



Council Agenda Report

To: Mayor Grisanti and the Honorable Members of the City Council

Prepared by: Renée Neermann, Finance Manager

Reviewed by: Joseph Toney, Assistant City Manager

Approved by: Steve McClary, City Manager

Date prepared: June 10, 2022

Meeting date: June 27, 2022

Subject: Bonus Pay Program

RECOMMENDED ACTION: Adopt Resolution No. 22-31 amending the Personnel System Rules adopted in Resolution No. 15-08 and adopting a revised Bonus Pay Program to include Certified Public Accountant (CPA); Certified Public Finance Officer (CPFO); and Society for Human Resources Management (SHRM) Senior Certified Professional designations. Amend Section 15.2, Subsection A, Civil Engineer position classification, to include Assistant Civil Engineer, Associate Civil Engineer, and Senior Civil Engineer positions. Modify Section 15.2, Subsection A, to allow exempt employees to be eligible for Bonus Pay for certain licenses or certifications at the discretion of the City Manager.

FISCAL IMPACT: There is no immediate fiscal impact associated with the recommended action. Employees meeting the requirements of these programs as listed below will receive a one-time 3% salary increase. The 3% bonus pay is calculated on the employee's base salary at the time the license and/or certification is obtained and will be added to the base salary.

WORK PLAN: This item was not included in the Adopted Work Plan for Fiscal Year 2021-2022. This project is part of normal staff operations.

DISCUSSION: On January 21, 2015, the City Council adopted Resolution No. 15-08 (Attachment 2) establishing the City's Personnel System Rules. On October 23, 2017, the City Council adopted Resolution No. 17-46 amending the Personnel System Rules and revising the Tuition Reimbursement Policy.

To provide incentive for professional advancement, the City offers a Bonus Pay Program for City employees who obtain professional licenses and certifications or obtain advanced degrees in a relevant field while employed by the City of Malibu. This program is included in Resolution No. 15-08 in Section 15.02. Only one bonus is awarded per employee regardless of the number of licenses, certifications or degrees obtained.

Currently, staff in the City's Public Safety, Community Services, Environmental Sustainability, Planning, Public Works, Information Technology, and City Clerk sectors all have eligible classifications. However, there are no applicable categories for Finance/Accounting and Human Resources staff positions.

To encourage the continued growth and development of Finance Department and Human Resources Department personnel, staff proposes that the following certifications be added to the Bonus Pay Program:

Certified Public Accountant (CPA)

The California Board of Accountancy (CBA) regulates the accounting profession through its authority to license Certified Public Accountants (CPAs) that meet established standards of qualification and conduct within the accounting profession. In California, to earn the CPA license, individuals are required to demonstrate their knowledge and competence by passing the Uniform CPA Exam, meeting high educational standards and completing a specific amount of general accounting experience.

Licensure requires a bachelor's degree in business administration, finance, or accounting. Individuals are required to complete a total of 150 semester units, including a minimum of 24 semester units of accounting subjects, 24 semester units of business-related subjects, a minimum of 20 semester units of accounting study, and 10 semester units of ethics study. As noted above, CPAs must also pass the Uniform CPA exam. Additionally, maintaining the CPA designation requires 80 hours of continuing professional education every two years, with no less than 20 hours completed in one year.

Certified Public Finance Officer (CPFO)

The Certified Public Finance Officer Program is offered through the Government Finance Officer's Association (GFOA) and is a broad educational program designed to verify knowledge in government finance disciplines. The CPFO Program is designed to prepare individuals for leadership positions in state and local governments by enhancing fundamental skills and increasing knowledge of best practices and standards in public finance. Individuals will also be equipped to participate in decision-making efforts related to their government and community and lead projects and professionals in a substantive and significant manner.

To earn the designation of Certified Public Finance Officer (CPFO), candidates must pass a series of seven examinations covering the major public finance disciplines (Accounting and Financial Reporting; Treasury and Investment Management; Debt Management; Planning and Budgeting; Compensation and Benefits; Procurement; and Risk Management). A candidate has five years in which to complete the program. Once earned, the CPFO designation is maintained by participating in fifteen hours of continuing professional education and three GFOA Engagement Credits each year.

Society for Human Resources Management Senior Certified Professional

The Society for Human Resources Management (SHRM) is an international organization dedicated to advancing the human resources profession. SHRM offers a Senior Certified Professional certification that covers behavioral competencies and functional knowledge areas and are recognized by top universities, including Pepperdine University's Graziadio Business School. To qualify for these certifications, candidates must meet work experience criteria and pass relevant exams.

The SHRM Senior Certified Professional certification is designed for HR professionals at a senior level who operate primarily in a strategic role, such as developing policies and strategies, overseeing the execution of HR operations, analyzing performance metrics, and/or contributing to the alignment of HR strategies to organizational goals. SHRM-certified professionals are expected to recertify every three years.

On January 12, 2022, the Administration and Finance Subcommittee recommended that the Council approve the addition of these certifications to the Bonus Pay guideline.

Subsequent to the Administrative and Finance Subcommittee meeting, staff reviewed and determined that the position designation of Civil Engineer did not encompass all of the positions authorized. Thus, staff recommends that the classification, which currently includes only the Assistant Civil Engineer position, is amended to include Associate Civil Engineer and Senior Civil Engineer positions.

In addition, Section 15.2, Subsection A, currently reads:

“All full-time employees, with the exception of exempt management positions, are eligible to participate in the Bonus Pay program upon completion of probation.”

Staff is recommending that this subsection be modified to allow exempt employees to be eligible for Bonus Pay for certain licenses or certifications at the discretion of the City Manager. These certifications are not required for placement in or promotion to a non-exempt City position, but the addition of a license or certification will increase an employee's knowledge and expertise and allow them to contribute more to the City.

Staff requests the City Council adopt Resolution No. 22-31 amending Resolution No. 15-08 and revising the bonus pay program to include the recommendations described above.

The Bonus Pay program as a whole will be studied and reviewed as part of the Class and Compensation study as part of the Fiscal Year 2022-2023 Work Plan.

ATTACHMENTS:

1. Resolution No. 22-31
2. Resolution No. 15-08

RESOLUTION NO. 22-31

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU AMENDING THE CITY'S PERSONNEL SYSTEM RULES ADOPTED IN RESOLUTION NO. 15-08 AND AMENDING THE BONUS PAY PROGRAM TO INCLUDE CERTIFIED PUBLIC ACCOUNTANT (CPA); CERTIFIED PUBLIC FINANCE OFFICER (CPFO); AND SOCIETY FOR HUMAN RESOURCES MANAGEMENT (SHRM) SENIOR CERTIFIED PROFESSIONAL DESIGNATIONS; TO INCLUDE ASSOCIATE CIVIL ENGINEER AND SENIOR CIVIL ENGINEER POSITION DESIGNATIONS; AND TO MODIFY PROGRAM ELIGIBILITY TO INCLUDE EXEMPT EMPLOYEES AT THE DISCRETION OF THE CITY MANAGER.

The City Council of the City of Malibu does hereby find, order and resolve as follows:

SECTION 1. Recitals.

A. On January 21, 2015, the City Council adopted Resolution No. 15-08 establishing the City's Personnel System Rules.

B. On October 23, 2017, the City Council adopted Resolution No. 17-46 amending the Personnel System Rules and revising the Tuition Reimbursement Policy.

C. Section 15.2 of Resolution No. 15-08 includes a Bonus Pay Program for City employees who obtain professional licenses and certifications or obtain advanced degrees in a relevant field while employed by the City.

D. The City wishes to add bonus pay categories for Finance/Accounting and Human Resources certifications, including Certified Public Accountant (CPA), Certified Public Finance Officer (CPFO), and Society for Human Resources Management (SHRM) Senior Certified Professional; add Associate Civil Engineer and Senior Civil Engineer position classifications; and modify program eligibility to include exempt employees at the discretion of the City Manager.

SECTION 2. The City Council hereby adopts Resolution No. 22-31, amending the Personnel System Rules as follows:

15.2 Bonus Pay

A. All full-time employees, with the exception of exempt management positions, are eligible to participate in the Bonus Pay program upon completion of probation. Exempt management positions are eligible at the discretion of the City Manager.

B. Employees meeting the requirements of this program as listed below will receive a three percent (3%) bonus pay in addition to their base salary. The 3% bonus pay is calculated on the base salary at the time the license and/or certification and/or degree is obtained. The 3% bonus pay will be added to the current salary.

C. If the base salary combined with the bonus amount exceeds the salary range of the position, the salary will be computed to the top of the range. The bonus and base salary shall not exceed the top of the range. Only one 3% bonus will be awarded per employee regardless of the number of licenses, certifications or degrees obtained.

D. To be eligible for the 3% bonus pay, the employee must obtain a new license, certification or degree. Renewals of licenses, certifications or degrees already obtained at the time of hire are not eligible for the 3% bonus pay.

A. Employees eligible for a 3% bonus pay are as follows:

- Assistant, Associate or Senior Planner American Institute of Certified Planners Membership (AICP)
- Assistant, Associate or Senior Civil Engineer Registration as an Engineer in Training; Civil or Professional Engineer; Licensed Surveyor (State of California)
- Code Enforcement Officer Intermediate Code Enforcement Certification (Southern California Association of Code Enforcement Officers or American Association of Code Enforcement); International Conference of Building Officers (ICBO) Certification for Housing Inspector and Zoning Inspector
- Deputy City Clerk Certified Municipal Clerk (CMC)
- Emergency Preparedness Coordinator Certification by the California Specialized Training Institute
- Environmental and Building Safety State Licensed Contractor and ICBO Inspector Certification as a Mechanical Inspector, Electrical Inspector, Combination Inspector, Combination Dwelling Inspector or ATC Certification/Post Disaster Safety Assessment (State of California, ICBO or ATC)
- Finance/Accounting Certified Public Accountant (CPA); Certified Public Finance Officer (CPFO)

- Human Resources Manager or Analyst Society for Human Resources Management (SHRM) Senior Certified Professional
- Information Systems Administrator Microsoft Certified Systems Engineers (MCSE); Microsoft Certified Systems Administrator (MCSA)
- Permit Services Technician Certification for Permit Technician -ICBO
- Public Works Inspector Registered Construction Inspector American (American Institute of Construction); Society of Civil Engineers (ASCE); American Public Works Association (APWA)
- Recreation Supervisor or Coordinator Certified Leisure Professional (National Recreation and Parks Association); Certified Youth Sports Administrator through the National Alliance of Youth Sports; California Board of Recreation and Park Certification through the California Parks and Recreation Society; Certified Lifeguard Instructor (American Red Cross); Certified Pool Operator (Southern California Pool Operators Association).

