

RESOLUTION NO. 5012

A RESOLUTION OF THE CARPINTERIA CITY COUNCIL  
ADOPTING REVISED PERSONNEL SYSTEM RULES AND  
REGULATIONS AND REPEALING RESOLUTION 1359

WHEREAS, the City Council is authorized and directed under the provisions of Chapter 2.44 of the Carpinteria Municipal Code, as amended, to adopt rules and regulations for the administration of the personnel system created in said Chapter; and

WHEREAS, the City initially adopted said rules by Resolution 648, which was repealed by Resolution 876, 930, 1099 and 1359; and

WHEREAS, the objectives of these rules are to facilitate efficient and economical services to the public and to provide for a fair and equitable system of personnel management in the municipal government; and

WHEREAS, these rules set forth in detail those procedures which insured similar treatment for those who compete for original employment and promotion, and define many of the obligations, rights, privileges and prohibitions which are placed upon all employees in the competitive service of the City; and

WHEREAS, at the same time, considerable latitude shall be given to the City Manager or designee in the interpretation of these rules.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Carpinteria does hereby adopt the following rules:

RULE I. DEFINITION OF TERMS

The terms used in these rules and regulations have the meaning shown below; unless the context indicates a different meaning.

SECTION 1. Advancement

A salary increase within the limits of a pay range established for a class.

SECTION 2. Allocation

The assignment of a single position to its proper class in accordance with the duties performed, and the authority and responsibilities exercised.

SECTION 3. Anniversary Date

The date upon which an employee is considered for an earned salary increment. This date first occurs six (6) months after the probational appointment is made and each year thereafter, and is dependent upon a satisfactory performance evaluation by the employee's supervisor. The anniversary date shall be the first of the month if the employee was hired on or before the fifteenth of that month and the first day of the following month for those hired after the fifteenth of the month.

#### SECTION 4. Appointing Power

The employee, officer, board, commission or City Council, having final authority to make an appointment to a position. Appointing power is sometimes referred to as appointing authority.

#### Section 5. Class

All positions sufficiently similar in duties, authority and responsibility, to permit grouping under a common title and salary.

#### SECTION 6. Competitive Service

All positions of employment with the City except those excluded by Municipal Code Section 2.44.300. Positions in the competitive service are sometimes referred to as permanent or regular positions.

#### SECTION 7. Days

Calendar days unless otherwise stated.

#### SECTION 8. Demotion

The movement of an employee from one class to another class having a lower maximum rate of pay.

#### SECTION 9. Eligible

A person whose name is on an employment list.

#### SECTION 10. Employee

a. Contractual. An employee who enters into a written agreement to perform specified services for the City for a specified amount of compensation.

- b. Full-Time. An employee who works forty (40) hours or more per established work week on a regular, assigned basis.
- c. Limited Term. An employee who is serving as a substitute for a regular employee, or in a position established for a limited period of six (6) months or less. No special credit is given in a permanent position, for service rendered as a limited-term employee. In special circumstances, the six (6) month limitation may be extended for a period not exceeding an additional six (6) month period upon authorization by the City Council.
- d. Part-Time Hourly Rated. An employee who is scheduled to work less than forty (40) hours per seven (7) day work week or less than 2080 hours per year. Hourly rated part time employees do not receive benefits other than those required by law.
- e. Regular. An employee who has successfully completed the probationary period and has been retained as hereafter provided in these rules.
- f. Probationary. An employee appointed to fill a permanent position, but who has not completed the probation period.
- g. Temporary. An employee employed to meet a short-term need. An employee cannot remain in this category over six (6) months without the written approval of the City Manager. Total employment cannot exceed twelve (12) months.
- h. Voluntary. A person who performs authorized volunteer services for the City without compensation or remuneration.

## SECTION 11. Employment List

- a. Open Employment List. A list of names of persons who have taken an open-competitive examination for a class in the competitive service and have qualified.
- b. Promotional Employment List. A list of names of persons who have taken a promotional examination for a class in the competitive service and have qualified.
- c. Reemployment List. A list of names of regular employees who have been laid off or demoted in lieu of layoff.

## SECTION 12. Examination

- a. Open-Competitive Examination. An examination for a particular class which is open to all persons meeting the qualifications for the class.
- b. Promotional Examination. An examination for a particular class which is open only to employees meeting the qualifications for the class who, with no subsequent break in City service except for approved leave of absence, have regular status or at least six (6) months of probationary status.

- c. Continuous Examination. An open-competitive examination 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 (1) year.

#### SECTION 13.      Personnel Ordinance

Chapter 2.44 of the Carpinteria Municipal Code, as amended, which creates a personnel system for the City.

#### SECTION 14.      Probationary Period

A working test period during which an employee is required to demonstrate fitness for the position to which appointed by actual performance of the duties of the position.

#### SECTION 15.      Promotion

The movement of an employee from one class to another class having a higher maximum rate of pay.

#### SECTION 16.      Reclassification

A reallocation of a position and the incumbent, if applicable, to a different or new classification because of a significant change in duties and/or responsibility over time.

#### SECTION 17.      Reinstatement

The reemployment without examination of a former regular employee or probationary employee.

#### SECTION 18.      Seniority

The length of continuous paid service as a regular and probationary employee.

#### SECTION 19.      Suspension

The temporary separation from the service of an employee without pay for disciplinary purposes.

SECTION 20. Transfer

A change of an employee from one position to another position in the same class or in a comparable class.

SECTION 21. Reduction in Pay

Decrease in pay within the class. Elimination of all or part of pay the employee receives for step increases.

SECTION 22. Dismissal

Permanent separation from employment.

