

# CITY OF TRUTH OR CONSEQUENCES



# PERSONNEL RULES AND REGULATIONS

**Section 10-3.3**  
**Personnel Rules and Regulations**

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## **SECTION 1: RECRUITMENT, SELECTION, ADVANCEMENT AND TRAINING**

### **1.0 POLICY**

It is the policy of the City of Truth or Consequences to recruit, select, and advance the most qualified persons for the city positions in an open, competitive, affirmative manner to insure no discrimination and to insure equal employment opportunity for all.

### **1.1 RECRUITMENT**

The Human Resources designee shall develop and conduct an active recruitment program designed to meet current manpower needs. Recruitment shall be tailored to the number and nature of authorized positions to be filled and to labor market conditions.

The recruiting efforts of the Human Resources designee and Department Heads will be coordinated and carried out in a timely manner to permit successful competition with other employers. Requests for hiring should be made by Department Heads, with the approval of the City Manager, to the Human Resources designee, and should include job title, job description, job number, and pay scale.

#### **1.11 Job Announcement and Publicity.**

To attract an adequate number of candidates for vacancies, and to encourage competition, posting of job announcements, once the request for hiring has been approved by the City Manager, will be implemented by the Human Resources designee.

1.111 Human Resources shall issue job announcements through such media as deemed appropriate to attract qualified applicants without regard to race, religion, color, ancestry, national origin, sex, age, political affiliation, or physical or mental handicap.

1.112 Contents of announcements shall include the job title, description, salary range, qualification requirements, examination information, closing date and time for accepting applications, and any other pertinent information.

1.113 At the request of the Department Head, and with the approval of the City Manager, job announcements may be placed in-house on bulletin boards available to City employees, and on the City website, for a period of one (1) week, to insure reasonable opportunity for employees to apply. This

will be done as an effort to promote from within, provided qualifications are reasonably met.

1.114 Publication of job vacancies, other than in-house, will be placed in a local newspaper for a minimum of two (2) weeks to insure all persons a reasonable opportunity to apply. Regional newspapers may be utilized instead of or in conjunction with local newspapers whenever the Human Resources designee deems it appropriate.

1.115 Recruitment sources shall receive job announcements for all vacancies other than in-house.

## **1.12 APPLICATIONS**

1.121 Application forms prescribed by Human Resources shall include training, experience, and other pertinent information, and must be signed. Proof of statements may be required. Application forms may not elicit information concerning race, politics, sex, sexual orientation, age, ethnicity, religion, or national origin. Such data may be obtained separately for research purposes to insure non-discriminatory practices.

1.122 Rejection of applications may be made if applicant:

1. Does not meet minimum qualifications.
2. Has been convicted of a felony or a misdemeanor or has pled guilty or no contest to a felony, and the Criminal Offender Employment Act, Sections 28-2-1, et seq., NMSA 1978 permits such a rejection:
  - a. Subject to the provisions of the Criminal Offender Employment Act, in determining eligibility for employment, the Department may take into consideration the conviction; however, such conviction shall not operate as an automatic bar to obtaining public employment unless otherwise provided by law to the contrary.
  - b. The following criminal records shall not be used, distributed, or disseminated in connection with an application for public employment:
    - (1) Records of arrest not followed by a valid conviction or a plea of guilt, and
    - (2) Misdemeanor convictions not involving moral turpitude.

NOTE: "Moral Turpitude" is defined by Black's Law Dictionary, 6th ed. as: "In its ordinary sense, inherent baseness or vileness of principal or action; shameful wickedness; depravity. In its legal sense, everything done contrary to justice, honesty, modesty, or good morals. An action showing gross depravity." It is defined by Webster's Third New International Dictionary, Unabridged (2002) as: "1: an act or behavior that gravely violates the moral sentiment of the community; esp: sexual immorality <was considered unfit to hold office because of moral turpitude>"

- c. The City Manager may refuse to consider or renew, or may suspend or revoke the application of any candidate or employee for City employment for any of the following causes:
  - (1) Where the candidate or employee has been convicted of or pled guilty to a felony or a misdemeanor involving moral turpitude and the criminal conviction directly relates to the particular employment.
  - (2) Where the candidate or employee has been convicted of a felony or a misdemeanor involving moral turpitude and the criminal conviction does not directly relate to the particular employment and if the City Manager determines, after investigation, that the person so convicted has not been sufficiently rehabilitated to warrant the public trust.
  - (3) Where the candidate or employee may reasonably be considered to be uninsurable by the City's insurer.
- d. The Human Resources designee shall explicitly state in writing the reasons for a decision which prohibits the person from engaging in the employment, if the decision is based in whole or part on conviction of any crime described in Section 2.5 a.2 above. Expiration of a period of three years after completion of probation or parole supervision after final discharge or release from any term of imprisonment without any subsequent conviction shall create a presumption of sufficient rehabilitation for purposes of subparagraph c. of this section.
- e. The Criminal Offender Employment Act (Sections 28-2-1 through 29-2-6, NMSA 1978) is not applicable to the City law enforcement entity; however, nothing herein shall be construed to preclude a law enforcement entity in its discretion from adopting the policy set forth herein, with the approval of the City Manager.

3. Has an unsatisfactory record or other job related factors, which demonstrate unsuitability for the position to which he/she applied.
4. Has made any false statement or produced any false document in support of the application, including INS Form 9.
5. Has submitted an application, which is not correctly completed, answering all questions and providing information requested, or has failed to submit the application within prescribed time limits.
6. Has submitted an application for a classification that is closed for recruitment.
7. Has, if previously employed by the City, otherwise violated the Personnel Ordinance or these rules.

1.123 Rejection notices shall be mailed promptly to all unsuccessful applicants.

1.124 Application forms will be filed and held for a minimum period of seven (7) years. Applications may be deemed current for up to twelve (12) months after closing date. The Human Resources designee may hold an application without processing it until such time as transcripts, supplemental application questionnaires, or other required information are received by Human Resources.

### **1.13 EQUAL OPPORTUNITY EMPLOYER.**

This will be included in all advertising, job announcements and other Human Resources and similar materials prepared by the City of Truth or Consequences. All publications will be reviewed to insure that they contain no discriminatory language or inferences.

## **1.2 - SELECTION**

The selection process shall provide open competitive opportunities at various levels, as well as advancement opportunities through promotion and training, to insure reliable and objective selection of qualified applicants and equal employment opportunity for all.

**1.21 Preference:** The following shall be given first preference:

- a. Qualified city employees when applicants are equally qualified.
- b. Local residents when applicants are equally qualified.
- c. Veterans when applicants are equally qualified.

**1.22 Selection Process:**

- a. Information on the selection process shall be readily available to all applicants.
- b. Selection decisions shall be based solely on job-related factors and applied with consideration as to pertinence of the requirements of the job.

**1.23 Open Competitive Selection:** Open competitive selection criteria shall be used by the Human Resources designee or designee to fill all job vacancies open to the general public.

**1.24 Selection Devices:** Selection devices such as rating sheets and standard questions for all candidates shall be designed to eliminate the possibility of discrimination on the basis of criteria prohibited by current state and federal law.

**1.25 Cooperation with Management:** The Human Resources designee shall confer with management, department heads, directors, and supervisors on the review and validation of selection devices.

**1.26 Testing:** Testing for a position with the City may be accomplished by one or a combination of the following: written tests, rating of education, training and experience, oral tests, assessment center, performance tests, or any other appropriate selection device.

- a. Tests shall be confined to those matters which reasonably test the candidate's ability to be trained for the position and which are directly job-related, and which fairly, validly, and reliably test the capacity and fitness of the applicants to successfully discharge the duties of the position for which the test is administered. Tests may be written, oral, physical, performance tests, rating of training experience, or any combination of these.
- b. Each Department head will develop a set of tests and questions pertaining to the specific job. Tests will be developed in accordance with established professional techniques and relevant laws, regulations, and guidelines with the intent of measuring critical or important knowledge, skills, abilities, job work behavior, or work necessary for successful job performance.
- c. No question or other mode of inquiry in any test shall be so worded or designed to elicit information that may discriminate for or against any applicant for reasons of sex, age, race, physical or mental disability (except as permitted under the ADA), national origin, political or religious

opinions or affiliations of any candidate, and all disclosures thereof shall be disregarded. No test shall be administered by a Department to a candidate for employment unless such test has been approved by the Human Resources designee.

