

CITY OF SUNLAND PARK PERSONNEL POLICY



February 2016

Adopted: 2/2/16

TABLE OF CONTENT

SECTION I –GENERAL PROVISIONS	
1-1. PRIOR POLICIES AND PROCEDURES	5
1-2. COLLECTIVE BARGAINING AGREEMENTS	5
1-3. MANAGEMENT RIGHTS AND RESPONSIBILITIES	5
1-4. EMPLOYEE AND VOLUNTEER RIGHTS AND RESPONSIBILITIES	6
SECTION II – CITY’S COMMITMENT	
2-1. EQUAL EMPLOYMENT OPPORTUNITY	6
2-2. DISCRIMINATION	7
2-3. DISCRIMINATION AND HARASSMENT PROCEDURES	8
2-4. NEPOTISM	10
2-5. CONFLICT OF INTEREST AND CODE OF ETHICS	11
2-6. PERSONAL RELATIONSHIPS	12
2-7. LEGAL MATTERS	13
2-8. EXTERNAL COMMUNICATION	14
2-9. OUTSIDE EMPLOYMENT	14
2-10. POLITICAL ACTIVITY	14
2-11. FRAUD	15
2-12. REPORTS OF MISCONDUCT OR WRONGDOING	16
2-13. USE OF PUBLIC PROPERTY	16
2-14. REASONABLE ACCOMMODATION POLICY	21
2-15. BREAK FOR EXPRESSING BREAST MILK	23
SECTION III – EMPLOYMENT PROCESS	
3-1. RECRUITMENT	23
3-2. ELIGIBILITY FOR EMPLOYMENT	24
3-3. MINIMUM QUALIFICATIONS	24
3-4. PLACEMENTS WITHIN DEPARTMENTS	24
3-5. POSTING PROCEDURES FOR POSITIONS NOT FILLED THROUGH PLACEMENTS WITHIN THE DEPARTMENT	24
3-6. EXCEPTIONS TO POSTING	25
3-7. APPLICATION FORMS	25
3-8. FILING OF APPLICATIONS	25
3-9. SUBSTITUTIONS	26
3-10. DISQUALIFICATION OF APPLICANTS	26
3-11. ASSESSMENT OF APPLICATIONS	27
3-12. APPLICATION TESTS	27
3-13. APPLICATION INTERVIEWS	28
3-14. HIRING RECOMMENDATIONS	28
3-15. RE-EMPLOYMENT AFTER LAYOFF	29
3-16. CLOSEOUT OF OTHER APPLICANTS	29
3-17. RECRUITMENT FOR UNCLASSIFIED POSITIONS	29
3-18. APPLICANT EXPENSES	29
3-19. BACKGROUND CHECKS	29
SECTION IV – EMPLOYMENT TYPES	
4-1. EMPLOYMENT ELIGIBILITY VERIFICATION	30
4-2. CLASSIFICATION AND UNCLASSIFIED POSITIONS	30
4-3. TYPE OF POSITIONS	30
4-4. POSITION DESIGNATIONS	32
4-5. FAIR LABOR STANDARD ACT (FLSA) COMPLIANCE	32
4-6. PROBATIONARY STATUS	32
4-7. LICENSE/OCCUPATIONAL CERTIFICATION	33
4-8. VOLUNTEER/INTERNS	33
4-9. NEW-EMPLOYEE ORIENTATION	34

SECTION V- CLASSIFICATION AND COMPENSATION

5-1. CLASSIFICATION AND COMPENSATION PLAN	34
5-2. OBJECTIVES FOR THE CLASSIFICATION AND COMPENSATION PLAN	34
5-3. CLASSIFICATION PLAN ADMINISTRATION	35
5-4. POSITION RECLASSIFICATION	35
5-5. NEW JOB CLASSIFICATIONS	36
5-6. JOB EVALUATION CRITERIA	36
5-7. COMPENSATION PLAN UPDATE	36
5-8. COMPENSATION ADMINISTRATION	37
5-9. OVERTIME/COMPENSATORY TIME	38
5-10. ON-CALL DUTY	39
5-11. CALL-BACK PAY	40

SECTION VI – WORK RULES

6-1. WORK HOURS	41
6-2. ABSENCES AND TARDINESS	42
6-3. MEALS AND REST PERIODS	42
6-4. STANDARDS OF CONDUCT	42
6-5. PAY PERIODS	45
6-6. TIME REPORTING	46
6-7. PAYROLL DISBURSEMENTS	46
6-8. OFFICIAL PERSONNEL RECORDS	46
6-9. PUBLIC RECORD INFORMATION	47
6-10. ACCESS TO THE OFFICIAL PERSONNEL FILE	47
6-11. COPIES OF PERSONNEL RECORDS	47
6-12. NEGATIVE OR DEROGATORY INFORMATION	47
6-13. VERIFICATION OF EMPLOYMENT	48
6-14. REFERENCES/RECOMMENDATIONS	48
6-15. PERSONAL APPEARANCE	48
6-16. ELECTRONIC MAIL, COMPUTER AND ONLINE SERVICES USAGE	49
6-17. U.S. MAIL AND TELEPHONE SYSTEMS	50
6-18. BULLETIN BOARDS	51
6-19. PHOTOGRAPHS	51
6-20. CELL-PHONE USAGE	51
6-21. CHILDREN OF EMPLOYEES AT WORK	51
6-22. CITY DRIVER TRAINING	51
6-23. MOTOR-VEHICLE RECORDS CHECKS	52
6-24. LOSS OF DRIVER LICENSE	53
6-25. EMPLOYEE PARKING	55
6-26. IDENTIFICATION BADGES	55
6-27. USE OF TOBACCO PRODUCTS IN AND AROUND CITY PROPERTY	56
6-28. WORKPLACE VIOLENCE	56
6-29. FELONY CONVICTION	58
6-30. DRUG-FREE WORKPLACE	58
6-31. ALCOHOL AND DRUG TESTING	59
6-32. CONTROLLED SUBSTANCES ABUSE AND MISUSE	60
6-33. SUPERVISORY TRAINING COURSES	61

SECTION VII – BENEFITS

7-1. WORKER'S COMPENSATION INSURANCE	62
7-2. MODIFIED DUTY	63
7-3. GROUP INSURANCE COVERAGE	65
7-4. RETIREMENT	65

SECTION VIII – LEAVE

8-1. LEAVE ACCRUAL AND USAGE	66
8-2. LEAVE DEDUCTIONS FOR EXEMPT EMPLOYEES	66
8-3. VACATION LEAVE	66

8-4. SICK LEAVE	68
8-5. FAMILY MEDICAL LEAVE ACT	69
8-6. FAMILY MILITARY LEAVE	73
8-7. FITNESS FOR DUTY	75
8-8. MILITARY LEAVE	76
8-9. CIVIC-DUTY LEAVE	80
8-10. BEREAVEMENT LEAVE	81
8-11. BLOOD DONATION	81
8-12. EMERGENCY VOLUNTEER-SERVICE LEAVE	81
8-13. ADMINISTRATIVE LEAVE DUE TO INCLEMENT WEATHER AND HAZARDOUS CONDITIONS	81
8-14. HOLIDAYS	82
8-15. LEAVE OF ABSENCE	83
8-16. ADMINISTRATIVE LEAVE WITH PAY	83
8-17. DOMESTIC ABUSE LEAVE	84
SECTION IX – PERFORMANCE MANAGEMENT	
9-1. COACHING AND COUNSELING	85
9-2. WORK-PERFORMANCE EVALUATIONS	86
9-3. PERFORMANCE IMPROVEMENT PLAN	87
SECTION X – DISCIPLINE	
10-1. DISCIPLINE SYSTEM	88
10-2. GROUNDS FOR DISCIPLINARY ACTION	88
10-3. TYPES OF DISCIPLINE	89
10-4. DISCIPLINARY MEETINGS	90
10-5. PRE-DETERMINATION PROCESS	90
10-6. GRIEVANCE PROCEDURES	92
10-7. APPEAL OF DEMOTION, SUSPENSION OR TERMINATION	94
10-8. COMPLAINTS AGAINST PERSONNEL	94
SECTION XI - SEPARATION FROM CITY SERVICE	
11-1. TERMINATION OF PROBATIONARY OR UNCLASSIFIED EMPLOYEE	95
11-2. MEDICAL SEPARATION	95
11-3. RESIGNATIONS	95
11-4. EXIT PROCESSING	95
11-5. SEPARATION PAY	96
11-6. ELIGIBILITY FOR REHIRE	96
11-7. REDUCTIONS-IN-FORCE (LAYOFFS)	97
DEFINITIONS	98
ACKNOWLEDGEMENT	102

SECTION I – GENERAL PROVISIONS

1-1. PRIOR POLICIES AND PROCEDURES.

1-2. COLLECTIVE BARGAINING AGREEMENTS.

1-3. MANAGEMENT RIGHTS AND RESPONSIBILITIES.

1-4. EMPLOYEE AND VOLUNTEER RIGHTS AND RESPONSIBILITIES.

The purpose of Section I is to describe the rights and responsibilities of management, employees and volunteers. Mutual commitment to these rights and responsibilities creates a safe, collegial work environment that is essential to providing quality services to the public.

1-1. PRIOR POLICIES AND PROCEDURES.

- A. The Personnel Policy in effect prior to this date, and all amendments and directives thereto, are hereby repealed and superseded.

1-2. COLLECTIVE BARGAINING AGREEMENTS.

A. An employee, where permitted by state law, shall have the right to form, join and participate in the lawful activities of employee organizations of the employee's own choosing.

B. An employee has the right to be free from interference, intimidation, restraint, coercion, discrimination or reprisal on the part of his/her department head, supervisor, other employees or an employee organization, with respect to his/her membership or non-membership in any employee organization or with respect to any lawful activity associated with the meet-and-confer process.

1-3. MANAGEMENT RIGHTS AND RESPONSIBILITIES.

A. Management has the exclusive right to operate, administer and manage its services and the work force performing these services. The City reserves all of the normal and customary rights of management. These rights are not limited or waived by any provision in the Policies and Procedures. Except as limited under law, the exclusive rights and responsibilities of the City shall include, but are not limited to, the following:

1. To determine the priorities and appropriate use of public funds.
2. To determine the organization, mission and structure of the City and its component agencies.
3. To determine the necessity, nature, quantity and quality of services to be offered to the public along with the means of operations, the materials and personnel to be used.
4. To hire, promote, reclassify or transfer employees to serve the needs of the City.
5. To establish and implement standards of recruiting and selecting City personnel and for continuing employment with the City.
6. To communicate job performance expectations to employees and to provide guidance, training, and evaluation as appropriate.
7. To lawfully reprimand, suspend, demote, terminate or take other disciplinary action against employees or volunteers.
8. To relieve employees or volunteers from duties under circumstances involving lack of work, funds, health, violation of policies or safety or welfare of employees or others.
9. To introduce new or improved methods, technology or facilities to serve the needs of the City.
10. To review the City's policies and procedures periodically and modify or discontinue them at any time in accordance with Ordinance 1987-6; to establish and implement policies and procedures consistent with applicable law.
11. To act in the best interest of the City and to protect it from liability by following and enforcing policies and procedures.
12. To take whatever action it deems appropriate to manage an emergency where the health, welfare and/or safety of employees or the public is at risk. The determination of whether an emergency exists is solely within the discretion of the City Manager or Mayor and advise the Chief Procurement Officer as soon as practical after initiating emergency containment procedure as per Section 13-1-127 of the NM Procurement Code.
13. In the event there is no contractual relationship with a City Manager or a City Manager is unable to fulfill his duties to the city, the responsibilities and duties delegated to the City Manager in this policy shall be assumed by the Mayor.

1-4. EMPLOYEE AND VOLUNTEER RIGHTS AND RESPONSIBILITIES.

A. The City strives to provide to every City employee or volunteer/intern a work environment that is free of discriminatory or harassing behavior. Each member of the City has a responsibility to treat others fairly without discrimination or retaliation.

B. Employees have the right to seek guidance through their chain of command, the Human Resources Department, City Attorney or City Manager; and to pursue one's right to file a grievance, appeal, and internal complaint of discrimination or retaliation under City policies, without reprisal.

C. It is the City's goal to respect the dignity and individual privacy of its employees and at the same time maintain a safe and secure workplace. When issues of safety and security arise, employees or volunteer/intern will be instructed to cooperate with an investigation, which may include interviews about other individuals, searches of work areas and possibly polygraph examinations. Failure to cooperate with or providing false information during any investigation may lead to discipline, up to and including termination.

D. Every classified employee who has completed his/her probationary period and volunteer firefighter has the right to be informed of charges against him/her and to be given an opportunity to respond, prior to the imposition of any discipline step, more serious than a written reprimand.

E. Employees have the right to be made aware of job performance expectations and to be provided with the appropriate resources and tools to perform the job.

F. Employees and volunteers have the right to non-disclosure of confidential employee information contained in personnel, medical or other City records. Confidential information includes: date of birth, social security number, performance evaluations, medical and disciplinary records, except as otherwise required by law. See 6-7 Official Personnel Records; 6-8 Public Record Information; 6-9 Access to the Official Personnel File.

G. Employees have the right to review the employee's own personnel file in accordance with 6-7 Official Personnel Records.

SECTION 2- CITY'S COMMITMENT

2-1. EQUAL EMPLOYMENT OPPORTUNITY.

2-2. DISCRIMINATION.

2-3. DISCRIMINATION AND HARASSMENT PROCEDURES.

2-4. NEPOTISM.

2-5. CONFLICT OF INTEREST AND CODE OF ETHICS.

2-6. PERSONAL RELATIONSHIPS.

2-7. LEGAL MATTERS.

2-8. EXTERNAL COMMUNICATION.

2-9. OUTSIDE EMPLOYMENT.

2-10. POLITICAL ACTIVITY.

2-11. FRAUD.

2-12. REPORTS OF MISCONDUCT OR WRONGDOING.

2-13. USE OF PUBLIC PROPERTY.

2-14. REASONABLE ACCOMMODATION POLICY.

2-15. BREAK FOR EXPRESSING BREAST MILK.

The purpose of Section II is to describe City's commitment to a work environment that has the highest ethical standards, as is expected by the public we serve. This includes providing equal employment opportunities; a workplace free of discrimination; avoiding conflicts of interest; and an environment free of retaliation if misconduct is reported.

2-1. EQUAL EMPLOYMENT OPPORTUNITY.

A. The City shall conform to all laws, statues, and regulations concerning equal employment and affirmative action. We strongly encourage women, minorities, individuals with disabilities and veterans to

apply to all job openings. We are an equal opportunity employer and all qualified applicants will receive consideration for employment without regard to race, color, religion, creed, gender, national origin, marital status, disability status, Generic information & Testing, Family & Medical Leave, Sexual Orientation and Gender Identity or Expression, protected veteran status, or any other characteristic protected by law. We prohibit Retaliation against individuals who assist or participate in the investigation of any complaint or otherwise oppose discrimination. Provide equal employment opportunities to all individuals and shall not discriminate against any individual on the basis of race, color, age, religion, sex, sexual orientation, gender identity, national origin, ancestry, physical or mental disability or medical condition, or any other legally protected status. This anti-discrimination policy applies to all phases of the employment process and includes a prohibition of retaliation against anyone who has asserted his/her rights under this policy.

B. All people with disabilities shall be free from discrimination and provided equal opportunity in accordance with the Americans with Disabilities Act (ADA). The City does not discriminate on the basis of disability in employment or in the admission and access to its services, programs or activities. This policy applies equally to employees of the City and members of the general public who access public services through City departments and related agencies except where such is a legitimate occupational barrier.

2-2. DISCRIMINATION.

A. City strictly prohibits any form of unlawful discrimination based on race, color, religion, gender identity, sexual orientation, sex, national origin, age, disability, political affiliation. Improper interference with the ability of the City's employees to perform his/her expected job duties will not be tolerated.

B. The City endeavors to maintain an environment that is free from all forms of discrimination, including harassment and retaliation.

C. Each member of management is responsible for creating an atmosphere free of discrimination, including harassment and retaliation. Further, employees are responsible for respecting the rights of his/her co-workers.

D. Discriminatory practices include:

1. Discrimination on the basis of race, religion, sex, sexual orientation, gender identity, color, ancestry, serious medical condition, national origin, age, and/or disability. Harassment is a form of discrimination.

a. Sexual harassment includes, but is not limited to: requests for sexual favors; unwelcome sexual advances and other non-verbal, verbal or physical conduct of a sexual nature that creates a hostile environment for persons of either gender; sex-oriented verbal kidding, teasing, jokes, comments, display of sexually suggestive objects or pictures; physical contact such as hugging, patting, or brushing up against another's body. (e.g., degrading or offensive comments about women, sexual harassment may occur between members of the same or opposite sex). The City prohibits all forms of sexual harassment.

b. A hostile or abusive work environment is a result of severe or pervasive harassment such that no reasonable person would be expected to endure it. The harassment must have been unwelcome and offensive to the victim and of a nature that would be offensive to a reasonable person in the victim's situation.

i. The definition of hostile environment includes harassment on the basis of race, religion, sex, sexual orientation, gender identity, color, ancestry, serious medical condition, national origin, age, or disability.

ii. Examples of harassing conduct include, but are not limited to:

- 1) Sexual harassment: gender-based jokes or comments;
- 2) Race or national-origin harassment: epithets, slurs, or negative stereotypical comments, jokes or cartoons;
- 3) Age harassment: comments or jokes relating to a person's age.
- 4) Disability harassment: disparaging remarks, slurs or jokes relating to a person's physical or mental disability.

5) Religious harassment: coercion of employee participation in religious activities, verbal attacks or religious slurs.

2. Employment decisions based on stereotypes or assumptions about the abilities, traits, or performance of individuals of a certain sex, race, color, religion, sexual orientation or ethnic group, or individuals with disabilities.

3. Denying employment opportunities to a person because of marriage to, or association with, an individual of a particular race, color, religion, sexual orientation, national origin, or an individual with a disability.

4. Retaliation against an employee who takes one of the following actions: filing a complaint of discrimination, participating in a discrimination investigation, opposing discriminatory practices or exercising any other right under federal anti-discrimination laws. The City will not tolerate retaliation and any violation should be reported immediately.

E. Conduct prohibited by this policy is unacceptable in the workplace and in any work-related setting outside the workplace, such as during City business trips, business meetings, and business-related social events.

2-3. DISCRIMINATION AND HARASSMENT PROCEDURES.

A. The Human Resources Department shall be responsible for formally notifying all employees, Department Heads, Elected Officials and volunteers of the discrimination and harassment policy. The Human Resources Department shall ensure that training on discrimination is periodically conducted, and that all employees and volunteers receive this training. Such training shall be offered to elected and appointed officials.

B. The City Manager, the Human Resources Director, department heads, managers and supervisors are responsible for creating a productive work environment in which discrimination, offensive conduct and harassment are not tolerated. They are responsible for taking immediate and appropriate corrective action in response to any confirmed violation of this policy and for assuring that no retaliation occurs against those who complain or participate in an investigation or oppose discriminatory conduct.

C. An employee or volunteer who feels he/she has been subjected to any harassment or believes that he/she has been treated in an unlawful, discriminatory manner, should report the incident promptly to the supervisor, Department Heads or the Human Resources Department. The complaint will be kept confidential to the extent permitted by law and that is consistent with the need for a complete investigation.

D. All supervisors, managers or department heads who become aware of possible discrimination of any employee, either as a result of having received a complaint directly from the employee or from personal observations, shall immediately report the situation to a Department Head or the Human Resources Director. All non-supervisory employees are strongly encouraged to report possible discrimination of which they become aware to a Department Head or the Human Resources.

E. The individual who receives a complaint of discrimination shall request that the employee complete the City's Internal EEO Complaint Form or shall document the complaint himself or herself if the employee refuses or is unable to complete the form. A copy of the completed Internal EEO Complaint Form shall be provided to the complaining employee and to the Human Resources Department within two (2) calendar days of the employee's complaint.

F. A supervisor who fails to take appropriate action under this policy or otherwise engages in inappropriate conduct will be subject to disciplinary action up to and including termination.

G. All complaints of discrimination received by a member of the Human Resources staff shall be communicated to the Human Resources Director by the close of business of the day the complaint was received.

H. Within 24 hours of being notified of a complaint of discrimination, the Human Resources Director will notify the City Manager and an Internal Affairs Investigator (“investigator” as appointed by Human Resources and approved by the City Manager) that a complaint of discrimination has been made. If in consultation between the Human Resources Director, City Manager and City Attorney, it is determined that the complaint is not a complaint of discrimination, the matter will be referred to Human Resources for appropriate follow up and resolution.

I. The City is committed to investigate each complaint and to take immediate corrective action. The City Manager is responsible for the enforcement of these policies. The Human Resources Department shall provide guidance and assistance during the investigative process. Refusal to cooperate or be truthful in an investigation may result in a disciplinary action up to termination.

J. At no time shall the alleged offender assist in conducting the investigation.

K. The investigator shall thoroughly investigate the complaint and document the investigation. The City Manager shall assure that all complaints are resolved promptly and effectively.

L. The investigation shall begin within five (5) calendar days of the investigator being notified of any discrimination complaint from the Human Resources Department and shall be completed within twenty-one (21) calendar days of the initiation of the investigation. The City must obtain written agreement from the complainant for any extensions beyond twenty-one days of the initiation of the investigation. In cases of complaints alleging harassment or a hostile work environment, the investigation will be expedited so as to be concluded as quickly as practicable to meet the City’s obligation to take prompt and appropriate action under applicable law.

M. The investigator may recommend to the Human Resources Director that the alleged offender be placed on administrative leave pending the outcome of the investigation. When deemed appropriate by the City Manager, the alleged offender shall be placed on administrative leave pending the outcome of the investigation.

N. During the investigation of a complaint, the complainant, witnesses, alleged offender, and persons within the complainant’s and alleged offender’s chain of command shall be reminded by the investigator and/or the Human Resources Director of the City’s prohibition against retaliation.

O. The investigator shall ask the complainant and witnesses not only about the alleged discrimination but also about any efforts by the interviewee to complain about the alleged discrimination and the responses, if any, of those who received such complaint(s). If it is determined that any person with authority to receive such complaint(s) failed to ensure that such complaint(s) were documented and forwarded to the Human Resources Department, that individual shall be subject to appropriate disciplinary action.

P. Within two (2) calendar days of the conclusion of the investigation, the investigator shall forward a report containing the results of the investigation of discrimination to the City Attorney, City Manager, and Human Resources Director, all of whom shall promptly review the report.

Q. Within ten (10) calendar days of receiving the investigator’s report, the Human Resources Director shall issue a written determination to the City Manager on whether a discriminatory or retaliatory practice has occurred. Within the same ten (10) day period, the Human Resources Director shall send a copy of the written determination to the Department Head (or, if the Department Head is the alleged offender, to Management), and the Human Resources Director and Department Head shall confer regarding any disciplinary action recommended by the Department Head. For any employee proposed to be disciplined who is not a member of the collective bargaining unit, if there is a disagreement between the Department Head and Human Resources Director about the imposition of or appropriate level of disciplinary action warranted, the Human Resources Director shall become the sole decision-maker for the purpose of determining the appropriate disciplinary action and the Department Head shall effectuate the disciplinary action. For any employee proposed to be disciplined who is a member of the collective bargaining unit, the Human Resources Director and Department Head shall make a recommendation (or separate recommendations, if they disagree regarding proposed discipline) to the City Manager, who shall be the sole-decision maker for the purpose of determining the appropriate disciplinary action. With respect to a non-bargaining unit employee, the Department Head and the Human Resources Director

shall document the reasons for the disciplinary action. With respect to an employee who is a member of the collective bargaining unit, the City Manager shall document the reasons for the disciplinary action.

R. The offender's Department Head will promptly impose any disciplinary action that was determined to be warranted. If the alleged offender is a Department Head, Management shall promptly impose any disciplinary action that was determined to be warranted.

S. If an investigation is the basis of disciplinary action, the alleged offender will be provided a summary of the investigation. Investigation documentation shall not be photocopied or disseminated beyond the City Attorney's Office, the Human Resources Department or Investigator's Office. Relevant documentation for purposes of any resulting predetermination hearing shall consist of a summary of the findings.

T. No retaliatory action of any kind shall be taken against an employee who has asserted a complaint or who has reported or assisted in the investigation of a complaint of discrimination, including a complaint of harassment.

U. A closure interview shall be conducted with the complainant within ten (10) calendar days of the issuance of the investigative report informing the complainant of the results of the investigation and, where appropriate, that action will be or has been taken. The closure interview will be conducted by the Human Resources Department. The Department Head(s) of the complainant and alleged offender will be informed of the results of the investigation by the Human Resources Department.

V. The Human Resources Department will conduct a follow-up inquiry with the complaining party and participants in the investigation process within thirty (30) calendar days after the Human Resources Department receives the investigation report to ensure that the behavior alleged in the complaint has not reoccurred, and that the complaining party and participants in the investigative process have not experienced retaliation for asserting a complaint, reporting a complaint s/he received or participating in the investigation. This follow-up inquiry will be documented and the documentation maintained within the investigative file.

W. In computing the timelines specified above, if the required deadline falls on a weekend or on a holiday for which the City is closed, the deadline will be the next business day.

X. If after the investigation of any complaint, it is determined that the complaint is not *bona fide* and was not made in good faith or that an employee has provided false information regarding the complaint, disciplinary action may be taken against the individual who filed the complaint or who gave the false information, up to and including termination.

Y. Nothing in this policy precludes an employee from making a report to the State of New Mexico Human Rights Division or the Federal Equal Employment Opportunity Commission at any time.

EEOC El Paso Area Office New Mexico Human Rights Division
300 E. Main Drive, Suite 500 1596 Pacheco Street, Suite 103
El Paso, Texas 79901 Santa Fe, New Mexico 87505
1-800-669-4000 505-827-6838

2-4. NEPOTISM.

A. Members of an employee's immediate family will be considered for employment on the basis of his/her qualifications only. For the purpose of this policy, immediate family includes a spouse, parent, child, stepchild, sibling, in-law, aunt, uncle, niece, nephew, cousin, grandparent, grandchild, members of a household or domestic partners.

B. Immediate family members may not be hired, assigned, transferred or promoted if by doing so it would create a supervisor/subordinate relationship with another family member;

1. The term "supervisor/subordinate relationship" is broader than the immediate supervisor. An employee cannot work for a family member at any level in the same line of authority.

Adopted: 2/2/16

2. Employees who become immediate family members after employment with the City shall inform the Human Resources Department within ten (10) calendar days. Failure to inform Human Resources may result in discipline up to and including termination.

3. Employees who become immediate family members, up to and including the third level of consanguinity, as a result of marriage or domestic partnership, may continue employment as long as it does not involve any of the conditions outlined in this Section.

4. In the event an employee becomes an immediate family member as defined herein that involves any of the conditions outlined in this Section, the City will make reasonable efforts to assign job duties so as to minimize problems of supervision. If this is not feasible, attempts will be made to find a suitable vacant position to which one of the employees will be transferred provided the employee is qualified for that position. If no suitable vacancies exist, the employees involved will be permitted to determine which of them will resign. If the employees cannot make a decision, the City Manager will have sole discretion to decide which employee will remain employed.

2-5. CONFLICT OF INTEREST AND CODE OF ETHICS.

A. Conflict of Interest and Ethical Principles.

1. The City defines "conflict of interest" as a business activity or relationship with another organization or person, which may compromise employee or volunteer loyalty to the City or which may create the appearance of an impropriety.

2. All Elected Officials, political appointees, employees or volunteers shall comply with the New Mexico statutes and City rules that regulate the conduct of governmental employees and officials. Disclosure and/or disqualification from taking official action are required in the event of a real or potential conflict of interest. A Conflict of Interest form shall be submitted annually to report any potential conflicts.

3. An Elected Official, political appointee, employee or volunteer shall not seek or accept any reward, gift, service, favor, employment, engagement or economic opportunity in excess of \$25. Modest refreshments are the limited exclusion.

4. An Elected Official, political appointee, employee or volunteer shall not use his/her position with the City to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself/herself, any member of his/her household, any business entity in which he/she has a monetary interest, or any other person.

5. An Elected Official, political appointee, employee or volunteer shall not participate as an agent of government in the negotiation or execution of a contract between the City and any private business in which he/she has a significant monetary interest.

6. An Elected Official, political appointee, employee or volunteer shall not accept any salary, retainer, augmentation, expense allowance, or other compensation from any private source for the performance of his/her duties as an official or employee.

7. An Elected Official, political appointee, employee or volunteer shall not perform services which may jeopardize the interest of the City, or otherwise detract from the employee's ability to perform his/her duties and responsibilities.

8. If an Elected Official, political appointee, employee or volunteer acquires, through his/her public duties or relationships, any information which by law or practice is not at the time available to people generally, he/she shall not use the information to further the monetary interests of himself/herself or any other person or business entity unless it is subject to public disclosure, necessary to conduct city business, or to prevent death or serious bodily injury or substantial property loss.

9. An Elected Official, political appointee, employee or volunteer shall not suppress any governmental report or other document because it might tend to affect his/her personal or monetary interests.

10. An Elected Official, political appointee, employee or volunteer shall not use governmental time, property (including monies or funds), assets (including personnel) equipment, or other facility whether tangible or intangible for illegal purposes or to benefit his/her personal gain or financial interests or post any personal or commercial notice on city premises without first obtaining written approval of the department heads where the posting will be made.

11. An Elected Official, political appointee, or employee or volunteer shall not attempt to benefit his/her personal or financial interests through the influence of a subordinate.

12. An Elected Official, political appointee, employee or volunteer shall not seek other employment or contracts through the use of his/her official position.

13. An Elected Official, political appointee, employee or volunteer shall not, in any manner, directly or indirectly, receive any commission, personal profit, or compensation of any kind resulting from any contract or other transaction that is adverse to the interest of the City.

14. Elected officials and supervisors shall not ask subordinates to perform duties that fall outside the employee's scope of employment duties for the City, or that provide a direct or indirect personal benefit to the supervisor, their respective families or business associates.

15. Violations of the above may result in an elected official or appointee's censure or an employee or volunteer's discipline, up to and including termination of employment.

16. Elected Officials, political appointees, employees and volunteers are also governed by the separate Code of Conduct adopted by the Governing Body and violations may result in an elected official or appointee's censure or an employee or volunteer's discipline, up to and including termination of employment.

17. Department head, Elected Official, political appointee or supervisor shall not hire, nor give preferential treatment to, nor direct the hiring or giving of preferential treatment to, any relative, friend or other person.

18. Employee shall not commit any dishonest or derogatory act against the City, including but not limited to falsifying any document, record or report.

B. Duty to complete an annual Conflict of Interest Disclosure form. City elected officials, employees and volunteers shall report any real, apparent or potential conflict of interest or commitment to their supervisors. The primary means of doing this is through the completion of the Conflict of Interest Disclosure form upon hire and on an annual basis, with disclosure updates submitted on the basis of changes in circumstance. Completed disclosure forms will be reviewed by the employee's department head that will make recommendations and submitted for approval to the City Manager. Maintenance of the form is the responsibility of the Internal Auditor's office.

C. Duty to Report Suspected Ethical Violations. See 2-12. Reports of Misconduct or Wrongdoing.

D. Freedom from Retaliation. See 2-12. Reports of Misconduct or Wrongdoing.

2-6. PERSONAL RELATIONSHIPS.

A. A personal relationship is defined as a consensual, mutually acceptable relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. The City reserves the right to take prompt action if an actual or potential conflict of interest arises concerning individuals who occupy positions at any level in the same line of authority that may affect employment decisions. Supervisors are prohibited from dating subordinates and may be disciplined for such actions, up to and including termination of employment.