SECTION 3. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED, and ADOPTED this __th day of ____ 2022.

PAUL GRISANTI, Mayor

ATTEST:

KELSEY PETTIJOHN, City Clerk
(seal)

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

JOHN COTTI, Interim City Attorney

RESOLUTION NO. 15-08

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
MALIBU ESTABLISHING PERSONNEL SYSTEM RULES

The City Council of the City of Malibu does hereby find, order and resolve as follows:

SECTION 1. Authority.

- A. The City Council is authorized and directed under the provisions of Chapter 2.64 of the Municipal Code to adopt rules for the administration of the personnel system.

SECTION 2. The objectives of these Rules are to facilitate efficient and economical services to the public, to provide for a fair and equitable system of personnel management, to attract and employ professional employees based on merit and job performance, and to define properly the obligations, expectations, privileges, rights and benefits placed upon all employees in the classified service of the City.

SECTION 3. The City Council hereby establishes the Personnel System Rules as set forth in the following procedures.

RULE I DEFINITION OF TERMS

The terms used in these Rules shall have the meanings as defined below:

- 1.1 Appointing Authority: The City Manager has the final authority to make appointments to positions to be filled in the classified service.
- 1.2 Appointment: The offer of and the acceptance by a person of a position in the City's employment in accordance with the provisions of these Rules.
- 1.3 City: The City of Malibu.
- 1.4 Class: A single or group of positions sufficiently similar in duties, authority, and responsibility to permit grouping under a common title with common standards of selection, transfer, demotion and salary.
- 1.5 Classified Service: All positions of employment in the City except those positions excluded by the Personnel Ordinance and these Rules.
- 1.6 Days: Calendar days unless otherwise stated.
- 1.7 Demotion: The movement of an employee from one classification to another classification having a lower maximum base rate of pay. A demotion may result from discipline against an employee or from non-disciplinary reasons such as a lay-off.

- 1.8 Disciplinary Action: The demotion, reduction in pay, suspension or termination of a regular employee implemented as a corrective or punitive measure to discipline an employee.
- 1.9 Eligible: A person whose name is on an employment list.
- 1.10 Employee: A person appointed to a position in the City service set forth in the listing of classifications and compensation through the City payroll. Employee does not include elected officials, independent contractors or volunteers.
- 1.11 Employment Lists:
- A. Open Employment List: A list of names of persons who have participated in an open and competitive examination for a class in the classified service and have qualified for employment in that class.
 - B. Promotional Employment List: A list of names of persons who have participated in a promotional examination for a class in the classified service and have qualified for employment in that class.
- 1.12 Exempt Employee: An employee whose duties and salary exempt him/her from overtime pay and other provision of the Fair Labor Standards Act. Such employees are generally executive, administrative, supervisory and/or professional employees.
- 1.13 Examinations:
- A. Open-Competitive Examination: An examination for a particular class in the classified service which is open to all persons meeting the qualifications for the class.
 - B. Promotional Examination: An examination for a particular class in the classified service which is open only to employees meeting the qualifications for the class.
 - C. Continuous Examination: An open-competitive examination for a class in the classified service which is administered periodically and as a result of which names are placed on an employment list in order of final scores for a period of not more than one year.
- 1.14 Full-Time Employee: An employee (regular or temporary) appointed to a position and who is regularly scheduled to work forty (40) hours per week.

- 1.15 Immediate Family: An employee's spouse, domestic partner, child, mother, father, brother, sister, half-brother, half-sister, step-son, step-daughter, step-brother, step-sister, step-parent, grandparent, step-grandparent, son-in-law, daughter-in-law, sister-in-law, brother-in-law, mother-in-law, father-in-law, grandparent-in-law, aunt, uncle.
- 1.16 Lay-Off: The non-disciplinary separation of an employee from the City service resulting from reduction or lack of work, reduction or lack of funds, abolishment of a position or positions, use of more efficient procedures, technological change, reorganization, contracting out for services, or any other basis as determined by the City Council in its sole discretion.
- 1.17 Non-exempt Employee: An employee who is subject to the overtime pay and other provisions of the Federal Fair Labor Standards Act.
- 1.18 Part-time Employee: An employee (regular or temporary) appointed to a position and who is regularly scheduled to work less than forty (40) hours per week.
- 1.19 Permanent Employee: An employee in the classified service who has successfully completed the probationary period and has been retained as hereafter provided by these rules.
- 1.20 Personnel Officer: The City Manager or designee. The Personnel Officer is responsible for the performance of duties and tasks designated in the personnel ordinance and these Rules.
- 1.21 Personnel Ordinance: Chapter 2.64 of the Municipal Code which establishes the personnel system applicable to classified employees of the City.
- 1.22 Position: A group of duties and responsibilities in the classified service requiring the full-time or part-time employment of one person.
- 1.23 Probationary Employee: An employee employed in the City service during the employee's initial hire or promotional probationary period.
- 1.24 Probationary Period: A period to be considered as an integral part of the examination, recruiting, testing and selection process during which an employee is required to demonstrate fitness for the position to which the employee is appointed by actual performance of the duties of the position.
- 1.25 Promotion: The movement of an employee from one class to another class having a higher maximum base rate of pay.

- 1.26 Provisional Appointment: An appointment of a person who possesses the minimum qualifications established for a particular class and who has been appointed to a position in that class in the absence of other available and eligible candidates. In no instance shall a provisional appointment exceed six months.
- 1.27 Regular Employee: An employee appointed to a position of indefinite duration. Such an employee may be part-time or full-time, or exempt or non-exempt.
- 1.28 Reinstatement: The restoration without examination of a former regular employee or probationary employee to a class in which the employee formerly served as a regular employee.
- 1.29 Relief of Duty: The temporary assignment of an employee to a leave of absence with pay.
- 1.30 Rules: The Personnel Rules enacted pursuant to the Personnel Ordinance and this Resolution. These are sometimes referred to as the Personnel Rules.
- 1.31 Suspension: The temporary separation from service of an employee without pay for disciplinary purposes.
- 1.32 Temporary Employee: An employee (full-time or part-time) appointed to a position of limited duration which shall not exceed one-hundred and fifty (150) days.
- 1.33 Termination: The cessation of employment with the City for disciplinary reasons such as discharge for employment; or non-disciplinary reasons such as, but not limited to, layoff, resignation or failure to successfully complete the probationary period.
- 1.34 Transfer: A movement of an employee from one position to another position in the same classification or in a comparable classification.
- 1.35 Unclassified Employees: Those employees of the City not included in the classified service and not covered by these Rules pursuant to Chapter 2.64 of the Municipal Code and Rule II herein.

RULE II. EXCLUSIONS

- 2.1 Those offices, positions and employments set forth in Chapter 2.64 of the Municipal Code as unclassified employees, including without limitation, City Manager, City Attorney, City Clerk, Department Directors and Division Managers.

RULE III. CLASSIFICATION

- 3.1 Positions and Classifications. The City Manager or designee or agency employed for that purpose, shall ascertain and record the duties and responsibilities of all positions in the classified service and shall recommend a class for each position. The classifications shall be developed and maintained in the form of a classification plan, and all positions within each class shall be substantially similar with respect to duties, responsibilities, authority and character of work. The City Council shall approve the classification plan and amendments thereto.
- 3.2 Class Specifications. Each position in the classified service shall have a class specification which shall establish the classification for the position and which shall define the duties, responsibilities, authority and character of the position. The City Council shall have the authority to approve class specifications and amendment thereto.

RULE IV. RECRUITMENT APPLICATIONS AND APPLICANTS

- 4.1 Announcement. All examinations for positions in the classified service shall be publicized by such methods as the City Manager or designee deems appropriate. Special recruitment practices shall be conducted, if necessary, to insure that all segments of the community are aware of the forthcoming examinations. Each announcement shall specify the title and pay of the position, the nature of work of the position, the manner of making application, and other pertinent information.
- 4.2 Application Forms. Applications shall be made as prescribed in the announcement. Application forms shall require information covering training, experience and other pertinent information. All applications must be signed by the person applying.
- 4.3 Application Rejection. The City Manager or designee may reject any application which indicates on its face, or if it is discovered that the applicant does not possess the minimum qualifications required for the position, the application contains any false information, or if the application omits information.
- 4.4 Criminal Background Information. The City Manager or designee may enact policies and procedures which will govern the administration of received criminal history information and which meet the requirements of the State of California, Department of Justice, Bureau of Criminal Identification and Information, Field Operations and Record Security Section for any agency that maintains or receives criminal history information. Information received may be used by the City Manager or designee to determine if an employee is qualified for the position.

Criminal convictions will not necessarily disqualify a potential employee from employment with the City of Malibu.

The City Manager or designee is authorized to obtain the criminal history information from and to transmit fingerprint images and related information to the Department of Justice pursuant to the provisions and limitations of Penal Code Section 11105(b)(11).

