

CITY OF ESPAÑOLA PERSONNEL POLICY



ADOPTED BY THE GOVERNING BODY
JUNE 26, 2007

AS AMENDED, APRIL 29, 2008 AND AUGUST 25, 2009

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Dear New Employee:

On behalf of the entire City government – welcome! We are pleased that you have chosen Española as your new employer. The City offers a wide array of challenging and rewarding opportunities for you.

Because it is vital that every Employee understand the personnel policies of the City, we are providing you with this new Employee handbook. Below, we ask that you sign and date this page to reflect your understanding that you will read the policy immediately and, in the event that you have any questions, will ask your Supervisor for clarification.

We wish you all the best and we look forward to working with you!

Employee Signature

Date

PURPOSE AND DISCLAIMERS

Adoption

Pursuant to 3-13-4 NMSA, 1978, as amended, and Chapter 2-89 of the City Code the following Personnel Policies are adopted by the Governing Body of the City of Española on August 25, 2009.

Prior Rules

The Personnel Policies with all amendments thereto in effect prior to the adoption of these Policies are hereby superseded.

Interpretations and Matters Not Covered

The City Manager may issue such administrative policies as are necessary to implement the provisions of these Policies and to provide further clarification. If substantial clarification is required, the policy issue shall be brought to the City Council for determination at the next scheduled City Council meeting.

Technical Rules

These Policies relate to the matters of personnel administration and may not cover every department's procedures, standard practices, standing orders, or other technical matters. A Department Director may make such departmental rules and procedures that are not in conflict with these Policies, provided such department rules and procedures shall be subject to approval by the City Manager. Upon adoption, the department shall file a copy of the departmental rules and any amendments or changes with the Human Resources Department. Each Employee in the affected department shall receive a copy of the departmental rules, and sign for receipt of such.

Changes

These Policies are issued by authority of the Governing Body and may be amended by resolution annually. Suggestions for amendments to or changes in these Policies are welcome and may be submitted in writing to the Human Resources Director.

Temporary Modifications

The Governing Body may temporarily modify, suspend, or waive any of these Policies if it would be reasonable, appropriate, lawful and necessary for the orderly and efficient administration of the City.

Revisions

Proposed revisions of these Policies shall be circulated by the Human Resources Director to all Department Directors, and notice posted in areas accessible to City Employees at least fourteen (14) calendar days in advance of consideration for final approval by the Governing Body. Such notice shall provide opportunity for comment and shall include the date, time and place of the meeting at which the Governing Body intends final consideration. Revisions to these Policies shall become effective upon approval by the Governing Body.

THE GOVERNING BODY SPECIFICALLY RESERVES THE RIGHT TO REPEAL, MODIFY OR AMEND THESE POLICIES AT ANY TIME, WITH SUFFICIENT NOTICE TO EMPLOYEES. NONE OF THESE PROVISIONS SHALL BE DEEMED TO CREATE A VESTED CONTRACTUAL RIGHT IN ANY EMPLOYEE OR TO LIMIT THE POWER OF THE COUNCIL TO REPEAL OR MODIFY THESE RULES. THESE POLICIES ARE NOT TO BE INTERPRETED AS PROMISES OF SPECIFIC TREATMENT.

CITY OF ESPAÑOLA PERSONNEL POLICY

SECTION 1 – GENERAL

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1.1 GENERAL PURPOSE AND SCOPE

General Purpose

- A. These policies are enacted by the City of Española in order to further the following goals:
1. To provide a uniform system of personnel administration throughout the City.
 2. To ensure, protect and clarify the rights and responsibilities of Employees.
 3. To ensure that recruitment, selection, placement, promotion, retention and separation of City Employees are based upon Employees' qualifications and fitness, and are in compliance with Federal and State laws.
 4. To assist managers in the development of sound management practices and procedures, and to make effective consistent use of human resources throughout the City.
 5. To promote communication between Directors, Supervisors, and Employees.
- B. These policies shall not be construed to create contractual rights or any type of promise or guarantee of specific treatment upon which any Employee may rely. The City reserves the right to amend, delete, supplement, or rescind any of the provisions of this manual, as the City deems necessary and appropriate, with advance notice. The City Manager reserves the right to deviate from these policies in emergency situations, in order to achieve its primary mission of providing orderly and cost efficient services to its citizens.
- C. These personnel policies shall apply to all City Employees. They shall not apply to elected officials, independent contractors, or to any Employee whose employment relationship with the City is covered by an employment contract. Certain provisions of this Policy relating to recruitment, grievance and discipline do not apply to the exempt employees listed in the Definitions Section 1.5. In the event of conflict between any provision of this manual and any provision of a valid and effective contract or in cases where the application of these policies would conflict with applicable state or federal law, the provisions of the contract and/or the state and federal laws shall govern. In all other cases, these policies shall govern.

1.2- NATURE OF THE EMPLOYMENT RELATIONSHIP

- A. Employment with the City of Española is voluntary on the part of both parties. Either the Employee or the City may terminate the employment relationship at any time, with or without cause, as either party may deem appropriate.

1.3- EQUAL EMPLOYMENT OPPORTUNITY POLICY

- A. It is the policy of the City to ensure equal employment opportunity for all Employees and appointed representatives. This commitment includes a mandate to promote and afford equal treatment and services to all citizens, Employees and City representatives, and to assure equal employment opportunity based on ability and fitness to all persons regardless of race, religion, color, creed, national origin, sex, marital status, age, or the presence of any sensory, mental, or physical disability unless such disability effectively prevents the performance of the essential duties required of the position and which are bona fide occupational qualifications which cannot be accommodated without undue hardship.

- B. The goals and objectives of the Equal Employment Opportunity Policy are to:

- 1. Ensure fair treatment and non-discrimination in City hiring, City employment, and in appointments to and service on City boards and commissions.
- 2. Provide compliance with State and Federal Equal Opportunity requirements and regulations.
- 3. Provide a basis for encouraging those who do business with the City to practice Equal Employment Opportunity.

1.3.1- EQUAL EMPLOYMENT OPPORTUNITY PROGRAM RESPONSIBILITY

The Human Resources Director shall serve as the Employee charged with the duty to carry out the Equal Employment Opportunity Policy and Program. The Human Resources Director shall be the focal point for the City's Equal Opportunity efforts and shall advise and assist staff and management personnel in all matters regarding implementation of and compliance with the Equal Employment Opportunity Policy, and be responsible for the successful execution of the program, utilizing the assistance of appropriate State and community agencies. The Human Resources Director will have responsibility to examine existing internal policies or procedures, which may serve as barriers to implementing the Equal Employment Opportunity Program.

1.3.2- EQUAL EMPLOYMENT OPPORTUNITY PRACTICES

- A. The Human Resources Director shall undertake the following actions to assure equal employment opportunities in the City:

1. Inform and provide guidance to staff and management personnel who make hiring decisions so that all applications for selections, promotion and termination, including those of minorities and women are considered without discrimination and all applicants be given equal opportunity regardless of race, creed, color, national origin, sex, marital status, age, or the presence or a sensory, mental, or physical disability unless such disability effectively prevents the performance of essential duties and functions required by the position and which are bona fide occupational qualifications which cannot be accommodated without undue hardship.
2. Annually review all position qualifications and job descriptions to insure requirements are relevant to the tasks to be performed. Make recommendations as needed to delete requirements not reasonably related to the tasks to be performed.
3. Assure that pay and fringe benefits depend upon job responsibility and, along with overtime work, are administered on a non-discriminatory basis.
4. Whenever possible, create a large pool of qualified candidates to encourage diversity and ensure equal employment opportunity in hiring.
5. Provide orientation for all new Employees specifically emphasizing how the City assures equal opportunity. Encourage all Employees to avail themselves of services rendered.
6. This policy shall be made known to all Employees, contractors, and suppliers through distribution of this Equal Opportunity Policy. Applications for employment will include an Equal Opportunity clause.

1.3.3- APPOINTED CITY REPRESENTATIVES

In order to enhance fairness and non-discrimination in the City, the administration will strive to achieve a balanced representation of racial, social and ethnic persons on City boards, commissions and ad-hoc committees. Ensuring non-discrimination in the appointment of the City's representatives will encourage the fair and even-handed administration of the City's code and policies.

1.3.4- EMPLOYEE DEVELOPMENT

- A. The following actions shall be undertaken by management to achieve Employee job satisfaction and fair treatment:
 1. Assure that there shall be no discrimination with regard to training and educational opportunities, upgrading, promotions, transfer and demotion, layoffs

and termination of Employees. Any actions that might adversely affect Employees will be brought to the attention of the Personnel Director.

2. Actively encourage Employees to increase their skills and job potential through training and educational opportunities. Offer guidance and counseling in developing programs tailored to individual aptitudes and desires, taking full advantage of programs offered.

1.3.5- COORDINATION WITH STATE AND FEDERAL LAWS

- A. The City recognizes its responsibilities to comply with and assure the equal opportunity and non-discrimination policies of State or Federal agencies with which it conducts business are carried out. Specifically, the City shall:
 1. Be responsible for reporting to the appropriate agencies any complaints received from any Employee of, or an applicant for employment with any City contractor or subcontractor.
 2. Cooperate in special compliance reviews or in investigations as requested.
 3. Carry out minority reporting functions of contractors or subcontractors as required by State or Federal laws.
 4. Include a non-discrimination clause in all standard City contracts.
- B. The City's Equal Employment Opportunity Program shall be made available to any Federal or State agency upon request.

1.4- HARASSMENT

- A. The City of Española is committed to offer employment opportunity, based upon ability and performance in a productive climate, free of discrimination and to provide a workplace in which Employees are treated with dignity and respect. Therefore, it is the policy of the City that any Employee or Supervisor shall not harass another Employee or member of the public.
- B. Harassment includes racial or ethnic slurs and other verbal, visual or physical abuse relating to a person's race, age religion, color, national origin, ancestry, sex, physical or mental handicap or medical condition. Harassment also includes any other behavior that interferes with an individual's work performance or creates an intimidating, hostile or offensive working environment.
 1. Harassment of any kind of an Employee will not be tolerated. Any Employee experiencing or witnessing such harassment shall report such instances immediately to their Supervisor, Department Director, or the Human Resources

Department. Noncompliance with this policy by any City Employee may result in corrective or disciplinary action, including termination.

2. No Employee shall be subjected to any form of intimidation or threat of retaliation for exercising their rights under the law or these Policies.

1.4.1- SEXUAL HARASSMENT

- A. It is the policy of the City to provide a work environment for its Employees, which is free from discrimination and intimidation. The City will not tolerate any form of sexual harassment. Prompt disciplinary action will be taken against an Employee who commits or participates in any form of sexual harassment.
- B. Sexual harassment is defined as unwanted, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct, which has the effect of creating an offensive, intimidating, degrading or hostile work environment, or adversely interferes or affects an Employee's work performance.
- C. Sexually harassing conduct includes;
 - Sexual flirtation, touching, advances or propositions;
 - Verbal comments of a sexual nature;
 - Graphic or suggestive comments about an individual's dress or body;
 - Sexually degrading words to describe an individual;
 - Display in the workplace of sexually suggestive objects or pictures, including nude or semi-nude photographs.
- D. Any Employee having knowledge of a violation of this policy shall report it to their Supervisor or to the Human Resources Director, who will take prompt and appropriate action.
- E. Any Employee who believes he or she is being sexually harassed by Supervisors or co-workers should immediately notify the Department Director. In the event that the harassment involves the Department Director, the Employee should notify the Human Resources Director. The City will not retaliate against an Employee who complains of sexual harassment.

1.5- DEFINITIONS

The following definitions shall be used for descriptive purposes; in the event of any conflict between these definitions and the policy to which the definition apply, the policy shall take precedence.

Allocation means the action taken to assign a position to an appropriate class

Alternative Work Schedule means a change in the employee's work hours from the standard work day. A flex time schedule may be requested for work hours outside of the standard work week. Department Directors shall have the authority to disapprove a request for an alternative work schedule if the schedule is not in the best interests of the City. Alternative work schedules for the City Manager, City Attorney, City Clerk and the Chief of Police must be approved by the City Council.

Anniversary date means the date upon which the performance evaluation occurs. This date initially corresponds to the hire date, but may be changed by subsequent promotions, demotions, transfers or other personnel actions.

