leave Concurrently With Other Leaves

If an employee takes a leave of absence for any reason which is FMLA/CFRA qualifying, the City may designate that non-FMLA/CFRA leave as running concurrently with the employee's 12-week FMLA/CFRA leave entitlement.

C. City of Riverbank's and Employee's Rights If An Employee Requests Accrued Leave Without Mentioning Either the FMLA or CFRA

If an employee requests to utilize accrued vacation leave or other accrued paid time off without reference to a FMLA/CFRA qualifying purpose, the City may not ask the employee if the leave is for a FMLA/CFRA qualifying purpose. However, if the City denies the employee's request and the employee provides information the requested time off is for a FMLA/CFRA qualifying purpose, the City may inquire further into the reason for the absence. If the reason is FMLA/CFRA qualifying, the City may require the employee to exhaust accrued leave as described above.

8. Medical Certification

Employees who request leave for their own serious health condition or to care for a child, parent or a spouse who has a serious health condition must provide written certification from the health care provider of the individual requiring care if requested by the City.

If the leave is requested because of the employee's own serious health condition, the certification must include a statement that the employee is unable to work at all or is unable to perform the essential functions of his/her position.

A. Time To Provide A Certification

When an employee's leave is foreseeable and at least 30 days notice has been provided, if a medical certification is requested, the employee must provide it before the leave begins. When this is not possible, the employee must provide the requested certification to the City within the time frame requested by the City (which must allow at least 15 calendar days after the employer's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

B. Consequences For Failure To Provide An Adequate Or Timely Certification

If an employee provides an incomplete medical certification, the employee will be given a reasonable opportunity to cure any such deficiency. However, if an employee fails to provide a medical certification within the time frame established by this policy, the City may delay the taking of FMLA/CFRA leave until the required certification is provided.

C. Recertification

If the City has reason to doubt the validity of a certification, the City may require a medical opinion of a second health care provider chosen and paid for by the City. If the second opinion is different from the first, the City may require the opinion of a third provider jointly approved by the City and the employee, but paid for by the City. The opinion of the third provider will be binding. An employee may request a copy of the health care provider's opinions when there is a recertification.

D. Intermittent Leave or Leave On A Reduced Leave Schedule

If an employee requests leave intermittently (a few days or hours at a time) or on a reduced leave schedule to care for an immediate family member with a serious health condition, the employee must provide medical certification that such leave is medically

necessary. "Medically necessary" means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule.

9. Employee Notice Of Leave

Although the City recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much notice as possible of their need for leave. If leave is foreseeable, at least 30 days notice is required. In addition, if an employee knows that he/she will need leave in the future, but does not know the exact date(s) (e.g. for the birth of a child or to take care of a newborn), the employee shall inform his/her supervisor as soon as possible that such leave will be needed. Such notice may be orally given. If the City determines that an employee's notice is inadequate or the employee knew about the requested leave in advance of the request, the City may delay the granting of the leave until it can, in its discretion, adequately cover the position with a substitute.

10. Reinstatement Upon Return From Leave

A. Right To Reinstatate

Upon expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. Employees have no greater rights to reinstatement, benefits and other conditions of employment than if the employee had been continuously employed during the FMLA/CFRA period.

If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the reinstatement date differs from the original agreement of the employee and the City, the employee will be reinstated within two business days, where feasible, after the employee notifies the employer of his/her readiness to return.

B. Employee's Obligation To Periodically Report On His/Her Condition

Employees may be required to periodically report on their status and intent to return to work. This will avoid any delays to reinstatement when the employee is ready to return.

C. Fitness For Duty Certification

As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition, which made the employee unable to perform his/her job, the employee must obtain and present a fitness-for-duty certification from the health care provider that the employee is able to resume work. Failure to provide such certification will result in denial of reinstatement.

D. Reinstatement Of "Key Employees"

The City may deny reinstatement to a "key" employee (i.e., an employee who is among the highest paid 10 percent of all employed by the City within 75 miles of the work site) if such denial is necessary to prevent substantial and grievous economic injury to the

operations of the City, and the employee is notified of the City's intent to deny reinstatement on such basis at the time the employer determines that such injury would occur.

11. Required Forms

Employees must fill out the following applicable forms in connection with leave under this policy:

- a. "Request For Family or Medical Leave Form" prepared by the City to be eligible for leave. *Note: Employees will receive a City response to their request which will set forth certain conditions of the leave.*
- b. Medical certification either for the employee's own serious health condition or for the serious health condition of a child, parent or spouse;
- c. Authorization for payroll deductions for benefit plan coverage continuation; and
- d. Fitness for duty to return from leave form.

12.04 Vacation Leave

A. Purpose

The purpose of annual vacation leave is to enable each eligible employee annually to return to his work mentally and physically refreshed. For this reason it is the intention of the City that vacation be taken, insofar as possible, in periods of one week or more.

B. Vacation Accruals

Regular full-time and probationary employees shall receive annual vacation with pay in accordance with the following provisions.

Vacation will be accrued and credited on a bi-weekly basis when an employee is in pay status for fifty (50%) percent or more of the work days in a given pay-period. All eligible employees except as provided in the applicable Memorandum of Understanding shall accrual vacation leave as outlined below:

Years of Service	Accrual Hours Per		Maximum Accruals
	Pay-Period	Year	
0 – 5 years	3.0769	80	400
6 – 10 years	4.6154	120	400
11 – 15 years	6.1538	160	400
16+ years	7.6923	200	400

At no time shall an employee have a total balance of vacation leave in excess of four hundred (400) hours. When an employee reaches the maximum accrual he/she shall stop earning vacation leave. Vacation accrual will resume once the vacation balance is reduced below the stated maximum.

C. Vacation Use

Employees shall complete six (6) months continuous service before using accrued vacation leave.

The times at which an employee may use his/her accrued vacation leave and the amount to be taken at any one time shall be determined by his Department Head or his/her designee with particular regard for the needs of the City, but also, insofar as possible, considering the wishes of the employee.

If the requirements of the City are such that an employee must defer part or all of his/her vacation leave, such vacation shall be scheduled as soon as possible thereafter.

Employees shall not work for the City during their vacation.

D. Holidays, Illness, and Injury During Vacation

In the event a City holiday falls within an employee's vacation period, said holiday shall not be charged against the employee's vacation accrual. An employee's illness or injury occurring while on vacation leave may be covered by sick leave when such illness or injury causes the employee to be hospitalized.

E. Vacation Pay at Separation

Upon separation, an employee shall be entitled to payment for all accrued vacation leave earned up to the last day of employment. Such compensation for accrued vacation shall be at the employee's current rate of pay at the time of separation.

Employees who are separated from the City and have less than six (6) months continuous service shall not be compensated for accrued vacation.

12.05 Holidays

The following holidays are recognized as municipal holidays for pay purposes and all regular and probationary employees shall have these days off, except as otherwise provided:

- | | |
|---------------------------|--------------------------------------|
| 1. New Year's Day | January 1 st |
| 2. Martin Luther King Day | 3 rd Monday in January |
| 3. President's Day | 3 rd Monday in February |
| 4. Memorial Day | Last Monday in May |
| 5. Independence Day | July 4 th |
| 6. Labor Day | 1 st Monday in September |
| 7. Veteran's Day | November 11 |
| 8. Thanksgiving Day | 4 th Thursday in November |
| 9. Day After Thanksgiving | 4 th Friday in November |
| 10. Christmas Eve | December 24 |
| 11. Christmas Day | December 25 |
| 12. New Year's Eve | December 31 |

1. One (1) Floating Holiday for all employees.

When a holiday fall on a Saturday, the preceding Friday shall be deemed to be a holiday in lieu of the day named. When a holiday falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day named.

Regular and probationary employees assigned to work on holidays shall receive compensatory time off or pay in lieu of compensatory time off, at twice the regular rate of pay.

12.06 Bereavement Leave

Up to three (3) days of paid leave may be granted a regular employee by the head of his department in the event of death in the employee's family. For the purposes of this section only, the employee's family shall mean the spouse, parents, children, brother, sister, grandmother, grandfather, brother and sister-in-law, and mother and father-in-law (current) or a close relative residing in the household of the employee. Subject to approval of the City Manager an employee may be granted up to five (5) days of bereavement leave.