RULE V. EXAMINATIONS

- 5.1 Examination Process. The selection techniques used in the examination process shall be impartial and relate to those subjects which in the opinion of the City Manager or designee, fairly measure duties and responsibilities of the classification to which they seek to be appointed. Examinations shall consist of selection techniques which will test fairly the qualifications of applicants, such as, but not limited to, achievement and aptitude tests, other written tests, personal interviews, performance tests, physical agility tests, evaluation of daily work performance, work samples, successful completion of prescribed training or any combination of these or other tests. The probationary period shall be considered as a portion of the examination process. Examinations shall be designed to provide equal opportunity to all applicants by being based on an analysis of the job-related requirements of the classification. All selection techniques, including medical and/or psychological tests if utilized, shall comply with and be administered in a manner consistent with Title VII of the Civil Rights Act, the Americans with Disabilities Act, the California Fair Employment and Housing Act and other applicable laws.
- 5.2 Promotional Examinations. Promotional examinations may be conducted whenever, in the opinion of the City Manager or designee, the needs of the service require. Promotional examinations may include any of the selection techniques specified in Section 5.1 of this Rule, or any combination thereof. Only regular employees who meet the requirements set forth in the promotional examination announcements may compete in promotional examinations.
- 5.3 Open-competitive Examinations. Open-competitive examinations may be administered periodically for a single classification as the needs of the service require. Names shall be placed on employment lists and shall remain on such lists as described in Rule VI.
- 5.4 Conduct of Examinations. The City may contract with any competent agency or individual to prepare and/or administer examinations through an agreement for such services approved by the City Council.

- 5.5 Notification of Examination Results. Each applicant in an examination shall be given notice of the results thereof. All applicants shall have the right to inspect their own written test answer sheet within five (5) working days after the notification of examination results. Any error in computation, if called to the attention of the City Manager or designee within this period, shall be corrected. Such corrections shall not, however, require invalidation of appointment previously made.

RULE VI. EMPLOYMENT LISTS

- 6.1 Employment Lists. As soon as possible after the completion of an examination, the City Manager or designee shall prepare and maintain an employment list consisting of the names of applicants who qualified under the examination.
- 6.2 Duration of Lists. Employment lists other than those resulting from a continuous examination shall remain in effect until exhausted or abolished by the City Manager or designee. Open-competitive lists created as a result of continuous examinations shall remain in effect for not more than one (1) year after the last administration of the examination, unless sooner exhausted or abolished. Names placed on such lists may be merged with any others already on the list.
- 6.3 Removal of Names from Employment List. The name of any person appearing on an employment, re-employment or promotional list shall be removed by the City Manager or designee if the eligible candidate requests in writing that his/her name be removed or if the eligible fails to respond to a notice of certification mailed to the last designated address. The person affected shall be notified of the removal of his/her name by a notice mailed to the last known address. The names of persons already employed by the City on promotional employment lists who resign or are terminated from City service shall automatically be dropped from such lists.

RULE VII. METHOD OF FILLING VACANCIES

- 7.1 Types of Appointment. Unless the City Manager or designee in the exercise of his/her discretion otherwise determines, all vacancies in the classified service shall be filled by transfer, demotion, reemployment, reinstatement, or from eligible candidates certified by the City Manager or designee from an appropriate employment list, if available. In the absence of persons eligible for appointment in these ways, provisional appointments may be made in accordance with these Rules.
- 7.2 Method of Filling Vacancies. If the City Manager or designee in the exercise of his/her discretion determines that a vacancy in the classified

service is to be filled other than by a volunteer, the City Manager or designee shall have the right to decide whether to fill the vacancy by reinstatement, transfer, demotion, or appointment from a reemployment list, a promotional employment list, or an open employment list. In the absence of persons eligible for appointment in these ways, provisional appointments may be made in accordance with these Rules.

- 7.3 **Certification of Eligibles.** If the City Manager or designee does not consider it in the City's best interest to fill the vacancy by a volunteer or by reinstatement, transfer or demotion or by appointment from a reemployment list, certification shall be made from an appropriate employment list, provided eligibles are available. When a decision is made to fill a vacancy by appointment from a promotional employment list or from an open employment list, the City Manager or designee shall certify from the specified list the names of all individuals willing to accept appointment. Whenever there are fewer than three names of individuals willing to accept appointment on a promotional employment list or on an open employment list, the City Manager or designee may either make an appointment from among such eligibles or establish a new list in accordance with these Rules.
- 7.4 **Appointment.** After interview and investigation, the City Manager or designee may make appointments from among those certified. The person accepting appointment shall report to the City Manager or designee for processing on or before the date of appointment. If the applicant accepts the appointment and reports for duty within such period of time as the City Manager or designee shall prescribe, the applicant shall be deemed to be appointed; otherwise the applicant shall be deemed to have declined the appointment.
- 7.5 **Provisional Appointment.** If there are no eligibles available or willing to accept appointment from appropriate employment lists, a provisional appointment may be made by the City Manager or designee of a person meeting the minimum training and experience qualifications for the position, or the City Manager or designee may appoint an employee. Such an appointment may be made in circumstances such as, but not limited to, the period of suspension of an employee or pending final action on proceedings to review suspension, demotion or termination of an employee. A provisional employee may be removed at any time without the right of appeal or hearing. No provisional appointment shall exceed six (6) months. A provisional appointee shall accrue the same benefits as probationary employees. If a provisional appointee is selected for a full-time position within the classified service, the time served as a provisional appointee shall be counted as time toward the fulfillment of the required probationary period. No special credit shall be allowed in meeting any qualifications or in the giving of any test or for establishment of any open

competitive promotional lists, for service rendered under a provisional appointment.

RULE VIII. PROBATIONARY PERIOD

- 8.1 Regular Appointment Following Probation. All initial and promotional appointments shall be tentative and subject to a probationary period of not less than six (6) months actual service to be determined for each classification by the City Manager or designee. The City Manager or designee may extend such probationary period up to six (6) additional months actual service. The City Manager or designee shall notify the probationer concerned not less than two (2) weeks prior to the termination of any probationary period. If the service of the probationary employee has been satisfactory, then the City Manager or designee shall file a statement in writing to such effect and stating that the retention of such employee in the service is desired. If such a statement is not filed, the employee will be deemed to be unsatisfactory and his/her employment terminated at the expiration of the probationary period. Where a statement of satisfactory service has not been filed, notice of the termination shall be served on the terminated employee by the City Manager or designee on or before the expiration of the selection period.
- 8.2 Objective of Probationary Period. The probationary period shall be regarded as part of the selection process and shall be utilized for closely observing the employee's work and for securing the most effective adjustment of a new employee to the position.
- 8.3 Rejection of Probationer. During the probationary period, an employee may be rejected at any time by the City Manager or designee without cause and without the right of appeal. Notification of rejection by the City Manager or designee shall be served on the probationer.
- 8.4 Rejection Following Promotion. Any employee rejected during the probationary period in connection with a promotional appointment, or at the conclusion of such probationary period by reason of failure of the City Manager or designee to file a statement that the employee's service has been satisfactory shall be reinstated to the position from which the employee was promoted, provided such position is vacant. If there is no vacancy in such position, the employee may request to be placed on a re-employment list.

RULE IX. TRANSFER, PROMOTION, DEMOTION, SUSPENSION, REINSTATEMENT

- 9.1 Transfer. No person shall be transferred to a position for which that person does not possess the minimum qualifications. An employee may be

transferred by the City Manager or designee at any time from one position to another position in a comparable classification, provided that the later classification is one with a comparable maximum salary, involves the performance of similar duties and requires substantially the same basic qualifications.

- 9.2 Promotion. Insofar as consistent with the best interests of the City, all vacancies in the classified service shall be filled by promotion from within the classified service, after a promotional examination has been given and a promotional list established. If in the opinion of the City Manager or designee it is in the best interest of the City, a vacancy in the position may be filled by an open-competitive examination instead of promotional examination. In this situation, the City Manager or designee shall arrange for an open-competitive examination and for the preparation and certification of an open-competitive employment list.
- 9.3 Demotion. The City Manager or designee may demote an employee for disciplinary or non-disciplinary reasons. Upon request of the employee and with the consent of the City Manager or designee, demotion may be made to a vacant position. No employee shall be demoted to a position who does not possess the minimum qualifications. Disciplinary demotions shall be in accordance with Rule X hereof.
- 9.4 Suspension. The City Manager or designee may suspend an employee from a position at any time for a disciplinary purpose as provided in Rule X, Section 7. Suspension without pay shall not exceed thirty (30) days.
- 9.5 Reinstatement. With the approval of the City Manager or designee, a regular employee or probationary employee who has completed at least six (6) months of probationary service and who has resigned with a good record may be reinstated within one (1) year of the effective date of resignation, to a vacant position in the same or comparable classification. Upon reinstatement, the employee shall be subject to the probationary period prescribed for the classification. No credit for former employment shall be granted in computing salary, vacation, sick leave, or other benefits.

RULE X. DISCIPLINARY ACTION

- 10.1 Purpose. In order for the City to fulfill its obligations to the public to provide responsive public services and for the benefit and protection of the rights and safety of all employees of the City, classified employees are expected to meet acceptable standards of conduct and work performance. Failure to meet acceptable standards of conduct and work performance may result in disciplinary action which may include immediate termination. It is not possible to provide an exhaustive and complete

listing of all types of unacceptable conduct and work performance. Unacceptable conduct or work performance includes, but is not limited to:

- A. Failure to perform or properly perform assigned duties;
- B. Violation of administrative policies and procedures or these Rules;
- C. Insubordination;
- D. Excessive tardiness;
- E. Unauthorized absence from employment;
- F. Abuse of leave privileges;
- G. Acceptance of money or favors from anyone for the performance of any act which is required or expected during the performance of regular City duties;
- H. Falsification of an application for employment or of any other information provided to the City;
- I. Use of employee's official position or of the City's time, facilities, equipment or supplies for personal gain or advantage;
- J. Disclosure of confidential information acquired by or available to the employee in the course of employment with the City or use of confidential information for personal gain;
- K. Reporting for work, or being at work under the influence of or in possession of alcohol or non-prescribed controlled substances or being at work in possession of non-prescribed controlled substances;
- L. Conviction of a felony, or conviction of a misdemeanor relating to the employee's fitness to perform assigned duties;
- M. Theft or improper use of City funds or property;
- N. Failure to work satisfactorily with other employees or the public in a responsible and courteous manner; or
- O. Sexual harassment or other unlawful harassment of another employee or a member of the public.

10.2

Policy. Prior to the suspension, demotion, reduction in pay, or termination of a regular employee for disciplinary purposes ("disciplinary action"), the procedure set forth in this Rule shall be complied with.

