



MERIT SYSTEM RULES AND REGULATIONS



DISCLAIMER

The employee handbook is designed to provide a general overview of many of the policies, rules, laws, and benefits applicable to the City of Upland's employees. The handbook may be provided to all employees, although the policies, rules, laws, and benefits described in this handbook do not necessarily apply to all employees. Some policies, rules, laws, or benefits apply only to certain groups of employees. To determine which policies, rules, laws, and benefits apply to you, it is important that you know which represented or unrepresented unit your position is in. If you are unsure about your unit, please check with your supervisor or collective bargaining agreement and/or Human Resources Department.

This handbook is not designed to provide an answer for each question or a solution for each circumstance that may arise. The policies, rules, laws, and/or benefits described in this handbook may be amended, supplemented, modified, or eliminated with or without prior notice. If you need more details about a particular topic, your handbook provides both general and specific sources through which you may obtain further information. You are encouraged to consult these sources or ask your supervisor for additional information regarding any aspect of your employment. Of course, you are always welcome to call the Human Resources Department at (909) 931-4177 for assistance with your personnel questions.

There are several websites referenced in this handbook. In addition, if you are using an online version of this handbook, there are links to those websites. This is to advise you that all information and documents on the Human Resources web pages are provided for the convenience of interested persons. We have tried to ensure that the information on our website is accurate. However, the Human Resources Department does not guarantee the accuracy, completeness, timeliness, or correct sequencing of the information and shall not be responsible for any errors or omissions, or for the use of results obtained from the use of this information. In addition, if there is a conflict between the information provided on our website and any applicable laws or rules, the latter will supersede.

Although we have visited each site referenced or linked, neither the Human Resources Department nor anyone affiliated with the department is in any way responsible for the content or accuracy of information contained in other website that are referenced or linked, either in this handbook or from the Human Resources website.

We must make it clear that this handbook is presented as a matter of general information only and is not an express or implied contract of employment or warranty of any benefit.

CITY OF UPLAND

MERIT SYSTEM RULES AND REGULATIONS

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RULE 1

DEFINITION OF TERMS

The following terms, whenever used in these rules, shall be construed as follows:

- Section 1.** **Administrative Leave:** A paid non-disciplinary leave whereby the City initiates an administrative investigation. The employee shall not come to work or perform any functions as a City employee, but must be available to respond to duty if called. If the employee will not be at home a telephone number must be provided, in advance to the Department head or another designee, where the employee can be contacted during regular work hours. The employee will be ordered to not discuss the matter with the public, press, or any person other than the employee's representative.
- Section 2.** **Advancement:** A salary increase within the limits of the pay range established for a class.
- Section 3.** **Allocation:** The assignment of a single position to its proper class, in accordance with the duties performed, and the authority and responsibilities exercised.
- Section 4.** **Board:** The Board of Review established in pursuance of the ordinance creating a personnel system for the City.
- Section 5.** **Class:** All positions sufficiently similar in duties, authority, responsibility, and working conditions to permit grouping under a common title and the application with equity of common standards of selection, transfer, promotion, and salary.
- Section 6.** **Merit System Ordinance:** Ordinance No. 346 which creates a personnel system for the City.
- Section 7.** **Classified Service:** All full or part time permanent employees of the City of Upland which are included or which may hereafter be included under the personnel system by ordinance of the City Council except elected officials, Council appointees, the City Manger, appointive officers serving without compensation, and all temporary, provisional, seasonal, transitional, emergency and volunteer employees.
- Section 8.** **Demotion:** A change in employment status from one position to another having a lower maximum rate of pay, or a change in duties which are allocable to a class having a lower maximum rate of pay.
- Section 9.** **Eligible:** A person who may legally be appointed to a vacant position in the classified service as provided by the Merit System Ordinance and these rules.
- Section 10.** **Eligibility List:** A list of qualified candidates who have been certified as successfully completing all examination processes.
- Section 11.** **Examinations:**
- (a) **Formal Examination:** The reasonable and impartial method of systematically and fairly evaluating an applicants fitness for performing position requirements. A formal examination may also be a test conducted at a specified time and place at which applicants are required to appear for competitive examination under the supervision of an examiner.
 - (b) **Record Review:** An appraisal of training, experience, work history, or any other means for evaluating relative qualifications of applicants without the necessity for their personal appearance at a specified place for an examination although they may be required to appear for an interview.
- Section 12.** **Permanent Employee:** An employee who has successfully completed their probationary period in a given classification with the City.
- Section 13.** **Promotion:** The advancement of an employee from one position to another which is allocated to a class with a higher maximum rate of pay.
- Section 14.** **Promotional List:** An eligibility list resulting from a promotional examination.

Definition of Terms continued

- Section 15.** **Reclassification:** The reallocation or reassignment of an existing position in one class to a different class as a result of significant change in the duties, responsibilities and/or qualification requirements of the position.
- Section 16.** **Reduction:** A temporary or permanent salary decrease within the limits of the pay range established for a class.
- Section 17.** **Re-employment:** The reappointment, without examination, of a regular employee within two years of having resigned in good standing to a position in the same or comparable class.
- Section 18.** **Rejection:** The separation of an employee from service during their probationary period.
- Section 19.** **Suspension:** A disciplinary action whereby an employee is placed on an involuntary leave of absence with or without pay.

RULE II **GENERAL PROVISIONS**

- Section 1.** **Application of Rules:** These rules establish the personnel system for the City of Upland and shall apply to all employees of the City except for the City Manager, employees designated as volunteer, temporary, provisional or seasonal. These employees or employee groups hold their positions at the will of the City Council or, as in the case of the last groups of positions, City Manager and are not obligated by or entitled to benefits provided by these rules. These rules do not create any contract of employment, express or implied, or any rights in the nature of a contract.
- Section 2.** **Violation of Rules:** Violation of the provisions of these rules, shall be grounds for discharge, rejection, or suspension.
- Section 3.** **Amendment and Revision of Rules:** Recommendations for amendment and revision of these rules may be made either by the City Manager or the Personnel Director. Prior to consideration, any amendment or revision shall be publicly posted at such places as the City Council shall prescribe, for at least ten consecutive days together with notice and date of hearings by the Council. At the time of consideration, any interested person may appear to be heard. Amendments and revisions shall become effective upon adoption by the City Council.

RULE III **BOARD OF REVIEW**

- Section 1.** **Meetings:** Meetings shall be held on the call of the Personnel Director, the chairperson, or any two members of the Board.
- Section 2.** **Quorum:** Two members of the Board shall constitute a quorum for the transaction of business and no recommendation may be taken by the Board unless it is concurred in and adopted by the affirmative votes of at least two members of the Board.
- Section 3.** **Public Hearings:** All hearings required to be held by the Board of Review shall be public. However, in the conduct of investigations the Board may, in its discretion, hold private hearings limited to the members of the Board, the Personnel Director, the employee requesting the hearing, the officer or officers from whose action the appeal was taken, the representative of any such persons and such witnesses or other persons as the Board may require to be present, whenever in the Board's opinion such private hearing is necessary to secure all the facts in the case.

RULE IV CLASSIFICATION

Section 1. Classification: All positions in the classified service shall be part of a classification plan established and maintained by the Personnel Director. It shall provide for a grouping of jobs by commonality of duties, responsibilities, and functions.

Section 2. Amendment of Classification: The plan may be amended by the City Council upon recommendation of the Personnel Director.

RULE V APPLICATIONS AND APPLICANTS

Section 1. Recruitment Announcements: Public notice of open selection processes, and internal posting and distribution for promotional selection shall be posted at least fifteen days in advance of the last date for filing applications (Exception for closed promotional recruitments which shall be posted a minimum of eight working days). Recruitment announcements shall be displayed on the Personnel counter with copies sent to all departments. Announcements of all open selection processes shall be given such other publicity as the Personnel Director may deem warranted in the interest of attracting adequate numbers of qualified applicants.

The recruitment announcement must contain:

- (a) The title and probable rates of pay of the position to be filled;
- (b) Minimum qualifications required;
- (c) The nature of the work to be performed;
- (d) Method of securing application forms and final dates on which applications will be accepted;
- (e) The time and place of examination may be included;
- (f) Whether or not a medical and/or psychological examination, including a drug screen, will be required, post-offer of employment.

The notice may contain such additional information as seems desirable at the discretion of the Personnel Director.

