

RESOLUTION NO. 2537

**A RESOLUTION OF THE COUNCIL OF THE CITY OF TULARE
ADOPTING RULES AND REGULATIONS FOR THE ADMINISTRATION
OF THE CITY OF TULARE MERIT PERSONNEL SYSTEM.**

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TULARE, AS FOLLOWS TO WIT:

Section 1. That the Rules and Regulations for the Administration of the City of Tulare Merit Personnel System, as hereinafter set forth in Exhibit "A" hereto attached, is hereby adopted pursuant to Section 1-14-4 of the Tulare City Code.

Passed, adopted and approved this 15th day of February, 1977.

Norman F. Griesbach (ss)
President of the Council and Ex-Officio
Mayor of the City of Tulare

ATTEST:

William H. Fishbough (ss)
City Clerk and Clerk of the Council
of the City of Tulare

**(Version: May 2006)
(w/subsequent amendments up to July 2008)**

CITY OF TULARE MERIT SYSTEM RULES AND REGULATIONS

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CITY OF TULARE MERIT SYSTEM RULES AND REGULATIONS

CHAPTER 1 – GENERAL

SEC. 101 ADOPTION OF RULES AND REGULATIONS

The following rules and regulations have been adopted by the City Council of the City of Tulare in order to establish equitable and uniform procedures for dealing with personnel matters and to assure that appointment and promotion of employees will be based on a merit basis which will serve to attract to municipal service the best competent persons available. These rules and regulations shall not apply to the offices, positions and employments exempt under City Code Section 1.52.030, except to the extent provided in City Code Section 1.52.080. (Amending Resolutions: 3091)

SEC. 102 ADMINISTRATION OF THE MERIT SYSTEM

The City Manager is the Human Resources Director and shall administer the merit system; shall have the power to appoint all offices and employees of all city departments; to remove same for cause and to exercise general control and supervision over same, subject to these rules and regulations. The City Manager may delegate any powers and duties conferred upon him/her as Human Resources Director under this chapter to any other officer or employee of the city.

SEC. 103 PURPOSE AND POLICY

The objectives of these rules are to facilitate efficient and economical services to the public and to provide for a fair and equitable system of personnel management in the municipal service. These rules set forth, in detail, those procedures which ensure similar treatment for those who compete for original employment and promotion, and define many of the obligations arising regarding wages, benefits, and prohibitions placed upon all employees in the municipal service.

SEC. 104 PERSONNEL POLICY

It is here declared the Personnel Policy of the City of Tulare that:

- a. Employment and promotion by the City of Tulare shall be based on merit and fitness, free of personal and political considerations, and in no way shall be discriminatory because of race, color, religious creed, sex, age, national origin, ancestry, handicap, or marital status. (Amending Resolutions: 3145)
- b. No questions on any test or any application form or by any appointive authority shall be so phrased as to attempt to elicit information concerning race, color, ancestry, national origin, religious creed, age, marital status or political opinions or affiliations from the applicant. (Amending Resolutions: 3145)
- c. Tenure of employees covered by these rules and regulations shall be subject to good behavior, satisfactory work performance necessary for the performance, and availability of funds.

SEC. 105 EMPLOYMENT CONSTITUTES ACCEPTANCE OF RULES

In accepting employment with the City of Tulare, each employee agrees to be governed by and to comply with the merit system rules and regulations, administrative rules and regulations established by the City Manager pursuant thereto and rules, regulations, and directions of the department in which he or she is employed. All employees holding a position in the municipal service on or after the effective date of these rules and regulations shall thereafter be subject in all respects to the provisions herein.

SEC. 106 VIOLATION OF RULES

Violation of the provisions of these rules shall be grounds for rejection, suspension, demotion or dismissal.

CHAPTER 2 – DEFINITIONS

SEC. 201 DEFINITION OF TERMS

The following terms, whenever used in these rules and regulations, shall be defined as follows:

Aggrieved Person shall mean the employee or employees filing a grievance.

Appointing Authority shall mean the City Manager or his or her designated representative.

Call Back shall mean an unscheduled or emergency calling back of an employee to work during other than normal scheduled working hours and after said employee has been released by his or her supervisor.

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

Continuous Service shall mean employment on a regular basis which is not interrupted by terminations or leaves of absence for a period in excess of one year other than military leave.

Day shall mean calendar day unless expressly stated otherwise.

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 SEC. 501, 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 SEC. 1012.

Examination

- a. Open competitive examination shall mean an examination for a particular class which is open to all persons meeting the qualifications of the class.
- b. Promotional examination shall mean an examination for a particular class; admission to the examination being limited to regular and probationary employees of the city who meet the qualifications of the class.
- c. Continuous examination shall mean an open, competitive examination which is administered periodically as a result of which names are placed on an eligibility list, in alphabetical order, for a period of not more than one year.

Grievance shall mean a specific charge by an employee or group of employees based on an event, condition or circumstance under which the employee works that a provision of the Personnel Rules and Regulations have been violated or misinterpreted.

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. While on non-pay status, the employee shall not be eligible for accrual of usual employee benefits, including, but not limited to, vacation, sick leave, holiday and seniority. (Amending Resolutions: 3091)

Pay Status shall mean the period in which an employee is at work, on vacation leave, sick leave, compensation leave as the result of an industrial accident, leave with full pay in lieu of temporary disability benefits, compensatory time off, paid military leave of absence, or 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 a series of progressive steps between a specific minimum and maximum rate.

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

Shift Personnel shall mean personnel of the Fire Department whose duty assignment is for twenty-four (24) consecutive hours – commencing at 8:00 a.m. and continuing for twenty-four (24) consecutive hours until 8:00 a.m. the following day.

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

Termination shall mean the separation of an employee from municipal service. Termination may be by death, discharge, reduction in forces, resignation, retirement, work completion, lack of work or funds or for non-disciplinary reasons as specified in SEC. 904.

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

CHAPTER 3 – EMPLOYMENT

SEC. 301 CITIZENSHIP

Employment is open to qualified men and women regardless of citizenship, except that sworn personnel must comply with the provisions of Government Code Section 1031.5. (Amending Resolutions: 3091)

SEC. 302 RESIDENCE REQUIREMENTS

Employees shall not be required, as a condition of employment, to live within the Tulare city limits. However, to facilitate response during emergency situations, employees are requested to live within a reasonable distance.

SEC. 303 AGE

The maximum age limit for all employees shall be that set forth by the California Public Employees' Retirement System. A minimum age of 18 years shall apply to Fire Fighter classifications. A minimum age of 21 years shall apply for sworn police classifications. (Amending Resolutions: 3091)

SEC. 304 RECRUITMENT

Recruitment for qualified applicants will be conducted as necessary in order to ensure that the city will have available applications of interested qualified persons for possible employment. The notices of employment shall be publicized by posting announcements on all official bulletin boards, advertisements in newspapers and magazines, or given to reputable agencies offering the services which will bring response from qualified persons, and by such other methods as the Human Resources Office deems available. Special recruiting shall be conducted, if necessary, to ensure that all segments of the community are all aware of the available employment opportunities. The city, however, shall not pay for any fee or service charge for any applicant who is referred to it by an employment agency. Job announcements shall be prepared and specify a title and pay of the class for which the city is recruiting, the nature of the work to be performed, preparation desirable for the performance of the work of the class, the manner of making application, and other pertinent information.

SEC. 305 APPLICATION

All candidates for employment shall file an application on official city application forms. Application forms shall require information covering training, experience, and other pertinent information, and may include certificates of one or more examining physicians, references, and fingerprinting. All applications must be signed by the person applying.

SEC. 306 SELECTION PROCESS

The technique used in the selection process shall be impartial and will relate to those subjects which, in the opinion of the Human Resources Director, fairly measure the relative capabilities of the persons examined to execute the duties and responsibilities of the class to which they seek to be appointed. Examination shall consist of selection techniques which test fairly those qualifications of candidates such as, but not necessarily limited to, written tests, personal interviews, performance tests, physical agility tests, evaluation of daily work performance, work samples, medical tests, successful completion of prescribed training, or any combination of these or other tests. Each candidate in an examination shall be given written notice of the results thereof, and, if successful, his or her name will appear in alphabetical order on the eligibility list. Selection for appointment shall be made by the appointing department head, with the concurrence of the City Manager, from the eligibility list. An eligibility list shall remain in effect until exhausted or six months, unless extended for a maximum of two years in six month increments by the Human Resources Director. The appointment shall become effective when a selected applicant commences work. (Amending Resolutions: 95-4153)

SEC. 307 INELIGIBILITY OR DISQUALIFICATION

The Human Resources Director may reject any application or may withdraw any one from consideration whose appointment will be contrary to the best interests of the city. Reasons for disqualification may include, but shall not be limited to, the following deficiencies:

- a. Does not possess the minimum qualifications required by the position.
- b. Physical or mental disability such as to render the applicant unfit to perform the duties of the position to which appointment is sought.
- c. Addiction to the habitual excessive use of drugs or intoxicating liquor.
- d. Conviction of a felony or a crime involving moral turpitude.
- e. Intentional deception or fraud in making the application.
- f. Request by an applicant that his/her name be withdrawn from consideration.
- g. Failure to reply within a reasonable time, as specified by the Human Resources Office, to communications regarding availability of employment.
- h. Disqualification of unsuitability for employment as specified in any city or pertinent departmental rules and regulations.

Whenever an application is rejected, notice of such rejection, with a statement of reasons, shall be mailed to the applicant by the Human Resources Office. Defective applications may be returned to the applicant with notice to amend the same.

SEC. 308 CATEGORIES OF APPOINTMENT

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

- a. Regular
Regular employees are those who have been appointed to an authorized position in the employee compensation plan having a monthly salary and who have successfully completed a probationary period and have been retained as thereafter provided in Chapter 5 of these rules and regulations. The City Manager shall be considered a regular employee and shall be subject to all provisions of these rules and regulations, except Chapters 10 and 11.
- b. Probationary
Probationary employees are those who have been through the regular examining process, have been appointed to an authorized position in the employee compensation plan having a monthly salary, but who have not yet completed the probationary period provided in Chapter 5 of these rules and regulations.
- c. Regular Part Time
Regular part time employees are those that been appointed to an authorized position in the employee compensation plan having a monthly salary with an hourly equivalent who work at least twenty (20) hours, but less than a standard forty (40) hour work week throughout the entire year, and who have successfully completed a probationary period and have been retained as thereafter provided in Chapter 5 of these rules and regulations. Regular part time employees shall receive all employee benefits in a manner proportional to the number of hours worked each week and the standard forty (40) hour work week, to include accrued hours for vacation, sick time, and holidays. Medical benefits provided for the employee will be at a shared expense proportional to the normal assigned budgeted work schedule of the employee

(i.e. an employee working twenty [20] hours per week shall be responsible for 50 per cent of the employee share of the employee medical premium). Regular part time employees hired prior to October 1, 2005 are grandfathered from paying a portion of the employee medical premium. (Amending Resolutions: 06-5308)

d. **Seasonal Part Time**

Seasonal part time employees are those hired in a position expected to last less than a full year and/or paid on a hourly basis. Unless hourly rates are listed for specific seasonal employees by job titles on the employee compensation plan, they shall be compensated a hourly rate equivalent to the applicable salary range and step. Seasonal employees do not receive regular employee benefits and may be suspended, demoted, or terminated any time by the department head without cause and without recourse to the appeal procedure as provided in Chapters 10 and 11. (Amending Resolutions: 2843)

e. **Temporary**

Temporary employees are those hired through the regular examining process who have been appointed to a position which is not authorized in the annual budget as approved by the City Council. Continuation of employment after a period customarily designated as a probationary period is entirely dependent upon the availability of funds for the temporary position.

SEC. 309 REAPPOINTMENT

With the approval of the appointing power and the City Manager, a regular employee or probationary employee who has completed at least six months of probationary service and who has resigned with a good record may be reinstated within two years of the effective date of resignation to a vacant position in the same or comparable class. Upon reappointment, the employee shall be subject to the probationary period prescribed for that class. No credit for former employment shall be granted in computing salary, vacation, sick leave, or other benefits except on a specific recommendation of the appointing authority and approval of the City Manager at time of reappointment.

SEC. 310 CONTINUED EMPLOYMENT

The continuation of employment of any employee of the City of Tulare is entirely dependent upon satisfactory work performance of the employee and the necessity for the performance of the work and availability of funds.

SEC. 311 EMPLOYEE PERFORMANCE REPORTS

A performance report of each regular employee shall be made at the end of the employee's probationary period and annually thereafter. The report shall be recorded on a "City of Tulare Performance Evaluation" form by the department head or supervisor and forwarded to the Human Resources Office. Merit increases must be accompanied by a Performance Report.

SEC. 312 TRANSFER

Employees may request a transfer from one department to another within municipal service. However, the employee to be transferred must meet the minimum requirements established for his/her new classification. Employees requesting transfer shall notify the Human Resources Office of such request. The employee's name shall be placed on a transfer list in the requested classification by date and time of request. (Amending Resolutions: 2765)

SEC. 313 PROMOTION

It is the expressed policy of the City of Tulare to encourage the advancement of personnel within the organization; promotional examinations for vacancies will be conducted as the needs of the city require. Promotional opportunities (available to city employees) will be posted on official bulletin boards selected by the Human Resources Office at least three working days before the selection begins.

SEC. 314 DEMOTION

An employee may be demoted when his/her performance of required duties falls below standards; for reasons set forth in SEC. 1002; when the need for a position no longer exists; or when the employee requests such demotion. No employee shall be demoted to a position for which he/she does not possess the minimum qualifications. Written notice of a demotion for disciplinary reasons shall be given as provided in SEC. 1004.

SEC. 315 SUSPENSION

An employee may be suspended at any time for reasons set forth in SEC. 1002, or for other just cause. Written notification of suspension shall be given as provided in SEC. 1004.

SEC. 316 SALARY REDUCTION

An employee may have his/her salary reduced when his/her performance falls below standards, or for reasons set forth in SEC. 1002. The reduced salary may be any step of the employee's current salary range.

SEC. 317 REINSTATEMENT

The City Manager may reinstate any suspended employee for good cause and, upon such reinstatement, compensate, in all or in part, such employee for lost time.

CHAPTER 4 – COMPENSATION AND HOURS

SEC. 401 EMPLOYEE COMPENSATION PLAN

An employee compensation plan shall be established to provide salary schedules, salary rates, salary ranges and steps. Each class in the city classification plan shall be assigned a salary range or a rate established in the compensation plan. All persons employed by the city shall be compensated in accordance with the compensation plan in effect.

SEC. 402 ADMINISTRATION AND REVIEW OF EMPLOYEE COMPENSATION PLAN

The City Council shall administer the employee compensation plan for the City Clerk, City Attorney and City Manager. The Human Resources Director shall administer a compensation plan for all other employees. At least once a year, the Human Resources Director shall recommend to the City Council an appropriate salary range classification. In case the salary range for classes is changed by the City Council, all employees whose positions are allocated to this class shall be adjusted to the corresponding step in the new range.

SEC. 403 APPLICATION OF SALARY RANGES AND RATES

a. Appointment

Initial appointments to classes assigned in a pay range in the City Compensation Plan shall be at the first step of the salary range, provided that the City Manager may make an appointment to a position at a higher salary step when, in his/her opinion, it is difficult to obtain qualified personnel at the starting salary or when it appears that the education or experience of the proposed employee is substantially superior to that required of the class and justifies a beginning salary in excess of the first step.

b. Promotion

Any employee receiving a promotion shall start at the first step of the salary range of the class to which he/she is promoted and be eligible for merit increases as elsewhere provided, unless his/her present salary is equal to or exceeds the first step of the class to which he/she is promoted. In that event, the employee shall be assigned to the step in the salary range to which he/she is promoted that is the equivalent of approximately a five per cent (5%), and not to be less than four per cent (4%), increase in salary.

When the promotion includes the assignment of the responsibility for supervision over others, the salary level shall be increased by assigning the promoted employee to a higher step within the salary range to allow his/her annual salary to be above the salary of those he/she supervises.

(Amending Resolutions: 06-5308)

c. Transfer

Any employee transferred to a position which has a different job classification title shall assume the salary range appropriate for his/her new classification. The salary step shall be appropriate as provided in "a" (Appointment) above.