Usage of this leave shall not be charged against the employee's accrued sick leave or vacation leave.

12.07 Catastrophic Leave

The purpose of the catastrophic leave is to enable employees to receive and donate accrued paid leave credits to assist employees who have no leave and who will suffer a financial hardship due to a catastrophic illness or injury to themselves or a member of the immediate family as defined in Section 12.02 herein. Catastrophic illness or injury is defined as a critical medical condition considered to be terminal, a long-term major physical impairment or disability.

1. Eligibility

To be eligible for catastrophic leave the recipient employee must meet the following:

1. Must be a regular full-time employee who has completed his/her initial probationary period;
2. The employee must have exhausted all of his/her available paid leaves.

The City may request the employee to provide medical certification supporting the need for leave due to a serious health condition affecting the employee or an immediate family member.

A maximum of ninety (90) working days of catastrophic leave may be used by an eligible employee per employment. Availability of catastrophic leave shall not delay or prevent the City from taking action to medically separate or disability retire an employee.

An employee using catastrophic leave shall not accrue vacation or sick leave during this period.

2. Leave Donations

Employees may donate accrued paid leaves, including but not limited to vacation leave, sick leave, and compensatory time off (CTO).

1. The donation of leave is voluntary and is irrevocable once donated.
2. Employees wishing to donate leave will submit to the Personnel Department an authorization for transfer of leave form.
3. All donations shall be made in one-hour increments or more.
4. All donations are to be confidential, between the donating employee and the City.
5. Donated leave will be converted from the type of leave donated to sick leave and credited to the recipient employee's sick leave balance on an hour-for-hour basis and shall be paid at the rate of pay of the recipient employee. All sick leave provisions will apply.
6. An employee may use catastrophic leave credits in the same manner that sick leave is used to supplement disability insurance benefits or workers' compensation benefits.

12.08 Military Leave

Military leave shall be granted in accordance with the provisions of state and federal law. An employee requesting leave for this purpose shall provide the department head, whenever possible, with a copy of the military orders specifying the dates, site and purpose of the activity or mission. Within the limits of such orders, the department head may determine when the leave is to be taken and may modify the employee's work schedule to accommodate the request for leave.

An employee who interrupts his municipal service because of extended military leave shall be compensated for accrued vacation at the time the leave becomes effective.

12.09 Pregnancy Leave

A pregnant employee shall be entitled to a leave of absence without pay for up to four (4) months so long as the employee's attending physician certifies that she is physically unable to perform the duties of her position due to pregnancy, childbirth or a related medical condition. During said leave of absence without pay, the employee has the option of using sick leave, vacation leave and compensatory time.

Upon expiration of the approved leave, the employee shall be reinstated to her former position or to a comparable one if the former position is abolished during the period of leave and the employee would otherwise not have been laid off. The comparable position is one having similar terms of pay, location, job content and promotional opportunities. Prior to the employee being reinstated, the employee must submit a statement from her attending physician that the employee is physically capable of resuming the regular duties of her position.

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

Female employees shall be reasonably accommodated for conditions related to pregnancy, childbirth or related medical condition if the employee requests an accommodation with the advice of her attending physician.

12.10 Time Off to Vote

If an employee does not have sufficient time outside of working hours to vote at any general, direct primary, or presidential primary election, the employee may take up to two (2) hours off with pay at the beginning or end of the day as provided in the State of California Election Code. Prior approval for this time off by the employee's supervisor is required.

12.11 Jury Duty and Court Appearance

Employees required to report for jury duty shall be granted a leave of absence with pay from their assigned duties until released by the Court, provided the employee remits to the City all fees received for such duties other than mileage or subsistence allowance within thirty (30) days from the termination of his jury service.

Regular employees who are subpoenaed to appear as witnesses in behalf of the State of California or any of its agencies shall be granted leaves of absence with pay from their assigned duties until released. The employee shall remit all fees received for such appearances to the City within thirty (30) days from the termination of his/her services. Compensation for mileage or subsistence allowance shall not be considered as a fee and shall be retained by the employee.

12.12 Administrative Leave

The City shall have the right to place an employee on administrative leave at any time with full pay when in the City's discretionary opinion the continuing presence at the job site during an administrative investigation into the employee's fitness for duty or misconduct would create or may tend to create a disruption to the working environment or may possibly impact the efficient operations of the department.

12.13 Leave of Absence Without Pay

Upon written request by the employee and the recommendation of the department head, a leave of absence without pay may be granted by the Chief Personnel Officer or designee to an employee for a period of time not to exceed a total of six (6) months for education, training (which will materially benefit City services), or personal reasons where other leave provisions are not available. If other leave provisions are available this leave will run concurrently with such other leave.

Request for leave of absence without pay shall state specifically the reason for the request, the date when the employee desires to begin leave, and the probable date of return.

Employees shall not accrue vacation leave, sick leave, increases in salary except (Cost of Living Adjustments), or all other paid leaves while on unpaid leave. The City is not required to maintain contributions toward group health, dental and vision insurance or other fringe benefits while on unpaid leave of absence, unless otherwise provided by law. Said employee shall be entitled to maintain such benefits in effect; provided, that the employee pays the insurance monthly premiums.

Employees returning to work following a leave of absence shall retain their accumulated leave, if otherwise not used. Upon the return from authorized leave of absence the employee shall be

reinstated to his/her former position or to a comparable one if the former position is abolished during the period of leave.

Failure of the employee to return to his or her employment upon the termination of any authorized leave of absence shall, except under extraordinary circumstances, constitute a separation from service of that employee.

12.14 Unauthorized Leave of Absence

Unauthorized leave of absence shall be considered to be without pay and reductions in the employee's pay shall be made accordingly. An employee is deemed to have resigned if the employee is absent for more than three (3) consecutive working days without prior authorization and may result in termination of employment. Such termination shall not be subject to appeal.

12.15 Compensatory Time Off

Use of compensatory time earned must be scheduled at least twenty-four (24) hours in advance and requires the concurrence of the Department Head for the requested time off.

Employees shall not be required to give a reason for requesting compensatory time off. Exceptions to this procedure will be made only upon written authorization by the City Manager.

12.16 School Leave

Any agency employee who is a parent, guardian or grandparent having custody of one or more children in kindergarten or grades 1 through 12 or attending a licensed day care facility shall be allowed up to forty (40) hours each school year, not to exceed eight (8) hours in any calendar month of the school year, without pay, to participate in activities of the school of their child. Such employee must provide reasonable advance notice of the planned absence. The employee may use accrued vacation and/or compensatory time off to cover the absence. The City may require the employee to provide documentation from the school as verification that the employee participated in school activities on a specific date and at a particular time. If both parents, guardians or grandparents having custody, work for the agency at the same work site, only the first parent requesting shall be entitled to leave under this provision.

CHAPTER 13.00 – PERFORMANCE APPRAISALS

13.01 Performance Appraisals

The Chief Personnel Officer or designee shall provide a method of reporting of individual employee performance which relates to knowledge, quality and quantity of work, team skills, dependability of work habits, and other factors. The Chief Personnel Officer or designee shall prescribe forms for such performance appraisals and shall be responsible for assuring that such evaluations are adequate to provide information to both the employee and the City for the purposes set forth in this section. An employee must have a performance appraisal with an overall rating of three (3) or better in order to be eligible for a step increase or promotion. Deficiencies in performance by an employee may result in a decrease in salary, suspension, demotion, or dismissal.

13.02 Procedures

All regular full-time employees shall annually at or near their salary anniversary date receive a written performance appraisal prepared by their supervisor. Probationary employee shall receive a performance appraisal at their third month and before the completion their sixth month. In addition to annual performance appraisal employees shall be rated every three months during probationary periods, when an employee is being considered for promotion, transfer, demotion, or as necessary when there has been a significant change in an employee's performance.

13.03 Performance Appraisal Review

Upon completion of any performance appraisal, a meeting shall be held between the employee and supervisor to discuss the employee's performance. A performance appraisal review shall include recommendations by the supervisor or requests by the employee for further training and/or professional development. Goals shall be set by the employee and supervisor and courses of action to meet said goals.