Application means all written material submitted by an individual to indicate interest in a position with the City.

Break in service means any period following termination of employment of at least one normal workday and shall affect the Employee's anniversary date.

Call back and stand by means all Employees are subject to call back in emergencies or as needed by the City to provide necessary services to the public.

Candidate means any person who has qualified under these policies for employment to a position in a specified classification.

Classification means one or more positions in the City sufficiently similar in duties and responsibilities, degrees of supervision exercised or received, and minimum qualifications, so that the same descriptive title may be used to designate them and the same salary grade applied to all such positions.

Classified Employee (non-exempt) means an Employee whose position requires a regularly assigned combination of duties to be performed by one Employee in the City and a position, which is not temporary and may or may not be exempt under the Fair Labor Standards Act. Each Employee is also entitled to benefits and right to appeal.

Compensation Plan means a series of salary grades. Each position is assigned to a grade, based upon the evaluation of the position.

Confidential means work related communication that is not intended to be disclosed to other persons, other than those with a certified need to know.

Confidential Employee means an Employee who has access to confidential and sensitive information as part of the essential functions of their duties.

Controlled Substance includes, but is not limited to, heroin, marijuana, cocaine, PCP, "meth" and "crack" as well as "legal" drugs not prescribed by a licensed physician.

Corrective Action means oral or written warnings or written reprimands.

Demotion means the change of an Employee, for disciplinary or other reasons, to a position in a class with a lower salary grade, for which the Employee qualifies.

Department means the administrative groupings of divisions, sections, units and subunits as specified by the current City organizational chart as adopted by the Governing Body. Director or Department Director means the head of a department of the City.

Disability means the temporary physical or mental inability of an Employee to perform the essential functions of the job duties.

Discharge means the involuntary termination of an Employee for disciplinary reasons.

Disciplinary action means reprimand that includes suspension, demotion or discharge.

Equal Employment Opportunity expresses the commitment of the City to provide equal access to job opportunities for applicants and Employees regardless of race, religion, color, national origin, ancestry, sex, physical or mental handicap or medical condition.

Exempt Employee (non-classified) means an at-will Employee, not necessarily FLSA exempt, covered by the Personnel Ordinance and Personnel Policies, and entitled to the same rights and privileges afforded other Employees, except for the rights and privileges of selection, appeal of disciplinary action, grievance procedures or dismissal set forth in Sections Three, Nine and Ten of this policy. The exempt Employees are the City Manager, City Clerk, City Attorney, Public Safety Chief, Department Directors, and all Employees of the Municipal Court.

Fair Labor Standards Act (FLSA) means the Federal law enacted by the U.S. Congress in 1938, as amended, to regulate minimum wages, overtime pay, equal pay, record keeping, and child labor standards.

Furlough means a suspension in part or in whole of an employee's regular work hours for operational or budgetary needs as recommended by the City Manager to the City Council for action. A furlough may occur as a result of a reduction in force, or it may occur as a budgetary or operational measure.

Good standing in the case of a terminated Employee will be determined by examining the Employee's past employment history, including but not limited to: sufficient notice of resignation, past performance appraisals, disciplinary actions, the exit interview and other pertinent documentation.

Hatch Act means the Federal law (5 USC Sections 1501 to 1508) which prohibits certain partisan political activity by an Employee whose principal employment is in connection

with an activity which is financed in whole or in part by loans or grants made by the United States of a Federal agency.

Immediate family means the parent, stepparent, grandparent, spouse, domestic/life partner, child, stepchild, sister, brother, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, or grandchild of the Employee and shall include persons with whom the Employee has a legal custodial relationship, or who, through life-style accommodations, have the substantial equivalent of a family relationship.

Just cause means any behavior relating to the Employee's work, which is inconsistent with the Employee's obligation to the City. Just cause includes but is not limited to inefficiency; incompetence; misconduct; negligence; insubordination; performance which continues to be inadequate after reasonable efforts have been made to correct it; conviction of a felony, or misdemeanor where the provisions of the Criminal Offender Employment Act apply.

Layoff or Reduction in Force means the involuntary separation without prejudice, of an Employee, when a position has been abolished because of insufficient funds, or because of lack of work resulting in a reduction in force, or due to reorganization.

Management means the collective body of those who direct, supervise, or administer within the City's organization of departments, divisions, and sections.

Nepotism means to employ in a subordinate position a person related by blood or marriage within the third degree. (10-1-10, 10-1-11 NMSA 1978, as amended.) See Section 3.5.

Non-exempt (see Classified Employee)

Overfill means an incumbent who is being compensated at a rate higher than the maximum for the classification he/she holds.

Overtime means time an Employee is directed and authorized to work in excess of the standard workweek, or, in the case of sworn police personnel and fire fighters, in excess of the standard work period.

Probationary Period means the period of time in which an Employee's job performance is evaluated to determine the adequacy of the Employee's ability to satisfactorily perform the essential duties of the position they were hired for. The probationary period is six months for all classified and term Employees, except police officers, detention officers and fire personnel, whose probationary period is one year. A probationary Employee may be terminated with or without cause without the right to appeal. Management may extend an Employee's probationary period for up to two additional 90 day periods.

Qualifying Period is distinguished from the initial probationary period in that the Employee has already attained the rights of a status Employee of the City; thus a classified Employee who accepts a promotion shall continue to be eligible for all the benefits and privileges of status Employees, including but not limited to annual leave and the right to file a grievance or appeal.

Promotion means the change of an Employee from a position in one class to a position in a class with a higher salary grade. Employees who receive a promotion to another classified position shall serve a six (6) month qualifying period in the new position. The six (6) month probationary period does not apply to a promotion or transfer to an exempt position as defined under “exempt employees” whose employment status is “at will.”

Reclassification means a change of a position from one classification to another.

Reemployment means the employment of a former Employee in any position with a new employment date.

Reinstatement means the return of an Employee, who was on leave of absence, to employment in any position without a break in service.

Resignation means a voluntary termination from employment at the request of the Employee.

Rules means the Personnel Policies and Work Rules as may be amended, distributed in accordance with the provisions of the City’s personnel ordinance.

Salary Range means divisions of the salary schedule to which classifications are assigned.

Selection means the choosing of a candidate for employment.

Seniority means length of continuous service.

Separation means the end of employment with the City of Española.

Status means the rights and privileges of a position.

Supervisor means an Employee who manages a recognized work unit and who customarily and regularly directs the work of two or more other Employees. Direction includes performing or making recommendations, which are given particular weight, in such areas as; training, establishing work schedules and authorizing overtime, appraising performance, hiring, promoting, disciplining or terminating Employees.

Suspension means the involuntary leave without pay of an Employee for disciplinary reasons. In no event shall a suspension exceed thirty (30) calendar days.

Temporary Employees means Employees who hold jobs of limited duration arising out of special projects, seasonal programs, temporary funding, abnormal workloads or emergencies. Temporary Employees are not eligible for leave accrual or City benefits.

Termination means the discontinuation of employment with the City, whether due to layoff, resignation, discharge, or other reason.

Test means a method of measuring qualifications, fitness and ability, and includes examinations that are written, rated, oral, physical or in the form of a demonstration of skill or ability, or any combination thereof.

Transfer means the movement of an Employee from one classified position to another classified position with similar duties, within the same salary range, or from the Employee's current position to the same position in another department, without a break in service.

Unexcused absence means an absence which is not reported in a timely manner, i.e., within one hour of the normal starting time unless in an emergency, or an absence for which the Supervisor requested documentation before the Employee returned to work and the Employee did not provide satisfactory proof.

Unscheduled absence means any absence from work, which was not scheduled with the Supervisor at least 24 hours in advance, with the exception of sick or bereavement leave.

Veteran means any person who served in the United States Armed Forces for at least one hundred eighty (180) days and/or was separated under other than dishonorable conditions. An individual separated from the Armed Forces prior to completing one hundred eighty (180) days of service for a service-connected disability shall not be considered a veteran.

Working day means normal business days upon which city offices are open to the public, specifically, Monday through Friday, except those days declared legal holidays.

Comment [JB1]: Flex Time may be requested for hours outside of the normal work week. Department Directors shall have the authority to disapprove when deviation of the work schedule is not in the best interest of the City.

1.6- EMPLOYEE PERSONNEL RECORDS

- A. An official personnel file for each Employee is kept in City Hall, and access is limited to the Employee's immediate Supervisor, the Department Head, City Manager, City Attorney, and the Human Resources Director. An Employee's personnel file contains the Employee's name, title and/or position held, job description, department to which the Employee is assigned, salary, changes in employment status, training received, performance evaluations, personnel actions affecting the Employee, including commendation and discipline, and other pertinent information.
- B. An Employee has the right to review their file. An Employee may request removal of what the Employee believes to be irrelevant or erroneous information in their

personnel file. If the City denies the Employee's request to remove the information, the Employee may file a written rebuttal statement to be placed in their file.

- C. Personnel files are kept confidential to the maximum extent permitted by law. Except for employment verification of the employee's date of hire, positions held, salary and date of termination, confidential information from an Employee's personnel file will not be released to the public, including the press.
- D. Each Employee is responsible for the verification of information contained in the personnel file through periodic audit. An administration representative must be present when a file is audited. Only the Human Resources Director or his/her designees may remove items from the respective files with notification to respective Department Director and Employee. All audit appointments should be with an approved administrative Employee present. The purpose of the audit or inspection is to ensure accuracy and completeness of the file.
- E. An Employee may submit a written request to the Human Resources Director to have a verbal or written warning or written reprimand removed from their personnel file two (2) years after issuance, provided that there have been no further infractions in the two intervening years and provided that the underlying action giving rise to the warning or reprimand did not involve misconduct, violent behavior or misuse of City property.
- F. Supervisors may maintain duplicate unofficial personnel files, which are limited to Personnel Action Forms and time and leave records. Such records shall be made available for inspection by the Employee and by the Human Resources Director.
- G. Internal Affairs files created by the Public Safety Department shall be maintained at the Police Department, with access strictly limited to personnel as determined by the Public Safety Director and City Attorney.

1.6.1- EMPLOYMENT VERIFICATION

The City will provide employment verification of dates of employment, position held and last salary on current or former regular City Employees.

SECTION 2 – HOURS AND ATTENDANCE

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2.1- WORKING HOURS

- A. The City's standard workweek is Monday through Friday from 8:00 a.m. to 5:00 p.m. with one hour unpaid lunch period.
- B. A normal working schedule for regular, full-time Employees consists of forty (40) hours each workweek. Different work schedules, such as in the case of police, fire and prisoner transport Employees, may be established by the City to meet job assignments and provide necessary City services. Each Employee's Department Director will advise the Employee regarding his or her specific working hours.

C. An alternative work schedule may be requested to establish work hours outside of the standard work week. Department Directors shall have the authority to disapprove an alternative work schedule request when the request is not in the best interest of the City. Alternative work schedules must conform to the Alternative Work Schedule Guidelines Procedure established by the Human Resource Director. Alternative work schedules must be documented on a City-approved form.
- D. Part-time and temporary Employees will work hours as specified by their Department Directors.

2.1.2- ATTENDANCE

- A. Punctual and consistent attendance is a condition of employment. Each Supervisor is responsible for maintaining an accurate attendance record of his or her Employees.
- B. Employees unable to work or unable to report to work on time should notify their Supervisor as soon as possible, ordinarily before the work day begins or within thirty (30) minutes of the Employee's usual starting time. If an absence continues beyond one day, the Employee is responsible for reporting in each day. If the Supervisor is unavailable, the Employee may leave a message with the Personnel Director or designated representative, stating the reason for being late or unable to report for work. A voicemail message shall not suffice for contacting the Supervisor.
- C. Employees are expected to be at work even during inclement weather. Department Heads may allow Employees to be late or leave early during severe weather conditions; however, non-attendance will be counted as absence from work and will be charged to accrued vacation or comp time.
- D. In the case of inclement weather, the City will provide notification on broadcast TV for delay or closure.

- E. An Employee who is absent without authorization or notification is subject to the full range of corrective and disciplinary action.

