XVII. SEPARATION FROM CITY EMPLOYMENT

Section 1. RESIGNATION

A. A resignation is defined as any action whereby an employee voluntarily leaves the employment of the City, with or without giving notice. A written resignation is required. A resignation in good standing is defined as a written resignation with at least two weeks' notice. In order to be eligible for payment of accumulated sick and vacation leave as outlined elsewhere in this manual, an employee must resign in good standing. A resignation with less than two weeks' notice may be deemed to be in good standing by the Department Director and Human Resources Director in extenuating circumstances (e.g., employee must report to new job within three days due to a training program, etc.). If it is deemed to be in the best interest of the City, the City Manager may authorize payment in lieu of the employee working through his notice of resignation period. In no event will an employee be eligible to utilize leave of any kind during the two week period prior to separation of employment, or to extend the separation date, even if the leave was approved prior to the notice of separation, unless approved by the City Manager. Use of sick leave during the two week period prior to separation will require a physician's documentation of the illness, and Department Director and Human Resources Director approval in order to be eligible to utilize accrued sick leave and separate from the City in good standing.

B. It is the responsibility of the employee to file a written resignation with his Department Director/Supervisor at least two weeks prior to separation, stating the date of resignation and reason for leaving. Failure to provide this advance notice may be cause for denial of re-employment eligibility, based on resignation without proper notice. However, the submittal of a written resignation with proper notice is not a guarantee of eligibility for re-employment. Other factors, including overall work record, are considered. Upon receipt of a written resignation, the Supervisor/Department Director will note "resignation accepted," sign, and date the resignation. The original written resignation will be sent to the Human Resources Department for inclusion in the employee's personnel file.

Section 2. RESIGNATION FOR MILITARY DUTY

Regular full-time employees who have completed their probationary period and who resign to enter active military duty for a period of time in excess of six months will be eligible for reinstatement as provided by law for those who are qualified, as outlined elsewhere in this policy manual.

Section 3. LAYOFF/PREFERENCE

A. Layoff is defined as separation of an employee from a City position because of a reduction in work load, abolishment of a position after study, internal reorganization, or for other related causes.

B. Generally, any employee who is laid off shall be paid two weeks salary in lieu of or receive two weeks' notice from the City. However, when funds are lacking or other circumstances warrant, a notice of less than two weeks may be given. Prior approval of the Department Director and the Human Resources Director is required prior to an employee being given a layoff notice.

C. Reasonable time off with pay may be granted the employee to assist in securing employment elsewhere. Arrangements may be made for clerical assistance, photocopying, resume preparation, etc.

D. When for any reason the City deems it necessary to reduce the work force of any department, the Department Director, in conjunction with the Human Resources Director, shall determine the number and classes of employees to be laid off, subject to approval of the City Manager. Employees shall be laid off without prejudice as layoff is not considered a disciplinary action.

E. For the purpose of this section, length of continuous service (seniority) means the period of time an employee has been employed in a classification in a department or, when appropriate, the City's service.

F. The City will recognize an employee with less than 5 years of service who is separated involuntarily due to a budgetary reduction in force, as being 100% vested in the employer contribution portion of the defined contribution 401 (a) plan.

G. The layoff decision is a management right and is not subject to the grievance or appeal process.

H. DETERMINING ORDER OF LAYOFF

When it becomes necessary to reduce the number of employees within a given classification, factors including, but not limited to, seniority, documented performance, operational impact, etc., will be considered in making the determination. The City retains the right to lay off employees in a manner deemed appropriate in the interest of the City.

I. CONSIDERATION AFFORDED EMPLOYEES PRIOR TO LAYOFF

Employees to be laid off shall be given at least two weeks' written notification of such layoff whenever practical. Employees may be granted payment in lieu of notice, as approved by the City Manager.

An employee who is scheduled to be laid off may be offered a demotion to a lower level position if a vacancy exists within the office or department and the employee is qualified to fill the position.

J. PREFERENCE RIGHTS

Employees are eligible for preference for reemployment for a period of one year from the date of layoff. Provisions regarding preference of employees on layoff are outlined elsewhere in this manual.

Provisions governing layoff/recall of represented employees are outlined in collective bargaining agreements.

Section 4. RETIREMENT

Retirement is defined as separation from service in order to initiate the commencement of retirement benefits in accordance with the provisions of the ordinance governing the retirement plan of which the employee is a member. Employees covered by Defined Benefit Plans must adhere to the Plan requirements defining retirement. Those covered by a Defined Contribution Plan (401(a)), must complete 25 years of service or be age 62 with at least ten (10) years of service with the City.

Section 5. MEDICAL TERMINATION

A. In the event it is determined, based on competent medical evidence, that an employee is unable to perform the essential functions and requirements of his position, the employee's separation from service will be deemed a medical termination.

B. A medical termination will be without prejudice and the employee will receive payment of leave benefits in the same manner as an employee who resigns in good standing, as provided elsewhere in this procedures and rules manual.

C. An employee will be eligible for re-employment as his medical condition permits, or, depending on length of service and prognosis of condition, he may be eligible for disability retirement, as

determined by the provisions of the pension plan of which the employee is a member.

Section 6. DISMISSAL OR DISCHARGE

A. City employees, other than Department Directors and probationary (new hire probation) employees, have the right to request a pre-determination hearing prior to dismissal, as outlined in this procedures and rules manual.

B. Department Directors may be terminated by the City Manager with or without notice; with or without cause; and without access to a pre-determination hearing or post-termination appeal. A Department Director who is terminated by the City Manager will receive termination pay in accordance with the provisions of his Employment Agreement.

C. Probationary employees may be terminated at any time during the established new hire probationary period without a pre-determination notice or post-termination appeal.

D. Depending on the nature of the termination (i.e., if the termination is for reasons other than the interest of the City), Department Directors will be afforded the opportunity to request a "name-clearing" hearing. Depending on the circumstances that led up to consideration of dismissal of a non-probationary employee, the non-probationary employee may be afforded the opportunity to request a "name-clearing" hearing in conjunction with his request for a pre-determination hearing.

Section 7. TERMINATION OF TEMPORARY/SEASONAL EMPLOYEES

The City employs many temporary or seasonal employees in various departments. If a temporary or seasonal employee has no work activity for a period of three months, he will be terminated from the temporary assignment by the City and removed from the payroll system. If the temporary employee wishes to be re-employed, he must update his application and other forms in the personnel file and will be required to undergo drug/alcohol screening and any other screening required by the Human Resources Department.

Section 8. DEATH

A. Separation shall be effective as of the date of death. All compensation due the employee as of the effective date of separation shall be paid to the beneficiaries, surviving spouse, or to the estate of the employee as determined by law or executed forms in the personnel file.

B. Unused vacation and sick leave benefits are payable in the same manner as for a resignation in good standing.

C. Depending upon the employee's age and years of service as of the date of death, and the governing pension plan provisions, survivor retirement benefits may apply.

Section 9. RETURN OF CITY PROPERTY

At the time of separation and prior to receiving final monies due, all records, City identification card, books, uniforms, keys, tools, and other items of City equipment and property in the employee's custody shall be returned to his department or the Human Resources Department, as applicable. Certification to this effect shall be by the Supervisor/Human Resources Department on the appropriate form. Any monies due the City because of failure to return such items may be deducted from the employee's final paycheck.