- 10.3 Authority. The City Manager or designee shall have the authority and responsibility to institute disciplinary action, if warranted, to schedule and conduct any disciplinary conference and to impose disciplinary action.
- 10.4 Written Notice. At least five (5) days prior to the effective date, written notice of the proposed disciplinary action shall be given to the employee. Such notice shall include a statement of the reason(s) for the proposed action and the charge(s) being considered, and a statement that the employee has a right to review the documents and respond as set forth in this Rule.
- 10.5 Employee Review. The employee shall be given copies of and an opportunity to review the documents or materials upon which the proposed disciplinary action is based.
- 10.6 Employee Response. Prior to the effective date of the disciplinary action, the employee shall have the right to respond, orally or in writing, at the employee's option, to the City Manager or designee concerning the proposed action.
- 10.7 Relief of Duty. Notwithstanding the provision of this Rule, the City Manager or designee may temporarily relieve an employee of duty with pay pending the conduct or completion of such investigations or opportunity to respond as may be required to determine if disciplinary action is to be taken.
- 10.8 Appeals. A regular employee shall have the right to appeal disciplinary action taken against such employee. Such appeal shall be in writing, signed by the employee, and shall request that a hearing be held. Such requests shall be presented to the City Manager or designee in writing within fourteen (14) days after the effective date of the imposition of the disciplinary action. Any such request shall be addressed to the City Manager or designee and shall identify the subject matter of the appeal, the specific grounds for the appeal, and the relief desired by the employee. All disciplinary hearings shall be conducted in private unless the employee requests, in writing, a public hearing. If the employee fails to request a disciplinary hearing within the prescribed time, the employee shall have waived the right to a hearing and all rights to further appeal the disciplinary action.
- 10.9 Scheduling of Disciplinary Appeal Hearing. Provided the employee has made a timely request, the City Manager or designee shall schedule a disciplinary appeal hearing within a reasonable time after the filing of the employee's request. In scheduling the hearing, the City Manager or designee shall consider the availability of a hearing officer and the convenience of the employee and all witnesses.

- 10.10 Hearing Officer. The City Manager or designee may be the hearing officer for a disciplinary appeal hearing or the City Manager or designee may select a third party to act as a hearing officer.
- 10.11 Representation at the Hearing. The employee may appear personally and may be represented by counsel or any other representative at the hearing.
- 10.12 Burden of Proof and Evidence. The authority imposing the discipline shall have the burden of proof and shall have to prove the charges against the employee by a preponderance of the evidence. The hearing shall not be conducted according to the technical rules of evidence.
- 10.13 Conduct of Hearing. The conduct of the disciplinary hearing shall be under the control of the hearing officer with due regard for the rights and privileges of the parties. The City Manager or designee shall promulgate reasonable rules and regulations governing the conduct of the hearing. The rules and regulations shall be available to employees. The City shall arrange that a record of the proceedings be made. Such record shall either be by a written transcript or audio recording. The employee and the authority imposing the discipline shall have the right to produce and confront witnesses, and to present any relevant oral and documentary evidence. During the examination of a witness, the hearing officer may exclude other witnesses from the hearing room. The hearing officer shall have the power to issue subpoenas to compel the attendance of witnesses and the production of documents at the hearing.
- 10.14 Hearing Officer's Decision. Within a reasonable time after the hearing, the hearing officer shall issue a written decision containing findings and conclusions. The hearing officer shall have the authority to affirm, revoke or modify the action taken and the discipline imposed. The hearing officer's decision constitutes a final resolution of any disciplinary action unless the authority imposing the discipline or the employee files a request to appeal the decision to the City Council as set forth in Section 10.15 below.
- 10.15 Request to Appeal to the City Council.
- A. A request to appeal the hearing officer's decision to the City Council shall be in writing, signed by the appealing party and filed with the City Clerk within fourteen (14) days after receipt of the hearing officer's decision. A copy of the appeal request shall be served on the City Manager or designee at the same time it is filed with the City Clerk. The appeal request shall be addressed to the City Council, and shall identify the decision appealed from, the grounds for the appeal and the relief requested by the employee.

B. The City Council may decline to grant the appeal request. If the City Council declines the request, the hearing officer's decision shall become final.

C. The City Council may grant the appeal request and decide the matter without an evidentiary hearing based on a review of the written appeal, the evidence presented to the hearing officer, and the hearing officer's written decision.

D. The City Council's decision whether to grant the request to appeal shall be made within thirty (30) days after the filing of the appeal.

10.16 Arguments to the City Council. The City Council may request that the employee and the authority imposing the discipline present oral or written arguments, or both.

10.17 City Council's Decision.

A. If the City Council grants the request to appeal, and requests arguments, it shall issue its decision in writing within thirty (30) days following the closing of arguments.

B. If the City Council grants the request to appeal, and decides the matter on the record without further argument, it shall issue its decision in writing within thirty (30) days following the date it granted the appeal request.

C. The City Council may affirm, revoke or modify the decision of the hearing officer. The decision of the City Council shall constitute a final resolution of the disciplinary action.

10.18 Writ of Mandate. Unless a shorter period of time is otherwise provided by law, any petition for writ of mandate shall be filed no later than the ninetieth day following the date on which the decision provided for in this Rule becomes final. If the City Council declines to grant the appeal request, the decision provided for in this Rule shall become final on the day the City Council announces it is declining to grant the appeal request. If the City Council grants the request to appeal, the decision provided for in this Rule shall become final on the date set forth in California Code of Civil Procedure Section 1094.6(b).

RULE XI. LAYOFF POLICY

11.1 Layoff Decision. The City Council may layoff employees due to reduction or lack of work, reduction or lack of funds, abolishment of a position or positions, use of more efficient procedures, technological change, reorganization, contracting out for services, or any other basis, as determined by the City Council in its sole discretion. The City Council

shall take such action by a resolution which shall set for the reason(s) for such action. Employees who are terminated from City employment or demoted as a result of a layoff shall have no right of appeal. The City Council's decision to layoff employees is not subject to challenge or appeal.

- 11.2 Layoff Procedures. The City Council shall determine the scope of the layoff including whether the layoff shall be implemented on a City-wide basis, or in one or more departments, work groups or job classifications.
- 11.3 Order of Layoff. When a number of employees are affected by a layoff, the City Manager or designee shall determine the order in which the layoff shall occur, considering work requirements, efficiency and performance of individual employees and employee's length of service.

RULE XII. SEPARATION FROM SERVICE

- 12.1 Termination. An employee in the classified service may be terminated at any time by the City Manager or designee. Termination resulting from disciplinary action shall be taken in accordance with Rule X. Terminated employees shall be given fourteen (14) days notice prior to the actual date of separation. At the discretion of the City Manager or designee, the terminated employee may be placed on paid administrative leave for any part or all of the notice period.
- 12.2 Resignation.
- A. An employee wishing to leave the classified service in good standing shall file with the City Manager or designee a written resignation stating the effective date and reason(s) for leaving at least two (2) weeks prior to leaving the City, unless such time limit is waived by the City Manager or designee. Failure to give notice as required by this rule shall be cause for denying future employment by the City.
- B. An employee who is absent from work voluntarily or involuntarily without written authorization for forty (40) consecutive work hours or more, and who does not present a written explanation acceptable to the City Manager or designee as to the cause of the employee's absence, may be considered as having voluntarily resigned from the City service as of the last day worked.

RULE XIII. OVERTIME AND COMPENSATORY TIME

- 13.1 Additional Work Schedule. The City Manager or a Department Head may require an employee to work in excess of the regular hours worked and at any time other than during the regular scheduled hours.

- 13.2 Overtime Compensation. As determined by the City Manager or designee, non-exempt employees shall receive either overtime compensation or compensatory time off in accordance with the Fair Labor Standards Act. Accordingly, as determined by the City Manager or designee, a non-exempt employee shall be paid one and one-half (1-1/2) times his/her regular hourly rate of pay, or receive compensatory time off at one and one-half (1-1/2) hours, for all hours worked in excess of forty (40) hours in a seven day period.
- 13.3 Compensatory Time. Compensatory time off in lieu of overtime pay shall be at the rate of one and one-half (1-1/2) hours for each hour of overtime worked in a work week. Compensatory time shall be taken as earned and may not be accumulated to exceed forty-eight (48) hours (32 hours of overtime worked). The taking of all compensatory time off shall first be approved by the City Manager or designee and shall be granted in accordance with the work force and service needs of the City.
- 13.4 The Fair Labor Standards Act. This Rule XIII shall be applied in a manner consistent with the Fair Labor Standards Act.
- 13.5 Unclassified employees as defined in Section 2.1:
 - A. Status Under the Fair Labor Standards Act. The employees covered by this Compensation Plan are exempt from the overtime pay provisions of the Fair Labor Standards Act. Accordingly, such employees do not receive overtime pay.
 - B. Setting Compensation and Benefits by Separate Agreement: Any employee included in this Compensation Plan may enter into an Employment Agreement with the City which modifies or otherwise changes its provisions. To the extent that such Employment Agreement is in conflict with this Plan, the Employment Agreement shall govern.
 - C. Termination. Employees excluded from the classified service may be terminated at any time by the City Manager. Terminated employees shall be given at least fourteen (14) days notice prior to actual date of separation. At the discretion of the City Manager, the terminated employee may be placed on paid administrative leave for any part or all of the notice period.

RULE XIV. VACATION, SICK AND OTHER LEAVE

14.1 Vacation Leave

A. All full-time and part-time employees shall be entitled to take accrued vacation leave after successful completion of the probationary period. Regular full-time employees earn vacation at the rate, expressed in hours, set forth below for each pay period of continuous employment with the City, including time served in the probationary period.

Length of Continuous Service	Pay Period Rate of Accrual
1 through 5 years	3.69 hours (96 hours/year)
6 through 10 years	4.62 hours (120 hours/year)
11 years or more	6.15 hours (160 hours/year)

Regular part-time employees earn vacation at the rate, expressed in hours, set forth below for each pay period of continuous employment with the City, including time served in the probationary period.