2.1.3- BREAKS AND MEAL PERIODS

- A. Each Employee is entitled to two breaks per day, one fifteen (15)-minute morning break and one fifteen (15)-minute afternoon break. Breaks shall be taken only after having been on the job for a minimum of two (2) hours, unless otherwise approved by the Supervisor. All breaks shall be arranged so that they do not interfere with City business or service to the public. Break periods cannot be accrued for other purposes such as vacation, comp time off, or as a means of arriving late or leaving the job early. Abuse of break time is grounds for corrective or disciplinary action. Employees who are on radio dispatch contact shall notify the dispatcher at the start of the break and upon returning to duty.
- B. In cases where outside temperatures are below 40° or above 90°, the Supervisor is authorized to allow more frequent paid break periods in order to protect the Employees from injury caused by extreme cold or heat.
- C. Meal periods shall be scheduled by the Employee's Supervisor. The scheduling of meal periods may vary depending on department workload. Meal periods are unpaid and one hour in length.

2.2- WORK PERIODS AND OVERTIME

- A. All City positions are designated as either “exempt” or “non-exempt” according to the Fair Labor Standards Act (“FLSA”) and regulations.
- B. For most City Employees, the established work period is forty (40) hours within a seven (7) day workweek. For police and prisoner transport Employees, the established work period is eighty (80) hours (in accordance with FLSA) during a fourteen (14) day period. For fire personnel, the established work period is 104 hours during a fifteen (15) day period.
- C. FLSA Non-exempt Employees are entitled to additional compensation, either in overtime pay or compensatory time (comp time) off, when they work more than the maximum numbers of hours during a work period.
- D. All overtime must be authorized by the Employee's department Supervisor.
- E. Overtime pay is calculated at one and one-half times the Employee's regular rate of pay for all time worked beyond the established work period.
- F. When computing overtime, holidays, sick leave, comp time and vacation time are not counted as hours worked.

- G. FLSA Exempt Employees are not covered by the FLSA overtime provisions and the City is not required to provide comp time in lieu of overtime pay.

2.2.1- COMPENSATORY (COMP) TIME

- A. FLSA Non-exempt Employees entitled to overtime pay may elect to receive comp time off instead of cash payment. The Employee's Department Director approves this on a case-by-case basis. If the comp time option is exercised, the Employee is credited with one and one-half times the hours worked as overtime. Maximum accruals of compensatory time shall be limited to forty (40) hours for regular Employees, eighty (80) hours for uniformed police and detention personnel, and one hundred four (104) hours for fire personnel. After maximum accrual, the excess overtime compensation shall be paid quarterly.
- B. FLSA Exempt Employees may earn comp time on an hour for hour basis. Maximum accrual shall be limited to forty (40) hours. FLSA exempt comp time has no cash value and may not be sold back to the City at any time, including at separation of employment or retirement. In the event that an FLSA exempt employee takes a voluntary reduction in classification to a FLSA non-exempt classification, his/her FLSA exempt comp time balance shall be forfeited.
- C. Employees may use comp time after making a request to their Department Director, with the same procedure as when using Annual Leave.

2.3- CALL BACK AND STAND-BY

- A. All Employees are subject to call back in emergencies or as needed by the City to provide necessary services to the public. A refusal to respond to a call back is grounds for corrective or disciplinary action. Employees called back to duty will be paid their appropriate rate of pay for hours worked (the overtime rate, if applicable).
 - B. Employees may be placed on Stand-by duty for purposes of emergency response.
 - 1. Employees will be compensated while on stand-by duty, and must be fit for duty (no alcohol or other substance use while on stand-by).
 - 2. Employees must be available to respond to the situation within 20 minutes. Only those Employees who can meet the required response time may be placed on stand-by.
 - 3. An Employee on stand-by or called back who is called out to work and has not had eight (8) hours off duty prior to the next regularly scheduled work day shall rest for 8 hours before returning to work. The employee will be paid during the employee's standard work hours which occur during his rest period and may not accrue this time to be used at a later date.
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SECTION 3 - RECRUITING AND HIRING

3.1- RECRUITING

- A. Recruiting practices are conducted solely on the basis of ability, merit, qualifications and competence, without regard to race, color, religion, national origin, sex, marital status, pregnancy, age or disability.
- B. Each applicant shall complete and sign an application form prior to being considered as a finalist for any position. Resumes may supplement, but not replace, the City's official application form.
- C. Any applicant supplying false or misleading information is subject to disqualification. If the false or misleading information is discovered after hire, the Employee is subject to immediate termination.
- D. Applicants for public safety positions may have additional or different application requirements.

3.2- HIRING

The City's Human Resources Director shall be designated to handle hiring procedures. The Public Safety Department may supplement hiring procedures for their department as is deemed necessary by the Public Safety Chief, in conjunction with the Human Resources Director.

- A. When a position becomes vacant and prior to any posting or advertisement of the vacancy, the Department Director shall review the position, its job description and the need for such a position. The Department Director will prepare and submit a written request to fill the position to the **Personnel** Director. The position will be posted and/or advertised only after the Human Resources Director, Finance Director, and City Manager have approved the request on prescribed forms. The Human Resources Director shall coordinate all recruitment efforts and shall receive all applications.
- B. The position vacancy posting shall contain the classification of the position, the testing requirement for applicants (if any) the minimum qualifications for the position, the FLSA status, the work location of the vacancy, a description of working conditions, a general description of the position, the pay range of the position, the location where applications are to be filed, and the opening and closing dates.
- C. Selection shall be based on review of the applicant's qualifications to perform the duties of the position and shall, as determined by the Human Resources Director include any of the following:
 - 1. Review of written applications and/or;

Comment [JB2]: Human Resources

2. Inquiry of prior employers and/or references provided by the applicants;
3. Examination of applicants by interview, skills or written tests, or by other impartial means.

3.2.1- IN-HOUSE HIRING

- A. All vacant classified positions shall be posted in-house, on designated City bulletin boards for a minimum of seven (7) calendar days by the Human Resources Director. The City may advertise the position outside of the City workforce simultaneously with the in-house posting.
- B. If there are fewer than three qualified applicants from in-house for any vacant position, the first interviews may include qualified applicants from outside the City.
- C. Qualified City employees shall be interviewed for all positions within 7 days after the end of the posting period.
- D. Qualified City employees who applied within the time limits but were not selected after having gone through the interview process, shall be notified verbally and in writing by the Human Resources Director. In addition the Human Resources Director shall notify in writing all unqualified or untimely applicants within seven (7) calendar days of providing the applicant pool to the hiring supervisor.
- E. The hiring Supervisor shall make the selection of the candidate and notify the Human Resources Director of the selection subject to the final approval of the City Manager.

Comment [JB3]: Human Resources

3.2.2- OUTSIDE HIRING

- A. The Human Resources Director shall submit to the Department Director the applications of the highest ranking candidates in numbers sufficient to provide a reasonably sized applicant pool and, upon request, may advise the Department Director of additional candidates meeting the minimum requirements for the position.
- B. The hiring Supervisor shall make the selection of the candidate and notify the Human Resources Director of the selection subject to the final approval of the City Manager. The Human Resources Director shall make the official written offer of employment to the candidate. Candidates for employment who were interviewed, but not selected, shall be notified of the decision as early as possible. The Human Resources Director shall keep on file all recruitment and selection records of all candidates for the period required by state and federal law.
- C. The positions of City Manager, City Clerk, City Attorney, and Public Safety Chief are exempt positions appointed by the Mayor, with ratification of the City Council.

- D. Residency within the City shall not be a condition of initial appointment or continued employment of any position, provided, however that an Employee's selection of residence shall not interfere with the daily performance of their duties and responsibilities.
- E. Applicants for positions in which the applicant is expected to operate a motor vehicle must be at least 18 years old and will be required to present a valid New Mexico driver's license with any necessary endorsements. Driving records of applicants will be checked. Applicants with poor driving records, as determined by the City, may be disqualified for employment with the City in positions requiring driving.
- F. The City may administer pre-employment examinations to test the qualifications and ability of applicants, as determined necessary by the City. The City may contract with any competent agency or individual to prepare and/or administer examinations.
 - 1. After an offer of employment has been made and prior to commencement of employment, the City will require persons selected for employment to successfully pass a physical examination, which shall include testing for alcohol and controlled substances. The purpose of the examination is to determine if the individual is physically able to perform the essential functions of the job and to ensure their physical condition will not endanger the health, safety or well being of other Employees or the public.
 - 2. The offer of employment shall be conditioned on the results of the examination.
 - 3. A candidate may be disqualified from consideration if:
 - a. Found physically unable to perform the duties of the position (and the individual's condition cannot reasonably be accommodated in the workplace);
 - b. The candidate refuses to submit to a physical examination; or
 - c. If the exam reveals use of alcohol and/or controlled substances.
- G. All prospective Employees must complete a background check authorization form in order to enable the City to conduct the necessary background check including a criminal background check. Employment by the City will be conditioned upon a successful background check.

3.2.3- REHIRE OF EMPLOYEES

- A. Any former Employee who resigned from the City in good standing is eligible for re-employment.
 - 1. Persons interested in re-employment should file a completed City application form with the Personnel office. The individual will then proceed through the

regular hiring procedures with other applicants as described in the Hiring Process Policy.

2. An individual re-employed in his/her former position may be paid at the same pay step at the time he/she left the City provided however, that the re-employment is within six months of the previous resignation.
3. The compensation of an Employee re-hired to a position other than the former position will be subject to provisions for new hires.
4. Leave eligibility will be based on the new date of service.
5. The individual's previous personnel file will be re-activated once re-employed by the City provided re-employment be within five years after the original resignation.
6. All individuals re-employed by the City must complete a new probationary period.

3.2.4- EMERGENCY-HIRE EMPLOYEES

- A. With approval of the Department Director and City Manager, emergency hire Employees may be used during urgent situations or peak workload periods, to temporarily replace regular Employees absent due to disability, illness, and vacation or other approved leave, or to temporarily fill a vacancy until a regular Employee is hired.
 1. Emergency hire Employees may be hired without competitive recruitment or examination; however, they are subject to drug/alcohol testing and a background check.
 2. Emergency hire Employees may not work for more than 90 days as an emergency hire.
 3. Emergency hire Employees are eligible for overtime pay as required by law. Emergency hire Employees are not eligible and do not receive retirement, vacation, sick leave, health insurance, or any other benefits during their employment.
 4. Emergency hire Employees may apply for the permanent position when it has been posted and/or advertised, with consideration given to their experience gained as an emergency hire Employee.

3.3- PROBATIONARY PERIOD FOR NEW HIRES

- A. All newly hired Employees or former Employees who have been rehired enter a probationary period, which is considered an integral part of the selection and evaluation process. During the probationary period, an Employee is required to demonstrate suitability for the position through actual work performance.
- B. The normal probationary period is six (6) months from the Employee's date of hire or rehire; fire and prisoner transport positions require a one (1) year probationary period; police positions require a one (1) year probationary period.
 - 1. An Employee's probationary period may be extended for up two additional ninety (90) day periods (when needed due to circumstances such as extended illness or a need to continue to evaluate marginal performance) to properly evaluate the Employee's performance. The probationary period will not be shortened for any reason.
 - 2. Probationary Employees are eligible to receive all city benefits throughout the probationary period.
 - 3. Within the scope of the law, during the probationary period, including an extended probationary period, an Employee may be terminated at any time, with or without cause
- C. If the probationary period is satisfactorily completed, the Employee will be certified to regular employment status automatically. When an Employee has satisfactorily completed the probationary period, the Supervisor shall prepare a written performance evaluation, which will be reviewed by the Human Resources Director.

3.4- PROMOTIONS AND TRANSFERS

- A. The City encourages current City Employees to apply for vacant City positions for which they are qualified. Promotions and transfers are based on the Department Director's recommendation, work force requirements, performance evaluations, job descriptions, and related City requirements. Regular Employees are eligible for promotion, transfer or voluntary demotion.
- B. Employees who are promoted prior to the completion of the new hire probationary period will have to complete their probationary period in the higher position.
- C. A Department Director may fill a temporarily vacant, regular, or term position by the temporary promotion of an Employee from within the City.
 - 1. A temporary period must be for a period of at least thirty (30) calendar days but not more than twelve (12) months.

2. The Employee shall receive a ten percent (10%) salary increase or the minimum rate of the new position, whichever is greater.
 3. At the end of the temporary promotion period, the Employee will revert to the Employee's previous classification and salary without right of appeal.
- D. A Department Director may permanently transfer an Employee from one work site, or division to another within the department, if deemed in the best interest of the City, provided the Employee meets the minimum qualifications for the new position.
1. An Employee may be transferred to another available position in the same classification with the approval of the Department Director and the City Manager.
 2. An Employee shall retain all accrued annual and sick leave upon transfer.
 3. Any compensatory time will be taken prior to the transfer or shall be compensated from the Department where it was earned.