All performance appraisals shall become part of the employee's personnel file. The employee shall sign the performance appraisal only to verify that the supervisor has discussed the evaluation with the employee and to acknowledge its contents. Such signature shall not necessarily mean the employee fully agrees with the contents of said appraisal. Employees shall have the option of filing a written rebuttal to the performance appraisal and have it become part of the employee's personnel file. The performance appraisals shall not be subject to any grievance and/or appeal procedure.

CHAPTER 14.00 – EMPLOYEE BENEFITS AND ALLOWANCES

14.01 Group Insurance Benefits

The City offers a comprehensive benefit package including group medical, dental, vision and life insurance to full-time employees (Management, Mid-Management, Confidential, and Miscellaneous) and their eligible dependents.

For more specific plan information and City and employee contributions refer to respective Memorandum of Understanding.

14.02 Workers' Compensation

- A. All City employees are covered under the provisions of the State of California Workers' Compensation Insurance and Safety Act for accidental injuries or occupational illness that arise out of and in the course of City employment. The amount of benefits and other aspects of the coverage are specified in the act. Benefits may consist of medical expenses and partial reimbursement of wages.
 1. If a regular or probationary full-time employee in the classified service is absent from work as a result of an injury or illness covered by Workers' Compensation, said employee shall be entitled to receive compensation equal to the difference between the weekly compensation benefits received by the employee and the employee's regular

salary up to the amount of his/her accumulated sick leave, and then from compensatory time, and when authorized by the employee, vacation leave.

2. Said employee is considered to be on pay status and is entitled to receive all benefits as though he/she were on the job. The employee shall continue to receive his/her regular rate of pay until his/her accumulated sick and vacation leave, compensatory time, and other available paid leaves have been depleted to the nearest one-half (½) day. At such time as said leaves are exhausted, the employee shall be placed on leave of absence without pay as provided for in these Rules and Regulations.
- B. Employees who have been injured in the course and scope of their employment with the City and who are required as a result of such injury to be absent from duty to take physical examinations required by the City's Workers' Compensation insurer or the Industrial accident Commission, or to attend hearings of the Industrial Accident Commission shall be granted leave with pay for such absences by the City Manager when he determines such absences are in the best interest of the City and only if the employee is in pay status at the time of the scheduled examination or hearing. Applications for such leaves of absence shall be filed in advance of City of Riverbank Request for Leave form.

14.03 State Disability Insurance

State Disability Insurance (SDI) payments are available to employees who cannot work because of sickness or injury not job related. Regular and probationary full-time employees whose sickness or injury is covered by SDI shall be entitled to compensation equal to the difference between the compensation benefits received and the employee's regular salary.

An employee on SDI is considered to be on pay status and is entitled to all benefits as though he/she were on the job. The employee shall continue to receive his/her regular rate of pay until his/her accumulated sick and vacation leave, compensatory time, and other available paid leaves have been depleted. At such time as said leaves are exhausted, the employee shall be placed on leave of absence without pay as provided for in these Rules and Regulations.

14.04 Compensation for Training Time

City employees should feel free to attend training courses available during days off if they so desire. However, compensation for attendance at training courses held during days off (weekends), vacations, or holidays, will be authorized only where employees have been directed by their Department Head to attend such.

14.05 Tuition Reimbursement

The City shall reimburse any regular full-time employee for the tuition costs of enrolling in courses offered at any accredited college or university. To be eligible for tuition reimbursement, the course must be job-related and be approved by the employee's department head and Chief Personnel Officer prior to enrolling, and the employee must receive a passing grade of "C" or better at the completion of the course. Such reimbursement shall not exceed \$25.00 per semester. The employee shall also be reimbursed the cost of books and other required course materials.

14.06 Mileage Reimbursement

The rate of reimbursement to employees using their private vehicles for City business shall be \$.05 less than the current rate allowed by the Internal Revenue Service for mileage deduction. Any changes in the rate shall be effective the first of the month following said change.

14.07 Uniforms and Protective Clothing

- A. Uniforms: The City shall provide and maintain uniforms to regular full-time employees as set forth in the applicable Memorandum of Understanding.
- B. Clothing Allowance: Annually, eligible employees shall be reimbursed the cost of safety boots and/or winter jacket. Such reimbursement shall not exceed \$150.00.
- C. Rain Gear: Waterproof rain gear such as rubber boots, pants, coats and hats will be provided to all Public Works and Water Department field employees at City expense.

CHAPTER 15.00 – PERSONNEL ACTIONS

15.01 Resignation

An employee wishing to leave the service of the City in good standing shall submit a letter of resignation to his/her Department Head at least two (2) weeks before the effective date of separation.

15.02 Retirement

Retirement from the municipal service shall be subject to the terms and conditions of the City's contract with the Public Employee's Retirement System.

15.03 Transfers

An employee may be transferred from one position to another position in the same or comparable classification carrying essentially the same maximum salary and in which the employee is qualified to perform. If the transfer involves a change from one department to another, the transfer shall be subject to the approval of both department heads. An employee's salary level and salary anniversary date shall not change upon a transfer.

15.04 Promotions

Any employee who is promoted shall start at that step of the classification's pay range which will result in at least a 5% increase in the employee's salary; provided, that, in no event shall the new salary be higher than the maximum of the salary range of the class to which the employee is promoted. If the employee is promoted to a supervisory level position, the employee shall start in that step in which his/her annual salary is at least five (5%) percent more than the salary of those he/she supervises.

For the purpose of further salary advancements within the range, the employee's salary anniversary date shall be changed as set forth in Section 10.05 of these Rules and Regulations.

15.05 Demotions

- A. *Voluntary Demotion* – Upon the employee’s request and with the approval of the department head, an employee may be demoted to a vacant position in a classification which carries a lower rate of pay and for which the employee is qualified to perform.
- B. *Involuntary Demotion* – The City Manager or Department Head may demote an employee whose ability to perform his/her required duties fall below acceptable standards, for disciplinary reasons set forth in §16.03 or when the need for the position which an employee fills no longer exists. No employee shall be demoted to a classification for which he does not possess minimum qualifications. Written notice of demotion shall be given an employee at least five (5) days before the effective date of the demotion. An employee may appeal such action in the manner provided in §16.00 of these Rules and Regulations.

15.06 Layoff

The City may abolish any position, when it has been determined that it is economically necessary because of lack of work or lack of funds, because of a material change in duties or a material change in the organization, or because the duties of the position or the employment involved is no longer necessary. Employees whose position has been abolished may be laid off, reassigned, demoted, or transferred by the Chief Personnel Officer without disciplinary action and without the right to appeal.

- A. *Notice of Layoff* – Notice of such layoff and reasons thereof shall be provided in writing to the employee(s) at least ten (10) working days before the effective date of lay off.
- B. *Order of Layoff* – All part-time and temporary employees shall be laid off prior to the layoff of probationary or regular employees in the same classification. In the event a layoff is because of lack of work or funds, employees shall be laid off in the inverse order of their seniority.
- C. *Seniority* – For the purpose of layoff, seniority is defined as length of total continuous employment service with the City. Employees on leave of absence without pay shall not accrue seniority, except for authorized military leave or as provided by State and Federal law.
- D. *Transfer in Lieu of Layoff* – An employee affected by layoff may be transferred to a vacant position within the same or comparable classification, or a vacant position in any former classification, first within the affected department and then City-wide, which the employee once held as a regular employee, provided that the employee meets the minimum qualifications of said positions and the compensation is at the same or lower rate of pay.
- E. *Layoff Re-employment List* – Employees who are laid off shall have their names placed on a re-employment list in order of seniority which, in the opinion of the Chief Personnel Officer, requires basically the same qualifications, duties, and responsibilities as those of the classification from which the layoff occurred. Vacant positions in such classification shall be offered to eligible candidates on the re-employment list, who qualify for such vacancies prior to recruitment. Probationary employees re-employed to the former or comparable classification or to another classification must complete the six (6) month probationary period.

CHAPTER 16.00 – DISCIPLINARY ACTION

16.01 Purpose of Disciplinary Action

The City may take disciplinary action against any employee for misconduct of any violation of these Rules and Regulations, or any City procedures or any laws. This section shall only apply to employees who have obtained regular full-time status in a classified position. All other employees (City Manager, department heads, initial probationary status, and part-time) are at-will and can be terminated at any time, with or without cause or notice.