SEC. 404 ADVANCEMENT WITHIN SALARY RANGE

An employee shall be considered for salary advancement normally, as a general rule, according to the following general plan:

- a. The letters A, B, C, D and E, respectively, denote the various steps in the pay range.
- b. Salary Step A shall be paid upon initial employment and for a period of six months.

- c. Salary Step B will be based upon completion of six months of employment where the employee has demonstrated satisfactory job progress and normally increasing productivity.
- d. Salary Step C will be paid upon completion of one year of employment in Salary Step B where the employee has demonstrated satisfactory job progress and normally increasing productivity.
- e. Salary Step D will be based upon completion of one year of employment in Salary Step C where the employee has demonstrated job progress and productivity to the satisfaction of his/her supervisors.
- f. Salary Step E will be based upon completion of one year of employment in Salary Step D where the employee has demonstrated job progress and productivity which are above the average expected for the class and upon approval of the City Manager.

(Amending Resolutions: 3091)

SEC. 405 SPECIAL SALARY CHANGES

The salary of any employee may be decreased or increased at any time to a different salary step within the salary range by the City Manager upon the recommendation of the department head that the quality, quantity or manner of performance of services do not justify the salary received. Decreases in salary shall be processed in accordance with SEC. 314.

SEC. 406 STANDARD WORK PERIODS

The standard work period for city employees shall be as follows:

- a. **Miscellaneous Classifications and Police Department Employees**
Those employees whose job classification places them in the miscellaneous group of employees shall work forty (40) hours in a standard work week of seven consecutive days.

The designated work week for miscellaneous employees on a standard work week schedule shall commence at 12:01 a.m. on Saturday and run through midnight on the following Friday; except that the work week for employees of the Library Division shall commence at 12:01 a.m. on Monday and run through midnight on Sunday. (Amending Resolutions: 01-4783)

- b. **Fire Department Shift Personnel**
The standard work period for shift personnel in the Fire Department shall be fifty-six (56) hours per week. The work schedule shall be the three (3) and four (4) work schedule. Effective January 2006, for a one year trial basis, the shift schedule shall be a 48/96 work schedule. In April 2006, the parties will meet and consult to discuss any concerns regarding functionality of the new schedule. In October 2006, the city will meet and consult with the bargaining unit to determine if the schedule shall remain in effect. (Amending Resolutions: 3091, 01-4783, 06-5308)

- c. **Sworn Police Officers**
The standard work period for sworn Police Officers shall be eighty-six (86) hours within a fourteen (14) consecutive day period. (Amending Resolutions: 06-5308)

SEC. 407 EXCEPTIONS TO STANDARD WORK PERIODS

- a. The City Manager is hereby authorized to designate other work periods for other employees when, in his/her opinion, the best interests of the city may be served by such adjustment of standard work periods and hours. The procedure for making adjustments in the standard work period in hours shall be consistent with provisions of Section 3504.5 of the Government Code.
- b. Schedules for miscellaneous employees, other than those on a standard work week, shall be posted at least ten (10) calendar days prior to implementation, except in an emergency when notice shall be given as soon as possible. (Amending Resolutions: 2765)

SEC. 408 ATTENDANCE

In every case in which a regular employee is not present for duty, his/her absence shall be reported by the department head to the Finance Office on the city's Personnel Action Form (bi-weekly leave of absence form). Since seasonal part time and temporary employees are not entitled to leave, only actual time worked will be reported. The time sheet form shall be used for this purpose.

Personnel Actions Forms and time sheets shall be forwarded to the Finance Office no later than the first working day following the payroll cut-off date. A schedule of payroll cut-off dates and pay days shall be published annually by the Finance Department.

SEC. 409 PAY PERIODS

Pay periods for all employees shall be bi-weekly and salaries shall be paid on alternate Fridays. When a regular pay day coincides with a holiday, pay checks will be issued on the work day nearest that holiday. Salaries will be paid only on regular pay days unless an employee is on an authorized leave of absence on that day and his/her department head makes a written request to the Finance Director for early release of the pay check. Employees leaving the municipal service will normally be paid on the day of termination and upon written clearance from the department concerned that the employee returned all city owned tools, clothing, keys and equipment. The method of distributing payroll checks shall be established by the City Manager. (Amending Resolutions: 3634)

SEC. 410 COMPUTATION OF SALARY

Salaries for all authorized city positions are set forth in the City Compensation Plan. Conversion of monthly salaries to hourly rates shall be determined by dividing the monthly salary by 173.333 for non-shift employees, 186.33 for twelve (12) hour shift employees, and for twenty-four (24) hour shift employees the monthly salary shall be divided by 242.666 based on a fifty-six (56) hour work week. (Amending Resolutions: 01-4783)

SEC. 411 OVERTIME POLICY: DEFINITION

It is the policy of the City of Tulare that overtime work be kept to the minimum consistent with the protection of life, property and the efficient operation of the departments and activities of the city, and that overtime work be compensated with time off where practical. Overtime work shall be authorized only with the prior authorization of the department head or, in emergencies where prior department head authorization cannot be issued, first line supervisors may approve overtime. Overtime work for all eligible employees, except where otherwise provided in SECs. 415, 416 and 417, shall be defined as any time worked beyond forty (40) hours in a standard work week. The use of sick leave, vacation and holidays shall be included in the definition of time worked. (Amending Resolutions: 3228)

SEC. 412 OVERTIME COMPENSATION

Compensation for overtime, where practical, shall be compensated for by compensatory time off. Wherever working overtime is optional, the city shall reserve the right to determine method of payment, i.e. compensatory off or cash. Where working overtime is mandatory, the method of payment shall be at the option of the affected employee. The use of compensatory time shall be by request of the affected employee and with official city approval. At no time may any employee accumulate more than 120 hours of compensatory time off. Once this limited is reached or exceeded, all overtime in excess of 120 hours shall be paid in cash. (Amending Resolutions: 97-4330)

SEC. 413 OVERTIME COMPUTATION: FOR MISCELLANEOUS EMPLOYEES ON A STANDARD WORK WEEK

Miscellaneous employees on a standard work week shall be compensated, by pay or compensatory time off, for overtime at the rate of one and one-half the hourly rate for all hours worked in excess of forty (40) hours per designated work week. Except as otherwise provided in SEC. 414, employees called back to work after having been released by their supervisor shall be given a minimum of two (2)

hours to be compensated by compensatory time or overtime pay at time and one-half. (Amending Resolutions: 3228)

SEC. 414 STAND-BY COMPENSATION

Stand-by positions are hereby authorized in the following divisions: Water, Street, Wastewater, Sewer, Parks, and Fleet Maintenance. The use of stand-by personnel shall be at the discretion of the department head with the approval of the City Manager. The department head shall be responsible for the appointment of the individual to serve on stand-by duty. Those employees who are on stand-by may be contacted by any of the following methods, which shall include, but not be limited to: telephone, city radio or pagers.

Those employees on stand-by who do not respond within thirty (30) minutes of call out shall be subject to the loss of stand-by compensation for that day. An employee who fails to report within thirty (30) minutes a second time, within a six (6) month period, shall be subject to discipline in accordance with Chapter 10, beginning with Section 1001, of these Personnel Rules and Regulations. In addition, at the discretion of the department head, those employees who fail to respond within thirty (30) minutes on two or more occasions within a six (6) month period, may be declared ineligible for stand-by compensation,

- a. Employees in the Water, Street, Sewer, Parks and Fleet Maintenance Divisions who remain on stand-by for the week (8:00 a.m. Friday to 8:00 am. Friday) shall be compensated at the rate of two (2) hours of pay per day of stand-by. No such employee shall receive less than \$160.00 per week of stand-by duty. Any employee serving stand-by for less than the full week shall receive two (2) hours of pay per day or \$23.00 per day, whichever is greater. If, for some reason, an employee cannot complete a full day's shift of stand-by and another employee is brought in to complete the day, the two (2) hours, or \$23.00, will be prorated accordingly. Each time an individual is called back to work while on stand-by, he/she shall be compensated by one and one-half times for actual hours worked with a minimum pay for one (1) hour. This applies each time an employee is called back to work. Call back on a city observed holiday shall receive a minimum of three (3) hours pay at the time and one-half rate. (Amending Resolutions: 01-4783)
- b. Employees in the Wastewater Treatment Division who remain on stand-by for the week (4:00 p.m. Monday to 7:30 a.m. Friday) shall be compensated at the rate of two (2) hours of pay per day of stand-by. Employees on stand-by for the weekend (4:00 p.m. Friday to 7:30 a.m. Monday) shall be compensated at the rate of one (1) hour for Friday, three (3) hours for Saturday, three (3) hours for Sunday, and one (1) hour for Monday of pay or compensatory time. Each time an individual is called back to work while on stand-by, he/she shall be compensated by one and one-half times for actual hours worked. Call back on a city observed city holiday shall receive a minimum of three (3) hours at the time and one-half rate. (Amending Resolutions: 03-4969)

SEC. 415 OVERTIME NOT APPLICABLE

Overtime shall not apply to those designated as Management and Confidential, with the exceptions listed below:

- a. Police Sergeants shall be paid overtime for hours required in court.
- b. Overtime compensation, by pay or compensatory time off, may be granted by department heads to first line supervisory employees who accumulate an extraordinary amount of overtime as a result of unusual or emergency circumstances, in accordance with administrative policy established by the City Manager.

- c. Overtime may be granted to management and confidential employees in special instances as authorized by the City Manager.

(Amending Resolutions: 3221)

SEC. 416 OVERTIME COMPENSATION: POLICE OFFICERS AND POLICE CORPORALS

- a. General Provisions

Police Officers shall be paid overtime or receive compensatory time off for all time worked beyond eighty six (86) hours within a fourteen (14) day duty period on a time and one-half basis. There shall be granted a minimum of two (2) hours overtime for employees called back to work after having been released. Court "stand-by" compensation shall be compensated at the rate of time and one-half for two (2) hours in the morning and two hours in the afternoon. Court call-back compensation shall remain at two (2) hours at time and one-half whenever called. An Officer shall not be compensated for court stand-by and court call-back for the same morning or afternoon block of time. Off duty Police Officers required to attend monthly firearms qualifying sessions shall be granted one (1) hour overtime per month in lieu of any travel time and expenses related to these qualifying sessions as long as the firearms range is not in the Tulare area. Overtime shall be granted for sworn Police Officers required to be instructors of in-service training courses. One (1) hour of overtime shall be granted when a work shift is affected by the time change from daylight savings time to standard time. Payment for a full work shift shall be granted when time changes from standard time to daylight savings time.

(Amending Resolutions: 3554)

- b. Compensation for Position of Acting Sergeant or Captain

When Police Officers are required to serve in an acting position of Police Sergeant or Police Captain for five (5) or more shifts in a thirty-five (35) consecutive day period, such acting ranks shall be compensated for at a rate of \$6.00 per shift for the rank of Acting Police Sergeant, and \$9.00 per shift for the rank of Acting Police Captain. The thirty-five (35) day period shall commence with the first shift scheduled in an acting position and terminate thirty-five (35) days thereafter. Such pay for acting positions shall be included on the employee's paycheck as overtime and paid in accordance with those procedures administered by the Finance Department. Each thirty-five (35) day period to be established for compensation for acting ranks shall not overlap with a preceding thirty-five (35) day period, and shall not be required to immediately begin upon termination of a thirty-five (35) day period. Police Corporals shall not receive acting pay when acting as Sergeant. (Amending Resolutions: 3376, 06-5308)

- c. Compensation for Investigations Stand-By

Officers assigned to the Investigations Division who are required to be on stand-by shall be compensated at the rate of \$2.00 per hour exclusive of any other provisions of the City of Tulare Personnel Rules and Regulations. Stand-by compensation for said Officers shall not exceed 126.75 hours in any seven (7) day period. If an employee on stand-by is called back to work, those hours for which he is compensated will not be considered stand-by. No more than one (1) Officer can be on stand-by at any given time. (Amending Resolutions: 01-4783)

SEC. 417 OVERTIME COMPENSATION: FIRE FIGHTERS, FIRE ENGINEERS, FIRE CAPTAIN TRAINING OFFICER, AND ADMINISTRATIVE BATTALION CHIEF

- a. General Provisions

Twenty-four (24) hour duty shift Fire Fighters, Fire Engineers and Fire Captains shall be paid overtime or receive compensatory time off at the rate of time and one-half their hourly rate of pay for hours worked in excess of 204 hours in a twenty-seven (27) day work period. Said personnel shall receive a minimum of two (2) hours when called back to work or to attend a mandatory meeting. (Amending Resolutions: 95-4130)

- b. **Compensation for Position of Acting Captain or Engineer**
When shift personnel of the Tulare Fire Department are required to serve in an acting position of Fire Captain or Fire Engineer for more than eight (8) hours, such ranks shall be compensated for at that rate of \$20.00 per shift for the rank of Acting Engineer and \$25.00 per shift for the rank of Acting Captain. Acting pay will be paid to one (1) person per position per shift per station. Exceptions to include covering for sick leave, family sick, strike team and any other unforeseen circumstances that the city has generated. Such pay for acting position shall be included on the employee's paycheck as overtime and paid in accordance with those procedures administered by the Finance Department. (Amending Resolutions: 01-4768)
- c. **Compensation for Apparatus Incentive Pay**
Twenty-four (24) hour shift Fire Fighters required to drive or operate a piece of apparatus to an emergency call shall be compensated in the amount of \$5.00 per shift. Only one Fire Fighter is eligible per twenty-four (24) hour shift. (Amending Resolutions: 01-4768)
(Previous sub-section c – Compensation for Position of Division Chief – rescinded by Resolution 06-5308)
- d. **Compensation for Fire Captain Training Officer and Administrative Battalion Chief**
Effective July 1, 2006, both the Administrative Battalion Chief and the Fire Captain assigned the duty of Training Officer and assigned to work a forty hour work week shall receive a 7 per cent salary differential. Said salary differential shall commence upon assignment, and shall terminate when the individual is no longer assigned to the forty hour work week. (Amending Resolutions: 06-5371)

SEC. 418 OVERTIME CONDITIONS: LOCAL PERIL OR DISASTER

In case of disaster, state of extreme emergency or local peril, the overtime procedures herein established shall not be in effect and compensation procedures will be determined at that time for such conditions.

SEC. 419 DEDUCTIONS

Deductions from employees' pay shall be made in accordance with prevailing laws, contracts and administrative rules and procedures established by the City Manager.

SEC. 420 PAID HOLIDAYS

- a. **Regular Holidays for Pay Purposes**
Effective July 1, 1977, with the exception hereinafter stated, holidays for all officers and employees of the public offices of the City of Tulare shall be as follows:
 1. January 1 (New Year's Day)
 2. The third Monday in January (effective 1994) (Martin Luther King, Jr. Birthday)
 3. The third Monday in February (Presidents' Day)
 4. The last Monday in May (Memorial Day)
 5. July 4 (Independence Day)
 6. The first Monday in September (Labor Day)
 7. November 11 (Veterans Day)
 8. The fourth Thursday in November (Thanksgiving Day)

9. The day after Thanksgiving Day
10. December 25 (Christmas Day)
11. The employee's date of birth
12. Two (2) days in lieu of September 9 (Admission Day) and the second Monday in October (Columbus Day), subject to the same rules and regulations as annual vacation leave and shall be credited to the employee as of July 1 for the current calendar year. Any new or reappointed employee whose appointment begins after July 1 of any year shall not be credited for the two (2) in-lieu holidays until the following July 1. Any regular employee who is on a non-pay status July 1 shall be credited with the two (2) in-lieu holidays immediately upon returning to a pay status.
13. Every day appointed by the President of the United States or the Governor of California for public fast, thanksgiving, mourning or holidays as determined by the City Manager.

If any of the foregoing holidays fall on Saturday, the preceding Friday shall be observed as a holiday. If any of the foregoing holidays fall on a Sunday, the Monday following shall be observed as a holiday. If any of the foregoing holidays fall on an employee's normal day off, except Saturday or Sunday, they shall be credited to vacation.