B. Interpersonal relationships within the working environment shall be professional at all times. Personal, familial or romantic involvement on the part of an employee with an outside provider of goods or services, or with another employee of the City, may create a potential conflict of interest. Those relationships that impair an employee's ability to exercise good judgment in the performance of his/her duties for the City are discouraged and may be cause for discipline up to and including termination of employment.

C. In the event that a supervisor becomes aware of a conflict of interest, created by a consensual relationship, the supervisor shall investigate and take appropriate action pursuant to this policy and section 10-2 Disciplinary Action.

2-7. LEGAL MATTERS.

A. Notification. Legal matters include but are not limited to lawsuits, settlement conferences, administrative and court hearings, and arbitration or mediation proceedings. Employees shall notify supervisors of legal matters that arise in the course of the City's operations, and supervisors shall inform the City Manager of any legal matters that may affect the City.

B. Deadlines. Notification of deadlines is critical. Employees and supervisors shall be sensitive to and comply with any deadlines related to each individual case or hearing and shall promptly notify the City Manager sufficiently in advance of any deadline for the Legal department to take whatever action is appropriate under the circumstances.

C. Communication with External Parties. The City makes every effort to communicate in a full and timely manner regarding its legal business. However, City legal matters sometimes require the City to control the flow of information among City employees, as well as between City employees and external parties. Examples of external parties who might want to communicate with City employees about legal matters include attorneys who are not employed by the City either in the City Legal office or as "outside counsel"; administrators or officials of other governmental agencies; the press or news media; and external investigators.

1. Reporting- All communications between employees and external parties pertaining to legal matters shall be reported to the City Manager.

2. Consultation—Employees, supervisors, managers and officials should not speak with external parties about legal matters without first consulting with the City Manager. See 2-8 External Communication

3. Deferring Communication- If a City employee is contacted by an external party regarding a matter that may involve or raise a legal concern, the employee may ask for the person's name, who the person represents, what the person wants and a phone number to call back with the information. Then, the employee should notify the employee's supervisor who can notify the City Manager. See 2-8 External Communication

D. Legal Process. Under no circumstances shall an employee respond to a subpoena, summons or deposition notice that involves or may affect the City without advising the employee's supervisor and making sure that the City Manager is notified. See 2-8 External Communication

E. Media Communications. See 2-8 External Communication

F. Employee Cooperation in Litigation.

1. From time to time employees are named individually in lawsuits either in their official or individual capacities. Usually, the City is defended by lawyers assigned by the City's Risk Management. When an employee is named as a party defendant in addition to the City, depending on the lawyer assigned and the facts of the case, the individual employee's involvement in a case may vary depending on the lawyer assigned and the facts of the case.

2. Therefore, if an employee is involved in a lawsuit against the City as a named defendant, or through involvement in the incident giving rise to the lawsuit, it is vital that the employee immediately inform assigned counsel, or the City manager of any changes in the employee's whereabouts and contact information.

3. Employees who are named as defendants in a lawsuit may only discuss the case with the attorney(s) representing the City; direct communication with opposing counsel may only be made through and with the assistance of the attorney(s) assigned to defend the City.

4. In the event an employee, who is not named as a party to a lawsuit is contacted by anyone, including an attorney or an investigator or other person gathering facts relating to an incident which may relate to existing or future litigation, the employee shall notify the City Manager, preferably prior to speaking with them, in order to ensure that the City is aware of the matter and that confidential information is protected. Management is expressly directed to not speak with opposing counsel or employees of opposing counsel about pending or threatened litigation.

2-8. EXTERNAL COMMUNICATION.

A. Media Relations.

1. Statements to the public on behalf of the City are to be made only by the City's designated information officer, the Mayor or the City Manager. City employees shall direct media inquiries to the City Manager. The City Manager and/or Mayor may authorize others, verbally or in writing, to speak on behalf of the City, only in limited circumstance.

2. No City employee will make a public statement on any matter involving litigation or personnel matters without expressed authorization from the City Manager.

3. Media access to non-public work areas of City facilities shall be coordinated through the Mayor, the City Manager or his/her designee.

B. Regulatory Agency Communication.

1. Communications with any and all regulatory agencies having oversight over City must come only from City personnel for whom the City Manager has given authority to engage in such communication.

2-9. OUTSIDE EMPLOYMENT.

A. If an employee obtains outside employment, he/she shall update the Conflict of Interest disclosure form. Outside employment cannot interfere with City work, including required overtime, standby and on-call status.

B. No outside employment shall be conducted on City premises or using City equipment, materials, supplies or resources.

C. Employees are prohibited from engaging in any outside employment activities that may damage or reflect negatively upon the City's image or members of its workforce; that may interfere with any employee's ability to work for the City in a safe, productive, or efficient manner; that are illegal; or that may be adverse to any official activity or project of the City.

D. City employees shall be prohibited from engaging in outside employment as independent contractors of the City. This prohibition shall not apply to a contract for employment as a City employee. Former employees and City retirees may not be hired as independent contractors for at least one (1) full year after separation from employment.

2-10. POLITICAL ACTIVITY.

A. Employees shall not engage in political activity of any kind during work hours. Prohibited activity includes, but is not limited to, soliciting money, influence, service, or any other valuable thing to aid, promote, or defeat any political committee or the nomination or election of any person to public office while on the job.

B. No person shall directly or indirectly attempt to coerce, command, or require a person holding or applying for any position, office, or employment with the employer to influence or to give money, service, or other valuable thing to aid, promote, or defeat any political committee, organization, or agency, or aid, promote, or defeat the nomination or election of any person to public office.

C. An employee shall not campaign on City property, on City time, or with City resources for any candidate or issue on the public ballot.

D. An employee of the City is subject to the Hatch Act if, as a normal and foreseeable incident of his/her principal position or job, he/she performs duties in connection with an activity financed in whole or in part by Federal funds.

E. Employees shall not wear or display apparel, buttons, insignia, or other items at work, which advocate for or against a political candidate or a political cause on city property or city time.

F. Employees shall not distribute fliers, emails or other materials endorsing or discrediting any political candidate while on City time or property or by utilizing City resources.

G. Any employee running for any elected position that is not municipal shall take accrued vacation leave or leave of absence without pay for a period of fourteen (14) calendar days before and the day of the applicable primary and/or general election.

2-11. FRAUD.

A. The elected officials, management, City employees, volunteers and interns share responsibility for maintaining a fair, honest and ethical business environment. Elected officials are considered employees for the purpose of this policy

B. Supervisors and managers have a responsibility to prevent fraud by initiating appropriate preventative measures, implementing the necessary internal controls and initiating investigations by promptly reporting allegations of fraud to the City Manager, or Mayor.

C. All employees shall avoid fraud (defined below) and are expected to report possible fraudulent activity or any internal or external practices that may allow for or facilitate fraudulent activity.

D. The City has a "zero tolerance" policy regarding fraud. This includes the individual(s) committing fraud and those with knowledge of a fraudulent act who did not report the act in accordance with this policy.

E. Reports can be made to the employee's supervisor, the Human Resources Department, or through the City's Audit Hotline when established. See 2-12 Reports of Misconduct or Wrongdoing.

F. Any violation(s) of this policy may result in disciplinary action up to and including termination.

G. No individual will be retaliated against for reporting fraud, or for cooperating, giving testimony, or participating in a fraud investigation, proceeding or hearing.

H. Fraud includes but is not limited to the following:

1. Falsifying any document or electronic data. Falsifying includes but is not limited to forgery, alteration, providing false or incomplete information. Document and electronic data include but are not limited to documents or data related to time entry, leave entry, job applications, job performance, permitting or approval of any City monitored activities, or procurement.

2. Forgery or alteration of a check, bank draft, any other financial document or electronic data representing funds belonging to the City.

3. Misappropriation of or impropriety in the handling or reporting of money or financial transactions involving the City and any other entity.

4. Making false or incomplete representations that cause or contribute to the City's taking action that it otherwise would not have taken or to the City's foregoing an act that it otherwise would have taken if true or complete information had been provided.

5. Embezzlement, larceny, or any other misapplications of City funds.

6. Any official misconduct involving the misapplication or misuse of City funds and property.

2-12. REPORTS OF MISCONDUCT OR WRONGDOING.

A. It is the City's intent to comply with all applicable laws. All managers, supervisors, employees and volunteers/interns are expected to report any suspected misconduct or wrongdoing by contacting the Director of Human Resources, the Mayor or the City Manager. Employees shall report suspected illegal conduct in person or by voicemail, e-mail, or the telephone hot line, if available.

B. All reports of wrongdoing will be investigated and prompt corrective action will be taken, as appropriate. To the extent possible, information provided by the reporting employee will be treated as confidential, and will be provided only to those who have the need for the information. False information provided in the course of the investigation may lead to discipline, up to and including termination.

C. Freedom from Retaliation. Confidentiality about individuals reporting suspected violations of ethical standards will be maintained, within the circle of individuals with a need to know under applicable City policies. All employees and volunteers/interns that voice concerns or participate in an investigation into reported concerns shall be free from retaliation. Employees who engage in any form of retaliation action against an employee who reported suspected ethical misconduct or participate/cooperate with any investigation arising from a report of suspected ethical misconduct shall be subject to discipline, up to and including termination of employment.

2-13. USE OF PUBLIC PROPERTY.

A. No employee shall request, use or permit the use of City-owned vehicles, clothing, equipment, materials, or other property for unauthorized personal convenience, for profit, for private use, or as part of secondary employment. Use of City property is to be restricted to the conduct of official City business.

B. Any employee of the City found responsible for damage to or loss of City property through negligence or abuse shall be subject to disciplinary action and may be required to reimburse the City for such damage or loss. No City equipment, materials or supplies shall be removed from its location without the approval of the Department Head, Mayor or City Manager.

C. Clothing Purchases: the City shall not expend funds on any clothing items for employees unless the items are deemed necessary to conduct City business. This policy applies to all departments that report to the City Manager. Departments with elected heads are encouraged to follow this policy in the interest of administrative uniformity.

1. Definitions.

a. "Clothing" means shirts, trousers, skirts, jackets, coats, hats or caps, and footwear that are not considered to be either uniforms (as defined immediately below) or personal protective equipment as described in the City Personal Protective Equipment Policy.

b. "Uniforms" means shirts, trousers, skirts, jackets, coats, hats or caps, and footwear that have an identical appearance and for which employees have been formally directed to wear during work hours by their department.

2. Guidelines.

a. No City funds may be expended on the purchase, alteration, or laundering of any article of clothing except as specified in b. iii below.

b. Departments that require their employees to wear uniforms must obtain prior approval of the City Manager. The following information must be submitted when seeking approval:

i. Description of the "uniform" and any variations.

ii. Reason(s) why a uniform is needed by the department to conduct City business.

iii. Total annual cost projected to purchase, alter, and launder each uniform item.

iv. Description of policies and procedures the department will use to issue, inspect, inventory, alter, replace and dispose of uniform items.

v. A list of all job classification in the department that will be required to wear uniforms.

vi. A projected inventory of all uniform items proposed for use.

3. Departments must obtain the approval of the City Manager before imposing or modifying any uniform requirements on employees.

4. When reviewing requests to impose or modify the use of uniforms, the City Manager shall ensure that uniforms are necessary, promote a professional image of the City, are consistent in style with other uniforms used by the City and are a value to the taxpayer. Uniforms and protective clothing provided by the City to employees shall be worn while performing official City duties and, except in the performance of official duties shall not be worn in bars, liquor establishments, or places of public entertainment.

D. Authorized personal uses of equipment include taking a City vehicle to lunch when going to and from meetings or when working in the field on workdays, and other nominal personal uses as permitted by the City Manager on a case-by-case basis.

E. Use of City Vehicles. This policy establishes the conditions and limitations for using City vehicles. It also describes the requirements for users of City vehicle and when private vehicles can be used on City business.

1. Authorized Drivers. City vehicles may only be driven by City employees, elected officials, volunteers and others approved by department heads who:

a. Meet the requirements for Users of City Vehicles in H below,

b. Have a business need to use a vehicle, and

c. Have reviewed this policy and agree to abide by it.

2. Approved Uses for City Vehicles.

a. City employees, elected officials, volunteers and others, hereafter referred to as public servants, may only use a City vehicle for business use. Business use is defined as operating a vehicle as part of a City activity or going to or returning

from a place, by a direct route, where City business occurs. Incidental non-business stops along the way to or from City business are acceptable as long as there is no material deviation from the direct route.

i. Generally, City vehicles shall be locked and left at the public servant's primary work location when not being used for business.

ii. City vehicles that cannot be left at a work for safety or security reasons shall be parked at the nearest secure government facility to the public servant's work location.

b. While at a work location or on a business trip, City vehicles may be used to take care of necessary personal needs such as dining. Care should be taken to avoid parking a vehicle at any location that may result in public criticism.

c. City vehicles for Police, Fire and Public Works are approved for take home only when one or more of the conditions below are met:

i. For those infrequent occasions where the public servant is departing directly to, or returning home from, a work assignment outside of normal business hours.

ii. The public servant frequently does not report first to a routine work location but goes directly to a field work site and is approved in advance and in writing by the City Manager or designee.

iii. The public servant is off duty but "on call", operates a service or initial response vehicle and may have to go back to work after normal working hours.

3. Each department shall submit a written report to the City Manager each July listing the names, titles, vehicle makes and models and reasons for each public servant having a take home vehicle.

4. Vehicles at the home of public servants shall not be moved except to conduct City business. Use of City vehicles for personal business, i.e. to run errands, go shopping or go to dinner, is especially prohibited without the City Manager or designee's approval in advance or in writing.

5. Insurance coverage for City vehicles applies only where the usual use is within the scope of this policy. Public servants who use vehicles outside the scope of this policy may be personally responsible for any claims or damage arising from the accident.

F. Passengers in City Vehicles.

1. Only business passengers may ride in City vehicles. Business passengers include those who are traveling in City vehicles for purposes of work that involves the City. Citizens participating in departmental approved ride-along programs are considered business passengers. Transporting citizens for humanitarian reasons are considered business passengers.

2. Transporting family, friends or others who do not meet the above criteria in City vehicles is prohibited. Public servants who wish to take others on City approved trips where the person does not meet the definitions in above should request approval to use their personal vehicle and seek reimbursement from the City if funds are available.

G. Use of Personal Vehicles on City Business.

1. Whenever possible, City vehicles should be used for routine City business rather than using personal vehicles.

2. Public servants using personal vehicles for work:

a. are expected to show proof of liability insurance on the personal vehicle as requested by the supervisor;

b. shall notify the public servant's insurance company of the business use of the public servant's vehicle if required by the public servant's insurance company;

c. Shall be reimbursed actual mileage according to current City policy upon submission of proper documentation;

d. may claim parking and tolls in addition to standard mileage rates;

e. shall record beginning and ending odometer readings for all business mileage claimed;

f. shall be responsible for any damage to the public servant's vehicle during business use unless the personal vehicle was being used because no City vehicle was reasonably available and the employee would have been eligible to use a City vehicle under this policy;

g. are hereby on notice that the employee's personal liability insurance will be the primary insurance in the event of an accident.

H. Requirements for Users of City Vehicles.

1. Users of City vehicles:

a. shall maintain a valid driver's license and show the license to supervisors upon request;

b. shall comply with applicable state and local traffic laws;

c. shall obtain permission from their supervisor or department head to use a City vehicle;

d. shall conduct and record a pre-trip safety inspection on forms provided by the user's supervisor. Any safety problems noticed shall be reported immediately to the user's supervisor or the fleet manager;

e. shall maintain a daily log that records who used the vehicle, the purpose of the trip, the date of use and the mileage. Logs shall be turned into management as requested;

f. will have their driving record periodically checked, and such record must be acceptable as a condition for further vehicle use. Failure to disclose license suspension or revocation shall result in disciplinary action;

g. shall not use, or be under the influence of alcohol or illegal drugs, or have alcoholic beverages in City vehicles. Vehicle users shall not use tobacco products in City vehicles. Additionally, public servants shall report any use of prescription drugs or any medication that will impair their ability to safely operate a vehicle;

h. shall notify their supervisor before operating a City vehicle of any condition that changes their legal or physical ability to operate a vehicle;

i. are responsible for any fines and tickets they receive in City vehicles that are due to the manner in which the vehicle was operated; and

j. shall be required to attend defensive driving training within the last 24 months as a condition of vehicle use.

2. In addition to the above requirements, users who drive as an essential part of their job must meet and maintain all driver approval standards for their position, including CDL if applicable.

3. Use of cell phones while driving a City vehicle is prohibited.

K. Accidents or Incidents.

1. Upon any accident or incident involving a City vehicle or personal vehicle on City business, public servants shall:

a. report the accident or incident immediately to the public servant's supervisor;

b. fully complete a City Auto Accident Report form;

c. obtain any police report, accident report or incident report that may be generated; and

d. submit to a post-accident drug and alcohol test if required by law or City policy. See 6-32 Controlled Substances Abuse and Misuse

L. Renting a Vehicle on City Business.

1. When renting a vehicle on City business, public servants shall:

a. use the current City contract if one exists;

b. rent the vehicle in the name of the City if the car rental agency will allow;

c. decline all non-mandatory insurance; and

d. refill the vehicle with fuel prior to returning it to the rental agency, if possible.

M. Violations.

1. All allegations of violations of this policy shall be investigated.

2. Findings of violations of this policy may result in suspension of the privilege to use City vehicles or to drive for the City or more severe discipline up to and including termination.

3. With the exception of specially equipped services vehicles, any vehicle taken home by a City employee shall be considered a form of compensation. The assignment of a take-home vehicle must be approved in advance by the department head and City Manager, and shall be reported by the Finance Department (Payroll) to tax authorities as required by the Internal Revenue Code.

4. No employee will affix bumper stickers or other items of display on a City vehicle without prior approval of the City Manager.

5. Department Heads shall at all times maintain records pertaining to equipment within their department. Such records must document purpose, duration of use and department head's approval.

2-14. REASONABLE ACCOMMODATION POLICY.

A. The City is committed to the fair and equal employment of qualified persons with disabilities. While many individuals with disabilities can apply for and perform jobs without accommodation, workplace barriers may keep others from entering and performing jobs without reasonable accommodation. It is the policy of the City to reasonably accommodate qualified individuals with disabilities unless the accommodation would impose an undue hardship.

B. A person with a disability, or his/her designee, may start the process by making a written request for a reasonable accommodation to his/her supervisor, a supervisor or manager in his/her immediate chain of command or the Human Resources Department. This policy does not require people with disabilities to use particular words in their request; nor does it require the person with the disability to submit a written form.

1. First-line supervisors are authorized to consider and approve requests for reasonable accommodation whenever the request is straightforward and clearly fall within existing City policy. Typically, this will include requests such as for assistive software; simple modifications to desks, chairs, computer screens or keyboards; or amplifiers for phones. However, requests involving exceptions to City policies such as to Section VI Work Rules must include participation of the City management. Supervisors must keep confidential all information related to any request for reasonable accommodation.

2. The supervisor will engage in an interactive discussion with the employee requesting a reasonable accommodation and will document this discussion on the Reasonable Accommodation Request Form. The supervisor will forward the completed Reasonable Accommodation Request Form to the Human Resources Department. The Human Resources Department will be available to provide technical assistance at all points in the process.

3. If the front-line supervisor is unable to make a definitive decision, for whatever reason, about providing the accommodation, he/she shall forward a written request for accommodation along with his/her recommendation to the Human Resources Department within five (5) work days following the employee's request.

4. If the Human Resources Department is unable to make a definitive decision after receipt of all supporting documentation from the employee and/or physician, the Human Resources will forward a written request, along with a recommendation to the City Manager within five (5) working days from the date the supporting documentation has been received.

5. The City Manager will provide a decision in writing to the Human Resources Department and employee within five (5) work days.

C. The determination of whether an ADA disability is present will be made by the Human Resources Director on a case-by-case basis.

1. The City is entitled to know that an individual has a disability as defined in the ADA as amended that requires a reasonable accommodation and may request appropriate medical information.

2. The City may also request supplemental documentation when the information already submitted is insufficient to determine eligibility as a disability and/or the functional limitations it causes. Failure to provide necessary documentation where it has been properly requested could result in a denial of reasonable accommodation.

3. When medical information is requested and received, the information will not be kept in employee personnel files, and will only be disclosed on a strict need-to-know basis to individuals directly involved in determining whether to grant the reasonable accommodation.

D. Reassignment is a form of reasonable accommodation for an employee who, because of a disability, can no longer perform the essential functions of the position he/she holds, with or without

reasonable accommodation. Reassignment consideration will occur only after no effective accommodations that would enable the employee to perform the essential functions of his/her current job are identified, or if accommodations would impose an undue hardship. Reassignment is available only to employees, not to applicants.

1. Reassignments are made only to a vacant position for which the employee is qualified. An employee will be qualified if he/she (1) satisfies the requisite skill, experience, education, and other job-related requirements of the position, and (2) can perform the essential functions of the position with or without reasonable accommodation.

2. If reassignment is determined to be the appropriate accommodation, the Human Resources Department shall first look for an equivalent vacant position in the City, equivalent to the one presently held by the employee in terms of pay and other job status.

3. If the employee is not qualified, with or without reasonable accommodation, for an equivalent vacant position (or a position the City knows will become vacant within a reasonable period of time) or no equivalent vacant position exists, the City may reassign the individual as a reasonable accommodation to a lower-grade vacant position for which the employee is qualified. If this occurs, the City is not required to maintain the individual's salary at the previous level.

4. The City is not required to create a new job or to bump another employee from a job in order to provide reassignment as a reasonable accommodation.

5. If no reasonable accommodation can be made, the employee will be dismissed without prejudice.

E. Regarding Applicants: The Human Resources Department shall post and notify all applicants for employment of this accommodation policy and shall make this policy available in alternative formats upon request.

1. When a request for accommodation is received from an applicant, the Human Resources Director will discuss the needed accommodation and discuss possible alternatives with the applicant. The Human Resources Director is entitled to know that an individual has a covered disability that requires a reasonable accommodation and may request medical information about the disability.

2. The Human Resources Director will make a decision regarding the request for accommodation and, if approved, take the necessary steps to see that the accommodation is provided.

3. If the accommodation is not approved, the Human Resources Director will inform the applicant the reason for denial, in writing, within three (3) work days of the decision.

F. Funding for accommodations will be provided by the Department for accommodations which do not cause an undue hardship.

1. Any department concluding a requested accommodation would result in an undue hardship for the department shall meet with the Human Resources Director to discuss the requested accommodation.

2. If the Human Resources Director determines the accommodation would impose an undue hardship, the Human Resources Director will forward an undue hardship analysis and recommendation to the City Manager within five (5) work days following receipt of the request.

3. The City Manager will provide a decision in writing to the Human Resources Director, supervisor, and employee/applicant within five (5) work days.

4. If the City concludes that the cost of an accommodation would impose an undue hardship and no funding is available from another source, an applicant or employee with a disability must be offered the option of paying for the portion of the costs that constitutes an undue hardship, or of providing the accommodation.

G. Applicants or employees who believe they have a grievance under the ADA are encouraged to use the City's discrimination policy as outlined in Section 2-3 Discrimination and Harassment Procedures.

H. Nothing in this procedure prevents any individual who believes he/she has a grievance under the ADA from taking other action to seek resolution.

2-15. BREAK FOR EXPRESSING BREAST MILK.

A. In order to foster the ability of a nursing mother who is an employee to express breast milk in the workplace, the City will provide a space for expressing breast milk that is clean and private; near the employee's workspace and not a bathroom; and flexible break times. The City is not responsible or liable for storage or refrigeration of breast milk; payment for a nursing mother's break time in addition to established employee breaks; or payment of overtime while a nursing mother is expressing breast milk.

SECTION III – EMPLOYMENT PROCESS

3-1. RECRUITMENT.

3-2. ELIGIBILITY FOR EMPLOYMENT.

3-3. MINIMUM QUALIFICATIONS.

3-4. PLACEMENTS WITHIN THE DEPARTMENT.

3-5. POSTING PROCEDURES FOR POSITIONS NOT FILLED THROUGH PLACEMENTS WITHIN THE DEPARTMENT.

3-6. EXCEPTIONS TO POSTING.

3-7. APPLICATION FORMS.

3-8. FILING OF APPLICATIONS.

3-9. SUBSTITUTIONS.

3-10. DISQUALIFICATION OF APPLICANTS.

3-11. ASSESSMENT OF APPLICATIONS.

3-12. APPLICANT TESTS.

3-13. APPLICANT INTERVIEWS.

3-14. HIRING RECOMMENDATIONS.

3-15. RE-EMPLOYMENT AFTER LAYOFF.

3-16. CLOSEOUT OF OTHER APPLICANTS.

3-17. RECRUITMENT FOR UNCLASSIFIED POSITIONS.

3-18. APPLICANT EXPENSES.

3-19. BACKGROUND CHECKS.

The purpose of Section III is to clarify the policies and procedures that apply when filling a position, in order to ensure fair and non-discriminatory hiring practices. It is also to establish a process by which the City may best ascertain whether prospective employees are qualified to perform the duties and responsibilities of the position.

3-1. RECRUITMENT.

A. Recruitment efforts shall be planned and carried out in a manner that assures open competition based on merit principles. Development and implementation of recruitment plans shall be a cooperative venture between departments and the Human Resources Department and shall be based on projected workforce needs and labor market conditions.

B. The City strives to recruit and select the best-qualified applicants for all positions and to ensure an equal employment opportunity for all applicants. Any qualified applicant shall have the opportunity to compete for available positions without regard to race, color, religion, national origin, ancestry, gender,

age, gender identity, sexual orientation, mental or physical disability or medical condition or other legally protected status.

C. Vacancies may be filled by transfer, promotion, demotion, re-employment, or other selection process established for filling each particular vacancy. This process applies to all full-time and part-time classified or grant funded positions that are budgeted to work 20 hours or more per week.

3-2. ELIGIBILITY FOR EMPLOYMENT.

A. All applicants for City employment must present evidence that they are eligible to be employed in the United States.

B. To be eligible for promotion or transfer, an employee must be in good standing and have an acceptable overall work record. The City Manager may approve a promotion or transfer for an employee who has not completed the probationary period upon the recommendation of the department head.

C. Pass a background check.

D. Provide a valid clear driving record from their state of residency if the position requires a driver license.

3-3. MINIMUM QUALIFICATIONS.

A. Minimum qualifications state the threshold education and work experience required in order for an individual to be given consideration for selection to a position. Minimum qualifications, including whether or not equivalents will be accepted, may be specified on the official position posting. Job qualifications shall not be changed after the job announcement is posted. Hiring departments wishing to rescind postings without selecting a candidate will need approval from Human Resources unless the position funding has been eliminated.

3-4. PLACEMENTS WITHIN THE DEPARTMENT.

A. When a vacancy occurs, the Department head, with the approval of the Human Resources Director, may choose to fill the position by an internal promotion or transfer. When the Department head chooses to fill the position by an internal promotion or transfer, the Department head shall:

1. Post the position within the department for five (5) workdays.
2. Conduct interviews and any applicable testing with any department employee who meets the minimum qualifications and has applied for the vacant position.
3. Select the employee who best meets the requirements of the position.
4. Notify department employees of the hiring decision.

3-5. POSTING PROCEDURES FOR POSITIONS NOT FILLED THROUGH PLACEMENTS WITHIN THE DEPARTMENT.

A. All vacancy announcements will remain open for a minimum of five (5) work days. Postings may end on a specific date or may allow acceptance of applications until filled. The Human Resources Director may rescind or extend a posting at any time.

B. The City may choose to recruit internally or externally to obtain qualified applicants.

C. For internal-only recruitment, vacancy announcements will announced through City email and will include a statement that the position is open to City employees only. For those departments with employees who do not have Internet access, the department is responsible for downloading position announcements and posting them on the department's bulletin board(s).

D. External recruiting efforts are directed at local residents and include area newspapers, job centers, social media or the City website. Specialized and more senior jobs may require a broader recruiting market to identify qualified candidates.

E. The Department head and the Human Resources Director or designee will define the appropriate recruitment market at the beginning of the recruitment and may modify this market definition as the recruitment proceeds. They will also determine the scope of the advertising and the publications to be used.

F. The Department head will submit to the Human Resources Department a completed Position Recruitment Form, to authorize the recruitment process.

3-6. EXCEPTIONS TO POSTING.

A. There are situations in which the Human Resources Director may choose not to post a position vacancy. These situations may include:

1. A vacancy filled through the re-assignment of a current employee to another position on a temporary basis.
2. A vacancy filled through the reassignment of an employee in accordance with the Americans with Disabilities Act.
3. An employee transferred into an existing vacancy to best serve the needs of the City with the approval of the City Manager.
4. A vacancy filled by the recall of a previously laid off or a soon-to-be laid off, qualified City employee.
5. A vacancy filled through the disciplinary demotion of an employee.
6. A vacancy in a temporary or other unclassified position.
7. A vacancy filled through utilization of an eligibility list developed in accordance with Policy 3-1. Recruitment.
8. When a vacancy becomes available due to FMLA.
9. When a vacancy becomes available because of military leave not to exceed 130 days.

3-7. APPLICATION FORMS.

A. The Human Resources Department shall develop and maintain an application form which requests relevant employment information in accordance with Federal and State laws, regulations and guidelines. The form may be amended or updated, as needed, with the approval of the Human Resources Director.

3-8. FILING OF APPLICATIONS.

A. Applications will be required for candidates applying for any vacant position. Applications will be accepted for a posted vacancy until close of business of the closing date, unless other procedures are published.

B. Letter of interest and resume may be attached to accompany the application but will not be accepted in lieu of the application. See 3-10 A. 1.

C. A separate application form must be submitted for each position.

D. For specific positions, as stated on the position posting, evidence of training, licenses or certifications shall be submitted either with the application or before the closing date on the announcement.

Adopted: 2/2/16

E. Submitted applications, along with supplemental documentation, are the property of the City and will not be returned to the applicant. Applications are public record and may be released to the media or other requesting parties, except for confidential materials as identified in the New Mexico Inspection of Public Records Act, NMSA 1978 § 14-2-1.

F. The City may retain selected applications and eligibility list at its discretion. These applications may be used in future recruitments for the duration of the eligibility period. See 3-1 Recruitment.

3-9. SUBSTITUTIONS.

A. When a position allows for an equivalent combination of education and experience the following procedures will be used: See 3-3 Minimum qualifications.

1. Substitution of Experience for Education.

Unless otherwise specified, two (2) years of relevant experience may be substituted for each year of required education to a maximum of 4 years of educational credit. Relevant experience is experience that has equipped the applicant with the particular knowledge, skills, and abilities to perform successfully the duties of the position and is typically in or related to the work of the position to be filled. Experience may be paid or unpaid.

2. Substitution of Education for Experience.

Unless otherwise specified, one (1) year of relevant education from an accredited college or university may be substituted for two (2) years of required experience. Relevant education is education that has equipped the applicant with the particular knowledge, skills, and abilities to perform successfully the duties of the position and is typically in or directly-related to the work of the position to be filled.

3. Level of Experience.

Only related professional-level experience will be credited for professional positions. Professional level experience involves work that is intellectual and varied in nature, requires advanced knowledge and education, and the exercise of discretion and judgment.

Non-professional level-experience may not be substituted for the required professional-level experience. Supervisory-level experience, when required, will be credited if the experience involves supervision of two or more full-time positions. Supervisory experience involves work with the authority to conduct performance evaluations, approve requests for leave, and make recommendations regarding hiring, termination or other decisions affecting the employment status of others.