16.02 Types of Disciplinary Action

Disciplinary action includes oral reprimand, written reprimand, disciplinary probation, suspension, reduction in salary, demotion, reduction in salary, or termination of employment.

- A. Oral Reprimand – An oral reprimand is to communicate to an employee that his/her performance or behavior must be improved and failure to do so may result in more serious discipline. A department head or supervisor may note the date, time, and content of oral reprimand in his/her departmental logbook but no record of oral reprimand shall be placed in the employee's personnel file unless subsequent action is necessary.
- B. Written Reprimand – A written reprimand is a formal notice to an employee that further disciplinary action will be taken unless his/her performance or behavior improves. A copy of the written reprimand is given to the employee and the original is filed in the employee's personnel file.
- C. Disciplinary Probation – Is a form of disciplinary action that lasts for a specified period of time, not to exceed six (6) months. Employees on disciplinary probation may be terminated for failure to meet performance or behavior standards as provided by in the employee's job classification.
- D. Suspension – Is the temporary removal of an employee from his/her duties without pay for disciplinary purposes. Employees suspended from the municipal service shall forfeit all rights, privileges, and salary with the exception of group health and life insurance benefits.
- E. Reduction in Salary – Is a decrease in salary paid to an employee for a specified period of time for disciplinary purposes.
- F. Demotion – Is the involuntary removal (*demotion*) of an employee from a position to another position carrying a lower maximum rate of pay, as a result of a disciplinary action.
- G. Discharge – Is the permanent removal of an employee from City service, as provided for in these Rules and Regulations.

16.03 Causes For Disciplinary Action

The City may discipline an employee for any reason it deems sufficient. Causes for disciplinary action against any employee may include, but shall not be limited to, the following:

- a. Fraud in securing appointment.
- b. Inexcusable neglect of duty.
- c. Insubordination.
- d. Dishonesty.
- e. Drunkenness on duty.
- f. Inefficiency.
- g. Addiction to the use of controlled substances.
- h. Inexcusable absence without leave.
- i. Conviction of a felony, or conviction of a misdemeanor, involving moral turpitude. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, to a charge of a felony or any offence involving moral turpitude is deemed to be a conviction within the meaning of this Section.
- j. Immorality.
- k. Discourteous treatment of the public or other employees.
- l. Improper political activity as defined by State Law.
- m. Repeated violation of safety procedures.
- n. Misuse of City property.
- o. Violation of any of the provisions of these working Rules and Regulations or departmental rules and regulations.
- p. Other failure of good behavior either during or outside of duty hours, which is of such a nature, that causes discredit to the City.
- q. Refusal to take or subscribe to any oath or affirmation, which is required by law in connection with his employment.
- r. Unlawful discrimination, including harassment, on the basis of race, religious creed, color, national origin, ancestry, mental disability, physical disability, marital status, sex, sexual orientation, or age, against the public or other employees while acting in the capacity of a City employee.
- s. Unlawful retaliation against any employee or member of the public who in good faith reports, discloses, divulges, or otherwise brings to the attention of the Attorney General, or any other appropriate authority, any facts or information related to actual or suspected violation of any law of this State or the United States occurring on the job or directly related thereto.

16.04 Written Notice of Proposed Disciplinary Action

Whenever a disciplinary action is to be taken against an employee, the employee shall be notified in writing of the proposed disciplinary action to be taken. The notice may be served upon the employee, either personally or by certified mail, and shall contain the following information:

- a) A statement of the disciplinary action to be taken.
- b) The effective date of the disciplinary action.
- c) The reason or cause of the disciplinary action.
- d) A summary of the facts upon which the charges are based.
- e) Notice that the employee may inspect copies of all materials upon which the disciplinary action is based.
- f) A statement notifying the employee that he/she has five (5) working days in which to respond orally or in writing regarding the proposed disciplinary action.
- g) Notice that failure to respond at the time specified shall constitute a waiver of the right to respond prior to final discipline being imposed.

16.05 Final Notice

After the response or the expiration of the employee's time to respond to the notice of intent, the appropriate authority shall: 1) dismiss the notice of intent and take no disciplinary action against the employee or 2) modify the intended disciplinary action or 3) prepare and serve upon the employee a final notice of disciplinary action. The final notice of disciplinary action shall include the following:

- a. The disciplinary action taken.
- b. The effective date of the disciplinary action taken.
- c. Specific charges upon which the action is based.
- d. A summary of the facts upon which the charges are based.
- e. The written materials, reports and documents upon which the disciplinary action is based.
- f. The employee's right to appeal.

16.06 Appeals of Disciplinary Action

Any regular employee shall have the right to appeal to the City Manager from any disciplinary action taken by his/her Department Head under §16.04. Such appeal shall be in writing and must be filed with the City Manager within ten (10) working days after receipt of written notice of such disciplinary action. Failure to file an appeal within such period constitutes a waiver of right to appeal.

The City Manager shall conduct a hearing as provided in this Chapter. Neither the provisions of this section or this Chapter shall apply to reductions in force or reductions in pay, which are part of a general plan to reduce or adjust salaries and wages.

In the event the City Manager institutes the disciplinary action, he shall be disqualified. Should the City Manager be disqualified, or should he disqualify himself as hearing officer, the City Council shall appoint a hearing officer who shall have the same power, authority, and responsibility as the City Manager would have as a hearing officer.

16.07 Hearing

The City Manager shall conduct a hearing on an appeal filed in accordance with §16.06 within thirty (30) days after receipt thereof. The City Manager may continue the hearing either for the convenience of the City or upon written application of the appellant, for a period not to exceed an additional thirty (30) days from the receipt of the appeal. Written notice of the time and place of the hearing shall be conducted in accordance with the provisions of §11513 of the Government Code of the State of California, except that the appellant and other persons may be examined as provided in §19580 of said Government Code, and the parties may submit all proper and competent evidence against, or in support of the causes.

16.08 Representation

Any City employee other than those appointed to supervisory, management, and confidential classifications as provided in §18.08 herein, shall be permitted to represent another City employee or group of City employees at the hearing of the appeal. The appellant may appear in person or be represented by counsel.

16.09 Notices to Witnesses: Cost

The City Manager shall issue notice for the appearances of witnesses for the appellant upon his written request and at his cost. The City Manager may require such cost to be prepaid.

16.10 Failure of Employee to Appear at Hearing

Failure of the appellant to appear at the hearing shall be deemed a withdrawal of his appeal and the action of the City Manager or Department Head shall be final.

16.11 Decisions

The City Manager shall render a written decision within thirty (30) days after concluding the hearing. The City Manager's decision shall be final and conclusive, except when an employee is suspended for more than three (3) days or discharged. A copy of such decision shall be forwarded to the appellant. If the disciplinary action taken against the employee is reversed or modified by the City Manager, the employee may be compensated, in whole or in part, for the time lost as determined by the City Manager.

In cases involving suspending an employee for more than three (3) days or discharging an employee, a copy of such decision shall be forwarded to the employee and the association. The employee may, within ten (10) working days after receipt of written notice of the City Manager's decision, give notice to the City Manager that the association representing the grievated employee may submit the matter to binding arbitration. The arbitration board shall consist of one retired superior court judge and the cost of arbitration shall be borne equally between the City and the employee. The arbitration hearing shall be held within thirty (30) days from the date of the request by employee to submit to arbitration. The parties may agree to continue the date of the arbitration hearing by mutual agreement.

CHAPTER 17.00 – GRIEVANCE PROCEDURES

17.01 Purpose of Grievance Procedures

Grievance procedures for employees are provided herein:

- a. To promote improved employer-employee relations by establishing grievance procedures on matters for which appeal or hearing is not provided by other regulations.
- b. To afford employees individually and through qualified employee organizations a systematic means of obtaining further considerations of problems after every other reasonable effort has failed to resolve them through discussions.
- c. To provide that grievances shall be settled as near as possible to the point of origin.
- d. To provide that grievances shall be heard and settled as informally as possible.

17.02 Grievance

A grievance is any dispute involving the interpretation, application, or alleged violation of:

- Any provision of the applicable Memorandum of Understanding between the City and a recognized employee organization.