Length of Continuous Service	Pay Period Rate of Accrual
1 through 5 years	2.95 hours (76.8 hours/year)
6 through 10 years	3.69 hours (96 hours/year)
11 years or more	4.92 hours (128 hours/year)

B. The scheduling of vacation leave must be approved by the City Manager, Department Head or Supervisor in writing, and shall be granted in accordance with the work force and service needs of the City. Employees shall submit a written request to schedule vacation leave to the City Manager, Department Head or Supervisor at least two (2) weeks prior to the first day of the desired leave.

C. Employees shall not be granted, and accordingly are not entitled to take vacation leave in advance of its accrual.

D. A regular full-time employee may accrue up to one hundred ninety-two (192) hours vacation leave. Upon accruing this amount, the employee shall cease accruing any further vacation leave until the leave accrual balance is reduced below one hundred ninety-two (192) hours. Upon resignation or termination from employment, regular full-time employees shall be paid for all unused accrued vacation leave at the regular hourly rate to a maximum of one hundred ninety-two (192) hours.

E. A regular part-time employee may accrue up to one hundred fifty-four (154) hours vacation leave. Upon accruing this amount, the employee shall cease accruing any further vacation leave until the leave accrual

balance is reduced below one hundred fifty-four (154) hours. Upon resignation or termination from employment, regular part-time employees shall be paid for all unused accrued vacation leave at the regular hourly rate to a maximum of one hundred fifty-four (154) hours.

14.2

Sick Leave.

A. All regular full-time and regular part-time employees shall be entitled to use accrued sick leave for reasons associated with personal illness or illness of a member of the immediate family, an emergency and/or death involving the employee or a member of the immediate family, and to attend doctor and dentist appointments. Regular full-time employees earn sick leave at the rate of 3.69 hours per pay period for each pay period of continuous employment with the City, including time served in the probationary period. Regular part-time employees earn sick leave at the rate of 2.95 hours per pay period for each pay period of continuous employment with the City, including time served in the probationary period.

B. When authorized by the City Manager or designee in writing, a regular full-time employee may use up to twenty-four (24) and a regular part-time employee may use up to nineteen (19) accrued hours of sick leave per month for an absence of serious illness to a member of the employee's immediate family.

C. Sick leave and its use shall be considered a privilege and not a right of the employee and shall be subject to approval by the City Manager or designee. Sick leave may be accumulated from calendar year to calendar year to the maximum amount set forth below. Sick leave shall not be converted or considered as vacation leave or other leave when earned or anytime thereafter, shall not be considered as compensation, and shall not be payable to the employee upon resignation or termination of employment. Accrued sick leave hours will be reported to CalPERS upon retirement.

D. In order to receive paid sick leave, an employee must notify his/her supervisor by 9:00 a.m. on each day the employee uses sick leave. Such notice shall provide the fact and the reason for the leave. Failure to provide such reasonable notice may be cause for denial of the use of sick leave for the period of the absence. Written verification of the cause of absence may be required by the City Manager or designee.

E. Employees shall not be granted, and accordingly are not entitled to, use sick leave in advance of its accrual.

F. Excessive and abusive use of sick leave may be cause for employee discipline, which may include termination.

G. Employees with accrued sick leave must use sick leave when absent from work for reasons associated with personal illness. If an employee has exhausted accrued sick leave, accrued vacation leave may be used in lieu of sick leave. An employee absent from work due to illness and who has no accrued sick leave is required to use accrued vacation and/or compensatory time when absent from work. If the employee has no accrued vacation or compensatory time to use in lieu of accrued sick leave, the employee will not be paid for the time absent from work.

H. A regular full-time employee may accrue up to nine hundred sixty (960) hours sick leave. Upon accruing this amount, the employee shall cease accruing any further sick leave until the balance of the accrued leave is reduced below nine hundred sixty (960) hours.

I. A regular part-time employee may accrue up to seven hundred sixty-eight (768) hours sick leave. Upon accruing this amount, the employee shall cease accruing any further sick leave until the balance of the accrued leave is reduced below seven hundred sixty-eight (768) hours.

J. Regular employees may designate up to sixteen (16) hours of accrued sick leave to a sick leave hardship pool. When authorized by the City Manager or designee, in writing, any regular employee who has exhausted all accrued vacation and sick leave may draw up to 50% of the number of hours in the pool to a maximum of one hundred sixty (160) hours for the purpose of continuing an absence for the purposes set forth in Section 14.2 of these rules.

K. Notwithstanding Section 14.2(C) or any other provisions of these personnel rules, when authorized by the City Manager or designee, a regular full-time employee may cash-out up to forty (40) hours of accrued sick leave if the amount of accrued sick leave by the employee will be more than eighty (80) hours after the hours are cashed out for the sole and exclusive use of the employee to pay for a medically necessary procedure or appliance. The regular full-time employee shall provide the City Manager or designee a written request for the sick leave cash-out that certifies that the cash-out will be used solely and exclusively to off-set out-of-pocket expenses associated with a medically necessary procedure or appliance. All evidence that supports the employee's request shall be included with the request when it is submitted to the City Manager for consideration. This evidence shall include, but not be limited to, a certification from a currently licensed medical doctor who has been treating the employee that the procedure or appliance is medically necessary and is not work-related. The City Manager or designee may seek independent analysis of the certification and verification from a currently licensed medical doctor selected at the sole discretion of the City Manager or designee prior to authorizing the sick leave cash-out. This

cash-out provision shall only be applicable once for each five (5) years of service during a regular full-time employee's employment with the City of Malibu.

14.3 Administrative Leave

An employee may be granted management leave time off subject to the approval of the City Manager. Such leave shall not exceed six (6) days unless specified in a written employment agreement. Such leave shall not accrue and be carried over to subsequent years.

14.4 Bereavement Leave

When authorized by the employee's Department Head, a regular full-time employee may use up to three (3) days and a regular part-time employee may use up to two (2) days of bereavement leave when death occurs in the employee's immediate family.

14.5 Family and Medical Leave of Absence

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

B. This policy applies to all regular full-time and part-time employees who have been employed by the City for at least 12 months; and, have been employed by the City for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.

C. The City will provide family and medical care leave for eligible employees if and when required by state and federal law. There is no intent to confer the rights described herein in the event that federal or state law does not require such rights. However, if required, the following provisions set forth certain of the rights and obligations with respect to such leave. When state and federal law is amended in a manner that alters the rights of this policy, state and federal law takes precedence until such time as the City amends this policy to be consistent.

D. Definitions

1. "12-month period" means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken.
2. "Single 12-month period" means a 12-month period which begins on the first day the eligible employee takes FMLA leave to take care of a covered service member and ends 12 months after that date.
3. "Child" means a person under the age of 18 years of age, or a person 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee's child is one for whom the employee has actual day-to-day responsibility for care and includes a biological, adopted, foster or stepchild. A child is "incapable of self-care" if he/she requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living or instrumental activities of daily living – such as caring for grooming and hygiene, bathing, dressing and eating, cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residency, using telephones and directories.
4. "Parent" means the biological, adoptive, step or foster parent of an employee, or an individual who stands or stood in loco parentis (in place of a parent) to an employee when the employee was a child. This term does not include parents-in-law.
5. "Spouse" means a husband or wife as defined or recognized under California State law for purposes of marriage.
6. "Domestic Partner," as defined by Family Code §§ 297 and 299.2, shall have the same meaning as "Spouse" for purposes of CFRA leave.
7. "Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:
 - a. Inpatient care (an overnight stay) in a hospital hospice residential medical care facility, including any period of incapacity (inability to work, or perform other regular daily activities due to the serious health condition, treatment involved, or recovery there from); or
 - b. Continuing treatment by a health care provider: A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:
 - i. A period of incapacity (inability to work, or perform other regular daily activities) due to serious health condition of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:
 1. Treatment two or more times within 30 days of the first day of incapacity, unless extenuating circumstances by a health care provider, by a nurse or physician's assistant

under direct supervision by a health care provider, or by a provider of health care services (e.g. physical therapist) under orders of, or on referral by a health care provider. The first in-person treatment visit must take place within seven days of the first day of incapacity; or

2. Treatment by a health care provider on at least one occasion which must take place within seven days of the first day of incapacity and results in a regimen of continuing treatment under the supervision of the health care provider. This includes for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. If the medication is over the counter, and can be initiated without a visit to a health care provider, it does not constitute a regimen of continuing treatment.

ii. Any period of incapacity due to pregnancy or for prenatal care. (This entitles the employee to FMLA leave, but not CFRA leave.) Under California law, an employee disabled by pregnancy is entitled to pregnancy disability leave.

iii. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

1. Requires periodic visits (defined as at least twice a year) for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

2. Continues over an extended period of time (including recurring episodes of a single underlying condition); and

3. May cause episodic rather than a continuing period of incapacity (e.g. asthma, diabetes, epilepsy, etc.). Absences of such incapacity qualify for leave even if the absence lasts only one day.

iv. A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by a health care provider.

v. Any period of absence to receive multiple treatments (including any period of recovery there from) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.

8. "Health Care Provider" means:

a. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State of California;

- b. Individuals duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, who directly treats or supervises treatment of a serious health condition;
 - c. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California State law;
 - d. Nurse practitioners and nurse-midwives and clinical social workers who are authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law;
 - e. Christian Science practitioners listed with the First Church of Christ, Scientist, in Boston, Massachusetts; and
 - f. Any health care provider from whom an employer or group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim from benefits.
9. Covered active duty means: (1) in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country, or (2) in the case of a member of a reserve component of the Armed Forces, duty during the deployment of member of the Armed Forces to a foreign country under a call or order to active duty under certain specified provisions.
10. Covered Service member means: (1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or (2) a veteran who is undergoing treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.
11. Outpatient Status means: with respect to a covered service member, the status of a member of the Armed Forces assigned to either: (1) a military medical treatment facility as an outpatient; or (2) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.
12. Next of Kin of a Covered Service member means: the nearest blood relative other than the covered service member's spouse, parent, son, or daughter, in the following order of priority: Blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions, brothers and sisters, grandparents,

aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA.