(Amending Resolutions: 3887)

- b. Solid Waste and Wastewater Treatment Employees
 1. Except for New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, paid holidays shall not be observed by employees in the Solid Waste Division. Solid Waste employees working on non-observed holidays shall receive eight (8) hours of holiday pay at straight time, and shall receive time and one-half for each hour worked. Employees will be allowed to use comp time or vacation leave to make up a full forty (40) hour work week. (Amending Resolutions: 03-4969, 04-5103)
 2. Wastewater employees required to work on a holiday shall receive eight (8) hours of holiday pay at straight time and shall receive time and one-half for each hour worked. Employees will be allowed to use comp time or vacation leave to make up a full forty-(40) hour work week. (Amending Resolutions: 3091, 04-5103)
- c. Sworn Police Shift Personnel

Sworn Police shift personnel shall receive thirteen (13) days of annual vacation in lieu of holidays. In lieu of taking off six (6) of the thirteen (13) days granted in lieu of holidays, each sworn Police shift personnel shall be paid for the six (6) days on the first paycheck in December. (Amending Resolutions: 3434, 95-4130, 06-5308)
- d. Fire Shift Personnel

Fire shift personnel shall receive thirteen (13) days (104 hours times 1.4 multiplier or 145.6 hours) of annual holiday time. In lieu of taking off eight (89.6 hours) of the thirteen (13) days granted in holidays, each sworn fire shift personnel shall be paid for the eight (8) days – 44.8 hours the first paycheck in June and 44.8 hours the first paycheck in December. The remaining 56 hours (divided by 26 pay periods) shall be put into a "holiday leave bank". This bank will be subject to the same accumulation of annual vacation leave in the fact that employees may carry over a maximum accumulation of one (1) year's annual vacation leave, for a maximum credit of two (2) years' annual leave. (Amending Resolutions: 05-5244, 06-5308)

- e. Paid Days in Lieu of Holidays at Termination
Regular employees of the Police and Fire Departments leaving municipal service with accrued pay days in lieu of holidays who give at least two (2) weeks of notice of their intention to terminate shall be paid the amount of accrued days in lieu of holidays to the day of termination. Payment for accrued days in lieu of holidays shall be at the employee's current rate of pay. (Amending Resolutions: 2582)

SEC. 421 COMPENSATION FOR WORK ON PAID HOLIDAYS

Regular and probationary employees assigned to work on holidays shall receive compensatory time off or pay in lieu of compensatory time off as recommended by the department head subject to the approval of the City Manager, except as otherwise provided in SEC. 420(b), (c) and (d). All requests for holiday pay in lieu of compensatory time off shall be made by memorandum to the City Manager and approved by him/her in advance of payment by the Finance Department.

SEC. 422 COMPENSATION DURING ATTENDANCE OF A TRAINING COURSE DURING VACATION, HOLIDAYS, DAY OFF

City employees should feel free to attend training courses that are available during their vacation, holidays or days off if they so desire, however, compensation for attendance for training courses held during days off, weekends, vacations or holidays will be authorized only where employees have been directed by the department head to attend such on the following basis:

- a. Holidays
Employees directed to attend training courses will be compensated as provide in SEC. 421.
- b. Vacations
Employees scheduled to attend training courses held during their vacation days will be allowed to reschedule their vacation days.
- c. Days Off or Off Duty Shifts
Employees directed to attend training courses on their days off or off duty shifts will be compensated as provided in SEC. 412, 416 and 417. Whenever an employee is out of the city for a number of days on a training course, such as one week seminars, etc., the regular working schedule has no relationship to working hours while in school or in seminars and no special compensation other than regular pay and attendance expenses will be authorized. Under unusual circumstances, deviation from the foregoing procedure may be warranted by department heads, however, only after receiving approval from the City Manager.

SEC. 423 EDUCATION INCENTIVE: SWORN POLICE AND FIRE DEPARTMENT PERSONNEL

An education incentive program shall be available to all sworn employees of the Fire and Police Departments through the ranks of Fire Battalion Chief and Police Captain. (Amending Resolutions: 06-5308)

- a. The education incentive program for sworn Fire Department employees shall be as follows:
 - 1. A payment of \$37.50 per month shall be granted with the completion of 30 units of acceptable college credit (20 units in Fire Science) and a minimum of two years of full time paid fire service.
 - 2. A payment of \$75.00 per month shall be granted within the completion of 60 units of acceptable college credit (20 units in Fire Science) and a minimum of three years of full time paid fire service.

(Amending Resolutions: 01-4768)

- b. The education incentive program for sworn non-probationary Police Officers shall be as follows:
 - 1. A payment of \$37.50 per month shall be granted with the completion of 30 units of acceptable college credit (20 units in Police Science) and two years of police service or an Intermediate POST Certificate.
 - 2. A payment of \$75.00 per month shall be granted with the completion of 60 units of acceptable college credit (20 units in Police Science) and three years of police service or an Advanced POST Certificate.
 - 3. A payment of \$150.00 per month shall be granted for a Bachelors Degree in Public Administration, Criminal Justice Administration, Business Management or related field with a minor in Police Science and four years of police service.
(Modified by Memorandum of Understanding ratified by the City Council October 19, 1999)
- c. The employee must provide validated evidence of education completed to the Human Resources Director prior to the granting of respective education incentive payments. (Amending Resolutions: 3629)

SEC. 424 BRIEFING TIME

Police employees required to attend pre-shift briefing sessions shall be compensated for that time at the employee's current rate of pay for a maximum of 15 minutes per shift, in accordance with SEC. 411, 412, 413 and 416.

SEC. 425 SICK LEAVE COMPENSATION

- a. Upon Honorable Separation
An employee having a minimum of ten (10) years of regular service with the City of Tulare shall be compensated for 25 per cent (50 per cent for employee designated as Management and Confidential) of his/her unused sick leave balance upon honorable separation, at his/her rate of pay at said separation.
- b. Annual Compensation for Employees Not Covered Under SEC. 425(c), (d) or (f)
Each year 25 per cent (50 per cent for employees designated as Management and Confidential) of the earned sick leave exceeding 132 days shall revert to vacation or shall be compensated for at the employee's current rate of pay, at the option of the employee, and the total accumulation shall be reduced to 132 days. (Amending Resolutions: 03-4969, 06-5308)
- c. Annual Compensation for Twenty-Four (24) Hour Shift Personnel
Each year, 25 per cent (50 per cent for employees designated as Management and Confidential) of the earned sick leave exceeding 1344 hours shall revert to vacation or shall be compensated for at the employee's current rate of pay, at the option of the employee, and the total accumulation shall be reduced to 1344 hours.
- d. Annual Compensation for Non-Management Sworn Police Personnel
Each year 25 per cent (50 per cent for employees designated as Management and Confidential) of the earned sick leave exceeding 120 days shall revert to vacation or shall be compensated for at the employee's current rate of pay, at the option of the employee, and the total accumulation shall be reduced to 120 days. For employees hired on or after July 1, 2005, total accumulation shall be reduced to 60 days. (Amending Resolutions: 03-4969, 06-5308)
- e. Upon Retirement
 - 1. An employee having a minimum of ten (10) years of regular service with the City of Tulare shall be compensated for 40 per cent (50 per cent for employees designated as Manage-

ment and Confidential) of his/her unused sick leave balance upon retirement, at his/her rate of pay at said retirement. The remaining balance not cashed out will be credited to PERS. At the option of the employee, up to 100 per cent of the unused sick leave can be credited to PERS. (Amending Resolutions: 97-4330, 06-5308)

2. Twenty-four (24) hour non-management shift personnel and non-management sworn police personnel having a minimum of ten (10) years of regular service with the City of Tulsa shall be compensated for 35 per cent (50 per cent for employees designated as Management and Confidential) of his/her unused sick leave balance upon retirement, at his/her rate of pay at said retirement. The remaining balance not cashed out will be credited to PERS. At the option of the employee, up to 100 per cent of the unused sick leave can be credited to PERS. (Amending Resolutions: 3740, 06-5308)

f. Annual Compensation for Management Non-Shift Police and Fire Personnel
Each year, 50 per cent of the earned sick leave exceeding 120 days shall revert to vacation or shall be compensated for at the employee's current rate of pay, at the option of the employee, and the total accumulation shall be reduced to 120 days. (Amending Resolutions: 06-5308)

SEC. 426 COMPENSATION FOR TEMPORARY WORK IN HIGHER CLASSIFICATIONS

- a. Miscellaneous employees required to work in a higher classification, for a period of fourteen (14) or more consecutive days, shall be compensated at an additional 7½ per cent pay or at the appropriate compensation for the position being filled, whichever is less, for the entire period worked.
- b. Except in an emergency, no employee may be assigned to work out of his/her proper classification without written notification in advance.
- c. In cases of extended absence, an employee assigned to work out of classification and able to perform the duties satisfactorily shall not be removed from the assignment until the absent employee returns to duty.
- d. In cases where any employee feels he/she is working out of classification, said employee must appeal to his/her immediate supervisor within seven (7) days with a copy of said appeal forwarded to the Human Resources Office.
- e. Modification of Shifts, Schedules and Working Hours – Street and Water Divisions
Effective July 1, 1992, the city has the flexibility in the assignment of certain personnel to modify work shifts after proper notification is provided to the affected employees. Proper notification is defined as being in writing and provided at least seven (7) calendar days in advance of any change. This provision shall apply to new hires and shall sunset December 31, 1994, unless modified through the meet and confer process, and shall be applicable to employees hired in the Street and Water Divisions. Any flexibility in shifts shall be to fix a shift within the hours of 7:00 a.m. and 5:00 p.m. In addition, the city has flexibility to schedule breaks and lunches of bargaining unit members to ensure availability of services. (Amending Resolutions: 3887)
- f. The parties agree to an assignment pay of 10 per cent for classifications not traditionally assigned supervisory duties which serve as lead worker over inmate labor crews for more than 80 per cent of the position' time. (Amending Resolutions: 03-4969)

SEC. 427 COMPENSATION FOR FRACTIONS OF HOURS WORKED

Fractions of hours worked shall be compensated as follows:

0 – 7.5 minutes	no payment
7.5 – 22.5 minutes	.25 hour
22.5 – 37.5 minutes	.50 hour
37.5 – 52.5 minutes	.75 hour
52.5 – 60.0 minutes	1.00 hour

SEC. 428 INVESTIGATION ASSIGNMENT

Police Officers assigned investigative duties in the Investigations Division shall receive a 3 per cent salary differential. Said salary differential shall commence upon assignment and shall terminate when the individual is no longer assigned investigative duties in the Investigations Division. (Amending Resolutions: 3740)

SEC. 429 RETIREMENT COMPENSATION

- a. Non-Management Sworn Police Personnel
 Nine per cent of the employee’s contribution to the Public Employees’ Retirement System (PERS) shall be paid by the city (in lieu of a 4 per cent salary increase in the 1982/83 fiscal year and in lieu of a 3 per cent salary increase in the 1986/87 fiscal year. (Amend Resolutions: 01-4783)
- b. Professional and Clerical
 Eight per cent of the employee’s contribution to the Public Employees’ Retirement System shall be paid by the city ((7 per cent in lieu of a 4 per cent salary increase in the 1981/82 fiscal year and a 3 per cent salary increase in the 1982/83 fiscal year). (Amending Resolutions: 04-5103)
- b. Management Employees
 Effective July 1, 2006, 8 percent of the employee’s contribution to the Public Employees’ Retirement System shall be paid by the city (7 percent in lieu of salary increases for fiscal year 1978/79) Effective August 2, 2008 the classification of City Manager and those assigned to a Department Head classification shall pay the employee contribution of 8 percent to the Public Employees’ Retirement System in lieu of a 1% salary increase. Effective January 3, 2009 all non sworn middle management employees shall pay the employee contribution of 8 percent to the Public Employees’ Retirement System in lieu of a 1% salary increase. (Amending Resolutions: 3221, 06-5308).
- d. Non-Management Personnel Unit
 Eight per cent of the employee’s contribution to the Public Employees’ Retirement System shall be paid by the city (7 per cent in lieu of a 5 per cent salary increase in the 1984/85 fiscal year and in lieu of a 2 per cent salary increase in the 1985/86 fiscal year). (Amending Resolutions: 3228, 04-5103)
- e. Non-Management Fire Personnel
 Nine per cent of the employee’s contribution to the Public Employees’ Retirement System shall be paid by the city (in lieu of a 3.118 per cent salary increase in the 1984/85 fiscal year and in lieu of a 3.882 salary increase in the 1986/87 fiscal year). (Amending Resolutions: 01-4783)
- f. Effective July 1, 1997, the retirement contract between the City of Tulare and the Public Employees’ Retirement System will include 2% @ 55 for the Miscellaneous Plan for Tulare City and military buy back. (Amending Resolutions: 97-4286)

Effective July 1, 2006, the retirement benefit shall increase to 2.7% @ 55 (for the Miscellaneous Plan). (Amending Resolutions: 04-5103)

Effective January 1, 2007, the city will increase the retirement benefit for sworn Police and Fire personnel to 3% @ 50. (Amending Resolutions: 06-5308)

- g. The City of Tulare has contracted with PERS for optional benefits. The coverage key below reflects the following changes: (Amending Resolutions: 01-4783, 06-5308)

	Optional Benefit	Misc	Fire	Police
8.1	1 year final comp	01/1992	01/1992	01/1992
8.3	Sick leave credit	01/1992	01/1992	01/1992
8.4	1959 Survivor	03/21/1975	03/21/1975	03/21/1975
8.6	Military service credit 76	06/30/1997	No	01/01/02
8.21	2% @55 retirement formula	No	12/08/1984	12/08/1994
8.22	Incl 59 Survivor	07/03/1980	07/03/1980	07/03/1980
8.40	3% @55 retirement formula	No	01/01/2000	01/02/2002
8.44	2% @55 retirement formula	06/30/1997	No	No
8.48	4 th level 1959 Survivor	11/06/1998	07/01/2000	07/01/2005
8.54	2.7% @55 retirement formula	07/01/06	No	No
8.56	3% @50 retirement formula	No	01/01/07	01/07/07

- h. Non-Public Safety Management PARS Benefit
Non-Public Safety Management, effective July 1, 2006, will be eligible to receive PARS 2.7% @ 55 for all prior years of service with other PERS agencies or agencies with reciprocal PERS agreements if the employee has a minimum of five (5) years of service with the City of Tulare and retires from the City of Tulare. (Amending Resolutions: 06-5308)

SEC. 430 PERS SURVIVOR BENEFIT

- a. Professional and Clerical
The Public Employees' Retirement System 1959 Survivor Benefit shall be paid by the city effective June 23, 1984. Effective July 1, 1999, the survivor benefit shall be increased to Level IV. (Amending Resolutions: 04-5103)
- b. Non-Management Personnel Unit
The Public Employees' Retirement System 1959 Survivor Benefit shall be paid by the city effective June 23, 1984. Effective July 1, 1999, the survivor benefit shall be increased to Level IV. (Amending Resolutions: 04-5103)
- c. Management and Confidential Employees
The Public Employees' Retirement System 1959 Survivor Benefit shall be paid by the city effective June 23, 1984. Effective July 1, 1999, the survivor benefit shall be increased to Level IV. (Amending Resolutions: 3221, 04-5103)
- d. Non-Management Fire Personnel
The Public Employees' Retirement System 1959 Survivor Benefit shall be paid by the city effective June 23, 1984. Effective July 1, 2000, the city shall increase the 1959 Survivor Benefit to Level IV. (Amending Resolutions: 3221, 01-4783)
- e. Non-Management Police Personnel
The Public Employees' Retirement System 1959 Survivor Benefit shall be paid by the city effective July 16, 1988. Effective July 1, 2005, the city shall increase the 1959 Survivor Benefit to Level IV. (Amending Resolutions: 3434, 06-5308)

SEC. 431 DEPARTMENT HEAD BONUS PROGRAM

The Bonus Program is designed to recognize and compensate department heads for special meritorious performance. Granting a bonus will be determined and approved by the City Manager. Funding for the bonus program will be established annually by the City Council. (Amending Resolutions: 3221)

SEC. 432 ACCUMULATION OF PAID IN-LIEU HOLIDAYS

Effective January 1, 1986, employees may accumulate a maximum of twenty (20) in-lieu holidays. In-lieu holidays are defined as Admission Day, Columbus Day and the employee's date of birth. In-lieu holidays beyond the maximum will not be permitted unless prior written authorization is given by the City Manager. (Amending Resolutions: 3228)

SEC. 433 BILINGUAL PAY

Sworn public safety personnel, up through and including the rank of Police Captain in the Police Department and Fire Battalion Chief in the Fire Department, shall receive an incentive bonus of 2 per cent for certification as being bilingual in accordance with standards established by the Human Resources Director ensuring that the said employee is competent and proficient in the language certified. (09/90 & 09/93) A re-certification shall occur every three (3) years. An employee not passing the re-certification shall not continue to receive the incentive bonus. (Amending Resolutions: 01-4783, 06-5308)

SEC. 434 COMPENSATIONS FOR CERTIFICATIONS

Compensation for certificates will no longer be provided. The certifications will be included in the job descriptions and considered part of the base pay. (Amending Resolutions: 03-4969)

SEC. 435 NON-MANAGEMENT EXEMPT EMPLOYEE

Non-management exempt status employees required to regularly attend board and or commission meeting held outside of the normal daily working hours, upon approval of the Department Head and the Human Resources Department shall receive fifty-six 56 hours of exempt status leave per fiscal year. Exempt status leave shall be accrued on a bi-weekly basis and have a maximum accrual cap of fifty six hours.