- 1.27 Scoring:** The Human Resources designee shall compute a final test score using acceptable scoring practices. Where a combination of testing procedures is used, failure on any part of the procedures may constitute failure for the entire test. All testing and selection devices used shall be retained as part of the hiring record.
- 1.28 Confidentiality:** The Human Resources designee shall maintain the security of all tests. Written tests, oral test questions, performance tests, rating formulas, or any related material that would compromise the content of a test shall be confidential except as otherwise prescribed under State law or the Federal Freedom of Information Act. All persons involved in the selection process shall be warned by the Human Resources designee that the information provided by applicants is confidential.
- 1.29 Pre-Selection:** No position may be promised to any person. In all instances of hiring, the city shall follow Equal Employment Opportunity (EEO) procedures.

**1.210 Rating and Referral of Applications:**

- a. Except for Department Head positions, all applications received for a specific position will be rated by the three-person Evaluation Team, which shall include the Human Resources designee, the Department Head, and the head of a City Department other than the Department that is hiring, to assist in determining the best qualified applicants and to insure Equal Employment Opportunity. In the case of Department Head positions, the Human Resources designee and the City Manager shall interview all applicants. The City Manager may add other persons to the interview panel for either Department Head or non-Department Head position interviews at his/her discretion.
- b. The upper percentage of applicants from the rating sheet will be referred by the Human Resources designee to the Department Head and the City Manager for review. Additional applicants may be requested.
- c. Each Department Head/City Manager, working in cooperation with the Human Resources designee, will develop a scripted interview based upon the specific needs of the department.

- d. Interviews will be arranged for the applicants by the Human Resources designee with the Department Head and the City Manager. All interviews shall be conducted by the Department Head/City Manager and the Human Resources designee on the basis of the Department's/Manager's scripted interview, job related criteria, the position description, and other pertinent job-related factors. Members of advisory boards may be selected to assist with the interview.
- e. Final selection will be based on test and interview results determining the best candidate for the position.
- f. The City Manager is the final authority to approve the hiring of any applicant for a position within the City's employ, with the single exception of his/her own position. The City Manager is appointed to that position by a majority vote of the City Commission.

### **1.3 ADVANCEMENT AND TRAINING**

The City of Truth or Consequences shall make every effort to provide the necessary counseling and training to insure all employees the opportunity for advancement and upward mobility. Promotion patterns shall be continually evaluated to insure that merit principles and non-discriminatory policies are followed.

- 1.31 **Training and education.** Contingent on the availability of funds, training and education shall be provided to assist employees in their career development and advancement whenever possible, if such training and education serves the best interests of the City, and has been pre-approved by the Department Director and Management. Whenever possible, employees are encouraged to notify their supervisor three months prior to enrolling.

Employees requesting tuition reimbursement shall submit a written request to the Department Director prior to enrolling in a course or degree program. The Department Director shall then submit written justification for approval to Management or his/her designee explaining how the course(s) or the pursued degree would benefit the city. If approved, the Department Director shall forward the request and justification to Human Resources. Employees who have completed their probation periods may be eligible for the following considerations and assistance:

- 1.311 Favorable arrangement of work assignments and schedules may be provided.

1.312 By continued evaluation, trainee, apprentice, and on-the-job positions may be established as needed.

1.313 For pre-approved or mandatory job-related credit or non-credit courses, if the course is satisfactorily completed with a grade of "C" or better, the city will reimburse 100% for required textbooks.

1.314 For pre-approved or mandatory job-related credit courses, the City will reimburse for tuition as follows:

- |                              |      |
|------------------------------|------|
| 1. for a grade of "A"        | 100% |
| 2. for a grade of "B" or "C" | 80%  |

The City will reimburse for textbooks and tuition if not paid for by other financial aide sources, other than student loans, for example: GI Bill, Scholarships, Pell grants, etc.

1.315 All grades will be entered in the employee's personnel file for consideration in promotions.

1.316 Upon completion of a job-related advanced degree, the employee shall be awarded a merit increase.

1.317 If an employee voluntarily resigns from City employment within a year after the end date of the course(s) completion, the employee will reimburse the City the cost of the course(s) and textbooks.

**1.31 MANAGEMENT.** Management will stay informed of all affirmative action and equal opportunity policy. They shall examine and assess practices that affect equal employment opportunity.

## **SECTION 2: EMPLOYMENT**

### **2.1 Probationary Hire.**

- a. An initial probationary period of one (1) year shall be required of all employees, except for protective service employees (police officers and other designated positions) whose probationary period shall be one (1) year or in excess of one year until certified as required by statute.
  1. If approved leave without pay in excess of two (2) weeks is taken during the probationary period, the probationary period shall be extended by the number of days of leave taken.
- b. An employee may be separated from the City without right of appeal or hearing at any time during the probationary period.
- c. An employee who voluntarily transfers to another department during his/her initial probationary period will complete the one (1) year probationary period.

### **2.2 Regular or Part-Time Hire**

Following the successful completion of the probationary period, the employee changes from probationary to regular or part-time status.

- a. Regular Hire - a position which requires performance of duties for a minimum of forty (40) hours per seven (7) day period (for police officers eighty-six (86) hours worked in the City's 14 day pay period.)
- b. Part time Hire- a position which requires performance of duties for less than forty (40) hours per seven (7) day period. For pro-rata benefit purposes a part-time position requires at least twenty (20) hours of work per week. Fringe benefits (sick and annual leave) for those eligible, will accrue on a prorated basis.

### **2.3 Temporary Hire.**

- a. A temporary hire is the employment of a person when the need for an employee's service is for a period of less than nine (9) months, or is on a seasonal basis.

1. The employee's signature on the Personnel Action Form will acknowledge willingness to accept a temporary job.
  2. The expiration of a temporary job shall not be considered to be a layoff or a disciplinary action.
- b. Persons who are employed by the City through student cooperative training programs, including Intern Programs, shall hold temporary appointments

#### **2.4 Emergency Hire.**

- a. An emergency hire is the interim employment of a person when an emergency condition exists. All recruitment requirements may be suspended for emergency hires. Prior to hiring, the employer shall submit a Personnel Action Form together with the candidate's application to the Human Resources designee.
- b. Employees in emergency status shall be paid in the same salary range as other employees in the classification.
- c. No individual shall hold the same emergency position longer than ninety (90) days in any twelve (12)-month period.
- d. Recruitment for a position which is currently held by an Emergency Hire individual will be the same as recruitment procedures set forth in Section 1.1 above.

#### **2.5 Term appointment.**

- a. A term appointment is the hiring of a person when the need for service is for a designated period of time, and/or is under the terms of a contract.
  1. Selection shall be made according to the terms of Section 1-1.
  2. The employee's signature on the Personnel Action Form will acknowledge willingness to accept a term position.
  3. The duration of the appointment will be dependent upon the funding for the project or program.
  4. Term employees are not entitled to grievance procedures, except as initially negotiated in the contract.

- b. Employees in term positions may be converted to probationary or regular status in a vacant regular position.

## **2.7 Promotion -- Eligibility.**

- a. Any employee, except those in emergency status, who have demonstrated at least one year of continuous satisfactory service, may be eligible to be promoted.
  - 1. Employees may be eligible to be promoted to any position within the same job field for which they meet the minimum qualifications without having to take the test for that classification.
  - 2. Employees may be eligible to be promoted to any position outside of their job field if they meet the minimum qualifications and have passed the appropriate tests, if applicable.
- b. Employees hired in accordance with the provisions of Sections 2.3 and 2.4 are not eligible to be promoted until such time as they pass the appropriate tests, or if the Department Head and the Human Resources designee, with the approval of the City Manager, certify that the employee is performing at a satisfactory level.
- c. Employees who are promoted will receive a salary increase.
- d. Upon acceptance of a promotion, the employee will be required to sign an agreement acknowledging that he/she is entering a new one (1) year probationary period.

## **2.8 Promotion -- Effective Date.**

Promotions approved by the City Manager will be effective at the beginning of the pay period during which the Personnel Action Form is approved by the City Manager.

## **2.9 Transfers -- Inter-Department.**

- a. An employee may transfer from one Department to a regular position in another Department, after selection for the position, upon two (2) weeks' notice to the Department from which the employee is transferring. Such notice, in case of need, may be waived, by approval of both Department Heads, the Human Resources designee, and the City Manager.

1. A transferring employee shall retain all accrued annual and sick leave upon transfer.
  2. Any compensatory time must be taken prior to the transfer, or shall be compensated in accordance with Section 5.11.
  3. The transferring employee will be required to sign an agreement acknowledging that he/she is entering a new one (1) year probationary period.
- b. When, by legislative action or administrative order, a Department or Division is to be transferred to another Department, or reorganized within the same Department, all employees in that Department will be transferred to a comparable position within that Department with no loss in compensation or change in status. Classifications may be reviewed and changed to reflect the structure of the newly organized Department, Division, or Unit.