3.4.1- QUALIFYING PERIOD FOR PROMOTIONS

- A. The City subscribes to the philosophy of filling positions by promoting its present classified staff. A classified Employee who is promoted to a higher-level position in the classified pay plan will serve a six (6) month qualifying period unless the new higher-level position is exempt as defined in the Definition Section 1.5 and the position serves "at will." Fire, police and detention are required to serve a one (1) year qualifying period. During this time, Supervisors will periodically evaluate the performance of the classified Employee who is in qualifying status to determine whether the Employee is providing satisfactory service in the new position. As a matter of good management, these evaluations should be communicated to the Employee to allow opportunity for improved performance.
- B. Qualifying status is distinguished from the initial **probationary** period because the Employee has already attained the rights of a classified status Employee of the City.
- C. If at any time within the qualifying period it is determined by the City that the Employee is not qualified for the position, or, if the Employee does not wish to continue in the new position, the Employee will be returned to the previously held position, if available, or a comparable one citywide, if available. If none are available, the Employee will be placed on a six (6) month leave of absence from the former department to be considered for available opening in the City as they occur. Leave accruals may be used during this period. If no leave is available, the Employee will be on unpaid leave. Employees on unpaid leave shall be responsible for payment of 100% of the premiums to continue benefits in which they are participating. If the Employee does not find employment with the City within the six (6) month period, the Employee will be terminated.

Comment [JB4]: Preliminary

- D. Successful completion of the qualifying period requires six (6) months of active service. Employees who during the qualifying period do not have continuous active service will have the period extended so that the six (6) month evaluation time is satisfied.
- E. The new salary of a promoted Employee shall be a minimum of a ten percent (10%) increase, or the starting pay for the position, whichever is greater.

3.5- EMPLOYMENT OF RELATIVES (NEPOTISM)

- A. Employees' relatives will not be employed by the City under any of the following circumstances:
 - 1. Where one of the parties would have authority or practical power to supervise, appoint, remove, or discipline the other; or
 - 2. Where one party would be responsible for auditing the work of the other; or
 - 3. Where both parties would report to the same immediate Supervisor; or
 - 4. Where other circumstances might lead to potential conflict among the parties or conflict between the interest of one or both parties and the best interests of the City.
 - B. "Relatives" include an Employee's spouse or domestic partner, parent, grandparent, child, child of a domestic partner, brother, sister, in-laws, step relationships, aunts, uncles, nieces, nephews, and cousins of the first degree.
 - C. If two Employees marry, or become related by marriage or through a domestic partnership, reasonable efforts will be made to ensure that the working relationship is not in conflict with subsection A of this section. If such conflict exists, the affected employees must decide which one will transfer or seek other employment.
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SECTION 4 – COMPENSATION

4.1- SALARY CLASSIFICATION AND GRADES

Each job title within the City is classified into one of the City's classifications for salary purposes, based on job qualifications, level of responsibility, difficulty, working conditions, skill, hazard, and amount of supervision required for the specific job title. Each classification is designated a particular salary or salary range shown on the City's salary and wage schedule, which is approved periodically by the City Council.

4.2- EMPLOYEE PAY RATES

- A. Employees shall be paid within the limits of the salary range to which their positions are assigned.
- B. New Employee's salaries will be based on the Employee's experience, training or proven capability, within the pay range of their classification.
- C. Employees are eligible for merit increases after (1) one year of regular status. Merit and cost of living increases are contingent upon the city's wealth and approval by the governing body.

4.3- DEDUCTIONS

Law requires some regular deductions from the Employee's earnings; other deductions are specifically authorized by the Employee. The City will withhold from the Employee's paycheck those deductions required by law and any voluntary deductions authorized by the Employee.

4.3.1- GARNISHMENTS

The Finance Division, upon notice of garnishment, will make the necessary deductions from the Employee's wages and a check for the garnished amount will be written and forwarded to the Creditor as directed. The Employee will be notified, in writing, that the garnishment has been processed. The original garnishment order will be placed in the Employee's personnel file.

4.4- PAYDAYS

Employees are paid bi-weekly (every other week on Fridays) through direct deposit. If a regularly scheduled payday falls on a holiday, pay will be distributed on the previous regularly scheduled working day.

4.5- PAYROLL RECORDS

The Finance Division keeps the official payroll records. Each Department Director shall turn in to the Personnel Director on the last Friday of the pay period their department's time and leave records for each Employee within their department, noting hours worked, leave taken and overtime worked during the current pay period.

4.6- COMPENSATION UPON TERMINATION

- A. Upon the termination of an Employee, the Employee will receive the following compensation within (3) three working days:
1. Regular wages for all hours worked up to the time of termination that has not already been paid.
 2. Any overtime or holiday pay due.
 3. A lump sum payment of any accrued but unused annual leave and comp time.
 4. Sick leave pay may be donated to the employee donation pool. Donated leave pay may not exceed 80 hours.
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**SECTION 5 –
PERFORMANCE EVALUATIONS, EDUCATION, AND TRAINING**

5.1- PERFORMANCE EVALUATIONS

- A. To achieve the City's goal to train, promote and retain the best-qualified Employee for every job, the City will conduct performance evaluations for all positions at least annually. Employees may earn merit increases only after one year of service in regular status.
- B. The Human Resources Director is responsible for developing and maintaining the City's performance evaluation program.
- C. Employees are to be evaluated by their Supervisor prior to completion of their probationary period and on their anniversary date of promotion to regular status annually thereafter. Supervisors will turn reports in to the Human Resources Director within 30 days of completion of the evaluation.
- D. The evaluation is part of an Employee's personnel record and may be a factor in determining the Employee's conversion to regular status, whether the Employee receives a wage increase, or is to be promoted, transferred, demoted, laid off, or terminated.
- E. A Supervisor may conduct a performance evaluation at any time to assist an Employee with his/her job performance. This evaluation is not a replacement for the yearly evaluation.

5.2- EDUCATION POLICY

The City seeks, within the limits of available resources, to offer assistance in educational opportunities to increase an Employee's skills, knowledge and abilities directly related to City employment, to obtain or maintain required licenses and certifications, and to develop staff resources.

- A. Three (3) paid hours of education leave per week may be afforded to each Employee to attend courses and classes directly related to their job position and that will be of benefit to the City. Requests for educational leave will be made to the Department Supervisor. The Human Resources Director will coordinate with the Employee and Supervisor for the approval of the educational course. The Human Resources Director will determine the applicability of the course to the Employee's job and the Supervisor will assure that the allowance can be accommodated.
 - 1. At the registration of the course, the City will pay the cost of tuition and all costs related to the course. If the employee does not successfully complete the course

with a passing grade of C (2.0) or above, the employee will be required to reimburse the City for all costs, including books and fees. The City will, if necessary, garnish the employee's wages.

2. In the event that due to circumstances created by the City, the employee is not able to complete the course, the employee will not be responsible for reimbursement of costs.
- B. The City will pay dues to maintain required licenses and certifications for those Employees who require them in their job.

5.3- TRAINING

The City will provide new Employee orientation, job development training, safety training, sexual harassment training, and computer training on an ongoing basis.

Within one month of the date of a new hire, the Human Resources Director will hold a new Employee orientation for all new hires. This training will provide information for Employees on City policy and procedures and how to use and complete City forms, including time sheets, finance paperwork, leave and leave accrual forms, requisitions, etc.

SECTION 6 - EMPLOYEE BENEFITS

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6.1- RETIREMENT BENEFITS.

- A. The City matches the employee's FICA payroll deduction contributions to the Social Security System.
- B. All regular full-time Employees, including police and fire departments are covered by the New Mexico State Public Employees Retirement Association (PERA). Benefit levels and contribution rates are set by PERA.
- C. All regular full-time and eligible part-time non-uniformed Employees may participate in the City's deferred compensation program. The Employee sets benefit levels and contribution rates.
- D. Employees intending to retire should notify their Department Director of their intent to retire at least six months prior to the date of retirement.

6.2- DISABILITY BENEFITS

- A. All Employees, except those filling positions on a temporary basis, are covered by workers' compensation insurance provided by the New Mexico Self Insurer's Fund. This type of insurance covers Employees in case of on-the-job injuries or job-related illnesses.
 - 1. For qualifying cases, workers' compensation will pay the Employee up to 2/3 of the Employee's average weekly wage (as determined by the Employee's previous 13 weeks of employment) for workdays lost for any disability resulting from job-related injuries or illnesses.
 - 2. All job-related accidents should be reported immediately to the Supervisor, who must report the accident to the Human Resources Director and Safety Officer.
- B. When an Employee is absent for one or more days due to an on-the-job accident, the Employee is required to file a claim for Worker's Compensation. If the Employee files a claim, the City will continue to pay (by use of the Employee's unused sick leave) the Employee's regular salary pending receipt of Worker's Compensation benefits. If an Employee has enough sick time accrued, he/she may use a portion of that time to supplement the workers' compensation benefits (2/3 workers' compensation + 1/3 sick time = full payment).
- C. At no time shall the amount of Worker's Compensation benefits plus the employee's leave exceed 100% of the employee's salary (double-dip).
- D. The City may require an examination, at its expense, performed by a physician of its

choice, to determine when the Employee can return to work and if the Employee will be capable of performing the duties and responsibilities of the position.

6.3- INSURANCE BENEFITS

- A. Employees are eligible to participate in the City's insurance programs upon completion of the mandatory waiting period imposed by the State of New Mexico Risk Management Division. The programs and criteria for eligibility will be explained at the time the Employee becomes eligible to join.
- B. Upon mutual agreement between the Employee and the City, and in accordance with the terms and conditions of the insurance policy, the City will continue health insurance coverage at the Employee's expense during an approved unpaid leave of absence. COBRA continuation rights may apply in the event coverage is not extended through the City.
- C. Upon an Employee's termination from City employment, at the Employee's option and expense, the Employee may elect to continue City health insurance benefits to the extent provided under COBRA.
- D. An administrative handling fee over and above the cost of the insurance premium may be charged the Employee or their dependents that elect to exercise their COBRA continuation rights.

6.4- UNEMPLOYMENT COMPENSATION

City Employees may qualify for State Unemployment Compensation after termination from City employment depending on the reason for termination and if certain qualifications are met. Determination of qualification is made by the New Mexico Department of Labor.

7.1- GENERAL

The City has eight (8) different types of leave:

1. Annual leave.
2. Sick leave.
3. Leave without pay
4. Jury and Witness leave
5. Military leave
6. Administrative leave
7. Bereavement leave
8. Longevity leave

7.2- ANNUAL LEAVE (VACATION)

A. Each regular full-time Employee is entitled to annual leave as follows:

<u>Years of Employment</u>	<u>Vacation Hours Earned</u>
0-5 years	3.69 hours per pay period/96 hours per year
6+ years	5.54 hours per pay period/144 hours per year

- B. Regular part-time Employees will receive annual leave on a pro-rata basis. Temporary and emergency hire Employees are not eligible for any annual leave benefits. Employees do not accrue annual leave benefits during leave without pay.
- C. Annual leave requests of one (1) day or less shall be submitted at least 24 (twenty - four) hours prior to taking leave. All other annual leave requests in excess of two days shall be submitted to the Supervisor at least five (5) working days in advance to taking the leave.
- D. The maximum number of annual leave hours that may be carried over from December 31 of one year to January 1 of the next year is 288 hours. Any additional balance of unused annual leave hours above 288 hours will lapse on January 1 of the following calendar year.
- E. The city may buy back that portion of an Employee’s annual leave that exceed their maximum carry-over at the end of each calendar year providing the following criteria is met:

1. A maximum of eighty (80) hours can be sold back in any one year, provided the balance of annual leave does not drop below 288 hours at the end of each calendar year.
2. In January of each year, an Employee must state in writing to the Human Resources Director his or her intent to sell back excess annual leave that is over and above 288 hours.
3. The employee will be compensated for their excess annual leave in the first pay period of the fiscal year.