CHAPTER 5 – PROBATIONARY STATUS

SEC. 501 PROBATIONARY PERIOD

All original appointments to regular municipal service positions shall be tentative and subject to a probationary period fixed by the department head at the time of appointment of not less than six (6) months nor more than twelve (12) months. The probationary period may be extended with the approval of the City Manager for a period not to exceed six (6) additional months where the department head finds that extraordinary conditions justify such extension.

SEC. 502 DEPARTMENTAL PROBATION: TRANSFER OR PROMOTION

All appointments as a result of a transfer, promotion or reassignment shall be tentative and shall be subject to a departmental probationary period fixed by the department head at the time of appointment of not less than three (3) months nor more than twelve (12) months. If the appointee is rejected during the probationary period, he/she shall be transferred, demoted or reassigned to his/her previous classifications or department and said action shall not be subject to appeal. The probationary employee shall retain all other rights, privileges and benefits as regular employees even though they are on probationary status.

SEC. 503 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, and for rejecting any probationary employee whose performance does not meet the acceptable standards of work.

SEC. 504 PROBATIONARY EMPLOYEE PERFORMANCE REPORTS

A performance report of each probationary employee shall be made by the department head on City of Tulare Employee Performance Evaluation Forms according to the directions thereon and forwarded to the Human Resources Office. The Employee Performance Evaluation shall be filed by the department head at least midway through the probationary period. This does not preclude evaluations at more frequent intervals.

In those cases where the probationary period is extended, the affected employee shall be evaluated at least midway through the extended period.

SEC. 505 REJECTION OF PROBATIONER

During the probationary period, an employee may be suspended, demoted or terminated at any time by the department head without cause and without the right of appeal or to submit a grievance.

CHAPTER 6 – ANNUAL VACATION LEAVE

SEC. 601 PURPOSE OF ANNUAL VACATION LEAVE

The purpose of an annual vacation is to allow an employee time to both mentally and physically refresh himself/herself in order that he/she be better able to carry out the duties of his/her position. To achieve this goal, it is the intention of the city to have the employee schedule a vacation for periods of at least one week.

SEC. 602 ELIGIBILITY FOR ANNUAL VACATION LEAVE

- a. Regular, Regular Part-Time and Probationary Employees
All regular, regular part-time and probationary employees, upon the completion of six (6) months of continuous service, shall be eligible for vacation leave. The amount of time available for an employee's vacation shall be accumulated through the month immediately preceding the month in which the employee's vacation falls. (Amending Resolutions: 06-5308)
- b. Seasonal Part Time, Limited Part-Time and Temporary Employees
Seasonal part time, limited part-time and temporary personnel shall not be eligible for annual vacation leave. (Amending Resolutions: 06-5308)

SEC. 603 ACCRUAL OF ANNUAL VACATION LEAVE

Vacation leave shall be accrued and credited monthly by all eligible employees who are on pay status for 50 per cent or more of that month. Those employees eligible for vacation as defined in SEC. 602 shall accrue vacation at the following rates:

- a. Annual Vacation Leave Accrual for Non-Management Sworn Police Personnel
All employees with less than five (5) complete years of continuous service shall earn vacation leave at the rate of 6.67 hours per month or ten (10) working days per year. Upon the completion of six (6) continuous years of service, the employee shall earn one (1) additional working day of vacation; in the same manner, two (2) additional working days vacation shall be earned for the seventh year; three (3) for the eighth year; four (4) for the ninth year; five (5) for the tenth year; for a maximum of fifteen (15) working days per year or ten (10) hours per month thereafter. (Amending Resolutions: 2916)
- b. Annual Vacation Leave Accrual for Non-Management Fire Shift Personnel
All employees with less than five (5) complete years of service shall earn leave at the rate of 112 working hours per year. Upon the completion of six (6) continuous years of service, the employee shall earn 123 working hours of vacation per year; in the same manner, 134 hours shall be earned for the seventh year; 146 for the eighth year; 157 for the ninth year; 168 for the tenth year; 190 for the fifteenth year; for a maximum of 190 hours per year thereafter. (Amending Resolutions: 3228)
- c. Annual Vacation Leave Accrual for Miscellaneous, Confidential and Management Employees
All employees with less than four (4) complete years of service shall earn annual leave at the rate of 6.67 hours per month or ten (10) working days per year. Upon the completion of four (4) continuous years of service, the employee shall earn one (1) additional working day of vacation; in the same manner, two (2) additional working days vacation shall be earned for the sixth year; three (3) additional work days shall be earned for the seventh year; four (4) additional days for the eighth year; five (5) additional days for the ninth year; ten (10) additional days for the fifteenth year; for a maximum of twenty (20) working days per year or 13.33 hours per month thereafter. (Amending Resolutions: 01-4783)

- d. Annual Vacation Leave for Management Shift Personnel
All employees with less than four (4) complete years of service shall earn leave at the rate of 112 working hours per year. Upon the completion of five (5) continuous years of service, the employee shall earn 123.2 working hours of vacation per year; in the same manner, 134.4 hours shall be earned for the sixth year; 145.6 hours shall be earned for the seventh year; 156.8 hours shall be earned for the eighth year; 168 hours for the ninth year; 224 hours for the fifteenth year; for a maximum of 224 hours per year thereafter. (Amending Resolutions: 00-4713)

SEC. 604 ACCUMULATION OF ANNUAL VACATION LEAVE

- a. Regular and Regular Part Time Employees
Employees may carry over a maximum accumulation of one (1) year's annual vacation leave, for a maximum credit of two (2) years' annual leave. If vacation is denied due to a city related emergency, such vacation may be carried over into the following year, if necessary.

New sworn Police Officers and Fire Fighters and Fire Fighters/Paramedics hired on or after July 1, 2005 may carry over a maximum accumulation of six (6) months' annual vacation leave, for a maximum credit of one and a half (1½) year's annual leave. If vacation is denied due to a city related emergency, such vacation may be carried over into the following year, if necessary.

(Amending Resolutions: 06-5308)

- b. Management and Confidential Employees
Management and Confidential employees (except Fire and Police management shift personnel) may accumulate up to forty (40) days annual vacation leave. Vacation leave accumulation beyond the maximum will not be permitted unless prior written authorization is received from the City Manager. If vacation is denied due to a city related emergency, such vacation may be carried over into the following year, if necessary. (Amending Resolutions: 3221)

Fire Management shift personnel may accumulate up to 530 hours which includes vacation and holidays (per SEC. 420[d]). (Amending Resolutions: 3001)

Police Management shift personnel may accumulate up to 336 hours of vacation and holidays (per SEC. 420[c]). (Amending Resolutions: 3001)

SEC. 605 SCHEDULING OF VACATION LEAVE

- a. An employee's vacation, as much as possible, shall be scheduled for the employee's convenience, however, vacation shall be scheduled by department heads so as not to interfere seriously with or impair departmental efficiency.

- b. Fire Department Scheduling
For definition purposes, suppression personnel shall include the following ranks in the Fire Department: Battalion Chief, Captain, Engineer, Fire Fighter, and Fire Fighter/Paramedic.

Unless otherwise modified by the Fire Chief, personnel shall make their initial vacation selections according to the following timelines:

Division Chiefs – by December 7
Battalion Chiefs – by December 7
Captains – by December 14

Fire Fighters – by December 31
Fire Fighters/Paramedics – by December 31

Personnel not scheduling vacations within the stated timelines forfeit their seniority and must wait until ALL personnel on their shift have completed their selection before reconsideration.

Following the initial vacation picks where the city will allow two (2) suppression personnel off, the city shall continue to allow two (2) suppression division personnel off on vacation on each shift, as long as an overtime situation will not be created. Unless prior authorization from the Chief, only one Captain may be on vacation on any one (1) shift.

Following the initial vacation requesting period, the Chief has the authority to "block out" certain days for specialized training or events, subsequent vacation requests may be granted, regardless of seniority, on a "first come/first allowed" basis throughout the remainder of the year.

If a workers compensation injury results in the extended absence of a suppression employee for more than ninety (90) calendar days, then the involved employee will not be considered as a person off, for the purpose of scheduling vacation as it pertains to this section.

After the initial vacation picks have been completed, any additional vacation requests must be submitted at least twenty-four (24) hours prior to the start of the requested shift but no more than sixty (60) days in advance. (For the 48/96 schedule, the first twenty-four hours will be considered as the first shift, and the second twenty-four hours will be considered the second shift.) Employees will be allowed, upon the approval of their Battalion Chief, up to three (3) hours of unscheduled vacation leave during their shift. After three (3) hours, any additional time will be taken as Family Medical Leave.

(Amending Resolutions: 01-4783, 05-5244, 06-5308)

SEC. 606 WORKING DURING ANNUAL VACATION LEAVE

The city shall discourage any employee from working for another employer during his/her annual vacation. At no time will an employee be permitted to work for the city during his/her vacation and receive double compensation.

SEC. 607 HOLIDAYS WITHIN VACATION LEAVE

When a recognized city holiday falls within an employee's vacation for which he/she normally would have been excused from work, that day shall not be charged as a day of annual vacation.

SEC. 608 ILLNESS WITHIN VACATION LEAVE

If an employee becomes ill or injured during his/her annual vacation leave which requires hospitalization or medical attention, those days for which proof of such hospitalization or medical attention is furnished shall not be charged as annual vacation but shall be charged as sick leave.

SEC. 609 PAYMENT OF ANNUAL LEAVE UPON TERMINATION

Employees who terminate employment shall be paid for any accrued vacation. Payment for accrued vacation upon termination shall be at the employee's current rate of pay.

SEC. 610 VACATION IN LIEU OF HOLIDAYS FOR PUBLIC SAFETY EMPLOYEES

a. Sworn Police Shift Personnel

All sworn Police shift personnel shall be granted an additional thirteen (13) days of annual vacation leave, to be added to their annual vacation, in lieu of holidays. In lieu of taking off six (6) days of the thirteen (13) days granted in lieu of holidays, each sworn Police shift personnel through the rank of Sergeant shall be paid for the six (6) days on the first paycheck in December. (Amending Resolutions: 95-4130, 06-5308)

b. Fire Shift Personnel

Fire shift personnel shall receive thirteen (13) days (104 hours times 1.4 multiplier or 145.6 hours) of annual holiday time. In lieu of taking off eight (89.6 hours) of the thirteen (13) days granted in lieu of holidays, each sworn Fire shift personnel shall be paid for the eight (8) days – 44.8 hours the first paycheck in June and 44.8 hours the first paycheck in December. The remaining 56 hours (divided by 26 pay periods) shall be put into a "holiday leave bank". This

bank will be subject to the same accumulation of annual vacation leave in the fact that employees may carry over a maximum accumulation of one (1) year's annual vacation leave, for a maximum of two (2) years' annual leave. (Amending Resolutions: 3434, 05-5244, 06-5308)

SEC. 611 EFFECT OF EXTENDED MILITARY LEAVE

An employee who interrupts his/her service to the city because of an extended military commitment shall be compensated for accrued vacation leave upon separation from service to the city.

CHAPTER 7 – SICK LEAVE

SEC. 701 STATEMENT OF POLICY

Sick leave shall not be considered as a privilege which an employee may use at his/her own discretion, but shall be granted only upon the recommendation of the department head. Sick leave shall be allowed only in case of necessity and actual personal illness or disability, medical or dental treatment. Sick leave shall be allowed to a maximum of six (6) days per year (69.2 per year for twenty-four hour shift personnel) in case of emergency illness in the immediate family. Upon the approval of the City Manager, additional days may be authorized. The immediate family shall be the spouse, parent, child, brother, sister, or other close family member as approved by the Human Resources Director. (Amending Resolutions: 01-4783)

SEC. 702 ELIGIBILITY FOR SICK LEAVE

- a. Regular, Regular Part-Time, and Probationary Employees
All regular, regular part-time, and probationary employees, upon completion of six (6) months continuous service, shall be eligible for sick leave with pay.
- b. Seasonal Part Time, Limited Part Time, and Temporary Employees
Seasonal part time, limited part time, and temporary employees shall not be eligible for sick leave with pay.
(Amending Resolutions: 06-5308)

SEC. 703 ACCRUAL OF SICK LEAVE

- a. Sick Leave Accrual for Non-Twenty-Four (24) Hour Shift Personnel
Sick leave shall be accrued and credited monthly by all eligible employees who are on a pay status for 50 per cent or more of that month. Those employees eligible for sick leave, as defined in SEC. 702, shall accrue sick leave at the rate of eight (8) hours per month.
- b. Sick Leave Accrual for Twenty-Four (24) Hour Shift Personnel
Sick leave shall be accrued and credited monthly, at the rate of 11.2 hours, by all eligible employees who are on a pay status for 50 per cent or more of that month. Those employees eligible for sick leave, as defined in SEC. 702, shall accrue sick leave at a rate proportionately equal to that of regular employees. (Amending Resolutions: 01-4783)

SEC. 704 ACCUMULATION OF SICK LEAVE

- a. Accumulation of Sick Leave for Non-Twenty-Four (24) Hour Shift Personnel
An employee may accumulate sick leave up to a maximum of 132 days.

Sworn Police employees may accumulate sick leave up to a maximum of 120 days. Sworn Police employees hired on or after July 1, 2005, may accumulate sick leave up to a maximum of sixty (60) days. (Amending Resolutions: 06-5308)
- b. Accumulation of Sick Leave for Twenty-Four (24) Hour Shift Personnel
An employee may accumulate sick leave up to a maximum of 120 days proportionately equal to that of regular employees (1344 hours) based on the Fire Department work schedules. New employees hired on or after July 1, 2005 may accumulate sick leave up to a maximum of sixty (60) days proportionately equal to that of regular employees (672 hours) based on the Fire Department work schedules. (Amending Resolutions: 01-4783, 05-5244, 06-5308)

SEC. 705 HOLIDAYS WITHIN SICK LEAVE

When a recognized city holiday falls within an employee's bonafide use of sick leave for which he/she normally would have been excused from work, that day shall not be charged as a day of sick leave.

SEC. 706 ILLNESS WITHIN VACATION LEAVE

If an employee becomes ill during his/her annual vacation leave which requires hospitalization or medical attention, those days for which proof of such hospitalization or medical attention is furnished shall not be charged as annual vacation leave but shall be charged as a day of sick leave. (see also SEC. 608 – Vacation Leave)

SEC. 707 USAGE OF SICK LEAVE

Sick leave may be used as needed and approved, to the point of depletion, at which time the employee will no longer receive pay for sick leave. (Amending Resolutions: 2843)

SEC. 708 DEDUCTION OF SICK LEAVE

Sick leave shall be deducted at the rate of one hour sick leave for each hour absent.

SEC. 709 VERIFICATION OF SICK LEAVE USAGE

The city reserves the following rights with regard to control and verification of appropriate sick leave usage:

- a. The city may require that any employee who uses more than two (2) consecutive days of sick leave to provide a physician's certification of the employee's illness.
- b. The city may formally place an employee on "sick leave restriction" whereupon, for a period of time, the employee may subsequently be required to provide the city a physician's certification of illness for each incidence of sick leave usage, regardless of the amount of time off work.