13. Serious Injury or Illness means: (1) in the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; or (2) in the case of a veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy, means a qualifying injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

E. Reasons for Leave

Leave is only permitted for the following reasons:

1. The birth of a child or to care for a newborn of an employee;
2. The placement of a child with an employee in connection with the adoption or foster care of a child;
3. Leave to care for a child, parent, spouse or domestic partner who has a serious health condition; or
4. Leave because of a serious health condition that makes the employee unable to perform the functions of his/her position;
5. Leave for a qualifying exigency may be taken arising out of the fact that an employee's spouse, son, daughter, or parent is on covered active duty or call to active duty status (under the FMLA only, not the CFRA); or
6. Leave to care for a spouse, son, daughter, parent, or "next of kin" who is a covered service member of the United States Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces (this leave can run up to 26 weeks of unpaid leave during a single 12-month period) (under the FMLA only, not the CFRA).

F. Amount of Leave

Eligible employees are entitled to a total of 12 workweeks (or 26 weeks to care for a covered service member) of leave during any 12-month period. Where FMLA leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first.

1. Minimum duration of leave: If leave is requested for the birth, adoption or foster care placement of a child of the employee, leave must be concluded within one year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks. However, an employee is entitled to leave for one of these purposes (e.g. bonding with a newborn) for at least one day, but less than two weeks duration on any two occasions. If leave is requested to care for a child, parent, spouse or the employee him/herself with a serious health condition, there is no minimum amount of leave that must be taken. However, the notice and medical certification provisions of this policy must be complied with.
2. Parents both employed by the City of Malibu: In any case in which both parents are employed by the City of Malibu and are entitled to leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to 12 workweeks during any 12-month period if leave is taken for the birth or placement for adoption or foster care of the employees' child (i.e. bonding leave). Similarly, where married spouses both work for the City, they may be limited to a total of 12 weeks of FMLA leave for bonding leave.

In any case in which a husband and wife both employed by the City of Malibu are entitled to leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to 26 workweeks during any 12-month period if leave is taken to care for a covered service member.

Except as noted above, this limitation does not apply to any other type of leave under this policy.

G. Employee Benefits While on Leave

Leave under this policy is unpaid. While on FMLA leave, employees will continue to be covered by the City of Malibu's group health insurance to the same extent that coverage is provided while the employee is on the job for up to 12 weeks each leave year. (If the employee is disabled by pregnancy, coverage will continue to be covered for up to 4 months each leave year. In the event an employee is disabled by pregnancy and also uses leave under the California Family Rights Act, the City will maintain

the employee's health benefits while the employee is disabled by pregnancy (up to four months or 17 weeks) and during the employee's CFRA leave (up to 12 weeks). However, employees will not continue to be covered under the City of Malibu's non-health benefit plans, i.e., pension and retirement plans, life insurance, short- or long-term disability plans or insurance, accident insurance, employee assistance program or other similar benefit plans.

Employees must make the appropriate contributions for continued coverage under the preceding non-health benefit plans by payroll deductions or direct payments made to these plans. Depending on the particular plan, the City of Malibu will inform employees whether the premiums should be paid to the carrier or to the City of Malibu. Coverage on a particular plan may be dropped if employees are more than 30 days late in making a premium payment. However, employees will receive a notice at least 15 days before coverage is to cease, advising them that they will be dropped if their premium payment is not paid by a certain date. Employee contribution rates are subject to any change in rates that occurs while the employee is on leave.

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

If a regular employee receives disability insurance benefits during a leave under this policy, the employee may elect to use paid accrued leave concurrently to supplement the disability benefits for a combined amount that should equal the employee's regular pay. The disability insurance benefit is 66.67% of weekly earnings to a maximum benefit of \$1,850 per week; therefore, the balance of 33.33% may be supplemented from other paid accruals including sick, vacation, comp, floater and administrative leave (exempt employees only). If an employee elects to use paid accrued leave concurrently with receiving disability insurance benefits, then supplemental benefits (including, without limitation, vacation or personal paid time off) are only earned proportionally for the hours of paid accrued leave used, and not on any amounts received as disability insurance benefits.

H. Substitution of Paid Accrued Leaves

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

1. Employee's right to use paid accrued leaves concurrently with family leave: Where an employee has earned or accrued paid sick, vacation, comp, floater and administrative leave (exempt employees only) that paid leave may be substituted for all or part of any (otherwise) unpaid leave under this policy. As for sick leave, an employee is entitled to use sick leave concurrently with leave under this policy if:
 - a. The leave is for the employee's own serious health condition; or
 - b. The leave is needed to care for a parent, spouse or child with a serious health condition and would be permitted as sick leave under the City of Malibu's sick leave policy.
2. City of Malibu's right to require an employee to use paid leave when using FMLA/CFRA leave: Employees must exhaust their accrued leaves concurrently with FMLA/CFRA leave to the same extent that employees have the right to use their accrued leaves concurrently with FMLA/CFRA leave, with one exception:
 - Employees are not required to use accrued compensatory time earned in lieu of overtime earned pursuant to the Fair Labor Standards Act.
3. The City of Malibu's right to require an employee to exhaust FMLA/CFRA leave concurrently with other leaves: If an employee takes a leave of absence for any reason that is FMLA/CFRA-qualifying, the City of Malibu may designate that non-FMLA/CFRA leave as running concurrently with the employee's 12-week FMLA/CFRA leave entitlement.
4. The City of Malibu's and employee's rights if an employee requests accrued leave without specifically naming either the FMLA or CFRA: If an employee requests to utilize accrued vacation leave or other accrued paid time off, other than accrued sick leave, without reference to an FMLA/CFRA-qualifying purpose, the City may not ask the employee if the leave is for an FMLA/CFRA-qualifying purpose. However, if the City of Malibu denies the employee's request and the employee provides information that the request time off is for a FMLA/CFRA-qualifying purpose, the City of Malibu may inquire further into the reason for the absence. If the reason is FMLA/CFRA qualifying, the City of Malibu may require the employee to exhaust accrued leave as described above.

I. Medical Certification

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

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

Employees who request leave to care for a covered service member who is a child, spouse, parent, or "next of kin" of the employee must provide written certification from a health care provider regarding the injured service member's serious injury or illness.

The first time an employee requests leave because of a qualifying exigency, the City may require the employee to provide a copy of the military member's active duty orders or other documentation issued by the military which indicates that the military member is on covered active duty or call to active duty status in a foreign country, and the dates of the military member's active duty service. A copy of new active duty orders or similar documentation shall be provided to the City if the need for leave because of a qualifying exigency arises out of a different active duty or call to active duty status of the same or a different military member.

Time to Provide a Certification

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

Consequences for Failure to Provide an Adequate or Timely Certification

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

Second and Third Medical Opinions

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

J. Intermittent Leave or Leave on a Reduced Leave Schedule

If an employee requests leave intermittently (a few days or hours at a time) or on a reduced leave schedule to care for an immediate family member with a serious health condition, the employee must provide medical certification that such leave is medically necessary. "Medically necessary" means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule.

K. Employee Notice of Leave

Although the City recognizes that emergencies arise that may require employees to request immediate leave, employees are required to give as much notice as possible of their need for leave. If leave is foreseeable, at least 30 days' notice is required. In addition, if an employee knows that he/she will need leave in the future, but does not know the exact date(s) (e.g. for the birth of a child or to take care of a newborn), the employee shall inform his/her supervisor as soon as possible that such leave will be needed. The City may establish a procedure for notification of such a request. The City of Malibu may delay the granting of a leave to ensure position coverage, if any employee gives inadequate notice and knew in advance that leave would be requested.

L. Right to Reinstatement upon Return

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

If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the

reinstatement date differs from the original agreement of the employee and the City of Malibu, the employee will be reinstated within two business days, where feasible, after the employee notifies the employer of his/her readiness to return.

1. Employee's obligation to report on his/her condition: Employees may be required to periodically report on his/her status and intent to return to work. This will avoid any delays to reinstatement when the employee is ready to return.
2. Fitness-for-duty certification: As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition, which made the employee unable to perform his/her job, the employee must obtain and present a fitness-for-duty certification from the health care provider that the employee is able to resume work. Failure to provide such certification will result in denial of reinstatement.
3. Reinstatement of "key" employees: The City may deny reinstatement to a "key" employee (i.e. an employee who is among the highest paid 10 percent of all employees by the City of Malibu within 75 miles of the work site) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the City, and the employee is notified of the City's intent to deny reinstatement on such basis at the time the City determines that such injury would occur.

14.6 Leave of Absence Without Pay.

A. The City Manager or designee, in his/her discretion, may grant a regular or probationary employee leave of absence without pay not to exceed three (3) months. After three (3) months, the leave of absence may be extended if so authorized by the City Manager or designee. No such leave shall be granted except upon written request of the employee, setting forth the reason for the request. The City Manager or designee's or the City Council's approval shall be in writing. Upon expiration of the leave or within a reasonable period of time after notice to return to duty, the employee shall be reinstated to the position held at the time leave was granted if that position is available. If the employee's former position is not available, the City shall make reasonable efforts to place the employee in a comparable available position for which he/she is qualified. An employee who does not accept the position offered shall be considered to have voluntarily resigned his/her employment. Failure on the part of an employee on leave to report promptly at its expiration, or within a reasonable period of time after notice to return to duty shall be deemed to have voluntarily resigned. A letter mailed via United States mail addressed to the employee's last known place of address shall be reasonable notice.

B. To the extent permitted by the City's group health insurance program, the City will continue to pay the health insurance premium covering a regular full-time employee for the initial thirty (30) days of such leave of absence. Prior to commencing such leave, the employee shall make written arrangements with the Administrative Services Department to pay for the costs of such coverage.

C. There shall be no accumulation of service time, or earning of supplemental benefits (including, without limitation, vacation or personal paid time off) made to the employee (or any agency or person on behalf of the employee) during a period of unpaid leave of absence from work, except as otherwise provided by law. Accumulation of service time and earning of supplemental benefits will resume upon the employee's reinstatement from an unpaid leave of absence, except as otherwise required by law.

14.7

Jury Duty.