7.3- SICK LEAVE

- A. All full-time regular Employees accrue sick leave benefits at the rate of 3.69 hours per pay period during continuous employment. Regular part-time Employees may accrue sick leave benefits on a pro-rata basis according to hours worked.
- B. Employees accrue and may use sick leave during their probationary periods. Temporary Employees do not earn sick leave benefits. Employees do not accrue sick leave benefits during a leave without pay.
- C. Sick leave covers those situations in which an Employee is absent from work due to:
 1. Physical injury or illness to the Employee;
 2. The need to care for the Employee's family members;
 3. Medical or dental appointments for the Employee or dependent child members of Employees immediate family;
 4. Exposure to a contagious disease where on-the-job presence of the Employee would jeopardize the health of others;
 5. Use of a prescription drug that impairs job performance or safety;
 6. Actual periods of temporary disability associated with pregnancy or childbirth
- D. Employees may request additional time off beyond the actual period of disability; vacation leave, compensatory time, or leave without pay may be used. Refer to the section on Family Medical Leave Act.
- E. A written certificate from a licensed medical practitioner may be required when an Employee is absent for a period of three (3) days or more.
 1. The City may also request the opinion of a second doctor at the City's expense to determine whether the Employee suffers from a chronic physical or mental condition that impairs their ability to perform the job.
- F. Employees who are habitually absent due to illness or disability may be terminated if their disability cannot be reasonably accommodated and/ or the Employees cannot perform the essential function of their job when the Employee's absenteeism prevents the orderly and efficient provision of services to the citizens of the City.

- G. Employees who use all their accumulated sick leave and require more time off work due to illness or injury may use their annual leave, accumulated comp time, and with their Department Director's prior approval, take leave without pay. Employees on leave without pay do not accrue leave benefits.
- H. The City may buy back sick leave on a yearly basis providing the following criteria is met:
 - 1. An Employee shall have and/or maintain a minimum balance at the end of each calendar year of seven hundred (700) hours before a buy-back may occur.
 - 2. An Employee must state in writing to the Human Resources Director in January of each calendar year their intention to sell back sick leave.
 - 3. A maximum of ninety-six (96) hours of sick leave may be sold back in any one year, provided the balance is above the requisite minimum.
 - 4. The conversion ratio shall be one (1) hour of pay for every three (3) hours of sick leave.
 - 5. The employee will be compensated in the first pay period of the fiscal year.

7.4- LEAVE WITHOUT PAY

- A. The Human Resources Director or designee may grant leaves of absence without pay for absence from work not covered by any other type of leave or if other leave balances, are exhausted. Examples of situations for which leave without pay may be granted include time off work for personal reasons, such as prolonged illness, parenting, caring for an ill relative, pursuing an education, or fulfilling a military obligation in excess of fifteen (15) days per year.
- B. Only regular full-time and part-time Employees who have satisfactorily completed their probationary period are eligible for leave without pay. The following requirements apply:
 - 1. Leave without pay may be granted to an Employee for a period of up to ninety (90) days upon the approval of the Human Resources Director, Department Director and Supervisor.
 - 2. Accrued comp time, if any, and annual leave must be exhausted prior to taking any leave without pay.
 - 3. An Employee's benefits are suspended during the period of unpaid leave until the Employee returns to work. Annual, sick leave and/or any other benefits do not accrue while an Employee is on leave without pay.

4. Self-payment of benefits may apply. See Section 6.3 on Insurance Benefits.
5. An Employee who fails to report promptly at the end of the unpaid leave is presumed to have resigned.
6. If the leave without pay is due to an illness, the City may require a licensed medical practitioner's certificate stating that the Employee is capable of returning to work and performing the work, duties and essential functions of the Employee's position.

7.5- JURY AND WITNESS LEAVE

- A. Employees may be granted time off with pay to serve on a jury or as a court witness. If an Employee is summoned during a critical work period, the City may ask the Employee to request a waiver from duty.
- B. An Employee granted such leave shall reimburse the City for any pay received while serving as a juror with the exception of mileage pay. An Employee may choose to retain pay received while serving as a juror or witness and use annual leave for their time off.

7.6- MILITARY LEAVE.

Employees who are members of the National Guard or federal reserve military units may be absent from their duties, with pay, for a period of up to fifteen (15) days per calendar year when they are performing ordered military training duty and while going to and from that duty.

7.7- ADMINISTRATIVE LEAVE

On a case-by-case basis, the City may place an Employee on administrative leave with pay as determined by the Human Resources Director with approval by the City Manager when it is determined to be in the best interests of the City pending the results of an investigation or other administrative proceeding, not to exceed three (3) months. Under special circumstances, the City Manager in consultation with the Human Resources Manager may extend administrative leave with pay up to an additional sixty (60) days. Any further administrative leave beyond five (5) months must be approved by the City Council.

All employees on administrative leave with pay shall continue to fulfill any ancillary obligations of their jobs they are asked to perform and to be available to their supervisors by telephone. For example, law enforcement officers are required to appear for any scheduled court appearances during the period of their administrative leave with pay.

The City Manager may also grant administrative leave in instances where he/she deems appropriate. Community service leave may be granted by the Department Director, upon request of the employee and approval of the immediate supervisor, not to exceed one hour per week. Community service is defined as "services volunteered by individuals or an organization to benefit a community or its institutions." This does not include community service imposed by court order.

7.8- BEREAVEMENT LEAVE

- A. Regular full-time or regular part-time Employees who have a member of his or her immediate family who have died shall receive up to three (3) days off with pay as bereavement leave to arrange and/or attend funeral activities. Unused bereavement time does not accrue from year to year.
- B. "Immediate family" shall be defined as spouse, domestic/life partner, mother, father, mother-in-law, father-in-law, children, sister, brother, daughter-in-law, son-in-law, sister-in-law, brother-in-law, niece, nephew, aunt, uncle, grandparents and grandchildren or equivalent step-relations.
- C. If additional time is necessary, it shall be taken as annual or unpaid leave if annual has been exhausted and requires advance authorization by the appropriate Department Head. Time for attendance at funeral of others may be granted without pay or made up within the same pay period.
- D. The Employee must notify his/her immediate Supervisor upon making determination to take time off from work.
- E. Employees who fail to return to work on the date specified to the Department Director without receiving an extension may be subject to corrective or disciplinary action.

7.9- LONGEVITY LEAVE

The City values those employees who have given many years of service. The City shall afford employees additional leave as follows as longevity leave which shall be added automatically upon completion of eligible anniversary dates:

- 5 – 9 years 8 hours annually
- 10+ years 16 hours annually

7.10- DONATION OF LEAVE PAY TO FELLOW EMPLOYEES

The City of Espanola provides a mechanism for employees to donate their accrued annual or sick leave pay to another employee who has exhausted his or her sick and annual leave pay in the case of a personal medical emergency. The Human Resources Director shall

request in writing the voluntary donation of Employees' own annual leave pay at a rate of hour for hour and sick leave at a rate of three hours for one hour to a fellow Employee who qualifies under this section. In order to request a donation of leave pay, the following steps must be taken:

1. A written request from an employee seeking donated leave pay must be submitted to the Human Resources Director requesting donations of leave from fellow Employees. The request must be for a specific amount of hours needed for their anticipated absence. Additional time may be requested if needed.
2. The Human Resources Director, after confirming that the requesting employee has exhausted his or her leave balances, circulates a memo requesting assistance from City of Española Employees.
3. City Employees fill out a form stating that they want to donate leave to a specific Employee.
4. The Human Resources Director verifies the donating Employees accrued leave balances to ensure they have leave to donate.
5. Payroll is contacted and given a copy of the donation form to ensure that the donated leave pay is recorded for the appropriate Employee.
6. The employees may create a leave pay pool to help their fellow employees.
7. An employee qualifying to receive donated leave must also be authorized to be absent from work under an applicable section of the City's leave policies. Section 7.10 authorizes donations of leave pay, it does not authorize any specific period of absence from work.
8. A balance of donated leave that remains in an employee's leave account will be reverted to the employee who made the donation upon the recipient employee's return to work.

7.11- FEDERAL FAMILY & MEDICAL LEAVE ACT OF 1993

- A. The City of Española is committed to providing Family and Medical Leave to eligible Employees in accordance with the Federal Family and Medical Leave Act of 1993. Eligible Employees are entitled to a total up to 12 workweeks of Family and Medical Leave during a 12 -month "leave year". For any FMLA absence, an eligible Employee is required to use accrued sick leave and shall be permitted to use accrued annual leave, if the Employee so elects.
- B. The Federal Family and Medical Leave Act (FMLA) prohibits any City Employee or Supervisor to:
 1. Interfere with, restrain, or deny the exercise of any right provided under the FMLA; and

2. Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.
- C. All City of Española Employees who meet the following eligibility requirements shall be provided Family and Medical Leave. Eligible Employees are those who:
1. Have at least 12 months of cumulative service and have worked at least 1,250 hours at the City of Española during the 12 month period preceding the date their FML is to begin;
 2. Have a qualifying reason for taking FML (see (“Qualifying Reasons: below); and
 3. Have a remaining balance of FML (see “Determining Remaining Balance” below).
- D. An eligible Employee may take Family and Medical Leave for one or more of the following qualifying reasons:
1. The birth of the Employee’s child and the care of such newborn child;-the placement of a child with the Employee for adoption or foster care;
 2. The care of the Employee’s spouse, child or parent who has a serious health condition;
 3. The Employee’s own serious health condition that prevents him/her from performing the essential functions of his/her position.
- E. A “serious health” condition means an illness, injury, impairment, or physical or mental condition that involves one of the following:
1. Inpatient care in a hospital, hospice, or residential medical care facility; or
 2. Continuing treatment by a health care provider.
- F. An eligible Employee may take up to 12 workweeks of Family and Medical Leave during a “leave year”. The “leave year” is defined as a period of 12 months measured forward from the date the proposed leave is to begin. For example, if the Employee’s proposed leave begins October 15th, the 12-month leave year begins that day and runs for 12 months to October 14 of the following year. A “leave year” commences on the first day of leave and runs for 12 months forward.
- G. Requests for Family and Medical Leave must be made to the immediate Supervisor or Department Director, providing as much notice as practicable in cases of medical emergency or other unforeseen events. When the leave is foreseeable such as for

planned medical treatment or birth of a child, the request is to be submitted in writing at least 30 calendar days in advance. The request must include enough information for the Supervisor/administrator to conclude a FML qualifying reason exists and a proposed schedule of leave dates, including when accrued sick and annual leave will be used and when unpaid leave will be used. For each request, a Family and Medical Leave Request Form must be completed. For requests due to serious health conditions, the Employee may be required to provide a medical certification. The Department Director and Human Resources Director shall keep an accurate record of FML taken, including when accrued paid leave and unpaid leave is used.

- H. For requests due to the serious health condition of the Employee's spouse, parent or child of the Employee's own serious health condition, written certification from a health care provider must be submitted by the Employee as soon as possible but no later than 15 calendar days following a request for certification by the Supervisor or Department Director. The certification must include enough information for the Supervisor or Department Director to confirm a serious health condition exists, the probable duration of the condition, and the specific period(s) of incapacity. In the case of an Employee's need to care for a child, spouse or parent with a serious health condition, the certification must also include a description of the care and an estimate of the time that such Employee needed to care for the family member.
- I. An Employee may be required to submit subsequent certifications no more frequently than every 30-calendar days unless an extension or modification of leave is requested, changed circumstances occur regarding the serious health condition or information arises that questions the validity of the earlier certification.
- J. In cases of the Employee's own serious health condition, the Employee may be required, on or before the date he/she returns to work, to provide a certification from a health care provider confirming the Employee is able to return to work and perform the essential functions of his/her position.
- K. When an Employee returns to work on or before the expiration of the Family and Medical Leave, the Employee's department shall reinstate the Employee to his/her position or to a comparable position at a pay rate not less than the former rate. If, however, a classified staff Employee on FML were identified for layoff to be effective prior to the expiration of leave, the Employee would not be entitled to reinstatement.
- L. Employees who require additional leave from work beyond the established 12 workweeks provided within this policy may request the use of any remaining accrued paid leave (e.g., sick leave) or unpaid leave, subject to the approval by the responsible Department Director.
- M. An Employee on FML will be considered to have voluntarily terminated employment if he/she:

1. Advises the City of Española of his/her intention not to return to work, or
 2. Fails to return to work upon the expiration of FML, except in instance where the Employee has requested and been granted the use of any remaining accrued paid leave or unpaid leave.
- N. For continuation of group health benefits, the City of Española will continue to pay the employer's portion of the group health and dental insurance premiums for the duration of the FML covered by comp time, sick or annual leave. During the weeks of unpaid leave, the Employee will be required to pay his/her portion of the premium by the first of each month the premium would otherwise have been deducted or paid. If the Employee's portion of premium payment is more than 30 days overdue, the City of Española will cease to maintain the Employee's health and dental benefits.