In determining whether or not to place an employee on "sick leave restriction", the city agrees to consider not only gross usage and so-called "patterns of usage", but also extended illness, major medical problems and incidents of family sick leave.

(Amending Resolutions: 3740)

SEC. 710 WORKERS COMPENSATION

- a. Police and Fire Department Personnel
 - 1. An employee of the Police or Fire Department who is entitled to the benefits of Labor Code Section 4850, who is absent from work by reason of an injury or illness covered by workers compensation, shall be allowed up to one (1) year's leave of absence, as required by said section. The employee shall continue to receive his/her regular paycheck as long as he/she remains on pay status; provided, however, that such employee assigns to the city any and all workers compensation payments received by the employee.
 - 2. An employee of the Police or Fire Department who is absent from work by reason of an injury or illness covered by workers compensation will continue to accrue sick leave, vacation and holiday benefits and consideration for normal salary increases as though he/she were not on leave of absence. (Amending Resolutions: 3091)
 - 3. Whenever such disability of an employee continues for a period beyond one (1) year, the leave of absence may continue until the expiration of his/her accrued sick leave, vacation and previously accrued compensatory time off for overtime and paid days in lieu of holidays, calculated to the nearest one-half (½) day, with compensation at the employee's regular rate of pay.
 - 4. When it appears the employee cannot return to work by the expiration of such allowances, disability retirement shall be requested by the city to become effective at the expiration of these allowances unless the employee applies for or consents to his/her retirement as of an earlier date, at which time he/she may be compensated for his/her accrued benefits at his/her regular rate of pay.

5. No employee of the Police or Fire Department shall be paid any disability indemnity under workers compensation concurrently with wages or salary payments by the city amounting to more than his/her regular rate of pay at any time during his/her leave of absence.
6. No employee of the Police or Fire Department shall receive wage or salary payments from the city after a period of five (5) years from the date of injury for any one injury.

b. All Other City Employees

Any employee, other than Police or Fire Department personnel (entitled to the benefits of Labor Code Section 4850), who is absent from work by reason of an injury or illness covered by workers compensation shall continue in pay status under the following provisions:

1. The employee shall continue to receive his/her regular paycheck as long as he/she remains on pay status; provided, however, that such employee assigns to the city any and all workers compensation payments received by the employee.
2. The employee's accumulated sick leave shall be reduced in an amount corresponding to the per cent of the employee's salary being paid by the city.
3. Such an employee will continue in pay status and receive his/her regular rate of pay until his/her accumulated sick leave, compensatory time and vacation days have been depleted to the nearest one-half (½) day.
4. During the time the employee is in pay status while absent from work by reason of injury or illness covered by workers compensation, he/she shall continue to accrue sick leave and vacation benefits as though he/she were not on leave of absence, but shall not receive credit for holidays.
5. Any employee, other than Police and Fire Department personnel, who depletes his/her accumulated sick leave, compensatory time, holidays and vacation days to maintain pay status while absent from work by reason of an injury or illness covered by workers compensation shall be removed from pay status and be covered under provisions of SEC. 711.

SEC. 711 DEPLETION OF SICK LEAVE, COMPENSATORY TIME AND VACATION BENEFITS

Upon depletion of accumulated sick leave, compensatory time and vacation for any injury or illness and upon the recommendation of the employee's 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, he/she must request medical leave which shall be subject to approval of the City Manager. If further leave is granted, the employee must notify the city of his/her 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.

SEC. 712 EMPLOYEE REHABILITATION

The city shall provide a rehabilitation program for industrially injured employees, pursuant to Section 139.5 of the California Labor Code. Employees unable to return to their previous position shall be interviewed for an available position, if said employee submits a timely application and meets the minimum qualifications for such position. The above procedure applies for eighteen (18) months. The employee's name shall be placed on a mailing list for the period designated above. (Amending Resolutions: 3145)

SEC. 713 COMPENSATION FOR SICK LEAVE UPON TERMINATION

An employee having a minimum of ten (10) years of regular service shall be compensated for 25 per cent (50 per cent for employees designated as Management and Confidential) of his/her unused sick leave balance upon honorable separation, at his/her rate of pay at said separation. (Amending Resolutions: 3629)

SEC. 714 COMPENSATION FOR SICK LEAVE UPON RETIREMENT

- a. An employee having a minimum of ten (10) years of regular service shall be compensated for 40 per cent (50 per cent for employees designated as Management and Confidential) of his/her unused sick leave balance upon retirement, at his/her rate of pay at said retirement. The remaining balance not cashed out will be credited to PERS. At the option of the employee, up to 100 per cent of the unused sick leave balance can be credited to PERS. (Amending Resolutions: 97-4286, 06-5308)

- b. Twenty-four (24) hour non-management shift personnel and non-management sworn Police personnel having a minimum of ten (10) years of regular service with the City of Tulare shall be compensated for 35 per cent (50 percent for employees designated as Management and Confidential) of his/her unused sick leave balance upon retirement, at his/her rate of pay at said retirement. The remaining balance not cashed out will be credited to PERS. At the option of the employee, up to 100 per cent of the unused sick leave can be credited to PERS. (Amending Resolutions: 06-5308)

CHAPTER 8 – OTHER LEAVES OF ABSENCE

SEC. 801 LEAVE OF ABSENCE WITHOUT PAY

Leave of absence without pay may be granted in cases of emergency where such absence would not be contrary to the best interests of the city. Such leave is not a right but a privilege. Employees on authorized leave of absence without pay may not extend such leave without the expressed approval of the City Manager. No vacation or sick leave benefits shall be used for illness occurring during such leave.

- a. Approval of Department Head
Leave of absence without pay for one (1) week or less may be granted by the department head, depending on the merits of the individual case. Such leave shall be reported to the Human Resources Director.
- b. Approval of City Manager
Leave of absence without pay in excess of one (1) week's duration may be granted by the City Manager on the merits of the case, but such leave shall not exceed twelve (12) months' duration.

SEC. 802 ABSENCE WITHOUT LEAVE

Absence without leave shall be considered to be without pay and reduction in the employee's pay shall be made accordingly. Absence without leave for more than three (3) consecutive days may result in termination of employment.

SEC. 803 LEAVE OF ABSENCE: DEATH OUTSIDE THE IMMEDIATE FAMILY

Leave without pay may be granted a regular employee by his/her department head in the event of death of family members other than the immediate family, such leave to be granted in accordance with SEC. 801.

SEC. 804 MATERNITY

Leave of absence for maternity will be covered under the provisions of SEC. 701 and 708. An employee may work until she has been advised by her doctor to cease working. The employee may continue on sick leave either until the doctor gives written permission to return to work or until benefits are exhausted. (Sec. 1604.10, Chapter XIV, Part 1604, Title 29, United States Labor Code)

SEC. 805 EMPLOYEE'S TIME OFF TO VOTE

Time off with pay to vote at any general, special, direct primary or Presidential primary election shall be granted as provided in the State of California Elections Code, and notice that an employee desires such time off shall be given in accordance with the provisions of said code.

SEC. 806 JURY DUTY: LEAVE OF ABSENCE

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/her jury duty.

SEC. 807 SUBPOENAS: LEAVE OF ABSENCE

Regular employees who are subpoenaed to appear as witnesses in a court trial may be granted a leave of absence from 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 service. Compensation for mileage or subsistence allowance shall not be considered as a fee and shall be retained by the employee.

SEC. 808 LEAVE FOR ATTENDANCE AT INDUSTRIAL ACCIDENT COMMISSION HEARING OR RELATED PHYSICAL EXAMINATIONS

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 shall be granted leave with pay for such absences 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 with the department head.

SEC. 809 MANAGEMENT LEAVE

a. Sworn Middle Management

All sworn middle management employees with less than five (5) years of service shall receive twenty-four (24) hours management leave (33.6 hours for twenty-four hour shift personnel) per fiscal year. Sworn middle management employees with five (5) or more years of service shall receive thirty-two (32) hours of management leave (44.8 hours for twenty-four hour shift personnel) per fiscal year.

An additional twenty-four (24) hours of management leave (33.6 hours for twenty-four hour shift personnel) per year will be given to those sworn middle management employees not eligible for overtime compensation.

b. Non Sworn Middle Management

All non sworn middle management shall receive sixty four (64) hours of management leave per year.

c. City Manager and Department Heads

Classifications designated as City Manager or Department Head shall receive eighty-eight (88) hours of management leave per year.

d. Management leave can not be accumulated from one fiscal year to the next. Management leave will be credited each July and must be used by the last full pay period the following June. Leave may not be used in July until it is credited to the leave bank and registers on the paycheck. New managers shall receive prorated management leave based upon the number of pay periods remaining in that fiscal year. Managers leaving city service shall only be entitled to partial year pro-ration based upon the number of pay periods worked in the fiscal year. Prorated management leave will then either be cashed out or hours reimbursed to the city out of the final check.

Additional management leave may be administratively granted by the City Manager for extraordinary conditions.

SEC. 810 BEREAVEMENT LEAVE

The city shall allow an employee to be absent from work with pay for a maximum of three (3) days (33.6 hours for twenty-four hour shift personnel) for a death which occurs within the State of California. If the death occurs outside the State of California, a maximum of five (5) days with pay (60 hours for twenty-four hour shift personnel) shall be allowed. Bereavement leave is allowable in the case of death in the employee's or the employee's spouse's immediate family as defined in SEC. 701 of the Personnel Rules and Regulations, including step-child. (Amending Resolutions: 3434)

SEC. 811 EDUCATIONAL LEAVE

Employees may receive paid leave to attend courses, seminars, and workshops for conventions which enhance their knowledge, skills or performance in relation to their job. The determination as to

when and whether an employee is granted leave shall be made by the department head. (Amending Resolutions: 3887)

SEC. 812 FIRE DEPARTMENT ADMINISTRATIVE TIME OFF
(Rescinded by Resolution 06-5308)

CHAPTER 9 – TERMINATION OF EMPLOYMENT

SEC. 901 TERMINATION: RESIGNATION

An employee wishing to leave the service of the city in good standing, either by resignation or retirement, shall give the department head concerned at least two (two) weeks' written notice.

SEC. 902 TERMINATION: ABSENCE WITHOUT LEAVE

Absence without leave for more than three (3) consecutive work days or shifts may be deemed to be a resignation and may result in automatic termination of employment as provided in SEC. 1002.

SEC. 903 TERMINATION: LACK OF WORK OR FUNDS

- a. An employee may be terminated by the City Manager because of changes in duties or organization, abolishment of position, shortage of work or funds or completion of work. In cases involving regular employees only, notice of such termination will be given to the employee at least thirty (30) days prior to the effective date of termination. Such terminations shall not be subject to appeal.
- b. In any such reduction in personnel caused by lack of work or funds, seniority shall be observed. The order of lay-off shall be in the reverse order of total cumulative time the employee has served in his/her current job classification upon the effective day of the lay-off. For the purpose of determining order of lay-off, total cumulative time shall include the employee's time served in probationary and regular status and time served on military leave of absence while assigned to his/her current job classification.
- c. Employees subject to lay-off who have seniority in a lower classification may displace (bump) employees in the lower classification having less seniority, provided that the displacing employee is fully qualified and capable of performing the work in a lower classification at the rate of pay for the lower classification.
- d. Any employee bumping into a lower job classification and remaining in said classification for a period of six (6) or more months shall lose his/her previous classification seniority.
- e. Any employee terminated for lack of work of funds shall be interviewed for an available position, if said employee submits a timely application and meets the minimum qualifications for such position. The above procedure applies for eighteen (18) months. The employee's name shall be placed on a mailing list for the period designated above. (Amending Resolutions: 3145)

SEC. 904 TERMINATION: NON-DISCIPLINARY ACTION

Part-time and probationary employees may be terminated by the City Manager at any time, with or without notice, for cause or for the convenience of the city. Regular employees terminated by the City Manager for cause or for the convenience of the city shall be given a written statement of the reasons for such termination and may appeal such action in the manner provided in SEC. 1007 et seq. Such cause shall be other than cause for disciplinary action set forth in SEC. 1002 et seq., and shall include, but not be limited to, inefficiency, incompetence, physical disability or mental incapacity.

SEC. 905 TERMINATION: DISCIPLINARY ACTION

An employee may be terminated at any times as disciplinary action as provided in Chapter 10 of these rules and regulations.

SEC. 906 RETIREMENT: APPLICABLE REGULATIONS

Retirement from the municipal service shall be subject to the terms and conditions of the city's retirement system.

SEC. 907 RETIREMENT: MISCELLANEOUS EMPLOYEES

All employees attaining the mandatory retirement age as set by the California Public Employees' Retirement System shall retire from the municipal service. (Amending Resolutions: 3091)

SEC. 908 RETIREMENT: PUBLIC SAFETY EMPLOYEES

All employees attaining the mandatory retirement age as set by the California Public Employees' Retirement System shall retire from the municipal service. (Amending Resolutions: 3091)

CHAPTER 10 – DISCIPLINARY PROCEEDINGS

SEC. 1001 DISCIPLINARY ACTION: DEFINITION

As used in this chapter, “disciplinary action” shall mean discharge, demotion, reduction in salary, reprimand, disciplinary probation or suspension.

SEC. 1002 CAUSES FOR DISCIPLINARY ACTION

Causes for disciplinary action against any employee may include, but not be limited to, the following:

- a. Unauthorized absence or tardiness.
- b. Failure to report absences from work or failure to return immediately from authorized leave.
- c. Failure to follow the instruction of a supervisor, manager or other proper authority.
- d. Disorderly conduct on city premises or while on duty elsewhere, such as, but not limited to, fighting and use of abusive or threatening language.
- e. Possession, use, receiving, distributing or being under the influence of alcoholic beverage or drugs while on duty.
- f. Falsifying or altering city records, including, but not limited to, employment, medical, pay and benefit records, or permitting one’s time card to be recorded by another employee.
- g. Thefts of, or intentional harm to, city or other’s personal property.
- h. Dishonesty.
- i. Violation of safety rules.
- j. Unauthorized removal of city documents, records or other property.
- k. Negligent or careless performance of duties.
- l. Failure to meet acceptable standards of performance.
- m. Failure to observe work schedules or assignments.
- n. Misuse of city property.
- o. Unauthorized departure from job, department or city premises.
- p. Loitering or sleeping on the job.
- q. Gambling on city premises or while on duty elsewhere.
- r. A personal appearance or mode of dress that is unkempt to the point of being detrimental to the business environment of the city.
- s. Allowing unauthorized individuals to ride in city vehicles.
- t. Discourteous treatment of the public or other employees.

- u. Violation of any provisions of these working rules and regulations, administrative policies or written departmental rules and regulations.

(Amending Resolutions: 3856)

SEC. 1003 PERSONS BY WHOM DISCIPLINARY ACTION MAY BE TAKEN

The City Manager or any department head may take disciplinary action against an employee under his/her control for one or more of the causes for discipline specified in this chapter.

SEC. 1004 PROCEDURE PRECEDING IMPOSITION OF DISCIPLINARY ACTION

Prior to initiating any disciplinary action, excluding reprimands, against an employee having regular status, the City Manager or department head shall serve written notice on the employee, personally or by certified mail, at least seven (7) calendar days prior to the effective date of the disciplinary action. The written notice shall include:

- a. A description of the action to be taken and the effective date or dates.
- b. A statement of the reasons for such action, including the acts or omissions on which the disciplinary action is based.
- c. A statement advising the employee of the right to respond, either verbally or in writing, to the disciplining authority prior to the effective date of the proposed discipline.
- d. A statement advising the employee that he/she may represent himself/herself or may be represented by a person of his/her choosing.
- e. A statement that a copy of the materials upon which the proposed action is based is attached or available for inspection upon request.
- f. A statement that if the proposed discipline is imposed, the employee has a right to appeal.

Upon request of the affected employee, the City Manager or department head may extend the response from the employee provided that such extension will have no detrimental effect on the city.

SEC. 1005 IMPOSITION OF DISCIPLINARY ACTION

Upon expiration of the period allowed for employee response and after having given consideration to any response filed by the affected employee, the City Manager or department head may impose appropriate disciplinary action.