A. An employee who is called or required to serve as a trial juror, upon notification and appropriate verification submitted to the City Manager or designee, shall be entitled to be absent from his/her duties with the City during the period of such service or while necessarily being present in court as a result of such call.

B. Regular full-time employees who have completed their first thirty (30) days of service will be eligible for regular pay (excluding overtime, mileage and parking allowances) for days of jury service to a maximum of eighty (80) hours within any twelve (12) month period.

C. Regular part-time employees who have completed their first thirty (30) days of service will be eligible for regular pay (excluding overtime, mileage and parking allowances) for days of jury service to a maximum of sixty-four (64) hours within any twelve (12) month period.

D. An employee serving jury duty shall present written evidence to the City Manager or designee of the call to service prior to the first date of service, and written evidence of attendance during and throughout the service. Any fee paid to the employee by the court for jury duty must be given to the City. Employees may not be paid by both the court and the City for jury duty.

E. An employee serving jury duty shall continue to report for work on those days when excused from jury duty, and on which the employee can be present at work for at least two (2) hours during his/her regular work schedule.

14.8 Military Leave.

Military leave shall be granted in accordance with the applicable law. All employees entitled to military leave shall give the appointing authority an opportunity within the limits of military regulations to determine when such leave shall be taken.

14.9 Cash Out Leave

A. A regular full-time employee may cash out up to eighty (80) hours of sick time annually provided that the employee has a minimum of eighty (80) hours of sick time remaining after the cash out. Employees may cash out up to eighty (80) hours of sick time each calendar year.

B. A regular full-time employee may cash out up to eighty (80) hours of vacation time annually provided that the employee has a minimum of eighty (80) hours of vacation time remaining after the cash out. Employees may cash out up to eighty (80) hours of vacation time each calendar year.

RULE XV. CITY HOLIDAYS, BONUS PAY PROGRAM AND TUITION REIMBURSEMENT

15.1 A. Holidays: Subject to the restrictions described below, a non-exempt full-time employee shall receive a full day's pay at his/her straight-time regular hourly rate for the holidays listed below. Subject to the restrictions described below, a non-exempt part-time employee shall receive six (6) hours' pay at his/her straight-time regular hourly rate for the holidays listed below.

1. New Year's Day, January 1;
2. Martin Luther King Jr.'s Birthday, the 3rd Monday in January;
3. President's Day, the 3rd Monday in February;
4. Memorial Day, the last Monday in May;
5. Independence Day, July 4th;
6. Labor Day, the 1st Monday in September;
7. Veteran's Day, November 11th;
8. Thanksgiving Day, the 4th Thursday in November;

9. The Friday following Thanksgiving Day;
10. One-half day (12:00 p.m. – 5:30 p.m. on Monday through Thursday or 11:30 a.m. to 4:30 p.m. on Friday) on Christmas Eve Day;
11. Christmas Day, December 25; and
12. One-half day (12:00 p.m. – 5:30 p.m. on Monday through Thursday or 11:30 a.m. to 4:30 p.m. on Friday) on December 31st.

B. In the event that January 1, July 4, November 11, December 24, December 25 or December 31 falls upon a Sunday, then the Monday following shall be a holiday, and in the event any of such dates fall on a Saturday, then the Friday preceding shall be a holiday.

C. In order to be eligible for holiday pay, an employee must work the last scheduled workday before and the first scheduled workday after the holiday, unless the employee is taking approved vacation, sick leave, FMLA/CFRA approved leave or compensatory time off.

D. In the event a holiday falls during an employee's approved vacation period, the employee shall be paid for the holiday and shall not be charged with a vacation day for the day the holiday is observed.

E. Employees on leave of absence for any reason are ineligible for holiday pay during the period of the leave of absence.

15.2

Bonus Pay

A. All full-time employees, with the exception of exempt management positions, are eligible to participate in the Bonus Pay program upon completion of probation.

B. Employees meeting the requirements of this program as listed below will receive a three percent (3%) bonus pay in addition to their base salary. The 3% bonus pay is calculated on the base salary at the time the license and/or certification and/or degree is obtained. The 3% bonus pay will be added to the current salary.

C. If the base salary combined with the bonus amount exceeds the salary range of the position, the salary will be computed to the top of the range. The bonus and base salary shall not exceed the top of the range. Only one 3% bonus will be awarded per employee regardless of the number of licenses, certifications or degrees obtained.

D. To be eligible for the 3% bonus pay, the employee must obtain a new license, certification or degree. Renewals of licenses, certifications or degrees already obtained at the time of hire are not eligible for the 3% bonus pay.

F. Employees eligible for a 3% bonus pay are as follows:

- Assistant, Associate or Senior Planner American Institute of Certified Planners Membership (AICP)
- Assistant Civil Engineer Registration as an Engineer in Training; Civil or Professional Engineer; Licensed Surveyor (State of California)
- Code Enforcement Officer Intermediate Code Enforcement Certification (Southern California Association of Code Enforcement Officers or American Association of Code Enforcement); International Conference of Building Officers (ICBO) Certification for Housing Inspector and Zoning Inspector
- Deputy City Clerk Certified Municipal Clerk (CMC)
- Emergency Preparedness Coordinator Certification by the California Specialized Training Institute
- Environmental and Building Safety State Licensed Contractor and ICBO Inspector Certification as a Mechanical Inspector, Electrical Inspector, Combination Inspector, Combination Dwelling Inspector or ATC Certification/Post Disaster Safety Assessment (State of California, ICBO or ATC)
- Information Systems Administrator Microsoft Certified Systems Engineers (MCSE); Microsoft Certified Systems Administrator (MCSA)
- Permit Services Technician Certification for Permit Technician -ICBO
- Public Works Inspector Registered Construction Inspector American Society of Civil Engineers (ASCE); American Public Works Association (APWA)

- Recreation Supervisor, Coordinator Certified Leisure Professional (National Recreation and Parks Association); Certified Youth Sports Administrator through the National Alliance of Youth Sports; California Board of Recreation and Park Certification through the California Parks and Recreation Society; Certified Lifeguard Instructor (American Red Cross); Certified Pool Operator (Southern California Pool Operators Association).

15.3 Tuition Reimbursement

A. All full-time or part-time (more than thirty-two (32) hours per week) permanent City classified and unclassified employees that have passed probation shall be eligible for a tuition reimbursement.

B. The City will provide regular full-time employees and part-time employees working more than thirty-two (32) hours per week up to \$1,500 per fiscal year per employee for tuition and books for employees pursuing an approved course of study leading to a bachelor's degree or an advanced degree that relates to the employee's employment with the City. This is provided that the employee receives a "C" or better in the class if it is part of a bachelor's degree program or a "B" or better if it is an advanced degree program.

C. An employee who voluntarily terminates employment with the City within one year of receiving such reimbursement will be required to pay back the entire amount to the City. An employee who voluntarily terminates employment with the City after more than one year but less than two years after receiving such reimbursement shall be required to pay back one-half of the amount that was reimbursed.

RULE XVI. PERFORMANCE APPRAISAL AND SALARY ADJUSTMENT SYSTEM FOR ALL POSITIONS IN THE CITY SERVICE NOT DIRECTLY APPOINTED BY THE CITY COUNCIL

- 16.1 The City Manager or designee shall establish a Performance Appraisal System.

RULE XVII. REIMBURSEMENT FOR EMPLOYEE EXPENSES

- 17.1 Mileage Expense. An employee using his/her personal automobile for City assignments shall be reimbursed for mileage expenses at a standard rate set by the Federal Government. All claims for mileage reimbursement

shall be submitted on an applicable City form to the Administrative Services Department and approved by the employee's supervisor. An employee using his/her personal automobile for City business shall submit a copy of a valid automobile liability insurance policy for each vehicle used for City business. The City Manager or designee shall determine the minimum liability insurance coverage amounts which the employee shall maintain at all times.

- 17.2 Automobile Allowance. The City may offer an employee an automobile allowance in an amount determined by the City Manager or designee from time-to-time for the use of a personal automobile for City business. Employees receiving automobile allowances shall submit a copy of a valid personal automobile liability insurance policy to the City for each vehicle used for City business. The City Manager or designee shall determine the minimum liability insurance coverage amounts which the employee shall maintain at all times

RULE XVIII. WORKERS' COMPENSATION AND UNEMPLOYMENT INSURANCE

- 18.1 Workers' Compensation and Unemployment Insurance. The City provides workers' compensation and unemployment insurance to all employees in accordance with California Law.
- 18.2 Employee Accidents. All injuries suffered during working hours shall be reported in writing immediately to the employee's supervisor. Unless an emergency occurs requiring an ambulance, an injured employee shall visit the City's approved workers' compensation physician. If the employee has designated their own physician in writing prior to the injury, the employee may visit their own physician for treatment of the injury. Upon returning to work from a workers' compensation related injury, an employee must submit a completed and signed approval to return to work form to the City.

RULE XIX. GRIEVANCE PROCEDURE

- 19.1 Statement of Intent. Grievances are limited to those situations which do not have a procedure established for their disposition by an ordinance or resolution of the City. It is through the grievance procedure that City employees may make their complaints known and request a solution. A grievance does not include disciplinary action. Appeals of disciplinary action may be pursued pursuant to Rule X.
- 19.2 Grievance Procedure. The following series of steps provides a progressive procedure designated to resolve grievances at the lowest supervisory level consistent with justice, fair treatment and administrative policy.

- Step I In order to be timely, grievances may be filed with the employee's immediate supervisor within twenty-one (21) days following the act or occurrence upon which the alleged grievance is based. A copy of the grievance shall be forwarded to the City Manager or designee.
- Step II If the employee and his/her immediate supervisor cannot resolve the grievance within five (5) working days of the initiation of the discussion, the employee may file a written grievance concerning the matter with his/her Department Head. The Department Head shall, within five (5) working days after receipt of a written grievance, supply an answer in writing to the aggrieved employee, explaining clearly the decision or proposed action and reason(s) therefore. The employee must file a grievance within ten (10) working days after receiving the supervisor's response. If the employee fails to file the grievance within the prescribed time limits, then the employee relinquishes his/her right to grieve. If management fails to respond at one level of the grievance procedure within the prescribed time limits, then the grievance automatically moves to the next step.
- Step III Should the aggrieved employee not be satisfied with the answer received from the department director, then the employee may within five (5) working days after its receipt, file an appeal to the City Manager or designee. The City Manager or designee shall hold an informal hearing within then (10) working days following the receipt of the appeal. The City Manager or designee shall render a decision within ten (10) working days following the close of the hearing. The City Manager or designee's decision shall be final.