7.12- HOLIDAYS

A. The following thirteen holidays are recognized by the City:

New Years Day	January 1
MLK, Jr. Day	3rd Monday in January
Presidents Day	Last Monday in February
Good Friday	Last Friday prior to Easter
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1st Monday in September
Columbus Day	2nd Monday in October
Veteran's Day	November 11
Thanksgiving Day	4th Thursday in November
Day after Thanksgiving	Day after Thanksgiving
Christmas Day	December 25
Personal Day	Employee choice (after 1 year of service from hire date)

- B. Any holiday falling on Saturday will be celebrated on the preceding Friday. Any holiday falling on Sunday will be celebrated on the following Monday.
- C. Non-exempt regular full-time or part-time Employees will be paid holiday pay, which is 2½ times their regular rate of pay for any time worked on the holiday. Such time must be pre-authorized by the Supervisor.
- D. Temporary Employees will be paid at their regular straight-time rate for hours worked on a holiday.
- E. The City Manager may at his/her discretion, grant seasonal leave to all Employees e.g., Fiestas, NM State Fair.

- F. Paid time off for observed holidays will be paid for eight (8) hours at the Employees' regular rate of pay. , Employees who work a alternative work schedule must adjust their schedule to a regular 5-day, 8-hour work week during a holiday pay period.
- G. Police and firefighters whose regularly scheduled day off falls on the observed holiday will be given an additional day of annual leave.

7.12.1- RELIGIOUS HOLIDAYS

If an Employee's religious beliefs require observance of a holiday not included in the basic holiday schedule, the Employee may, with the Department Director's approval, take the day off using annual, compensatory time, or leave without pay.

7.13- TIME OFF TO VOTE

- A. Employees are encouraged to fulfill their civic responsibilities by participating in elections. Employees shall be granted up to two hours of paid time off to vote.
 - B. Employees should request time off to vote from their Supervisor at least two working days prior to the Election Day. In accordance with the provision of Sec. 1-12-42 NMSA 1978, Employees who are registered voters may absent themselves from work for up to two (2) hours for the purpose of voting between the opening and closing times of the polls. Scheduling should be done to provide the least disruption to the normal work schedule.
 - 1. The employer may specify the hours during this period in which the Employee may be absent.
 - 2. These provisions do not apply to any Employee whose day begins more than two (2) hours subsequent to the opening of the polls, or ends more than three (3) hours prior to the closing of the polls.
 - 3. An Employee who abuses voting administrative leave by using it for purposes other than traveling to and from the polling place and voting may be charged with leave without pay and subject to corrective or disciplinary action.
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SECTION 8 - EMPLOYEE RESPONSIBILITIES AND CONDUCT

8.1- GENERAL POLICY

- A. The safety and welfare of the City's citizens shall at all times be held as the central mission of government. All City Employees are expected to represent the City to the public in a professional manner that is courteous, efficient and helpful. Employees must maintain a clean and neat appearance appropriate to their work assignment, as determined by their position and the Department Director.
- B. Since the proper working relationship between Employees and the City depends on each Employee's on-going job performance, professional conduct and behavior, the City has established certain minimum standards of personal conduct. Among the City's expectations are:
- Basic tact and courtesy towards the public and fellow Employees;
 - Adherence to City policies, procedures, safety rules and safe work practices;
 - Compliance with directions from Supervisors; preserving and protecting the City's equipment, grounds, facilities and resources; and
 - Providing orderly and cost efficient services to its citizens.

8.2- CONFLICT OF INTEREST

- A. Employees should avoid situations that might cause their interests to conflict with the City or might compromise the City's integrity and reputation.
- B. A conflict, or the appearance of one, occurs when an Employee or their immediate family member could use their position at the City for personal benefit through an investment, association, or business relationship that interferes with the Employee's ability to exercise independent judgment on behalf of the City.
- C. Neither the Employee nor his/her subordinates shall conduct any business connected with the Employee's outside employment while on duty and no City property or equipment shall be used in connection with the outside employment.
- D. An Employee must ensure that a conflict does not exist between his/her official city duties and his/her outside employment.
- E. Outside employment should not interfere with an Employee's ability to perform the essential duties of their position.
- F. Employees are strongly discouraged from accepting meals or gifts from salespeople, vendors, suppliers, or any other type of solicitor. However, an Employee may receive

an occasional small gift in appreciation for a job well done from the public with a dollar value of under \$50.00 e.g., flowers, box of candy etc.

- G. Employees having a conflict of interest, or a relationship with a vendor, supplier, bidder or other solicitor that may be a conflict, real or perceived, shall disclose in writing the conflict or perceived conflict to their Supervisor.

8.3- OUTSIDE EMPLOYMENT

- A. Employees shall not, directly or indirectly, engage in any outside employment or financial interest which may conflict, in the City's opinion, with the best interests of the City or interfere with the Employee's ability to perform the assigned City job. Examples include, but are not limited to, outside employment which:
 - 1. Prevents the Employee from being available for work beyond normal working hours, such as emergencies or peak work periods, when such availability is a regular part of the Employee's job;
 - 2. Is conducted during the Employee's work hours;
 - 3. Utilizes City telephones, computers, supplies, or any other resources, facilities or equipment;
 - 4. Is employed with a firm which has contracts with or does business with the City; or
 - 5. May reasonably be perceived by members of the public as a conflict of interest or otherwise discredits public service.
- B. An Employee who chooses to have an additional job, contractual commitment or self-employment, may do so provided the Employee obtains concurrence from the Employee's immediate Supervisor, Department Director and Personnel Director that the outside employment does not present a conflict of interest.

8.4- POLITICAL ACTIVITIES

- A. City Employees are encouraged to participate in political or partisan activities of their choosing. Employees shall not campaign on City time (during working hours) or in a City uniform or while representing the City in any way. Employees shall not allow others to use City facilities or funds for political activities.
- B. Any City Employee who meets with or may be observed by the public or otherwise represents the City to the public or while performing their regular duties may not wear or display any button, badge or sticker relevant to any candidate or ballot issue during working hours. Employees shall not solicit, on City property or City time, a contribution for a partisan political cause.

- C. Except as noted in this policy, City Employees are otherwise free to fully exercise their constitutional First Amendment Rights.

8.5- NO SMOKING POLICY

For health and safety considerations and in accordance with City of Española Smoke Free Ordinance 2006-11, the City prohibits smoking by Employees in all City facilities, including City-owned buildings, and offices or other facilities rented or leased by the City, including individual Employee offices. Smoking is prohibited within 20 feet of any entrance to a City-owned building. For health and safety consideration, the City prohibits smoking by Employees in all city owned vehicles. Violation of this section may result in corrective or disciplinary action.

8.6- USE OF CITY EQUIPMENT

- A. Department Directors will designate the Employees who are assigned cell phones and shall be used only for city business. Personal calls made on cell phones will be reimbursed to the City at the overage per minute rate established by the cell phone carrier.
- B. Use of land-line phones for local personal phone calls should be kept to a minimum; long distance personal use is prohibited.
- C. Other City equipment, including vehicles, should only be used for City business. An Employee's misuse of City services, telephones, vehicles, equipment or supplies can result in corrective or disciplinary action.
- D. For health and safety reasons Employees shall not use cell phones while driving city vehicles.

8.6.1- INTERNET STANDARDS

- A. The Internet is a business communication tool provided to Employees to assist them in performing their responsibilities. Employees are to use the Internet in a professional, ethical and lawful manner.
- B. The City of Española has the right and responsibility to manage its Employees' Internet usage. All information including files or software downloaded via the Internet into the network becomes the property of the City of Española.
- C. Internet use is prohibited for any unlawful or illegal purpose or activity that violates any Federal, State or local law or regulation. Also against city policy is:
 - 1. Possessing, downloading, distributing or displaying any pornography or child pornography including obscene or sexually explicit material;

2. Possessing, downloading, distributing or displaying any material of a harassing nature; including any form of harassment on the basis of race, creed, religion, color, sexual orientation, marital status, family status, disability, physical size or weight, age, nationality, ancestry or place of origin. This includes any form of hate propaganda or messages that promote hatred or incite violence against identifiable groups.
3. Violation of this Section is cause for the full range of corrective and disciplinary action, including termination.

8.6.2- E-MAIL

- A. Electronic mail (e-mail) is to be used only for official business purposes. Personal messages should not be conveyed via City e-mail. Persons desiring to send personal e-mail messages shall convey them on their own time by personal methods and systems. No solicitations should be conducted through e-mail.
- B. E-mail is not a privileged communication, nor subject to privacy. The City may monitor an Employee's e-mail messages to assure that e-mail communications relate to official business, and that the speech contained therein is appropriate.
- C. E-Mail shall not be used to harass, torment or disparage another party. Offensive and harassing communications are unacceptable and prohibited.
- D. Employees who violate this policy may be subject to the full range of corrective or disciplinary action.
- E. Questions regarding use of e-mail systems should be directed to the Employee's immediate Supervisor or to the personnel department.

8.6.3- USE OF CITY VEHICLES

- A. City-owned motor vehicles shall be used for official City business only. City vehicles shall not be taken home overnight except as follows:
 1. Employees may take a City-owned vehicle home for one night when attendance to an out-of-city meeting takes place late at night after normal working hours or early in the morning prior to normal working hours. The Employee's Department Director may grant verbal approval.
 2. Employees on the stand-by schedule designated by the Department Director for department/division emergencies.
 3. For more than one night when specifically authorized by the City Manager.

4. City vehicles must be available for City business at all times.
5. City vehicles may be used for travel to lunch:
 - a. When an Employee is on City business.
 - b. When an Employee is in a City vehicle in a location where driving to obtain his/her personal car would result in an extra and unnecessary expenditure of fuel.
6. Transporting family members in City vehicles shall not be allowed with the exception of public safety Employees who have their own specific vehicle take home policy.
7. City vehicles shall be legally and appropriately operated and/or parked at all times. Violations issued to the driver of the vehicle will be the responsibility of the driver, not the City. Employees receiving a motor vehicle citation while driving a city vehicle may be subject to discipline and suspension of their driving privileges of a city vehicle.
8. All city Employees in city vehicles shall wear seatbelts. Anyone operating or riding in City vehicles must wear seat belts at all times. Failure to do so may result in corrective or disciplinary action.
9. The Public Safety Department may establish supplemental department vehicle policies. Such policies shall be published in the Department of Public Safety Rules and Regulations Manual with the approval of the City Manager.
10. Employees and members of the Governing Body must take and pass a defensive driving class prior to using a city vehicle.
11. Employees who are afforded a take-home vehicle will be required to report the benefit pursuant to Federal Tax Laws when applicable.

8.6.4- BULLETIN BOARDS

Information of special interest to all Employees is posted regularly on the City bulletin boards. Employees may not post any information on these bulletin boards without the authorization of the Personnel Director. City bulletin boards shall be used for city or union business only.

8.7- DRIVER'S LICENSE REQUIREMENTS

- A. As part of the requirements for certain specific City positions, an Employee may be required to hold a valid New Mexico Driver's license.

1. If an Employee's license is revoked, suspended or lost, or is in any other way not current or valid, or not in the Employee's possession, the Employee shall promptly notify the Supervisor, who will immediately suspend the Employee's driving duties. The Employee may not resume driving until proof of a valid, current license is provided to the Supervisor.
2. Depending on the duration of license suspension, revocation or other inability to drive, an Employee may be subject to disciplinary action.

8.8- SAFETY

- A. Every Employee is responsible for maintaining a safe work environment and following the City's safety rules. Negligence in adherence to on-the-job safety standards will be considered grounds for discipline and/or termination. Each Employee shall promptly report all unsafe or potentially hazardous conditions to the safety representative and respective Supervisor / Department Director. The City will make every effort to remedy problems as quickly as possible.
- B. In case of an accident involving a personal injury, regardless of how serious or minor, Employees shall immediately notify their Supervisor, Department Director and the City Safety Officer.