4. Non-Allowable Substitution.

For professions that require a college degree in order to obtain a license or certification to practice within the discipline, experience cannot serve as a substitute for education.

3-10. DISQUALIFICATION OF APPLICANTS.

A. The Human Resources Director may reject an application, remove an application from consideration or disqualify an applicant for hire, rehire or promotion for appropriate reasons. Some of these reasons include:

1. The applicant fails to submit a complete application or has missed the established closing date.

2. The applicant fails to establish that he/she meets the required minimum qualifications as stated in the job announcement; fails to complete or pass required tests, fails to complete or pass post-offer examinations including physical agility testing, or other requirements, as determined by the Human Resources Department.

3. The applicant makes a materially false statement, affirmatively, or by way of omission.

4. The applicant directly or indirectly obtains information regarding any recruitment examination to which he/she is not entitled.
5. The applicant participates in the compilation, administration or any part of the selection process in which he/she is competing.
6. The applicant fails to notify the interview panel that he/she has a familial, personal or romantic relationship with a member of the interview panel.
7. The applicant has previously been terminated or resigned prior to being terminated from City employment for a disciplinary reason and determined ineligible for re-hire. See 11-6 Eligibility for Rehire.
8. The applicant has a record of conviction of a crime involving moral turpitude, the nature of which would affect the applicant's suitability for employment for the position for which the applicant has applied.
9. The applicant has a misdemeanor or felony conviction involving moral turpitude and the criminal conviction does not directly relate to the position for which the applicant is applying, but the applicant has not been sufficiently rehabilitated, in accordance with NMSA 1978 § 28-2-4, to warrant public trust.
10. The applicant fails to appear for a scheduled interview or any other step of the top selection process, except in the case of an emergency.
11. The applicant directly or indirectly gives, pays, offers, solicits or accepts any valuable consideration, or secures or furnishes any special or secret information, for the purpose of affecting the rights or prospects of any person with respect to employment in the City.

3-11. ASSESSMENT OF APPLICATIONS.

- A. The Human Resources Department will review all applications and determine which applicants meet the minimum qualifications on the basis of their application.
- B. The Human Resources Department will provide the Department head or designee with a list of the top-qualified applicants, as well as their applications.
- C. Department head will select from among the top candidates for interview.

3-12. APPLICANT TESTS.

- A. Applicants for vacant positions may be required to pass a selection test. The test may be written, oral, physical, performance-based, assessment center, in-basket or any other appropriate selection device that is impartial, practical and position-related. In any examination, the City may include qualifying and/or competitive components and may set minimum standards for passing each component and/or the entire examination.
- B. Any test proposed for use in the applicant-screening process must be monitored by the Human Resources Department. The Human Resources Department may assist in obtaining a test that meets established professional-selection techniques. Human Resources may monitor or assist the hiring department in the administration of the tests.
- C. The candidate selected to fill a vacant position may be required to submit to pre-employment medical examinations and order testing after a conditional job offer has been made. The offer of employment shall be contingent upon the qualified medical provider's statement that the employee can perform the essential duties and functions of that position. A confirmed positive test for drugs or alcohol shall disqualify an applicant.

D. Human Resources will assist the department in developing the interview questions and selecting proposed interview panelists. Human Resources will also provide interview questions and applicant-rating form and will conduct telephone reference-checks.

3-13. APPLICANT INTERVIEWS.

A. Interviews will be conducted after the announcement deadline or when the open ended announcement has received a sufficient number of qualified candidates have been received. Interviews will be limited to applicants who meet the minimum qualifications. If there is a long list of applicants, all applicants who meet or exceed the minimum qualifications may not be interviewed. Human Resources and the hiring department will select the best-qualified applicants to be interviewed.

B. Interviews will be conducted in English. If the vacant position requires bilingual skills, Human Resources and the hiring department will identify a language test for use in the process.

C. Interview panelists shall disclose and remove him/her from the interview panel if there is a personal, familial or romantic relationship with any applicant. Failure to disclose this information will void the selection process and may result in disciplinary action up to and including termination if the panelist is a City employee.

D. Interview panelists will independently rate the answers provided by each applicant during the interview. At the conclusion of the testing and interview phases, the interview panelists will rank the candidates based on scores derived from the interviews and tests, and complete the applicant rating form and make a recommendation to the department head.

E. The department head may conduct a second interview with the top rated applicant(s) prior to making the final recommendation for hire.

F. The final candidate will be selected from among the top-scoring applicants. The best qualified applicant shall be selected. No commitment is made to hire the individual with the highest numeric score. Any candidate who meets the minimum acceptable score or above may be considered for hire.

G. The Human Resources Department will conduct and receive at least two acceptable reference checks with two of the three most recent supervisors or professional references of the selected candidate. Any negative references should be assessed with Human Resources prior to proceeding with a hiring recommendation. If a reference cannot be reached or the applicant has no previous work history, the Human Resources Department shall contact the applicant for more information.

3-14. HIRING RECOMMENDATIONS.

A. The Human Resources Department will compile the information from the selection process and will forward a memo indicating the recommended hire by the Department head for the selected applicant. The information that documents the interview process includes:

1. Applications from the individuals interviewed.
2. The date when interviews were held.
3. The position to be filled.
4. The approved salary.
5. Any potential issues of concern through hiring process.

B. The Human Resources Director will discuss the recommended hiring decision with the City Manager. They will review any issues that may relate to the hiring decision, and will determine the hiring rate based on budgetary considerations. They will also determine the most effective way to make the job offer.

C. As a part of the offer, the candidate will be notified of the pay level and the date to report for orientation.

Adopted: 2/2/16

D. All offers of employment and continued employment are conditional on the applicant furnishing satisfactory evidence of identity and legal authority to work in the United States, in accordance with the Immigration Reform and Control Act of 1986. Depending on the individual position, offers of employment may also be contingent upon passing a pre-employment physical and/or psychological examination, any applicable drug test and background investigation, and/or obtaining job-required licenses or certifications.

E. The Human Resources Department will prepare a Letter of Job Offer with specific conditions to be accepted and endorsed by the candidate.

F. The Human Resources Department shall prepare a Personnel Action Form to enter new hire information into system.

3-15. RE-EMPLOYMENT AFTER LAYOFF.

A. A classified employee who has been laid off by the City and is eligible for re-employment, will be offered a position for which he/she qualifies that becomes vacant within six (6) months of his/her layoff. This offer will be made before any other applicant is considered. The former employee shall have five (5) working days to consider the offer. If the former employee declines or fails to respond to the offer, he/she forfeits re-employment eligibility rights.

3-16. CLOSEOUT OF OTHER APPLICANTS.

A. Once a recommendation for hire has been approved by the City Manager or designee, those applicants who were interviewed but not selected for the position will be notified in writing of the selection of another candidate.

B. Applications received for the vacancy announcement along with interview questions, tests, notes, score sheets, and vacancy announcement will be retained by Human Resources for three (3) years.

C. The Human Resources Director may place those qualified candidates who were not selected on an eligibility list. If another vacancy occurs for the same position within the City, the Human Resources Director may choose to select candidates from this list for further consideration.

D. The decision to recruit from this eligibility list is a decision to be made by the City and does not represent a commitment to prior applicants.

3-17. RECRUITMENT FOR UNCLASSIFIED POSITIONS.

A. If a reference cannot be reached or the applicant has no previous work history, the Human Resources Department may contact the applicant to obtain more information. Human Resources will ensure the candidate meets the minimum qualifications for the position and will validate that the recommendation is appropriate.

B. Department heads may request that the Human Resources Department conduct the recruitment for unclassified positions. In those cases, Human Resources will oversee the advertising, applicant processing and assessment steps as a courtesy to the department.

3-18. APPLICANT EXPENSES.

A. Unless approved in advance by the City Manager, the City does not reimburse any applicant for travel costs in conjunction with the hiring process. Relocation costs are paid in full by the employee. The City Manager may authorize reasonable relocation expenses for Director level.

3-19. BACKGROUND CHECKS.

A. All potential hires, including temporary, volunteers and interns must have a background check completed prior to starting employment/service with the City.

B. Credit checks will be completed for all hires and may be required for volunteers and interns. Notification that a background check is required is contained in the job application.

SECTION- IV EMPLOYMENT TYPES

- 4-1. EMPLOYMENT ELIGIBILITY VERIFICATION.**
- 4-2. CLASSIFIED AND UNCLASSIFIED POSITIONS.**
- 4-3. TYPES OF POSITIONS.**
- 4-4. POSITION DESIGNATIONS.**
- 4-5. FAIR LABOR STANDARDS ACT (FLSA) COMPLIANCE.**
- 4-6. PROBATIONARY STATUS.**
- 4-7. LICENSE/OCCUPATIONAL CERTIFICATION.**
- 4-8. VOLUNTEERS/INTERNS.**
- 4-9. NEW-EMPLOYEE ORIENTATION.**

The purpose of Section IV is to clarify the policies and procedures for determining position types and designations so employees understand the rights and benefits associated with their particular position.

4-1. EMPLOYMENT ELIGIBILITY VERIFICATION.

A. Every employee shall complete an I-9 form for verification of employment eligibility on the first day of hire or within three (3) working days of hire. It shall be the employee's responsibility to provide the supporting documentation.

B. Each employee shall provide the allowable form(s) of identification in support of the I-9 form. This documentation shall be provided within three (3) working days of hire or the employee will be subject to termination. If this documentation has expiration dates, it shall be the employee's responsibility to provide updated documentation.

C. Any applicant who submits false documentation is subject to termination and Federal penalties.

4-2. CLASSIFIED AND UNCLASSIFIED POSITIONS.

A. Classified Position. A classified position is a regular, approved position. All classified employees are hourly and subject to overtime, may be terminated during the probationary period, not eligible for pay raises and covered by the policies and procedures outlined herein. While there is no guarantee of continued employment, once an employee has completed the probationary period, the employee can be separated from the City through the reduction-in-force processes or for just cause.

B. Unclassified Position. An unclassified position is a temporary, seasonal, or grant-funded position. An employee in an unclassified position does not have a probationary period, is in an "at-will" status and serves at the pleasure of the City. The employee in an unclassified position does not have access to the discipline and grievance procedures defined herein, would also not be eligible for any pay raise, overtime, not eligible for vacation, sick and PERA. May be hired to serve up to a period not to exceed nine (9) months and if rehired a minimum break in service of at least one full pay period.

4-3. TYPES OF POSITIONS.

A. Elected Officials. Elected officials are voted into their respective positions by the registered voters of the City. The elected officials include the Mayor, City Councilor and Municipal Judge who may not serve as employees in the classified or non-classified service during the terms for which they have been elected and are not subject to these policies and procedures.

B. Appointed Employees. The City Manager is appointed by, and serves at the pleasure of the Mayor and the Governing Body. The Court Administrator serves at the pleasure of the elected municipal judge.

Adopted: 2/2/16

C. Department Directors. Department Directors are exempt employees and report directly to the City Manager and have individually negotiated employment contracts that define specific aspects of their employment relationship with the City. The terms of these contracts may vary.

D. Regular Employees. Regular employees are employed in a classified position that has no defined ending date. A regular employee may be full-time or part-time.

E. Full-Time Employees. Full-time employees are regular employees budgeted to work 40 hours per week.

F. Part-Time Employees. Part-time employees are regular employees budgeted for less than 40 hours per week.

G. Temporary Employees. Temporary employees are employees hired for unclassified positions that have a defined ending date. The position may be full- or part-time and scheduled for any number of hours per week, not to exceed 40. Temporary employees do not serve a probationary period and are at-will employees.

1. Temporary employment is intended for employment of nine (9) months or less. When there are extenuating circumstances, the length of employment may be extended with the approval of the Human Resources Director and City Manager as per Section 4-2B.

2. Persons filling temporary positions must meet the minimum qualifications of the position assigned. The compensation for a temporary employee will be within the range approved by budget. Temporary employees are not entitled to paid leave or other benefits.

H. Grant Employees. Grant employees are full- or part-time employees hired to fill an unclassified position funded in full or in part by State or Federal funds. The grant position will continue only so long as the grant funding continues. The employee does not have a right of employment or compensation beyond the funding period.

1. Grant employees do not serve a probationary period and are at-will employees. The performance of grant employees shall be evaluated at six (6) and eleven (11) months of the date of hire annually in accordance with Sections 9-1 thereafter. Compensation shall be determined by Human Resources Director and City Manager in accordance with comparable positions unless the grant specifies alternate pay level.

2. Unless the terms, conditions and funding of the grant agreement determine whether the employee will be entitled to benefits, including paid leave, holidays, and insurance, the grant employee shall not be eligible for employment.

3. The grant agreement or other documentation reflecting the salary and benefits shall be provided to the Human Resources and Finance /Payroll Departments.

I. Fixed Term Employees. Fixed-term employees are employees hired full- or part-time to perform work of a project or non-permanent nature and for a limited period of time, to last at least 12 months but not to exceed 36 months.

1. Fixed-term opportunities will be advertised in accordance with Policy 3-5. Posting Procedures for Positions Not Filled Through Placements Within the Department. The vacancy announcement will specify the duration of the agreement or that the agreement is terminable upon a specific future event or completion of a specific task or project.

2. The first year of fixed-term employment will serve as a probationary period and the employee is at-will. Upon successful completion of the probationary period, a fixed-term employee may only be terminated for cause. Cause includes the completing of the project or assignment, expiration of the fixed term or just causes or be laid off as part of a reduction in force. (10-2. Grounds for Disciplinary Action).

3. Fixed-term employees are eligible to earn leave and have the same benefits as classified employees and are nonexempt employees.

4. There are no renewals or extensions of fixed-term employment unless warranted by exceptional, objective circumstances as determined by the City Manager.

5. A fixed-term employee will be provided written terms and conditions of employment and be required to confirm understanding and acceptance of the terms in writing. The original terms and conditions of employment shall specify that in the event of early termination of the fixed-term agreement due to unforeseen circumstances, such as loss of funding, the City will not be liable for the remaining period of the fixed-term agreement

4-4. POSITION DESIGNATIONS.

A. Non-Exempt. Non-exempt employees are entitled to overtime pay or compensatory time under the specific provisions of federal and state laws. See 5-9 Overtime/Compensatory Time.

B. Exempt. Exempt employees are excluded from specific provisions of federal and state statutes and are not regularly entitled to overtime pay. The City may authorize overtime pay for these positions to meet unusual or special situations.

4-5. FAIR LABOR STANDARDS ACT (FLSA) COMPLIANCE.

A. The FLSA is a federal law first passed in 1938 and amended many times since to regulate minimum wage, overtime pay, maximum work week, child labor and equalizing pay scales for men and women. Many of the City's policies are for the purpose of ensuring compliance with this Act.

B. FLSA EXEMPTION AND NOTIFICATION POLICY.

1. FLSA exemptions to the overtime requirements do not apply to manual laborers who perform work involving repetitive operations with their hands, physical skill and energy. The exemptions also do not apply to First Responders as defined by the 2003 FLSA Amendments.

2. The City prohibits improper pay deductions for exempt employees and will reimburse employees for any improper deductions made. Any exempt employee who believes there have been improper pay deductions made shall immediately notify the Human Resources Department and present the relevant evidence of said deductions. The Human Resources Department will take immediate action to investigate the issue and, if founded, correct the improper deduction.

4-6. PROBATIONARY STATUS.

A. New Employee Probation. All new employees hired into a classified position will serve a one year probationary period. The employee will be "at-will" during this probationary period, and the employee's work performance, work habits and adherence to City policies will be continually evaluated.

1. The supervisor will prepare a performance evaluation every three months following the employee's hire date. The status of a new employee does not change from probationary to classified, until the employee has successfully completed the probationary period and a Personnel Action Form is submitted by Human Resources. Successful completion is documented by at least a "satisfactory" rating on the end of probation performance evaluation and recommendation of the supervisor.

2. During the probationary period, employees accrue leave and are eligible for benefits. However, vacation leave is banked and unavailable for use until the successful completion of the one year of employment. If an employee is dismissed or resigns before this one (1) year period, the City will not pay for the banked vacation time.

3. If an employee changes position, through transfer, promotion or demotion, during the initial probationary period, the one year probationary period shall be re-started in the new

position. The transferred, promoted employee may take leave if they have completed the one year of service and have received a satisfactory evaluation on the prior position.

4. An employee on probation may be terminated without notice or hearing at any time, with written approval of the City Manager or designee. A probationary employee is not entitled to the pre-determination process defined in Section 10-5 Pre-Determination Process.

5. An employee on probation will not be entitled to any Cost of Living Adjustments that may be available for permanent employees. COLA's cannot be combined with any other increases.

4-7. LICENSE/OCCUPATIONAL CERTIFICATION.

A. Any employee filling a position that requires a license, certificate, permit or other occupational certification will notify his/her supervisor if he/she receives notice of revocation or non-renewal before commencing work following receipt of notice. If an employee's license is no longer valid, he/she may be subject to termination of employment.

B. If a job offer, offer of promotion or offer of transfer has been made to an employee, contingent on the applicant's ability to obtain a license, certificate, permit or occupational certification and the individual cannot obtain the required documentation, the offer will be withdrawn.

C. The department head will notify the Human Resources Department and will determine if there is a vacant position for which the employee is qualified to which the employee can be transferred and for which there are no priority assignments under Workers' Compensation or ADA. If an appropriate position is identified, the employee will be transferred to that position with a reduction in pay commensurate with the new position. If there are no vacant positions for which the employee is qualified, the employee shall be placed on leave for a period of time not to exceed ninety (90) days. If the employee has vacation leave he/she may choose to use it, otherwise he/she will be placed on unpaid leave. The City reserves the right to cancel the leave at any time.

D. While on leave, the employee may seek other positions within the City for which he/she is qualified for up to ninety (90) consecutive calendar days and/or pursue reinstatement of the required license/certification.

E. If the employee has his/her license or certification re-instated within ninety (90) consecutive calendar days, he may be returned to his/her previous position, if available, or compete for vacant positions.

F. If a suitable vacancy is not located, or the license or certification is not re-instated by the end of the ninety (90) consecutive calendar day period, the employee will be processed for termination in accordance with Section 10-5.

4-8. VOLUNTEERS/INTERNS.

A. Volunteers and interns may receive nominal compensation for their service without changing their volunteer status. Unless otherwise employed by the City, a volunteer is not eligible for City benefits. As an exception to this rule, contract permitted, Volunteer Firefighters who meet the established standards are eligible for retirement benefits under PERA.

B. As defined by the Fair Labor Standards Act (FLSA), a volunteer is an individual who performs a service for the City without expectation of payment for the service. Employees of the City may volunteer hours of service to the City as long as the service is not the same type of service the employee normally performs in the course of his/her regular employment.

C. Volunteers and interns are responsible for complying with all policies in this manual, as well as any policies of their assigned department. Volunteer firefighters have the same access to the disciplinary system and the Grievance Procedures described in this manual as do regular employees.

D. Prior to the commencement of any volunteer/intern service for the City, all volunteers/interns shall complete a volunteer application and other acknowledgements contained in the Volunteer Packet. Those volunteers/interns will be required to undergo a background and/or driver's license check. See 3-19 Background Checks.

E. The Department head or designee shall coordinate with the Human Resources Department to provide all volunteers/interns with basic training in City policies. Volunteers and interns shall abide by City policies. Violations of these policies may result in the release of the volunteer from City service.

F. All attendance and performance records for volunteers/interns will be maintained by the Human Resources Departments.

4-9. NEW-EMPLOYEE ORIENTATION.

A. All new employees and volunteers will attend a City orientation on the first day of employment. In circumstances requiring the emergency hire of an employee, the Human Resources Director may approve a start date and orientation other than the first work day of a pay period. The orientation will explain the City's organization and services, work rules, standards of performance, and personnel policies and procedures. Each employee will be informed of where a copy of the Policies and Procedures Manual can be viewed.

B. The Human Resources Department will provide an overview of employment benefits eligibility and enrollment procedures, and will provide the necessary forms and deadlines for enrollment.

C. For each employee, the department supervisor will complete a departmental orientation, which covers the provision of appropriate supplies, tools and keys, information on department policies and safety requirements, performance standards and objectives, attendance, absence, payroll and timekeeping requirements.

SECTION V – CLASSIFICATION AND COMPENSATION

5-1. CLASSIFICATION AND COMPENSATION PLAN.

5-2. OBJECTIVES FOR THE CLASSIFICATION AND COMPENSATION PLAN.

5-3. CLASSIFICATION PLAN ADMINISTRATION.

5-4. POSITION RECLASSIFICATIONS.

5-5. NEW JOB CLASSIFICATIONS.

5-6. JOB EVALUATION CRITERIA.

5-7. COMPENSATION PLAN UPDATE.

5-8. COMPENSATION ADMINISTRATION.

5-9. OVERTIME/COMPENSATORY TIME.

5-10. ON-CALL DUTY.

5-11. CALL-BACK PAY.

The purpose of Section V is to describe generally the City's compensation system and to set forth the various types of compensation paid to employees. It also describes the City's classification system, provides procedures for the creation and modification of job classifications, and defines promotions, transfers, demotions and temporary assignments.

5-1. CLASSIFICATION AND COMPENSATION PLAN.

A. The City shall establish and maintain the Classification and Compensation Plan covering all employees. The Classification Plan defines and organizes all approved job titles, establishes the approved salary range for each job title, and defines procedures for making salary changes.

B. The Classification and Compensation Plan will be administered by the Human Resources Department within established guidelines. The Human Resources Department will recommend the Plan and Plan updates to the City Manager who will, as appropriate, recommend them to the Governing Body.

5-2. OBJECTIVES FOR THE CLASSIFICATION AND COMPENSATION PLAN.

A. The following objectives guide the design of the Classification and Compensation Plan and will govern the ongoing management and administration of the Plan.

1. The City shall endeavor to provide market-competitive salaries and salary ranges for all employees.
2. Establish and maintain internal equity among job classifications and positions.
3. Reward excellent performance through career opportunities, training and related programs.
4. Attract high-quality, trained and experienced applicants.
5. Retain high-quality, trained and experienced staff.
6. Be administered in a manner that is fiscally responsible and within established financial guidelines.

5-3. CLASSIFICATION PLAN ADMINISTRATION.

A. Each job classification will be defined in a job specification or job description. The job description will include the primary purpose, the essential functions, the required knowledge and skill, the minimum qualifications and the environmental and physical factors.

B. The Human Resources Department shall maintain a complete set of job descriptions/specifications for all City classifications. These job descriptions shall be reviewed periodically by the Human Resources Department.

C. The Classification Plan and the job descriptions shall document each position's status under the Fair Labor Standards Act (FLSA). The Human Resources Department shall establish the exempt/non-exempt status of each position in accordance with the FLSA.

D. The Classification Plan will be reviewed and may be revised twice a year, in March and in October. At these times, the Human Resources Department will evaluate requests to establish new classifications and to revise existing classifications. Once the evaluation has been completed, the Human Resources Department will recommend changes, if appropriate, to the City Manager. Except in emergency situations, requests for classification changes will not be considered other than during the specified times.

E. If the City Manager concurs, he will recommend any new classifications to the Governing Body. The Governing Body has the sole authority to authorize the establishment of a new classified or grant-funded position. The City Manager may approve the reallocation of existing positions from one department to another. The City Manager may also approve reclassifications.

5-4. POSITION RECLASSIFICATIONS.

A. If a department head believes that the duties assigned to a position have changed to the extent that they no longer fit within the current job class, the Department head will submit a completed Position Description Questionnaire (PDQ) to the Human Resources Department. The department head will also submit an accompanying written request recommending a reclassification review.

B. The Human Resources Department will review the PDQ and Classification Plan to determine whether the position should remain in the same title, be assigned to a different existing title, or requires the development of a new title.

C. The Human Resources Director may authorize a classification review when, in his/her judgment, the request indicates that permanent, clearly defined and substantial changes in the duties assigned to a position have occurred. A desk audit will be scheduled and conducted, if deemed necessary by the Human Resources Director.

Adopted: 2/2/16

D. A written job evaluation will be completed by the Human Resources Department and, if appropriate, a reclassification of the position with a new title, salary grade and FLSA designation will be recommended by the Human Resources Director and approved by the City Manager or designee. If approved, the Finance Department will revise the City's Position Control Roster and the Human Resources Department will revise and maintain the Salary Schedule.

E. Reclassification shall not be used as a method of awarding an employee a salary increase.

F. A job that is reclassified may or may not have an incumbent. If there is an incumbent, and the reclassification results in either a higher or lower range, Section 5-8. A. 1. Compensation Administration will apply.

5-5. NEW JOB CLASSIFICATIONS.

A. Requests for new job classifications are normally done in the budget process. When a request is made for the creation of a new job classification, the Department head shall:

1. Submit a completed PDQ describing the duties, responsibilities and qualifications of the requested job classification to the Human Resources Director.
2. The Human Resources Director, or his/her designee, will conduct a job evaluation of the essential factors of the position, including a comparison with internal and external positions, to determine the appropriate classification. The evaluation may require a review of other positions within the department.
3. The Human Resources Department will prepare a written recommendation based on the findings of the evaluation. This recommendation will be forwarded to the City Manager and provided to the Department head.
4. If approved, the City Manager will present the proposal for the new position to the Governing Body in the form of a resolution. If approved by the Governing, a new position number will be assigned by the Finance Department and the Position Control Roster and the Human Resources Department shall revise and maintain the Salary Schedule.

5-6. JOB EVALUATION CRITERIA.

A. All requests for job evaluation, whether for newly created or existing jobs, will be evaluated based on the PDQ and a point-factor evaluation system and compared to other jobs in the City. Newly created positions may be compared to jobs in the marketplace.

B. The Human Resources Director, or designee, will determine whether the requirements of the position meet the definition of an exempt or non-exempt position as defined in FLSA.

5-7. COMPENSATION PLAN UPDATE.

A. The Compensation Plan will be reviewed annually to maintain competitiveness and present to Council at budget time.

1. Market Review. The Human Resources Department will conduct a market analysis to determine salary changes in the benchmark positions. This may be done through a custom survey of the market competitors or through the analysis of trend data.
2. Salary-Grade Assignments. The Human Resources Department will evaluate the salary-grade assignments and recommend changes to respond to changes in the market conditions.
3. Cost-Impact Analysis. The Human Resources Department will analyze costs associated with the recommended changes and develop a recommended budget for salary changes. This recommended budget will be reviewed with City management for approval. If

approved, the City Manager will present the proposal for the compensation plan to the Governing Body in the form of a resolution.

5-8. COMPENSATION ADMINISTRATION.

A. All employee pay levels will be established within the approved salary ranges and available budget. No employee will be paid below the minimum of the salary range for the position. If an employee's salary is above the maximum, his/her salary will be frozen until, as a function of regular plan updates, his/her salary again falls within his/her salary range.

1. Starting Salary.

a. Starting salary for a newly hired, promoted, or reclassified employee shall be at least the minimum of the pay range for the job classification. Individuals whose qualifications exceed the minimum qualifications for the job classification may be hired at a salary above the minimum of their range.

b. The Human Resources Director will review and may recommend starting salaries that are above the minimum of the established salary range. Human Resources recommendation will be based on market rates, internal equity and budget considerations. The City Manager shall make the final approval of starting rates.

2. Promotions.

a. A promotion occurs when an employee moves from one position to another position that is in a higher salary grade through the process described in Section 3-4. Placement Within The Department or Section 3-5. Posting Procedures For Positions Not Filled Through Placements Within The Department.

b. The employee shall be placed in the pay grade for the position to which s/he is being promoted at a rate of pay commensurate with education, years of service and directly related experience when compared to other employees in the same classification.

3. Lateral Transfers.

a. A lateral transfer occurs when an employee changes from one position to another position that is in the same salary grade or from one department to another within the same job classification. This may be a voluntary change initiated by the employee. It may also be a change initiated by the City to meet specific needs and best utilize the employee's skills and background.

b. The employee's pay does not change as a result of a lateral transfer.

4. Demotions.

a. A demotion occurs when an employee moves from one position to another where the new position is in a lower salary grade. This may be a voluntary change initiated by the employee or a disciplinary change initiated by the City.

b. In the case of a demotion, the employee shall be placed in the pay grade for the position to which he is being demoted at a rate of pay commensurate with education, years of service and directly related experience when compared to other employees in the new classification.

c. In the event that an unrepresented employee is demoted into a represented position, the employee shall be placed in the pay grade for the position to which he is being demoted at the average wage of all employees within that position with the similar length of service with the City.

d. When an employee, who has, within the previous year, been promoted or reclassified to a higher position, is demoted for any reason, the employee shall be

demoted to the position and salary prior to the reclassification or to a vacant position for which the employee is qualified.

5. Temporary Assignment.

a. A temporary assignment occurs when an employee is assigned additional, significantly higher-level duties to meet operational needs or in order to fill in for a vacant position. The temporary assignment is intended to recognize the higher-level, more responsible duties. It is not intended to recognize an increase in workload.

b. The department must complete a Human Resources Action Form to detail the change resulting in the request for a temporary assignment. A memo describing the specific additional duties, as well as identifying the vacant position, shall accompany the personnel action form.

i. The form should also include the specific beginning and ending dates for the proposed assignment. Typically, the temporary assignment will begin five (5) work days after the employee is assigned the additional duties. It will normally run for ninety (90) calendar days; however, the assignment may be extended, with approval of the City Manager or designee, if the conditions are unchanged. In no case should the temporary assignment extend beyond one (1) year.

c. An employee performing a temporary assignment shall receive an increase of 5% or the minimum of the range whichever is greater. The Human Resources Director will review all temporary assignments and, under special circumstances, may recommend a higher increase. The City Manager will have final approval of all temporary assignments and corresponding salary increases.

d. When temporary assignment is to fill in for a vacant position, the temporary assignment compensation shall end on the date the applicant hired for the vacant position begins employment with the City.

6. Move from Unrepresented to Represented.

a. If an employee, through open competition or transfer, moves from an unrepresented position to a represented position, the rate of pay will be determined based on the adopted pay policies for the bargaining unit.

b. If an employee applies for and is accepted into the Police Academy or Officer Training Program, that employee will enter the academy at the same rate of pay as all other cadets/trainees and will serve a probationary period in the new position the same as other cadets/trainees.

5-9. OVERTIME/COMPENSATORY TIME.

A. All non-exempt employees are eligible to earn overtime. Overtime pay or compensatory time shall be given when the employee has worked over 40 hours in a work week except those employees under union bargain agreements. When department budgets permit, the department may elect to pay overtime. All overtime shall be paid at a rate of 1.5 times the employee's regular hourly wage for time worked. When legally permissible, a department may elect to provide compensatory time at the straight time (1 hour) and the premium .5 hours will be paid each pay period for any overtime time worked in a workweek. Whichever form of compensation is used, the rate will be at one and one-half (1 ½) times the non-exempt employee's regular hourly rate. Overtime or compensatory time requires approval of the Department head in advance.

B. Management must advise employees in advance of the scheduled work resulting in overtime that he/she will be compensated monetarily or with compensatory time off.

C. Developing the work/shift schedule for employees is the responsibility of Management. Overtime will be assigned by Management based upon the needs of the City. Non-exempt employees are

expected to work any overtime assignment they are given. Failure to do so is considered insubordination and may result in disciplinary action up to and including termination.

D. Actual time worked in excess of forty (40) hours during a designated workweek shall be compensated in accordance with the FLSA for non-exempt employees. Only actual hours worked shall be considered in the overtime calculation. Holiday, vacation, sick and other leave shall not be considered.

E. A non-exempt employee who works overtime during a scheduled workweek shall record the actual hours worked on his/her timesheet.

F. Overtime may be authorized only under circumstances which call for immediate action, or in other special situations authorized in advance by the Department head.