RULE II. GENERAL PROVISIONS

SECTION 1. Fair Employment

No questions in any test, or in an application form, or by any appointing authority, shall be so framed as to attempt to elicit information concerning race, color, ancestry, national origin, sex, gender, sexual orientation, sexual identity, age, marital status, medical condition, physical or mental disability, religious creed, or political opinions or affiliations of an applicant, except as may be permitted by applicable State or Federal law.

No appointment to or removal from a position in the competitive service shall be affected or influenced in any manner by consideration of race, color, ancestry, national origin, religious creed, sex, gender, sexual orientation, sexual identity, age, physical or mental disability, medical condition or marital status, except where it is a bona fide occupational qualification and permitted by applicable State or Federal law.

SECTION 2. Nepotism

An applicant for any type of position in the City of Carpinteria will be considered solely on the basis of his/her respective qualifications for such a position. In reviewing such application and assigning such applicant to a particular position, the following policies will be observed:

- a. An employee in any position shall not participate in any way in the selection or evaluation of an applicant or employee to which he or she is related by blood or marriage as defined.
- b. A City employee shall not directly supervise a relative nor be directly supervised by a City employee who is related by blood or marriage as defined.
- c. A contract of marriage executed after the effective date of this section will result as soon as practicable, in transfer of one of the marriage partners to a position wherein he or she will not supervise or be supervised by a City employee who is related by blood or marriage or domestic partnership. If a transfer cannot be made, the City will terminate the employment of one of the employees. The City discourages romantic or sexual relationships between supervisors and subordinates. The City may transfer or terminate one of the employees if such a relationship exists.

- d. For purposes of this section, a relative is defined as:

- 1. Spouse or domestic partner
- 2. Children
- 3. Adopted or stepchildren
- 4. Parents
- 5. Grandparents
- 6. Siblings
- 7. In-laws, namely son-in-law, daughter-in-law, sister-in-law, brother-in-law

- e. Supervisor defined:

For purposes of this section supervision includes, but is not limited to:

- 1. Appointing, or recommending appointment of applicant(s) to positions or City employees for promotion.
- 2. Evaluating or recommending evaluation of the performance of a City employee.
- 3. Controlling work assignments.

### SECTION 3. Line of Authority

All employees shall use the established line of authority in the handling of any departmental business. Employees who wish to inquire about matters related to their official duties shall seek such information from their immediate supervisor. An employee who has a complaint of any kind shall present the complaint to his

or her immediate supervisor. If the response is not satisfactory to the employee, the employee may present the complaint to the supervisor's immediate superior for further action. The employee may bypass the immediate supervisor depending on the nature of the complaint. Employees have the right to file a grievance under the Employer/Employee Relations Resolution or for represented employees under the applicable MOU.

#### SECTION 4. Violation of Rules

Violation of the provisions of these rules may be grounds for, suspension, demotion, dismissal, or other appropriate disciplinary action by the appointing authority.

#### SECTION 5. Amendment and Revision of Rules

Amendments and revisions may be suggested by any interested party and will be submitted through the Human Resource Administrator. Proposed amendments or revisions to these rules will be publicly posted for at least five (5) consecutive days prior to consideration by the City Council. Advance notice on such proposed amendments or revisions will be given to recognized employee organizations on any amendment or revision which affects them. During the process of consideration, any recognized employee organization and any other interested party may appear and be heard by the City Council. Amendments and revisions shall become effective upon adoption by the City Council, unless otherwise specified.

#### SECTION 6. City's Rights

The City Council has the power and authority to direct and control the City to the full extent of the law, which it does through its officers. Included in those duties and powers is the right to: direct the work of its employees; determine the method, means and services to be provided; determine the staffing pattern; determine the number and kinds of personnel required; maintain the efficiency of the City's operation; determine the mission of its constituent departments, commissions and boards; set standards of service; determine the procedures and standards of selection for employment and promotion; take disciplinary action; relieve its employees from duty because of lack of work, for inferior work or for other good cause; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; determine the content of job classifications; take all necessary actions to carry out its mission in emergencies; exercise complete control and discretion over its organization and the technology of performing its work; determine programs and services; build, move or modify the facilities; develop a budget; determine the methods of raising revenue; and contract out work. In addition, the City Council retains the right to evaluate, hire, promote, terminate and discipline

employees; to take action on any matter in the event of an emergency; to transfer all employees and to decide upon the means and methods of carrying out the City's business; to determine the duties and responsibilities and assignments of its personnel and employees and the terms and conditions of their employment; and in the exercise of the foregoing powers, rights, authorities and duties and responsibilities to adopt policies, rules, regulations and practices in furtherance thereof.

The exercise of the foregoing powers, rights, authorities, duties and responsibilities by the City Council, the adoption of policies, procedures, rules, regulations and practices in furtherance thereof and the use of judgment and discretion in connection therewith, shall be limited only by the specific and express terms of other officially adopted actions of the City Council, and then only to the extent such specific and express terms are in conformance with the laws of the State of California and of the United States.

#### SECTION 7. Application

These policies and procedures apply to all employees of the City of Carpinteria unless a specific policy or procedure indicates otherwise.

#### SECTION 8. Effect of Collective Bargaining Agreement

If a provision of the Personnel System Rules and Regulations is in conflict with a provision of an applicable collective bargaining agreement negotiated between the City and a recognized employee organization, to the extent of such conflict, the provision of the collective bargaining agreement will be controlling unless the provision in the Personnel Rules and Regulations has been negotiated more recently.

#### SECTION 9. No Contract Created

The Personnel System Rules and Regulations do not create any contract of employment, express or implied, or any rights in the nature of a contract.