#### **2.10 Transfers -- Lateral.**

An employee may be transferred, as required, from a position in one Department to another Department, on approval of both Department Heads, the Human Resources designee, and the City Manager. Such transfer shall be made with no loss in compensation or benefits. The employee shall retain all accrued annual and sick leave, as well as any earned compensatory time. An involuntary lateral transfer will not require the imposition of a new probationary period.

#### **2.11 Transfers -- Temporary Modified Duty Assignments.**

Employees who have suffered a temporary work related injury may be placed on modified duty or have reasonable accommodations made, as is appropriate, until recovery as determined by the recommendation of a physician.

#### **2.12 Medical Examination/Evaluation.**

- a. Any candidate recommended for appointment to any full-time or part-time position may be required to undergo a city-funded medical examination by a city designated physician in order to determine whether the applicant is able to perform the duties of the specific position. It may be cause for withdrawal of the job offer if the result of the physical evaluation indicates that the employee is not capable of satisfactorily performing his duties.

- b. The City Manager may, upon recommendation of the Department Head and the Human Resources designee, request a physical examination of any City employee, to be funded by the City and performed by a city-designated physician, to certify that the employee is capable of satisfactorily performing his assigned duties. It may be cause for termination, or of a modified duty assignment, if the result of a physical evaluation indicates that the employee is no longer capable of satisfactorily performing his duties, unless otherwise stipulated by law.

*NOTE: Section 2.12 may be waived by the City Manager if budgetary constraints do not allow for the expenditure of funds for this purpose.*

### **2.13 Drug and Alcohol Testing.**

Refer to policy #10-3.8 in the Administrative Manual.

### **2.14 Human Immunodeficiency Virus (HIV) Related Testing**

- a. No person or department may require an applicant or employee to disclose the results of a human immunodeficiency virus-related (HIV) test as a condition of selection for employment or as a condition of promotion or continued employment unless the absence of human immunodeficiency virus infection is a bona fide occupational qualification for the job in question.
- b. No test designed to identify the human immunodeficiency virus (HIV) or its antigen or antibody shall be performed without the informed consent of the applicant as required by the Human Immunodeficiency Virus Test Act under Section 24-2B-1 et Seq., NMSA 1978.
- c. No person with knowledge of test results shall disclose the test results to another person except as authorized by the Human Immunodeficiency Virus Test Act.

### **2.15 Employment date.**

For salary review and leave benefit purposes, the employment date of any regular employee shall be the day of the month and year also known as the anniversary date of the employee.

### **SECTION 3: CITY DRESS CODE**

#### **3.0 Purpose:**

The purpose of this policy is to establish a uniform standard of dress appropriate to the functions of the City of Truth or Consequences.

#### **3.1 Policy:**

This policy applies to all employees of, and those on employment contract with, the City of Truth or Consequences, with the exception of uniformed employees of the Police Department.

#### **3.2 Job-appropriate Attire:**

City employees are constantly in the public eye; consequently it is important that the employees present the best possible image to the public. Employees should always be clean and neatly dressed, in clothing suitable for their work assignments. Uniforms and other clothing should allow for comfort and for complete range of motion (bending, stooping, reaching, etc.) without restriction or limitation of movement.

All office personnel are expected to present an image of professionalism through a businesslike manner of dress. It is City policy that office personnel do not wear uniforms and are therefore not eligible for a clothing allowance.

Non-office personnel (uniformed employees) may have dress codes specifically developed to provide for the work functions of the individual departments. All department dress codes must be reviewed/approved by the City Manager to insure that they are suitable and equitable. Uniforms purchased by the city must be worn when on the job, including after-hours call-outs.

Employees whose work duties require specialized attire will consistently wear clothing that provides for their safety (personal protective equipment, steel-toed shoes or boots, gloves, lab coats, safety belts, safety glasses, approved working hats), and that is appropriate for environmental influences (heat, cold, etc.). It is the responsibility of every employee to know when special clothing is necessary.

### 3.3 Prohibited Attire:

The following articles of clothing are prohibited:

- a. Tank tops, muscle shirts, halter and midriff tops, spandex.
- b. Sleeveless tops that do not closely circle the shoulder.
- c. Clothing that is inappropriate in length or fit; short pants or skirts must be long enough to reach a point no more than four (4) inches above the middle of the kneecap, and must be hemmed (not cutoffs).
- d. Exercise clothing (sweat suits, jogging suits, gym shorts).
- e. Undergarments may not be worn on the outside of outer clothing.
- f. Unprofessional messages or graphics (politics, religion, alcohol, drugs, gang-related, or morbid images). Note: Items of jewelry are usually acceptable because they are of a more personal nature, and are not easily interpreted as sending a message to others.

### 3.4 Clothing/Boot Allowance Rules:

In an effort to make sure each and every department follows the same rules regarding uniforms, the following is to be strictly adhered to:

1. The City will purchase the following items:
  - a. Six (6) pairs of standard Wrangler denim jeans (or equivalent) per year.
  - b. Six (6) work shirts (long or short sleeves) per year.
  - c. One (1) pair steel-toed safety boots per year.
  - d. One (1) jacket every two (2) years.
  - e. One (1) pair coveralls, insulated or non-insulated, every two (2) years.
2. Uniforms purchased by the City are City property. An employee who prefers a different type of jeans, shirts or boots must cover any amount in excess of the amount approved by the Department Head, and should be aware that the uniforms remain City property. Uniform items will depreciate on the same time frame as they are purchased (i.e. jeans, shirts, and boots, one year; jackets and coveralls, two years).

3. In keeping with the City's probationary requirements for new hires, no clothing allowance other than that needed for required safety items will be provided until the employee has worked for three (3) months. This three-month rule shall not apply to inter- or intra-departmental transfers.
4. Only one (1) issuance of clothing and boots per calendar year for each eligible employee will be allowed. In other words, if clothing was issued in May, the next clothing allowance would not be issued until the following May -- one (1) year from the previous clothing and boot allowance that the employee received. This one-year rule may be waived if the Department Head and Risk Management determine that the condition of the clothing or boots has become a safety issue. Additionally, should a jacket or a pair of coveralls become damaged beyond use, an employee may request a new jacket or pair of coveralls prior to the expiration of the two-year limit; however, each such request shall be evaluated on a case-by-case basis.
5. An employee who elects to resign his/her position after receiving a clothing allowance must return all city-purchased uniform items to the City. Failure to return the items will result in a "Miscellaneous Charge" being deducted from his/her final paycheck. Supporting documents will be provided for:
  - a) Clothing and boots, pro-rated on the depreciation schedule of one (1) year from the date of purchase.
  - b) Jackets and coveralls, pro-rated on the depreciation schedule of two (2) years from the date of purchase.
6. Uniforms are considered a taxable fringe benefit unless identified as City property by a City patch affixed to the garment. Shirts and jackets/coveralls shall have the patch affixed on the left upper sleeve. Pants shall have the patch affixed on the right hip at the belt line.

### 3.5 COMPLIANCE

It is the responsibility of every employee to understand and to comply with the approved City Dress Code, and it is the responsibility of the Department Heads/Supervisors to ensure compliance. Failure to abide by the City Dress Code will result in administrative action as follows:

- **First offense:** you will be verbally warned and sent home to change clothing.
- **Second offense** you will be sent home to change clothing and a written reprimand will be placed in your personnel file.

***NOTE:*** *The time spent off work for this reason will be deducted as Leave without Pay from that day's work hours in 15-minute increments.*

- **Third offense** will be considered insubordination and you will be subject to immediate disciplinary action in accordance with City policy, up to and including termination of your employment.

## SECTION 4: POSITION CLASSIFICATION

### 4.0 Purpose

The Position Classification policy is an administrative tool providing a system of standardized titles and common job language critical to the administration of personnel activities. It provides for such things as: manpower planning and budgeting, the establishment of job performance standards with fair and equitable pay, and the development of recruitment programs, candidate selection, and training programs.

### 4.1 City Personnel Classifications

1. **Classified:** All employees who are considered to be "non-exempt" from the requirements concerning overtime and other benefits as provided by the Fair Labor Standards Act. Non-exempt employees receive compensatory time off or overtime pay for actual hours worked in excess of forty (40) hours per week.
2. **Non-Classified:** All administrators, directors, and managers who are considered to be "exempt" from the requirements concerning overtime and other benefits as provided by the Fair Labor Standards Act. Classification as "exempt" is determined by a position's requirements and responsibilities as described in the Department of Labor Regulations. Exempt employees do not receive additional pay or compensatory time for working more than forty (40) hours per week.