RULE XX. NON-DISCRIMINATION POLICY

- 20.1 Equal Employment Opportunity Statement. The City is committed to a policy of equal opportunity. Consistent with this commitment and California and Federal law, the City does not discriminate against employees or applicants because of race, color, religion, sex, pregnancy, national origin, ancestry, age, marital status, physical disability, mental disability, alienage, citizenship status, medical condition, or any other basis set forth in applicable federal or California law. Equal employment opportunity shall be extended to all persons in all aspects of the employer-employee relationship, including hiring, training, promotion, transfer, discipline, layoff, recall and termination.

20.2 Policy Against Harassment.

A. It is the City's policy that employment-related harassment, including sexual harassment, in the work place is unacceptable and shall not be tolerated. This policy applies to all City agents, contractors, visitors and employees.

B. Sexual harassment is defined generally as verbal, visual or physical conduct consisting of unwelcome sexual advances, requests for sexual favors, or other conduct of sexual nature whenever: 1) submission to the conduct is either an explicit or implicit term or condition of employment; 2) an employee's reaction, in the form of submission or rejection, to the conduct is used as a basis for employment decisions affecting that employee; or 3) the conduct has the purpose or effect of unreasonably interfering with the employee's work performance or creating an intimidating or offensive working environment.

C. No employee shall be subjected to unsolicited and unwelcome sexual overtures; nor shall any employment opportunity or benefit in any way depend upon "cooperation" of a sexual nature.

D. The prohibitions of this policy shall also apply to harassment based on race, religion, national origin or any other prohibited basis set forth in applicable Federal and California law. Harassment is not acceptable and shall not be tolerated.

E. Any employee who feels that he/she has been the victim of harassment or has witnessed a possible occurrence of harassment shall have the right and the responsibility to promptly notify his/her Department Director, the City Manager or Human Resources, if one is designated, of the incident and provide the names of the individual(s) involved. All allegations of harassment shall be promptly and thoroughly investigated. In the event allegations are found to have merit, appropriate corrective and/or disciplinary action shall be taken. In the event the allegations are found to lack sufficient merit, all involved parties shall be so notified. The City shall maintain appropriate confidentiality of the parties involved at all times. Employees shall not be retaliated against for reporting any incident of harassment.

RULE XXI. MISCELLANEOUS PERSONNEL RULES

21.1 Attendance. Employees shall be in attendance at their work in accordance with these Rules. All departments shall keep daily attendance records of employees which shall be reported to the City Manager or designee in the form and on the dates he/she shall specify. Failure on the part of an employee to return to duty within twenty-four (24) hours after notice to return to work shall be cause for immediate termination, and, to the extent

permitted by law, such employee automatically waives all rights under the Personnel Ordinance and these Rules. The depositing in the United States mail of a registered first class letter, postage paid, addressed to the employee's last known place of address, shall be reasonable notice.

- 21.2 Personnel Records. The City Manager or designee shall maintain personnel records for each employee in the service of the City showing the name and address, title of position held, the department to which assigned, salary, changes in employment status, and such other information as may be considered pertinent by the City Manager or designee.
- 21.3 Change of Status Report. Every appointment, transfer, promotion, demotion, change of salary rate, or any other temporary or permanent change in status of employees shall be reported to the City Manager or designee in a manner as he/she prescribes.
- 21.4 Employment or Business Activity. No employee shall accept or engage in employment or participate in any outside business enterprise which is incompatible, or in conflict with, his/her employment by the City. This section shall be applied in a manner consistent with Government Code 1126. An employee shall provide written notification to the City Manager or designee of his/her desire to engage in outside employment or engage in outside business activities. Such notice shall be given to the City Manager or designee prior to commencing such activities. The City Manager or designee may deny the employee permission to engage in such activities.
- 21.5 Conflict of Interest. Each year, certain designated employees are required to file "Disclosure Statement" or "Declaration of No Reportable Interest" forms. All required forms shall be completed and filed with the City Clerk within the time period provided by law. Failure to comply with the law may be cause for disciplinary action.
- 21.6 Nepotism
- A. It is the policy of the City that employment of a member of an employee's, or an appointed official's immediate family is prohibited if a direct supervisory relationship exists, or where actual or potential problems of supervision, safety, security or morale or potential conflicts of interest exist.
- B. If two employees marry or become related, and the actual or potential problems noted in subsection "A" above exist; only one of the employees will be permitted to remain employed unless reasonable accommodations can be made to eliminate the actual or potential problems. The decision as to which immediate family member will remain with the City must be made by the two employees within thirty (30) days. If no decision has been made during this time, both employees may be terminated.

- 21.7 Volunteers. Nothing in these Rules, including, without limitation Rules IV, V, VI, or VII shall prohibit the City Manager or designee from selecting volunteers to fill vacancies which would otherwise be filled by employees in the classified service.
- 21.8 Employees Eligible for Benefits. Only regular full-time and regular part-time employees are covered by and accordingly eligible for the benefits provided for by these Rules.

RULE XXII. VIOLATIONS OF RULES

- 22.1 Violations of Rules. Violations of the provisions of these Rules shall be grounds for rejection, suspension, demotion, termination, or other disciplinary action.

RULE XXIII. MANAGEMENT PREROGATIVES

- 23.1 Management Prerogatives. The City through the City Council possesses the sole right to operate the City and all context, except as specifically limited by express provision of functions whether heretofore or hereafter exercised, and regardless of the frequency or infrequency of their exercise, shall remain vested exclusively with the City. It is expressly recognized that these rights, include, but are not limited to, the right to hire, direct, assign or transfer an employee; the right to lay off employees, the right to determine and change staffing levels and the workday, including without limitation, workload factors; the right to determine the quality and quantity of services to be offered to the public, and the means and methods of offering those services; the right to contract or subcontract City functions including any work performed by employees; the right to discipline employees, including the right to reprimand, suspend, reduce in pay, demote and/or terminate employees; the right to relieve employees of duty, demote or terminate employees for nondisciplinary purposes; the right to consolidate City functions; the right to determine City functions; the right to implement, modify and delete rules, regulations, resolutions and ordinances; the right to establish, change, combine or eliminate jobs, job wages and compensation; the right to introduce new or improved procedures, methods, processes or to make technological changes; and the right to establish and change shifts, schedules of work, starting and quitting times.

RULE XXIV. PENSION PLAN

- 24.1 Pension Plan. The City participates in CalPERS for its pension program. Upon reaching retirement age, employees must be vested with CalPERS and have five (5) years of CalPERS-credited service in order to receive a pension with CalPERS. Regular full-time and regular part-time employees (who work more than 1,000 hours in a fiscal year) and City Council members are eligible for

coverage under the City's Pension Plan. Part-time employees and temporary employees working less than 1,000 hours in a fiscal year are not eligible for coverage.

- 24.2 The City offers a 2% at 55 formula for miscellaneous members with a one-year highest average of compensation being used as the base for the formula for employees who were employed before January 1, 2013 (Current Members). The minimum retirement age is 50. The City pays the employer and employee portion of retirement contribution up to a maximum contribution amount of 20% of payroll. The City does not contribute to Social Security.
- 24.2 Public Employees Pension Reform Act (PEPRA). PEPRA establishes a set formula for employees hired after January 1, 2013 by the City who are not eligible for reciprocity with another California public retirement system or who have had a break in service of employment greater than six months with a CalPERS agency (New Members) of 2% at age 62. Full benefits reach 2.5% at age 67. New Members pay the employee portion of 6.5%. Minimum retirement age is 52. The cap on the amount of compensation that can be used for calculating the pensions of New Members is set at \$136,440.

RULE XXV. RETIREE HEALTH BENEFITS

- 25.1 The City provides health care for retirees. Employees and Councilmembers hired on or after December 1, 2005 are required to have a minimum of ten (10) years of state service credit in order for retirees to receive 50% employer contribution for health benefits. Five (5) of the ten (10) years of service must be performed with the City and each additional service credit year after 10 years increases the City's contribution by 5%. At twenty (20) years of service, retirees are eligible for 100% of paid health benefits. Employees and Councilmembers hired prior to December 1, 2005 are entitled to a majority of paid health benefits, regardless of their hire date.

As of January 1, 2006, the City pays a percentage of health benefits for retirees hired prior to December 1, 2005 in an amount greater than 50%. This amount increases on an annual accrual basis, and ultimately the City will pay 100% for those employees and Councilmembers hired prior to December 1, 2005.

SECTION 4. Resolution Nos. 07-29 and 11-29 are hereby rescinded.


SECTION 5. The City Clerk shall certify the adoption of this resolution and shall cause the same to be processed in the manner provided by law.

PASSED, APPROVED AND ADOPTED this 21st day of January 2015.



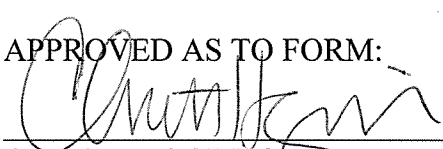
JOHN SIBERT, Mayor

ATTEST:



LISA POPE, City Clerk
(seal)

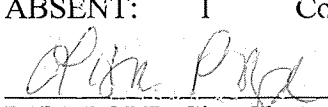
APPROVED AS TO FORM:



CHRISTI HOGIN, City Attorney

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 15-08 was passed and adopted by the City Council of the City of Malibu at the regular meeting thereof held on the 21st day of January 2015 by the following vote:

AYES:	4	Councilmembers:	House, La Monte, Rosenthal, Sibert
NOES:	0		
ABSTAIN:	0		
ABSENT:	1	Councilmember:	Peak



LISA POPE, City Clerk
(seal)