### RULE III. CLASSIFICATION

#### SECTION 1. Preparation of Plan

The Human Resources Administrator, or a person or agency employed for that purpose, will ascertain and record the duties and responsibilities of all positions in the competitive service and, after consulting with appointing authorities, heads of departments, and any recognized employee organizations involved, will recommend a classification plan for such positions. The classification plan will consist of classes of positions in the competitive service defined by class

specifications, including the title. The classification plan will be so developed and maintained that all positions substantially similar with respect to duties, responsibilities, authority, and character of work are included within the same class, and that the same schedules of compensation may be made to apply with equity under like working conditions to all positions in the same class.

## SECTION 2. Adoption, Amendment and Revision of Plan

The classification plan shall be adopted and may be amended from time to time by resolution of the City Council. During the process of consideration, any recognized employee organization affected shall be consulted and any other interested party may appear and be heard. Amendments and revisions of the plan may be suggested to the City Council by any interested party, including any recognized employee organization, and shall be submitted through the Human Resources Administrator. Notice of City Council consideration of proposed classification plan amendments or revisions shall be publicly posted at least five (5) days prior to City Council action.

## SECTION 3. Allocation of Positions

Following the adoption of the classification plan and consultation with any recognized employee organization affected, the Human Resources Administrator will allocate every position in the competitive service to one of the classes established by the plan.

## SECTION 4. New Positions

A new hourly part time position may be adopted or modified through amendment or revision of the job description by the City Manager. All new full-time positions may be recommended by the department head with notice to the Human Resources Administrator. New full-time positions will not be filled or modified until approved by the City Manager and adopted by the City Council by resolution.

## SECTION 5. Class Specifications

Class specifications are not restrictive. Descriptions will not be construed as a declaration that the duties and responsibilities will not be changed nor that the appointing authority may not temporarily assign other duties and responsibilities or otherwise direct and control the work of subordinate employees.

## SECTION 6. Reclassification

Positions, the duties of which have changed materially over time, so as to necessitate reclassification, whether new or already created, will be allocated by

the Human Resources Administrator to a more appropriate class after consultation with any recognized employee organization affected. Reclassifications will not be used for the purpose of avoiding restrictions concerning demotions and promotions.

#### RULE IV. APPLICATIONS AND APPLICANTS

##### SECTION 1. Announcement

All examinations for classes in the competitive service shall be publicized by posting announcements in the City Hall, on official bulletin boards, and by such other methods as the Human Resources Administrator deems appropriate. Special recruiting will be conducted, if necessary, to ensure that all segments of the community are aware of the examinations. The announcements will specify the title and pay of the class for which the examination is announced; the nature of the work to be performed; preparation desirable for the performance of the work of the class; the manner of making applications; and other pertinent information.

##### SECTION 2. Application Forms

Applications for positions in the competitive service will be made as prescribed on the examination announcement. Application forms will require information covering training, experience, and other pertinent information. All applications must be signed by the person applying.

Pursuant to applicable State and Federal laws, applicants may be asked to provide additional data such as sex, age, race, etc. on a separate detachable form. Such information will remain confidential and will in no way be used in making employment decisions. Such information will only be used in the execution and evaluation of the City's Equal Employment Opportunity Program.

##### SECTION 3. Disqualification

The Human Resources Administrator may reject any application which indicates on its face that the applicant does not possess the desirable qualifications or employment standards required for the position. Applications may be rejected if the applicant has made any false statement of any material fact; practiced any deception or fraud in the application or for any material cause which in the judgment of the Human Resources Administrator would render the applicant unsuitable for the position. Whenever an application is rejected, notice of such rejection shall be mailed to the applicant by the Human Resources Administrator. Defective applications may be returned to the applicant with notice to amend the same, providing the time limit for receiving applications has not expired.

## RULE V. EXAMINATIONS

### SECTION 1. Nature and Type of Examination

For the competitive service the selection techniques used in the examination process will be impartial and relate to those subjects which, in the opinion of the Human Resources Administrator, fairly measure the relative capacities of the persons examined to execute the duties and responsibilities of the class to which they seek to be appointed. Examinations shall consist of selection techniques which will test fairly the qualifications of candidates such as, but not necessarily limited to, achievement and aptitude tests, other written tests, personal interviews, performance tests, physical agility tests, evaluation of daily work performance, work samples, or job-related skills, post offer medical tests, successful completion of prescribed training, or any combination of these or other tests. The probationary period shall be considered as an extension of the examination process. Examinations will be designed to provide equal opportunity to all candidates by being based on an analysis of the essential requirements of the class, covering only factors related to such requirements.

### SECTION 2. Promotional Examinations

Promotional examinations may be conducted whenever, in the opinion of the Human Resources Administrator, the needs of the service require. Promotional examinations may include any of the selection techniques mentioned in Section 1 of this Rule, or any combination of them. Only regular or probationary employees who meet the requirements set forth in the promotional examination announcements may compete in promotional examinations.

### SECTION 3. Continuous Examination

Open-competitive examinations may be administered periodically for a single class as the needs of the service require. Names shall be placed on employment lists, and shall remain on such lists, as prescribed in Rule VII.

### SECTION 4. Conduct of Examination

The City Council may contract with any competent agency or individual for the preparing and/or administering of examinations. In the absence of such a contract, the Human Resources Administrator shall see that such duties are performed.

### SECTION 5. Scoring Examinations

A candidate's score in a given examination will be the average of scores on each competitive part of the examination on which the candidate qualified, weighted as shown in the examination announcement.

#### SECTION 6. Notification of Examination Results

Each candidate in an examination shall be given written notice of whether the candidate successfully completed the process and will be placed on the employment list.

Any candidate shall have the right to inspect his/her own written examination papers within five (5) working days after the notices of examination results were mailed. Any error in computation, if called to the attention of the Human Resources Administrator within this period, will be corrected. Such corrections will not, however, invalidate appointments previously made.