**NOTE:** To determine whether a position is "exempt" or "non-exempt", please refer to the attached flow chart, Determining Exemption Status Under the FLSA's Final Regulations.

### 4.2 Job Descriptions

Job Descriptions contain a class or position title, a general statement of duties and responsibilities, typical duties performed minimum qualifications for the position, and license or certification requirements.

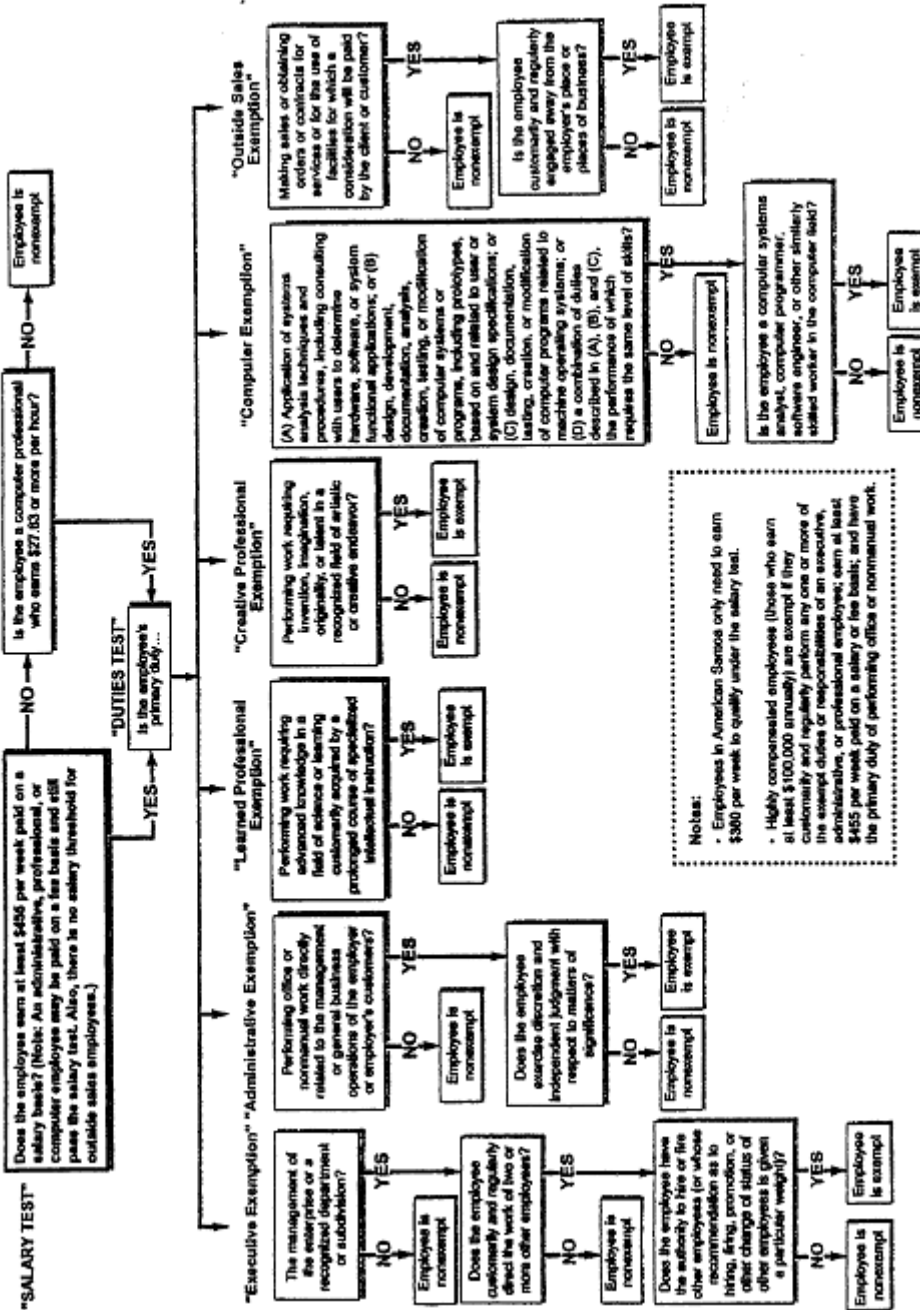
### 4.3 Maintenance of the Classification Policy

The Human Resources designee shall have authority for the overall administration of the Classification Policy. Human Resources shall review, amend, and update the policy as necessary, to maintain appropriate job descriptions, to insure proper classification of positions, and to insure that

positions reflect and are consistent with current City policy as well as current equal employment practices and requirements.

Flow Chart

FLOWCHART—DETERMINING EXEMPTION STATUS UNDER THE FLSA'S FINAL REGULATIONS



## **SECTION 5: PAY CLASSIFICATION**

### **5.0 Purpose**

The objectives of the Pay Classification policy are to:

1. Provide equal pay for equal work.
2. Provide a competitive wage structure to insure recruitment of competent employees.

### **5.1 Administration of the Pay Classification Policy**

1. The Human Resources designee, in conjunction with the City Manager, shall be responsible for the administration of this policy, and for insuring that the policy is kept current.
2. Amendments may be adopted upon recommendation by the Human Resources designee and the City Manager with approval by the City Commission.

### **5.2 Entry Level Pay Rates**

1. The entry-level rate shall normally be the minimum rate in the position classification.
2. The City Manager may approve appointment of a candidate above the entry level rate if the applicant has prior experience and qualifications exceeding minimum requirements.

### **5.3 Pay Changes, Effective Date**

Pay changes shall normally become effective on the first day of the pay period following approval of the change.

### **5.4 Pay Increases**

Pay increases for City employees will be determined by the Department Head's recommendation to Human Resources, the City Manager, and/or the City Commission.

## 5.5 Pay for Overtime Work

1. Overtime will be paid at one and one-half times his/her regular rate for actual hours worked. Please refer to FLSA Fact Sheet 23 (attached) and/or to 29 CFR 778.415 through 778.421.
2. Overtime is actual time worked by non-police officers in excess of forty (40) hours in the regularly scheduled seven day work week, and actual time worked by police officers in excess of eighty-six (86) hours worked in the City's 14 day pay period. All overtime for police officers will be paid in accordance with the 207 (K) provision of the Fair Labor Standards Act (FLSA). All overtime for non-police officers will be paid in accordance with the applicable provisions of the FLSA.

## 5.6 Work on a Holiday

Holiday pay is defined as: Compensation for holidays, like Veteran's Day or other legal holidays, when a business may be closed and the employee is paid for time not worked.

An employee who works on a holiday will receive holiday pay plus his/her choice of:

1. One hour of time off for each hour worked on the holiday, OR
2. Pay for actual time worked at his/her regular rate.

If the holiday falls on an employee's regularly scheduled day off, the employee will receive eight- (8) hours straight time.

**NOTE: No state or federal law requires that any time not worked be paid for. Municipalities establish their own vacation, sick, or other leave policies by ordinance or by resolution.**

## 5.7 Stand-by Pay

Stand-by pay is defined as: Compensation paid to an individual who, though off duty, is required to be available and able to respond to inquiries by telephone, pager, or radio, after regular working hours (including weekends).

An employee who is on stand-by will be compensated at his/her regular rate for eight (8) hours during any regular seven-day workweek.

No employee may be placed on stand-by for more than one week (seven consecutive days) at a time, except by special arrangement with the Department Head.

Police officers are exempt from Stand-by pay eligibility except as defined in Section 7.

***NOTE: If the employee on stand-by does not respond to emergency calls within a reasonable time, the employee will not be considered to have been on standby and the hours will not be used to compute standby pay. Such incident will be logged by the supervisor, and may result in other disciplinary action in accordance with City policy.***

## **5.8 Emergency Call-out Pay**

Emergency call-out is defined as: Compensation paid to an individual who has been called to return to work after hours (including weekends).

An employee who has been called out will be paid for the greater of:

1. two (2) hours at one and one-half (1.5) times his/her regular rate OR
2. actual hours worked at one and one-half (1.5) times his/her regular rate .

Police officers are exempt from call-out pay eligibility except as defined in Section 7.

## **SECTION 6: EMPLOYEE PERFORMANCE APPRAISALS**

### **6.0 Purpose**

The purpose of the Performance Appraisals policy is to provide the format for a mutual exchange of information regarding job performance between the supervisor and the employee. Through performance appraisals, supervisors can communicate to individual employee's performance expectations and department goals. Supervisors will assess each employee's job-related performance and will work to enhance overall job performance by providing direction and identifying training needs.

### **6.1 Periods of Performance Review**

Performance reviews for all employees will be made annually, and must be turned in to Human Resources by the first week in March.