Section 2. Applications: Applications for employment shall be submitted on forms provided by the Personnel Director for that purpose. Such forms shall require information covering training, experience, references and other pertinent information. The Personnel Director shall permit a letter, resume, certificates or other indication of interest to be accepted, pending receipt of a properly completed application, received no later than the established deadline. All applications must be completed in full and signed by the person applying. The time for filing applications may be extended or reopened as needed by the Personnel Director.

Section 3. Acceptance of Applications: The application of any person for appointment to a vacancy in the competitive service shall be considered if the application is filed in the manner specified in these rules and upon the form furnished by the Personnel Director, if the application clearly shows that the applicant meets the requirements for admission to the selection process as specified in the official announcement, and if the application has not been rejected by the Personnel Director in accordance with the provisions of these rules. Based on a review of the application materials the City will invite only the most qualified applicants to participate in successive parts of the selection process. Possession of these qualifications does not ensure that an applicant will be interviewed. Applications will be reviewed in comparison with all other applications received.

Applications and Applicants continued

Section 4. **Disqualification of Applicants:** The Personnel Director or designee shall reject any application which indicates on its face that the applicant lacks any of the requirements, certifications, or qualifications for the position.

After an application has been accepted, the Personnel Director or designee may reject the application, or decline to examine any applicant, or withhold a person from the eligibility list for certification for any of the below reasons. After examination a successful candidate shall be disqualified and their name removed from the eligibility list if the applicant:

- (a) Has made false statements of any material fact, or omissions, practiced, or attempted to practice any deception or on the application, declarations or in securing eligibility or appointment;
- (b) Request by the applicant to have the application withdrawn from consideration;
- (c) Is physically or mentally unable to perform the essential functions of the position, with or without reasonable accommodation;
- (d) Failure to meet the special requirements or stipulations set out in the recruitment announcement as being conditions of employment;
- (e) Failure to be present upon appropriate notification for fingerprinting, psychological, psychiatric or medical testing or examination as required;
- (f) Unsuitability of an applicant's work record as indicated upon a review of qualifications;
- (g) Refusal to execute an oath as may be prescribed by law;
- (h) Is a current user of illegal drugs;
- (i) Has been convicted of a crime, either a misdemeanor or felony, that relates to the position duties that the applicant would perform;
- (j) Directly or indirectly obtained information regarding examinations;
- (k) Has had his or her privilege to operate a motor vehicle in the State of California suspended or revoked, if driving is job related;
- (l) For any material cause, which in the judgment of the Personnel Director or designee would render the applicant unfit for the position, including a prior resignation from the City, termination from the City, or a significant disciplinary action.

Section 5. **Rejected Applications:** Whenever an application is rejected, notice of such rejection shall be mailed to the applicant by the Personnel Director or designee. Defective applications may be returned to the applicant with notice to amend the same, providing the time limit for receiving applications has not expired.

If the application is rejected, the applicant can appeal the rejection to the Personnel Director within four working days of notice. The Personnel Director shall review the appeal and affirm the rejection or reinstate the applicant into the selection process. The Personnel Director's decision is final.

RULE VI **EXAMINATIONS**

Section 1. **Subjects and Method of Examination:** Examinations may be formal or a record review, may consist of written or oral tests or any combination thereof, but shall consist of one or more of the following parts:

- (a) **Special Subject:** This part shall constitute that portion of the examination which deals with the duties of a position, and may be an oral test, a written short answer test, a written free answer test or a combination of any of these, but must be designed to test the ability of an individual to perform said duties.
- (b) **Educational:** this part may consist of penmanship, spelling, composition, civics, city information, or any or all of these, as well as other subjects to test the basic training which would logically form the ground-work for performing the duties of the position.
- (c) **Training and Experience:** Training shall consist of a statement of schooling and studies. Experience shall consist of a statement of all past activities that would tend to fit candidates for the positions they seek and may include a statement of the name of former employers, nature of work and references. A record based on references, investigation, character of past employment, and general standing in the community, may be included as a part of this subject.
- (d) **Oral Interview:** Personality and appearance may be counted as a factor in an examination, or the applicant may be questioned on the duties of the position, training and experience, nature of work performed, and other reasonable questions to determine their fitness for the position.
- (e) **Other Testing:** A physical, psychological, polygraph (for Police Dept. employees only), or drug test may be required when stated in the notice inviting the filing of applications.

Section 2. **Conduct of Examination:** The City Manager or designee shall determine the manner and methods and by whom examinations shall be given. The City Manager may contract with any competent agency or individual for the performance by such agency or individual of the responsibility for giving or scoring examinations, or he may designate a City official or employee to conduct the same. The Personnel Director shall arrange for the use of public buildings and equipment for the conduct of examinations and shall render such assistance as shall be required.

Procedure Where Formal Examinations Are Not to be Held: In the event that the City Manager does not deem the giving of formal examinations necessary or advisable in the filling of a position for which there is no eligibility list, the formal examination may be omitted and the eligibility list prepared from a record review as heretofore defined. The work of grading the applications, interviewing the applicants and thereafter preparing an eligibility list may be done by the City Manager or delegated to a person whose ability and experience, in the opinion of the City Manager, qualifies that individual to do such work.

Section 3. **Qualifying Grade and Rating Examinations:** In all examinations the minimum grade or standing for which eligibility may be earned should be based upon all factors in the examination, including educational requirements, experience, and other qualifying elements as shown in the application of the candidate or other verified information.

Failure in one part of the examination may be grounds for declaring the applicant as failing in the entire examination or as disqualified for subsequent parts of an examination. A candidate's final score in a given examination shall be the average of the scores in each competitive part of the examination.

Examinations continued

Section 4. **Notification of Results:** Each applicant taking the examination shall be given the results thereof if requested and, if successful, of his final earned rating and of his relative position on the employment list. Any applicant shall have the right to review his/her own test results, upon appointment during the regular business hours in the Personnel Office. All parts of the selection process shall be made available to the candidate upon request, unless the review of such testing materials is expressly prohibited by the contracting agency. The actual rating sheets of individual raters will not be shown but an accurate composite description of each sheet shall be provided if requested. An error in grading or rating, if called to the attention of the Personnel Director within one month after posting the eligibility lists resulting from the examination, shall be corrected. Correction shall not, however, invalidate certification or appointment previously made. Examination papers of applicants are not subject to inspection by the public or by other applicants.

Section 5. **Promotional Examinations:** As the needs of the service may require, promotional examinations may be conducted and may consist of evaluation of prior service, accomplishments in special training courses, or other tests. All candidates for promotion must be employees in the classified service and must possess the minimum qualifications as set forth in the specifications of the class to which promotion is sought.

RULE VII **ELIGIBILITY LISTS**

Section 1. **Eligibility Lists:** As soon as possible after the conclusion of an examination, the Personnel Director or designee shall prepare and keep available an eligibility list consisting of the names of open or promotional candidates passing the examination, arranged in order of final ratings received from the highest score down to the lowest passing score. The final rating shall be determined by the total of the scores received by each applicant for each part of the examination, based upon relative value assigned to each part of the examination before the examination was given.

Whenever identical ratings are received, names shall be arranged in order of application date, and if the same, then arranged alphabetically.

Section 2. **Duration of Eligibility Lists:** Eligibility and promotional lists shall become effective upon the approval of the City Manager and upon certification that the list was legally prepared and represents the relative ratings of the names appearing thereupon. Eligibility and promotional lists shall remain in effect one year, but in no event shall an eligibility or promotional list remain in effect more than two years, unless the Personnel Director abolishes the list, the list is exhausted or extended. The Personnel Director may abolish or extend the list at any time prior to the expiration of the list if it is determined that it is in the best interest of the City to do so.

Section 3. **Removal of Names from Lists:** The name of any person appearing on an eligibility list shall be removed by the Personnel Director or designee if the eligible requests in writing that their name be removed or fails to respond to a notification in writing or by phone of an opening from the Personnel Director or designee. The names of persons on promotional eligibility lists who resign from the service shall automatically be dropped from such list.