### RULE VI. EMPLOYMENT LISTS

#### SECTION 1. Employment Lists

As soon as possible after the completion of an examination, the Human Resources Administrator shall prepare and keep available an employment list consisting of the names of candidates who qualified in the examination, arranged in order of final scores, from the highest to the lowest qualifying score.

Placement on the list does not give a candidate priority in appointment.

#### SECTION 2. Duration of Lists

Employment lists other than those resulting from a continuous examination shall remain in effect for one (1) year, unless sooner exhausted or abolished by the Human Resources Administrator upon the recommendation of an appointing authority. Such lists may be extended, prior to their expiration dates, by action of the Human Resources Administrator for additional periods, but in no event shall an employment list remain in effect for more than two (2) years.

Open-competitive lists created as the 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. Names placed on such lists shall be merged with any others already on the list in order of final scores and shall remain on the list for not more than one (1) year.

#### SECTION 3. Reemployment Lists

The names of regular employees who have been laid off will be placed on appropriate reemployment lists as provided in the Personnel Ordinance. These employees will have the right to reemployment for a vacant position in a class requiring basically the same qualifications, duties and responsibilities as the class from which laid off for a period of one (1) year from the date of layoff.

When a reemployment list is to be used to fill vacancies, the Human Resources Administrator will certify all of the qualified names on the list in the order of seniority for consideration by the appointing power.

#### SECTION 4. Removal of Names from List

The name of any person appearing on an employment, reemployment or promotional list will be removed by the Human Resources Administrator if the eligible requests in writing that his/her name be removed, if he/she fails to respond within a reasonable time to a notice of certification mailed to his/her last known address, or for any of the reasons specified in Rule V, Section 3, of these rules. The person affected will be notified of the removal of his/her name by a notice mailed to the last known address. The names of persons on promotional employment lists who resign from the service will automatically be dropped from such lists.

### RULE VII. METHOD OF FILLING VACANCIES

#### SECTION 1. Types of Appointment

All vacancies in the competitive service shall be filled by transfer, demotion, reemployment, reinstatement, or from eligibles certified by the Human Resources Office from an appropriate employment list, if available.

#### SECTION 2. Notice to Human Resources Administrator

If a vacancy in the competitive service is to be filled, the appointing power will notify the Human Resources Administrator in the manner prescribed. If there is no reemployment list available for the class, the appointing power will decide whether to fill the vacancy by reinstatement, transfer, demotion, appointment from a promotional employment list, or appointment from an open employment list.

#### SECTION 3. Certification of Eligibles

If the appointing power does not consider it in the city's best interest to fill the vacancy by reinstatement, transfer, or demotion, or there is no reemployment list, certification shall be made from an appropriate employment list, provided eligibles are available.

When the appointing power requests a vacancy be filled by appointment from a promotional employment list or from an open employment list, the Human Resources Administrator should certify from the specified list the names of all individuals willing to accept appointment. Whenever there are fewer than three (3) names of individuals willing to accept appointment the Human Resources Administrator may not certify a list. If a list of less than three eligibles is certified, the appointing power may make an appointment from among such eligibles or may request the Human Resources Administrator to establish a new list. When so requested, the Human Resources Administrator will hold a new examination and establish a new employment list.

#### SECTION 4. Offer of Employment

The City Manager or the Human Resources Administrator may make an offer of employment. All offers of employment will be made on a conditional basis subject to satisfactory completion of a preemployment physical examination. The appointing authority may fill a position at a lower level with a qualified applicant on the list for a higher position if such a position becomes vacant

#### SECTION 5. Veterans Preference

If two candidates are identically qualified the applicant who is a veteran shall be selected.

#### SECTION 6. Appointment

After interview and investigation, the appointing power will make appointments from among those certified, and will immediately notify the Human Resources Administrator of the persons appointed. The person accepting appointment shall present himself/herself to the Human Resources Administrator, or designated representative, for processing on or before the date of appointment. If the applicant accepts the appointment and presents himself/herself for duty within such period of time as the appointing authority will prescribes, he/she will be deemed to be appointed; otherwise, he/she will be deemed to have declined the appointment.

#### SECTION 7. Limited Term or Temporary Appointment

An appointment may be made by the appointing authority of a person possessing the desirable training and experience qualifications to substitute for a regular employee or for any limited term or short term need. The vacancy may be filled by the appointing authority without going through the examination process.

No special credit will be allowed in meeting any qualifications or in the giving of any test or the establishment of any open-competitive promotional lists, for service rendered under such an appointment.

SECTION 8.      Method of Filling Vacancies and Making of Appointments to Positions Where the Employee is Absent Without Leave

In the event an employee is absent without leave for twenty-four (24) hours or more without notification to his/her supervisor, department head or the Human Resources Administrator, the employee will be deemed to have abandoned his/her job so long as the employee is given an opportunity to explain the absence and failure of notification. The appointing power has the power and authority to make an appointment to the position occupied by the employee after a decision has been made that the job is abandoned.

RULE VIII. PROBATIONARY PERIOD

SECTION 1. Regular Appointment Following

All original and promotional appointments shall be tentative and subject to a probationary period of not less than twelve (12) months actual service to be determined for each class by the Human Resources Administrator. An employee who had a limited term or temporary appointment may not use the limited term or temporary service to satisfy the probationary period requirement. The Human Resources Administrator will notify the appointing authority and the probationer concerned two (2) weeks prior to the termination of any probationary period. If the service of the probationary employee has been satisfactory to the appointing authority, then the appointing authority will file with the Human Resources Administrator 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 prior to the expiration of the probationary period.

SECTION 2. Objective of Probationary Period

The probationary period is regarded as a part of the testing process and will be utilized for closely observing the employee's work and for securing the most effective adjustment of a new employee to his/her position. During the probationary period, the employee will receive a written performance evaluation not less than quarterly to advise the employee of his or her progress in meeting the requirements of the job.