G. Overtime hours worked by a non-exempt employee without prior approval shall be regarded as a violation of City policy and subject to disciplinary action. However, the non-exempt employee shall be paid for all time worked even if it had not been authorized.

H. A non-exempt employee may not accumulate more than 80 hours of comp time. Accrued comp time shall be used by June 30 or paid out the last pay period of the fiscal year. It is the responsibility of the employee to ensure that compensatory time is used by June 30. A department head shall direct the employee to use the comp time during the 60 calendar days prior to June 30. Management reserves the right to pay for earned compensatory time at its sole discretion.

I. If an employee demotes or transfers from one non-exempt position to another non-exempt position; or from one department/section to another within a classification eligible for compensatory time, the employee's accrued compensatory time off balance, up to the maximum allowable accrual will be carried forward with the employee. Any accrual in excess of the allowed maximum shall be paid at the time of promotion, transfer or demotion.

J. If an employee promotes from one non-exempt position to another non-exempt position, the employee's accrued compensatory time off balance shall be paid by the department/section the employee is promoting from at the employee's current regular rate of pay before promoting.

K. Compensatory time accrual balances will be paid by the department/section the employee is moving from at the employee's current regular rate of pay prior to demoting or transferring when the new classification is not eligible for compensatory time or accruals of compensatory time exceed the maximum of the employee's new job classification.

L. Non-exempt employees shall use and supervisors shall direct the use of accrued compensatory time prior to using accrued vacation time.

5-10. ON-CALL DUTY.

A. On-call time will be considered hours worked when employees are required to restrict their personal activities and cannot use the time effectively for their own purposes. On-call time will not be considered hours worked when employees are free to engage in activities for their own purposes but are required to inform the employer how they can be reached or to carry a beeper or cellular phone.

B. A non-exempt employee required to be on-call beyond the employee's regularly scheduled hours shall be compensated at the rate of \$8 per day.

C. Employees' on-call are required to stay within a thirty (30)-mile radius or thirty (30)-minute response time of their worksite; or within 10 minutes of a telephone if the employee is using a beeper.

D. Employees on leave are not eligible to be on-call.

E. Non-exempt employees who respond to a call are to record all time worked in response to the call. Employees who respond to a call are paid for a minimum of two (2) hours worked. Responses to a call which are handled by telephone or instant messaging are to be paid for the actual time worked.

F. When on-call, employees are to remain fit for duty. Alcoholic beverages or other substances which may impair an employee shall not to be consumed when in an on-call status.

G. There is no additional compensation for exempt employees who are on-call or actually respond to calls.

5-11. CALL-BACK PAY.

A. Call-back occurs when an employee is off duty and notified unexpectedly to return to work due to unforeseen circumstances.

B. Authorized call-back shall be compensated at one and one-half (1 ½) times the non-exempt employee's hourly rate from the time the employee is notified until the employee has completed the unexpected work and/or has returned home or to the place where he/she received the call. A non-exempt employee on call-back shall be guaranteed a minimum of two (2) hours pay for each authorized call-back.

C. Call-back pay does not include an employee being called in to cover another employee's absence unless the employee called back has already worked that day. It also does not include the situation when the time worked immediately follows or precedes regular time, in this case, overtime may apply.

D. There is no additional compensation for exempt employees who are called back to work.

SECTION VI – WORK RULES

6-1 HOURS OF WORK.

6-2 ABSENCES AND TARDINESS.

6-3. MEAL AND REST PERIODS.

6-4. STANDARDS OF CONDUCT.

6-5. PAY PERIODS.

6-6. TIME REPORTING.

6-7. PAYROLL DISBURSEMENTS.

6-8. OFFICIAL PERSONNEL RECORDS.

6-9. PUBLIC RECORD INFORMATION.

6-10. ACCESS TO THE OFFICIAL PERSONNEL FILE.

6-11. COPIES OF PERSONNEL RECORDS.

6-12. NEGATIVE OR DEROGATORY INFORMATION.

6-13. VERIFICATION OF EMPLOYMENT

6-14. REFERENCES/RECOMMENDATIONS.

6-15. PERSONAL APPEARANCE.

6-16. ELECTRONIC MAIL, COMPUTER AND ON-LINE SERVICES USAGE.

6-17. U.S. MAIL AND TELEPHONE SYSTEMS.

6-18. BULLETIN BOARDS.

6-19. PHOTOGRAPHS.

6-20. CELL-PHONE USAGE.

6-21. CHILDREN OF EMPLOYEES AT WORK.

6-22. CITY DRIVER TRAINING.

6-23. MOTOR-VEHICLE RECORDS CHECKS.

6-24. LOSS OF DRIVER'S LICENSE.

6-25. EMPLOYEE PARKING.

6-26. IDENTIFICATION BADGES.

6-27. USE OF TOBACCO PRODUCTS IN AND AROUND CITY PROPERTY.

6-28. WORKPLACE VIOLENCE.

6-29 FELONY CONVICTION.

6-30 DRUG-FREE WORKPLACE.

6-31. ALCOHOL AND DRUG TESTING.

6-32. CONTROLLED SUBSTANCES ABUSE AND MISUSE.

6-33. SUPERVISORY TRAINING COURSES.

The purpose of Section VI is to clarify work rules and the expectations for workplace conduct for employees, volunteers, and interns. The policies and procedures in this section are essential to maintaining a climate of fairness, cooperation and professionalism. It affirms each individual's right to be treated with dignity, respect and courtesy by employees at all levels within the City.

6-1 HOURS OF WORK.

A. An employee is expected to work the days and hours necessary to perform all assigned responsibilities and tasks in order to provide continuity in access by and service to the City residents and to facilitate teamwork and supervision. Attendance shall be a consideration in determining promotions, transfers, satisfactory completion of evaluation periods and continued employment with the City.

1. Normal Workweek and Work Hours.

a. The basic workweek is generally 40 hours of work beginning at 12 a.m. Sunday and ending at 11:59 on Saturday. The normal work schedule for employees is 8 hours a day, 5 days. Work schedule for covered employees in the Police and Fire bargaining units will be covered by the union contract.

b. Departments wishing to adjust the normal work schedule must submit the request in writing to the Human Resources Department and, in turn, to the City Manager for approval on an annual basis.

c. One time or occasional adjustments to an employees work schedule may be granted at the supervisor's discretion subject to any Federal or Statutory limitations relating to hours of work.

2. Flexible Work Time.

a. The Department head may adjust work schedules within any given workweek to avoid overtime. If a non-exempt employee works more than eight hours in a day but has not yet worked 40 hours, the Department head may schedule time off during the same week to avoid overtime.

b. The schedule must be flexed within that same workweek. The schedule cannot be flexed in the following week, even if it is in the same pay period. Once a non-exempt employee has worked more than 40 hours in one workweek, he/she will be paid overtime or credited for compensatory (comp) time (unless otherwise specified on union bargaining contract).

3. Alternative Work Schedule.

a. An alternative work schedule is a regular, weekly schedule that is based on other than the normal working hours for the position or department. In no case can an alternative work schedule result in overtime.

b. The department head shall consider whether the proposed alternative work schedule will better meet the needs of the public/clientele and/or better serve the needs of the individual employee without adversely affecting the clientele or the operational efficiency of the department. Not all jobs are conducive to an alternative work schedule.

c. Alternative work schedules shall be of a semi-permanent nature (i.e. 6 months or 12 months at a time). A change to the employee's work schedule does not alter the normal work week for FLSA purposes.

d. Departments wishing to set up alternative schedules must submit the request in writing to the Human Resources Department and, in turn, to the City Manager for approval on an annual basis.

e. One time or occasional adjustments to an employees work schedule may be granted at the supervisor's discretion.

6-2 ABSENCES AND TARDINESS.

A. Employees are expected to be available and ready for work at the beginning of their assigned shifts and at the end of their scheduled rest and meal periods. Rest and meal periods include the time spent going to and from the place where the break is taken.

B. Advance notice of an absence to the immediate supervisor is expected. Notice of unavoidable absences is expected within one-half hour of the beginning of duty or as soon as possible if the employee is physically unable to notify his/her supervisor.

C. Advance notice of anticipated tardiness to the immediate supervisor is expected. Notice of unavoidable tardiness is expected as soon as possible. If approved by the supervisor, tardiness may be made up during the workweek in which it occurs.

D. Notification of an absence or tardiness by another employee, friend or relative is not considered proper except in an emergency situation where the employee is physically unable to make the notification.

E. Failure to provide notice of absence or tardiness to the immediate supervisor, poor attendance and tardiness are disruptive and may result in disciplinary action, up to and including termination of employment.

6-3. MEAL AND REST PERIODS.

A. Employees who work six (6) or more hours in a work day may be allowed an uninterrupted, unpaid meal period of a minimum of thirty (30) minutes and a maximum of sixty (60) minutes at or about midpoint of their work day. The length and scheduling of the meal period shall be at the discretion of the supervisor or department head except for field work, all non-exempt employees will clock in and out for lunch. Failure to clock out of in will be charged a maximum of one (1) hour.

B. Supervisors or department heads will be responsible to ensure that, wherever and whenever possible, employees will be permitted at least a half-hour uninterrupted meal period.

C. Non-exempt employees shall be entirely relieved of their job responsibilities and are required to take their meal period away from their work areas.

D. Non-exempt employees shall not be allowed to work through their meal period or exchange their meal period for other time off unless they have requested and received permission to do so from their supervisor or department head.

E. Paid rest breaks are at the discretion of the appropriate Department head. Schedules permitting, full time employees may take one, fifteen (15) minute break in the morning and one, fifteen (15) minute break in the afternoon. Employees taking a paid break are to remain on City property or at the designated work site.

F. Rest breaks may not be taken at the beginning or ending of a work shift, taken immediately before or after lunch, applied toward an alternative work schedule, or used as leave time. Work demands may preclude the granting of a rest break. If the breaks are not used, they are lost; they do not accumulate.

G. Breaks or rest periods will be scheduled so that service to the public and other departments is not interrupted. Breaks are paid time and are to be used only for the purpose intended and cannot be exchanged for any other purpose.

6-4. STANDARDS OF CONDUCT.

A. The City seeks to ensure an orderly business operation for the benefit and protection of the rights and safety of all employees and the public. Unacceptable conduct may result in disciplinary action up to and including termination. Unacceptable conduct includes, but is not limited to:

1. Alteration of Records: Except to correct errors, employees are prohibited from changing any City record unless otherwise permitted by law.

2. Confidentiality: Seeking or revealing confidential information regarding employees, City business or discussing confidential matters with unauthorized personnel is prohibited. This includes the unauthorized use or dissemination of confidential information.

3. City Property: The use of City property for personal gain.

4. Misuse or Destruction of Equipment/Property: Abusing, defacing or destroying City equipment or property, or the property of others. Careless, negligent, improper or malicious use of property, equipment or funds.

5. Discourtesy: Failing to render the appropriate degree of service or courtesy to anyone; including not helping when in a position to do so; speaking abruptly or offensively; conduct that interferes with the work of others.

6. Sexual harassment: It is the rule of the City to provide all employees with a work environment free of any form of discrimination and harassment. In addition, the State and Federal Fair Employment Practices Act and Title VII of the 1964 Civil Rights Act prohibit discrimination on the basis of race, color, sex, national origin, religion or pregnancy. Under both these laws it is illegal for an employee to engage in unwelcome sexual advances, request for sexual favors, verbal or physical conduct of sexual nature or any other verbal conduct that might be constructed as a racial, sexual, ethical or religious slur.

a. Such behavior, regardless if committed by a supervisor or co-worker, will be considered employee misconduct and the employee will be subject to disciplinary action, up to and including termination.

b. Any question regarding city policy, State or Federal law or complaints regarding form of harassment should be addressed to the City Manager.

c. The City Manager shall talk with the offending person and attempt to stop the *offending* practice.

d. Sanction or recrimination or threat of sanction or recrimination by any person in the service of the City against any employee's family complaining of harassment because of sex, race, religion, ethnic background, regardless if committed by a supervisor or a co-worker will be considered employee misconduct and will be subject to disciplinary action, up to and including termination.

7. Dishonesty and Fraud: Dishonesty in any form, including but not limited to falsification of any information, record or report; giving a false reason for use of leave; the filing of repeated false or frivolous grievances found to be unsubstantiated; or the intentional fabrication of events. No person shall willfully or knowingly make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment held or made under these Policies or in any matter commit any fraud preventing or for the purpose of preventing the proper and impartial execution of these Policies.

8. Disorderly Conduct: Interference with others in the performance of their position, horseplay or unprofessional conduct resulting in disruption to others. Conduct that interferes with the efficient operation of the City.

9. Excessive Absence: Excessive absence, even when caused by excused and justifiable illness or injury, not including Family Medical Leave Act; tardiness in reporting or in returning to duty following rest or meal breaks.

10. Gambling: Betting or promoting gambling during work hours or on City property.

11. Inattention: Sleeping or inattention while on duty.

12. Insubordination: Disregard of, or refusal to obey, any lawful order or directive to perform work as assigned or required; and/or a willful slowdown or neglect of duty. Willful disregard of policies or a defiant attitude of noncompliance toward regulations, directives, policies or procedures applicable to the employee.

13. Negligence: Carelessness, inattention or mischief that results in loss, damage, waste or destruction of any property, or which creates unsafe or unsanitary conditions; failure to follow safety rules and/or engaging in any unsafe conduct which jeopardizes the safety or health of an employee (including one's self), guest or customer of the City.

14. Performance: Incompetent, inefficient or unacceptable performance of duties. Less than satisfactory job performance as determined by the immediate supervisor. Inability or unwillingness to perform the duties required of the position. Misconduct which adversely affects the interest or reputation of the City or its employees. Repetition of offenses which resulted in notification of unacceptable performance or other corrective action.

15. Aggression: Threatening, assaulting, abusive or bullying language or behavior towards a supervisor, employee, guest or customer of the City; including but not limited to fighting or engaging in any act of physical aggression; any attempt or threat to engage in a fight or provoke a fight, either by words or actions.

16. Solicitation: Distribution of literature or verbal promotion of any non-work related cause or activity.

17. Substance or Alcohol Use: Possession or use of alcohol, drugs, or narcotics; reporting to work under their influence; or being under their influence while on the job. Possession of drug paraphernalia is also prohibited. If any employee must take drugs prescribed by a physician for a medical condition, and he drugs may affect job performance, the employee must advise the City Manager and the Department Director of the circumstances so a decision may be made regarding the employees ability to perform regular duties and eliminate hazards to other employees or the public.

18. Failure to Account for City Funds and Theft: Misappropriation or misuse of City property or the property of others or failure to account for all funds received by employee in behalf of the City in the performance of its duties.

a. Employee shall be placed on administrative leave without pay until such time as there is final determination of his guilt. The City Manager shall notify the company providing the bond surety on the individual and the Police Chief shall report matter to the District Attorney.

b. In the event an employee is placed on administrative leave without pay, pursuant to paragraph a, the Police Chief shall conduct an investigation of the failure to properly account for such funds, and shall report to the City Manager who will report to the Mayor and Council the results of the investigation within 14 days of the employee being placed on administrative leave.

c. The employee may, if he or she desires, appear before the City Manager and make a statement and present such relevant testimony as he or she desires. The City Manager employ, suspend, terminate or take such other action in respect to the employment of the employee as deemed proper.

d. An employee found guilty by a court shall be dismissed, and a claim shall be filed by the Clerk with the bond surety to recover missing funds.

19. Unauthorized Possession: Custody or use of any property that belongs to a member of the public, another employee, Elected Official, or the City, including any item lost or otherwise found on, or present on, the City premises without permission.

20. Uncooperative: Failure to report any work-related injury/illness; accident with, or damage to City property; refusal to cooperate in a City investigation; failure to cooperate with others in the City.

21. Unauthorized Work Time: Nonexempt employee who commences work prior to the scheduled starting time, work during their meal break, or work past the scheduled end of their shift without prior approval of their immediate supervisor.

22. Unexcused Absence: Unauthorized or unreported absence from work; leaving work during working hours without prior notice and approval. Job abandonment.

23. Strikes Prohibited: No person shall authorize, approve or consent to a strike by one or more employees in the service of the City. It is unlawful for any employee in the service to strike.

a. Notwithstanding any other provisions of law, a City employee who violates the provisions of Section 6-4, 23 or any subsection thereof, shall be dismissed and not entitled to any of the rights or benefits of employment. Such dismissal shall be immediate and compulsory.

b. If Subject to such violation, a person is re-appointed or re-employed within one (1) year period after the violation, the following conditions shall apply.

i. compensation shall in no event exceed that received immediately prior to such violations; and

ii. the compensation, benefits and emoluments of such person shall not be increased by the City until the expiration of one-year period from the re-appointment or reemployment.

23. Gifts and /or Favors: No reward, favor or emolument of other form of remuneration, in addition to regular compensation shall be received by any employee in the service of the City for the performance or nonperformance of his duties or in anticipation of such performance or nonperformance of his duties from any vendor, contractor, individual, firm or any other source having or proposing to have any relationship with the City. For the purpose of this subsection "value" shall be defined as any item or service which could be exchanged for any amount of money, goods or services.

a. If a reward, gift or any other form of remuneration is made available to any department of the City, it shall be credited to the employees' fund of the department to which the remuneration if made, any employees' funds, or for the benefit of city employees generally.

b. This section is not applicable to any rewards, gifts or other forms of remuneration given as rewards for acts of heroism; for the apprehending of criminals; or for the solving of crimes.

c. This section is not applicable to recognition for suggestions resulting in monetary gain to the City, or recognition for outstanding and unusual service of the remuneration given to the employee is approved by the City Council.

24. Weapons: Possession or storage of any weapon or explosive device without authorization on City property or at any worksite.

25. Appointment or Promotion: No person seeking appointment to or promotion in the service of the City shall give directly or indirectly, render or pay any money, service or other valuable thing to any person for or on account of or in connection with that person's test, appointment, proposed appointment, promotion, provided however, that the provisions hereof shall not apply to payments made to duly licenses employment agencies.

6-5. PAY PERIODS.

A. The City shall have a two (2)-week pay period, beginning at 12 a.m. on alternate Sundays and ending at 11:59 p.m. on the following second Saturday.

Adopted: 2/2/16

6-6. TIME REPORTING.

A. Exempt employees may be required to use a designated timekeeping system but are required to account for hours worked, including business trips and any type of leave.

B. All non-exempt employees will accurately record all hours worked and all leave time taken in hours and minutes, and the type of leave to be charged, in the manner prescribed within the department. Where available, time clocks shall be used to establish time worked.

C. Each employee is responsible only for his/her own record keeping, unless he/she is absent from work. A supervisor shall not alter or adjust the hours that an employee reports on the time card or timekeeping system without the employee's knowledge. If an employee is found to have punched a time clock or otherwise submitted time to be credited to another employee, disciplinary action, up to and including termination, may be taken against both the employee who commits the act and the one receiving the benefit of the act.

D. If a non-exempt employee forgets to clock or sign in or out, the employee must notify his/her supervisor immediately so the time may be accurately recorded for payroll. Repeated failure to sign in or out may result in disciplinary action up to and including termination.

E. Once an employee clocks or signs in, work is to commence immediately. Failure to do so is considered falsification of timekeeping records. Employees shall not clock-in in advance of their scheduled starting time unless prior approval of their supervisor has been granted. Failure to clock/sign in or out for lunch breaks will result in a minimum of one (1) hour deduction or actual time, whichever is greater.

F. By signing/verifying and submitting a timesheet or electronically verifying in the timekeeping system, the employee and supervisor are certifying that the number of hours reported were worked or taken as authorized leave, and that payment therefore is lawfully due and payable by the City.

G. Each department shall submit bi-weekly time records for all employees to the Finance (Payroll) Department no later than 2:00 p.m. on Monday morning following the close of the pay period. The Finance (Payroll) Department shall periodically audit time records to ensure accuracy and accountability. The Finance (Payroll) Department shall maintain the official time records for all City departments for a minimum of three (3) years.

6-7. PAYROLL DISBURSEMENTS.

A. Direct Deposit is a recommended process for payroll. Failure to enroll in direct deposit may result in a delay in issuance of paycheck. Direct deposit authorization must be completed within the first three (3) days of employment.

B. For employees who do not have direct deposit, payroll checks should be distributed by the Department Director or designee. Any payroll checks not picked up by an employee after five (5) working days will be returned to the Finance Department.

6-8. OFFICIAL PERSONNEL RECORDS.

A. The Human Resources Department will maintain an Official Personnel File on each employee. Departments may elect to maintain separate departmental working files for their personnel which may contain copies of personnel documentation as well as the supervisor's working notes. Original documents that comprise the contents of the Official Personnel File must be forwarded to the Human Resources Department for retention in the Official Personnel File.

B. Departments that choose to maintain employee's departmental working files shall ensure that nothing unrelated to the job and the employee be entered in the file. These departments will turn over those files in the event of arbitration or other legal actions.

C. Records of volunteers will maintain by the Human Resources Office.

D. Following separation from City employment, all contents of an employee's departmental personnel file will be forwarded to the HR Department for retention in accordance with public records requirements.

E. It is the employee's responsibility to notify the Human Resources Department of any change in his/her home address, telephone number, marital status, number and names of dependents, or other necessary information required for accurate and current personnel records.

F. Leave File. A Leave file is maintained by the Finance Department for each pay period for three years, and includes all request-for-leave forms which are signed by the employee, supervisor, and Department head.

G. Medical File. A separate, confidential medical file is maintained as necessary for each employee. This file contains documents related to the employee's medical or psychological condition. Access to all medical information is restricted to a need-to-know basis.

H. Employment Eligibility (I-9) Information. In compliance with the Immigration Reform and Control Act of 1986, as amended, employment-eligibility forms are maintained in the Human Resources Department for three (3) years after an employee's date of hire or one (1) year after termination, whichever is later. These documents are made available for inspection by auditors and representatives from the Departments of Labor and Homeland Security. In the event of the expiration of an employee's eligibility to work in the United States, it is the employee's responsibility to provide to the Human Resources Department updated eligibility documentation.

6-9. PUBLIC RECORD INFORMATION.

A. Employee personnel files are the property of the City. For the purpose of inspection of public records, the employee's application form and personnel actions shall be regarded as public record and may be subject to disclosure upon request, per NMSA 1978 §14-2-1.

6-10. ACCESS TO THE OFFICIAL PERSONNEL FILE.

- A. With the exception of the application and Human Resources Action forms, the remainder of the Official Personnel File is confidential to the extent allowable by law and accessible only to: 1) the employee; 2) supervisors in the employee's chain of command up to and including the City Manager; 3) the Human Resources Director or designee; 4) the hiring supervisor, in the event the employee seeks another position within the City; and 5) the City's legal representative.
- B. If an employee wishes someone other than those authorized to have access to his/her Official Personnel File, he/she must provide written authorization to the Human Resources Department.

6-11. COPIES OF PERSONNEL RECORDS.

- A. An employee may inspect the contents of his/her Official Personnel File upon request to Human Resources. All inspections must be conducted in the presence of the Human Resources Director or his/her designee.
- B. When copies are needed, the employee will be required to pay a nominal processing fee for the copies.

6-12. NEGATIVE OR DEROGATORY INFORMATION.

- A. Negative or derogatory material shall not be placed in an active employee's file unless the employee has had an opportunity to review the material.
- B. Employees will be asked to sign such material to indicate they have reviewed it. If the employee refuses to sign such material, it may be placed in the employee's file with a dated notation that the employee refused to sign the material after being given an opportunity to do so.

6-13. VERIFICATION OF EMPLOYMENT.

A. All requests for release of employment information shall be forwarded to the Human Resources Department. An employee's address or telephone number shall not be given without proper authorization, such as a release signed by the employee, a court order, or a subpoena.

B. The City will only provide the dates of employment, job titles and salary in response to external requests for confirmation of employment.

C. The City may provide the requestor access to the employee's personnel file if the employee has provided an authorization specifying which sections of the personnel file may be reviewed and releasing the City of any liability for releasing such information to the requestor. The City retains the right to deny the requestor access to the personnel file.

D. No employee shall respond to external inquiries about City employees, including but not limited to job reference inquiries, without first coordinating with and obtaining approval to respond from their respective Human Resources Department.

6-14. REFERENCES/RECOMMENDATIONS.

A. No employee in their official capacity shall provide a letter of reference/recommendation for any current or former employee of the City without first having the letter of reference/recommendation reviewed and approved by the Director of Human Resources and the Director of the Legal Department.

B. No employee shall respond to external inquiries for a reference about City employees, including but not limited to job reference inquiries, without first coordinating with and obtaining approval to respond from the Human Resources Department.

6-15. PERSONAL APPEARANCE.

Dress, grooming and personal hygiene are important aspects of individual comfort and expressions; they are also important indications of the degree to which an employee is considerate of his effect on fellow employees and mindful of the effect his or her appearance may have on the public. It is the policy of the City that each employee's dress, grooming, and personal hygiene should be appropriate to the work situation. During business hours, employees are expected to present a clean and neat appearance and to dress according to the requirements of their respective positions.

A. Office workers and any employees who have regular contact with the public must comply with the following personal appearance standards:

1. Employees are expected to dress in a manner that is normally acceptable in similar work situations.

2. Employees who are presenting or speaking to the Governing Body in the course of their employment for the City shall be dressed appropriately for their position.

3. Casual business attire may be permitted on Friday. In all cases, clothing must be in good condition and not torn or frayed.

4. Unacceptable Attire includes the following:

- a. Plain or pocket T-shirts
- b. T-shirts with logos
- c. Shirts with terms, logos, pictures, cartoons or slogans
- d. Provocative attire
- e. Tank tops, tube tops, haltered tops with spaghetti straps, one shouldered, off-the-shoulder, and see-through tops
- f. Bustier
- g. Midriff length tops

- h. Blouses or dresses that excessively expose cleavage and/or back area
- i. Sweaters that expose undergarments
- j. Tight fitting dresses or blouses
- k. Short or tight skirts that ride halfway up the thigh
- l. Mini-skirts, shorts, sun dresses, beach dresses, and spaghetti-strap dresses
- m. Holiday apparel that is excessive
- n. Evening wear (outfits and/or shoes)
- o. Athletic wear (outfits and/or shoes)
- p. Any type of open toe shoes
- q. Any type of shoe that is above 3" high
- r. Spandex or lycra such as biker shorts or leggings
- s. Thongs of any kind which are exposed
- t. Beach wear
- u. Faded/frayed denim jeans
- v. Cutoffs
- w. Not wearing stockings or socks
- x. Underwear as outerwear
- y. Hats or caps (allowed only if part of a uniform)

B. Employees who do not regularly meet the public should follow basic requirements of safety and comfort, but should still be as neat and businesslike as working conditions permit.

C. Certain employees may be required to meet special dress, grooming, and hygiene standards, such as wearing uniforms, depending on the nature of the job.

D. At its discretion, the City may allow employees to dress in a more casual fashion for special occasion than is normally required. On these occasions, employees are still expected to present a neat appearance and are not permitted to wear ripped or disheveled clothing, athletic wear, or similarly inappropriate clothing.

E. Department heads are responsible for determining and enforcing the dress standards for their respective areas of responsibility.

F. The City reserves the right to advise any employee at any time that his/her grooming, attire or appearance is unacceptable.

G. After having been so advised, the employee will be expected to comply with the suggested change. Failure to do so will result in the discipline. Repeated lack of compliance may result in further disciplinary action, up to and including termination of employment.

H. Employees who are required to wear uniforms of any type in the performance of their duties will be provided such uniforms by the City. Uniforms that are provided by the City become the property of the employee during the employment service to the City. Laundering, cleaning and general upkeep of uniforms is the responsibility of each employee. Uniforms which do not qualify for exemption from taxation, will be appropriately taxed by the Finance Department.

I. Uniforms provided by the City shall be worn only while performing official City duties and, except in the performance of official duties, shall in no event be worn in bars, liquor establishments or places of public entertainment.

J. Any employee who does not meet the standards of this policy will be required to take corrective action, which may include leaving the premises. Nonexempt employees will not be compensated for any work time missed because of failure to comply with this policy. Violations of this policy will result in disciplinary action up to and including termination.

6-16. ELECTRONIC MAIL, COMPUTER AND ON-LINE SERVICES USAGE.

A. As a condition of employment and continued employment, employees agree to the following:

Adopted: 2/2/16

1. All electronic storage and communication systems – including, without limitation, facsimiles, copiers, computers, software and telephones – and all information transmitted by, received from or stored in these systems are the property of the City;

2. These systems are to be used for job-related purposes and not for personal purposes, unless expressly authorized in advance by the employee's supervisor;

3. Employees have no expectation of privacy in connection with the use of this equipment or with the transmission, receipt or storage of information in the equipment;

4. The City may monitor an employee's use of this equipment at any time at its discretion, which may include printing and reading all e-mail entering, leaving or stored in these systems as well as listening to any voice-mail messages;

B. Software Copyright.

The City purchases and licenses various computer software for business purposes and does not own the copyright to this software or its related documentation. Employees may not reproduce such software or use it on more than one computer unless authorized to do so by the software-license agreement. Employees with questions or concerns regarding the use of software or its related documentation should contact the Information Technology Director or the designated city employee of the IT Services.

C. Prohibited Use.

1. Improper use of the City's electronic storage and communications equipment is strictly prohibited. This includes, without limitation, transmission or reception of any material in violation of Federal, State or local law or regulation – including copyrighted material, threatening or obscene material or material that is trade secret or confidential.

2. This also includes using the City's equipment or resources for commercial activities, religious or political causes, outside organizations or other non-employment related matters; and transmitting offensive jokes, sexually explicit material, chain letters or material that is otherwise disruptive to the orderly operation of the City.

D. Passwords.

Employees should remember that log-on and other passwords should not be shared with anyone else. Failure to cooperate with an authorized City Official in any investigation involving the City's electronic communications systems is a violation of the policy and may result in discipline, up to and including termination of employment.

E. Consequences of Prohibited Use.

Any violation of this policy may result in disciplinary action, up to and including termination of employment.

6-17. U.S. MAIL AND TELEPHONE SYSTEMS.

A. The U.S. mail delivery systems are resources available for use within the course and scope of employment and should not be used for personal reasons. Employees' use of these systems has the effect of granting permission to Management to access, read and print any messages created or received using the systems.

B. On those occasions an employee needs to receive or make a personal telephone call or email, the calls/transmissions should be brief and infrequent. Long-distance personal calls resulting in charges to the City are discouraged and must be reimbursed to the City within thirty (30) calendar days. Upon termination of employment, any outstanding charges will be billed to the employee.

C. City records involving telephone and the U.S. mail are subject to access by management and potentially to public disclosure. Therefore, employees should assure that the information contained therein is accurate, appropriate and lawful.

D. City mail systems shall not be used to create or send any offensive or inappropriate message. Among those which are considered offensive or inappropriate include but are not limited to any messages which contain sexually suggestive statements or implications; racial, gender or religious slurs or proselytizing; or those containing vulgar or profane language.

E. City mail systems shall not be used to solicit for outside business ventures, personal parties, charities or membership in any political, social and/or religious organizations.

6-18. BULLETIN BOARDS.

A. City bulletin boards shall be located in each City facility in areas that are easily visible and accessible to employees. Each Department head is responsible for the content of its bulletin board.

B. The bulletin boards shall be used to post official notices dealing with legally required employee notices and those from the Employee Activity Committee. These bulletin boards are not available for posting personal employee items. City bulletin boards shall not be accessible to outside vendors or solicitors for advertisement purposes. Any posting from a nonprofit or governmental agency shall first be approved by the City Manager or the director of the department where posting is being made.