RULE VIII
METHOD OF FILLING VACANCIES

- Section 1.** **Types of Appointment:** All vacancies in the competitive service shall be filled by re-employment, transfer, demotion, or from eligibles certified by the Personnel Director from an appropriate eligibility or promotional list, if available. In the absence of persons eligible for appointment in these ways, temporary appointments may be permitted in accordance with the Merit System Ordinance and these rules.
- Section 2.** **Notice to Personnel Director:** Whenever a vacancy in the classified service is to be filled, the department head shall submit an appropriate written request, under procedures established by the Personnel Director. The Personnel Director shall advise department head as to the availability of employees for re-employment, transfer, or demotion, and of eligibles on eligibility or promotional lists for the class.
- Section 3.** **Certification of Eligibles:** Upon receipt of a request for a list of eligibles, the Personnel Director or designee shall confer with the department head to determine whether it is desired to fill the vacancy by re-employment, transfer, or demotion, or whether certification from a promotional list is preferred. If appointment is to be made from an eligibility or promotional list, the names of persons willing to accept appointment shall be certified in the order in which they appear on the list. The number of names certified shall exceed by two the number of vacancies to be filled. If insufficient names are available to meet this requirement, then the persons so certified shall be eligible for temporary appointment until additional eligibles can be certified after examination, but such eligibles may be appointed permanently at the discretion of the City Manager.
- Section 4.** **Appointment:** After interview and investigation, the Personnel Director may approve an offer of appointment to the selected candidate subject to passing the required medical examination. If the applicant accepts the appointment and presents himself for duty within such period of time prescribed, he shall be deemed appointed; otherwise the applicant shall be deemed to have declined the appointment.
- Section 5.** **Temporary Appointments:** In the absence of eligibles from which regular appointments may be made, a person meeting the minimum qualifications for the vacant position may be temporarily appointed by the City Manager pending the establishment of an eligibility list in the manner provided by these rules. The Personnel Director shall determine and certify that such a person meets the minimum qualifications before the appointment may be effective. Time spent under temporary appointment shall not be credited to the probationary period and no credit shall be allowed in the giving of any examination or the establishment of any eligibility or promotional list for service rendered.
- Section 6.** **Hourly or Per Diem Appointments:** Employees paid on an hourly basis and all other casual or occasional employees are considered as not within the scope of the Merit System and may be appointed by the Personnel Director as the occasion demands. These employees need not be selected from a certified list and time spent under such appointment shall not be credited to a probationary period and no credit shall be allowed in the giving of any examination or the establishment of any eligibility or promotional list for service rendered under such appointment.

RULE IX

PROBATIONARY PERIOD

- Section 1.** **Regular Appointment Following Probationary Period:** All original and promotional appointments for Management and Safety personnel with the exception of Police Officer, shall be tentative and subject to a probationary period of twelve months. For General employees all original appointments shall be tentative and subject to a probationary period of not less than twelve months. Effective May 2, 1995, all promotional appointments for classifications in the General Unit are tentative and have a probationary period of not less than six (6) months, with the exception of a promotion to a position in a different classification series, then such probationary period shall be twelve months. Effective December 1, 1982, the probationary period for Police Officer shall be 15 months beginning at the time an employee is sworn in. At the Chief's discretion lateral transfer applicants and other applicants who have completed Basic academy and have some police related experience may be hired at a 12 month probationary period, otherwise the 15 month probationary period would apply. The probationary period for promotional appointments from Police Officer shall be twelve months. Periods of time on paid leave exceeding five (5) days (consecutive or not) shall automatically extend the probationary period by the number of days the employee is on leave. If the probationary period is interrupted by military leave for a period which extends beyond half of the probationary period, then the employee shall serve a new probationary period.
- If the service of the probationary employee has been satisfactory, the department head shall return to the Personnel Director the Performance Appraisal Form which will state that the employee is recommended for Permanent Appointment. If a memo or the Performance Appraisal Form is received stating that the employee is recommended for Probationary Termination, the employee will be deemed unsatisfactory and employment will be rejected at or before the expiration of the probationary period.
- Section 2.** **Objective of Probationary Period:** The probationary period shall be regarded as an intrinsic part of the examination process and shall be utilized for closely observing the employee's work, for securing the most effective adjustment of a new employee to their position, and for eliminating any probationary employee whose work performance, adaptation or personal conduct fails to meet required standards. The department head shall report, at specified periods of time, on a Performance Appraisal Form an appraisal of the employee's work performance and conduct. The employee shall be advised of such written work performance and conduct appraisal.
- Section 3.** **Rejection of Probationer:** During the probationary period an employee may be rejected at any time without *cause and without* the right of appeal. Notification of rejection in writing shall be sent to the probationer and a copy filed with the Personnel Director.
- Section 4.** **Rejection Following Promotion:** Employees rejected during the probationary period following a promotional appointment, or at the conclusion of the probationary period, shall be reinstated to the position from which they were promoted, provided the employee previously held permanent status in said classification, unless charges are filed and they are discharged in the manner provided in the Merit System Ordinance and these rules for positions in the classified service. Periods of time on paid leave exceeding five (5) days (consecutive or not) shall automatically extend the probationary period by the number of days the employee is on leave. If the probationary period is interrupted by military leave for a period which extends beyond half of the probationary period, then the employee shall serve a new probationary period. The employee is not entitled to notice or a hearing if rejected during probation.

RULE X
ATTENDANCE AND LEAVES

Section 1. **Vacations:** Vacation leave with pay shall be accumulated by each person in the employment of the City, within the classified system, at the rates below indicated:

(a) Police Captains, Police Chief and Fire Department Officers on a 40 Hour Work Week

After successful completion of the probationary period employee's are eligible for 96 hours per year; during the 3rd - 5th year, accrual shall be at the rate of 120 hours per year; during the 6th - 16th year, accrual shall be at the rate of 152 hours per year. Subsequent to the 16th year of employment, an additional 8 hours of vacation shall accrue each year to a maximum of 176 hours vacation accrual per year.

(b) Police Safety and Police Management (effective 1/1/97)

After successful completion of the probationary period employee's are eligible for 96 hours per year; during the 3rd - 5th year, accrual shall be at the rate of 120 hours per year; during the 6th - 10th year, accrual shall be at the rate of 152 hours per year; during the 11th - 13th year, accrual shall be at the rate of 160 hours per year; during the 14th - 16th year, accrual shall be at the rate of 168 hours per year. Subsequent to the 16th year of employment, an additional 8 hours of vacation shall accrue each year to a maximum of 176 hours vacation accrual per year.

(c) Fire Fighting Personnel Assigned to Shift Work (effective 7/1/92)

After successful completion of the probationary period employee's are eligible for 5 1/2 shifts per year; during the 3rd - 5th year, accrual shall be at the rate of 6 1/2 shifts per year; during the 6th - 10th year, accrual shall be at the rate of 8 1/2 shifts per year; during the 11th - 16th year, accrual shall be at the rate of 9 shifts per year; during the 17th year, accrual shall be at the rate of 9 1/2 shifts per year; during the 18th - 19th year, accrual shall be at the rate of 10 1/2 shifts per year; from the 20th year of employment on, vacation shall be at 11 shifts per year.

(d) Executive, Mid-Management and General Employees

After successful completion of the probationary period employee's are eligible for 80 hours per year; during the 3rd - 5th year, vacation accrual shall be at the rate of 96 hours per year; during the 6th - 10th year, accrual shall be at the rate of 128 hours per year; during the 11th - 16th year, accrual shall be at the rate of 136 hours per year. Subsequent to the 16th year of employment, an additional 8 hours of vacation shall accrue each year to a maximum of 176 hours vacation accrual per year.

Amended in November, 2000, **Executive** employees may be paid cash in lieu of unused vacation for up to 80 hours - 40 hours of vacation and 40 hours of sick leave if they have used at least 40 hours of vacation in a calendar year. Said payment will be made in December. Requests for same must be made to the Personnel Director in writing by December 1st of each year.

Effective January 1, 2001, **Mid-Management and Fire Management** employees may be paid cash in lieu of unused vacation for up to 40 hours of vacation if they have used at least 40 hours of vacation in a calendar year. Said payment will be made in December. Requests for same must be made to Human Resources in writing by December 1st of each year.

No vacation shall be granted during the original probationary period with the exception of Police Officers, but if permanent appointment is received, vacation credit shall be allowed for time served in a probationary status. To allow optimum scheduling of vacations, Police Officers shall be allowed to take vacations within the probationary period. However, if a Police Officer should terminate prior to the end of the probationary period, he/she shall reimburse the City for any vacation taken during that time.

Attendance and Leaves continued

Under special circumstances employees, other than Police Officers, may be allowed to take vacation within the probationary period subject to advance approval, in writing, of the department head and Personnel Director. If an employee who was allowed to take vacation should terminate prior to the end of the probationary period, he/she shall reimburse the City for any vacation taken during that time.

Vacation accumulation shall cease when an employee has an unused balance of accrual equal to three years entitlement. Accumulation over that limit may be permitted only by specific City Manager approval.

Holidays occurring while an employee is on vacation will not count against accrued vacation.

Vacation schedules are to be arranged with the employee's supervisor with due regard for the wishes of the employee and particular regard for the needs of the service.