SECTION 3. Rejection of Probationer

During the probationary period, an employee may be rejected at any time by the appointing power without cause and without the right of appeal.

Notification of rejection in writing shall be served on the probationer and a copy filed with the Human Resources Administrator prior to expiration of the probationary period.

#### SECTION 4. Rejection Following Promotion

Any employee rejected during the probationary period following a promotional appointment, or at the conclusion of the probationary period by reason of failure of the appointing power to file a statement that his/her services have been satisfactory, shall be reinstated to the position from which he was promoted unless charges are filed and he/she is discharged in the manner provided in Chapter 2.44 of the Carpinteria Municipal Code and these rules for positions in the competitive service.

### RULE IX. TRANSFER, PROMOTION AND REINSTATEMENT

#### SECTION 1. Transfer

No person will be transferred to a position for which he/she does not possess the desirable qualifications. Upon notice to the Human Resources Administrator, an employee may be transferred by the appointing power at any time from one position to another position in the same or a comparable class. For transfer purposes, a comparable class is one with the same maximum salary, involves the performance of similar duties and requires substantially the same basic qualifications.

If the transfer involves a change from one department to another, both department heads must consent thereto unless the City Manager orders the transfer for purposes of economy and efficiency. Transfer shall not be used to effectuate a promotion, demotion, advancement, or reduction, each of which may be accomplished only as provided in Chapter 2.44 of the Carpinteria Municipal Code and these rules.

Upon request of the employee, and with the consent of the appointing authority, an employee may voluntarily transfer to the same or comparable class or a lower class for which the employee meets the minimum qualifications.

#### SECTION 2. Promotion

Insofar as consistent with the best interests of the service all vacancies in the competitive service shall be filled by promotion from within the competitive

service, after a promotional examination has been given and a promotional list established.

If, in the opinion of the Human Resources Administrator, considering the goals of equal employment opportunity and efficiency a vacancy in the position could be filled better by an open-competitive examination instead of promotional examination, then he/she will arrange for an open-competitive examination and for the preparation and certification of an open-competitive employment list.

### SECTION 3. Reinstatement

With the approval of the appointing power and the City Manager, 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 two (2) years of the effective date of resignation, to a vacant position in the same or comparable class. Upon reinstatement, the employee shall be subject to the probationary period prescribed for the class. No credit for former employment shall be granted in computing salary, vacation, sick leave, or other benefits except on the specific recommendation of the appointing authority and approval of the Human Resources Administrator at time of reinstatement.

## RULE X. SEPARATION FROM THE SERVICE

### SECTION 1. Layoff

An employee in the competitive service may be laid off when the City Council determines it is necessary in the interest of economy, or the necessity for a position no longer exists.

### SECTION 2. Resignation

An employee wishing to leave the competitive service in good standing shall file with the appointing power, a written resignation stating the effective date and reasons for leaving at least two (2) weeks before leaving the service, unless such time limit is waived by such official. A statement as to the resigned employee's service performance and other pertinent information will be forwarded to the Human Resources Administrator. Failure to give notice as required by this rule may be cause of denying future employment by the City.

### SECTION 3. Exit Interview

All employees leaving the competitive service shall complete an exit interview with the Human Resources Office representative to provide information regarding reasons for termination, favorable and unfavorable working experiences and any other information deemed necessary. Such data will be summarized periodically

and reported to the City Manager. All such data regarding individual employees will be confidential.

## RULE XI. DISCIPLINARY ACTION

### SECTION 1. Demotion

The City Manager may demote an employee for disciplinary purposes.

### SECTION 2. Suspension

The City Manager may suspend for cause an employee from his/her position at any time for a disciplinary purpose.

### SECTION 3. Dismissal

An employee in the competitive service may be dismissed for cause at any time by the City Manager.

### SECTION 4. Reduction in Pay

The City Manager may decrease the salary of an employee for cause by moving the employee to a lower step within the salary range.

### SECTION 5. Grounds for Discipline

An employee may be disciplined by suspension, reduction in pay, demotion or dismissal for good cause, including without limitation:

- a. Willful or negligent violation of the Personnel Rules, Regulations and Ordinances;
- b. Willful or negligent violation of applicable written and published departmental rules, regulations and policies;
- c. Inefficiency, incompetency or negligence in the performance of duties, including failure to perform assigned tasks of training or failure to discharge duties in a prompt competent and reasonable manner;
- d. Refusal to accept assignment from an authorized supervisor; or insulting or demeaning a supervisor or manager so as to undermine their authority.
- e. Insubordination;

- f. Use of or being under the influence of alcohol, narcotics and/or dangerous, habit forming drugs while on duty;
- g. Careless, negligent or improper use of City property, equipment or funds, including unauthorized use for private purposes or use involving damage or unreasonable risk pf damage to property;
- h. Acceptance of gifts or gratuities in connection with or relating to the employee's duties;
- i. Failure to maintain satisfactory or harmonious working relations with the public or other employees;
- j. Unexcused failure to report for duty at assigned time and place;
- k. Improper or unauthorized use of leave time;
- l. Unauthorized release of confidential information or official records, as defined by law;
- m. Conduct unbecoming a City officer or employee which tends to discredit the City or the city service;
- n. Conviction of a crime, the nature of which reflects a possibility of serious consequences related to the continued assignment or employment of the employee, including without limitation, felonies or crimes of moral turpitude;
- o. Presentation of falsified information in order to secure employment;
- p. Engaging in incompatible employment elsewhere;
- q. Statements or conduct interfering with the reasonable management and discipline of the City or any of its departments or divisions;
- r. Encouragement of or engagement in any strike, slowdown, or willful absence from duty by any City employee, any stoppage of work by any City employee, or the abstinence by any City employee, in whole or in part, from the full, faithful performance of duties of employment of such employee for the purpose of inducing or influencing, coercing or changing the conditions of compensation or the rights, privileges or obligations of employment by any employee of the City;

- s. Being absent without leave;
- t. Engaging in political activities while on duty.
- u. Working overtime without authorization.
- v. Possession of weapons on agency property unless authorized.