6-19. PHOTOGRAPHS.

Images of employees may be captured and used only with their permission and only in the conduct of City business. At City functions or special celebrations, the City may designate an employee to capture the event digitally or on film and should be used only for official city business.

6-20. CELL-PHONE USAGE.

A. Employees shall keep personal phone calls to a minimum while on-duty, whether they are using the City landline or cell-phone services, or the employees' personal cell-phones.

B. Employees shall abide by acceptable business etiquette for cell-phone use by placing phones on vibrate during meetings.

C. City cell phones are to be used for City business. Employees' airtime must remain within the parameters of their assigned calling Plan as established by Management. Employees may not use cell phones or pagers to conduct business for others or themselves. Employees may never use City phones or pagers to call 900 numbers. Additional charges or overages charged to the City as a result of misuse will be submitted to the employee for reimbursement to the City.

D. City cell phones bills are reviewed to determine if there has been any abuse of the system. Such abuse includes excessive personal calls or making inappropriate or harassing calls. Violations of the City phone policy may lead to discipline up to and including termination.

E. Any cell phone must be used in a safe manner. Use of cell phones while operating a City vehicle or other equipment is prohibited except in the case of an emergency.

F. All city issued electronic devices are City property and are to be turned in upon separation from City employment.

6-21. CHILDREN OF EMPLOYEES AT WORK.

For reasons related to liability, child-labor laws, confidentiality and the disruption of work activities, employees are not permitted to allow their children to remain in the employees' work areas in lieu of off-site daycare or school or allow other family members to remain in the employees' work areas. In the event of a daycare or school cancellation, the employee must use appropriate leave for dependent care. On occasion the City Manager or his/her designee may grant exceptions to this policy for state-wide or national events encouraging employees to bring a child to work.

6-22. CITY DRIVER TRAINING.

Adopted: 2/2/16

A. City employees and volunteers who drive vehicles as part of their duties for the City are to attend a City-sponsored course approved by City insurance carrier. Eligibility to drive City vehicles or other equipment requiring a driver's license or operators permit requires completion of the course and passing the examination at the end of the course.

B. Newly hired employees or volunteers are to attend or be scheduled to attend an approved course within the first six (6) months of employment unless a copy of a certificate of training completed within the past two years is provided to Human Resources by the employee.

C. City insurance carrier shall provide notice to the City, Department head or Human Resources Department if an employee or volunteer does not successfully complete the required course.

D. All City employees and volunteers who drive for the City must re-certify every two (2) years. Re-certifying requires completion of the course including a passing score on the examination at the end of the course. Human Resources will notify the employee's supervisor of employee-driver training needs.

E. The supervisor of an employee who is involved in a preventable accident while driving a City vehicle is responsible for scheduling that employee to attend an additional approved course as soon as practical.

F. City insurance carrier and Human Resources may designate additional training requirements for those City departments with employees who have specialized driving requirements.

6-23. MOTOR-VEHICLE RECORDS CHECKS.

A. The Human Resources Department will conduct a check of the driving records of all employees who drive as part of their duties for the City at a minimum on a monthly basis. Human Resources will notify supervisors of any citations found in this check. Departments that utilize volunteers to drive City vehicles will provide Human Resources the information necessary to conduct this motor vehicle records check at the beginning of service and thereafter when information changes.

B. Driving records of applicants for driving positions, including present City employees, must be reviewed before making an offer of employment for a position that requires driving. Applicants must have an acceptable driving history to be considered for employment.

C. Driving records are evaluated based on moving-violation convictions, chargeable accidents, and related performance.

D. All employees in driving positions must maintain an acceptable driving record.

E. The employee's driving record must be checked before an employee is promoted, transferred, or reassigned into a driving position. An employee who does not have an acceptable driving record will not be placed into a driving position.

F. Definitions.

1. Unacceptable Driving Record: Any of the following is considered an unacceptable driving record:

a. Three or more moving violation convictions in the past three years.

b. Two or more moving violation convictions in the past year.

c. Conviction of a major violation within the past three years. Major violations are defined as a fine or conviction for:

i. Reckless Driving

- ii. Speed Contests (racing)
- iii. Leaving the scene of an accident
- vi. DWI (alcohol or drugs) and/or refusal to take a blood alcohol test
- v. License suspension, revocation or restriction due to moving violation convictions
- vii. Fleeing or attempting to elude police in a motor vehicle
- viii. Homicide, manslaughter, or assault arising out of the use of a vehicle.
- ix. In addition, any cancellation, expiration, refusal, revocation, suspension, or restriction affecting the employee's ability to drive on City business. Certain positions will have additional requirements that define an acceptable driving record.

G. Any prospective employee with a DWI within three years of application for City employment into a position which requires driving will require prior approval of the City Manager and Human Resources Director to be hired.

6-24. LOSS OF DRIVER'S LICENSE.

A. This policy applies to all City employees and volunteers who are required by the essential functions of their job to operate a City-owned motor vehicle or who are asked to drive on City business.

B. An employee must have the appropriate, valid license in his/her possession to drive on City business. Only authorized employees are allowed to drive vehicles on City business. Employees are required to comply with all applicable federal, state and local regulations relevant to driving a motor vehicle. Employees will be permitted to operate City-owned motor vehicles only if they possess a current and valid driver license, normally New Mexico or Texas or have a valid and unexpired New Mexico or Texas Temporary Driving Privilege License. A valid unrestricted CDL is required for employees operating equipment that requires this license.

C. Department heads, or their designee, shall prohibit any employee without an appropriate driver's license in his/her possession from driving on City business.

D. Department heads, or their designee, shall immediately remove from a driving position any employee whose license is cancelled, expired, refused, revoked, suspended, or restricted in a manner which affects the employee's ability to drive on City business.

E. If a supervisor learns that an employee has had his/her driver's license revoked or suspended or that the employee does not have a valid and un-expired New Mexico Temporary Driving Privilege License, the supervisor will take the following actions:

1. Immediately prevent the employee from operating a City-owned motor vehicle until further notice from the employee that the license has been reinstated.
2. Inform the Department head in writing of the suspension, revocation or non-renewal and the facts surrounding the loss of the license by the next business day.
3. The Department head will determine if there is a vacant position for which the employee is qualified to which the employee can be transferred for which there are no priority

reassignments under Workers' Compensation or ADA. If an appropriate position is identified, the employee may be reassigned to that position with a reduction in pay commensurate with the new position.

4. If there are no vacant positions for which the employee is qualified, the Department head shall issue a written notice placing the employee on leave. If the employee has vacation leave or compensatory time he/she may opt to use it, otherwise, he/she will be unpaid for missed work time subject to FLSA regulations.

5. While on leave, the employee may seek other positions in the City for which he/she is qualified for up to ninety (90) calendar days, or pursue reinstatement of lost license or certification during this time.

6. If the employee has his/her license re-instated within ninety (90) calendar days, he/she may be placed back into his/her previous position if available, or compete for vacant positions for which the employee is eligible.

7. If a suitable vacancy cannot be found, or license cannot be re-instated at the end of the ninety (90) calendar day period, the employee will be terminated.

8. An employee in a driving position who has a favorable status change in his/her driver's license for a period of more than ninety (90) calendar days shall be terminated.

G. An employee in a driving position must be able to drive as an essential job function. Each driving employee is responsible for:

1. Being aware of, understanding, and complying with federal, state, and local laws and City policies applying to the operation of vehicles on City business.

2. Ensuring that the privilege to drive is maintained.

3. Maintaining in his/her possession the appropriate driver's license at all times while driving on City business and to prove he/she has valid driving privileges upon request.

4. Complying with all license restrictions issued by the DMV.

5. Immediately reporting to their immediate supervisor prior to starting the next work shift if they do not have a valid drivers' license for any reason or if there is any change in status of his/her driver's license.

6. Refraining from driving on City business after there has been a change in status of his/her driver's license, even if the cancellation, expiration, refusal, revocation, suspension, or restriction has ended, unless the license has been reinstated. Proof of reinstatement must be provided to the supervisor before driving on City business.

7. If an employee is cited for DUI/DWI or incurs any other action that threatens his/her driver's license the employee will comply with the following continuing notice requirements:

a. provide notice of such citation, non-renewal or other action to his/her direct supervisor prior to starting the next work shift.

b. provide proof of his/her Request for Hearing or appeal within twenty (20) calendar days of the date of the citation, non-renewal or other action.

c. provide a copy of the Notice of Hearing from the Department of Motor Vehicle (DMV) within 72 hours of receipt.

d. provide a copy of the DMV ruling within three (3) calendar days of the ruling to the Human Resources Department, but no later than 90 calendar days from the citation, non-renewal or other action.

8. Failure to comply with these reporting requirements will result in immediate termination.

H. An employee in a non-driving position must:

1. Comply with federal, state, and local driving laws.

2. Follow all regulations pertaining to driving on City business if requested to drive a vehicle on City business.

3. Immediately notify his/her supervisor if requested to drive a vehicle on City business and the employee does not have the appropriate driver's license in his/her possession.

I. No employee will drive on City business after consuming an alcoholic beverage(s) or any other substance that may impair driving. Any impairment affecting the ability to operate a vehicle safely must be immediately reported to the supervisor.

6-25. EMPLOYEE PARKING.

A. All of the City's facilities have parking lots available for use by employees at no charge. Spaces that have been reserved for access by persons with disabilities at each facility require the occupant to display an appropriate placard from the Motor Vehicle Division. Employees also are prohibited from parking in areas reserved for emergency vehicles or officials. (Public Works vehicles are emergency vehicles)

B. The City is not responsible for damage, theft or loss to employees' vehicles, or personal property within those vehicles, while parked on City property, unless damage or loss occurs due to City negligence

6-26. IDENTIFICATION BADGES.

A. In order to promote safety, accountability and security of personnel, facilities and assets, City employees and volunteers shall wear identification (ID) badges or have the badge in their possession while in a City building or facility or working in the field in an official capacity.

B. The following employees are exempted from wearing an ID badge:

1. Members of the Police Department, Fire Department and field staff are exempted from wearing ID badges while in uniform. These employees must carry their ID and be able to provide their identification, upon request.

2. Employees who operate machinery or equipment, where the wearing of an ID badge would create a safety hazard, are exempted from wearing an ID badge during periods of machinery or equipment operation.

3. Employees of agencies other than City whose primary workplace is a City facility.

C. There is no substitute for the official City ID badge nor may it be altered in any way. Departments must receive City Manager approval to create secondary badges.

D. If an employee's original badge is lost, damaged or excessively worn, if the picture no longer resembles the employee or the employee changed names, a replacement badge may be obtained from the Human Resources Department for a nominal processing fee.

Adopted: 2/2/16

E. ID badges belong to the City and must be surrendered to the Human Resources Department upon demand. Badges are to be used solely for identification as a City employee, volunteer or official visitor.

F. Vendors, contractors and other visitors must wear the identification badge when they are in any part of the building that is not open to general public access and are not accompanied by a City employee. General public access areas are the public side of customer service counters, reception areas, lobbies, hallways, public meeting room, restrooms, stairwells, sidewalks, grounds, and parking areas. The visitor or contractor shall obtain the identification badge from the department for whom they are visiting or performing services.

6-27. USE OF TOBACCO PRODUCTS IN AND AROUND CITY PROPERTY.

A. Smoking or use of tobacco products is prohibited in any City-owned or leased buildings and vehicles. Smoking or use of tobacco products is restricted to marked, designated areas which are to be no less than 25 feet from an accessible entrance or air intake of any City building.

B. Smoking is prohibited within 50 feet of any area where flammable materials are handled or stored, or where other significant fire hazards may exist.

6-28. WORKPLACE VIOLENCE.

A. The City shall not tolerate any threat or act of violence within its work environment. The City shall enforce the level of discipline appropriate for any action or threat of workplace violence, or intimidation. Every reported incident of alleged workplace violence will be investigated and the City will take corrective action, up to and including termination, against employees who engage in workplace violence.

B. The City will provide awareness training and make every reasonable effort to prevent violence in the workplace from occurring.

C. Definitions:

1. Threat – Any expression of intent to inflict harm. Any indication of impending danger or harm. Any signs or warnings of impending danger or harm.

2. Workplace Violence – hitting, shoving, pushing, kicking, and sexual assaults; this also includes verbal outbursts and can happen in the form of threats, harassment, abuse, and intimidation.

3. Workplace – means any physical location, either permanent or temporary. This includes vehicles, whether or not owned or controlled by the City, or anywhere a City employee performs any work-related duty.

4. Aggressor – means anyone who threatens or initiates a workplace violence incident.

D. Possession of a firearm or any other lethal weapon in the workplace is strictly prohibited, unless it is required by the employee's job.

E. Employees who experience or witness workplace violence, whether or not physical injury has occurred, are required to verbally report the incident immediately to a supervisor in the area where the violent incident occurred. If there is no supervisor in the area, the employee shall immediately contact the Department head.

F. The area supervisor shall immediately call emergency medical personnel, if necessary, report the violent incident to a local law-enforcement agency, and attempt to secure the work area where the disturbance occurred.

G. After security measures have been taken, the any supervisor having knowledge if the violence incident shall immediately verbally report it to the Human Resources Department, if during work hours.

Adopted: 2/2/16

Otherwise, it will be reported at the beginning of the next working day. The Human Resources Department shall immediately notify the City Manager.

H. The area supervisor shall complete a Violent Incident Investigative Report within twenty-four (24) hours of the incident, or as soon thereafter as possible.

I. All reports of workplace violence shall be forwarded to the Human Resources Department immediately.

J. The supervisor may contact the Human Resources Department for crisis intervention or to refer the victimized employee(s) and employees who may be traumatized by witnessing a workplace-violence incident.

K. The alleged aggressor may be placed on administrative leave with pay immediately, with management approval, when the incident is reported, and may remain on administrative leave during the investigation.

L. The Human Resources Department shall report the incident to a Police Investigator who shall commence an investigation of the violent incident within one working day of receiving the report. In the absence of a City Police Investigator, the Human Resources Director (or designee) shall conduct the investigation.

M. The results of all investigations of workplace violence shall be forwarded to and reviewed by the City Attorney and Human Resources Director within three (3) business days of the conclusion of the investigation. The Human Resources Director shall report the results of the review and any recommendation to the City Manager and Department head.

N. If the investigation confirms the report of workplace violence, the Department head will recommend disciplinary action to the City Manager, up to and including termination of the aggressor and others who may have been party to the incident.

O. Disciplinary action will be issued in accordance with the applicable Human Resources policies and procedures, administrative policies, and any applicable collective-bargaining agreement.

P. Use of any weapon in the commission of the violent incident will result in immediate termination of employment.

Q. If the incident does not result in termination of the employee(s), the supervisor, in accordance with the Fitness for Duty Policy, will arrange for the employee (s) to undergo an evaluation to determine the employee's ability to perform his/her essential job functions without posing a direct threat to self or others.

R. If it is determined that the employee does not pose a direct threat, the Supervisor(s), Human Resources Director or designee, and Employee Assistance Program will develop a plan under which the employee may continue to work. This plan will include all recommendations that have come as a result of the Fitness for Duty Evaluation. The employee will provide a signed commitment to comply with the established plan. Failure to sign and/or comply with the established plan will result in further disciplinary action, up to, and including termination of employment.

S. Threatening violence against another person is a violation of the law. It is the victimized employee's option to report the incident to law enforcement.

T. Human Resources shall conduct a closure interview with the complainant within ten (10) business days of the City Manager's determination informing the complainant of the results of the investigation and, where appropriate, that action will be or has been taken. The department head(s) of the complainant and alleged offender will be informed of the results of the investigation.

U. The Human Resources Department will conduct a follow-up inquiry within thirty (30) calendar days after the corrective actions have been taken to ensure that no further or additional instances of workplace violence have occurred, and that the complaining party and the victim have not experienced retaliation for filing the complaint. The results will be documented and filed.

V. If the investigation finds the allegation of workplace violence to be unsubstantiated, the Human Resources Director or designee will notify the complaining party, the alleged victim, and the alleged aggressor in writing, summarizing the results of the investigation and stating clearly that no disciplinary action is warranted. Filing a false workplace violence complaint may lead to disciplinary action, up to and including termination.

6-29 FELONY CONVICTION.

- A. If an employee in the service of the City is formally charged with a felony violation in a court of competent jurisdiction and the alleged acts or failure to act of the employee giving rise to the charges occurred partially or wholly in the scope of employment or if the employee is charged with a crime involving moral turpitude which if true would be a proper reason for disciplinary action up to and including termination from City employment, the employees shall be placed on administrative leave without pay.
- B. In the event that an employee is placed on administrative leave without pay the Police Chief shall conduct an investigation of the felony or criminal charges and report to the City Manager the results of the investigation within fourteen (14) calendar days of the employee being placed on administrative leave.
- C. The employee may, if he or she desires, appear before the City Manager and make a statement and present such relevant testimony as he or she desires. The City Manager may employ, suspend, terminate or take such other action in respect to the employment of the employee as deemed proper.

6-30 DRUG-FREE WORKPLACE.

A. It is the City's intent to comply with the Drug-Free Workplace Act (41 U.S.C. 701). As a condition of employment, the City prohibits the manufacture, distribution, dispensation, possession, sale or use of any illegal drug, alcohol or controlled substance or other mind-altering chemical or organism, narcotic or related paraphernalia on City premises or in a City vehicle.

B. Employees shall not unlawfully manufacture, distribute, dispense, possess or use a controlled substance while on the job or in the workplace, or be under the influence of a controlled substance, not prescribed for him/her by a physician, while on the job or in the workplace. Any employee violating this policy will be subject to discipline, up to and including termination.

C. Employees with substance-abuse problems are encouraged to participate in a counseling or rehabilitation program prior to being in a disciplinary situation. Employees should be advised of any available drug counseling or rehabilitation programs.

D. "*Controlled substances*" are specifically defined in federal law and consist of two classes of drugs: (1) those commonly thought of as "illegal" drugs; and (2) certain medications if not being taken under a physician's prescription or according to a physician's orders, which the federal government has determined have a potential for abuse, or are potentially physically or psychologically addictive.

E. Employees must give notification in writing to the Human Resources Director and the supervisor within five (5) calendar days of any conviction for violation of a criminal drug statute. A conviction means a finding of guilt (including a plea of nolo contendere) and/or the imposition of a sentence by a judge or jury in any federal or state court. This reporting requirement is in addition to any agency work rules that require notice of arrests and/or convictions. An employee who is so convicted or who fails to report such a conviction is subject to discipline, up to and including termination.

F. Employees in violation of the policy are subject to disciplinary action up to and including termination. The City reserves the right to require an employee to undergo a medical evaluation when there is reasonable suspicion of abuse per this policy.

G. The City must notify the appropriate federal agency in writing within ten (10) calendar days of receiving notice that one of its employees funded under a federal grant or contract has been convicted for a violation of a state or federal drug statute occurring in the workplace.

6-31. ALCOHOL AND DRUG TESTING.

A. Random Alcohol and Drug Testing (CDL).

1. The City complies with the Omnibus Transportation Employee Testing Act of 1991. Random alcohol and/or substance abuse testing is required for City CDL drivers on an unannounced basis in compliance with these Federal Department of Transportation (DOT) rules. Random alcohol and/or substance-abuse testing is characterized by randomly selecting designated employees for drug and alcohol testing on an unannounced basis.

2. Random alcohol testing shall be administered at a minimum annual rate of 25 percent of the average number of designated employees. Random controlled-substances testing shall be administered at a minimum annual rate of 50 percent of the average number of designated employees. The City shall ensure testing-site facilities and procedures to be in compliance with Federal DOT rules through the approved contractor providing such services.

3. All applicants or present employees being considered for a job that requires a CDL must be tested.

B. Voluntary Self-Identification by Employees.

1. An employee who self-identifies and requests referral to a drug or alcohol rehabilitation program prior to being randomly selected for drug or alcohol testing shall be referred to such program without reprisal or disciplinary action

2. Employees shall be tested during the rehabilitation period. A positive test result shall be grounds for termination of employment.

C. Refusal to Submit to Alcohol or Drug Testing.

1. Refusal to submit to a drug or alcohol test shall be considered a positive test result. Any employee who refuses or fails to cooperate in the drug or alcohol-testing procedure shall be subject to termination.

D. Positive Results of Alcohol and Drug Testing.

1. If an employee tests positive for drugs or alcohol, the employee will be placed on administrative leave pending disciplinary action and/or rehabilitation alternatives.

2. If the employee is required to successfully complete an approved drug-rehabilitation program as part of the disciplinary action, the employee shall be responsible for paying the cost of the rehabilitation program personally or through insurance coverage for such treatment.

3. Accrued vacation, compensatory and sick leave may be used to attend any rehabilitation program scheduled during normal working hours. If leave is exhausted, the employee will be unpaid for missed work time subject to FLSA regulations.

4. Prior to the employee's return to work, the employee shall be required to submit to an alcohol/drug test. If the employee tests positive, the employee shall be subject to disciplinary action, up to and including immediate termination.

5. Upon the employee's return to work after completion of the rehabilitation program, the employee shall be required to submit to unannounced, unscheduled tests for drugs/alcohol for a period of twelve (12) months. The employee will be responsible for the cost of these tests.

6. If the employee tests positive during this twelve (12) month period, the employee shall be subject to disciplinary action, up to and including immediate termination.

E. Confidentiality.

1. The laboratory reports and test results shall be maintained in a separate file. They shall not be included in the Official Personnel File, unless they are part of a disciplinary action.

6-32. CONTROLLED SUBSTANCES ABUSE AND MISUSE.

It is the policy of the City that all employees have the right to a workplace that is free of controlled substances and alcohol and that no employee shall be permitted to perform job functions while under the influence of controlled substances or alcohol due to the potential results of use and misuse which can range from personal injury or equipment damage to the death of co-workers or members of the public. This policy is applicable to all employees including classified, temporary, grant-funded and probationary as well as volunteer, interns or others providing service to the City. Employees determined to be in violation of this policy will be subject to disciplinary action up to and including termination.

A. Reasonable Suspicion Alcohol and Controlled Substance Testing (non-CDL)

1. Reasonable suspicion testing is performed when supervisors, managers or City officials have a reasonable suspicion to believe that an employee's behavior or appearance may indicate controlled substance or alcohol misuse or abuse. Supervisors, managers or City officials have the right and the responsibility to require an employee to submit to controlled substance and alcohol testing when reasonable suspicion is present or is involved in a reportable incident or vehicular accident.

2. The determination for reasonable suspicion testing must be based on the following:

a. First-hand observations seen or heard by supervisors, managers or City officials who have received specific training in the observation of controlled substance or alcohol misuse or abuse related factors.

b. Documentation of specific clearly stated observations concerning the appearance, behavior, speech or body odor of the employee.

c. Observations made just before, during or just after the performance of job functions.

3. At the time of reasonable suspicion observation, the employee will be escorted by the supervisor or other member of management to an approved testing facility immediately. For the name of the closest facility, contact the human resources department.

a. Alcohol testing must be completed within two (2) hours of the observed behavior or appearance. If testing was not completed within two (2) hours, the supervisor shall submit a memorandum to the department head and director of human resources explaining why the testing was not done in a timely manner and the testing should be completed as soon as possible thereafter. Under no circumstances shall alcohol testing be after eight (8) hours.

b. Controlled substances testing must be completed within twenty-four (24) hours of the observed behavior or appearance, If testing is not completed within twenty-four (24) hours, the supervisor shall submit a memorandum to the department head and director of human resources explaining why the testing was not done in a timely manner and the testing should be completed as soon as possible thereafter. Under no circumstances shall the controlled substances testing be completed after thirty-two (32) hours.

c. Employees are required to submit to reasonable suspicion testing upon request. Refusal to be tested or failure to comply with the time requirements will be

regarded the same as a positive test result and will result in disciplinary action up to and including termination.

d. Employees may be placed on administrative leave with pay pending the results of the test. See 8-17. Administrative Leave with Pay.

C. Post-Accident Alcohol and Controlled Substance Testing (non-CDL)

1. In the event of a work-place or work-related injury or illness resulting in the need for medical treatment for any party or property damage, the employee shall be tested for controlled substances and alcohol testing.

2. The employee's supervisor or another member of management shall transport the employee to an approved facility for controlled substance and alcohol testing as soon as practicable. For the name of the closest facility, contact the human resources department.

3. If for any reason the supervisor or designee fails to take the employee for testing within two hours of the accident being reported, the supervisor will be required to provide written documentation to the department head and human resources director. Failure to adhere to the requirements of this policy will result in disciplinary action up to and including termination.

4. Employees may be placed on administrative leave with pay pending the results of the test. See 8-17. Administrative Leave with Pay.

6-33. SUPERVISORY TRAINING COURSES.

A. Supervisory training courses are provided to ensure that all City managers and supervisors receive training in the Human Resources core subjects in order that the City may equip supervisory staff to be aware of legal and City requirements and obligations in the supervision of its staff and to help maintain employee satisfaction and productivity.

B. All individuals in positions that involve supervision, including "lead" positions, of others are required to attend HR core courses including but not limited to the following:

1. Preventing Discrimination;
2. Interviewing and Selecting;
3. Performance Management;
4. ADA Amendments;
5. Fair Labor Standards Act (FLSA);
6. Family Medical Leave Act (FMLA);
7. Workplace Violence;
8. Discipline and Termination

C. This list may be altered in the future and attendance at any additional courses that are developed will become mandatory as well. Some training courses will be offered on a recurring basis and supervisors will be required to take refresher courses on a periodic basis.

D. Supervisors are also required to attend Risk Management training as appropriate for their area of responsibility.

E. Training session information and enrollment instructions will be maintained by the Human Resources Department.

F. Attendance will be tracked by the HR Department and reported to management. Professional development efforts will be measured on the performance evaluation form. Failure to attend required sessions may be grounds for discipline up to and including termination.

SECTION VII – BENEFITS

7-1. WORKER’S COMPENSATION INSURANCE.

7-2. MODIFIED DUTY.

7-3. GROUP INSURANCE COVERAGE.

The purpose of Section VII is to describe the various benefits available for City employees including, but not limited to, retiree health insurance, worker's compensation insurance, retirement, and other benefits provided to eligible City employees.

7-1. WORKER’S COMPENSATION INSURANCE.

Employees are insured under the provisions of the New Mexico Worker’s Compensation Act, NMSA 1978 §§ 52-4-1 to 52-4-5 for job-related injuries or occupational illnesses.

A. Reporting.

1. Employees are required to report all on-the-job accidents, regardless of how minor. The supervisor shall ensure that the employee immediately receives all required medical treatment.

2. Notice of Accident” form (completed by the employee) and “Employer’s First Report of Injury or Illness” packet (completed by the supervisor), within 24 hours of the incident. In addition, the employee must submit a HIPAA Compliance Authorization for Disclosure of Protected Health Information” and Choice of Healthcare Provider form within twenty-four (24) hours of the incident, whenever possible.

B. Medical Procedures.

1. Emergencies. In traumatic on-the-job injury/illness situations or when a medical emergency exists, the employee may go to the nearest emergency room or urgent care center. Follow-up medical treatment will be coordinated by a physician designated by the City or its insurance provider.

2. Non-emergencies. The City in its discretion may allow an employee with a non-emergency, work-related injury/illness to see a physician designated by the City or its insurance provider. That physician will provide medical treatment and/or initiate all referrals for advanced or specialized care, depending upon the nature of the medical problem.

3. Post-Accident Alcohol and Controlled Substance Testing (non-CDL). See 6-31.

4. Compensation. The decision to approve or deny a claim for benefits is made by the City’s insurer of record, not by the City itself. If an employee’s claim is approved for benefits, any and all payments relating to the injury/illness will be made directly by the City’s insurer.

5. Waiting Period. There is a seven (7) day waiting period before an employee becomes eligible to receive payment for lost wages. Employees will use sick leave, vacation leave or accumulated compensatory time for any time missed from work due to the work-related injury/illness so that pay will continue from the City. If available leave has been exhausted, the employee will be unpaid for missed work time subject to FLSA regulations.

C. FMLA Coordination.

FMLA will run concurrently with Workers’ Compensation Leave. The Human Resources Department will coordinate FMLA and Workers’ Compensation Administration.

D. Re-employment of an Injured City Employee.

A City employee unable to return to work in his/her former job classification within the twelve (12) week period following the job-related injury/illness may apply for another position for which he qualifies. If qualified, he will receive preference in hiring. The employee’s treating

physician must certify that the employee is fit to carry out the job duties of the new position without significant restrictions or risk of injury.

7-2. MODIFIED DUTY.

A. Any City employee who incurs an injury or illness which limits his/her ability to perform one or more of the essential functions of his/her job for a temporary period of time will return to work as soon as possible, consistent with any medical limitations arising from that injury or illness. When an employee is temporarily unable to perform his/her or her usual and customary duties, the City will endeavor to place the employee in a modified-duty assignment as long as meaningful and necessary work is available. This assignment will be consistent with the employee's skills and abilities and any medically necessary work restrictions.

B. A modified-duty assignment is an alternate assignment within an employee's current job classification, or an assignment in a different job classification, while recovering from an accident/injury.

C. All requirements for modified-duty assignments will be evaluated on a case-by-case basis with consideration given to the skills and abilities of the employee, the medical or physical restrictions, and the availability of work. The physician's statement releasing the employee for modified or light duty shall include a description of the injury/illness, prognosis, work restrictions or limitations, the estimated length of time the employee may require modified work and, if applicable, any follow-up treatment or therapy required.

D. The City may require periodic medical updates from the physician regarding the employee's ability to perform the duties of the temporary assignment or be released to return to full duty.

E. The City may require an employee to submit to an examination with a physician chosen by the City at City expense, if the amount of temporary assignment appears to be excessive, if the restrictions/limitations cannot be adequately interpreted or clarified with the employee's physician, or if the City has reason to believe the employee's release for duty is inconsistent with job requirements.

F. Work-Related Injury/Illness Return to Work

1. Prior to returning to work, an employee injured in the course of employment shall obtain a release from the treating physician and shall take that release, including any restrictions to the Human Resources Department.

2. If the employee is released without restrictions, he or she shall return immediately to his/her work location.

3. If the employee is released with temporary restrictions, the Human Resources Department contacts the employee's department head or designee and provides a report of all restrictions. The department head or designee, will determine if the employee can be utilized temporarily within the department or its sub-units consistent with the limitations. If work is available consistent with the employee's restrictions, a Modified Duty Agreement will be executed by the Human Resources Department. The employee will report to that department/sub-unit on modified duty.

4. The Department head or designee will arrange the work schedule to permit the injured employee to keep physician appointments and any prescribed physical therapy or work-hardening sessions. If, while on temporary assignment, the employee needs to be absent during work hours for medical treatment or a doctor's appointment, the employee must bring a statement from the treating physician/facility indicating whether there are any changes in the employee's condition that would impact the temporary assignment. This statement shall be delivered to the Human Resources Department prior to returning to the work site. The Human Resources Department will advise the department head or designee of any changes in restrictions and determine if the Modified Duty Agreement can be extended.

5. If no work is available consistent with the employee's restrictions, the employee shall be sent home.

6. The Human Resources Department shall maintain contact with the injured worker, the treating physician, and the department in order to provide information on the employee's workers' compensation status and any changes in restrictions.

G. Non-Work Related Injury/Illness Return to Work

1. Any employee who suffers an illness or an accidental injury which does not arise out of or in the course of employment, and who is unable to report to work, will immediately notify his/her supervisor of that fact. If the employee is absent from work for three or more calendar days, the supervisor of that employee shall notify the Human Resources Department. The Human Resource Department will implement the Family and Medical Leave Act (FMLA) procedures if applicable.