SEC. 1006 EXTRAORDINARY CIRCUMSTANCES

- a. In those extraordinary circumstances wherein the City Manager or department head determines that the nature of the employee's act or the charges against him/her are such as to require the employee's immediate removal from the job site, the employee may be placed on leave with pay pending service of the notice of disciplinary action and the effective date of the disciplinary action. In the case that discipline is imposed and upheld, such leave shall be charged as vacation leave.
- b. In those instances where it is determined that immediate disciplinary action is necessary against an employee as a result of accusations against such employee which would constitute a felony or a misdemeanor involving moral turpitude, the City Manager may impose disciplinary action without compliance with the provisions set forth in SEC. 1004.
- c. If, in the opinion of the City Manager or the department head, the employee's behavior is such that he/she is temporarily unable to perform his/her job and the intent is to remove him/her from the job site until he/she is able to return and function adequately, said employee may be

placed on sick leave and sent home until determined by the City Manager or department head that he/she is able to function adequately.

SEC. 1007 RIGHT OF APPEAL

A regular employee shall have the right of appeal to the City Manager from any disciplinary action taken by his/her department head under this chapter, other than oral or written reprimands. Such appeal must be filed with the City Manager within ten (10) working days after receipt of the written notice of such disciplinary action. The appeal must be in writing and must state specifically the reasons upon which it is based. (Amending Resolutions: 03-4969)

SEC. 1008 RIGHT OF APPEAL: HEARING

Upon receipt of a written appeal from an affected employee, the City Manager shall conduct a hearing as provided in this chapter. Said hearing shall be conducted within thirty (30) days after receipt of the written appeal. The City Manager may conduct the hearing personally or may appoint a hearing officer to conduct the hearing and to advise the City Manager appropriately. The City Manager may continue the hearing either for the convenience of the city or upon written application of the employee for a reasonable period of time. Written notice of the time and place of the hearing and any continuance thereof shall be given to the appellant. Such hearing shall be conducted in accordance with the provisions of SEC. 11513 of the Government Code of the State of California, except that the employee and other persons may be examined as provided in SEC. 19580 of said Government Code, and the parties may submit all proper and competent evidence against or in support of the causes, but it shall be a rebuttable presumption that the statement of causes is true.

SEC. 1009 RIGHT OF APPEAL: REPRESENTATION

The appellant employee shall have the right to appear personally or to be represented by counsel or by anyone else of his/her choosing, including other city employees, with the exception of supervisory, management and confidential employees.

SEC. 1010 RIGHT OF APPEAL: FAILURE OF EMPLOYEE TO APPEAR

Failure of the appellant to appear at the hearing shall be deemed a withdrawal of his/her appeal and the action of the City Manager or department head shall be final.

SEC. 1011 RIGHT OF APPEAL: DECISION

The City Manager shall render a decision within fifteen (15) days after the conclusion of the hearing or after receipt of the official hearing transcript. The City Manager's decision shall be final and conclusive. 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 shall be compensated in all or in part for the time lost as determined by the City Manager. Any appeal of the City Manager's decision through judicial review must be filed within ninety (90) days of said decision pursuant to the Code of Civil Procedures Section 1094.6. (Amending Resolutions: 3091)

SEC. 1012 EFFECT OF DISCIPLINARY ACTIONS

- a. Oral Reprimand
Employees may receive an oral reprimand.
- b. Written Reprimand
Employees receiving a written reprimand shall have a copy filed in his/her personnel jacket kept in the Human Resources Office. The employee shall initial a copy of the reprimand prior to its filing, indicating that he/she has read the reprimand. The employee shall have the right to enclose a written response in his/her personnel jacket.
- c. Disciplinary Probation
Employees placed on disciplinary probation shall not accrue vacation, sick leave or earned time for salary review while on such probation.

- d. Suspension
Employees suspended from the municipal service shall forfeit all rights, privileges and salary while on such suspension with the exception of group health and life insurance benefits.
- e. Salary Reduction
Employees who have had their salary reduced shall receive the lowered salary until such time as the department head or City Manager determines that an increased salary is merited.
- f. Discharge
Employees terminated pursuant to SEC. 904 of these rules and regulations shall be paid salary for vacation and worked holidays accumulated to the effective date of termination, subject to SEC. 713, if applicable.

SEC. 1013 RELEASING OF INFORMATION RELATIVE TO DISCIPLINARY ACTION AGAINST MUNICIPAL EMPLOYEES

In the interest of preventing undue embarrassment and subsequent loss of ability to perform city work effectively, the following policy will prevail regarding release of information to the news media on personnel actions:

- a. No information shall be released without prior approval of the City Manager.
- b. No information shall be released until final action has been determined and taken.
- c. Even after final disposition of the matter, no details will be released other than the exact nature of the action taken.

The foregoing personnel procedure is sanctioned under the Ralph M. Brown Act and related laws. The Attorney General's opinion interpreting Government Code Section 54957 is as follows:

"The purpose of SEC. 54957 is to protect individual public employees and officers from unfavorable publicity, and to permit private inquiry into the employee's activities, or investigation of charges against such employees."

SEC. 1014 INFORMAL COUNSELING WITH THE CITY MANAGER

Nothing in these rules and regulations shall prohibit the City Manager from meeting informally with an employee regarding possible disciplinary action in order to attempt to resolve the problem.

SEC. 1015 NON-APPLICABILITY

The provisions of this section shall not apply to reductions in the work force or reductions in pay which are part of a general plan to reduce or adjust salaries and wages.

CHAPTER 11 – GRIEVANCE PROCEDURES

SEC. 1101 PURPOSE OF CHAPTER

Grievance procedures for employees are provided herein:

- a. To promote improved employer/employee relationships by establishing grievance procedures on matters for which appeal or hearing is not provided by other regulations.
- b. To afford employees, individually or 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 resolved at the lowest possible supervisory or administrative level.

SEC. 1102 MATTERS SUBJECT TO GRIEVANCE PROCEDURES

For the purposes of this section, a grievance shall be considered as any matter for which appeal is not provided for, or prohibited, in the personnel ordinance concerning:

- a. A dispute about the interpretation or application of any ordinance, rule or regulation governing personnel practices or working conditions.
- b. A dispute about the practical consequences of a city decision on wages, hours and other terms and conditions of employment.
- c. A decision affecting the employment of any regular or probationary employee over which his/her appointing power has partial or complete jurisdiction.

SEC. 1103 INFORMAL GRIEVANCE PROCEDURE

Every effort should be made to find an acceptable solution by informal means at the lowest possible level of supervision. The aggrieved employee should first attempt to resolve a grievance or complaint through discussions with his/her immediate supervisor within fifteen (15) days of the incident in question. If, after such discussion, the employee is not in agreement with the decision reached through such discussion, he/she shall have the right to file a formal written grievance within ten (10) calendar days following the receipt of the informal decision.

SEC. 1104 FORMAL GRIEVANCE PROCEDURE

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

- a. **First Level of Review**
A grievance shall be presented, in writing, to the employee's immediate supervisor who 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 his/her supervisor's decision, or if no answer has been received within fifteen (15) calendar days, the employee may present the appeal, in writing, to his/her supervisor's immediate superior. Failure of the employee to take further action within ten (10) days after receipt of the written decision of his/her supervisor, or within a total of twenty-five (25) calendar days if no decision is rendered, will constitute a withdrawal of the grievance.

- b. **Second Level of Review**
The supervisor receiving the grievance shall review it, render his/her decision and comments, in writing, and return them to the employee within fifteen (15) calendar days after receiving the appeal. If the employee does not agree with the decision, or if no answer has been received within fifteen (15) calendar days, he/she may present the appeal in writing to the department head. Failure of the employee to take further action within ten (10) days if no decision is rendered will constitute a withdrawal of the grievance.
- c. **Third Level of Review**
The grievance shall be presented, in writing, to the employee's department head who shall discuss the grievance with the employee, his/her 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 proceed to the fourth level of review. Failure of the employee to take further action within ten (10) calendar days after receipt of the decision, or within a total twenty-five (25) calendar days if no decision is rendered, will constitute withdrawal of the grievance.
- d. **Fourth Level of Review**
The grievance shall be presented, in writing, to the Human Resources Director, who shall forward it to the State of California Department of Industrial Relations Conciliation Service with a request that the Conciliation Service appoint a mediator to confer with the aggrieved employee and with the department head or his/her designee. After considering the merits of the grievance, the mediator shall forward his/her decision, in writing, to the Human Resources Director with copies to the department head and aggrieved employee. If either the employee or the department head does not agree with the decision reached by the mediator, a written appeal may be made to the City Manager within ten (10) calendar days following said decision. In the event there is no appeal, the decision of the mediator shall be final.
- e. **Fifth Level of Review**
Upon receiving an appeal from the fourth level, the City Manager or his/her designated representative shall discuss the grievance with the employee, his/her representative, if any, and with all 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.

SEC. 1105 CONDUCT OF GRIEVANCE PROCEDURE

- a. The time limits specified above may be extended to a definite date by mutual agreement of the employee and the reviewer concerned.
- b. The employee may request the assistance of a representative of his/her own choosing in preparing and presenting his/her grievance at any level of review.
- c. Employees shall be free from reprisal from using the grievance procedure.
- d. Grievances which cannot be resolved at the lowest possible level may be expedited to the appropriate level. The decision as to what level is appropriate will be made by the department head after consultation with the affected employee and supervisor.

(Amending Resolutions: 2765)

CHAPTER 12 – MISCELLANEOUS

SEC. 1201 REPORTS OF CHANGE OF STATUS

All actions involving employment and change in status of employment shall be reported by the department head to the Human Resources Division on City of Tulare Personnel Action Forms. Copies of such reports shall be furnished to the employee involved.

SEC. 1202 DAMAGE CLAIMS

Any employee of the City of Tulare filing suit for damages arising from occupational injury shall notify the Finance Director of the amount of damages collected from such suits in order that all expenses paid by the city may be recovered.

SEC. 1203 GRATUITIES

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

SEC. 1204 OUTSIDE EMPLOYMENT

Any regular employee desiring to engage in regular outside employment shall first obtain non-city conflict job approval from his/her department head. The employee shall submit a statement to his/her department head on a standard city form, naming the prospective employer, his/her 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 Human Resources Director and shall be resubmitted prior to January 10 of each year to maintain a valid, continuous authorization.

SEC. 1205 TUITION REIMBURSEMENT

Regular city employees are eligible to receive tuition reimbursement for educational purposes which tend to improve their ability to accomplish their city jobs, such reimbursement shall be subject to administrative rules and procedures established by the Human Resources Division.

SEC. 1206 COMPENSATION FOR USE OF PRIVATE AUTOMOBILE IN CITY BUSINESS

Regular city employees may receive compensation for the use of their personal vehicle in city business. Such compensation shall be at the prevailing Internal Revenue Service approved rate and upon approval of the employee's department head. (Amending Resolutions: 3629)

SEC. 1207 UNIFORM AND TOOL ALLOWANCE

- a. Regular Employees of the Police Department
Regular Police personnel required to wear uniforms in the performance of their duties shall receive a uniform allowance of \$825.00 per year (effective July 1, 2007, \$900.00 per year), with the exception of Safety Dispatcher Clerk, Community Service Officer, and Police Records Specialist, who shall receive \$350.00 per year. New employees of the Police Department shall receive, upon initial employment, two full sets of uniforms and two summer shirts and foul weather gear. Any new or reappointed employee whose appointment begins prior to January 1 of any year shall be granted the allotment for uniform maintenance. If appointed or reappointed after January 1, he/she shall be granted uniform allowance the following year. (09/93) (Amending Resolutions: 03-4969, 06-5308)
- b. Regular Employees of the Fire Department
Regular Fire personnel required to wear uniforms in the performance of their duties shall receive a uniform allowance of \$800.00 per year effective July 1, 2005 (\$900.00 per year effective July 1, 2007). New employees of the Fire Department shall receive, upon initial employment, two pairs of pants, two shirts, one work jacket, one dress jacket, one belt, one pair of shoes, and one cap. Any new or reappointed employee whose appointment begins prior to

January 1 of any year shall be granted the allotment for uniform maintenance. If appointed or reappointed after January 1, he/she shall be granted uniform allowance for the following year. (10/93) (\$800.00 & \$900.00 MOU-2005-2009) (Amending Resolutions: 95-4130, 06-5308)

c. Other Employees

Employees in the Fleet Maintenance Division and employees at the wastewater treatment plant who are required to wear uniforms shall be provided with a uniform laundry service. Coveralls for wastewater employees are included in the uniform service.

A stipend of \$120.00 per year, for the purpose of securing steel toed boots, will be provided for employees who work with or around heavy equipment. Designated employees are required to wear and maintain said boots.

Uniforms and related articles for employees required to wear uniforms will be provided in the following manner:

1. Five (5) sets of uniforms will be provided to employee initially. Uniforms shall be the property of the city.
2. The city will permit flexibility for polo shirts as part of the city provided uniform.
3. Uniforms shall be replaced when a worn-out uniform is turned in, and/or a damaged uniform resulting from the course of employment is turned in.
4. One (1) set of coveralls shall be provided initially to employees in the Parks Division and Street Division, and two (2) sets of coveralls shall be provided initially to employees in the Water Division. Said coveralls will be replaced when a worn-out coverall is turned in, and/or a damaged coverall resulting from the course of employment is turned in. Coveralls shall be the property of the city.
5. Gloves shall be issued on an as-needed basis and shall be replaced by the city when the worn or damaged pair is turned in.
6. One (1) orange safety jacket shall be provided initially to employees working in street rights-of-way. Said jacket will be replaced when the worn-out jacket is turned in, and/or a damaged jacket resulting from the course of employment is turned in. Jackets shall be the property of the city.
7. The uniform allowance for Police Senior Safety Dispatcher, Safety Dispatcher, Community Service Officer, Police Records Specialist, and Coe Enforcement Officer shall be \$350.00 per year. (Amending Resolutions: 06-5374)
8. In July of each year, field superintendents (i.e. Fleet Maintenance, Facilities Maintenance, Parks, Solid Waste, Water, and Wastewater) shall receive a uniform allowance of \$180. (Amending Resolutions: 06-5374)

(Amending Resolutions: 95-4130, 06-5308, 06-5374)

d. Additional Uniforms and Uniform Allowance Procedures

Any additional uniforms needed shall be supplied at the employee's expense. The City Manager shall establish such regulations and procedures needed for the administration of the uniform allowance procedure. (Amending Resolutions: 3740)

- e. Tool Allowance
Effective July 1, 2001, employees in positions requiring use of personal tools shall receive an annual allowance of \$200.00 for broken, lost, and/or stolen tools. The only positions where personal tools are required are those in the Fleet Maintenance Division. (Amending Resolutions: 01-4783)

SEC. 1208 POLITICAL ACTIVITY

The political activity of city employees shall be governed by the appropriate provisions of the Government Code, provided that:

- a. No employee shall participate in political activities of any kind while in uniform.
- b. Employees shall not engage in political activities during working hours.
- c. Employees shall not conduct any political activities on the premises of any city buildings or work site.

SEC. 1209 CONFLICT OF INTEREST

All designated employees shall comply with departmental conflict of interest codes or the applicable regulations adopted by the Fair Political Practices Commission.

SEC. 1210 DAMAGED EQUIPMENT REVIEW COMMITTEE

- a. Police Department
A Police Department Damaged Equipment Review Committee shall be established for the purpose of reviewing and determining the rate of payment for all claims for clothing or equipment damaged in the line of duty. The committee shall be composed of a representative from the Human Resources Division, Police Department administrative staff and the officers in general.
- b. Fire Department
A Fire Department Damaged Clothing Review Board shall be established for the purpose of reviewing and determines rates of pay for claims for clothing damaged in the line of duty. No more than one set of glasses may be considered in any two year period. The Board shall be composed of a representative from the Human Resources Division, Fire Department administrative staff and the Association.