Additional appraisals may be made, at the discretion of the Department Head/Supervisor:

1. At the request of the employee.
2. At any other time a performance review may be deemed necessary.

### **6.2 Performance Review Coordination**

Appraisal forms will be sent to Department Heads, one month prior to their due dates.

1. The Department Head/Supervisor will schedule and conduct each employee' performance appraisal.
2. The Department Head/Supervisor will forward the completed appraisals along with supporting documentation, if any, to Human Resources.
3. Human Resources will review all appraisals and recommend major personnel actions, if any, for approval by the City Manager.
4. The City Manager will conduct all appraisals of Department Heads.
5. All appraisals and subsequent personnel action documents will be made part of the employee's permanent personnel file.

### 6.3 Performance Review Guidelines and Responsibilities

1. Ratings used are: Exceeds Standards, Meets Standards, and Needs Improvement.
2. The evaluator must evaluate the employee on the objective basis of his job-related performance of duties and responsibilities, and may not take personal prejudices into consideration.
3. Any negative ("Needs Improvement") ratings made by the evaluator must be substantiated in the comments section of the appraisal form, and must be shown and explained to the employee.
4. The employee has the right to question and to make written comments on any rating on the appraisal sheet. Any such questions or comments must be made, in writing, at the time of the appraisal.
5. A regular employee whose appraisal reflects 25% or more in the "needs improvement" category will have a written disciplinary form placed in his/her personnel file, and will be given ninety (90) days for improvement. At the end of that time, the employee will be re-evaluated, and this second appraisal, along with supporting documentation, will be used to determine continuation of employment.

## SECTION 7: EMPLOYEE WORK RULES

### 7.0 Purpose

The orderly and efficient operation of the City requires that certain work rules be established. Work rules covering personal standards of conduct as well as standard operating procedures are necessary to protect the health and safety of all employees, to maintain uninterrupted service, and to protect the City's goodwill and property.

### 7.1 Work Rules

The following work rules apply to all City employees. These rules are not intended to be all-inclusive, and the City may, when it deems appropriate, establish additional rules to ensure effective operation of the City.

1. Employees must be at their designated work place on time and ready to work. Employees must remain at work until the scheduled quitting time, unless granted permission to leave earlier by their supervisor.
  - a. City employees, with the exception of police personnel, will work a 40-hour workweek.
  - b. Police personnel will work on the 14-day/86-hour work period.
2. In case of absence from work, whenever possible the employee will advise management of his/her inability to report to work prior to the usual reporting time. In any event, the City must be notified by a responsible party as soon as possible.
3. Employees may report for and remain at work only when able to safely perform their job duties.
4. Employees shall not falsify information on time sheets, records, or reports with claims of illness or injury.
5. Employees shall not punch or sign another employee's time card or work sheet, except for supervisors signing time sheets for employees under their jurisdiction.

6. Employees must comply with City safety policies and follow all safety regulations regarding use of protective equipment. Employees are required to report all accidents or injuries to their supervisors immediately.
7. Employees may not use City facilities or equipment to conduct a personal business during working hours on City premises.
8. Employees may not abuse or misuse City property, records, or other materials in their care, control and/or custody. No City property may be removed from City premises without permission from the appropriate authority.
9. Employees must comply with all traffic ordinances.
10. Employees may not litter work areas.
11. Employees will deal with the public and with co-workers in a courteous and professional manner.
12. Employees may not unduly restrict or interrupt work or interfere with the work of others, or engage in any system of "workplace bullying."

***NOTE: "Workplace bullying" is defined as: "repeated, health-harming mistreatment, verbal abuse, or conduct which is threatening, humiliating, intimidating, or sabotage that interferes with work; " and/or "persistent verbal and nonverbal aggression at work, that includes personal attacks, social ostracism, and a multitude of other painful messages and hostile interactions."***

13. Insubordination is a punishable offense.

***NOTE: From Black's Law Dictionary, 6th Edition: "Insubordination. State of being insubordinate, disobedience to constituted authority. Refusal to obey some order which a superior officer is entitled to give and have obeyed. Term imports a willful or intentional disregard of the lawful and reasonable instructions of the employer." Refusing to perform an action that is not ethical or legal is not insubordination. Refusing to perform an action that is not within the scope of authority of the person issuing the order is not insubordination. Refusing to perform an action which is unsafe is not insubordination.***

14. Employees may not fight, engage in illegal gambling, use abusive language, or make threats while on duty or on City Premises.
15. Employees may not engage in unapproved soliciting, or in any partisan political activities while on the job.

16. Employees other than police officers may not possess weapons, illegal drugs, or alcohol while on City premises.
17. Smoking is prohibited in all City-owned buildings except in areas designated for that purpose. Smoking in City-owned vehicles is not prohibited at this time; however, in a vehicle occupied by more than one person, City employees are expected to have the courtesy not to inflict second-hand smoke on non-smoking co-workers.
18. Employees shall not abuse legitimate grievance processes in a manner resulting in repeated unsubstantiated claims.
19. Employees will make themselves available for full participation in all administrative investigations, and will be completely truthful in said participation.

## **7.2 Disciplinary Action**

If any employee is found to be in violation of the work rules set forth, they are subject to disciplinary action or discharge.

## **7.3 Implementation**

The Department Head is responsible for the implementation of the work rules, and shall advise Human Resources of all infringements thereof.

## **7.4 Departmental Rules of Conduct**

Any Department Head may issue supplemental work rules specific to his/her Department, so long as they do not conflict with these City rules and are approved by Human Resources and/or the City Manager prior to implementation.

## SECTION 8: EMPLOYEE BENEFITS

### 8.1 Requesting leaves of absence

All requests for leaves of absence, with or without pay shall be submitted to the immediate supervisor for approval on forms prescribed by the Human Resources Office. All requests must be submitted in advance of the beginning date of the leave, as set forth in Section 8.2B (except requests for unanticipated sick leave, which shall be submitted for approval as set forth in Section 8.3C), and the duration and kind of leave will be recorded on the time sheet, and are subject to the Department Head's approval. Paid leaves of absence are subject to the type of accrued leave balance an employee has, and the scheduling of vacation is subject to the control of the Department Head. All requests for leave without pay not in excess of five (5) working days shall require the approval of the Department Head, and all requests for leave without pay of over five (5) working days shall be subject to the approval of the Department Head, the Human Resources Office, and the City Manager.

### 8.2 Annual Leave

This category of leave includes, in addition to normal vacation, all other periods of approved absence with pay from regularly scheduled work not chargeable to some other category of leave.

- A. Eligible employees will accrue annual leave as per hours worked and during paid leave in accordance with the following schedule (s):

Years of service	hours/ pay period	working days/year
0 to 3 years	4.0 hours	13 days (104 hours)
3 to 15 years	6.0 hours	20 days (160 hours)
<i>4 extra hours will be added the last pay period of each calendar year for this group <u>only</u>.</i>		
15 years +	8.0 hours	26 days (208 hours)

Employees employed in a **regular part-time status** and **Interns** accrue annual leave on a prorated basis.

- B. An employee eligible to accrue annual leave, pursuant to these rules, may request and be granted use of accrued leave at the discretion of the employer. Annual leave of over eight hours must be requested and approved by the Department Head.at least ten (10) working days in advance. Up to five (5) days of annual leave may be advanced by the supervisor which must be paid back as soon as earned. Department Head leave must be approved by the City Manager.
- C. Only complete calendar months of service before and after interruptions or breaks will be counted. In computing the total number of years of service by which an employee is allowed to progress from one graduated rate of accrual to another, the following will apply:
  - 1. Where the employee has been employed with the City without any interruption or break in continuity of service, the date from which his years of tenure are counted will be the first day of the first complete calendar month worked.
  - 2. Periods of leave without pay in excess of thirty (30) days will not be counted as service.
- D. An eligible employee will progress from one graduated rate of accrual for annual leave to the next on the first day of the month immediately following completion of the required total length of service.
- E. The amount of accrued annual leave permitted to be carried over from one calendar year to the next shall not exceed 240 hours.
- F. Upon separation of his employment, an employee will be compensated for all unused and unforfeited annual leave, not to exceed 240 hours.
- G. Upon death of an eligible employee, compensation for unused total annual leave, not to exceed 240 hours, shall be payable to the employee's estate.

### **8.3 Sick Leave**

This category of leave will include any period of approved absence with pay from regularly scheduled work resulting from an employee's having an illness or injury that renders him/her unable to perform his/her duties, or from an employee's having a medical examination, consultation, or treatment by a licensed practitioner, or from an employee's immediate family member's requiring his presence because of injury, illness, or medical treatment.