## SECTION 6. Predisipline Procedures

Prior to suspension of more than 5 days, reduction in pay, demotion or dismissal of any regular employee in the competitive service pursuant to the provisions of applicable Personnel Ordinances, Resolutions, Rules and Regulations, the following procedures shall be followed:

### a. Notice of Intent

Whenever the appropriate authority intends to suspend an employee, demote the employee, reduce the employee in pay or dismiss the employee, the appropriate authority will give the employee a written notice of intended discipline that sets forth the following:

1. The disciplinary action intended;
2. The specific charges upon which the action is based;
3. A summary of the facts upon which the charges are based;
4. A copy of all written materials, reports, or documents upon which the intended discipline is based;
5. Notice of the employee's right to respond to the charges either orally or in writing to the appropriate authority;
6. The date, time and person before whom the employee may respond in five (5) working days;
7. Notice that failure to respond at the time specified shall constitute a waiver of the right to respond prior to final discipline being imposed.

b. Response by Employee

The employee will have the right to respond to the appropriate authority orally or in writing. The employee will have a right to be represented at any meeting set by the appropriate appointing authority to hear the employee's response. In cases of suspensions, demotions, reductions in pay or dismissal, the employee's response will be considered before final action is taken.

c. Final Notice

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

1. The disciplinary action taken;
2. The effective date of the disciplinary action taken;
3. Specific charges upon which the action is based;
4. A summary of the facts upon which the charges are based;
5. The written materials, reports and documents upon which the disciplinary action is based;
6. An explanation of appeal procedures if the employee is suspended for more than five (5) days, reduced in pay, demoted or dismissed.

d. The City Manager may put the employee on paid leave of absence pending completion of the predisciplinary process.

e. This section shall not apply if, in the judgment of the City Manager, an emergency situation exists which precludes the application of these prediscipline procedures. An example of such situation would be if the actions of the employee presented an immediate threat to the safety of either the employee or others.

## SECTION 7. Disciplinary Procedures

Upon receiving the Final Notice of Disciplinary Action, the employee may appeal the action to a Hearing Officer in accordance with Chapter 2.44 of the Carpinteria Municipal Code and these rules.

## SECTION 8. Appeal of Disciplinary Action

a. Right to an Appeal hearing. Any permanent/regular employee who is suspended for more than five (5) days, reduced in pay, demoted or dismissed is entitled to an appeal hearing before a Hearing Officer upon filing a petition for a hearing with the Human Resources Administrator.

b. Petition for Hearing. Such petition shall be in writing, signed by the petitioner or his/her representative, giving his/her mailing address, the action which he/she appeals, and shall detail the facts upon which his/her case is based. A general denial of the allegations contained in the Notice of Disciplinary Action furnished the petitioner will be deemed an adequate statement of the required facts and reasons.

c. Time Within Which Petition Must Be Filed. A petition for hearing must be filed with the Human Resources Administrator within ten (10) days of receipt of the final Notice of Disciplinary Action by the petitioner. The City Manager may extend the time where good cause is shown, and it is shown that other parties are not likely to suffer substantial hardship from the delay.

d. Conduct of Hearing. Upon receipt of a valid petition, the Human Resources Administrator will refer the petition to a Hearing Officer who shall conduct an evidentiary hearing upon the petition. At said evidentiary hearing, the Hearing Officer shall take all evidence and may require the production of evidence. In furtherance of this power, the Hearing Officer may issue a subpoena for the same.

e. Hearing Officer. The Hearing Officer shall be selected from a list provided by the State Mediation and Conciliation Service. The City and the petitioner will alternately strike names until only one name remains. The petitioner will strike first.

f. Notice. The Human Resources Administrator will set the matter for hearing and will give petitioner at least ten (10) days' notice in writing of the date and place of such hearing. In hearings in which an action of a department or division head is at issue similar notice shall be given to the department head.

g. **Conduct of Hearing.** The Hearing Officer shall rule upon the admissibility of all evidence at the evidentiary hearing and shall have the power and authority to conduct the evidentiary hearing in all respects.

h. **Preservation of Evidence.** The Hearing Officer shall keep detailed notes of the evidence produced and an electronic recording of all of the testimony presented at the evidentiary hearing.

i. **Evidence the Exclusive Record.** The evidence presented at the evidentiary hearing shall constitute the exclusive record for the decision of the issues involved.

j. **Proposed Findings of Hearing Officer.** At the conclusion of the evidentiary hearing, the Hearing Officer shall transmit to the City Manager and the Human Resources Administrator a summary of all testimony, all documentary evidence admitted at the evidentiary hearing, a statement of all materials officially noticed and proposed findings of fact and a recommended decision. Copies of the Hearing Officer's summary, the statement of matters officially noticed and proposed findings and recommendation for decision shall be mailed to all parties participating in the hearing. The Hearing Officer's proposed findings and recommended decision shall become the final findings and decision within fifteen (15) days after the filing of the same with the Human Resources Administrator without further action of the City unless any party participating in the hearing shall file with the Human Resources Administrator within fifteen (15) days a petition to review the Hearing Officer's proposed findings and determination.