(Amending Resolutions: 3145)

SEC. 1211 MANAGEMENT EMPLOYEES

- a. Definition
Management employees shall include, but not be limited to: City Manager, Administrative Services Director, Chief Deputy City Clerk, Deputy City Clerk, Human Resources Analyst, Management Analyst, Senior Management Analyst, Fire Chief, Fire Division Chief, Fire Battalion Chief, Fire Captain, Senior Code Enforcement Officer, Finance Director/Treasurer, Assistant Finance Director, Accounting Manager, Information Technology Manager, Utility/Purchasing/Revenue Officer, Public Works Director, Assistant Public Works Director, City Engineer, Assistant City Engineer, Senior Civil Engineer, Street Manager, Solid Waste Manager, Water Utility Manager, Wastewater Manager, Planning and Building Director, Chief Building Official, Principal Planner, Senior Planner, Police Chief, Police Captain, Police Lieutenant, Police Sergeant, Recreation & Parks Director, Recreation and Community Services Manager, Recreation Supervisor, Senior Services Administrator, Parks Development & Operations Manager, Facilities Maintenance & Airport Operations Manager, Fleet Maintenance Manager, Library Director, Senior Librarian, Librarian, Economic and Redevelopment Director, Economic Development Manager and Redevelopment Project Manager. (Amending Resolutions: 03-4969, 06-5308)

b. Management Employee Benefits

In addition to the regular benefits received by all employees, those designated as management and confidential shall receive management leave as provided in SEC. 809 "Management Leave"; may accumulate up to a maximum of forty (40) days of annual vacation leave; may be eligible for overtime compensation for hours resulting from unusual or emergency circumstances; shall be compensated at their current rate of pay for 50 per cent of unused sick leave upon separation or at retirement after having a minimum of ten (ten) years of full time service; each year, shall receive 50 per cent of earned sick leave exceeding the maximum accumulation either in reversion to vacation or in compensation at the employee's current rate of pay, at the option of the employee; may receive compensation in lieu of up to five (5) working days of vacation each fiscal year; after five (5) years of city service, an additional five (5) working days of vacation each fiscal year may be compensated after five (5) days of vacation have been utilized as actual time off; for those employees who are within twenty-four (24) hours of maximum vacation accrual, an additional five (5) days of vacation each fiscal year may be compensated after five (5) days of vacation have been utilized as actual time off; effective July 1, 2006, have 8 per cent of the employee's contribution to the Public Employees' Retirement System paid by the city (7% in lieu of salary increases for fiscal year 1978/79); and shall be provided with term life insurance in accordance with SEC. 1213(b). (Amending Resolutions: 99-4560, 00-4713)

c. Department Head Car Allowance Program

Department heads in the following classifications: Administrative Services Director, City Engineer, Economic & Redevelopment Director, Public Works Director, Finance Director/Treasurer, Library Director, Recreation & Parks Director, Planning and Building Director, shall be eligible for a monthly car allowance of \$400.00 per month, in lieu of the city providing a department head staff vehicle.

If a department head chooses to receive a monthly vehicle allowance in lieu of a vehicle, mileage will be reimbursed for round trip miles in excess of 100 miles at the rate of 50 per cent of the rate allowed by Internal Revenue Service regulations.

City credit cards are for the exclusive use of city owned vehicles, and are not to be utilized to purchase fuel or other related supplies for privately owned vehicles.

(Amending Resolutions: 00-4687, 03-4969, 06-5308)

(Former sub-section "c" – Cafeteria Plan – rescinded by Resolution 06-5308)

SEC. 1212 INSURANCE – HEALTH, DENTAL AND VISION

- a. For non-management miscellaneous and public safety employees enrolled for dependent insurance coverage, the city shall contribute 65 per cent of the premium per month toward the employee health, dental, vision and life insurance and dependent health, dental, vision and life insurance costs. The employee shall contribute 35 per cent per month toward the cost of dependent insurance coverage. (Amending Resolutions: 03-4969, 06-5308)
- b. For management and confidential employees enrolled for dependent insurance coverage, the employee contribution shall not exceed 35 per cent per month. (Amending Resolutions: 03-4969, 06-5308)
- c. For management and confidential, miscellaneous and public safety employees not enrolled for dependent insurance coverage, the city shall pay the entire amount of the employee health, dental, vision and life insurance cost. Effective October 1, 2005, regular part-time employees hired after the effective date (i.e. an employee assigned to work less than the standard 40 hour work week) shall pay a proportional share of the employee premium. Regular part-time

employees hired prior to October 1, 2005, are grandfathered from paying a portion of the employee premium. (Amending Resolutions: 03-4969, 06-5308)

- d. Employees hired after June 23, 1984, upon retirement, shall pay 100 per cent of the total costs of the health insurance premium (with or without dependent coverage). Any increases in future premiums after retirement shall be borne by the retiree. Effective July 1, 2000, in order to be eligible for said benefits, the employee must directly retire, be at least 55 years of age, and have provided ten years of service to the City of Tulare. Effective August 1, 2006, management employees with more than 20 years of service with the City of Tulare and attaining the age of 50 and retiring are eligible to continue on the city health insurance at the same rate as if they were 55. (Amending Resolutions: 00-4687, 06-5374)
- e. If the health insurance administrator recommends future rate increases or program modifications to be implemented, he/she shall make a recommendation to the Health Insurance Committee stating the reasons why such increase or change is recommended. The Health Insurance Committee shall then make a recommendation to the City Manager within thirty (30) calendar days after receipt of said recommendation. The City Manager will make a decision based on the information provided, and present it to the City Council for implementation. The city and employees agree to pay any increased costs in the same proportion as the current contribution. (Amending Resolutions: 01-4783)
- f. Non-management miscellaneous employees may buy back vacation time for incurred medical costs under the following conditions:
 - 1. Employee may exchange up to four (4) weeks (160 hours) annually for out of pocket medical expenses.
 - 2. An exchange may not reduce an employee's vacation bank to less than forty (40) hours.
 - 3. Routine withholding taxes will apply.
 - 4. An employee must incur a minimum of \$1,000 out of pocket expenses to be eligible for buy back.
 - 5. Absent an emergency (a one-time expense of more than \$1,000), all exchanges will take place in May with payment to the employee by the first pay period in June. In an emergency, the exchange and payment to the employee shall be processed within one month of notification to the Tulare City Human Resources Division. Copies of current bills (May 1 through April 30) must be submitted to substantiate the need for the vacation exchange.

(Amending Resolutions: 03-4969)

SEC. 1213 INSURANCE – LIFE

- a. Life insurance for non-management employees shall be provided at \$20,000 effective September 1, 2003. (Amending Resolutions: 03-4969)
- b. The term life insurance portion of the employee health insurance plan shall be provided for management employees (as defined in SEC. 1211), as specified in the employee health insurance policy, in the following manner:

(see next page)

<u>Annual Salary</u>	<u>Term Life Insurance</u>
\$ 10,000-15,000	\$ 10,000
15,001-20,000	15,000
20,001-25,000	20,000
25,001-30,000	25,000
30,001-35,000	30,000
35,001-40,000	35,000
40,001-45,000	40,000
45,001-50,000	45,000
50,001-55,000	50,000
55,001 or more	An annual amount equal to one times the employee's annual rate of base earnings rounded to the nearest multiple of \$1,000.00 if not already an even multiple thereof, subject to a maximum of \$150,000

The premium for said term life insurance will be at the cost of the city. (Amending Resolutions: 01-4783)

- c. Life insurance for non-management sworn Fire personnel shall be \$25,000.00. (Amending Resolutions: 01-4768)

SEC. 1214 RETIREMENT

All regular and regular part-time employees are members of the Public Employees' Retirement System. The employees and the city shall be subject to changes in the exact contributions and benefits, as determined by the system. The actual terms of retirement benefits for miscellaneous members and local safety members shall be determined by retirement system contracts. (Amending Resolutions: 3740)

SEC. 1215 DEFERRED COMPENSATION

- a. All regular employees may, at the employee's request, be included in a Deferred Compensation Plan whereby the employee may provide for the deferral of a specified amount of current income to be invested and the payment of such deferred amount and interest thereon to be made at a later date. Said Deferred Compensation Plan shall be subject to approval by the Internal Revenue Service. Implementation of the plan shall involve no cost or charge to the city.
- b. Effective the first full pay period in July 2001, the city will match, in increments of \$25.00, up to \$75.00 per month in deferred compensation for all sworn employees of the Fire Department through the rank of Battalion Chief. (Benefit traded for Bachelors Degree/educational incentive program) (Amending Resolutions: 01-4768, 06-5308)

SEC. 1216 PERSONNEL FILES

An employee or his/her recognized employee representative, with the written consent of the employee, shall be entitled to review his/her personnel folder upon request. The employee shall, in advance, be advised of, entitled to read and respond to, all statements written by the employee's supervisor, department head or fellow employee of his/her work performance or conduct if such statement is to be placed in the employee's file. No such material shall be filed until an employee has had the opportunity to review and respond to such material. The employee shall acknowledge that he/she has read such material by affixing his/her signature on the copy to be filed, with the understanding that such signature merely signifies that he/she has read the material to be filed and does not necessarily indicate agreement with its contents. (Amending Resolutions: 2765)

SEC. 1217 POSITION RECLASSIFICATION

a. Position Reclassification

An employee who believes his/her position is wrongly classified may submit a written request to his/her supervisor for reclassification. Requests shall state the reason the employee believes the present class is not appropriate and which class the employee believes is appropriate, based on the employee's present duties. Requests must be made to the Human Resources Division in January or February, so that changes may be presented to the City Council in July. Effective July 1, 2006, requests must be made to the Human Resources Division in November and December so that changes may be presented to the City Council during the budget process to be effective in July. (Amending Resolutions: 3887, 06-5308)

b. Classification Analysis

The supervisor shall forward the request to the department head. The department head shall then request that the Human Resources Director conduct a classification analysis. When the classification analysis is completed, a written response will be sent to the employee and the department head. The city shall endeavor to complete the analysis as soon as practicable. (Amending Resolutions: 3887)

c. Appeals

If the employee disagrees with the response of the Human Resources Director, he/she may appeal to the City Manager in writing. The written appeal must state the reasons why he/she feels that the Human Resources Director's findings were incorrect. The City Manager may review the appeal, assign it to his designee or establish an advisory committee to review the matter. The decision of the City Manager shall be final. (Amending Resolutions: 3887)

SEC. 1218 LONG TERM DISABILITY PLAN

For sworn Police personnel, the city shall contribute up to \$17.13 per month to a long term disability plan (in lieu of a one per cent salary increase for the 1982/83 fiscal year). (Amending Resolutions: 97-4286)

SEC. 1219 EMPLOYEE ASSISTANCE PROGRAM POLICY

The city recognizes emotional, medical and substance abuse (alcohol and drugs) problems as treatable conditions. An employee's problem with alcohol and drug abuse, etc., will be a concern only when it manifests affect upon his/her job performance. There is no desire on the part of the city to intrude into the employee's private life. However, if personal problems begin to impact job performance, the Employee Assistance Program provides the employee with a possible alternative to disciplinary action. It is expected that the responsibility for recovery rests with the employee. Employees who suspect that they have problem will take advantage of diagnostic, counseling and assessment services made available through the Employee Assistance Program. (Amending Resolutions: 3001)

SEC. 1220 FLEXIBLE BENEFITS PROGRAM

The city shall establish a flexible benefits program, effective October 1, 1987, in accordance with Section 125 of the Internal Revenue Code. The city shall contribute the entire implementation cost and the employees shall be responsible for the monthly cost. Participation in the flexible benefits program is available to management, confidential, miscellaneous, police and fire personnel. (Amending Resolutions: 3629)

SEC. 1221 VEHICLE USE POLICY

The City Manager shall determine the allocation of usage of city-owned vehicles in accordance with the business needs of the city. All city-owned vehicles shall be operated in conformance with administrative policy, unless the use of a vehicle is otherwise controlled by actual agreement or other policy adopted by the City Council. The City Manager shall be the responsible authority for interpretation and implementation of adopted vehicle use policies. (Amending Resolutions: 3408)

SEC. 1222 FIRE DEPARTMENT WELLNESS PROGRAM (IMPLEMENTED JANUARY 1, 1998)

After completion of the Cal-OSHA required annual "Respiratory Protection Standard", the information contained in the "Respirator Medical Evaluation Questionnaire", along with the test results from the "Wellness Screening" and a copy of the current job description are to be submitted to the physician or licensed health care professional of the employee's choice for a "mandatory fit for duty physical".

All information in the questionnaire is and shall remain confidential. The information shall not be released to the city unless the physician determines that the employee is not physically able to perform his/her duties, as described in the current job description. Once an employee is determined to be unfit for duty, the city shall make every effort to work with the employee to help correct the problem.
(Amending Resolutions: 01-4783)

CHAPTER 13 – EMPLOYER/EMPLOYEE RELATIONS

SEC. 1301 PURPOSE

The purpose of this chapter is to implement Sections 3500, etc., of the Government Code of the State of California, “Local Public Employee Organizations”, by providing orderly procedures for the administration of employer/employee relations between the City of Tulare and its employee organizations. However, nothing contained herein shall be deemed to supersede the provisions of state law or existing city ordinances and resolutions establishing and regulating the employee merit system or which provide for other methods of administering employer/employee relations.

It is the purpose of this chapter to provide procedures for meeting and conferring in good faith with recognized employee organizations regarding matters which directly affect and primarily involve the wages, hours and other terms of employment of employees in appropriate units and that are not preempted by federal or state law or City Charter. However, nothing herein shall be construed to restrict any legal or inherent exclusive city rights with respect to matters of general legislative or managerial policy which include, among others: the exclusive right to determine the mission of its constituent departments, commissions and boards; set standards of service; determine the procedures and standards of selection for employment; direct its employees; take disciplinary actions; relieve its employees from duty because of lack of work or for other legitimate reasons; maintain the efficiency of governmental operations; determine the methods, means and personnel by which governmental operations are to be conducted; take all necessary actions to carry out its mission in emergencies and exercise complete control and discretion over its organization and the technology of performing its work.

This chapter is intended to strengthen the merit system of administering employer/employee relations through the establishment of uniform and orderly methods of communication between employees, employee organizations and the city.

(Police Only)

The rights of the city derive from the Constitution of the State of California and the Government Code and not from Memoranda of Understanding (MOU's). All matters not specifically addressed in a valid MOU are reserved to the city. The exercise of the express and implied powers, rights, duties and responsibilities by the city, such as the adoption of policies, rules, regulations and practices, and the use of judgment and discretion in connection therewith, shall be limited only by the specific and express terms of a valid MOU. The city has and will continue to retain, whether exercised or not, the unilateral and exclusive right to operate, administer and manage its municipal services and work force performing these services limited only by the specific and express terms of a valid MOU. The exclusive rights of the city shall include, but not be limited to, the right to determine the organization of city government and the mission of its constituent agencies; to determine the nature, quantity and quality of services to be offered to the public and to determine the means of operation, the materials and personnel to be used, the right to introduce new or improved methods or facilities and to change or alter personnel, methods, means, materials and facilities; to exercise control and discretion over its organization and operation through its managerial employees; to establish and effect rules and regulations consistent with applicable law; to establish and implement standards of selecting city personnel and standards for continued employment with the city; to direct the work force by determining the work to be performed, the personnel who shall perform the work, assigning overtime and scheduling the work; to take disciplinary action; to relieve its employees from duty because of lack of work, funds or for other reasons; and to otherwise act in the interest of efficient service to the community. The city retains its rights to take whatever actions it deems appropriate during an emergency, including the suspension of the terms of a MOU. The determination of whether an emergency exists is solely within the discretion of the city and is expressly excluded from the provisions of any grievance procedure.

When an emergency is declared, the city shall immediately notify the Union. The city agrees to meet and confer on the effects, if any, as soon thereafter as practicable.

The continued and uninterrupted provision of service to the public is of paramount importance. Therefore, neither the Union, nor any person acting on its behalf, nor any employee in a classification represented by the Union, nor any combination thereof, shall cause, authorize, engage in, encourage or sanction a work stoppage, slow down or picketing against the city, or the concerted failure to report for duty, or abstinence from the full and faithful performance of the duties of employment, including compliance with the request of another labor organization or bargaining unit to engage in such activity. If the city determines to its satisfaction that any activity prohibited by Paragraph One of this article has taken place, the city may take whatever remedial action it deems appropriate.