8.8.1 VISITORS TO CITY FACILITIES

- A. To provide for the safety and security of both visitors and Employees and the facilities at the City, only authorized visitors are permitted inside the workplace. Restricting unauthorized visitors assists the City to maintain safety standards, protects against theft, assures security of equipment, helps secure confidential information, preserves Employee welfare, and avoids potential disruptions and intrusions.
- B. If an unauthorized individual is observed on City premises, Employees should immediately notify their Supervisor or, if necessary, direct the individual to the premises. If necessary, Employees should notify local law enforcement of any such unauthorized individual.

8.9- SUBSTANCE ABUSE

- A. The City may discipline or terminate an Employee possessing, consuming, controlling, selling or using alcohol, drugs or other controlled substances during work hours. The City may also discipline or terminate an Employee who exhibits an on-going dependence on alcohol, drugs or other controlled substances, which impairs the Employee's work performance, poses a threat to the public confidence, or is a safety risk to the City or others. The City is committed to supporting Employees who undergo treatment and rehabilitation for alcohol or other chemical dependency.

- B. Employees who voluntarily report an alcohol, drug or controlled substance dependency problem will not be subject to retaliation or discrimination. Employees who voluntarily seek treatment may use sick leave to participate in the City's Employee Assistance Program and/or a bona fide treatment program of choice. The City may condition continued employment on the Employee's successful completion of treatment or counseling programs and future avoidance of alcohol, drugs or other controlled substances.
- C. An Employee may be required to submit to alcohol, drug or controlled substance testing when a trained supervisor has a reasonable suspicion that the Employee is impaired due to intoxication, drug or controlled substance use or in cases where employment has been conditioned upon remaining alcohol, drug or controlled substance free following treatment. Refusal to submit to testing, when requested, will result in immediate termination.
- D. Employees using any prescription or over the counter drugs which might impair their work performance should notify their Supervisor. At the option of the Supervisor, an Employee may be reassigned to less hazardous duty or be placed on sick leave if impaired work performance might pose a threat to the public confidence or to the safety of the Employee or others.

8.10- DRUG-FREE WORKPLACE.

- A. The manufacturing, distribution, dispensation, possession and use of unlawful drugs or alcohol on City premises or during work hours by City Employees are strictly prohibited.
- B. Employees must notify the City within five (5) days of any conviction for a drug violation in the workplace.
- C. Violation of this policy may result in disciplinary action, including termination. Continued poor performance or failure to successfully complete a rehabilitation program is grounds for termination.
- D. Employees who are required to maintain a Commercial Driver's License (CDL) as part of their job duties are subject to random drug testing as required by the Federal government in conformance with adopted City policy. (See City's full Drug/Alcohol Policy)

8.11- PERSONAL APPEARANCE

- A. It shall be the responsibility of all Employees to represent the City to the public in a manner that shall be courteous, efficient, and helpful.
- B. City Employees should always be well-groomed and dressed in a manner suitable for the public service environment and to reflect favorably the City's image.

C. The Employee's Supervisor will discuss the subject of personal appearance with the Employee if it is felt it does not positively reflect the image of the City.

D. The dress code for the City of Española will be enforced as follows:

1. It is expected that Employees who are not required to wear a uniform dress in business-casual attire.
 2. It is expected that dependent on the occasion and the work to be performed, exceptions to business-casual attire will be appropriate.
 3. Inappropriate attire includes, but is not limited to:
 - Excessively low-cut blouses, those that expose shoulders or abdomen, or overly tight blouses
 - Display of alcohol, tobacco, sexual innuendos, obscene language or gestures, or double entendre (meanings)
 - Mini-skirts or tight and revealing skirts
 - Visible undergarments, baggy or sagging pants
 - Flip-flops
 - Attire promoting or displaying gang related insignias, colors
-

SECTION 9 DISPUTE RESOLUTION

9.1 GENERAL PURPOSE

Addressing Employees' concerns is important to the efficient operation of the City of Española and reasonable efforts will be made to resolve all Employee disputes in a timely manner. Disputes may arise between Employees in the interpretation of City policy or procedure or regarding a proposed disciplinary action.

- A. Employees participating in the dispute resolution procedure will not be subject to any retaliation for such participation, but are not exempt from the proposed disciplinary action for violations that are proven or admitted.
- B. Disputes concerning the interpretation or application of a collective bargaining agreement may not utilize this dispute resolution procedure. All such claims shall be referred to the Human Resources Director and City Management Labor Team.

9.2 DISPUTE RESOLUTION PROCESS

- A. Informal Resolution. An informal resolution is an attempt to resolve the conflict or dispute between parties. Within five (5) working days following the date of the incident giving rise to the dispute, an Employee will seek to informally resolve it directly with the party or parties involved, including Supervisors or co-workers.
 - 1. Documentation of informal attempts to resolve the dispute may be recorded on the Dispute Resolution form, or in a memorandum and shall include at a minimum the date, time, place of the meeting, identification of the parties attending the meeting, a statement of the problem, and a summary of the discussion including any proposed resolution.
 - 2. If the dispute is with a Department Director or a Supervisor who reports to the City Manager and the informal resolution is not effective, the dispute shall proceed directly to the City Manager.
- B. If the aggrieved Employee determines the informal resolution is not satisfactory, the Employee may pursue formal review by his/her Supervisor by submitting a written request for review, which shall include:
 - The date, time, and place of the informal meeting;
 - Identification of the parties attending the meeting;
 - A statement describing the problem;
 - A discussion of the outcome of the attempt to resolve,
 - Any other facts or information the aggrieved Employee considers pertinent.

1. The dispute resolution request shall be submitted to the Employee's Supervisor within five (5) working days following the date the informal resolution attempt is completed, with a copy to the Human Resources Department.
 2. The Supervisor receiving the dispute resolution request shall:
 - Note the date and time received;
 - Review the documentation materials, and
 - Interview and investigate as appropriate.
 3. The Supervisor shall issue a written decision within five (5) working days following the date of receipt of the dispute resolution request and may attach additional information or explanation as necessary to the parties involved. A copy shall be filed with the Human Resources Department.
- C. If the aggrieved Employee determines the decision made is not satisfactory, the decision may be appealed by submitting, within five (5) working days following the date of that decision, the dispute resolution request and the response to the Department Director.
1. The Department Director receiving the dispute resolution request shall:
 - Note the date and time received,
 - Review the documentation materials, and
 - Interview and investigate as appropriate.
 2. The Department Director shall issue a written decision within five (5) working days following the date of receipt of the dispute resolution request and may attach additional information or explanation as necessary to the parties involved. A copy shall be filed with the Human Resources Department.
- D. If the aggrieved Employee believes that the previous decision is not satisfactory, the decision may be appealed by submitting, within five (5) working days after the date of this decision, the dispute resolution request and the previous response to the City Manager.
1. The City Manager shall:
 - Note the date and time received,
 - Review the documentation materials, and
 - Interview and investigate as appropriate.
 2. The City Manager shall issue a written decision within five (5) working days following the date of receipt of the dispute resolution request and may attach additional information or explanation as necessary to the parties involved.

- E. The City Manager shall be the final authority for any unresolved disputes with the City of Española.
 - F. The intent is that each department's appropriate chain of supervision be exhausted in review of the dispute following the time limits as set out above. In case there is any question regarding this flow of review, the aggrieved Employee may consult with the Human Resources Department for proper referral. In all cases, the Human Resources Department should receive copies of all documentation related to the dispute one it progresses beyond the informal resolution stage.
 - G. With the written consent of the parties, the time limits for review of a dispute at any level may be extended for a reasonable time to allow for a fair review.
 - 1. If the reviewing Supervisor or individual fails to respond within the designated time limits or any extension agreed to, the dispute shall be considered denied at that level and shall be returned to the aggrieved Employee.
 - 2. If the aggrieved Employee fails to proceed to the next level, the dispute is considered resolved. Any dispute resolved by this method shall not be subject to further review.
 - H. If the aggrieved Employee resigns from employment with the City of Española, the dispute resolution request previously filed and in process at the time shall be considered terminated. The individual reviewing the dispute resolution request at that time shall forward all pertinent documentation to the Personnel Department for filing in the aggrieved Employee's personnel file.
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**SECTION 10 –
CORRECTIVE ACTION, DISCIPLINARY ACTION, AND TERMINATION**

10.1- GENERAL PURPOSE

Reasonable rules of Employee conduct are necessary for the orderly and effective operation of the City as well as to protect the rights of Employees and to inform them of what behavior the City expects from Employees. All Employees are expected to exercise good judgment, loyalty, common sense, dedication, and courtesy in the performance of their duties. The primary mission of every Employee is to provide courteous, orderly, efficient, and economic delivery of services to the citizens of the City.

- A. It is the responsibility of each Supervisor to keep Employees informed concerning City policies and rules of conduct. The Employee is also responsible for staying informed.
- B. Acts, errors, or omissions, which discredit public service or impair the provision of orderly services to the citizens of the City, may result in corrective or disciplinary action.
- C. The Human Resources Director or Department Director, as appropriate, has full discretion and authority to impose corrective or disciplinary action in accordance with City policy and the circumstances of the particular case.
- D. The following are examples of the types of behavior that may result in corrective action or discipline:
 - 1. Unsatisfactory job performance.
 - 2. Inability, refusal or failure to perform the duties of the assigned job.
 - 3. Boisterous or disruptive activity in the workplace.
 - 4. Absence from work without first notifying and securing permission from the Supervisor.
 - 5. Habitual absence or tardiness for any reason.
 - 6. Insubordination.
 - 7. Failure to obtain and maintain a current license or certificate as a condition of employment.
 - 8. Violation of duties or rules imposed by this manual, or by any other City rule, regulation or administrative order.
 - 9. Violation of any safety rules.
 - 10. Fighting or violence in the workplace.
 - 11. Action, which reflects negatively upon the integrity of the City.
 - 12. The abuse of non-prescription or prescription drugs or other controlled substances, or arriving on the job under the influence of or while in possession of alcohol, drugs, or other controlled substances.

13. Violation of a lawful duty.
14. Violation of or failure to comply with the federal or state constitution statutes or City rules and regulations and City ordinance in the performance of their duties.
15. Negligence or improper conduct leading to damage of city-owned property or the injury of any person.
16. Possession of dangerous or unauthorized materials such as explosives or firearms in the workplace.
17. Sexual harassment or physical or mental intimidation of anyone.
18. Theft or inappropriate removal or possession of property.
19. Falsification of timekeeping records.
20. Falsification, alteration or destruction of public records.
21. Accepting fees, gratuities or other valuable items in the performance of the Employee's official duties for the City, except as noted in 8.2-F.
22. Intentional falsification or mishandling of City records or documents (written or electronic media).
23. Conviction of a felony or a misdemeanor involving moral turpitude, that is, conduct considered contrary to community standards of justice, honesty or good morals.

This list is not all-inclusive, but only serves as a general guide. The City may discipline or terminate Employees for other reasons not stated above.

10.2- CORRECTIVE ACTION

- A. The City promotes a system of progressive counseling to be used with Employees who violate or fail to comply with City policies, procedures and rules or who have other performance problems. This procedure is designed to correct the infraction rather than penalize Employees. Progressive corrective counseling is used to give Employees notice that:
 1. They will not be treated in an arbitrary manner for making a mistake;
 2. The City will pursue a fair and consistent approach to situations warranting corrective action;
 3. Corrective and disciplinary actions will be administered appropriately for the particular violation and corrective and disciplinary actions will be administered in a progressively escalating manner for similar subsequent violations.
 4. Repeated violations of rules and policies will not be tolerated;
 5. Unacceptable performance may result in discharge.
- B. Each situation that requires some form of corrective action should be judged on its own merits. The appropriate action should be determined based upon the circumstances surrounding the situation and the severity of the infraction.
- C. Supervisors, Division Directors and Department Directors may take corrective action and maintain written documentation in support of the action and may recommend

suspensions, demotions, and discharges. The following types of Corrective Actions may be used, depending on the particular situation:

1. **Verbal Warning.** A verbal warning is a counseling session between the Employee's Supervisor and the Employee on the subject of the Employee's conduct and performance, or their failure to observe a rule, regulation, or administrative instruction. It is intended to increase an Employee's efficiency and value to the City by changing the Employee's conduct, attitude, habits, or work methods. Following the counseling session, the Supervisor shall document the verbal warning. Verbal warnings are noted and placed in the Employee's personnel file.
 2. **Written Warning.** A written memorandum from the Supervisor to the Employee may be used to confirm or summarize the verbal warning or to constitute a counseling memorandum.
 3. **Reprimand.** A reprimand is a formal written disciplinary action for misconduct, inadequate performance, or repeated lesser infractions. Written reprimands are placed in the Employee's personnel file.
- D. Only Department Directors may proceed with any disciplinary action that includes suspensions, demotions, or discharges, (see Section 9.3). Supervisors who desire guidance relative to the appropriateness of any form of corrective action are encouraged to contact the Human Resources Director.
- C. In every situation involving any form of corrective action, it is of the utmost importance that proper documentation be prepared. Documentation is required to accurately record the facts of the situation while they are fresh in the minds of all concerned, in case future reference is necessary. All documentation given to an Employee should be signed by the Employee to acknowledge receipt. If the Employee refuses to sign, another Employee should be called in to sign the form and witness the fact the counseled Employee received the documentation, but refuses to sign it.