k. **Hearing on Petition to Review.** Upon receipt of the Hearing Officer's summary, proposed findings, recommended decision, official noticed material, record of the hearing, the documentary evidence admitted in the proceedings and a petition to review filed pursuant to paragraph (j) of Section 8, the City Manager shall hear arguments by the parties based upon the material submitted to him/her by the Hearing Officer. Any party at a proceeding may also have prepared, at his/her expense, a transcript of the hearing. No further evidence shall be permitted nor allowed at the hearing before the City Manager. It shall be based solely upon the materials presented to the Hearing Officer at the evidentiary hearing.

l. **Time of Decision by City Manager.** Within twenty (20) days of arguments by parties during a hearing on a petition for review the City Manager will issue his or her findings and a copy of the findings and decision will be served on the petitioner or his/her representative, the department head or his/her representative and the Human Resources Administrator.

m. Decision on Hearing Officer's Report. The City Manager will: (i) accept and confirm the recommendations of the Hearing Officer and adopt his/her findings and recommendations; (ii) reject the recommendations of the Hearing Officer; (iii) amend the findings and recommendation of the Hearing Officer; or (iv) send the matter back to the Hearing Officer for further hearings pursuant to any instructions provided by the City Manager.

n. Representatives. Any party to a hearing may be assisted by a representative or attorney of the party's choice.

o. Preponderance of Evidence. Except as otherwise required by law, the decision shall be supported by a preponderance of the evidence.

p. Rules of Evidence. The evidentiary hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence alone shall not be the sole evidence to support a finding unless it would be admissible over objection in a civil court case.

q. Evidence. The following evidentiary rules shall apply to hearings conducted under this section:

1. Oral evidence shall be taken only under oath.
2. Each party shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination, to impeach any witness regardless of which party first called him to testify, and to rebut the evidence against him. If petitioner does not testify in his/her own behalf he may be called and examined as if under cross-examination.
3. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing, and irrelevant and unduly repetitious evidence shall be excluded.

r. Exclusion of Witnesses. The Hearing Officer at his or her respective discretion may exclude witnesses not under examination, except the petitioner or

the department head or other appropriate manager including the Human Resources Administrator and counsel.

s. Appearance of Petitioner. The appearance of the petitioner shall be required at all hearings. Absence of the petitioner at such a hearing may, in the discretion of the Hearing Officer be deemed a withdrawal of the petition and consent to the action or ruling from which the appeal was taken.

t. Report of Hearings. Disciplinary Hearings will be conducted with an electronic recording machine or court reporter.

## RULE XII. COMPENSATION

### SECTION 1. Salary on Initial Hire

An employee in the competitive service will be placed on the first step of the salary range of the classification into which the employee is hired. An employee can be appointed to a higher step upon recommendation of the department head and approval of the City Manager.

### SECTION 2. Salary on Promotion

An employee who is promoted to a classification having a greater maximum salary will be placed at the lowest step of the new salary range that results in a salary increase.

### SECTION 3. Salary on Voluntary Demotion

An employee who voluntarily demotes to a classification having a lower maximum salary will be placed within the salary range for the class into which demoted. The salary will be set at the step which is lower and closest to the salary the employee was receiving before the demotion.

### SECTION 4. Merit Step Increases

An employee within the competitive service who performs satisfactorily as indicated on the performance evaluation will be eligible to receive a step increase upon completion of six months of employment, and be eligible thereafter to be considered for an annual step increase based on a satisfactory performance evaluation. An employee who performs satisfactorily as indicated on the performance evaluation will receive the step increase the first day of the next pay period following the date such increase is scheduled upon approval by the Human Resources Administrator and completion of a Personnel Action Form.

## SECTION 5. Special Step Increase

The department head may request and the City Manager may approve, additional step increases within the same range based upon merit for outstanding performance. A special step increase does not change the date for future salary step increases.

## SECTION 6. Call Back Pay

When a non-exempt employee has completed their normal working hours, and has left the premises and is called back to work, the employee shall be paid a minimum of two hours' pay at the rate paid for overtime.

## SECTION 7. Overtime

- a. Non-exempt employees may be required to work overtime at the discretion of the supervisor.
- b. Overtime for non-exempt employees is hours assigned to be worked and actually worked in excess of forty (40) hours in a designated seven-day work week and/or hours worked in excess of the assigned hours in the work day (8 or 9 hours).
- c. Non-exempt employees will be paid time and one-half the regular rate of pay for overtime hours. Overtime should be approved in writing by the Department Head.

## RULE XIII. TRAINING OF EMPLOYEES

### SECTION 1. Purpose of Training Program and Policy

It is the policy of the City of Carpinteria to develop maximum efficiency in the performance of official duties by City employees by providing for the training of employees in the performance of their official duties .

The Human Resources Administrator will supervise and control all training programs and be responsible for such programs that come within this policy.

### SECTION 2. Limitations

Reimbursement to employees for tuition, costs, or other expenses incurred in undertaking approved training and continuing education programs will be made only upon successful completion of such course or program and only provided the educational experience was undertaken at an approved or accredited agency or institution.

The City Manager is authorized to prescribe such other limitations in accordance with this rule with respect to the time which may be spent by an employee in training as he/she deems appropriate. He/she is authorized to waive with respect to any department of the City or any employee or employees therein, any or all of the restrictions in this section that is in accordance with a recommendation to that effect from a department head and is in the public interest, provided that notation of such waiver is included in the reports to the City Council.

#### RULE XIV. PERSONNEL RECORDS AND FILES

##### SECTION 1. Personnel File

The City maintains a personnel file on each employee. An employee's personnel file shall contain only material that is necessary and relevant to the administration of the City's personnel program. Personnel files are the property of the City, and access to the information they contain is restricted.