- The City's personnel ordinance, and these Rules and Regulations where the provision in dispute is within the scope of representation.
- Disciplinary action taken against regular employees pursuant to these Rules and Regulations.

17.03 Informal Grievance Procedure

An employee should first attempt to resolve a grievance or complaint through discussion with his immediate supervisor without undue delay. If, after such discussion, the employee does not believe the problem has been satisfactorily resolved, he shall have the right to discuss it with his supervisor's immediate superior, if any. Every effort should be made to find an acceptable solution by informal means at the most immediate level of supervision. If the employee is not in agreement with the decision reached through such discussion, he shall then have the right to file a formal grievance in writing within ten (10) calendar days after receiving the informal decision of his superior or superiors. An informal grievance shall not be taken above the Department Head.

17.04 Formal Grievance Procedure

Formal grievance procedure after exhaustion of the informal grievance procedure shall proceed as follows:

- a) *Department Review* – the grievance shall be presented in writing to the employee's Department Head who shall discuss the grievance with the employee, his representative, if any, and with other appropriate persons. The Department Head shall render his/her decision and comments in writing and return them to the employee within fifteen (15) calendar days after receiving the grievance. If the employee does not agree with the decision reached, or if no answer has been received within fifteen (15) calendar days, he/she may present the grievance in writing to the City Manager. Failure of the employee to take further action within ten (10) calendar days after receipt of the decision, or within a total of twenty-five (25) calendar days if no decision is rendered, will constitute withdrawal of the grievance.
- b) *City Manager Review* – upon receiving the grievance, the City Manager shall discuss the grievance with the employee, his representative, if any, and with all other appropriate persons. The City Manager shall render a decision in writing to the employee within twenty (20) CALENDAR DAYS AFTER RECEIVING THE GRIEVANCE. The decision of the City Manager shall be final, however, in cases where disciplinary action results in termination of the employee. This action is subject to ratification by the City Council as provided in Title III, Chapter 31 §31.03, Paragraph (C) of the Riverbank City Code.

17.05 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 choosing in preparing and presenting his grievance at any level of review.
3. Employees shall be free from reprisal for using the grievance procedure.

CHAPTER 18.00 – EMPLOYER/EMPLOYEE RELATIONS

18.01 Purpose of Employer/Employee Relations

It is the purpose of the City of Riverbank to promote full communications with its employees by providing a reasonable method of resolving disputes between the City and employee organizations regarding wages, hours, and other terms and conditions of employment.

It is also the purpose of the City of Riverbank to promote the improvement of personnel management and employer-employee relations by providing a uniform basis for recognizing the right of public employees to join organizations of their own choice and be represented by such organizations in their employment relationships with the City of Riverbank.

Nothing contained in this Chapter shall be deemed to supersede the provisions of existing State Law and the Ordinances and Rules and Regulations of the City of Riverbank which establish and regulate a merit personnel system or which provide for other methods of administering employer-employee relationships.

This Chapter is intended, instead, to strengthen merit and other methods of administering employer-employee relationships through the establishment of uniform and other methods of communication between employees and the City of Riverbank.

18.02 Definitions

City Council – shall mean the City Council of the City of Riverbank.

City Manager – shall mean the City Manager of the City of Riverbank.

Bargaining Representative – shall mean the City Manager and his representatives and/or the duly authorized representatives of an employee organization that has been granted formal recognition by the City Council as representing the employees of a representation unit.

Consult or Consultation in Good Faith – shall mean to communicate verbally or in writing for the purpose of presenting and obtaining view or advising of intended actions.

Employee Organization – shall mean any organization which includes employees of the City of Riverbank and which has one of its primary purposes representing such employees in their employment relations with the City of Riverbank.

Mediation – shall mean effort by an impartial third party to assist in reconciling a dispute regarding wages, hours, and other terms and conditions of employment between representatives of the City of Riverbank and the recognized employee organization or recognized employee organizations, through interpretation, suggestion, and advice.

Meet and Confer in Good Faith – shall mean that the City of Riverbank by and through its City Manager and his representatives, and representatives or recognized employee organizations, shall have the mutual obligation personally to meet and confer in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation.

Miscellaneous Employees – shall mean all regular City employees who are referred to as “miscellaneous members” by the California Public Employees’ Retirement System (§20383 of the Government Code).

Recognized Employee Organization – shall mean an employee organization which has been acknowledged by the City Council as an employee organization that represents employees of the City of Riverbank. The rights accompanying recognition are either:

- a. Formal Recognition – which is the right to meet and confer in good faith as the conference representative in a representational unit; or
- b. Informal Recognition – which is the right to consultation in good faith by all recognized employee organizations.
- c. Representational Unit – shall mean a unit as established by §18.03, Paragraph (b) of this Chapter.

18.03 Designation and Recognition of Bargaining Representative

- A. The City Manager and his representative shall be the Bargaining Representatives for the City of Riverbank for the purpose of meeting and conferring in good faith pursuant to Government Code §3500 - §3511 inclusive.
- B. There shall be not more than two (2) representational units of employees for purposes of extending formal recognition to, and meeting and conferring in good faith with, the conference representative of the City of Riverbank. If the City employees request more than one (1) representational unit, said additional unit(s) shall be established as follows:
 - 1) Management and Supervisory employees and
 - 2) Miscellaneous employees
- C. Every regular authorized position identified in the Employee Compensation Plan of the City of Riverbank as it now exists, or as it may hereafter be amended, shall be included in an appropriate representational unit, as set forth in §18.03(b) above provided, however, that positions which are in a close and confidential relationship with elected or appointed officials, and management positions shall be restricted from representing any employee organization which represents other employee of the City of Riverbank on matters within the scope of representation. A list of positions so restricted is provided in §1208.
- D. Every regular authorized position identified in the Employee Compensation unit may choose a single organization as its bargaining representative, which shall be formally recognized by the City Council as the unit’s bargaining representative in compliance with applicable State Law, as it now exists, or as it may hereafter be amended. Such choice shall be made by means of a secret ballot representational election, with a ballot containing the names of all employee organizations petitioning to represent a representational unit, and a choice of having no bargaining representation. Upon presentation to the City Manager of a petition, signed by at least thirty (30) percent of the employees in the representational unit, asking that an election be held and that a named organization be placed on the ballot, a representational election shall be held.

Elections shall be decided on the basis of a majority vote of the employees in the representational unit voting at such election.

- E. Each employee representational unit shall be represented by no more than one recognized employee organization, although this shall not preclude an employee who is not a member of a recognized employee organization from representing himself/herself.

A recognized employee organization shall remain representative of a particular unit for a minimum of one full calendar year and no other organization shall represent employees of the representation unit during that time with regard to matters within the scope of representation as set forth herein.

- F. In cases where there is no recognized employee organization for an employee representational unit, an organization elected by the representational unit, shall become the formally recognized employee organization and bargaining representative on the day such organization is formally recognized by the City Council.

In cases where an incumbent formally recognized employee organization is decertified by another employee organization, the newly elected organization shall be recognized by the City Council immediately upon the certification of the election results.

18.04 Bargaining Procedure

- A. Within the first sixty (60) days of each calendar year, each formally recognized employee organization and the City Manager, or his representative, shall mutually exchange written proposals on salaries, fringe benefits, and other terms and conditions of employment to affect each representational unit during the coming year. Following such exchange, representatives of each formally recognized employee organization shall meet at mutually agreeable times and places, with the City Manager or his representative(s) for the purpose of conferring in good faith regarding wages, hours, and other terms and conditions of employment. The parties, in conferring, shall consider, but are not limited to consideration of prevailing rates and standards in private business and other public employment, cost of living, internal salary relationships in the City of Riverbank, and the financial condition of the City of Riverbank.
- B. If agreement is reached by the City Manager and his representatives and the formally recognized employee organization representative, they shall jointly prepare a written Memorandum of Understanding, which shall not be binding; sign it, and present it to the City Council for its determination. The City Council may approve or reject the Memorandum of Understanding and enact such Ordinances or Resolutions necessary to implement said Memorandum of Understanding.
- C. If, after a reasonable period of time, representatives of the City of Riverbank and the formally recognized employee organization fail to reach agreement, the City of Riverbank and the formally recognized employee organization together may agree upon the appointment of a mediator mutually agreeable to the parties. Cost of mediation shall be divided one-half to the City of Riverbank and one-half to the formally recognized employee organization.

- D. All Memorandum of Understanding regarding cost items shall be submitted to the City Council by May 1st of each year for consideration at the annual budget hearings, or as requested by the City Council at other times.
- E. The City Council shall cause written notice to be provided to each recognized employee organization concerning matters described in Government Code §3504.5.

18.05 Scope of Representation

Conference representatives may meet and confer in good faith and execute a written Memorandum of Understanding on any matter of employer-employee relations, except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or Executive Order.

18.06 Rights and Duties of Conference Representatives and Recognized Employee Organizations

- A. Each employee organization which seeks recognition from the City Council shall file a petition with the City Council containing the following information and documentation:
 - 1. Name and address of the employee organization.
 - 2. Names and titles of its officers.
 - 3. Names of employee organization representatives who are authorized to speak on behalf of its members.
 - 4. A statement that the employee organization has one of its primary purposes, representing employees in their employment relations with the City.
 - 5. A statement whether the employee organization is a chapter or local of, or affiliated directly or indirectly in any manner with a regional or state or national or international organization.
 - 6. Certified copies of the employee organization's Constitution and Bylaws.
 - 7. A designation of those persons, not exceeding two in number, and their addresses, to whom notice sent by regular United States mail will be deemed sufficient notice on the employee organization for any purpose. In addition, any employee organization seeking informal recognition shall file with the City Council a statement that the employee organization has in its possession written proof, dated within six months of the date upon which the petition is filed, to establish that employees have designated the employee organization to represent them in their employment relations with the City. Such written proof shall be submitted for confirmation to the City Manager.
- B. Conference representative of either party shall have the right to meet with conference representatives of the other part, upon reasonable notice, to discuss any problem regarding employer-employee relations arising within the representational unit, or any problems arising under a written Memorandum of Understanding between the parties.
- C. The City of Riverbank shall allow a reasonable number of employee representatives of a formally recognized employee organization reasonable time off without loss of compensation or other benefits when formally meeting and conferring with the City Manager or his representatives regarding matters within the scope of representation, or for the purpose of consultation in good faith.

- D. The City of Riverbank shall provide reasonable space on bulletin boards at places of work for the use of recognized employee organizations to inform employees about organizational activities and affairs.
- E. Agents shall be allowed to visit places of City employment where employees it represents are at work, for the purpose of observing conditions of work, or consulting with members regarding immediate grievances or job problems. Such visits shall not be permitted to interfere with the orderly flow of work, nor cause an unsafe condition.

18.07 No Discrimination

- A. There shall be no discrimination by the City of Riverbank in employment conditions or treatment of employees on the basis of race, sex, sexual orientation, creed, color, national origin, ancestry, or membership, non-membership, or participation in the activities of any lawful organization.
- B. There shall be no discrimination by any employee organization in treatment of its members on the basis of race, sex, sexual orientation, creed, color, national origin, ancestry, membership, non-membership, or participation in the activities of any lawful organization.

18.08 Classifications Restricted from Representing Recognized Employee Organizations

The City Manager, elected officials, and department heads shall be restricted from representing a recognized non-management employee organization to avoid potential conflicts of interest.

Nothing herein prohibits employees from joining an employee organization; however, restrictions are placed upon certain employees in representing the organization.

18.09 Savings Clause

If, at any time, any part of this Chapter should be found to be unconstitutional, or contrary to applicable law as it now exists, or as it may hereafter be amended, the remainder of the Chapter will not be affected thereby.

CHAPTER 19.00 – MISCELLANEOUS PROVISIONS

19.01 Reports of Change of Status

All action involving employment and change of status of employment shall be reported by the Department head to the City Manager on City of Riverbank Personnel Action forms. Copies of such reports shall be furnished to the employee involved.

19.02 Gratuities

No officer or employee of the City shall solicit or accept any gratuity for services rendered.

19.03 Outside Employment

Any regular employee desiring to engage in outside employment shall first obtain non-City conflict job approval from his Department Head. The Employee shall submit a statement to his

Department Head on a standard City form, naming the prospective employer, his address and telephone number, and outlining the proposed duties and the hours of work. Approval may be denied if, in the opinion of the Department Head, such outside employment is incompatible with the proper discharge of the employee's official duties. All such approvals shall be subject to review by the City Manager, and shall be re-submitted prior to January 10th each year to maintain a valid, continuous authorization.

Any violations of this section shall constitute sufficient grounds for disciplinary action, up to and including dismissal.

19.04 Political Activity

The political activity of City employees shall be governed by the applicable provisions of state and federal law.

19.05 Conflicts of Interest

No employee shall engage in any business transaction or shall have a financial interest, direct or indirect, which is incompatible with the proper discharge of his official duties in the public interest, or would tend to impair his independence of judgment or action in the performance of his of his official duties.

19.06 Replacement of Damaged Personal Property

Damage to an employee's personal property will be replaced or repaired by the City only if:

- a. The employee is required to use personal property (effects) while in the line of duty. Prior condition of the damaged item should be considered in determining the amount of reimbursement.
- b. The damage to personal effects not required by the City, would be allowed under the same conditions as (a) above.
- c. No costs should be incurred by the City when it has demonstrated that loss or damage was due to personal negligence.
- d. No costs should be incurred by the City in an unreasonable amount: if an employee loses a \$300 wristwatch while in the line of duty, it would not be reasonable for the City to reimburse him/her in this amount, inasmuch as he/she did not exercise good judgment in wearing an expensive instrument on a job that has certain hazards connected with it.
- e. Definition of personal effects: Those items worn or carried by the employee in the line of duty.

19.07 Nepotism Policy

No person shall be appointed or promoted to a position in any department in which such person's relative already holds a position, when such employment would result in any of the following:

- a. A supervisor-subordinate relationship.
- b. The employees having job duties which require performance of shared duties on the same or related work assignment.
- c. Both employees having the same immediate supervisor.

For purpose of this section, "relative" means spouse, child, step-child, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, parent-in-law, brother-in-law or sister-in-law.

If a City employee marries another person employed by the City within the same department, both employees shall be allowed to retain their respective position provided that a supervisory relationship does not exist at the time of marriage between these two positions. During the period of employment, no supervisory position shall exist between the two employees. For the purpose of this section, a supervisory relationship shall be defined as one person who exercises the right to control, direct, reward or punish another person by virtue of the duties and responsibilities assigned to his/her position.

The City also retains the right to refuse to place both spouses in the same department, division, or facility where such has the potential for creating adverse impact on supervision, safety, security or morale or involves potential conflicts of interest.

Where the above circumstances exist and mandate that two spouses shall not work together, the Chief Personnel Director or designee will attempt to transfer one spouse to a similar classified position in another City department. Although the wishes of the involved parties as to which spouse is to be transferred will be given consideration by the City, the controlling factor in determining which spouse is to be transferred shall be the positive operation and efficiency of the City. If any such transfer results in a reduction in salary or compensation, the same shall not be considered disciplinary in nature and shall not be the subject of any form of administrative appeal.

CHAPTER 20.00 Drug and Alcohol Abuse Policy

A. Purpose

The purpose of the City of Riverbank Drug and Alcohol Abuse Policy is as follows:

- To establish and maintain an alcohol and drug free, safe, secure, and healthy working environment for all employees.
- To protect the citizens of the City and all other individuals who come in contact with City employees.
- To reduce the incidents of alcohol or drug related injuries to persons or damage to property.
- To provide guidelines for the rehabilitation of employees who seek the City's help in overcoming addiction to, dependence upon, or problems associated with the use of alcohol or drugs.

B. City Policy

The City has an obligation to its officers, employees, and members of the public to take reasonable steps to provide an alcohol and drug free workplace and to deliver services in a safe manner. The following acts are strictly prohibited and may constitute cause for disciplinary action up to and including termination:

- Reporting for work or working under the influence of alcohol or drugs.
- To manufacture, distribute, dispense, possess, use or sale of alcohol or drugs in any manner during working hours, including rest breaks.
- Using City property or premises to manufacture alcohol or drugs.