Section 2.

Sick Leave: (amended 3/93) Each person in the employment of the City within the classified service earns sick leave at the rate of eight hours per month (eleven hours per month of service for Fire Safety personnel on a 56 hour work week). No sick leave may be granted during the first thirty days of employment within the classified service. Sick leave shall not be considered as a privilege which an employee may use at his or her discretion, but shall be allowed only in case of necessity and actual sickness or disability in compliance with the procedure clarified in the Administrative Procedures Manual.

- (a) Executive, Mid-Management, Police Management, Fire Management, General, Fire Safety, and Police Safety Personnel: Accumulation at the rate of eight hours for each qualifying month of service (eleven hours for each qualifying month of service for Fire Safety personnel on a 56 hour work week) shall never exceed a total of one thousand (1000) hours, and is hereby limited to that number. Once an employee has accumulated one thousand (1000) hours and the employee uses sick leave, he shall then once again accrue full working hours until his accrual balance shall be one thousand (1000) hours.

The following groups of employee's may retain their accrual over 1000 hours for sick leave use only as follows:

Executive and General as of July 1, 1976
Police Management and Fire Management as of December 1, 1982
Fire Safety as of March 31, 1989
Police Safety as of March 4, 1993

- (b) Immediately prior to retirement, Executive, Mid-Management, Police Management, Fire Management, General, Fire Safety and Police Safety personnel may convert one-half of unused sick leave to personal leave with pay. This leave shall be taken in the final days of employment. No vacation or sick leave shall accrue during such personal leave. Scheduled City holidays falling within the personal leave period will be paid without reducing the total number of eligible days. Floating holidays may be taken as first days of leave. The maximum personal leave to be taken is 500 hours, therefore, four hour accruals (hours maintained over 1000 hours as of the above dates) may only be used to bring a retiree to the maximum level.

All rights or benefits hereunder shall terminate wholly upon the actual termination of employment *by resignation or retirement.*

In the event that an employee of the City suffers an accident within the scope of the duties of the employee, he is lawfully entitled to compensation under the industrial accident law of the State of California. He shall be entitled to receive sick or accident leave benefits during the initial waiting period until worker's compensation is awarded him, which period is normally no more than three days.

The appropriate provisions of the California State Labor Code shall apply in the case of Police and Fire Safety employees injured in the line of duty.

Attendance and Leaves continued

The control and enforcement of these provisions is placed in the City Manager and the City Manager is hereby authorized and directed to pay such benefits when the person applying therefor is entitled thereto. The City Manager may in such instance require proof of the fact of sickness, its nature and duration, and may in any case require the certificate of the attending physician. In administering these provisions, the City Manager shall have the full scope and authority; and within the fair intendment of these policies, upon proof first being submitted to him, the decision of the City Manager shall be absolute and final, without recourse in the applicant.

It is further hereby expressly provided that no firm rights are established hereunder in favor of any such officer or employee, and no contractual rights whatsoever, and that these provisions may be modified or lessened, or may be rescinded wholly, at any future time.

- Section 3.** **Military Leave:** Military leave shall be granted to employees within the classified service for such period as they may be required to serve in the armed forces of the United States as a result of selective service requirements or who are recalled to active duty in the military. Employees who enlist in the armed forces of the United States during time of war or national emergency shall be granted military leave for the period of that obligated service. All employees granted military leave under this provision shall return to their position with the City of Upland in a timely fashion upon conclusion of their required military service and any employee who fails to so return following his release from active duty or discharge from the military service shall be deemed to have waived his right to return to his former position. (refer to Administrative Procedures Manual)
- Section 4.** **Leave of Absence:** The City Manager may grant an employee leave of absence without pay for not to exceed six months. No leave of absence without pay shall be granted except upon written request of the employee. Whenever granted, such leave shall be in writing and signed by the City Manager and a copy filed with the Personnel Director. Upon expiration of a regularly approved leave without pay, the employee shall be reinstated in the position held at the time leave was granted. Failure on the part of an employee on leave to report promptly at its expiration, or within reasonable time after notice of return to duty, shall be cause for discharge.
- Section 5.** **Family Care Leave:** To the extent not already provided for under current leave policies and provisions, the City will provide family and medical care leave for eligible employees as required by State and Federal law (see Administrative Procedures regarding various leaves).
- Section 6.** **Maternity Leave:** A pregnant employee shall be entitled to a leave of absence without pay for up to four (4) months so long as the employee's attending physician certifies that she is physically unable to work due to pregnancy or pregnancy-related condition (refer to Administrative Procedures Manual).
- Section 7.** **Hours of Work: (amended 8/93)** In general, City employees will work an 80 hour bi-weekly schedule, with the exception of Firefighters on a 56 hours work week. Employees for whom necessity requires a different schedule than that generally applied shall work according to regulations prepared by the Personnel Director and approved by the City Manager.
- Section 8.** **Attendance:** Employees shall be in attendance at their work in accordance with the rules regarding hours of work, holidays and leaves. All departments shall keep daily attendance records of employees which shall be reported to Finance in the form and on the dates specified.
- Section 9.** **Holidays: (amended 5/95)** **Police Captains** shall receive 104 hours of paid holidays each year. On or before December 31st, the City shall calendar 72 hours of holidays which shall constitute the official City holidays with the remaining 32 hours subject to selection by the employee and approval of his/her supervisor. **Mid-Management personnel** shall receive 105 hours of paid holidays each year and **Executive and Fire Management personnel** shall receive 104 hours. On or before December 31st, the City shall calendar 73 hours of holidays for Mid-Management, and 72 hours for Executive and Fire Management personnel which shall constitute the official City holidays with the remaining 32 hours subject to selection by the employee and approval of his/her supervisor. **General employees** shall receive 128 hours of paid holidays each year. On or before December 31st, the City shall calendar 88 hours of holidays which shall constitute the official City holidays with the remaining 40 hours subject to selection by the employee and approval of the department head and/or designee.

RULE XI SALARY ADJUSTMENTS

- Section 1.** Anniversary Date: Each regular employee shall have a salary anniversary date of the first day of the month or the first of the following month if appointment, employment or re-employment is after the third day of the month.
- Section 2.** Application of Rates: Employees of the City of Upland shall be paid a salary or wage within the range established for that position's class under the classification plan. Unless otherwise directed by the City Manager or designee the minimum rate for the class shall apply to employees upon original appointment to the position. Officers and employees reinstated or reemployed after lay-off shall receive a rate within the range established for the class agreed upon by the City Manager and the employee concerned. If an employee transfers into a position the employee's salary rate will remain the same. If an employee receives a promotion or an upward reclassification the employee shall be entitled to the closest step within the new salary range that would provide a minimum of 5% increase.
- Section 3.** Advancement: No salary advancement shall be made so as to exceed the maximum rate established in the classification plan for the class to which the advanced employee's position is allocated. Advancements shall not be automatic (other than from A to B step) but shall depend upon increased value of an employee to the City as exemplified by recommendations of his supervising official, length of service, performance record, special training undertaken, or other pertinent evidence.

RULE XII CHANGES IN EMPLOYMENT STATUS

- Section 1.** Transfer: After notice to the Personnel Director, an employee may be transferred at any time from one position to another position in the same or comparable class. If the transfer involves a change from the jurisdiction of one supervising official to another, both must consent thereto unless the City Manager orders the transfer for purposes of economy or efficiency.
- Transfers shall not be used to effectuate a promotion, demotion, advancement, or reduction, each of which may be accomplished only as provided in these rules. No person shall be transferred to a position for which he does not possess the minimum qualifications.
- Section 2.** Promotion: Insofar as practicable and consistent with the best interests of the service, 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, a vacancy in the higher position could be filled better by an open, competitive examination instead of a closed, promotional examination, then the City Manager may instruct the Personnel Director to call for applications for the vacancy and arrange for an open, competitive examination and for the preparation and certification of a promotional list.
- Section 3.** Demotion: The City Manager may demote an employee whose ability to perform his required duties falls below standard or for disciplinary purposes. Upon request of the employee, and with consent of the prospective supervising official, demotion may be made to a vacant position for which he does not possess the minimum qualifications. Written notice of the demotion shall be given the employee before or within three days after the effective date of the demotion, and a copy filed with the Personnel Director.
- Section 4.** Reclassification: If a reclassification is granted changes may result in: a change of class title and class specification for a position by either moving the position to another existing class in the Classification Plan or to a new class specifically created for the position; or placement of the position in a salary range with a maximum salary rate that may be higher (upward reclassification), lower (downward reclassification), or the same level as previously held (lateral reclassification).