10.3- DISCIPLINARY ACTION

- A. In the event that disciplinary action is necessary, the following types of disciplinary actions may be used, depending on the particular situation:
1. **Suspension.** A suspension is a temporary, unpaid absence from duty, which may be imposed as a penalty for significant misconduct or repeated lesser infractions. A suspension is a severe disciplinary action, which is made part of the Employee's permanent record.
 - a. Suspensions with pay, where the Employee is placed on administrative leave, may be utilized by the Human Resources Director pending the results of an

investigation or disciplinary action where the Human Resources Director determines those factors such as public confidence, the safety of the Employee or the efficient functioning of the City call for such a suspension.

2. Demotion. A demotion is a change of an employee from one position in a class with a lower salary grade, for which the employee qualifies.
3. Discharge. An Employee may be terminated as a result of disciplinary action. Situations may arise in which immediate discharge is warranted. .

B. The discipline of classified Employees shall be as follows:

1. Notice of Contemplated Disciplinary Action. To initiate disciplinary action against an Employee, the department shall serve a notice of contemplated disciplinary action on the Employee. This notice shall:
 - Cite the specific incidents constituting just cause;
 - Cite violation of any law, statute, ordinance, rule or mandate;
 - Provide an explanation of the documentation, evidence and/or facts relied upon by the department;
 - Specify the contemplated disciplinary action;
 - State that the Employee has five (5) working days from service of the notice of contemplated disciplinary action to respond in writing or to request an informal meeting with the Department Director.
4. A representative of the Employee's choice may respond to the notice of contemplated disciplinary action and may be present at all stages of the proceedings.
5. Meeting Regarding Contemplated Disciplinary Action.
 - a. If the Employee requests an informal meeting in response to the notice of contemplated disciplinary action, the Department Director shall notify the Employee of the date, time and location of the informal meeting; such meeting shall be held within five (5) calendar days of receipt by the department of the request for the informal meeting.
 - b. The Employee and Department Director may agree in writing to an alternate date, time or place for the informal meeting.
 - c. A representative of the Employee's choosing may accompany the Employee, but the conduct of the informal meeting shall be between the Department Director and the Employee. The purpose of the informal meeting is to allow the Employee to respond to the allegations in the notice of contemplated disciplinary action and to offer explanations and/or present evidence in mitigation. No witnesses shall be presented at the informal meeting.

- d. If a written response is filed with the Department Director and the Employee participates in an informal hearing with the Department Director, the Department Director shall consider the written response (if filed) and information received during the informal meeting in arriving at a final disciplinary action.

6. Notice of Final Action.

- a. The Department Director shall serve written notice of final action on the Employee no later than five (5) working days from the date of receipt by the Department Director of any written response or the date of the informal hearing whichever is later.
- b. The notice of final action must include:
 - i. The final action to be taken;
 - ii. The incidents constituting just cause that shall be limited to those incidents alleged in the notice of contemplated disciplinary action.
 - iii. Cite the specific law, statute, ordinance, rule or mandate violated by the Employee;
 - iv. A discussion of the Employee's defenses as stated in any written response or in the informal meeting;
 - v. The date of delivery of the notice of contemplated disciplinary action; and
- c. The Department Director shall inform the Employee that the final disciplinary action may be appealed to the Grievance Board within five (5) working days pursuant to these rules.

10.4- TERMINATION

- A. An Employee may be terminated from City employment for any of the reasons listed below.
 - 1. With or without cause during or at the end of the Employee's probationary period.
 - 2. As a result of disciplinary action.
 - 3. Due to loss of skills, certifications or other conditions that make the Employee unfit for service.

4. When the City Manager has made a determination that a lack of work exists with respect to the Employee's position.
5. When it has been determined by the governing body that a reduction in force is necessary. Refer to the City's policy on Reduction in Force.
6. The Human Resources Director determines that the Employee has a physical or mental impairment that prevents the Employee from performing the required duties of the Employee's position and the Employee cannot be reasonably accommodated. Termination must be supported by medical evidence that establishes the individual is unable to perform the essential duties of the job. The City may require an examination at its expense performed by a physician of its choice. Failure to submit to such request may result in termination.

10.5- APPEAL. Employees may appeal a notice of final action as provided in this Section; or Employees of a Collective Bargaining Unit may appeal to Binding Arbitration as provided in Section 10.6.

- A. Within five (5) working days following the date of the final notice, a written appeal may be filed with the Human Resources Director, with a copy served to the Department Director. The Human Resources Director will within five (5) working days, forward the appeal notice to an independent Hearing Officer designated by the City to hear such appeals.
- B. Within ten (10) working days after receiving the written notice, the Hearing Officer or his designee shall issue a scheduling order for a hearing to be held within thirty (30) days of the scheduling order. The City Attorney shall promulgate rules of procedures for such hearings. The Hearing Officer shall conduct the hearing and accept documentary and testimonial evidence in accordance with such rules of procedure. The hearings shall be taped and the tapes maintained in the Human Resources Department as part of the official record. The rules of evidence do not apply to the Grievance Board hearing.
- C. The decision as to allow testimony will be made by the Hearing Officer. The Hearing Officer will rule on whether evidence or exhibits may be admitted into the record and on any motions or objections made. Once the Hearing Officer has ruled on an issue in question, no further argument on the issue will be allowed.
 1. Each party to the grievance shall present a statement of his or her case and an explanation to the Hearing Officer.
 2. Witnesses pertinent to the grievance may be called and will be sworn in by the Hearing Officer prior to giving testimony.
 3. Witnesses will identify themselves for the record, giving their name, address, and any other information that may be pertinent to the grievance.

4. After a witness has testified, the Hearing Officer shall permit the opposing party to the grievance to examine the witness.
 5. The Hearing Officer will not allow badgering of a witness by either side.
- D. A hearing is closed to the public pursuant to the Open Meetings Act section 10-15-1(H). An aggrieved Employee has the right to request an open meeting. All conversations and materials submitted by an Employee in the grievance process shall remain confidential, unless the Employee has demanded a public hearing.
- E. When deliberating on an appeal the Hearing Officer shall not hear any presentations or evidence aside from the record of the hearing. Upon closure of the record, the Hearing Officer shall submit its written Findings of Facts and decision to the Human Resources Director within ten (10) working days. The Hearing Officer may take one of the following actions:
1. Accept the Department Director's decision;
 2. Modify the Department Director's decision;
 3. Reject the Department Director's decision.
- F. The decision of the Hearing Officer is final. The decision of the Hearing Officer shall be the final step in the administrative process provided for by these policies.
- G. The decision of the Hearing Officer may be appealed to the First Judicial District Court for the County of Rio Arriba. The decision may be reviewed for the following:
1. When a decision is arbitrary and capricious;
 2. When the decision is not supported by substantial evidence on the record as a whole; or
 3. When the decision is in excess of the statutory authority or jurisdiction of the Hearing Officer.
- H. Appeal of the decision of the Hearing Officer to District Court by the aggrieved Employee or the City shall be taken within thirty (30) days of the final decision of the Hearing Officer.
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10.6 – APPEAL TO BINDING ARBITRATION. Employees may appeal a notice of final action as provided in Section 10.5; or Employees of a Collective Bargaining Unit may appeal to Binding Arbitration as provided in this Section.

- A. Within five (5) working days following the date of the final notice, a written appeal may be filed with the City Manager, with a copy served to the Department Director. The City Manager may within seven (7) calendar days schedule a meeting with the Union to discuss the grievance and its settlement.
- B. If the grievance is not satisfactorily resolved at this level; a Notice of Grievance may be submitted to final and binding arbitration by the Union, but not by the individual employee, within thirty (30) calendar days after receipt of the written response by the City Manager.
- C. Within fourteen (14) calendar days of the written demand for arbitration, the Union shall make a request for a panel of seven arbitrators from the Federal Mediation and Conciliation Service (FMCS) or the American Arbitration Association (AAA) , unless the City and the Union by such time agree upon an arbitrator or alternative panel of arbitrators from which to select an arbitrator.
- D. Within fourteen (14) calendar days of the receipt of a list of arbitrators, the City and the Union will confer to select the arbitrator. The selection shall be made by the City and the Union alternately eliminating names. The last name remaining shall be the arbitrator. The parties shall flip a coin to determine who shall strike the first name. If the City or the Union fails or refuses to strike a name from the list, the parties may request that the FMCS or the AAA unilaterally appoint an arbitrator to hear the matter. Once an arbitrator is either selected by the City and the Union, or appointed by the FMCS or AAA, the arbitrator shall have full jurisdiction.
- E. The decision of the arbitrator shall be based upon the facts established by the testimony and documents presented in the case. The arbitrator shall have no power to add to, subtract from, alter, or modify any of these terms of the agreement, but may give appropriate interpretation or application to such terms and provide appropriate relief.
- F. The arbitrator shall not have authority to make an award which includes a fine or other punitive damages or award of attorney's fees. Each party shall pay one-half of the arbitrator's fees and expenses. The arbitrator's decision shall be final and binding on the parties.
- G. In arbitration cases challenging a disciplinary action, the City shall have the burden of proof not less than by a preponderance of the evidence. In arbitration cases where the Union alleges a contractual violation or dispute over a working condition, the Union shall have the burden of proof.

10.7 REDUCTION IN FORCE

A. The City Council may, upon recommendation by the City Manager of a determination of financial or operational need to reduce the workforce, undertake a reduction in force through the following procedure:

1. The City Council, upon recommendation by the City Manager, makes a determination that there is a financial or operational need to reduce FTEs, either in whole [elimination of a classified position] or through reduction of the hours of work attributable to a position [a furlough reducing hours of work], based on the City's operational needs for the City and taking into consideration the best interests of the City.

2. The City Council, upon recommendation of its City Manager, shall review the positions in a specific department within the classification to be reduced or eliminated and rank the incumbents in order of seniority in that position.

3. For purposes of this policy, "seniority" shall refer to an employee's combined years and months of fulltime, non-probationary continuous service as an employee of the City of Espanola.

4. The reduction in force shall apply to incumbents with the least seniority in employment with the City first, and continue in reverse order of seniority until the reduction in force in a particular classification within a department is achieved.

5. When, in the best interests of the City, the City Council, upon recommendation of the City Manager, determines that there is a financial or operational need to impose a furlough reducing the hours of work for a classified position, the reduction in work hours shall apply to incumbents with the least seniority in employment and continue in reverse order of seniority until the reduction in work hours in a particular classification within a department is achieved.

6. The City Council, upon recommendation by the City Manager, may determine that it is in the best interests of the City to eliminate a position even if there is only one position within a department of a particular classification.

7. A reduction in force does not constitute disciplinary action.

8. Employees who are terminated as a result of a reduction in force are eligible to apply for unemployment compensation benefits as allowed by law.

9. A decision to furlough an employee by reducing the hours of work attributable to the position under this policy is final.

10. An employee whose position is eliminated under the procedure set forth in this section may appeal the decision under the appeal provisions set forth in Section 10.5, above, applicable to disciplinary terminations.

11. An employee whose position is eliminated under the procedure set forth in this section shall have recall rights in the event that a same or similar position is created for a period of ninety (90) days following the effective date of his/her termination.

12. No employee subject to RIF under this policy shall have “bumping” rights within the City workforce.