C. Definitions Related to Drug and Alcohol Abuse Policy

Alcohol: Any beverage that has an alcohol content in excess of (.5%) by volume.

City Premises: All buildings, parking lots, service yards, patios, lunch rooms, break areas, rest rooms, loading docks, City owned vehicles, work sites, or any other sites where employees perform services for the City regardless of the City's ownership or control of the property.

Employee: A person legally occupying a full-time, or part-time position in the service of the City.

Illegal Drug: Any drug which is illegal under federal, state, or local law to use, sell, transfer, possess, manufacture, or consume.

Prescribed Drug: Any drug or medication lawfully prescribed for use by an employee by a licensed medical practitioner.

Under the Influence: Behavior modified by alcohol or drugs, resulting in substandard or modified job performance; diminished motor reflexes, impairment of coordination, speech, or mental concentration; or other conduct that poses a safety hazard to the employee, co-worker, or others.

D. Discipline

Any violation of this policy is cause for disciplinary action up to and including termination. Discipline may be imposed regardless of whether an employee is charged with and/or convicted of any criminal act relating to any violation of this policy.

E. Prescription Drug

No prescription drug shall be possessed or used by an employee other than the employee for whom the drug is prescribed by a licensed medical practitioner. A prescription drug shall be used only in the manner, combination, and quantity prescribed. If an employee is using or under the influence of a prescription drug during work hours it is the employee's responsibility to advise his/her supervisor of the use or influence of the prescription drug before beginning work.

F. Reporting Violations to Law Enforcement Agencies

Violations of this policy that may constitute criminal conduct will be reported to appropriate law enforcement agencies.

G. Pre-Employment Tests

All applicants for employment will be required to take a pre-employment physical examination which may include alcohol and/or drug tests.

H. Safety of Work Force, Medical Examinations, Drug, and/or Alcohol Tests

Each employee may be asked to submit to a medical examination and/or an appropriate test to determine the use of alcohol and/or drugs if there is a reasonable basis to believe that the employee has used or is under the influence of alcohol and/or drugs. Also, alcohol and or drug testing may be requested following work-related accidents or any suspected violation of safety rules or standards, whether or not injury or damage resulted from the accident or safety violation. Reasonable grounds for suspecting a violation of this policy shall be the basis for requesting a test.

The decision to proceed with a medical examination and/or alcohol or drug test will be made by the City Manager.

An employee determined to be unable to perform his/her duties in a satisfactory or safe manner may be ordered to leave the workplace.

I. Refusal of an Employee to Submit to a Medical Examination and/or Alcohol or Drug Test

An employee's refusal to consent to a medical examination and/or alcohol or drug test may result in the immediate suspension of the employee pending investigation. An employee who upon request refuses to consent to a medical examination and/or alcohol or drug test shall not be able to utilize the rehabilitation benefits described in the Rehabilitation Section of this policy. An employee who voluntarily participates in a counseling program described in the Rehabilitation Section of this policy prior to being asked to consent to a medical examination and/or drug or alcohol test shall be allowed to utilize the rehabilitation benefits described in this policy. An employee must be informed of the option for voluntary counseling before the employee is requested to consent to a medical examination or alcohol or drug test.

Except as provided in this policy, an employee who upon request refuses to consent to a medical examination and/or alcohol or drug test, may be disciplined for misconduct or unsatisfactory job performance; however, the use of alcohol or drugs shall not be considered a mitigating factor with regard to the imposition of discipline. An employee's use of drugs or alcohol may be considered a mitigating factor with regard to the imposition of discipline if an employee has voluntarily participated in a counseling program described in the Rehabilitation Section of this policy prior to being asked to consent to a medical examination and/or alcohol or drug test.

J. Inspections to Administer and Enforce

In order to promote an alcohol and drug free, safe, productive, and efficient workplace, the City reserves the right to search any City owned or controlled articles or property in an employee's control or possession to determine the presence of alcohol or drugs. The City expressly reserves the right to inspect City owned or controlled lockers, desks, tool boxes, vehicles, packages, containers, and other articles within a work area. If the City Manager or a supervisor has reason to believe that alcohol or drugs are present in a work area in

violation of this policy, the appropriate law enforcement agency may be contacted and asked to conduct a search of the work area.

K. Alcohol and Drug Test Results

A positive alcohol or drug test will be retested. A chain of custody of the tested blood, urine, or other sample will be established and maintained by the City and/or testing clinic or laboratory. Laboratory reports and/or test results shall not be placed in an employee's personnel file. Laboratory reports and/or test results shall be maintained in a separate confidential medical records file. The confidential medical records file shall be maintained by the City Manager. Laboratory reports and/or test results shall be disclosed to the employee upon request. The employee may also request disclosure of tests to other individuals on a need to know basis.

L. Guidelines for Supervisory Staff

The suspicion of alcohol or drug use must be based on objective factors related to the employee's appearance, conduct, speech, behavior and/or other objective facts. If a supervisor has reason to believe that an employee is under the influence of alcohol or drugs, or otherwise in violation of this policy, the supervisor should do the following:

1. Accompany the employee to a private office, room, or other area. If possible, a witness should accompany the supervisor.
2. If it is determined that this policy may have been violated, the City Manager should be advised of the situation. After receiving authorization to conduct a medical examination and/or alcohol or drug test, the employee should be told that his/her behavior or performance warrants a medical examination and/or alcohol or drug test conducted at a City-designated testing facility.
3. If the employee agrees to a medical examination and/or alcohol or drug test the following procedure should be carried out:
 - a. The employee should be asked to read and sign an Authorization for Testing Form (Attachment A), and an Authorization for Release and Use of Testing Information (Attachment B).
 - b. The City Manager, as appropriate, will arrange for transportation to a City designated testing facility.
4. If the results of the medical examination and/or alcohol or drug test indicate that the employee is/was under the influence of alcohol and/or drugs or has violated this policy, appropriate disciplinary action may be taken, up to and including termination.
5. If the results of the medical examination and/or drug test indicate another medical or psychological cause for the employee's behavior, the employee will be placed on medical leave and will be required to provide the City with a medical release from a physician before returning to work. The City may require the employee to be examined and evaluated by a City-selected physician before being allowed to return to work.

6. If the results of the medical examination and/or alcohol or drug test are negative or inconclusive no further action will be taken by the City with regard to alcohol and drug use.
7. When a supervisor requests that an employee submit to a medical examination and/or alcohol or drug test, based upon a reasonable objective evaluation of employee conduct, speech, behavior, or other facts, refusal to submit to this section of this policy shall apply to an employee refusal to submit to the requested medical examination and/or drug test. An employee may be immediately suspended from work under such circumstances to protect the safety of the employee or other workers and maintain an efficient, productive work environment. The decision to suspend an employee shall be made by the City Manager.
8. If an employee is suspended, the supervisor should arrange for the employee transportation to his/her residence.
9. All supervisors involved in any incident under this policy must prepare a written record of the incident within twenty-four (24) hours of its occurrence, holidays and weekends included.

M. Rehabilitation

An employee found to have reported to work under the influence of alcohol or drugs will be given an opportunity to participate in a City approved counseling program after the first violation of this policy. Employees are encouraged to use available employee assistance and health insurance plans to assist them in resolving alcohol or drug abuse problems.

An employee who violates the policy a second time will be required to participate in an approved rehabilitation program. The employee may use accumulated sick leave during the first thirty (30) days of any leave of absence granted for rehabilitation. If the employee does not have thirty (30) days of sick leave, the City shall provide the difference between an employee's accumulated sick leave and the time needed for the rehabilitation program, up to thirty (30) days combined employee accumulated leave and City provided leave.

A third violation of this policy shall result in termination.

All leaves of absence, returns to employment, conditions of continued employment, and payment of sick leave benefits are conditioned upon the employee's good faith and satisfactory participation in the rehabilitation program. The City may require evidence of good faith and satisfactory participation in the rehabilitation program.

If upon completion of the employee's leave of absence and rehabilitation program the employee can present written evidence from a qualified medical practitioner or counselor that the alcohol and/or drug problem is in remission or has been eliminated, the employee will be reinstated, if qualified to perform the available work.