RULE XIII
SEPARATION FROM THE SERVICE

Section 1. **Suspension:** Suspension shall be a temporary separation from City service for disciplinary purposes. The City Manager or department head may suspend a subordinate employee from his position at any time for the good of the service, for a disciplinary purpose, or for other just cause. Suspensions shall be reported immediately to the Personnel Director by the City Manager or department head.

The reduction of the employee's pay rate within the pay range established for the employee's class may be used for disciplinary reasons. Before the effective date of said reduction, the employee shall be advised of the action and the reasons therefor.

Section 2. **Discharge:** An employee in the competitive service may be discharged at any time by the City Manager, but if the probationary period has been completed, then such discharge must be for a stated cause. Any employee who has been discharged shall be entitled to receive a written statement of the reasons for such action as provided in the Merit System Ordinance and these rules and in compliance with Skelley.

The following Lay-Off procedure applies to Executive, Mid-Management, Fire Management, Police Management, Police Safety personnel, and General personnel.

Section 3. **Lay-off:**

(a) **Intent of Procedure**

Public interest may require elimination, curtailment, or reorganization of a public service activity which, in turn, may require the layoff of one or more employees. The lay-off procedure is intended to minimize the impact of staff reduction on City services and ensure that employees are treated fairly in the processing of layoffs.

(b) **Procedure**

When a position within a class is abolished, the following procedure shall be followed:

1. The names of all non-permanent employees occupying positions in said class shall be listed in alphabetical order. The City Manager or his designee shall select from this list one employee to be laid off for each position to be abolished.
2. If the positions to be abolished exceed the number of employees available for layoff after application of "1" above, a "Subject to Layoff List" shall be prepared. The list shall be composed of all permanent employees in the class from which a position(s) is to be abolished. The names of the employees shall be listed in alphabetical order with notations as to length of service in the said class and any higher or equal classes.

Separation From the Service continued

3. In selecting persons to be laid off, the City Manager shall consider performance and length of service. When the performance of employees is equivalent, employees having the least amount of service shall be laid off first. Deviation from this procedure is permitted when an employee possesses special skills and knowledge necessary to the efficient operation of City services. In this event, the City Manager may retain said employee over employees having more seniority provided that none of those having more seniority possess the requisite skills and knowledge.
4. Any probationary employee laid off under these provisions who held permanent status in a lower class may request demotion to a position in said lower class or an equivalent class. If the employee makes such request, lists of employees as prescribed in paragraphs "1" and "2" shall be prepared; and the employee shall have his name placed among the other names on the "Subject to Layoff List." Thereafter, the City Manager or his designee shall choose an employee to be laid off according to the provisions of Paragraphs "1" and "3".
5. Any permanent employee laid off under the provisions of paragraph "3" may request demotion to a position in any lower class in a similar type work provided he/she possesses the qualifications required for placement in the class. If the employee makes such request, the same provisions as stipulated in paragraph "4" with respect to the preparation of the lists and selection of an employee to be laid off shall apply.
6. In the case of further layoffs necessitated by the displacement of employees, the same provisions as above outlined shall apply.
7. The City Manager shall determine the equivalency of classes for the purpose of preparing the lists prescribed above, and his decision shall be final.

The following Lay-Off procedure applies to Fire Safety personnel.

Section 3. Lay-off Procedure

1. No permanent UFFA bargaining unit employee shall be laid off from any position while non-permanent employees are retained in any UFFA bargaining unit position. Non-permanent employees shall not have re-employment rights, but shall be maintained on an eligibility list.
2. Any permanent UFFA bargaining unit employee who on their most recent annual performance appraisal has received an overall performance rating of "unsatisfactory" shall be laid off prior to any employee who has received an overall performance rating of "below expectations" or above.
3. Seniority with the Upland Fire Department is the basis upon which an employee shall be laid off after the application of Sections 1 and 2 above. Seniority shall be based upon the amount of continuous paid service as a "safety" Firefighter, Fire Engineer or Fire Captain classification and shall include actual service and all paid leaves. Overtime shall not be credited nor shall time spent on approved leave without pay excepting for military leaves. In the event of a tie of accumulated time, the employees will draw lots to determine preference. Time spent as a Reserve Firefighter shall not be credited for seniority purposes nor shall time spent in any non-bargaining unit position of the City. Time spent on approved non-paid leave shall not constitute a break in service.

Separation From the Service continued

4. Employees in all represented classes shall be ranked by seniority credit. The individual(s) with the least seniority shall be laid off before those with greater seniority as defined in paragraph 3. Layoffs under this provision shall be regardless of rank. After the correct number of necessary layoffs has been accomplished, rank classifications shall be adjusted as follows:
 - (a) In the case of demotions, all members in each job classification shall be pooled in a group for their given class.
 - (b) A seniority list will be compiled, for each classification, using each individual's promotion date in their given class.
 - (c) The person(s) with the most recent promotion date will be bumped down to the next lower classification.
 - (d) If a person(s) is/are bumped to the next classification down, creating an excess of personnel in the lower classification, the person(s) in that lower classification (including the person[s] that were just bumped to it) will be pooled for purposes of compiling a seniority list, as in "b" above.
 - (e) The person(s) with the most recent promotion date will be bumped down to the next lower classification.
 - (f) When a person(s) is bumped to a lower classification and then pooled for seniority for another possible bump, the promotion date that shall be used will be that date that the given person was promoted to the classification that he/she is to be bumped to.
 - (g) If an employee being bumped to a lower classification has never held that class, then the date of promotion in the higher class shall be used for that employee.

5. An employee that has been bumped from a given classification shall be placed on the salary step nearest to but not higher than the position being held prior to bumping, but in no event higher than "E" step of the position being bumped into.

Re-Employment Rights

1. Permanent employees laid off are eligible for re-employment for a period of 36 months provided they are found by a physician to be physically able to resume their duties. Re-employed employees shall be subject to a six month probationary period. No new personnel shall be hired for represented classes until the re-employment list has been exhausted.

2. An employee's name may be removed from the re-employment list for the classification from which they have been laid off if they fail to respond to a written notice of employment within 14 calendar days of notification or be unable to accept the re-employment position within 30 calendar days of the notice thereof. Employees who have been reinstated on re-employment lists shall be eligible to compete in promotional examinations for which they qualify.

3. Laid off employees do not accumulate seniority while on re-employment lists. If a person is re-employed by the City within 36 months after the date of previous termination, his/her sick leave accumulation shall be reinstated. Service credit for vacation allowance and service credit for longevity pay shall be reinstated.

Separation From the Service continued

- Section 4.** **Resignation:** An employee may resign from City service by presenting the resignation in writing to the department head. The resignation shall be effective immediately upon receipt of same by the department head. However, to resign in good standing, an employee shall give the department head at least two (2) calendar weeks notice, unless, because of extenuating circumstances, the department head agrees to permit a shorter period of notice. Resignations shall be promptly forwarded to the Personnel Director. The resignation of an employee who fails to give notice shall be reported by the department head immediately and may be cause for denying future employment by the City. Once a resignation has been accepted by the appointing authority, it cannot be withdrawn.
- Section 5.** **Re-Employment:** With the approval of the City Manager an employee who has resigned with a good record may be re-employed within two years to his former position, if vacant, or to a vacant position in the same or comparable class, provided the following circumstances have been met: 1) The former employee must meet the medical requirements of the position by taking a medical examination or other required pre-employment testing by a City designated physician as required by the City; 2) Work performance and performance appraisals at the time of separation must have been satisfactory; 3) Nothing occurred during the break in employment that will reflect adversely on the City or will impair the individual's ability to perform his/her duties effectively. A re-employed employee shall begin a new anniversary, begin vacation accruals at the lowest level, receive no credit for the prior sick leave balance, and the employee shall begin a new probationary period.
- Section 6.** **Job Abandonment:** An employee is deemed to have resigned if the employee is absent for four (4) consecutive work days without prior authorization and without notification during that period of the absence. On the second working day of the unauthorized absence, the supervisor shall send a telegram or overnight letter to the employee's last known address informing the employee that if the employee fails to report to work within two (2) work days, or receive authorization for such absence, the employee will be deemed to have resigned. Employees separated from employment for job abandonment will be reinstated or such charge removed from the employee's record upon presentation of justification for absence such as severe accident, severe illness, false arrest, or mental or physical impairment.

RULE XIV **GRIEVANCES**

The following Grievance procedure applies to Executive, Mid-Management, Police Management, Fire Management, and Fire Safety personnel.