2. Prior to returning to work, an employee who has been absent from work three or more calendar days shall visit his/her health-care provider and obtain a written fitness-for-duty or return to work statement as to his/her or her inability to return work including any restrictions which exist. The medical statement is presented to the Human Resources Department.

3. If the employee is released without restrictions, the Human Resources Department prepares a Supervisor Return to Work Notification that the employee presents to the supervisor. The employee returns immediately to his/her original position.

4. If there are temporary restrictions specified in the release, the Human Resources Department shall contact the employee's department head or designee to determine if the employee can be utilized temporarily in the department consistent with the limitations. If work is available consistent with the employee's restrictions, a Modified Duty Agreement will be executed in the Human Resources Department. The employee will report to that department/sub-unit on modified duty.

5. If there is such work, the employee shall report to that workstation. If there is no such work available, the Human Resources Department, with the approval of the originating department head or designee, will contact other department heads/designees to determine if there is any temporary work available within the City that is consistent with the medical limitations of the employee. If such work is available, the employee shall be sent to that workstation for assignment.

6. If, while on modified duty, the employee needs to be absent during work hours for medical treatment or a doctor's appointment, the employee must bring a statement from the treating physician/facility indicating whether there are any changes in the employee's condition that would impact the modified-duty assignment. This statement shall be delivered to the Human Resources Department prior to returning to the work site. The Human Resources Department will advise the department head/designee of any changes in restrictions and determine if a Modified Duty Agreement can be extended.

7. If no work is available consistent with the employee's restrictions, the employee shall be sent home and will utilize accrued vacation, sick, compensatory time, personal leave or will be unpaid for missed work time subject to FLSA regulations. The Human Resources Department will assist the employee in procuring any City benefits information that would assist the employee in considering options and/or decision-making.

H. Pregnancy: Whenever an employee becomes pregnant, she will work in her current position in accordance with her physician's recommendations, as long as she is able to perform the essential functions of the job. If her physician submits information indicating that she can no longer perform her current job duties, she will be eligible for modified-duty assignment.

I. If an employee believes his/her restrictions may rise to the level of a disability as defined by the ADA, the employee is responsible for following the Reasonable Accommodation Policy and Procedures.

J. In no event will a modified duty assignment last for more than ninety (90) calendar days in a 12-month rolling calendar year. This applies to both work-related and non-work related conditions. The 90 days may be continuous or intermittent. If the employee is not able to return to full duty within 90 calendar days, an evaluation will be conducted by the Human Resources Department to identify options available to the employee, which may include consideration of medical retirement or termination. The City reserves the right, for good reason, to discontinue a modified-duty assignment at any time. Good reason shall include, but not be limited to, temporary work no longer being available, operational requirements prohibiting the continuance of temporary assignment, or the employee's inability to satisfactorily perform the duties of the modified duty assignment.

7-3. GROUP INSURANCE COVERAGE.

A. The City may offer full-time and part-time employees group insurance for health, life, dental, and vision administered by a third party. Employees budgeted to work 20 hours or more per workweek are eligible to participate in the group insurance program. Employees are not eligible if hired in a temporary position or in a grant-funded position that has no funding for benefits.

B. The terms of the policies will determine periods of enrollment/disenrollment, and coverage of family members or other persons.

C. The City may pay a portion of the group health-insurance premiums. It is the employee's responsibility to complete and return to the Human Resources Department all necessary forms to initiate insurance coverage within 31 calendar days of date of hire.

D. The employee or members of the employee's family shall notify the Human Resources Department in writing within 31 calendar days of any qualifying and disqualifying events such as divorce, legal separation or when a child loses dependent status. The employee will notify, in writing, the Human Resources Department of other changes in status or address.

7-4. RETIREMENT

A. All city employees shall participate in the New Mexico Public Employee Retirement Association as allowed under the PERA rules.

SECTION VIII – LEAVE

8-1. LEAVE ACCRUAL AND USAGE.

8-2. LEAVE DEDUCTIONS FOR EXEMPT EMPLOYEES.

8-3. VACATION LEAVE.

8-4. SICK LEAVE.

8-5 FAMILY MEDICAL LEAVE ACT.

8-6. FAMILY MILITARY LEAVE.

8-7. FITNESS FOR DUTY.

8-8. MILITARY LEAVE

8-9. CIVIC-DUTY LEAVE.

8-10. BEREAVEMENT LEAVE.

8-11. BLOOD DONATION.

8-12. EMERGENCY VOLUNTEER-SERVICE LEAVE.

8-13. ADMINISTRATIVE LEAVE DUE TO INCLEMENT WEATHER AND HAZARDOUS CONDITIONS.

8-14. HOLIDAYS AND PERSONAL DAY.

8-15. LEAVE OF ABSENCE.

8-16. ADMINISTRATIVE LEAVE WITH PAY.

8-17. DOMESTIC ABUSE LEAVE.

The purpose of Section VIII is to describe the various leave and holiday benefits provided by the City. It also provides employees with detailed procedures for employees to document requests for and usage of leave.

8-1. LEAVE ACCRUAL AND USAGE.

A. Authorized leave. Eligible employees will accrue leave time as outlined in this section. Elected Officials, their appointees and temporary employees will not accrue vacation, sick or personal-holiday leave. Grant employees may or may not accrue vacation, sick or personal-holiday leave depending on the terms of the grant agreements that fund their positions.

1. Any requests for authorized leave, with or without pay, shall be submitted to an employee's immediate supervisor in advance whenever possible. Each request for leave shall describe the duration and kind of leave to be recorded for payroll.

2. Requests for leave will be subject to the employee's accrued leave balance; the workload requirements in the department as determined by the department head; the timing of the employee's requested leave in conjunction with other approved absences of employees within the department; and the approval by the department head.

3. City management reserves the right to approve or cancel leave at any time based on the operational needs of the City.

B. Unauthorized leave. Leave without authorization may subject an employee to disciplinary action and loss of pay. Unauthorized leave for three (3) consecutive work days may be considered job abandonment and voluntary resignation. Procedures in Section 10-5. Pre-Determination Process shall be followed if the employee has completed his/her probationary period.

8-2. LEAVE DEDUCTIONS FOR EXEMPT EMPLOYEES.

A. Exempt employees shall receive deductions from their leave balance for any vacation, sick or personal leave taken, whether or not the leave is for less than one full work day.

B. Exempt employees shall adhere to the same procedures followed by non-exempt employees governing requests and documentation of all leave.

8-3. VACATION LEAVE.

A. Vacation leave is provided to eligible employees for the purpose of rest and relaxation from their duties and for attending to personal business. Grant employees may or may not accrue vacation leave, depending on the terms of the grant agreement or funding source.

1. All full-time probationary and classified employees, and grant employees if the grant allows, will accrue vacation leave during periods of work time and paid leave time subject to "6" below, in accordance with the following terms and schedule:

Total Years of City Service	Accrual Rate Per Pay Period	Maximum Hours Per Year
0 < 3	3.08	80
3 < 5	4.08	106
5 < 7	4.62	120
7 < 10	5.08	132
10 or more	6.15	160

(NOTE: Personnel employed prior to the of enactment of this policy will continue to accrue at their current levels as per the Personnel Rules and Regulations, Article 3-12-6A Annual Leave Accrual, which reads as followed:

Adopted: 2/2/16

3-12-6 ANNUAL LEAVE ACCRUAL

A. *All classified and exempt full time employees shall accrue leave based on length of service in accordance with the following:*

1. *eligible employees with less than six (6) years of continuous service, shall accrue and be credited monthly with annual leave on the basis of eight (8) hours per completed month of service;*
2. *eligible employees with six (6) years through ten (10) years of continuous service shall accrue and be credited monthly with annual leave on the basis of twelve (12) hours per completed month of service;*
3. *eligible employees with eleven (11) years or more of continuous service shall accrue and be credited monthly with annual leave on the basis of sixteen (16) hours per completed month of service.*

2. An employee may not carry over more than 240 vacation hours into a new fiscal year. All time in excess of 240 hours will be lost unless an employee has been denied requested vacation time in which case he will be given an opportunity to reschedule and utilize his/her vacation accruals above 240 hours. The department head shall submit a list of those employees who have been denied requested vacation time prior to June 25th each year and request approval of the City Manager to carry over more than 240 hours into the new fiscal year. If approved, the City Manager will forward the approval list to the Human Resources Department by July 1.

3. Classified and exempt employees shall be compensated in cash at their regular rate of pay for any accumulated but not used vacation leave of up to 240 hours when they are separated from the City.

4. An employee shall not accrue additional vacation leave for time worked in excess of forty (40) hours per week except where allowed by union bargaining agreements.

5. An employee who is absent from work and who has exhausted his/her vacation leave balance will be unpaid subject to FLSA regulations.

6. Leave will accrue only if the employee is paid for at least 50% of the employee's normal hours per pay period (as defined in the City payroll data system) including his or her own vacation and/or sick leave hours taken but no other sources such as worker's compensation or disability payments.

7. During periods of unpaid leave when the employee's earnings are not sufficient to cover the employee's group insurance premiums, the employee will be responsible for the payment of both the employee and employer contributions to maintain coverage unless the unpaid leave time is FMLA qualifying.

8. Part-time employees shall accrue vacation leave on a pro-rated basis, according to the number of hours budgeted to work.

9. Leave shall not be granted in advance of accrual. Vacation hours accrued in one pay period cannot be used in the same pay period.

10. Vacation leave shall be requested and approved at least forty-eight (48) hours in advance, whenever possible. Approval will be subject to advance notification, and the needs of the department.

11. Department heads shall submit their requests for vacation leave to the City Manager or his/her designee.

12. Vacation leave shall be charged in increments consistent with the time keeping system.

13. A probationary employee shall not be permitted to use accrued vacation leave until a satisfactory performance evaluation on the employee's first year of employment has been received by the Human Resources Department.

14. In the event of the death of an employee, compensation for earned vacation leave shall be payable to the employee's estate.

15. Employees hired prior to the adoption of this policy will be allowed to carry up to 288 hours of annual leave at the end of each fiscal year.

8-4. SICK LEAVE.

A. Sick leave may be requested, and must be authorized by an employee's supervisor, if an employee is unable to perform normal job duties. Sick leave may be authorized due to personal illness or injury; to care for an immediate family member who is ill or injured and requires the personal attention of the employee; or to obtain preventive medical, vision, dental or mental health care for the employee or members of the employee's immediate family.

1. All requests for compensation for sick leave are subject to supervisory approval.

2. Eligible employees shall accrue sick leave at the rate of four (4) hours per pay period subject to "3" below. Eligible employees in part-time positions with a schedule of twenty (20) hours per week shall accrue sick leave at the rate of two (2) hours per pay period. Eligible employees working thirty (30) hours per week shall accrue sick leave at the rate of three (3) hours per pay period. There shall be no limit to the amount of sick leave that can be accrued during an employee's service with the City.

3. Leave will accrue only if the employee is paid for at least 50% of the employee's normal hours per pay period (as defined in the City payroll data system) including his or her own vacation and/or sick leave hours taken but no other sources such as worker's compensation or disability payments.

4. Requests for sick leave shall be made by the employee to the supervisor at the beginning of the shift or work day, or as soon as practicable with a sudden onset of illness. For an ongoing illness or incapacitation, an employee shall call his/her supervisor as instructed.

5. An employee's supervisor may require a physician's certification be provided to the Human Resources Department on the existence of a medical condition necessitating the employee's absence if abuse of leave is reasonably suspected by the supervisor or department head or for excessive use of sick leave.

6. Abuse of sick leave may result in a supervisor withholding approval for leave, and is cause for disciplinary action up to and including termination of employment. Abuse of sick leave may include the following:

a. An employee who continually exhausts his/her accrued sick leave balance without a certification under the FMLA;

b. An employee who develops a pattern of being absent from work without pre-approved sick leave for days immediately before or after scheduled days off or on the same day of the work week;

c. An employee who is absent from work and fails to notify his/her supervisor of an illness or injury that prevents him/her from being at work;

d. An employee who falsely indicates he will be at his/her place of residence, a medical facility or other location identified by the employee to the supervisor.

e. Any leave without a supervisor's authorization.

7. Sick leave will not be paid out to any employee hired after the adoption of this policy.

8. Employees hired prior to the adoption of this policy will be allow sick leave pay out as per Personnel Rules and Regulation, Article 3-12-13: A, Sick Leave Accruals and Article 3-12-18: B, Sick Leave on Termination or Retirement. (10% payable accrued hours for five (5) to nineteen (19) years of service or 100% for an employee retiring after twenty (20) years of continuous service with the city, which reads as followed:

3-12-13 SICK LEAVE ACCRUAL

A. *Any employee eligible for sick leave shall accrue and be credited monthly with sick leave on the basis of eight (8) hours (one work day) per completed month of service. Unused sick leave may be accumulated from fiscal year to fiscal year with a maximum accumulation of ninety (90) days and shall be charged in no less than multiples of one (1) hours. "Completed month of service" as used in this section means completed month of service in a pay status. In the event an employee has been in a non-pay status for any portion of the month, the amount of leave accrued and credited shall be pro-rated on the basis of the number of days in the month in which the employee was in a pay status.*

3-12-18 SICK LEAVE ON TERMINATION OR RETIREMENT

B. *An employee retiring after twenty (20) years of continuous service with the City that is eligible for Social Security or City retirement plan benefits, or both, shall be paid all unused accrued sick leave through the date of termination.*

8-5 FAMILY MEDICAL LEAVE ACT.

A. The City will provide up to combined total of twelve (12) weeks of job-protected leave during a rolling calendar year for family and medical reasons consistent with the Family and Medical Leave Act (FMLA) and relevant State law. A combined total of 26 weeks of FMLA is provided for caregiver leave as defined in Section 8-6.

B. The City will use a rolling calendar year measured back from the date an employee's FMLA leave begins except for Caregiver Leave.

C. Eligibility.

1. The employee must have worked for the City for at least one year; and

2. The employee must have worked at least 1,250 hours during the twelve (12) months immediately preceding the request. Time worked does not include vacation, holidays, sick pay, unpaid leave, or any period of layoff.

3. Any period of employment preceding a break in service of seven (7) years or more is not counted toward the one (1) year employment requirements.

D. Qualifying Leave: The employee may take family/medical leave for any of the following reasons:

1. The birth of a son or daughter and in order to care for such son or daughter;

2. The placement of a son or daughter with the employee for adoption or foster care and in order to care for the newly-placed son or daughter;

3. To care for a spouse, son, daughter (even if the employee has no biological or legal relationship with the child but intends to assume the responsibilities of a parent in *loco parentis*), or parent ("covered relation") with a serious health condition;

4. The employee's own serious health condition that renders the employee unable to perform an essential function of the position.

5. Employees who choose to use FMLA leave in connection with the birth or placement for adoption or foster care of a child will be required to use their FMLA leave and must use such leave within 12-months of the birth or placement of the child.

E. Married employees.

1. In cases where a married couple is employed by the City, the two spouses together may take a combined total of twelve (12) weeks' leave during any 12-month rolling calendar year for reasons 1 and 2, or to care for the employee's parent or child's serious health condition.

F. Serious Health Condition includes:

1. Inpatient care; or
2. Conditions resulting in three (3) calendar days of incapacitation; or
3. Chronic health conditions; or
4. Treatment to prevent incapacitation or restorative surgery; or
5. Pregnancy-related conditions.
6. Continuing treatment by a health care provider.

G. Types of FMLA Leave.

1. One block of 12-weeks due to a single qualifying event.
2. Intermittent Leave taken in separate blocks of time due to a single qualifying reason.
3. Reduced Leave Schedule per workweek or workday.

4. Leave may only be taken intermittently or on a reduced leave schedule when medically necessary for planned and/or unanticipated medical treatment of a related serious health condition by or under the supervision of a health care provider, for recovery from treatment or recovery from a serious health condition, or to provide care or psychological comfort to an immediate family member with a serious health condition.

5. Employees on intermittent leave must continue to comply with the call-in procedures of Section 6-2.

H. Medical Certification Requirement.

1. When FMLA qualifying leave is foreseeable and thirty (30) calendar days' notice has been provided, an employee must provide a medical certification before leave begins.

2. When FMLA qualifying leave is not foreseeable, an employee must provide notice to the employer of the need for leave as soon as practicable (1 or 2 working days is expected except in extraordinary circumstances). The employee must then provide medical certification within fifteen (15) working days.

3. Failure to provide requested medical certification in a timely manner may result in denial of leave until it is provided. The City, at its expense, may require an examination by a second health care provider designated by the City, if it reasonably doubts the medical certification you initially provide. If the second health care provider's opinion conflicts with the

original medical certification, the City, at its expense, may require a third, mutually agreeable, health care provider to conduct an examination and provide a final and binding opinion.

4. The City may require subsequent medical recertification. Failure to provide requested certification within fifteen (15) calendar days, except in extraordinary circumstances, may result in delay of further leave until it is provided.

I. Substitution of Paid Leave for FMLA Leave.

1. The City requires an employee to substitute paid leave for FMLA leave. Therefore, FMLA leave runs concurrently with any accrued paid leave such as vacation leave, sick leave, compensatory time and with workers' compensation dependent upon the qualifying event. Compensatory time shall be used prior to using vacation leave if available.

2. Employees may, but are not required, to use any accrued sick leave when the FMLA qualifying event is for the serious health condition of a family member as defined in the section XII. Employees are required to use vacation leave and compensatory time if sick leave is exhausted or if the employee has chosen not to use sick leave. Compensatory time shall be used prior to using vacation leave if available.

3. An Employee is required to use sick leave when the FMLA qualifying event is for his/her own serious health condition. If sick leave is exhausted, the employee uses vacation leave and compensatory time.

4. An employee will use vacation or compensatory time for qualifying exigency.

5. For service member caregiver leave, an employee may use sick leave if for an individual for whom sick leave is allowed in Section XII. Otherwise, vacation and compensatory time are used.

6. For adoption and placement or paternity bonding, sick leave, vacation leave and compensatory time are used.

7. For childbirth and maternity bonding by an employee, the employee is required to use sick leave and then vacation or compensatory time.

8. Once accrued paid leave is exhausted, the employee, whether exempt or non-exempt, shall be placed on unpaid leave and shall pay the employee portion of any insurance benefits if benefit continuation is desired. If the employee does not continue insurance benefits during an FMLA-qualifying leave-without-pay, the employee may reinstate terminated benefits on the first day of the return to work without penalty.

J. Employees are not permitted to work in an outside job during FMLA leaves of absence unless a specific request for outside employment during the FMLA period is made in advance of the leave and approved by the Department head and Human Resources Director.

K. FMLA Designation.

1. Employee Requests. Employees must request FMLA leave 30 calendar days in advance or as soon as practicable by completing the FMLA Leave Request Form and submitting it to his/her immediate supervisor or directly to the Human Resources Department. If submitted to the supervisor, the form shall be routed to the Human Resources Office. If the employee is unable to complete the form, due to circumstances relating to a serious health condition, the form may be initiated by the supervisor or the Human Resources Department.

2. Employer Initiation. A supervisor will notify Human Resources when an employee has been absent three (3) consecutive calendar days, at which time the Human Resources Department will make a preliminary designation of leave as FMLA qualifying.

L. Transfer of Employee to an Alternative Position.

1. If an employee needs planned intermittent leave or leave on a reduced leave schedule, the City may require the employee to transfer temporarily, to an available alternative position for which the employee is qualified and which better accommodates recurring period of leave than does the employee's regular position.

M. Job Benefits and Protection.

1. During FMLA leave, the employee and dependent health, dental and vision insurance is maintained on the same basis as coverage would have been provided if the employee had been continuously employed during the entire leave period.

2. An eligible employee returning from a FMLA qualifying leave is entitled to be restored to the same position and shift that the employee held when the FMLA qualifying leave began, or to an equivalent position and shift with equivalent benefits, pay and other terms and conditions of employment.

3. Provided the employee returns to work immediately following his/her FMLA qualifying leave, benefits will be resumed upon the employee's return to work at the same level as were provided when leave began. Any new or additional coverage or changes in health benefits will be made available to an employee while on FMLA qualifying leave.

4. If the employee does not return to work from FMLA leave for a minimum of thirty (30) calendar days following any unpaid period of FMLA, he/she is responsible for reimbursing the City for health benefit premiums paid during the FMLA leave period unless the reason the employee does not return is due to:

a. the continuation, recurrence, or onset of a serious health condition of the employee or the employee's family member which would otherwise entitle the employee to leave under FMLA:

b. circumstances beyond the employee's control, or

c. an employee who transfers directly from taking FMLA leave to retirement, or who retires during the first thirty (30) calendar days after the employee returns to work is deemed to have returned to work.

N. Return to Work.

1. Employees returning from FMLA leave for a qualifying event related to personal illness or injury must provide a medical release to return to work to the Human Resources Department before returning to work.

O. Appeal Process.

1. If an employee believes that his/her rights under the FMLA have been violated, he/she may:

a. file a written complaint with the Human Resources Department; or

b. file or have another person file on his/her behalf a complaint with the Secretary of Labor. The complaint may be filed in person, by mail or by telephone with the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor. The complaint may be filed at any local office of the Wage and Hour Division; the address may be found in the telephone directory.

c. file a private lawsuit pursuant to Section 107 of the FMLA.

8-6. FAMILY MILITARY LEAVE.

A. Exigency Leave.

1. Employees eligible for FMLA leave are entitled to leave for a covered family member's service in the Armed Forces under the following circumstances:

a. up to twelve (12) weeks of unpaid leave in any twelve (12) month period for a qualifying exigency arising out of a covered employee's spouse, son, daughter, or parent's active duty or notification of an impending call or order to active duty in the Armed Forces to a foreign country; or

2. Qualifying exigency. A "qualifying exigency" means:

a. for a short-notice deployment, meaning a call or order that's given no more than seven calendar days before deployment, the employee can take up to seven calendar days beginning on the date of notification;

b. for military events and related activities, such as official military-sponsored ceremonies and family support and assistance programs sponsored by the military and related to the family member's call to duty;

c. for urgent child-care and school activities;

d. for financial and legal tasks or legal arrangements to deal with the family member's active duty;

e. for counseling for the employee or his minor child that isn't already covered by FMLA;

f. to spend time with the covered service member on rest and recuperation breaks during deployment for up to five working days per break;

g. for post-deployment activities such as arrival ceremonies and reintegration briefings or to address issues from the service member's death while on active duty; and

h. for other purposes arising out of the call to duty, as agreed on by the employee and the City.

3. Qualifying exigency leave applies to families of members of the National Guard and Reserves and to families of members of active members of the regular armed services.

B. Caregiver Leave.

1. Employees eligible for FMLA leave are entitled to leave for a covered service member under the following circumstances:

a. Up to twenty-six (26) weeks of unpaid leave in a single, twelve (12) month period for an employee to care for his or her spouse, son, daughter, parent, or next of kin recovering from an injury or illness suffered while on active duty in the armed forces.

b. Next of kin is defined as the nearest blood relative of that individual in the following order or priority: blood relatives who have been granted legal custody of the service member by court decree or statutory provisions; brothers and sisters; grandparents; aunts and uncles; and first cousins, unless the service member has specifically designated in writing another blood relative as his or her nearest blood relative.

2. Qualifying illness or injury. In order to obtain family military leave to care for a family member who is recovering from an injury or illness suffered while on active duty in the armed forces, an employee must demonstrate a qualifying injury or illness is suffered by a covered family member.

3. A covered service member is:

a. a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness and who have been placed on the disability roster of the military branch.

b. a veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the previous five (5) years.

4. Serious injury or illness is:

One that occurs in the line of duty on active duty that may render the service member medically unfit to perform the duties of his or her office, grade, rank or rating. In the case of a veteran, one that was incurred in the line of duty on active duty that manifested itself before or after the member became a veteran.

5. The term "outpatient status" means:

The status of a covered service member assigned to a military medical treatment facility as an outpatient, or a unit established for the purpose of providing command and control of members of the armed forces receiving medical care as outpatients. The illness or injury must be serious enough to render the person unable to perform the duties of the member's office, grade, rank, or rating.

C. Substitution of paid leave for family military leave.

1. For leave taken for a qualifying exigency, the City requires substitution of paid vacation leave or compensatory time. Compensatory time shall be used before vacation leave if available.

2. For injured service member caregiver leave, the City requires substitution of vacation leave, compensatory time or sick leave. The same rules apply as if the employee took leave for the serious health condition of a family member. The City will not provide paid sick leave in any situation in which the City would not normally provide paid leave. Compensatory time shall be used before vacation leave if available.

D. Married employees.

1. When both husband and wife work for the City, the aggregate amount of leave that can be taken by the husband and wife is twenty-six (26) weeks in a single 12-month period for Caregiver Leave, or a combination of Exigency leave and Caregiver leave. The aggregate number of work weeks of leave to which both that husband and wife can take for Exigency Leave is twelve (12) weeks.

E. Notice and certification.

1. If the need for leave is foreseeable, the employee must provide such notice to the City as is reasonable and practicable. The City may require that a request for leave be supported by certification.

F. Calculating the 12-month period.

1. For leave for Exigency Leave, the City will use a rolling calendar year measured back from the date an employee's leave begins.
2. Caregiver Leave is a one-time benefit and as such, the twenty-six (26) weeks are only available during a single, 12-month period. The City will begin counting the 12-month period on the first day of leave taken to care for the injured or ill service person.

8-7. FITNESS FOR DUTY.

A. The City may require an employee to undergo a fitness-for-duty examination when there is a reasonable belief, based on objective information obtained or reasonably available, that the employee's ability to perform essential job functions will be impaired by a medical condition or that s/he will pose a direct threat to her/himself, other employees, or the public due to a medical condition. The need for a medical evaluation must be clearly supported by the nature of the employee's work and a reasonably apparent medical or information physical condition that affects the employee's ability to perform essential job functions without risking his or her own safety and the safety of others. The examination shall be conducted by an independent medical professional selected by the City. All costs associated with such an examination will be borne by the Department in which the employee is assigned.

B. If an employee is impaired in his/her capability to safely and effectively complete work assignments, and a fitness-for-duty examination supports this conclusion, options may include:

1. Transferring the employee to a vacant position for which the employee is qualified and that accommodates his/her medical condition limitations;
2. Temporarily accommodating the employee in his/her current position by modifying work assignments and/or the work environment.
3. If an accommodation is not feasible in enabling the employee to perform the essential functions of the job held or vacant positions for which the employee is qualified; and if an accommodation does not reduce any direct threat issues to an acceptable level, the employee may be terminated.

C. Procedure:

1. If a supervisor reasonably believes that a subordinate employee is impaired in his/her capabilities to safely and effectively perform the essential functions of the job, or who may pose a threat risk of harm to others, the Human Resources Director shall be contacted to determine whether a fitness-for-duty examination is necessary. The supervisor must be prepared to discuss the following with the Human Resources Director:

- a. What objective evidence of impairment supports the supervisor's belief that there needs to be a fitness for duty examination?
- b. How the impairment affects the employee's essential job duties.
- c. How the impairment could adversely affect the employee's safety, the safety of other employees, the safety of the public, or the necessary business activities of the City.
- d. What Whether the supervisor has knowledge that the employee's performance issues are linked to a medical condition.

2. If more information is required before determining whether a fitness for duty examination is necessary, the Human Resources Director may schedule a meeting with the employee to confirm the supervisor's assessment. If the Human Resources Director agrees with

the supervisor's assessment, the Human Resources Director will inform the employee that the City requires him or her to submit to a fitness for duty examination.

3. A physical, psychiatric or psychological assessment examination must be conducted in accordance with accepted professional standards by a licensed practitioner or physician authorized to conduct such examinations, and may only be used to make a legitimate inquiry into an employee's fitness to perform the essential functions of his/her position without to risking the employee or others' safety or the necessary business activities of the City.

4. The scope of any fitness-for-duty examination shall be limited to any condition and how such condition affects or may affect the employee's ability to perform essential functions or poses risk of harm to the employee, to other employees, to the public, or the necessary business activities of the City.

5. All medical information obtained through the fitness-for-duty provisions shall be maintained by the Human Resources Department as strictly confidential and shall not be a part of the employee's personnel file.

6. When a supervisor requests a medical examination, he must inform the employee in writing of his/her reasons for doing so and the consequences of failure to cooperate. The City will designate the examining physician or other appropriate practitioner, but will offer the individual an opportunity to submit medical documentation from his/her personal physician or practitioner. The City will review and consider all such documentation supplied by the individual's personal physician or practitioner along with any documentation from the examining physician selected by the City. Should the employee wish to submit medical documentation from his/her personal physician or practitioner, the employee shall pay for all examinations or documentation charges.

7. Any employee who refuses to undergo a required fitness-for-duty examination shall be required to provide a reasonable explanation for the refusal to the Human Resources Director. If the Human Resources Director believes the refusal is unreasonable, the employee may be found insubordinate and subject to discipline up to and including termination.

8. Time off from work for a fitness-for-duty evaluation and any subsequent time off from work before the employee is certified fit for duty, should be charged to the employee's appropriate leave account if available. Time off related to impairment due to medical or psychological conditions may be charged to accrued sick leave. Time off related to violent, abusive or threatening behavior that is not due to medical or psychological condition may be charged to accrued vacation leave.

D. The fitness for duty examination shall only be used for the purposes expressly provided in this Section. It shall not be used to undermine the protections afforded by the Americans With Disabilities Act which are listed in this Policy at Section 2-14. The fitness for duty examination shall not, under any circumstances, be used to intimidate, harass, threaten, or otherwise retaliate against any employee.

8-8. MILITARY LEAVE.

A. Military Leave. It is the policy of the City to grant military leave of absence as required by state and federal law. There are two (2) types of military leave(s): Military/Reserve Training and Military Service Leave for Tour of Active Duty.

B. Military/Reserve Training.

1. Active Duty/Active Duty for Training. For persons who are members, or become members, of the United States Armed Forces Reserve Units, National Guard or Naval Militia, and are on federally funded military duty. During a military service training leave (not to exceed a total of fifteen (15) working days in any federal fiscal year), an employee will continue to receive

regular pay from the City, provided the reservist gives advance notice to the City that they will be absent from their position of employment to perform active duty training.

2. All employees ordered to active duty must present their orders, or other official military documentation validating military leave requirement, to supervision no later than three (3) calendar days after orders were received. Upon receipt of such documentation from the employee, the supervisor will forward a copy to Human Resources for inclusion in the personnel folder and attach a copy to the leave request form for Payroll.

3. All employees, including, seasonal, temporary or provisional employees and those on probation status, shall be compensated at the base rate for all days usually worked up to 15 working days of annual active duty or active duty training based on the federal fiscal year of October 1 through September 30.

4. Military leave is a special paid leave benefit and is not charged against the accumulated annual or sick leave balance, unless additional military duty is needed. Military leave in excess of fifteen (15) calendar days per year may be charged to vacation leave, or unpaid leave at the employee's option.

C. Inactive Duty Training.

1. Military reservists and guard persons shall be allowed to attend Inactive Duty Training (IDT), however the City is not obligated to provide compensation for the period of IDT.

D. Military Service Leave for Tour of Duty.

Applicable to any employee who enters active duty or is called to active duty.

1. The City will grant an authorized absence to employees who elect or are required to perform service in uniformed services, to the full extent required by the Uniformed Services Employment and Reemployment Rights Act (USERRA). An individual employee's service limitation, available benefits, and reemployment rights will be determined in accordance with applicable provisions of this law.

2. Persons Covered.

a. USERRA covers a person, who is a member of, applies to be a member of, performs, has performed, applies to perform, or has an obligation to perform "service" in a "uniformed service" and who separate military service under "Honorable" conditions.

b. the term "service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to any such duty, and a period for which a person is absent from employment for the purpose of performing funeral honors duty as authorized by section 12503 of title 10 or section 115 of title 32.