If at the end of the leave of absence the employee is still experiencing an alcohol and/or drug problem but can provide evidence that he/she is still receiving treatment, an extension of the leave of absence may be granted. If the employee is unable to provide evidence of treatment, or elimination or remission, of the alcohol and/or drug problem the employee will be dismissed upon the expiration of the leave of absence.

The City Manager retains the sole discretion to decide if an employee will be granted a rehabilitation leave, return to work, and the conditions under which an employee may return to work.

If an employee does not violate this policy for two years after the most recent violation, any records related to the employee's prior violations will be destroyed.

N. Conditions of Employment

Employees must as a condition of employment abide by the terms of the policy.

APPENDIX A

Anti-Harassment Policy

PURPOSE

The City of Riverbank is committed to providing a work environment free of discriminatory harassment. This Policy defines discriminatory harassment, and sets forth a procedure for the investigation and resolution of complaints of such harassment by or against any employee or applicant or from a person providing services pursuant to a contract.

POLICY

Discriminatory harassment violates this policy, and will not be tolerated. Discriminatory harassment of an applicant or employee or person providing services pursuant to a contract, is harassment based on actual or perceived race, religious creed, sex, national origin, ancestry, disability, medical condition, marital status, age or sexual orientation. It is also improper to retaliate against any individual for making a complaint of discriminatory harassment for participating in a harassment investigation. Retaliation constitutes a violation of this policy.

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, training opportunities and compensation.

Employees who violate this policy may be subject to disciplinary action up to and including termination.

DEFINITION

Harassment can consist of virtually any form or combination of verbal, physical, visual or environmental conduct. It need not be explicit, nor even specifically directed at the victim. Sexually harassing conduct can occur between people of the same or different genders.

Harassment includes, but is not limited to the following misconduct:

- A. *Verbal* – Inappropriate or offensive remarks, slurs, jokes, or innuendoes based on actual or perceived sex, religious creed, national origin, ancestry, disability, medical condition, marital status, age or sexual orientation. This may include, but is not limited to, inappropriate comments regarding an individual's body, physical appearance, attire, sexual prowess, marital status, pregnancy or sexual orientation; unwelcome flirting or propositions; demands for sexual favors; verbal abuse, threats or intimidation of a sexual nature; or sexist, patronizing or ridiculing statements that convey derogatory attitudes about a particular gender.
- B. *Physical* – Inappropriate or offensive touching, assault, or physical interference with free movement when directed at an individual on the basis of actual or perceived sex, religious creed, national origin, ancestry, disability, medical condition, marital status, age or sexual orientation. This may include, but is not limited to, kissing, patting, lingering or intimate touches, grabbing, massaging, pinching, leering, staring, unnecessarily brushing against or blocking another person, whistling or sexual gestures.

- C. Visual or Written – The display or circulation of offensive or derogatory visual or written material related to sex, religious creed, national origin, ancestry, disability, medical condition, marital status, age or sexual orientation. This may include, but is not limited to, posters, cartoons, drawings, graffiti, reading materials, computer graphics or electronic media transmissions.
- D. Environmental – A work environment that is permeated with sexually-oriented talk, innuendo, insults or abuse not relevant to the subject matter of the job. A hostile environment can arise from an unwarranted focus on sexual topics or sexually suggestive statements. An environment may be hostile if unwelcome sexual behavior is directed specifically at an individual or if the individual merely witnesses unlawful harassment in his/her immediate surroundings. The determination of whether an environment is hostile is based on the totality of the circumstances, including, such factors as the frequency of the conduct, the severity of the conduct, whether the conduct is humiliating or physically threatening, and whether the conduct unreasonably interferes with an individual's work.

Romantic or sexual relationships between supervisors and subordinate employees are discouraged. 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.

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

PROHIBITED SUPERVISORY OR MANAGERIAL BEHAVIOR

No supervisor, manager, or other authority figure may condition any employment, employee benefit or continued employment in the City on an applicant's or employee's acquiescence to any of the behavior defined above.

No supervisor, manager, or other authority figure may retaliate against any applicant, or employee, because that person has opposed a practice prohibited by this policy or has filed a complaint, testified, assisted or participated in any manner in an investigation, proceeding or hearing conducted by an authorized investigator.

No person shall destroy evidence relevant to an investigation of harassment discrimination.

BEHAVIOR PROHIBITED BY ALL PERSONS

A copy of this policy shall be provided to all employees of the City, as well as displayed prominent locations throughout the City.

A copy of the information sheet on sexual harassment prepared by the Department of Fair Employment and Housing is available to all employees upon request.

The City shall periodically notify employees of the procedures for registering a complaint as well as available redress. Such notification shall occur through the normal channels of communication.

The Human Resources office will make available upon request information from the Department of Fair Employment and Housing and the Equal Employment Opportunity Commission about filing claims of sexual harassment with these entities.

A copy of this policy shall appear in any publication of which sets forth the comprehensive rules, regulations, procedures and standards of conduct for employees.

Employees of the City shall receive periodic training on the policy.

OBLIGATIONS OF ALL EMPLOYEES

All employees shall report any conduct, which fits the definition of discriminatory harassment, to their immediate supervisor or appropriate authority figure. This includes conduct of non-employees, such as sales representatives or service vendors or harassing conduct toward such contractors.

All persons shall report to their supervisor, manager or the Chief Personnel Director or designee any instances of discriminatory harassment which they have directly observed, whether or not reported by the employee who is the object of the harassment.

All employees shall cooperate with any investigation of any alleged act of discriminatory harassment conducted by the City or its agents.

INVESTIGATIVE/CORRECTIVE ACTION

All persons shall immediately report any evidence of discriminatory harassment or complaints regarding discriminatory harassment made to them to their supervisor, manager, or the Chief Personnel Director or designee. Any supervisor, or manager who receives a complaint regarding discriminatory harassment shall immediately report it to the Chief Personnel Director or designee.

The Chief Personnel Director or designee shall authorize the investigation or conduct the investigation of any incident of alleged discriminatory harassment reported to them. The investigation shall be conducted in a way which ensures, to the extent feasible, the privacy of the parties involved.

The person designated to investigate shall immediately report in writing the findings of fact to the Chief Personnel Director or designee. The Chief Personnel Director or designee will determine whether the policy has been violated and communicate the conclusion to the Complainant.

Disciplinary action shall be decided in accordance with City policy and after consultation with the Chief Personnel Director or designee.

Under no circumstances shall an employee of the City who believes that he/she has been the victim of discriminatory harassment be required to first report the harassment to a supervisor or other authority figure if that person or authority figure is the individual who has done the harassing.

Under no circumstances shall a supervisor, manager, or other authority figure retaliate in any way against an employee who has made a complaint or who has provided information as a witness to an incident of alleged harassment.

All supervisors and managers are required to maintain confidentiality to the extent possible in communicating or investigating any claims of alleged harassment.

Attachment A

Authorization for Testing

I _____, voluntary agree that the City of Riverbank and other persons or entities acting for or with them to:

- 1) Collect blood, urine, saliva or other necessary samples from me and to test those samples for the presence of alcohol and/or drugs.
- 2) Conduct other necessary and appropriate medical tests and physical examinations to enforce the City's Alcohol and Drug Abuse Policy.
- 3) Use the results of any tests or examinations to administer the City Alcohol and Drug Abuse Policy.

Signature of Employee

Date

Attachment B

Authorization for Release and Use of Testing Information

I _____, authorize the City of Riverbank to obtain all results of the medical and/or alcohol or drug tests performed on me by _____ (Name of Testing Organization)

I further authorize the City of Riverbank and its management to use this information as it deems appropriate for any legitimate purpose related to the City's Alcohol and Drug Use Policy. However, this information will remain in a confidential file, unless I further authorize its release to other parties.

Signature of Employee

Date

Attachment C

**Acknowledgement of Receipt
of
Personnel Rules & Regulations Manual**

By signing this Acknowledgement of Receipt, you are acknowledging That:

You have a copy of the *Personnel Rules & Regulations Manual* dated *March 2006* and understand that you are expected to read it and be familiar with its contents and provisions.

You understand that the material accompanying this Acknowledgement of Receipt supersedes and replaces all previously issued Personnel Rules & Regulations Manual.

Print Name

Signature

Date