- A. Employees are eligible for sick leave accrual as per hours worked and during paid leave in accordance with the following schedule:

hours/pay period	working days/year
4.0 hours	13 days (104 hours)

Employees employed in a **regular part-time status** and Interns shall accrue annual leave on a prorated basis.

No maximum on accrued sick leave that will be allowed to be carried over from one calendar year to the next.

- B. An employee eligible to accrue sick leave pursuant to these rules may request and be granted use of accrued leave provided that such use is applicable to sick leave. An employee who abuses sick leave by using it for purposes other than those authorized in the opening paragraph of Rule 8.3 above, will have the absence charged either to Annual Leave or to Leave Without Pay, and may be subject to corrective/disciplinary action.
- C. Employees, except police officers, who are absent from duty for reasons which entitle them to sick leave that their respective supervisors are notified by to their normal scheduled reporting time. Police officers shall report such reasons no later than two (2) hours before their normal scheduled reporting time. The employer may require an employee to furnish a physician's statement for sick leave taken at any time. An employee will be required to furnish a physician's statement after three (3) consecutive workdays of sick leave, unless exempted by his/her supervisor. Refusal by an employee to comply may result in corrective/disciplinary action.
- D. Only complete calendar months of service before and after interruptions or breaks will be counted. In computing the total number of years of service, the following will apply:
1. Where the employee has been employed with the City without any interruption or break in continuity of service, the date from which his years of tenure are counted will be the first day of the first complete calendar month worked.

2. Periods of leave without pay in excess of thirty (30) days will not be counted as service.
  3. Upon separation of his/her employment, an employee with five (5) or more continuous years of service will be compensated for one third (1/3) of the first 480 accrued sick leave hours; a total of 160 hours. Employees with less than five (5) years continuous service will forfeit all accrued sick leave at separation of his employment. Employees are not permitted to donate sick leave at time of separation.
- E. Employees may donate sick leave hours to another employee in need, if that employee has exhausted his accrued annual and sick leave. Such leave donated will be hour-for-hour. Full-time employees donating sick leave hours must maintain a minimum of 40 hours of sick leave for themselves. Part time employees donating sick leave hours must maintain a minimum of 20 hours for themselves. Donations will be limited to a total of 240 hours. After the 240 hours is used, the City manager may decide to issue another leave donation request, based upon a physician's evaluation and prognosis report. In the event an employee receiving donated sick leave hours voluntarily separates from the City, such donated sick leave hours shall be credited to the employees who have donated before any compensation for accrued sick may occur.
- F. Any eligible employee who is terminated or resigns forfeits all accrued sick leave unless otherwise provided for in Rule 8.3-D of this section.

#### **8.4 Leave without pay**

- A. A Department Director may approve justifiable leave without pay for up to ten (10) working days upon written request of the employee. A request by an employee for justifiable leave without pay in excess of ten (10) working days must also be approved by the Director and the City Manager.
- B. Leave without pay, when requested, may be granted only when the Department Director can assure a position of like status and pay, at the location, upon the return of the person from leave without pay.
- C. If the Department Director cannot assure a position in the same location, and the employee agrees in writing to waive that requirement, leave without pay may be granted.

- D. Leave without pay may not exceed thirty (30) consecutive calendar days in the case of a probationary employee, or six (6) consecutive months in the case of a regular employee. Either period may be extended for justifiable reasons, by the Department with the approval of the Director and City Manager, upon request of the employee.
- E. Employees on leave without pay in excess of thirty (30) calendar days will be credited with only thirty (30) calendar days towards eligibility for a merit increase or regular status, except for employees who were called to active duty in accordance with the provisions of subsection 8.8.
- F. Employees do not accrue sick or annual leave while on leave without pay.
- G. Leave without pay will be reported on a Personnel Action Form only if it exceeds ten (10) working days; otherwise it will be reported on the standard Leave Request Form.
- H. Failure to report to work upon the expiration of approved leave without pay may be considered abandonment of the job, and the employee may be considered to be terminated.

#### **8.5 Absence without leave**

- A. Employees who fail to appear at work without authorized leave may be considered to absent without leave, and their pay will be docked accordingly.
- B. An employee who fails to appear at work for three (3) consecutive workdays without leave may be considered to have abandoned his/her position and to have resigned

#### **8.6 Administrative Leave**

- A. The Human Resources Manager or a Department Head may recommend an employee for leave with pay under unusual circumstances, when it is in the best interests of the City to do so, for a period not to exceed five (5) consecutive days, with the approval of the City Manager.
- B. An employee may be excused from duty with pay, only for the normal workday or portions thereof, in emergency situations. Examples of emergencies include: extreme weather conditions, disasters such as fire, flood or other natural phenomena which prevent employees from working

or reporting to work, breakdown of machinery or equipment, and emergency rescue or protection work.

- C. An employee under extraordinary circumstances, such as an investigation purporting a conflict of interest with his City work or other civil or criminal action by the City or other parties, may be granted administrative leave or reassigned duties at the discretion of the City Manager pending the outcome of a formal investigation or judicial proceeding. Leave so granted will not exceed the time period listed in paragraph A above unless the City Manager deems it in the best interests of the City to grant additional leave beyond the five (5) day period.
- D. At the City Manager's discretion, Administrative Leave may be granted for various holidays and functions. Examples include: Good Friday Fiesta Days, Friday following Thanksgiving, the Employees' picnic, and the Employees' Christmas Party.
- E. An employee may be granted Administrative Leave with pay by way of a Memo of Appreciation or a Certificate of Award citing the number of days awarded and the reasons therefor, and signed by the City Manager.
- F. An employee may be placed on Administrative Leave with pay until such time as the City receives confirmed test results from the MRO as set forth in the City's Drug and Alcohol Policy 10.3-9 as amended, in the Administrative Manual.
- G. An employee wishing to attend the funeral of any past or present employee or City Commissioner may be granted Administrative leave to do so as provided in Rule 8.9 of this section.

## **8.7 Jury Duty**

- A. A person shall be entitled to leave with pay for serving on a federal or state grand or petit jury. Fees as a juror, excluding reimbursement for travel, must be remitted to the City Clerk.
- B. An employee who is released from jury duty must report to work upon release or contact his/her supervisor if it would not be feasible to return to work. Failure to adhere to this provision will be considered unauthorized absence and may result in corrective/disciplinary action.

## 8.8 Military Leave

- A. Pursuant to the provisions of Section 20-4-7 NMSA 1978, all employees except those in temporary or emergency status, who are members of organized units of Army, Air National Guard or Air Force, Coast Guard, Navy, or Marine reserves, will be given up to twenty (20) working days military leave with pay per federal fiscal year (October - September) when they are ordered to duty with such organized units. Such leave is to be in addition to other leave or vacation time with pay to which such employee is otherwise entitled.
- B. Pursuant to the provisions of Section 20-5-14 NMSA 1978, all employees, except those in temporary or emergency status, who are members of the National Guard (State Defense Force) will be given up to twenty (20) working days military leave with pay per federal fiscal year (October - September), when they are ordered by the Adjutant General to cadre duty with such organized units. Such leave is to be in addition to other leave or vacation time with pay to which such employees are otherwise entitled.
- C. In all instances where such leave with pay is granted, Director shall maintain a copy of the official orders in the employee's personnel folder.
- D. Pursuant to the provisions of Section 28-15-1 NMSA 1978, any employee who has left or leaves a position he has held, other than a temporary or emergency status position, to entered the armed forces of the United States, National Guard, or organized reserve, and who serves on active duty and is honorably discharged or released from active duty to complete his/ remaining service in a reserve component, or is entitled to a certificate of service, or who terminates his service without dishonor, if an officer, and is still qualified to perform the duties of such position, and makes application for reemployment within ninety (90) days after he is relieved from such training and service or from hospitalization continuing after discharge for a period of not more than one year, shall be reemployed as follows: the person shall be deemed to meet all the requirements of the Personnel Act as well as all residency requirements or other provisions of law and shall be restored to such position or to a position of like seniority, status, and pay.

## 8.9 Bereavement Leave

- A. In the event of death in the immediate family, an employee may be granted emergency leave, not to exceed three (3) working days for in-state and five (5) working days for out-of-state, per occurrence.

- B. Employees wishing to attend the funeral of any past or present employee or City Commissioner may be granted administrative leave to do so; in the event of such a funeral or memorial service a memo will be issued by the City Manager.