- Section 1.** **Policy:** The most effective accomplishment of the work of the City requires prompt consideration and equitable adjustment of employee grievances. It is the desire of the City to adjust grievances informally, and both supervisory and employees are expected to make every effort to resolve problems as they arise. However, it is recognized that there will be grievances which will be resolved only after a formal appeal and review.
- Section 2.** **Definition:** A grievance is a wrong, real or fancied, considered by an employee as grounds for complaint, except in the case of a Personnel action arising out of position classification, pay, demotion, suspension and dismissal.
- Section 3.** **Representation:** An employee who desires to do so may obtain representation to assist him in presentation of his grievance. Said representation may be provided by that entity formally recognized by the municipal employee relations officer as representing that employee for purposes of meeting and conferring in good faith on wages, hours and working conditions, or may be such other person as the employee wishes to engage for the purpose.

Grievances continued

Section 4. **Procedure:** An employee and his representative, if desired, shall first present his grievance to his immediate supervisor who shall make careful inquiry into the facts and circumstances of the complaint. The supervisor shall attempt to resolve the problem promptly and fairly.

An employee who is dissatisfied with the decision of his supervisor may submit his grievance in writing to his department head. The department head shall make a separate investigation into the problem. The employee may elect to have his representative present at all times that he is involved in this investigation. The department head shall inform the employee in writing of his decision and reasons therefore within fifteen calendar days after receipt of the employee's grievance.

If the employee is dissatisfied with the department head's decision he may obtain a review by the City Manager. He shall submit a detailed written request for review, indicating therein the specific points of previous investigations wherein he takes issue, within fifteen calendar days following the receipt of the decision of the department head. The City Manager shall cause such review and investigation to be conducted as he deems necessary. The employee may elect to have his representative present at all times that he is involved in this procedure. The City Manager shall within fifteen calendar days after the conclusion of the review, inform the employee in writing of his findings and decision.

If the employee is dissatisfied with the City Manager's decision he may appeal that decision to the Board of Review in accordance with the provisions of Rule XV.

The following Grievance procedure applies to General personnel.

Definition

A claim by an employee that the City has violated, misinterpreted, or misapplied a responsibility to the employee as provided for in the Memorandum of Understanding, Merit System Rules and Regulations, or other laws, ordinances, and resolutions concerning or affecting wages, hours, or other terms and conditions of employment.

The grievance procedure may **NOT** be used for matters involving:

- (a) compensation plans (The City will notify the Union when changes are being considered.)
- (b) classification plans (The City will notify the Union when changes are being considered.)
- (c) disciplinary actions not including written warnings and reprimands
- (d) performance appraisal (Employees receiving an overall rating below "Meets Expectation" may request to meet with the Personnel Director, department head, and their employee representative to discuss the appraisal and seek an appropriate remedy.)
- (e) recruitment activities
- (f) any other matters which are prohibited in the Merit System Rules and Regulations and are more appropriately resolved through the meet and confer process
- (g) reserved management rights of the City
- (h) interpretation of the intent of a MOU provision which would be resolved through the meet and confer process

Grievances continued (General personnel procedure)

General Provisions

1. No retribution or prejudice shall be suffered by employees making use of the grievance procedures.
2. Grievances may only be initiated by the employee concerned and may not be pursued without the affected employee's consent.
3. If a grievance involves a group of employees or if a number of employees file separate grievances on the same exact matter, the grievances may be handled as a single grievance at the City's discretion.
4. Failure at any step of this procedure to appeal a decision on a grievance within the specified time limit and in the manner outlined below shall be deemed to have terminated the grievance process.
5. Failure at any step of this procedure to provide a response to a grievance within the specified time limit shall be deemed a denial and may be appealed as provided herein.
6. The time limits specified at any step in this procedure may be extended by mutual written agreement.
7. As used in this procedure, the term immediate supervisor shall mean the lowest level of supervisor.
8. Once a grievance has been processed and finally denied, repeated filing of grievances on the same exact issue will not be permitted.
9. The grievant may designate a representative at any step in the grievance procedure. No person hearing a grievance is required to recognize more than one (1) representative for any grievance.
10. (amended 5/95) An employee may choose to represent himself/herself or may be represented by someone other than a Union representative when utilizing the grievance procedure. In such event, the Union shall be notified in writing that the individual has elected not to be represented by the Union in seeking resolution of a grievable matter. The City shall, in writing, notify the Union of the nature of the grievance, the decision and remedy sought, provided, however, the names of employee witnesses shall not be disclosed.

Grievance Procedure

A. Informal Step:

Grievances shall be resolved informally to the extent possible. The employee and representative, if any, shall discuss the grievance with the immediate supervisor no later than ten (10) working days after the employee knew or reasonably should have known of the event giving rise to the potential grievance. In this discussion, the employee should, in good faith, try to express the problem clearly and suggest a solution(s). Within ten (10) working days of the informal meeting, the supervisor shall provide a verbal response to the employee. A summary of the complaint and the proposed resolution should be forwarded to the Personnel Department for their information.

B. Step 1.

If the supervisor does not respond within the time limits, or the grievance has not been resolved, the employee may appeal to the department head by submitting a written grievance. Such written grievance must be made within ten (10) working days of notification to the employee that the grievance is denied or a resolution has not been reached at the informal step.

The department head shall meet with the grievant and representative, if any, within ten (10) working days of receipt of the written grievance and shall deliver an answer, in writing, to the grievant within ten (10) working days after the meeting.

Grievances continued (General personnel procedure)

C. Step 2.

If the grievance is not resolved, the grievant may file a written appeal to the Administrative Services Director within ten (10) working days from date of delivery of the written response provided in Step 1 of the procedure.

The Administrative Services Director shall meet with the grievant and representative, if any, within ten (10) working days of receipt of the written appeal and shall deliver an answer, in writing, to the grievant within ten (10) working days after the meeting.

D. Step 3. (amended 5/95)

If the grievance is not resolved, the grievant may file a written appeal to the City Manager within ten (10) working days from date of delivery of the written response provided in Step 2 of the procedure.

The City Manager shall meet with the grievant and representative, if any, within ten (10) working days of receipt of the written appeal and shall deliver an answer, in writing, to the grievant within ten (10) working days after the meeting.

E. Step 4. (amended 5/95)

If the grievance is not resolved, the grievant shall have the right to appeal to the Board of Review. The request for hearing shall be filed with the Personnel Department within ten (10) working days from date of delivery of the written response provided in Step 3 of the procedure. It shall be the duty of the Personnel Director to inform each of the Board members and the City Manager or other persons complained against of the filing of the appeal.

The following Grievance procedure applies to Police Safety personnel – (effective 9/11/2000)

PREAMBLE: The parties agree that the following Grievance Procedure shall be in effect from November 8, 2000 until November 8, 2002. Parties also agree that the provisions of this Grievance Procedure shall not remain in effect subsequent to November 8, 2002 unless they negotiate a new procedure(s) prior to that date.

A. GENERAL PROVISIONS

Section 1. DISCUSSION OF REQUEST OR COMPLAINT

It is the intent of this procedure that grievances be settled at the lowest possible administrative level. Any employee who believes that he or she has a reasonable request or complaint shall discuss the request or complaint with their immediate supervisor in an attempt to settle the matter.

Section 2. GRIEVANCE DEFINITION

A "grievance" is the subject of a written request or complaint, which has not been settled as a result of the discussion required by Section 1, initiated by an employee, arising out of a specific fact situation or transaction that results in an alleged inequity or damage to the employee, the solution of which is wholly or partially within the province of the city to rectify and will involve the interpretation or application of existing ordinances, rules, regulations, policies or the Memorandum of Understanding concerning wages, hours, and other terms and conditions of employment. Grievances shall be submitted in writing on forms supplied by the Human Resources Department. A grievance does NOT include:

- Matters reviewable under some other city administrative procedure agreed upon by the parties;
- Requests or complaints the solutions of which would require the exercise of legislative power, such as the adoption or amendment of an ordinance, rule, regulation, or policy established by the City Council;
- Requests or complaints involving the termination of a probationary, seasonal, or temporary employee, or disciplinary action against a regular employee reviewable pursuant to the discipline appeal provisions of this Memorandum of Understanding and/or the Peace Officers Bill of Rights; and
- Requests or complaints initiated by an employee involving departmental performance evaluations if the evaluation rating overall is satisfactory or better.

Grievances continued (Police personnel procedure)

Section 3. FREEDOM FROM REPRISAL

No employee shall be subject to coercion or disciplinary action for discussing a request or complaint with their immediate supervisor for his/her good faith filing of a grievance petition.