3. Notice Requirements.

All employees being called to military service must provide the City with advanced notice either written or orally. Unless otherwise impossible or unreasonable, an employee who fails to give notice prior to military service will not be afforded the protections offered by USERRA.

4. Duration of Rights.

a. the accumulated length of a person's absence from employment may not exceed five (5) years. Each time an employee is absent due to military service, the time the employee is absent will be counted against the five-year limit.

b. certain categories of service are exempt from the five-year limitation and include:

i. Service required beyond five years to complete an initial period of obligated service;

ii. Service from which a person through no fault of the person, is unable to obtain a release within the five-year limit;

iii. Required training for reservist and National Guard members (the fourteen or fifteen days of full time duty for training each year and the one weekend per month);

iv. Service under an involuntary order to, or to be retained on, active duty during a domestic emergency or national security-related situation;

v. Service under an order to, or to remain on, active duty during a war, a national emergency declared by the president or Congress;

vi. Active duty in support of an "operational mission" for which selected reservists have been ordered to active duty without their consent;

vii. Service by persons who are ordered to active duty in support of a "critical mission or requirement"; and

viii. Federal service by members of the National Guard called into action by the President to suppress an insurrection, rebel and invasion, or to execute the laws of the United States.

5. Insurance Plans.

An employee on active duty may keep insurances for self or dependents by paying 100% of premiums for up to twenty-four (24) months. Otherwise, Insurance coverage is suspended until return to work at the City

6. Returning to Work.

Depending on the duration of the veteran's military service, USERRA grants windows during which a veteran released from active duty must return to work.

a. service Less than Thirty-One Days: A veteran serving less than thirty-one (31) calendar days must report to work by the beginning of the first regularly-scheduled day that would fall eight hours after the veteran return home from military leave. If timely reporting back to work would be impossible or unreasonable, through no fault of the veteran, the veteran must report back to work as soon as possible.

b. absence for Fitness-for-Service Examination: For veterans who are absent to take a fitness test, the veteran must report to his/her employer by the beginning of the first regularly-scheduled work day that would fall eight hours after the veteran returns home.

c. service from Thirty-One to One Hundred Eighty Days: For veterans absent from employment for thirty-one (31) to one hundred and eighty (180) calendar days, an application for reemployment must be submitted either orally or in writing no later than fourteen (14) calendar days after completion of the veteran's service. If timely submission

of an application is impossible or unreasonable, through no fault of the veteran, the veteran must submit the application as soon as possible.

d. service of One Hundred Eighty-One or More Days: For veterans serving for one hundred and eight-one (181) or more calendar days, an application for reemployment must be submitted either orally or in writing, no later than ninety (90) calendar days after completion of service.

e. extension of Deadlines: For veterans who are hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, the performance of service, the reporting or application deadlines are extended for up to two years. A veteran who does not report or submit an application for reemployment becomes subject to the employer's rules governing un-excused absences.

7. Documentation.

a. the City has the right to request documentation showing that a veteran is eligible for reemployment if that veteran has been absent for a period of service of thirty-one (31) calendar days or more.

b. the City may replace employees ordered to active duty or active duty training with other persons provided the employee is hired with full knowledge and understanding that the veteran returning from active duty has a right to his/her previous position with the City and the replacement worker will be separated.

8. Undue Hardship.

a. the City is not required to reemploy a veteran if the City's circumstances have so changed to make such reemployment impossible or unreasonable. Undue hardship is defined as:

b. where reinstatement would require creation of a useless job or where there has been a reduction in workforce that reasonably would have included the veteran.

c. When the veteran is not qualified for a position due to disability or another bona-fide reason after reasonable efforts have been undertaken to qualify the person.

9. Re-employment.

a. a regular full-time employee who has completed the Tour of Duty Military Leave and returns from active service to the City will:

b. will be added to the City's health plan for self and eligible dependents on the return date without additional probationary period or exclusion of pre-existing conditions.

c. receive retirement service credit as though continuously employed by the City.

d. Be credited with continuous accumulation of seniority for up to four years while on active duty.

e. be reinstated to the same job or one of similar seniority, status and pay (even if that means bumping or otherwise removing the employee's replacement). If the employee has; a) received an honorable discharge or satisfactory completion certificate; b) sought reemployment with the City the guidelines stated in 7. Returning to Work above.

f. be placed in a position of similar status, pay, and seniority for which the returning employee is qualified if he/she is no longer qualified for the position held prior to

active duty because of a disability sustained while in the military unless the City's circumstances have so changed as to make it impossible or unreasonable to do so.

10. Dismissal.

a. depending on a returning employee's length of military service, he or she may be terminated only for cause upon reemployment for a period of 6 months (if service was more than 30 but less than 181 days) or 12 months (if service was more than 180 days). If an employee is discharged for cause, the City must demonstrate that the cause is based on the employee's conduct or the application of other legitimate nondiscriminatory reasons (e.g. job elimination, layoff).

8-9. CIVIC-DUTY LEAVE.

A. Jury and Court Leave.

1. All permanent employees will be paid for wages lost during normal work hours due to time spent on jury duty. Payment shall not be authorized when an employee serves on jury duty while in an unpaid leave status.

2. Immediately upon receipt of the notification from the court, the employee shall present the subpoena, or other document that gives instructions to report for duty, to the Department head.

3. The employee's regular pay shall be limited to compensation for court and travel time which occurs during the employee's regularly scheduled hours of work.

4. Because the City continues to pay employees during their time of service on juries, if released from jury duty prior to the end of the City's normal work day, the employee shall return to work.

5. Any fees and allowances paid to an employee by the court (except reimbursement for travel and actual out-of-pocket expenses) may be retained only if the employee is on unpaid leave or vacation leave status. Otherwise, all fees received from the court (except for travel or out-of-pocket expenses) shall be remitted to the Finance Director

6. Temporary employees who are called to serve as jurors will be granted time off without pay for court appearances.

7. Court Leave with regular pay is authorized only when an employee is required to testify on behalf of the City in a matter that came about as a result of his/her employment. This benefit is not authorized in matters in which the employee is a private litigant.

8. Supervisor may require from an employee attending Jury Duty to provide a time-stamped release notice from the court.

B. Voting Time.

1. The City encourages employees to register and vote in every election where they are eligible to vote. On election day, the employee shall be allowed up to two (2) hours leave with pay to vote, provided the employee's work day does not begin more than two (2) hours after the polls are open or ends more than the three (3) hours before the polls close.

2. The employee shall request such leave at least three (3) work days in advance with his/her department head in order to allow adequate time to make arrangements for full department coverage.

3. Employees may serve as members of a precinct board or work as an election poll worker.

- a. the employee must receive approval from his/her supervisor in advance.
- b. the employee will receive the regular rate of pay for a precinct board member or election poll worker.
- c. the employee may not use any form of leave or receive other pay from the City while performing duties as a precinct board member or election poll worker.

8-10. BEREAVEMENT LEAVE.

A. An employee in a classified, full-time position may take up to five (5) working days paid Bereavement Leave for a death in the immediate family. Classified employees in 20-hour per week positions may be granted up to 12 hours off with pay, or up to 18 hours off with pay if the employee is in a 30-hour per week position. Grant employees may be granted bereavement leave only if there are sufficient funds in the grant.

B. For the purpose of this Section, immediate family shall include: spouse, domestic partner; child, stepchildren; parents or stepparents of the employee, spouse, or domestic partner; grandparents of the employee, spouse or domestic partner; grandchildren; brother or sister; brother-in-law or sister-in-law; mother- or father-in-law or eligible dependent.

C. Payment for Bereavement Leave shall be computed at the bereaved employee's regular base rate.

D. The employee may be asked to present reasonable proof of death, relationship, and/or attendance at the service.

E. Bereavement leave taken will be charged to accrued annual or sick leave. If no accrual is available, employee may be granted leave without pay.

8-11. BLOOD DONATION.

A. Employees may be granted two (2) hours 2 (two) times a year during their work shift for the purpose of donating blood when participating in a blood drive. All such absences shall be scheduled with the employee's supervisor or department head.

8-12. EMERGENCY VOLUNTEER-SERVICE LEAVE.

A. A volunteer emergency responder is a member in good standing of a volunteer fire department, an emergency-medical service, a search-and-rescue team or a law enforcement agency who is enrolled by the state or a political subdivision of the state for response to an emergency or disaster.

B. A volunteer emergency responder, while acting in said capacity, may be absent from work for a period of ten (10) work days per calendar year in order to respond to emergencies or disasters.

C. The employee shall make reasonable efforts to notify his/her supervisor of the service and make reasonable notification efforts over the course of the absence.

D. The City may request an employee to provide a written verification from the Office of Emergency Management or a state or local official managing an emergency or disaster of the dates and time the employee served as a volunteer emergency responder to an emergency or disaster.

E. The City will pay an employee's regular pay for the time that the employee is absent from employment while serving as a volunteer emergency responder.

F. No employee shall be terminated, demoted or in any other manner discriminated against in the terms and conditions of employment because the employee, when serving as a volunteer emergency responder, is absent from work in order to respond to an emergency or disaster.

8-13. ADMINISTRATIVE LEAVE DUE TO INCLEMENT WEATHER AND HAZARDOUS CONDITIONS.

Adopted: 2/2/16

A. Office Closure/Delayed Opening Prior to Work Hours.

1. City offices will be open for business except in cases of extreme conditions that may affect the ability of the City and its employees to conduct business. Generally, all employees are expected to report to work unless major thoroughfares have been closed due to extreme weather or hazardous conditions.

2. Because of the key role City Government plays in any weather emergency, it is expected that all employees who aid in the delivery of emergency services will report to work as scheduled, as long as they do not expose themselves to personal danger in doing so. Employees who report for work to provide emergency services, will be paid at their normal rate of pay, and will be eligible for overtime under the standard guidelines.

3. All Office closures will be determined by City Manager, and will be broadcast on local television and radio stations. If extreme weather conditions exist prior to the beginning of the City work hours, employees should check local television and radio stations for instructions. In the event of an announced closure or delayed opening of City offices by Management, employees will receive administrative leave for the hours of closure/delay during 8 a.m. through 5 p.m.

B. Office Closure or Hazardous Conditions During Work Hours.

1. During those occasions when extreme weather conditions develop during City business hours, employees may be directed by a member of City Management to a place of safety within the building, or may be told to leave the premises. Under these circumstances, employees should follow the same procedures as if they are leaving for the weekend, such as exiting out of software programs, turning off computers and peripheral devices, and securing City offices.

8-14. HOLIDAYS

A. Holidays.

1. Legal holidays, including the date the holiday will be observed, shall be designated each year by the Governing Body, and must be used in an 8-hour increment or prorated based on the employee's budgeted full-time equivalent (e.g. 4, 6, or 8 hours) unless the holiday designated by the Council is a partial day holiday. The Council will designate the number of hours for holiday on those partial days. (See Union Contract for Bargaining Position Employees).

2. A FLSA non-exempt employee who regularly works 8-hour shifts shall receive holiday pay of 8-hours if he/she works on the holiday and 8 hours of regular pay or prorated based on the employee's budgeted full-time equivalent (e.g. 4, 6, or 8 hours). Approval of an alternate work schedule does not adjust the number of hours granted for a holiday.

3. A FLSA non-exempt employee who regularly works 12-hour shifts and who regularly works at least 84 hours in a pay period shall receive holiday pay of 12-hours for the holiday if he/she works it. If the employee does not work the holiday, the employee shall only receive 8 hours of holiday pay.

4. A FLSA non-exempt employee who regularly works 10-hour shifts shall receive holiday pay of 10-hours for the holiday if he/she works it. If the employee does not work the holiday, the employee shall only receive 8 hours of holiday pay.

5. Temporary employees are not entitled to holiday pay.

6. Grant-funded employees are entitled to holiday pay subject to the conditions of the grant and the availability of grant funding.

7. Approval of a flex-schedule does not adjust the number of hours granted for holidays.

8. In order to receive holiday pay for a designated legal holiday, an employee must be at work or taking an approved paid leave on the scheduled work day immediately preceding and following the holiday. An employee absent without approved paid leave on the scheduled work day before or after a holiday will not receive holiday pay for that holiday.

9. An FLSA exempt employee required to work on the holiday shall receive another day off with pay in lieu of the holiday within the same pay period, if feasible.

8-15. LEAVE OF ABSENCE.

A. The City Manager may grant a Leave of Absence to a classified employee for a short- or long-term period not to exceed ninety (90) calendar days in a 12-month rolling calendar year. Leave of Absence may be with or without pay depending on the reason for the leave and the employee's paid leave balances. Requests for a leave of absence, other than those for Military Leave or FMLA leave, are subject to the following:

1. An employee on a leave of absence shall be required to use all available and applicable paid leave, before being placed on unpaid leave.

2. All requests for a leave of absence are subject to the review and recommendation of the Human Resources Director and the approval of the City Manager.

3. The City may attempt to re-employ an employee returning from Leave of Absence within ninety (90) days in a position for which the employee is qualified, if the employee's former position is no longer available.

4. An agreement shall be signed by the employee, the Department head, and the Human Resources Director. The agreement will state that the employee understands that there is no guarantee that he/she will be returned to his/her former position.

5. All benefits, including but not limited to leave accrual, holidays, insurance and PERA will cease while an employee is on an approved leave of absence if the leave is without pay. An employee wishing to continue welfare insurance benefits may do so by paying 100 percent of the total premium (employer and employee portions) to the Finance Department. Payment for the insurance premiums must be received by the first of each month.

6. The City may terminate any leave of absence, except those granted pursuant to statute or regulation, prior to its expiration date by sending written notice to the employee.

7. An employee who fails to return to duty upon expiration or termination of the Leave of Absence is considered to have abandoned his/her employment and will be considered to have resigned from employment with the City.

8-16. ADMINISTRATIVE LEAVE WITH PAY.

A. The City Manager will make the final decision whether to authorize administrative leave with pay. It will be used only in those cases when it is in the best interest of the City. Employees who are on paid administrative leave must be accessible to the Department head during regular business hours, and shall be available to be called into the office.

B. In the event of allegations of serious misconduct, the City Manager or designee is authorized to place the employee on administrative leave with pay. Depending upon the nature of the allegations, the accused employee may be transferred to a different work site to work in the same or other distinct capacity during the time period of the investigation. Such decisions will be made on a case by case basis for the purpose of protecting City resources, personnel and/or the integrity of the internal investigation. The employee may remain on administrative leave until cleared by the investigation, or until a determination is made whether criminal, administrative or other corrective action is necessary, and until a decision is rendered in any pre-determination process.

C. Employees placed on administrative leave shall turn in all City property including keys, badge, and any other equipment assigned. The employee shall not contact any City employee pertaining to this matter other than the Department head or Human Resources staff, and not to return to the workplace until requested by City Management. During the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, the employee is to remain available for City business.

D. Administrative leave with pay shall not exceed thirty (30) days unless the requesting party submits a memorandum of justification requesting to extend the leave and receives approval from the City Manager.

8-17. DOMESTIC ABUSE LEAVE.

A. The City will provide guaranteed leave for victims of domestic abuse for the purpose of seeking protection and court time in prosecuting the abuser as required by the Promoting Financial Independence for Victims of Domestic Abuse Act, (50-4A NMSA 1978).

B. Domestic Abuse has the same meaning as it does in the Family Violence Protection Act (40-13-1 NMSA 1978).

C. Domestic Abuse Leave means intermittent paid or unpaid leave to obtain or attempt to obtain an order of protection or other judicial relief from domestic abuse or to meet with law enforcement officials, to consult with attorneys or district attorneys' victim advocates or to attend court proceedings related to the domestic abuse of an employee or an employee's family member.

D. Family member for this purpose of this section is defined as a minor child of the employee or a person for whom the employee is a legal guardian.

E. Employees who are victims of domestic abuse may use up to fourteen (14) days of leave per calendar year (maximum of 8 hours per day).

1. The employee may use vacation leave, personal leave, or compensatory time.

2. Unpaid leave will be used after vacation, personal and compensatory time has been depleted.

3. Sick Leave can be used for medical treatment and/or counseling and psychological services for the abuse as provided in Section 8-4.

F. Notice.

The employee is required to notify the supervisor and Human Resources as soon as possible. In an emergency situation, the notice should be given no later than 24 hours after the leave began.

G. Verification that the leave was for a qualifying reason may be required and may be:

1. Police Report

2. Copy of an order of protection. An order of protection is defined as a court order granted pursuant to the Family Violence Protection Act (40-13-1 NMSA 1978).

3. A written statement stating that the employee or employee's family member appeared or is scheduled to appear in court in connection with an incident of domestic abuse from one of the following:

- a. an attorney representing the employee

- b. a district attorney's victim advocate

c. law enforcement official

d. a prosecuting attorney.

H. Confidentiality.

1. All inquiries and use of the leave will be kept strictly confidential.

2. The fact that an employee or employee's family member was involved in a domestic abuse incident is also confidential.

3. The City may disclose an employee's information related to domestic abuse leave only when the employee consents, when a court or administrative agency orders the disclosure, or when otherwise required by Federal or State law.

I. Retaliation.

1. The City may not interfere, restrain or deny the exercise of the rights under this act. Retaliation against an employee for using domestic abuse leave is prohibited.

SECTION IX – PERFORMANCE MANAGEMENT

9-1. COACHING AND COUNSELING.

9-2. WORK-PERFORMANCE EVALUATIONS.

9-3. PERFORMANCE IMPROVEMENT PLAN.

The purpose of Section IX is to provide guideline for regular communication and feedback which are essential to personal and professional development as well as a positive work experience. This section encourages regular communication and establishes a consistent, equitable system by which the performance of City personnel is evaluated regularly and work performance issues are addressed in a timely, effective fashion.

9-1. COACHING AND COUNSELING.

A. Coaching is an ongoing process whereby the supervisor directs the development of the employee through regular performance feedback. If the employee is meeting the supervisor's expectations, positive feedback can be used to reinforce performance and further motivate the employee to even higher levels of performance.

B. Supervisors are encouraged to provide regular feedback to employees on their performance and on their continued development through coaching. Employees are also encouraged to ask questions and request guidance from their supervisors whenever needed.

C. The City expects a high level of performance, professionalism, and accountability from supervisors and employees. Communication between a supervisor and employee regarding performance-related issues should occur informally and formally on a regular basis including an annual performance evaluation.

D. Counseling occurs when there are performance deficiencies. The goal of counseling is to proactively assist the employee in achieving a satisfactory level of performance prior to initiating any more formal disciplinary action. In such cases, the supervisor should meet with the employee to clarify performance expectations and determine what obstacles are impeding the employee's ability to perform to standard. The problem could be a lack of clear instructions, a need for training, the lack of tools/resources, or the impact of another employee's behavior. Whatever the cause, it is the supervisor's role to minimize barriers to acceptable performance and provide clear expectations for the employee. The position description can be a valuable tool for this purpose.

E. Coaching and Counseling Distinguished from Disciplinary Action. Supervisory coaching and counseling is an ongoing, interactive process between supervisor and employee designed to provide the employee with sufficient guidance and job training to succeed in the position. Disciplinary action is a distinct and more formal process designed to document the employer's attempt to correct unsatisfactory work performance or to hold an employee accountable for a violation of City policy or other misconduct. See 10-3. Types of Discipline

F. A counseling meeting should be viewed as developmental and corrective rather than punitive. The supervisor should stress that counseling is not part of the disciplinary action procedure, but that disciplinary action may result if the employee does not change the job behavior. Written documentation pertaining to the counseling meeting is not kept in the employee's Official Personnel File, but it should be kept in the departmental file.

9-2. WORK-PERFORMANCE EVALUATIONS.

A. It is the policy of the City to manage performance through ongoing communication between an employee and his/her supervisor regarding performance expectations and employee accomplishments.

B. Each supervisor is responsible to set and communicate clear performance standards for his/her employees and to observe and discuss employee performance at the beginning of and throughout the review period.

C. The employee is responsible for understanding the duties and responsibilities required of the position, the employee work-plan goals and measures, the core competencies and for asking any questions concerning those expectations and/or the evaluation process.

D. Periodic performance evaluations provide an opportunity for employees and supervisors to review and discuss work performance; identify performance elements in which the employee does well and those elements which require improvement; and to plan future performance objectives and career development. Performance evaluation, whether formal or informal, does not create a contract or other right to continued employment.

E. Formal performance evaluation shall be conducted twice each year, every six months for all employees who have completed their probationary period and for grant-funded employees who have completed one-year of employment.

F. Informal evaluations should be conducted periodically for coaching and performance improvement and retained in the departmental working file.

G. All formal performance evaluations shall be prepared on the approved City performance evaluation form, and forwarded to the Human Resources Department to be placed in the employee's Official Personnel File.

H. All probationary employees will be formally evaluated as set forth in Section 4-6 Probationary Status.

I. If an employee changes assignment, position, or department during the performance cycle the current supervisor shall complete a special evaluation of the employee's performance prior to the employee's change in assignment, position or department and send to the Human Resource Department for retention in the employee's Official Personnel File.

J. Employees are responsible for contributing to the development of the performance objectives and for providing performance input throughout the evaluation period and explanation of actions occurring during the rating period.

K. Employees are encouraged to record their perceptions of their performance, accomplishments, training requests and future goals and objectives. Supervisors should review and incorporate these into the evaluation as appropriate.

L. New, transferred, promoted or demoted employee shall receive a copy of the performance evaluation instrument delineating goals, objectives and core competencies to be evaluated within 30 calendar days of being placed in the position and the year-end evaluation delineating performance.

M. At the end of the performance evaluation cycle, the supervisor will meet with each employee under his/her supervision to evaluate performance, discuss training needs and establish goals and objectives for the next evaluation cycle.

N. Prior to finalization of any work-performance evaluation, an employee shall be given the opportunity to provide input for consideration by the supervisor(s). After consideration of items brought to the supervisor's attention, the supervisor shall finalize the work-performance evaluation form, and both the supervisor and employee shall sign it. The employee's refusal to sign the performance evaluation form does not make the performance evaluation unofficial. In the event that an employee refuses to sign, the evaluator will enter a comment to that effect on the evaluation.

O. Both the supervisor and the employee shall retain a copy of the work-performance evaluation form to facilitate ongoing discussions about work performance objectives, progress, or revised responsibilities.

P. The supervisor's assessment of the employee's work performance is not subject to grievance; however, the employee has a right to attach a rebuttal to the performance evaluation form.

Q. The original copy of the completed, signed work-performance evaluation form, and any attachment submitted by the employee, will be forwarded to the Human Resources Department and placed in the employee's Official Personnel File.

R. The Department head shall forward all completed evaluations for staff and managers, supervisors and administrators to the Human Resources office by July 15 each year.

9-3. PERFORMANCE IMPROVEMENT PLAN.

A. The City recognizes that performance issues can often be resolved before they become disciplinary issues. Supervisors are encouraged to discuss performance issues with their employees as they occur. These issues may include, but are not limited to, attendance and tardiness, appearance, safety, and other forms of employee conduct and performance. The use of FMLA Leave may not be used as a basis for disciplinary action.

B. The supervisor should take the following steps to make the employee aware of the performance problem and to initiate corrective action.

1. Document the performance issue and expectations on the Performance Improvement Form or in a brief memorandum addressed to the employee.

2. Meet with the employee to review the memorandum and the situation. Explain the concerns clearly to ensure that the employee understands the performance problem and the expectations.

3. Listen to the employee's explanation of the situation and determine whether there are mitigating circumstances.

4. Develop a Performance Improvement Plan that outlines how the employee will improve his/her behavior/performance, and how the supervisor will observe and determine that the change has taken place. Establish a time frame in which the changes should take place and monitor progress.

5. If an employee does not progress in a satisfactory manner or meet the established time frame, the supervisor shall contact Human Resources to consult regarding the next steps.

C. This process is not required before disciplinary action is initiated. There are employee issues that should immediately be addressed with a disciplinary action.

SECTION X - DISCIPLINE

10-1. DISCIPLINE SYSTEM.

10-2. GROUNDS FOR DISCIPLINARY ACTION.

10-3. TYPES OF DISCIPLINE.

10-4 DISCIPLINARY MEETINGS.

10-5. PRE-DETERMINATION PROCESS.

10-6. GRIEVANCE PROCEDURES.

10-7. APPEAL OF DEMOTION, SUSPENSION OR TERMINATION.

10-8. COMPLAINTS.

The purpose of Section X is to establish the policies and essential procedures pursuant to which employees will be held accountable for poor work performance and/or misconduct in the workplace, including the distinction between job coaching and corrective action, the use of progressive discipline, the parameters for paid administrative leave, and the processes by which employees are notified and given the opportunity to respond to proposed corrective action, as well as appeal determinations regarding disciplinary action.

Section X also sets forth the City's dispute resolution policy; clarifies which types of administrative action which may not be grieved; provides classified employees a right to appeal corrective action; and directs employees to other informal and formal processes by which contested personnel matters may be resolved.

10-1. DISCIPLINE SYSTEM.

A. Each supervisor shall have the responsibility and authority, with the approval of the department head, to administer appropriate discipline up to and including a written reprimand to subordinates using a positive, progressive-discipline process as a corrective measure. In order to ensure consistency throughout the City and to reduce the potential for exposure to liability, supervisors and administrators are strongly encouraged to inform and consult with Human Resources regarding coaching, counseling, and performance improvement plans as well as regarding the level of discipline that may be appropriate for violations of department work rules, City policy, poor performance or other misconduct. For notice of intent to suspend, demote or terminate an employee, concurrence from the City Manager is required prior to commencing the corrective action.

B. The continued employment of any individual by the City depends upon acceptable conduct and satisfactory work performance. Failure to meet these standards of conduct and work performance is sufficient grounds for disciplinary action up to and including termination of employment.

C. Maintenance of Disciplinary Action Documentation. The final documentation of disciplinary action taken, other than a verbal reprimand, becomes part of the employee's Official Personnel file and shall not be purged from the file except by order of a City hearing officer or court of competent jurisdiction.

D. Nothing in this policy changes the status of probationary, temporary or unclassified employees.

10-2. GROUNDS FOR DISCIPLINARY ACTION.

A. Just Cause.

Classified employees shall not be subject to corrective/disciplinary action without just cause. Just cause is described as any conduct, action, or inaction, arising from, connected with, or impacting on the employee's work, whether on or off duty, that is inconsistent with the employee's obligations to the employer; or conduct reflecting a disregard of the employer's interests, policies or procedures. Just cause includes but is not limited to, inefficiency, unacceptable performance, incompetence, misconduct, negligence, insubordination, or conviction of a felony or misdemeanor under the provisions of the Criminal Offender Employment Act (Section 28-2-1, et. seq., NMSA 1978).

B. The following includes those actions that may be a basis for disciplinary action. This list is not intended to be all-inclusive, but is illustrative of the types of actions that may lead to disciplinary action. Also see 6-4 Standards of Conduct.

1. The employee's performance does not meet expectations.
2. The employee has been abusive in his/her language, or has threatened or caused physical harm to others.
3. The employee has violated a written policy or order, or has failed to obey any lawful, reasonable directions given by his/her supervisor or other responsible City Official.
4. The employee has been found under the influence of alcohol or drugs while on duty and/or in City facilities. The employee has violated the Drug Free Work Place policies.
5. The employee has been convicted of a felony or has engaged in any activity that violates State or Federal criminal statutes.
6. The employee has provided false or misleading information in any document, report, or statement related to his/her employment with the City. This includes but is not limited to the employment application and related materials, complaints and grievances.
7. The employee has caused damage to City property or waste of City supplies, through negligence or misconduct.
8. The employee is unsafe to himself, to other employees or to the public in the performance of his/her duties and responsibilities.
9. The employee has been inexcusably absent, has failed to receive prior approval for any absence, or has abandoned his/her or her position. The use of FMLA leave may not be used as a basis for disciplinary action.
10. The employee has taken any action that discriminates on the basis of race, color, sexual orientation, sex, religion, national origin, age, disability, or any other legally protected status.
11. The employee has engaged in improper political activities under the local, state, federal including the HATCH Act.
12. The employee has engaged in conduct, either during or outside of regular work hours that brings discredit upon the City.

10-3. TYPES OF DISCIPLINE.

A. The material below describes types of discipline that may be taken to correct and discipline employees. The intent is neither to limit the range nor prescribe the sequence of possible disciplinary actions.

B. Any proposed discipline that involves suspension without pay, demotion or dismissal must first be reviewed with and approved by the City Manager. Written reprimands must be reviewed by the Human Resources Director prior to administering the action. It is highly recommended that the Human Resources Director review verbal reprimands prior to administering the action.

C. Verbal Reprimand. The supervisor will verbally notify the employee that an official warning is being given for violation of work rules, policies or procedures. Record of a verbal reprimand remains in the departmental file in the department of origin.

D. Written Reprimand. A written reprimand will be discussed with the employee by a supervisor and approved by the department head. The reprimand will briefly describe the offense, behavior or performance issue and the corrective action. The employee will be asked to sign the reprimand to

acknowledge its receipt. If the employee refuses to sign the notice, the Department head shall note the employee's refusal. A copy of the reprimand will be placed in the employee's Official Personnel File. Where the offense is a result of misunderstanding, corrective action may be training or retraining. The offense and the corrective action will be documented in a memorandum from the Department head or designee to the employee. The employee will be asked to sign the memorandum to acknowledge its receipt. A copy of the memorandum will be placed in the employee's Official Personnel File.

E. Demotion. The department head may recommend demotion of an employee who has completed the probationary period when performance does not meet expectations, or for disciplinary purposes. The recommended demotion shall be documented in a Notice of Intent to Suspend, Demote or Terminate and discussed with the employee. The procedures in Section 10-5 shall be followed. The employee shall acknowledge the notice by signing it. If the employee refuses to sign the notice, the Department head shall note the employee's refusal. The notice shall be filed in the employee's Official Personnel File.

F. Suspension without Pay. The Department head may recommend to suspend an employee who has completed the probationary period without pay from his/her position at any time for a disciplinary purpose. Suspension without pay shall not exceed thirty (30) calendar days. The recommendation for the suspension without pay shall be documented in a Notice of Intent to Suspend, Demote or Terminate and discussed with the employee. The employee shall sign to acknowledge receipt of the memorandum. If the employee refuses to sign the memorandum, the Department head shall note the employee's refusal to sign on the memorandum. A copy of the memorandum shall be placed in the employee's Official Personnel File. A pre-determination hearing shall be held in advance of a suspension without pay if a hearing is requested. FLSA exempt employees may be suspended for a week plus additional full working days for serious infractions of workplace conduct rules or for infractions of safety rules of major significance. All other suspensions of an exempt employee shall be for full workweeks.

G. Termination of Employment. The Department head may recommend termination of an employee. The offense and the rationale for the termination shall be documented in a Notice of Intent to Suspend, Demote or Terminate and discussed with the employee. An employee who has completed their probationary period shall be afforded their due process in accordance with Section 10-5. Upon the review and approval of the Human Resources Director, the Department head shall give notice of the intent to terminate employment in a memorandum delivered to the employee and placed in the employee's Official Personnel File.

H. Resignation in Lieu of Termination. An employee may request to resign in lieu of termination or other disciplinary action. Such a request must be submitted in writing to the immediate supervisor prior to a final determination following the pre-determination hearing or the effective date of the proposed action if a pre-determination hearing is not elected. The supervisor has the discretion to accept or deny the request to resign in lieu of disciplinary action. If the supervisor accepts the letter of resignation in lieu of termination, the employee will remain ineligible for rehire if applicable in accordance with Section 11-6. Eligibility for Rehire.