## 8.10 Family and Medical Leave

- A. Eligible employees are entitled to leave in accordance with the Family and Medical Leave Act (FMLA) of 1993. Employees who have been in the classified service for at least twelve (12) months (which need not be consecutive) and who have worked at least 1250 hours during the 12-month period immediately preceding the start of FMLA leave are eligible employees. Eligible employees are entitled to a total of 12 weeks of FMLA leave in a 12-month period at the time of a birth or placement of a child or at the time of a serious health condition affecting a family member
- B. Employees must request FMLA leave 30 days in advance or as soon as practicable, on a form developed by the Human Resources Office. This request must specify the combination of accrued annual leave, accrued sick leave, and/or unpaid leave requested for this purpose. Any unpaid leave designated as FMLA leave must be accounted for separately and must not be considered to be leave without pay. FMLA leave need not be full time. Only the time actually taken will be charged against the employee's entitlement to leave.
- C. Husbands and wives employed by the same department are both eligible for Family and Medical Leave; however, the total number of workweeks of FMLA leave to which both are entitled will be limited by the department to 12 weeks in a 12-month period.
- D. Family and Medical Leave is appropriate to care for the employee's spouse or relative if that family member has a serious health condition, or if the employee has a serious health condition. A serious health condition is an illness, injury, impairment, or physical or mental condition that involves in-patient care in a hospital, hospice, or residential medical care facility, or continuing treatment by a health care provider. FMLA leave is not intended to cover short-term conditions. The employer may require documentation to support a leave request.
- E. If the situation warrants, a Department may transfer the employee on FMLA leave to another position that better accommodates the leave

requirements, provided the employee qualifies for the position and it has the same salary range and status.

- F. No part of FMLA leave may be considered a break in employment.
- G. FMLA leave may not be considered as time worked for overtime purposes.
- H. Unpaid FMLA leave will not change the employee's anniversary date.
- K. Employees will accrue annual and sick leave at their appropriate rates while on unpaid FMLA leave.

### 8.11 Personal leave day

- A. Employees who have successfully completed probation are entitled to one personal leave day each calendar year during the birth month. Such leave must be requested and approved in advance. The personal leave day may be consistent with the employee's normal work day or may be spread over two consecutive work days.

### 8.12 Workers' Compensation

The Workers' Compensation Law (Section 52-1-1 et seq. NMSA 1978) requires that when an employee (worker) is injured on the job, the City must pay for the employee's health care costs. In many cases, the City also must provide indemnity pay to substitute for lost wages.

- A. If an employee is injured on the job or becomes disabled by an occupational disease, the City must pay all authorized medical expenses.
- B. If an employee losses more than seven (7) consecutive days because of an injury or occupational disease covered by worker's compensation, the City must provide indemnity pay. Indemnity pay is a partial substitute paycheck to assist the employee while recovering from an injury. It is paid by the City's insurance company in an amount equal to 66 2/3% of the injured employee's weekly average wage for the previous 26 weeks prior to injury.
- C. The employee, **to protect his right to workers' compensation benefits**, is required to notify the City in writing of any accident at work, within fifteen (15) days of the accident. The **City**, however, requires that all accidents and injuries be **reported immediately to the Safety Coordinator and the supervisor, or be subject to disciplinary action** (Safety Policy

Number 1, 7, Appendix A and Attachment B, 10-3.6 Safety Policy & Procedures, as amended, in the Administrative Manual) The employee must do this for every accident, even if the employee does not think that he is injured, unless the City or the supervisor personally knows about the accident.

- D. The employee must fill out a Notice of Accident form. Forms are available from the supervisor, the Safety Coordinator, or the Director. The supervisor must also sign the form. The employee is to keep one signed copy and give the other copy to the supervisor. The supervisor's signature is merely an acknowledgment that the notice was presented and received. Further information is available from the Director.

### **8.13 Group Health Insurance**

- A. All regular full-time and part-time employees are eligible to join the City's group health and life insurance plan providing coverage for the employee and the employee's dependents. The City pays a considerable portion of the cost of the plan. Participation is on a voluntary basis and the employee may join or withdraw from the plan at any time; however, unless the employee applies for coverage within the first thirty days of employment, proof of insurability for the employee and dependents is required. Specific details of the plan and the cost to the employee are available in the Human Resources Office.

### **8.14 Recreation and Morale**

In addition to the above benefits, the City Manager and the Division and Department Directors shall promote measures directed toward providing more sanitary, safe, and healthful working conditions, affording opportunities and facilities for employee recreation, and implementing any other practicable means of bettering the conditions and improving the morale of employees.

## SECTION 9: DISCIPLINARY ACTION AND TERMINATION

### 9.0 DISCIPLINARY ACTION

Whenever an employee's performance, work habits, or personal conduct fall below a desirable level, his immediate supervisor shall inform the employee promptly and specifically of such lapses and shall give counsel and assistance. If appropriate and justified, a reasonable period for improvement will be allowed before initiating a disciplinary action. In some instances, a specific incident may justify immediate severe disciplinary action in and of itself; however, the action taken shall be based upon the seriousness of the incident and the whole pattern of the employee's past performance and conduct.

9.01 Authority to Discipline. The City Manager and every Department Head have the authority to discipline employees under their supervision; however, only the City Manager has the power to demote, suspend or dismiss an employee for disciplinary reasons.

9.02 Causes for Discipline. Causes for discipline shall include.

1. Misconduct on the job.
2. Negligence in the performance of duty, including negligence in the operation of city vehicles or equipment.
3. Inefficiency in work performance.
4. Failure to meet prescribed standards of work.
5. Insubordination (Failure to follow the lawful order of a recognized superior).
6. Demonstrated disloyalty or disrespect for the city administration or other legally constituted authority.
7. Unauthorized absence from work (AWOL).
8. Physical or mental unfitness for duty due to intoxication from alcohol or drugs.
9. Acceptance of money, gifts, privileges, or other valuable consideration which was given with the expectation of influencing the employee in the performance of his duties.
10. Use of official position for personal advantage.
11. Misuse, theft or destruction of city property.
12. Falsification of records.
13. Conviction of a criminal offense.
14. Sedition, treason, or membership in an organization listed as subversive by the Attorney General of the United States.

15. Violation of any federal or state law, city ordinance, or any section of these rules.
16. Consumption or use of alcoholic beverages or drugs on City property or during working hours while on duty.
17. Violation of departmental rules or a professional code of ethics accepted by those in the same profession as the employee.

No activity during off-duty hours shall be cause for discipline except as it falls under one of the causes listed above.

9.03 Forms of Disciplinary Action. The forms of disciplinary action which may be initiated are, in order of increasing severity:

9.031 Oral warning

9.032 Written reprimand

9.033 Suspension from duty without pay for two weeks or less

9.034 Demotion for failure to meet prescribed work standards

9.035 Dismissal

Minor infractions will normally be disciplined by oral warnings, but continued or repetitive infractions will invoke progressively severe disciplinary action. Some incidents in and of themselves will be sufficient cause for suspension and/or dismissal. The City Manager may suspend, demote, or dismiss an employee on his own initiative or upon recommendation from a Department Head

9.04 Relief from Duty. Any Department Head may relieve an employee from duty and order him to leave the work site, but such order shall not constitute suspension or dismissal until such is ordered by the City Manager and the employee is so notified in writing by the City Manager

9.05 Notification of Disciplinary Action. A record of any disciplinary action other than oral warning shall be made in written form stating the cause for discipline and citing the specific elements upon which it is based. Notice of suspension without pay shall also state the duration of the suspension, not to exceed two calendar weeks. A copy of the action shall be given to the employee at the time of the action and the employee shall sign an acknowledgement that he has received a copy of the action. A copy of written notice with the employee's acknowledgment thereof shall be

forwarded to the Personnel officer who shall place it in the employee's personnel file.

- 9.06 Time for Improvement. A permanent employee whose work performance becomes less than satisfactory shall be given a specific period of time for improvement not to exceed three months. Any such period exceeding one month shall be by written reprimand with employee acknowledgment. If the employee's performance improves to a satisfactory level, a memorandum citing such improvement will be prepared by the supervisor, acknowledged by the employee, and filed by the Personnel Officer together with the written reprimand in the employee's personnel file. A copy shall be given the employee. If, however the performance does not return to a satisfactory level by the end of the trial period, the employee shall be demoted or dismissed with notification by the City Manager.
- 9.07 Right of Appeal. Any employee may file a grievance as provided in Section 10; however, probationary or other employees who have not attained permanent status may not request a hearing before the Personnel Appeals Board or the City Council if they are dismissed for unsatisfactory performance. Any disciplinary action which is not appealed within two weeks of the action shall final.

## 9.1 TERMINATIONS

An employee may terminate his employment with the City for either voluntary or involuntary reasons. Resignation, and in many cases, retirement, are voluntary reasons; death, disability retirement, mandatory retirement, layoff, and dismissal are involuntary upon the part of the employee.