##### SECTION 2. Notifying City of Changes in Personal Information

Each employee is responsible to promptly notify the Human Resources Administrator or their department head of any changes in relevant personal information, including:

- a. Mailing address
- b. Telephone number
- c. Persons to contact in emergency
- d. Number and names of dependents

##### SECTION 3. Medical Information

- A. Separate Confidential Files. All medical information about an employee or applicant shall be kept separately and shall be treated as confidential, in accordance with the Americans with Disabilities Act and the California Confidentiality of Medical Information Act.
- B. Information in medical Files. The City will not obtain medical information about an employee or applicant except in compliance with the California Confidentiality of Medical Information Act. To enable the City to obtain certain medical information, the employee or applicant may need to sign an authorization for release of employee medical information.

C. Access to Medical Information. Access to employee or applicant medical information shall be strictly limited to only those with a legitimate need to have such information for City business reasons. In the case of an employee with a disability, managers and supervisors may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations.

The City will not provide employee or applicant medical information to a third party (except as permitted under the California Confidentiality of medical Information Act) unless the employee signs an authorization for release of employee medical information in the form attached to this rule. The City will release only the medical information that is identified in the employee's authorization. If the employee's authorization indicates any limitations regarding the use of the medical information, the City will communicate those limitations to the person or entity to which it discloses the medical information.

#### SECTION 4. References and Release of Information in Personnel Files

A. Public Information. Upon request, the City will release to the public information about its employees as required by the Public Records Act. The City will not disclose personnel information that it considers would constitute an unwarranted invasion of personal privacy.

B. Reference Checks. All requests from outside the City for reference checks or verification of employment concerning any current or former employee must be referred to the Human Resources Administrator. Information will be released only if the employee signs an authorization for release of employment information, except that without such authorization, the following limited information will be provided: dates of employment, and salary upon departure. Department heads and supervisors should not provide information in response to requests for reference checks or verification of employment, unless specifically approved by the City Manager on a case-by-case basis.

C. Medical Information. Medical information will be released only in accordance with Section 3 above.

#### SECTION 5. Employee Access to Personnel File

A. Inspection of File. An employee may inspect his or her own personnel file, to the extent defined in California Labor Code section

1198.5, at reasonable times and at reasonable intervals. An employee who wishes to review his or her file should contact Human Resources to arrange an appointment. The review must be done in the presence of the Human Resources Administrator or designee.

B. Copies: On request, an employee is entitled to receive a copy of any employment-related document he or she has signed. An employee who wishes to receive such a copy should contact Human Resources.

## SECTION 6: Retention of Personnel Files

The City will retain the personnel files of an employee after the employee has left the employment of the City of Carpinteria consistent with the City's Records and Retention Schedule.

## RULE XV. MISCELLANEOUS

SECTION 1. Safety Equipment. Safety equipment will be provided by the City as required by state and federal regulations.

SECTION 2. Use of Property. The use of City property on or off the City premises shall be limited to City business. Any personal use of City property is prohibited. All use of City resources shall be consistent with adopted City policy.

All equipment operation and the performance of duties shall be done in a safe, responsible manner. It is the employee's responsibility to know the proper use of the equipment assigned and the safety precautions involved in its use.

## SECTION 3. Notice to Employees

Any and all written notices from the City to employee may be served or given either personally or by first class mail. If service is given personally, service shall be conclusively deemed made at the time of delivery. Any notice may be given to such employee at the last address shown in the employee's personnel file. If served by first class mail, service shall be conclusively deemed made forty-eight (48) hours after the deposit thereof in the United States mail, postage prepaid, addressed to the employee to whom such notice or demand is to be given.

## SECTION 4. Strikes

No employee shall cause, encourage or engage in any strike, slowdown or willful absence from duty by any City employee, any stoppage of work by any City employee in whole or in part, from the full, faithful performance of duties of employment of such employee for the purposes of inducing or influencing, coercing or changing the conditions of compensation or the rights, privileges or obligations of employment by any employee of the City.

## RULE XVI. SENIORITY RULE

Seniority is defined as paid, continuous length of service as a regular and/or probationary employee.

Temporary, emergency, and limited term employees may not accumulate seniority.

When a need for reduction of personnel has been determined in accordance with Section 2.44.150 of the Carpinteria Municipal Code, the order of layoff will be established by the Human Resources Administrator. The layoff will be made in accordance with the relative seniority of the employees in the affected class, the least senior to be laid off first.

An employee whose position has been abolished may fill an existing vacancy in a lower class or may replace an employee in a lower class provided that:

- a. The employee subject to layoff meets the qualifications for that position; and
- b. Has more seniority in City service than the employee to be replaced.

The employee to be replaced must have the least seniority of the employees within that class.

The replacing employee is subject to the rules and regulations pertaining to a demotion except that the demotion in no way affects his place on the reemployment list as stated in Section 2.44.150 of the Carpinteria Municipal Code. The replaced employee is considered "laid off" and is subject to Section 2.44.150 of the Carpinteria Municipal Code.

RESOLVED FURTHER, that the City Council Resolutions Nos. 107, 648,876, 930, 1099, and 1359 are hereby repealed.

PASSED, APPROVED AND ADOPTED this 14th day of August, 2006, by the following called vote:

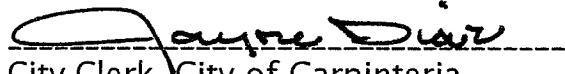
AYES: COUNCILMEMBERS: Jordan, Gandrud, Ledbetter, Stein

NOES COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: Armendariz

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Mayor, City of Carpinteria

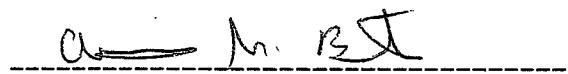
ATTEST:

  
\_\_\_\_\_  
City Clerk, City of Carpinteria

I hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of Carpinteria held the 14th day of August, 2006.

  
\_\_\_\_\_  
City Clerk, City of Carpinteria

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney