

**City of Garden Grove**

**INTER-DEPARTMENT MEMORANDUM**

To:	Matthew J. Fertal	From:	John D.R. Clark
Dept:	City Manager	Dept:	Human Resources
Subject:	ORDINANCE TO AMEND MUNICIPAL CODE TO SPECIFY PROBATIONARY PERIOD FOR FIREFIGHTER AND POLICE OFFICER		
		Date:	May 14, 2013

OBJECTIVE

To gain City Council approval of an Ordinance amending the Municipal Code to provide for a one-year probationary period for Firefighters and an eighteen-month probationary period for Police Officers.

BACKGROUND

In 2012 Section 2.44.175 (B) of the Municipal Code was revised to read:

**B. PROBATIONARY PERIOD FOLLOWING PROMOTION.**

1. **REGULAR EMPLOYEE.** A Regular Employee who is promoted to a position in which he has not previously passed probation shall serve a Probationary Period of six (6) months in the new position to which he has been promoted, commencing on the date of such promotion, except as follows:
  - a) Sworn fire positions shall require a one (1) year Probationary Period;
  - b) Sworn police positions shall require an eighteen (18) month Probationary Period.
2. **PROBATIONARY EMPLOYEE.** A probationary employee who is promoted to a position in a class with a higher salary range shall complete the Probationary Period of six (6) months required of employees with regular status who have been promoted, except as follows:
  - a) Sworn fire positions shall require a one (1) year Probationary Period;
  - b) Sworn police positions shall require an eighteen (18) month Probationary Period.

Although the intent was that the longer probationary period would apply only to the Firefighter and Police Officer positions, an argument could be made that this language requires a one-year probationary period for all sworn fire positions, including Fire

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Engineer, Fire Captain, etc; and an eighteen-month probationary period for all sworn police positions, including Sergeant, Lieutenant, etc.

This was never the intent; promotional positions in the Fire Department (i.e., all those above firefighter) have for many years had a probationary period of six months. In the Police Department, the Memorandum of Understanding with the Police Union specifies that the probationary period for sergeants shall be one year (MOUs can impose standards beyond those in the Municipal Code), while other promotional positions like lieutenant and captain have likewise been set at six months.

The 2012 revision was made because disputes had arisen over whether someone promoted into a firefighter position from a lower classification in another department – meeting the strict definition in the Municipal Code for a promotion—had to serve six months probation or one year probation. The intent of the 2012 revision was to be more specific: any person appointed a firefighter, whether from inside the City or without, would have to pass a one-year probation. Similarly, anyone appointed a police officer would have to serve an eighteen-month probation, even if promoted from within the City (e.g., a Community Service Officer).

To reach this goal, the attached ordinance proposes a simple amendment in Section 2.44.175 (B):

1. Replace "sworn fire positions" with "sworn firefighter positions" and
2. Replace "sworn police positions" with "sworn police officer positions."

This small change should avoid any ambiguity in the future.

FISCAL IMPACT

None.

RECOMMENDATION

It is recommended that the City Council:

- Introduce and conduct the first reading of the attached Ordinance amending Section 2.44.175 (B) of the Municipal Code.

  
JOHN D.R. CLARK  
Human Resources Director/City Treasurer

Attachment: Draft Ordinance

**Recommended for Approval**

  
Matthew Fertal  
City Manager

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE  
AMENDING TITLE 2, CHAPTER 44 OF THE MUNICIPAL CODE PERTAINING TO THE  
PROBATIONARY PERIOD FOR FIREFIGHTERS AND POLICE OFFICERS

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 2.44.175 (B) of the Municipal Code is hereby amended to read as follows:

B. PROBATIONARY PERIOD FOLLOWING PROMOTION.

1. REGULAR EMPLOYEE. A Regular Employee who is promoted to a position in which he has not previously passed probation shall serve a Probationary Period of six (6) months in the new position to which he has been promoted, commencing on the date of such promotion, except as follows:
  - a) Sworn firefighter positions shall require a one (1) year Probationary Period;
  - b) Sworn police officer positions shall require an eighteen (18) month Probationary Period.
2. PROBATIONARY EMPLOYEE. A Probationary Employee who is promoted to a position in a class with a higher salary range shall complete the Probationary Period of six (6) months required of employees with regular status who have been promoted, except as follows:
  - a) Sworn firefighter positions shall require a one (1) year Probationary Period;
  - b) Sworn police officer positions shall require an eighteen (18) month Probationary Period.

SECTION 2. Severability. If any section, subsection, subdivision, sentence, clause, phrase, word or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each other section, subsection, subdivision, sentence, clause, phrase, word or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

SECTION 3. City Clerk Certification and Publication. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after adoption.