Section 4. EMPLOYEE REPRESENTATION

An employee is entitled to representation in the preparation and presentation of a grievance at any step in the grievance procedure. Reasonable access to work areas by representatives of qualified employee organizations shall be granted. The grievant and one representative are entitled to be released from work for a reasonable period of time in order to present the grievance. No person hearing a grievance petition need recognize more than one representative for a grievant unless, in the opinion of the person hearing the petition, the complexity of the grievance requires more than one representative in order to fully and adequately present the matter.

B. GENERAL RULES

Section 5. GRIEVANCE PETITION FORM

All grievances shall be submitted to the Human Resources Department on the form prescribed by the Human Resources Manager. No grievance petition shall be accepted for processing until the form is complete.

Section 6. CONSOLIDATION

Grievance petitions involving the same or similar issues, filed by employees in the same representation unit, may be consolidated for presentation at the discretion of the person hearing the petitions.

Section 7. RESOLUTION

Any grievance petition resolved at any step of the grievance procedure shall be final and binding on the city and the grievant.

Section 8. WITHDRAWAL

Any grievance petition may be withdrawn by the grievant at any time, without prejudice.

Section 9. TIME LIMITS

Grievance petitions shall be processed from one step to the next within the time limit prescribed in each of the steps. Any grievance petition for which a disposition is not made at any step within the time limit prescribed, or any extension which may be agreed to, may be referred to the next step in the grievance procedure, with the next time limit to run from the date when time for disposition expired. Any grievance

petition not carried to the next step by the grievant within the prescribed time limits, or such extension which may be agreed to, shall not be processed at the next level without the city's consent.

Section 10. RESUBMISSION

Upon consent of the person hearing the grievance petition and the grievant, a petition may be resubmitted to a lower step in the grievance procedure for reconsideration.

Section 11. EXTENSION OF TIME

The time limits within which action must be taken or a decision made as specified in this procedure may be extended by written consent of the grievant and the person before whom disposition of the petition is pending.

C. PROCEDURE

Section 12. PROCEDURE

The following procedure shall be followed by an employee submitting a grievance petition:

A. Discussion with supervisor. Prior to filing a written grievance petition the employee shall first take the matter up with the immediate supervisor unless the immediate supervisor is the focus of the grievance, in which case the employee shall discuss the matter with the next level supervisor in the employee's chain of command. The supervisor shall give a prompt response where it is possible to do so.

Grievances continued (Police personnel procedure)

B. Step 1. The employee shall have thirty (30) calendar days after the occurrence of the circumstances giving rise to the grievance or fifteen (15) calendar days after the discussion with the supervisor described in Paragraph A, whichever is later, above to submit the grievance petition to the Human Resources Department. The Human Resources Department shall forward the petition to the Chief of Police. Within fifteen (15) calendar days after submission of the petition, the Chief of Police or a designee shall meet with the grievant and the employee's representative, if any. No later than fifteen (15) calendar days thereafter the Chief of Police or a designee shall render a written decision. If no decision is rendered within (15) calendar days, the grievance is deemed denied at Step 1 and the employee may take the grievance to Step 2.

C. Step 2. Failing to resolve the grievance at Step 1, the grievant shall submit a written request for review to the Human Resources Manager within fifteen (15) calendar days following the date the Chief of Police or a designee renders a decision. The Human Resources Manager shall meet with the grievant and the grievant's representative, if any, within fifteen (15) calendar days of the submission of the request for review. No later than fifteen (15) calendar days thereafter, the Human Resources Manager shall render a written decision.

D. Step 3. Failing to resolve the grievance at Step 2, the grievant shall submit a written request for a hearing with the City Manager within fifteen (15) calendar days following the date the Human Resources Manager renders a decision. The City Manager shall notify the grievant and the Human Resources Manager of his/her availability for the grievance appeal hearing. The hearing will take place within 60 days of the request to submit the grievance to the City Manager on a mutually convenient date for the grievant, the City's representative, and the City Manager. The parties may agree to extend the time (within 60 days) to hear the grievance.

The grievant shall have the right to present documentary and oral evidence at the grievance hearing. In addition, any City employee who is called as a witness by the grievant shall be directed to attend the hearing by the City Manager. The grievant's representative must inform the City Manager of his/her request to make City employee(s) available for the hearing at least ten (10) calendar days before the hearing for the City Manager to be able to direct the employee(s) to be present at the hearing. Employees who attend the hearing at the request of the grievant (under the direction of the City Manager) shall be paid their regular hourly rate of pay for attendance at the hearing.

Question of grievability shall be brought to the City Manager by the City's representative prior to taking any evidence regarding the merits of the grievance. The City Manager may either decide the issue of grievability first before proceeding with the hearing or may proceed with the hearing and rule on the issue of grievability as part of his/her decision.

The grievant's hearing will be recorded by audio cassette recorder or some other means.

The burden of proof in the grievance appeal hearing before the City Manager is with the employee grievant. The grievant must put on his/her case first prior to the City's case. After the parties rest their case the City Manager shall take closing arguments either orally or in writing. The decision on whether the closing arguments shall be in writing or oral shall be up to the City Manager.

Within fifteen (15) calendar days after the hearing is completed or if closing argument is in writing, after written closing argument is received by the City Manager, the City Manager will issue his/her written decision to the grievant and representative of the City. The City Manager's decision is final. However, either party shall have the right to file a court action pursuant to Code of Civil Procedure 1094.5. The City Manager's decision shall specifically set forth the losing parties right to file an action pursuant to Section 1094.5 and the time line in which such action must be filed.

ALTERNATIVE PROCEDURE FOR SUBMITTAL OF GRIEVANCE TO THE CITY MANAGER

A grievant who wishes to submit his/her grievance to the City Manager may do so without requesting a hearing. In place of a hearing as previously set forth, the grievant may submit his/her grievance to the City Manager in writing for his/her consideration. If the grievant wishes to submit his grievance to the City Manager in writing, the grievant must simultaneously submit a copy of his/her grievance to the Human Resources Manager so that the City's representative can respond in writing to the City Manager. The City's representative shall have fifteen (15) calendar days from receipt of the submittal by the grievant to the City Manager to respond to that submittal. Within fifteen (15) calendar days of receipt of the City's representative written response to the grievance the City Manager shall issue his/her written decision.

GRIEVANCE PETITION FORM

Please complete the following and send form to the Human Resources Manager.

The following is a statement of my grievance, which I hereby request be reviewed in accordance with the City of Upland Grievance Procedure for the Upland Police Officers Association.

Name: _____

Position: _____

Immediate Supervisor: _____

The reason for my grievance is as follows:

I discussed this grievance with my immediate supervisor on: _____

My supervisor's response was as follows:

I believe this response was incorrect for the following reasons:

I believe the appropriate resolution of my grievance would be:

Witnesses who can confirm my statements are:

Date: _____ Signature: _____

RULE XV
DISCIPLINARY APPEAL PROCEDURE
(Police Safety personnel – effective 9/11/2000)

SECTION 1. GENERAL

- A. Any notice required to be given by this procedure shall be in writing and shall be deemed served when personally delivered to the person to whom it is directed or when deposited in the United States mail, registered or certified postage prepaid, and addressed to the designated recipient at his/her last known address.
- B. As used in this procedure, “disciplinary action” means dismissal, demotion, reduction in compensation, suspension, written reprimand or any other action which constitutes “punitive action” as that term is defined in Government Code Section 3304 of the Peace Officers Procedural Bill of Rights Act.
- C. Unless otherwise specified, as used in this procedure, “Department Head” means the Chief of Police.
- D. “Department”, for purposes of this procedure, shall be defined as the Upland Police Department, unless otherwise specified.
- E. The parties may for good cause extend the time for performance of any act required or permitted by this procedure upon written request prior to expiration of the time fixed.