(Amending Resolutions: 2843)

SEC. 1302 DEFINITIONS

As used in this chapter, the following terms have the meaning indicated:

- a. **Appropriate Unit** means a unit employee classes or positions established pursuant to this chapter.
- b. **City** means the City of Tulare and, where appropriate herein, refers to the City Council or any duly authorized city representatives as herein defined.
- c. **Confidential Employee** means an employee who, in the course of his or her duties, has access to information relating to the city's administration of employer/employee relations.
- d. **Consult/Consultation in Good Faith** means to communicate orally or in writing for the purpose of presenting and obtaining views or advising of intended actions; and, as distinguished from meeting and conferring in good faith regarding matters within the required scope of such meet and confer process, does not involve an exchange of proposals and counterproposals in an endeavor to reach agreement, nor is it subject to SEC. 1315 hereof.
- e. **Day** means a calendar day unless expressly stated otherwise.
- f. **Employee Relations Officer** means the City Manager or his/her duly authorized representative.
- g. **Impasse** means that the representatives of the city and a recognized employee organization have reached a point in their meeting and conferring in good faith where their differences on matters to be included in a Memorandum of Understanding and concerning matters on which they are required to meet and confer remain so substantial and prolonged that further meeting and conferring would be futile.
- h. **Management Employee** means an employee designated in SEC. 1211.
- i. **Proof of Employee Support** means 1) an authorization card recently signed and personally dated by an employee, or 2) a verified authorization petition or petitions recently signed and dated by an employee, or 3) employee dues deduction authorization, using the payroll register for the period immediately prior to the date a petition is filed hereunder, except that dues deduction authorizations for more than one (1) employee organization for the account of any one employee shall not be considered as proof of employee support for any organization. The only authorization which shall be considered as proof of employee support hereunder shall be the authorization signed by an employee. The words "recently signed" shall mean within one hundred eighty (180) days prior to the filing of a petition.

- j. **Recognized Employee Organization** means an employee organization which has been formally acknowledged by the city as the employee organization that represents the employees in an appropriate representation unit pursuant to this chapter.

SEC. 1303 FILING OF RECOGNITION PETITION

An employee organization that seeks to be formally acknowledged as the recognized employee organization representing the employees in an appropriate unit shall file a petition with the Employee Relations Officer containing the following information and documentation:

- a. Name and address of the employee organization.
- b. Name and titles of its officers.
- c. Names of employee organization representatives who are authorized to speak on behalf of the organization.
- d. A statement that the employee organization has, as one of its primary purposes, representing employees in their employment relations with the city.
- e. A statement whether the employee organization is a chapter of, or affiliated directly or indirectly in any manner with, a local, regional, state, national or international organization and, if so, the name and address of each such other organization.
- f. Certified copies of the employee organization's constitution and by-laws.
- g. A designation of those persons, not exceeding two (2) in number, and their addresses, to which notice, sent by regular United States mail, will be deemed sufficient notice on the employee organization for any purpose.
- h. A statement that the employee organization has no restriction on membership based on race, color, creed, sex or national origin.
- i. The job classifications or titles of employees in the unit claimed to be appropriate and the approximate number of member employees therein.
- j. A statement that the employee organization has in its possession proof of employee support as herein defined to establish that a majority of the employees in the unit claimed to be appropriate 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 Employee Relations Officer or to a mutually agreed upon disinterested third party.
- k. A request that the Employee Relations Officer formally acknowledge the petition as the recognized employee organization representing the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith.

The petition, including the proof of employee support and all accompanying documentation, shall be declared to be true, correct and complete, under penalty of perjury, by the duly authorized officer(s) of the employee organization executing it.

SEC. 1304 CITY RESPONSE TO RECOGNITION PETITION

Upon receipt of the petition, the Employee Relations Officer shall determine whether:

- a. There has been compliance with the requirements of the recognition petition; and

- b. The proposed representation unit is an appropriate unit in accordance with SEC. 1308.

If an affirmative determination is made by the Employee Relations Officer on the foregoing two (2) matters, he/she shall so inform the petitioning employee organization, shall give written notice of such request for recognition to the employees in the unit, and shall take no action on said request for thirty (30) days thereafter. If either of the foregoing matters are not affirmatively determined, the Employee Relations Officer shall offer to consult thereon with such petitioning employee organization and, if such determination thereafter remains unchanged, shall inform that organization of the reasons thereof in writing. The petitioning employee organization may appeal such determination in accordance with SEC. 1310 of this chapter.

SEC. 1305 OPEN PERIOD FOR FILING CHALLENGING PETITION

Within thirty (30) days of the date written notice was given to affected employees that a valid recognition petition for an appropriate unit has been filed, any other employee organization may file a competing request to be formally acknowledged as the recognized employee organization of the employees in the same or in an overlapping unit (one which corresponds with respect to some but not all the classifications or positions set forth in the recognition petition being challenged), by filing a petition evidencing proof of employee support in the unit claimed to be appropriate of at least 30 per cent and otherwise in the same form and manner as set forth in SEC. 1303. If such challenging petition seeks establishment of an overlapping unit, the Employee Relations Officer shall call for a hearing on such overlapping unit petitions for the purpose of ascertaining the more appropriate unit, at which time, the petitioning employee organizations shall be heard. Thereafter, the Employee Relations Officer shall determine the appropriate unit or units in accordance with the standards in this chapter. The petitioning employee organizations shall have fifteen (15) days from the date notice of such unit determination is communicated to them by the Employee Relations Officer to amend their petitions to conform to such determination or to appeal such determination pursuant to SEC. 1310.

SEC. 1306 ELECTION PROCEDURE

- a. The Employee Relations Officer shall arrange for a secret ballot election to be conducted by a party agreed to by the Employee Relations Officer and the concerned employee organization(s), in accordance with its rules and procedures subject to the provisions of this chapter. All employee organizations who have duly submitted petitions which have been determined to be in conformance with this chapter shall be included on the ballot. The choice of "no organization" shall also be included on the ballot. Employees entitled to vote on such election shall be those persons employed in regular permanent positions within the designated appropriate unit who were employed during the pay period immediately prior to the date which ended at least fifteen (15) days before the date the election commences, including those who did not work such period because of illness, vacation or other authorized leave of absence, and who are employed by the city in the same unit on the date of election. An employee organization shall be formally acknowledged as the recognized employee organization for the designated appropriate unit following an election or run-off election if it received a numerical majority of all valid votes cast in the election. In an election involving three (3) or more choices, where none of the choices receives a majority of the valid votes cast, a run-off election shall be conducted between the two (2) choices receiving the largest number of valid votes cast; the rules governing an initial election being applicable to a run-off election.
- b. There shall be no more than one valid election under this resolution pursuant to any petition in a twelve (12) month period affecting the same unit.
- c. In the event that the parties are unable to agree on a third party to conduct an election, the election shall be conducted by the American Arbitration Association.
- d. Costs of conducting an election(s) shall be borne in equal shares by the city and by each employee organization appearing on the ballot.

SEC. 1307 PROCEDURE FOR DECERTIFICATION OF RECOGNIZED EMPLOYEE ORGANIZATION

- a. A decertification petition alleging that the incumbent recognized employee organization no longer represents a majority of the employees in an established appropriate unit may be filed with the Employee Relations Officer only during the month of January of any year following the first full year of recognition or during the thirty (30) day period commencing one hundred eighty (180) days prior to the termination date of a Memorandum of Understanding then having been in effect less than three (3) years, whichever occurs first. A decertification petition may be filed by two (2) or more employees or their representative of an employee organization, and shall contain the following information and documentation declared by the duly authorized signatory, under penalty of perjury, to be true, correct and complete:
 - 1. The name, address and telephone number of the petitioner and a designated representative authorized to receive notices or requests for further information.
 - 2. The name of the established appropriate unit and of the incumbent recognized employee organization sought to be decertified as the representative of that unit.
 - 3. An allegation that the incumbent recognized employee organization no longer represents a majority of the employees in the appropriate unit and any other relevant and material facts relating thereto.
 - 4. Proof of employee support that at least 30 per cent of the employees in the established appropriate unit no longer desire to be represented by the incumbent recognized employee organization. Such proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested third party within the time limits specified in the first paragraph of this section.
- b. An employee organization may, in satisfaction of the decertification petition requirements hereunder, file a petition under this section in the form of a recognition petition that evidences proof of employee support of at least 30 per cent and otherwise conforms to the requirements of SEC. 1303.
- c. The Employee Relations Officer shall initially determine whether the petition has been filed in compliance with the applicable provisions of this chapter. If his/her determination is in the negative, he/she shall offer to consult thereon with the representative(s) of such petitioning employees or employee organization and, if such determination thereafter remains unchanged, shall return such petition to the employees or employee organization with a statement of the reasons therefor in writing. The petitioning employees or employee organization may appeal such determination in accordance with SEC. 1310. If the determination of the Employee Relations Officer is in the affirmative or if his/her negative determination is reversed on appeal, he/she shall give written notice of such decertification or recognition petition to the incumbent recognized employee organization and to unit employees.
- d. The Employee Relations Officer shall thereupon arrange for a secret ballot election to be held on or about fifteen (15) days after such notice to determine the wishes of unit employees as to the question of decertification and, if a recognition petition was duly filed hereunder, the question of representation. Such election shall be conducted in conformance with SEC. 1306.

SEC. 1308 POLICY AND STANDARDS FOR DETERMINATION OF APPROPRIATE UNITS

- a. The policy objectives in determining the appropriateness of units shall be the effect of a proposed unit on 1) the efficient operations of the city and its compatibility with the primary responsibility of the city and its employees to effectively and economically serve the public; and

2) providing employees with effective representation based on recognized community of interest considerations. These policy objectives require that the appropriate unit shall be the broadest feasible grouping of positions that share an identifiable community of interest. Factors to be considered shall be:

1. Similarity of the general kinds of work performed, types of qualifications required and the general working conditions.
 2. History of representation in the city and similar employment; except, however, that no unit shall be deemed to be an appropriate unit solely on the basis of the extent to which employees in the proposed unit have organized.
 3. Consistency with the organizational patterns of the city.
 4. Number of employees and the effect on the administration of employer/employee relations created by the fragmentation of classifications and proliferation of units.
 5. Effect on the classification structure and impact on the stability of the employer/employee relationship of dividing a single or related classification among two or more units.
- b. The Employee Relations Officer shall, after notice to and consultation with affected employee organizations, allocate new classifications or positions, delete eliminated classifications or positions and retain, relocate or delete modified classifications or positions from units in accordance with the provisions of this section.

(Amending Resolutions: 2678)

SEC. 1309 PROCEDURE FOR MODIFICATION OF ESTABLISHED APPROPRIATE UNITS

- a. Requests by employee organizations for modification of established appropriate units may be considered by the Employee Relations Officer only during the period specified in SEC. 1307. Such requests shall be submitted in the form of a recognition petition and, in addition to the requirements set forth in SEC. 1303, shall contain a complete statement of all relevant facts and citations in support of the proposed modified unit in terms of the policies and standards set forth in SEC. 1308. the Employee Relations Officer shall process such petitions as other recognition petitions under this chapter.
- b. The Employee Relations Officer may, on his/her own motion, propose, during the period specified in SEC. 1307, that an established unit be modified. The Employee Relations Officer shall give written notice of the proposed modification(s) to any affected employee organization and shall hold a meeting concerning the proposed modification(s), at which time all affected employee organizations shall be heard. Thereafter, the Employee Relations Officer shall determine the composition of the appropriate unit or units in accordance with SEC. 1308 and shall give written notice of such determination to the affected employee organizations. The Employee Relations Officer's determination may be appealed as provided in SEC. 1310. If a unit is modified pursuant to the motion of the Employee Relations Officer hereunder, employee organizations may thereafter file recognition petitions seeking to become the recognized employee organization for such new appropriate unit or units pursuant to SEC. 1303.

SEC. 1310 APPEALS

An employee organization aggrieved by an appropriate unit determination of the Employee Relations Officer under this chapter may, within ten (10) days of notice thereof, appeal such determination to the City Council for final decision within fifteen (15) days of the Employee Relations Officer's determination or the termination of proceedings pursuant to Government Code Section 3507.1 or 3507.3, whichever is later.

An employee organization aggrieved by a determination of the Employee Relations Officer that a recognition petition, challenging petition or decertification of recognition petition - or employees aggrieved by a determination of the Employee Relations Officer that a decertification petition – has not been filed in compliance with the applicable provisions of this chapter, may, within fifteen (15) days of notice of such determination, appeal the determination to the City Council for final decision.

Appeals to the City Council shall be filed in writing with the City Clerk and a copy thereof served on the Employee Relations Officer. The City Council shall commence to consider the matter within thirty (30) days of the filing of the appeal. The City Council may, in its discretion, refer the dispute to a third party hearing process. Any decision of the City Council on the use of such procedure and/or any decision of the City Council determining the substance of the dispute shall be final and binding.

SEC. 1311 SUBMISSION OF CURRENT INFORMATION BY RECOGNIZED EMPLOYEE ORGANIZATIONS

All changes in the information filed with the city by a recognized employee organization(s) of its recognition petition shall be submitted in writing to the Employer Relations Officer within fourteen (14) days of such change.

SEC. 1312 EMPLOYEE ORGANIZATION ACTIVITIES

Access to city work locations and the use of city paid time, facilities, equipment and other resources by employee organizations and those representing them shall be authorized only to the extent provided for in Memoranda of Understanding and/or administrative procedures; shall be limited to activities pertaining directly to the employer/employee relationship, and not for such internal employee organization business as soliciting membership, campaigning for office and organization meetings and election; and shall not interfere with the efficiency, safety and security of city operations.

SEC. 1313 ADMINISTRATIVE RULES AND PROCEDURES

The City Manager is hereby authorized to establish such rules and procedures as appropriate to implement and administer the provisions of this resolution after consultation in good faith with affected employee organizations.

SEC. 1314 INITIATION OF IMPASSE PROCEDURES

If the meet and confer process has reached impasse as defined in this chapter, either party may initiate procedures by filing with the other party a written request for an impasse meeting, together with a statement of its position on all disputed issues. An impasse meeting shall then be scheduled promptly by the Employee Relations Officer. The purpose of such impasse meeting shall be:

- a. To identify and specify in writing the issue or issues that remain in dispute.
- b. To review the position of the parties in a final effort to resolve such disputed issue or issues.
- c. If the dispute is not resolved, to discuss arrangements for the utilization of the impasse procedures provided herein.

SEC. 1315 IMPASSE PROCEDURES

Impasse procedures are as follows:

- a. If the parties agree to submit the dispute to mediation and agree on the selection of a mediator, the dispute shall be submitted to mediation. All mediation proceedings shall be private. The mediator shall make no public recommendation nor take any public position at any time concerning the issues.

- b. If the impasse has not been resolved through such mediation, the City Council shall take such action regarding the impasse as it, in its discretion, deems appropriate as in the public interest. Any legislative action by the City Council on the impasse shall be final and binding.

SEC. 1316 COSTS OF IMPASSE PROCEDURES

The costs for the services of a mediator utilized by the parties and other mutually incurred costs of mediation shall be borne equally by the city and the recognized employee organization.

SEC. 1317 MISCELLANEOUS PROVISIONS

- a. Nothing in this chapter shall be construed to deny to any person, employee, organization, the city or any authorized officer, body or other representatives of the city, the rights, powers and authority granted by federal or state law or City Charter provisions.
- b. This chapter shall be interpreted so as to carry out its purposes as set forth in SEC. 1301.
- c. Nothing in this chapter shall be construed as to making the provisions of California Labor Code Section 923 applicable to city employees or employee organizations, or of giving employees or employee organizations the right to participate in, support, cooperate or encourage, directly or indirectly, any strike, sickout or other total or partial stoppage or slowdown of work. In the event employees engage in such actions, they shall subject themselves to discipline up to and including termination and may be deemed to have abandoned their employment; and employee organizations may thereby forfeit all rights accorded them under this chapter and other city law for a period of up to one (1) year from commencement of such activity.

SEC. 1318 PEACE OFFICERS

Peace Officers, as that term is defined in Section 830.1 of the California Penal Code, shall not join or participate in any employee organization except an employee organization which is composed solely of such Peace Officers which concerns itself solely and exclusively with the wages, hours, working conditions, welfare programs and advancement of the academic and vocational training in furtherance of the police profession and which is not subordinate to any other organization.

SEC.1319 SEVERABILITY

If any provision of this chapter, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this chapter or the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

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