10-4 DISCIPLINARY MEETINGS.

A. Prior to any disciplinary action that may penalize an employee who has completed the probationary period, the Department shall hold a meeting with the employee. This shall be a meeting to present and discuss the charges subject to disciplinary action. The following apply to this meeting.

1. The employee shall be provided written notice of the disciplinary charges and recommended disciplinary action.
2. During the meeting, the department head or designee shall explain the disciplinary charges and any other issues that have bearing on the situation.
3. The employee shall be given the opportunity to respond to the disciplinary charges and to provide any additional information that the employee believes to be relevant to the charges.

10-5. PRE-DETERMINATION PROCESS.

Adopted: 2/2/16

A. A classified employee who has completed the probationary period is entitled to a pre-determination hearing whenever unpaid suspension, demotion or termination of employment has been recommended. Probationary, temporary and grant-funded employees are not entitled to the pre-determination process.

B. Following notification of intent to suspend, demote or terminate employment the employee may be placed on administrative leave, with pay, pending the pre-determination hearing outcome with the approval of the Human Resources Director and City Manager.

C. Within three (3) working days of receipt of the Notice of Intent to Suspend, Demote or Terminate, the employee shall deliver a written memorandum to the Human Resources Director to indicate the employee is requesting a pre-determination hearing, with receipt acknowledged by the Human Resources Department.

D. If the employee does not request a pre-determination hearing, the employee is deemed to have waived his/her right to contest the matter and the City Manager shall issue a Notice of Final Determination to the employee. The Notice of Final Determination will:

1. Specify the grounds of the discipline;
2. Specify the disciplinary action to be imposed;
3. Attach the employee's memo indicating no interest to attend a hearing; and
4. Specify when the disciplinary action will be effective.

E. In the event the employee requests a pre-determination hearing the City Manager shall hold an informal hearing to allow the employee the opportunity to respond to the proposed disciplinary action.

F. The employee may be accompanied by a representative, in the capacity described below, may cross examine any witnesses who have provided statements, and may present documents on his/her behalf. If the representative is an attorney, the employee must so inform the human resources representative to allow the City time to arrange for its general counsel to be present at the hearing. The City reserves the right to have the general counsel present at any and all hearings.

G. The City Manager is fully empowered to grant or refuse extensions of time, to set procedures for the hearing, to conduct the hearing, and to take actions relative to the proceedings.

H. The hearing may be continued at the request of either the employee or the Department head or his/her designated representative with the approval of the City Manager. Requests to continue the hearing must be submitted to the Human Resources Director in writing at least three (3) work days before the hearing date. Continuances will not be granted to accommodate the schedule of representatives or witnesses. The Human Resources Director will notify all concerned parties of the continuance.

I. Failure of the employee to comply with these procedures and/or failure to appear at the time and place of the hearing will result in dismissal of the appeal.

J. If the City Manager determines that the recommended disciplinary action was arbitrary or taken without reasonable cause, the disciplinary action may be revoked or modified. The City Manager may otherwise modify or affirm the recommended disciplinary action.

K. The City Manager may impose appropriate remedial action after considering just and equitable relief to the employee and the best interests of the City and the public.

L. The City Manager shall make a determination regarding the proposed action based on the evidence presented at the pre-determination hearing.

M. The employee shall be notified by the City Manager, within five (5) business days, of the results of the hearing.

N. The Notice of Final Determination will specify the disciplinary action to be imposed, and the effective date of the action. The notice will be delivered by mail to the employee's address of record or by personal delivery.

O. The findings and decisions of the City Manager may be appealed in accordance with Section 10-7. Only employees who elect to have the pre-determination hearing shall have an appeal right. See 10-7. Appeal of Suspension, Demotion or Termination.

P. Nature of the Pre-Determination Hearing.

1. The hearing shall be informal. The technical rules of evidence and court procedure shall not apply, except that irrelevant, immaterial, or unduly repetitious material may be excluded. Evidence protected by the rules of privilege recognized by law may also be excluded.

2. The employee shall represent himself/herself, but may have a representative attend the hearing, as an observer. The observer is not to participate in nor obstruct the hearing process. In the event that an observer is disruptive to the proceedings, the hearing officer may remove them from the hearing.

3. The audio or video recording of the pre-determination hearing is not allowed.

Q. Witnesses.

1. The City Manager may limit the number of witnesses on any issue, including character and reputation evidence.

2. The City Manager may exclude from the room any witness not at the time under examination. The employee, the Department head, and their representatives may not be excluded unless their behavior is disruptive.

3. Coordination of witnesses and collection of witness statements on behalf of the employee requesting the hearing are that employee's responsibility except in cases of discrimination, harassment or workplace violence. In cases of discrimination, harassment or workplace violence, the employee shall provide a witness list to Human Resources at the time the hearing is requested and Human Resources will arrange for the witness(es) to appear. In the event that a City employee is uncooperative when contacted, Human Resources shall be notified by the employee requesting the hearing and will assist in securing the employee's cooperation.

10-6. GRIEVANCE PROCEDURES.

A. The purposes of this grievance procedure include:

1. To promote improved employer-employee relations by establishing grievance procedures on matters for which appeal or hearing is not provided.

2. To afford each employee a systematic means of obtaining further consideration of problems.

3. To ensure that efforts are made to settle grievances at the lowest level.

4. To handle grievances as informally as possible.

B. Matters Subject to Grievance Procedure.

1. All classified employees, grant-funded employees and volunteer firefighters shall have the right to grieve any decision they believe violates City ordinances, policies or procedures; Federal or State laws or regulations; or established public policy, with the following *exceptions*:

a. Written reprimands, suspensions without pay, demotions, and dismissals. See 10-7. Appeal of Suspension, Demotion or Termination.

- b. Performance evaluations, reclassifications and salary issues.
- c. Non-selection for vacant positions.
- d. Dismissal from probationary status.
- e. Disputes as to whether an established City policy or practice is good or appropriate.
- f. Management style, job direction and assignment of tasks/duties.
- g. Reassignment or transfer provided there is no loss in pay.
- h. Resignation by the employee.
- i. Staffing patterns.

2. Grievances must be initiated within ten (10) working days of the incident to be considered.

C. Informal Grievance Procedure.

1. Any employee who has a grievance should first try to settle it through discussion with his/her immediate supervisor. This step should be taken without undue delay.

2. If, after this discussion, he/she does not believe the problem has been satisfactorily resolved, he/she shall have the right to discuss it with his/her Department head. Every effort should be made to find an acceptable solution by informal means.

3. If the informal grievance procedure does not result in resolution, the employee initiating the grievance may exercise the formal grievance process within five (5) working days of concluding the informal process.

D. Formal Grievance Procedure.

1. Issues that cannot be resolved through the informal grievance procedure may be taken to the formal procedure. The levels of review in the formal grievance procedure follow the chain of supervision and are listed below:

2. First Step. The grievant shall serve a written grievance with the grievant's immediate supervisor and the Human Resources Department unless the grievance is against the immediate supervisor in which case the employee shall serve the written grievance at the next supervisory level and the Human Resources Department within ten (10) calendar days of the precipitating event or five (5) working days of concluding the informal grievance process whichever is later.

3. Second Step. If the grievance is not resolved within ten (10) calendar days at the First Step, the grievant may serve a copy of the written grievance with the Department Director. This written grievance must be served within ten (10) calendar days from the date of the immediate supervisor's response or the date that a response was due, whichever is earlier, or the grievance is forever barred.

4. Third Step. If the grievance is not resolved within ten (10) calendar days at the Second Step, the grievant may serve a copy of the written grievance with the City Manager. This written grievance must be served within ten (10) calendar days from the date of the Department Director's response or the date that a response was due, whichever is earlier, or the grievance is forever barred.

a. Timing of Meeting. Management will hold a meeting on the grievance within ten (10) calendar days of receiving the written grievance at this step.

b. Evidence/Testimony. Management and the grievant will be permitted to submit documents and call witnesses at the meeting. Although the formal rules of evidence do not apply, the City Manager may refuse to permit the calling of witnesses whose testimony the City Manager deems irrelevant or cumulative. The City Manager may deny the consideration of evidence that determined to be irrelevant or cumulative.

c. Witnesses. Witnesses who are employees of the City will generally appear during work hours and will not lose pay for their attendance. Witnesses who are employees of the City and who are required to appear outside their normal work hours will be paid at their appropriate rate of pay under the Fair Labor Standards Act.

d. The City Manager will issue a decision within ten (10) calendar days of the meeting unless otherwise agreed in writing between the City Manager and the grievant. The City Manager's decision shall be final.

E. Conduct of Grievance Procedure.

1. The time limits specified above may be extended by mutual agreement of the employee and management.

2. Once a grievance has been dismissed, either through direct action or by inaction, the grievance cannot be reinstated by the employee.

3. Employees shall be free from reprisal for using the grievance procedures.

10-7. APPEAL OF DEMOTION, SUSPENSION OR TERMINATION.

A. Either party, employee or supervisor, may appeal the Notice of Final Determination. The party initiating the appeal must provide written appeal notice to the Human Resources Department within five (5) working days of receiving the Notice of Final Determination. Additional time may be granted on a case-by-case basis by written request to the Human Resources Director.

B. The appeal notice must include the basis of the appeal which identifies specific employment practices and procedures.

C. The party charged will be provided with a copy of the complaint documents and will have five (5) working days to provide a written response to the Human Resources Department. Additional time may be granted on a case-by-case basis by written request to the Human Resources Director.

D. The complainant will be provided a copy of the response, and may amend the initial appeal within two (2) working days of receiving the response. If amended, the party charged will also be extended two (2) working days to provide any additional documentation.

E. The entire complaint and response will be submitted to an appeal panel composed of three (3) members of management, one of whom may be the hearing officer, for review and determination. The appeal panel will make a determination within ten (10) working days. Determinations will be made by majority vote. Both the complainant and the respondent will be provided with a copy of the appeal panel's written determination.

F. The findings and determination of the appeal panel shall be final.

10-8. COMPLAINTS AGAINST CITY PERSONNEL.

A. Internal Complaints: The City Manager will establish a procedure which will be operated in accordance with the Whistleblower Act and OMB A-123. Employees may report instances of waste, fraud, abuse, corruption and mismanagement. Examples of information that may be reported include:

kickbacks, safety hazards, conflicts of interest, use or sale of drugs, theft of cash or goods, falsifying City records, fraudulent insurance claims, physical abuse or harassment.

B. External Complaints: The City Manager will establish a procedure to receive complaints from the public. The Manager shall designate the appropriate department to investigate or take corrective action. The Manager will maintain a log of all complaints received and actions taken, and will periodically report the status of complaints to the Governing Body as requested.

SECTION XI – SEPARATION FROM CITY SERVICE

11-1. TERMINATION OF PROBATIONARY OR UNCLASSIFIED EMPLOYEES.

11-2. MEDICAL SEPARATIONS.

11-3. RESIGNATIONS.

11-4. EXIT PROCESSING.

11-5. SEPARATION PAY.

11-6. ELIGIBILITY FOR REHIRE.

11-7. REDUCTIONS-IN-FORCE (LAYOFFS).

The purpose of Section XI is to provide policies and procedures to be followed by supervisors in the event of employee separation from City service. It also clarifies employee rights related to separation pay, eligibility for rehire, and reinstatement rights in the event of a reduction-in-force.

11-1. TERMINATION OF PROBATIONARY OR UNCLASSIFIED EMPLOYEES.

A probationary or unclassified employee may be terminated with or without cause at any time without notice or hearing during the probationary period with written approval of the City Manager.

11-2. MEDICAL SEPARATIONS.

An employee who, due to a medical condition is unable to perform his/her essential job duties with or without reasonable accommodation, will be transferred or reassigned to a vacant position for which he/she is qualified in accordance with the provisions of the manual of personnel policies. If no vacant position exists for which the employee is qualified, the employee will be terminated.

11-3. RESIGNATIONS.

A. An employee may resign by giving written notice and the effective resignation date to the supervisor or department head. A two-week written notice of resignation is requested. Upon receipt of the written notice of resignation, the department head may waive the two-week requirement.

B. An employee who resigns shall be asked to complete an exit-interview questionnaire, provided by the Human Resources Department, to specify the effective date and reason for the resignation. The employee will be asked to authorize the City to deduct any monies owed to the City from the employee's final paycheck. Final paycheck will not result in payment for wages at a rate less than minimum wage.

C. An employee who fails to report to work for two (2) consecutive work days without authorization or notification shall be considered to have abandoned his/her position. Job abandonment is considered a resignation.

11-4. EXIT PROCESSING.

A. Upon notice that an employee is to leave City employment for any reason, the department shall provide to the employee an Employment Separation Checklist so that the employee may begin exit processing.

B. An employee must return or account for all City property, including uniforms, keys, badge, credit or fuel cards, equipment and other items of value.

Adopted: 2/2/16

C. Any money due to the City as a result of missing or damaged City property or other unpaid debt shall be itemized and presented to the employee for payment. If the employee is due payment for accrued leave, the amount owed to the City will be offset prior to final payment.

D. If an exiting employee is deemed to pose a security or other risk by a member of executive management, the employee may be asked to leave immediately and/or be provided an escort from the premises by a law enforcement officer.

11-5. SEPARATION PAY.

A. An employee who voluntarily separates or is subject to a medical separation from the City will receive a final paycheck, including accrued vacation leave, on the payday following the pay period that the separation date was effective.

B. Employees who voluntarily separate from the City will receive their final paycheck in the same manner that they have received their regular paychecks.

C. In case of death, the final salary and compensation for unused vacation leave shall be paid to the employee's estate.

D. Employees separating for any reason other than retirement shall receive payment for earned wages and accrued vacation leave up to a maximum of two hundred forty (240) hours. An employee who resigns shall be paid his/her wages on the next regularly scheduled payday.

E. An employee who is terminated or involuntarily laid-off shall be paid his/her wages within five (5) calendar days from the date of termination and cannot elect to receive his/her final check through direct deposit.

F. All employees terminating their employment with the City will be paid for accrued overtime and compensatory time. This payment will be included in the final paycheck.

G. Employees retiring, with a minimum of fifteen (15) years of City service, shall receive compensation for accrued vacation leave up to a maximum of three hundred (300) hours.

H. The payment-for-leave benefits may be paid in a separate check from the employee's paycheck at the discretion of the City.

I. Employees separating for any reason will not be compensated for any accrued sick leave if hired after the adoption of this policy.

11-6. ELIGIBILITY FOR REHIRE.

A. To facilitate a safe and secure service and employment environment in which employees may be effective and successful in their work experiences at the City and to ensure adequate protection of the public and public trust, former City employees shall not be rehired by the City if their separation from employment occurs due to substantiation of the following:

1. Discrimination or harassment;
2. Violence in the workplace;
3. Resignation or retirement in lieu of termination for the above mentioned;
4. Resignation or retirement during the course of an investigation for alleged misconduct of the above, which if substantiated would constitute cause for termination based upon the above;
5. Resignation or retirement during development or pendency of administrative proceeding seeking termination of employment, based on substantiated misconduct for the above;

6. Disqualification based upon discovery of latent misconduct for the reasons listed above.

7. This list is not intended to be all inclusive, but is illustrative of the types of actions that may lead to a determination of ineligibility for rehire.

B. At or near the time of separation from service, the department head (or Municipal Judge) of an employee who will not be eligible for rehire shall notify the Human Resources Department and request that notice of ineligibility for rehire be sent to the employee. The Director of Human Resources will make a final determination and notify the employee in writing either:

1. During an exit interview process;
2. In a Final Determination Letter following proposed disciplinary action; or
3. By other written notification to the employee mailed to the employee's home address of record.

The former employee may seek reconsideration of his/her ineligibility for rehire status by submitting a written request to the Human Resource Director within ten (10) working days of the notification having been mailed to him/her. The former employee shall include all information that he/she wishes the City to consider when reconsidering the ineligibility for rehire status determination. The Human Resources Director shall review the request and any prior documentation from the former employee's Official Personnel File and make a determination. The former employee will be notified of the determination in writing. The determination made by the Human Resources Director is final.

11-7. REDUCTIONS-IN-FORCE (LAYOFFS).

A. All employees are subject to separation by layoff due to a shortage of City funds, elimination of positions, or lack of work.

B. When a department anticipates a layoff, the Human Resources Department, with the approval of the City Manager, shall provide notification as far in advance as reasonably possible to the affected employee, with a minimum notice period of two (2) weeks. Pay for the notice period may be provided in lieu of time at the discretion of the City Manager.

C. Order of Layoff.

1. The order of layoffs will be guided by the mission mandates of City service to the Community.

2. In determining positions to be eliminated and incumbents affected, consideration should be given to the following:

- a. Available funding
- b. Required staffing levels
- c. Retention of specific skills or qualifications necessary for department operations
- d. Demonstration of superior performance by incumbents
- e. Seniority will be a final determinant when all other criteria are equal
- f. Specific skills and/or superior performance must be clearly documented to ensure that the City does not discriminate, intentionally or unintentionally, based on race, color, sex, age, national origin, disability, or veteran status.

DEFINITIONS

Administrative Leave - paid or unpaid leave approved at the discretion of the City Manager for good cause. Administrative Leave allows the employee to be away from work without losing any work-related benefits.

Allocation - the assignment of a position as to class and specific pay grade.

Anniversary - the date on which an employee was appointed to a classified position, also referred to as the "date of hire".

Appeal - formal request that a decision pertaining to a formal grievance be reconsidered at a further stage in the grievance procedure.

Applicant - individual who has filed an application for a vacant position and desires to be considered for appointment to a position in the City service.

Call-Back - Call-Back occurs when an employee is on scheduled time off (excluding lunch breaks) and is unexpectedly notified to return to work. The order to return to work is due to an unexpected event beyond control of management and normally results in an increase to the scheduled number of employees on duty. It is not one employee replacing another scheduled employee.

Cause - reason for discipline of classified employees, determined by the standards of job performance and maintenance of the public interest.

Child - A biological, adopted, foster, step child or a legal ward.

City - the City government, composed of the Mayor and Governing Body, the City Manager, all divisions, departments, agencies, and employees and volunteers who comprise the organization designed to provide service to the citizenry.

City Hearing Officer - City Manager or designee.

City Manager - the City's government's chief executive officer charged with complete responsibility of employees, facilities, and other resources as set forth by N.M. State Law. It includes anyone designate by the City Manager to act on his/her behalf.

City Time - City working hours.

Class - one or more positions which are sufficiently alike to warrant using the same (or similar) title, qualification requirements, examination, and pay grade. Sometimes called "Classification."

Classification Plan - the sum total of all class specifications in the City service.

Classified Employee - An employee holding a classified position who has completed the initial probationary period. A classified employee is entitled to all of the rights and benefits of the City Personnel Ordinance and Procedural Guidelines.

Classified Position - A position approved by the Governing Body for which there is a job description and a set salary range with attendant fringe benefits, is subject to recruitment procedures, and for which all employment actions must be based on qualifications.

Class Specification - a written description of a class, which includes the position title, a general statement of duties and responsibilities, requirements, and definition of working conditions.

Compensation Plan - An organization of positions and compensation for employees set by the Governing Body.

Compensatory Time - those hours granted to employees covered by the Fair Labor Standards Act in lieu of overtime, on the basis of one and one-half (1-1/2) hours compensatory time for each hour of overtime.

Confidential Information - Information not available to the public and protected by the NMSA 1978, Article 14, Chapter 2, "The Inspection of Public Records Act".

Creditable Service - time on the City payroll constitutes creditable service. Creditable service does not include time that an employee is on unpaid leave, lay-off status, or the time the employee is on workers' compensation.

Demotion - the assignment of an employee from one class to another which has a lower pay grade and lower maximum rate of pay (also called downgrade and reclassification).

Department head - a City official designated with responsibility for operation and management of a major division of City government. May also be referred to as Department Director. Departments comprise several sections and units with similar service missions.

Dependent - an employee's child, step child, adopted child, foster child who resides with the employee; is under the age of 19 at the end of the calendar year, or under age 24 and a full-time student for at least five months out of the year, or any age and totally and permanently disabled and for whom the employee provided more than half of their support during the year.

Disability - a physical or mental impairment which substantially limits one or more major life activities; or a record of having such an impairment; or is regarded as having such an impairment.

Discipline - action taken with regard to an employee that may include reprimand, suspension, demotion, transfer, or termination.

Dismissed with prejudice - Not eligible for rehire.

Dismissed without prejudice - eligible to be rehired.

Domestic partners – Two individuals who are in a mutually exclusive, committed relationship for the last twelve (12) months, who share a primary residence, who are jointly responsible for the common welfare of each other, who share financial obligations and have executed an affidavit of domestic partnership with the Human Resources Department and have been granted domestic-partnership status.

Due Process - the right granted to a full-time or part-time classified employee and volunteer firefighters, who has completed the probationary period, to the pre-determination process for disciplinary actions including suspension, demotion, or dismissal.

Equal Employment Opportunity (EEO) – Federal law that protects against discrimination based on race, color, religion, gender, national origin, disability status, Genetic Information & Testing, Family & Medical Leave, Sexual Orientation and Gender Identity or Expression, protected veteran status, or any other characteristic protected by law.

Eligible List - a list of persons qualified to fill a vacancy in a particular class.

Entry Level Rate - the minimum base rate in any salary grade established for a class.

Essential Job Functions - the fundamental job duties of the employee's position.

Exempt Employee – employees occupying positions determined to have met the exemption requirements as defined in Department of Labor regulations relating to the Fair Labor Standards Act, and whose compensation is based on a fixed annual salary and are not eligible for overtime.

Fair Labor Standards Act (FLSA) - the Federal law which sets minimum wage, overtime pay, equal pay, record keeping, and child labor standards for employees who are covered by the Act.

Family Medical Leave - leave granted under the Family and Medical Leave Act of 1993 and as amended in 2008.

Flexible Schedule - A prearranged and approved work schedule which includes core time which the employee is expected to work each day, with the remaining hours worked as determined by mutual arrangement of the employee and supervisor.

Full-Time - an employee budgeted to work 40 hours or more per seven day period.

Grievance - an employee complaint regarding alleged poor working conditions, unjust application of discipline, or unjust application, interpretation, or violation of the rules and regulations of the City or the department for whom the employee works.

Hearing - a formal review of the facts and circumstances surrounding a personnel action.

Immediate Family (Sick) - for purposes of sick leave: spouse, child or stepchild, parent of employee or spouse, an individual for whom the employee is a court appointed legal guardian or domestic partner and their eligible dependent.

Insubordination - failure to obey a direct lawful order of a supervisor or someone higher in the chain of command.

Investigator - Person appointed by Human Resources and approved by the City Manager who shall be an impartial person. If no approved person with the City is available, an impartial outside investigator shall be appointed.

Job Analysis - comprehensive analysis of the duties and responsibilities and essential functions of a position and of the qualifications required of persons selected for the position.

Job Description - a written statement of duties, responsibilities and essential functions which characterizes a job and includes the education, experience, knowledge, and ability required to perform the duties of the job.

Layoff - the separation of an employee which occurs when a regular position has been abolished because of material changes in duties, or shortage or stoppage of work or funds, or other reasons in the best interest of the City, as determined by the City Manager.

Leave - an authorized absence from regularly scheduled work hours for reasons specified in the personnel rules (holidays, vacation, sickness, injury, disability, jury duty, etc.).

Leave With Pay - Authorized absence from work with pay.

Limited Competition - competition for a vacancy which is available only for eligible City employees.

Loudermill - the informal "due process" or "pre-disciplinary" hearing given to an employee prior to termination, demotion, or suspension of any classified employee.

Management & Supervision - persons designated as heads of a group of employees, a section, a major functional unit, or an activity, with authority and responsibility to exercise independent judgment; who assign tasks, set standards of job performance, recommend hires, transfers, suspensions, layoffs, recalls,

promotions, and terminations of subordinates. Further, they may assign, or discipline and direct or adjust employee grievances.

Medical Standards - medical requirements established for selected classes of positions which are related to performance and consistently applied.

Merit System - a personnel system designed to attract and hold employees by making individual employment decisions based on qualifications, experience, and performance rather than on political association.

Military Leave - paid leave granted to an employee who is a member of the armed services or air national guard or a military reservist not to exceed fifteen (15) working days per calendar year.

Nepotism - patronage of one's immediate family as defined in Section 2-4 by providing them employment or position.

New Hire - a person not previously employed by the City.

Nonexempt Employees - all employees who are not exempt employees as defined in Department of Labor regulations relating to the Fair Labor Standards Act.

Open Competition - competition for a position which is available to all interested persons.

Overtime - means time an employee is directed and authorized to work in excess of the 40 hours per week, or 86 hours per 14-day period for designated Sheriff and Detention Center employees.

Part-Time Employee - one who is budgeted to work less than 40 hours per seven day period.

Pay Period - a two-week period, of which there are twenty-six (26) specified per year.

Pay Plans - the salary schedules for salaried exempt and non-exempt employees or any other class(es) of positions.

Pay Rate - also called base rate.

Pay Range - the minimum, midpoint, and maximum base rates established for each salary grade or pay plan consisting of grades and steps.

Performance Improvement Plan – The written plan set by a supervisor to improve performance of an employee including: standards, deficiencies, and expectations for improvement, time deadline and a monitoring schedule.

Performance Evaluation - an assessment of an employee's work.

Personal Day - One (1) paid day or equivalent hours per fiscal year to be used at the employee's discretion subject to the supervisor's approval.

Political Appointee – An employee appointed by an Elected Official to an unclassified position.

Predetermination Hearing – A hearing conducted by the City Manager or designee to determine propriety of proposed disciplinary action of suspension, demotion, or dismissal, in order to provide due process.

Probation - Nine (9) month period of employment, during which an employee is required to demonstrate fitness for continued employment. The probation period is another aspect of the selection process. Police and Fire probationary period shall be in accordance with union contracts.

Probationary Employee - a full-time or part-time employee hired to fill a position in the classified service who has not yet completed the probationary period of employment during which time the employee may be terminated at will.

Promotion - the assignment of an employee from one class to another, which has a higher maximum rate of pay, and greater responsibility. Promotion requires that an employee be upgraded and reclassified.

Regular Employees - classified employees working in positions that have no defined ending date. A regular employee may be full-time or part-time.

Reclassification - reassignment of a position from one class (grade) to a different class (grade) to correct an error in the original assignment or to recognize a change in the duties and responsibilities of a position. Ideally, reclassification should occur when a position is vacant. Reclassification shall not be used solely as a method of awarding an incumbent a salary increase or decrease.

Reasonable Accommodation - any modification or adjustment to a job, the work environment, or the way in which the work is customarily done that makes it possible for a qualified individual with a disability to perform the essential functions of the job and ensure equal employment opportunity.

Re-Hire - Re-employment of a former employee who left City in good standing.

Reinstatement - an action whereby an employee is restored to the City employment after involuntary termination or suspension. Reinstatement may be to a position with pay and benefits comparable to those received at the time of termination or suspension.

Resignation - voluntary separation from City employment prior to retirement.

Retirement Date - the date on which a regular City employee retires and begins drawing PERA retirement.

Reviewer - the rater's immediate supervisor who is required to review and approve each performance review within his/her purview before it is included as part of the reviewed employee's permanent record.

Salary - payment for work performed that is pre-determined and uniform from one payday to the next and does not depend on the number of hours worked.

Salary Schedules - (Refer to "Pay Plans") matrices of base rate salaries ranging from minimum, midpoint and maximum, or grades and steps, depicting approved pay ranges for employees in the City service.

Selection - the choosing of a candidate for employment.

Selection Device - devices used separately or in combination, as appropriate, to obtain the best qualified candidates for vacant positions. Such devices may include, but are not limited to, work sample and performance tests, practical written tests, oral examinations, rating of training and experience, interview, skill tests, and others.

Separation - removal of an employee from the payroll for voluntary or involuntary reasons; to include dismissal, resignation, layoff, retirement, abandonment of the job, death, and other reasons.

Sick Leave - leave with pay, granted to a classified or qualified unclassified employee, after accrual at a specific rate for illnesses.

Standby Duty - availability for call to duty. The employee may move about within range of a pager, but must remain fit for duty.

Supervisor. An employee who devotes a substantial amount of work time in supervisory duties, who customarily directs the work of two or more employees and who has authority to recommend the hiring, retaining, promoting, disciplining, adjustment of grievances, or evaluation of other employees. Does not include an individual who occasionally assumes a supervisory role or whose duties are substantially similar to those of subordinates, and does not include lead employees.

Temporary Assignment - when an employee is assigned additional, significantly higher-level duties to meet operational needs or in order to fill in for a vacant position. Typically, the temporary assignment will begin five (5) work days after the employee is assigned the additional duties. It will normally run for ninety (90) calendar days; however, the assignment may be extended, with approval of the City Manager or designee, if the conditions are unchanged. In no case should the temporary assignment extend beyond one (1) year.

Temporary Employee - an employee who has been appointed to a temporary position in accordance with the personnel rules, who is not eligible to receive leave and benefits, and who is not entitled to rights of grievance and appeal. A temporary employee may be full-time or part-time.

Temporary Pay Upgrade - employee compensation for temporarily performing assigned duties or responsibilities of a higher pay grade, provided the temporary upgrade in assignment exceeds more than 28 calendar days.

Termination - the resignation, retirement, dismissal, or death of an employee.

Transfer - assignment of an employee from one position to another in the same salary schedule. May also be assignment of an employee from one work site to another, from one agency to another, to more or less responsible or skilled occupations, or from one operational assignment to another in accordance with existing policy. Transfers may be voluntary or involuntary.

Unauthorized Absence - absence from duty without supervisory approval.

Unclassified Employees - An employee in any position other than a classified position. Unclassified employees are at will and may be terminated for any nondiscriminatory reason and have no layoff rights or recourse to the grievance procedure.

Unpaid Leave - Authorized absence from work without pay.

Vacancy - an authorized position not occupied by an incumbent which has been approved by the appropriate designated authority for filling.

Vacation Leave - leave with pay granted to employees at a specific rate to be used by an employee with prior approval from management.

Wage - payment that is calculated according to the number of hours worked and which may fluctuate from one pay day to the next as the number of hours worked varies.

CITY OF SUNLAND PARK PERSONNEL POLICY

ACKNOWLEDGMENT OF RECEIPT

I, the undersigned employee, acknowledge that I received the CITY OF SUNLAND PARK Personnel Policy and I understand the provisions therein and, in consideration of employment or continued employment, acknowledge and agree that:

- 1. My employment with the CITY OF SUNLAND PARK is “at will”, meaning that employment can be terminated by the City or the employee at any time for any reason or no reason in which the law allows;***
- 2. The policies in the manual are not contractual in nature;***
- 3. The City can unilaterally rescind, modify or add to the policies in the manual at any time without notice;***
- 4. I have read and understand the policies contained in this manual, including those related to employee technology, hostile workplace and workplace violence;***
- 5. No rule contained herein or adopted pursuant hereto guarantees any employee of the City a right to continued employment. The City always retains the right to exercise discretion in amending these rules and in interpreting them reasonably;***
- 6. Any agreement(s) or assurance(s) concerning the terms, conditions or duration of any individual’s employment are not binding unless they are in writing and signed by the City Manager or Mayor in the absence of a City Manager.***

I further agree to submit to a polygraph examination if deemed necessary by the CITY OF SUNLAND PARK and as permitted by law, whether administered pre-employment, during my employment and/or as part of an internal investigation. I hereby release any polygraph results to the CITY OF SUNLAND PARK by signing below.

Accepted this ____ day of _____, 20____, by:

Signature

Witness: _____
Human Resources Director/ Designee