SECTION 2. NOTICE OF DISCIPLINARY ACTION

- A. For permanent employees written notice of intent to take disciplinary action shall be served on the affected employee at least six (6) working days prior to the effective date of the action and shall include:
 - 1. A description of the action(s) proposed to be taken and the expected effective date(s);
 - 2. A clear and concise statement of the specific grounds and particular facts upon which the disciplinary action is based;
 - 3. A statement that a copy of the materials upon which the action is based is attached or available for delivery upon request; and
 - 4. A statement informing the employee of the right to respond verbally or in writing, or both, to the Police Chief prior to the effective date of the disciplinary action(s) unless the Chief has firsthand knowledge of the acts or omissions contained in the notice to discipline.
- B. After considering the response or if the time to respond has elapsed without the employee responding, and assuming that all or part of the Police Chief’s decision will include sustaining disciplinary action, written notice that the disciplinary action will be implemented shall be served on the employee on or before the effective date of the action and shall include:
 - 1. A statement informing the employee of the disciplinary action(s) taken, the effective date(s) of the action(s), and that the action is being taken for the acts specified in the letter of intent; and
 - 2. A statement informing the employee of the right to appeal within 10 working days of the date the letter is served on the employee, including a copy of this disciplinary appeal procedure.
- C. If no response to the notice of intent to discipline is made, the notice of discipline will be served immediately following the dates on which to respond.

SECTION 3. APPEALS

Any employee may appeal any disciplinary action taken against the employee. The appeal shall be in writing and filed with the Human Resources Manager within ten (10) working days after the date of notification of action against which the appeal is made. An appeal shall:

- A. Be accompanied by a copy of or make reference to the final notice of disciplinary action served on the employee;
- B. Contain a request for the appeal; and
- C. A brief statement of the relief requested.

SECTION 4. WAIVER

If an employee fails to appeal the disciplinary action within the time specified, or after appealing withdraws the appeal, the right to review is waived.

Disciplinary Appeal Procedure continued

SECTION 5. HEARING PROCEDURE

The parties agree to Advisory Arbitration for the purposes of disciplinary appeal for two years upon execution of the contract. Either party may request to reopen negotiations regarding any aspect of the disciplinary appeal procedure, including, but not limited to, the hearing procedure, for the period subsequent to two years from the effective date (i.e. September 11, 2002) of the agreement implementing the disciplinary appeal procedure. For the period prior to September 11, 2002, neither party may demand to bargain over any aspect of the disciplinary appeal procedure.

A. Appeals filed in cases of disciplinary action shall be heard by an arbitrator who will render an advisory decision. That decision will be advisory only to the Upland City Council.

B. The parties shall contact the State Mediation and Conciliation Service for a list of arbitrators experienced in police disciplinary cases. The parties shall attempt to agree upon an arbitrator for mutual appointment. If the parties cannot jointly agree on an arbitrator, each shall alternatively strike one name from the State Mediation and Conciliation Service list, beginning with the City, until only one name remains. The remaining individual on the strike list shall serve as the advisory arbitrator. If a particular arbitrator is unable to schedule a hearing within 90 days from the date contacted by the parties, a new list of arbitrators shall be secured from State Mediation and Conciliation Service, unless the parties mutually agree to a later hearing date or select another arbitrator with earlier available hearing date.

C. The hearing shall be set by the Human Resources Manager at an early date. The employee and the Department Head shall be given not less than thirty (30) calendar days notice of the hearing by the Human Resources Manager. The Human Resources Manager or the employee's representative may postpone or cancel a hearing one time on reasonable notice to the parties and their respective representatives. Any further postponement or cancellation must be approved by the arbitrator. The City and Association shall share equally in the Arbitrator's fees and costs.

D. The employee and the Department may be represented by counsel or other representative.

E. If a subpoena is requested by either the City or an employee who has appealed his/her disciplinary action to be issued by the Arbitrator to compel the attendance of another City employee, it shall be the duty of the party seeking the subpoena to notify the Arbitrator of the request that a subpoena be issued. The employee upon whom the subpoena is being served must be served at least five (5) working days before the hearing.

F. All appeal hearings involving a dismissal or demotion of an employee shall be reported by a certified shorthand reporter. All other appeals need not be reported but either the employee or the Department Head may, at their own expense, provide a reporter for the hearing or tape record a hearing where no reporter is present.

G. Each party shall make arrangements for and pay the expenses, if any, of witnesses that are called by such party, except that any city employee called as a witness by either side shall be released from work without loss of compensation or other benefits to attend the disciplinary hearing. City employees called in on their day off will be guaranteed a minimum of two hours.

H. Within 30 days following the submission of the appeal, the Arbitrator shall submit written findings of fact, conclusions of law, and the decision to the Human Resources Manager.

FINAL DECISION ON ADVISORY ARBITRATION

Within thirty (30) calendar days of receipt by the Human Resources Manager of the decision of the Arbitrator on any disciplinary matter as described herein, the City Council of the City of Upland shall render a final decision regarding the discipline. The City Council may accept, reject or modify the disciplinary recommendation(s) of the Advisory arbitrator.

The decision of the City Council is subject to judicial review under Section 1094.5 of the California Code of Civil Procedure.

Disciplinary Appeal procedure continued

SECTION 6. EVIDENCE AND PROCEDURES APPLICABLE TO ALL HEARINGS

- A. Hearings need not be conducted according to technical rules of evidence. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs.
- B. Hearsay evidence shall be admitted and may be used for the purposes of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support any fact, unless it is the type of hearsay admissible over objection in a civil action.
- C. Irrelevant and unduly repetitious evidence shall be excluded.
- D. The rules of privilege shall apply to the same extent that they are recognized in civil actions. In addition, communications between the union representative and the employee who is the subject of a personnel action shall be confidential and not subject to disclosure in a personnel hearing.
- E. Oral evidence shall be taken only on oath or affirmation.
- F. Employees not testifying in their behalf may be called and examined as on cross-examination.
- G. The employee and the City shall have these rights:
 - 1. To call and examine witnesses;
 - 2. To introduce exhibits;
 - 3. To cross-examine opposing witnesses on any matter relevant to the issue, even though the matter was not covered in the direct examination;
 - 4. To impeach any witness regardless of which party first called the witness to testify; and
 - 5. To rebut any adverse evidence.
- H. The hearing shall be a closed and private proceeding unless closure of the hearing is waived by the employee.

RULE XVI APPEALS AND HEARING

- Section 1. Complaints:** Any employee in the classified service shall have the right to appeal to the Board of Review relative to any situation affecting his employment status or conditions of employment, except in instances where the right of appeal is prohibited by the Merit System Ordinance or these rules. The employee may request a hearing of his complaint, and such complaint shall be filed in writing with the Personnel Director. It shall be the duty of the Personnel Director to inform each of the Board members and the City Manager or other persons complained against of the filing of the complaint.
- Section 2. Investigations and Hearings:** Upon the making of any complaint, the Board of Review shall make such investigation as it may deem necessary in cases where the employee is entitled to a hearing as a matter of right, such as in instances of demotion, reduction or discharge, and in other cases whenever the Board shall deem it advisable to hold a hearing, such hearing shall be held within twenty days after the request for the hearing was made. In all hearings the applicable provisions of the Merit System Ordinance shall apply.

Appeals and Hearing continued

Whenever a hearing on any complaint is to be held, the Personnel Director shall notify the person requesting the hearing and the City Manager or other officer from whose action the appeal is being taken, of the time and place of the hearing. Unless incapacitated, the person making the complaint shall appear personally before the Board of Review at the hearing.

Upon conclusion of any investigation or hearing, the Board of Review shall cause its findings and recommendations to be prepared in writing and shall certify the same. Such findings shall be countersigned and filed as a permanent record by the Personnel Director. The Personnel Director shall deliver a certified copy of such findings and recommendations to the City Council or other officer or employee affected by such findings and recommendations, or from whose action the appeal was taken. The City Council shall affirm, reverse or modify the decision appealed from and said decision shall be final.

Any member of the Board of Review may submit a minority or supplemental report which shall be filed as a permanent record by the Personnel Director.

RULE XVII REPORTS AND RECORDS

- Section 1.** **Roster Cards:** The Personnel Director shall maintain a service or roster card for each employee in the service of the City showing the name, title of position held, the department to which assigned, salary, changes in employment status, and such other information as may be considered pertinent.
- Section 2.** **Change-of-Status-Report:** Every appointment, transfer, promotion, change of salary rate, and any other temporary or permanent change in status of employees shall be reported to the Personnel Director in such manner as may be prescribed by these rules and regulations.
- Section 3.** **Destruction of Records:** Roster or payroll cards shall be kept permanently. All other records relating to personnel, including correspondence, applications, examinations and reports may be destroyed after five years.

RULE XVIII CHANGES AND AMENDMENTS

- Section 1.** **Changes in Rules:** These rules and regulations may be changed or amended by the City Council at any regular meeting or adjourned regular meeting, but no change or amendment shall be made in any of these rules and regulations, except in extreme emergency, without posting a notice showing said contemplated change or amendment on the bulletin board in the City Hall of Upland at least ten days prior to said change or amendment.