- 9.11 Return of City Property. At the time of termination for any reason and prior-final payment, the employee (or his survivor) shall return all records, uniforms, keys, I.D. badges or other such items of city property in the employee's custody to the immediate supervisor. The departing employee (or survivor) shall execute a certificate that all such property known to be in the employee's custody has been returned. Where such property has been signed for by the employee, any shortage may be reimbursed as a lawful deduction from the final paycheck.
- 9.12 Termination Pay. Permanent employees who terminate shall receive payment for all earned wages for unused accrued annual leave, and for any accrued sick leave pay owing by virtue of Section 8.123. Probationary, temporary, and seasonal employees shall receive as wages earned, but

no leave pay. Final payment shall be no later than the next regularly scheduled pay day.

- 9.13 Resignation. An employee may resign by submitting his intention and the effective date, in writing, to the Department Head, who shall notify the Personnel Officer and City Manager as far in advance as possible. A minimum advance notice by the employee of two (2) weeks is desirable. Failure to give adequate notice will be recorded in the resigning employee's personnel file and may be cause for denying reemployment with the city, as well as for 'a poor employment reference.
- 9.14 Abandonment. An employee who absents himself from the job for three days or more without official leave shall be considered to have voluntarily resigned, and notice of termination together with a check for wages due through the last day worked shall be sent by registered mail to the last known address.
- 9.15 Post - approval of absence. An employee who has abandoned his position may be re-instated only if he can demonstrate to the satisfaction of the Department Head and the City Manager that circumstances of his absence made it impossible to notify the supervisor and request official leave. In such an instance the City Manager may charge the time missed against paid leave without pay and reinstate the employee.
- 9.16 Retirement. An employee who has sufficient service credit to retire may do so by giving notice as in 9.13 above. Sufficient notice to secure and orient a replacement is expected.

## 9.2 REDUCTION IN FORCE

This section is to provide a system for employee separation based upon reduction in force and to provide a means for employee return from the reduction in force when the reasons for the reduction cease to exist.

9.2.1 Reduction in Force: Can occur as follows:

- A. The City, through its governing body, may discontinue or abolish positions due to lack of funds, lack of work, reorganization, or other reasons that do not reflect discredit on the services of the employees; or
- B. A Department Head may prepare a reorganization of the Department within its organizational units for purposes of a reduction in force by

submitting to the City Manager a written plan for such reorganization together with the reasons thereof, and the City Manager shall present it to the governing body. The governing body shall consider such a proposal and the needs of the City and may recognize organizational units within the Department. Such organizational units may be recognized on the basis of funding source or functions.

1. The City Manager shall notify the Department or recognized organizational units and such units shall thereafter be used for reduction in force.
  2. The governing body may withdraw recognition of such units upon notice to the Department at any time prior to the formal announcement of reduction in force by the City.
- C. The City Manager will prepare for governing body's approval, a RIF plan that will list the positions to be eliminated; the date of elimination of the position; the definition of the competitive area for the right of first refusal actions; and any protection for positions held by employees who have previously exercised their right of first refusal. The competitive area is those city positions that are eligible for the exercise of the right of first refusal.
- D. Upon the governing body's approval of a RIF plan, the Human Resources Office shall initiate a right of first refusal within the City. All employees affected in the positions targeted by the layoff shall be provided the following rights:
1. Employees to be affected by the reduction in force (RIF) shall be provided the right of first refusal to positions in the competitive area for which they are senior to the incumbent and meet the established requirements. If the right of first refusal action results in a higher grade, the pay shall, be at Step 1 of the higher grade.
  2. Affected employees shall compete with other City employees also affected by the reduction in force. The Department Head and Human Resources Office will select the most qualified employee, should this occur.
  3. The Human Resources Manager will prepare a seniority list of the employees in the positions to be eliminated and of all employees junior to the senior employee in a position to be eliminated.

Additionally, the Human Resources Manager will prepare a list of all employees in the 9.2.1.E (2) categories. Employees in a position to be eliminated or that have been "bumped" due to a right of first refusal action have fourteen (14) calendar days to examine and apply for positions held by people junior to them on the seniority list. The application consists of supplemental information related to their qualifications for the position based on the established requirements of the position.

4. The Human Resources Office will review , and the City Manager approve, any "bumping" based on the application and position's requirements. Employees shall have seven (7) days from the date of an offer to accept the position unless otherwise agreed. Employees who do not accept an offer shall not lose the right-of-first refusal status to other positions. (5) Employees who are "bumped" due to a right-of-first refusal action can them follow the 9.2.1 D.

E. The order of layoff due to reduction in force shall be as follows:

1. Service date which is determined and based upon the most recent date of hire with the City.
2. Except for grant funded positions, no regular full-time employees will be laid off while there are initial probationary, terms, temporary, seasonal, or part-time employees employed by the City. The RIF plan may exempt employees in these categories. An Emergency Hire employee may be considered to be in a regular full-time status only if no one else is qualified.
3. Employees in a regular full-time status shall be given at least 14 days' written notice of layoff, unless the written notice of layoff states a more lengthy number of days. Notice shall be served or delivered by a method that provides proof of service or attempted service.

#### 9.2.2 Return From Reduction In Force:

A. Former employees who were in a regular full time status at the time of separation by a reduction in force shall have reemployment rights within the City, for a six (6) month period, under the following provisions:

1. Former employees shall be returned to work in order of earliest service date as determined by subsection 9.2.1 D.1, to any position to be filled within the City for which the employee may be qualified.

The position must contain the same or lower grade as that held at the time of the former employee's separation, provided the former employee has made application for said position and meets the established requirements.

2. If, when the City intends to fill a position, there is more than one eligible former employee with rights to return to work under this Rule, the requesting Department Director and the Human Resources Manager will recommend, and the City Manager shall select, the former employee who is best qualified in the City's opinion.
3. Offers of employment shall be made in writing and shall be delivered by a method that provides proof of service or attempted service.
4. A former employee who is offered and accepts employment after layoff shall occupy the position within 14 days of accepting the offer of employment or forfeit the right to employment.
5. Any former employee who refuses an offer of employment or fails to respond to an offer of employment within 14 days shall be removed from the employment list for the position offered.

- B. Former employees returned to work according to the provisions of this **subsection 9.2.2 A** shall have that period of time they were laid off counted as time in the classified service (i.e., all positions which are not exempt by law), shall hold the status of the position and do not have to serve a new initial probationary period if reemployed into a regular full time status. Anniversary dates shall be determined in accordance **with subsection 3.14, Section 3. Employment.**

9.21 Disability Retirement. An employee may be terminated for disability when he cannot perform the required duties because of physical or mental impairment. A permanent employee may request consideration as a candidate for any vacant position for which he is qualified and which his physical or mental impairment does not prohibit his performing.

9.211 If the disability is of a permanent nature and the employee has sufficient tenure to qualify under PERA, he may apply for disability retirement.

9.212 Action may be initiated by the employee, his legal representative, or the City, but must in all cases be supported by medical evidence acceptable to the City Manager and PERA.

- 9.22 Death. Termination by death of the employee shall be effective as of the date of death. All compensation and payable benefits due shall be paid to the estate of the deceased, except for those sums which by law may be paid to a surviving spouse.
- 9.23 Dismissal during Probation. At any time during the probationary period, an employee whose performance does not meet the required standards may be dismissed by recommendation of the Department Head and approval by the City Manager.
- 9.231 The Department Head shall notify the employee of the evaluation of his performance prior to completion of the probationary period, and the employee shall not achieve permanent status unless the Department Head recommends such action prior to completion of the probationary period.
- 9.232 The reasons for dismissal shall be furnished to the employee verbally and confirmed by a copy of the performance evaluation or a written memo. A copy of the action shall be furnished the employee, and a copy shall be filed in the employee's personnel file.
- 9.233 An employee dismissed during probation may not request a hearing before the Personnel Appeals Board or City Council, but may request consideration for demotion to a vacant position for which he can qualify.
- 9.234 Unused leave will not be paid for probationers who are terminated.
- 9.24 Dismissal for Cause. An employee may be dismissed at any time for any of the causes listed in 9.02. A copy of the dismissal notice will be furnished to the employee and a copy shall be filed in the employee's personnel file. The fact that the employee was dismissed and the cause therefor will be furnished to potential subsequent employers if the city is given as an employment reference. An employee who is dismissed for cause will not ordinarily be considered for reemployment by the City.
- 9.25 Right of Appeal. Any permanent employee who is laid off, retired by the City for disability, or dismissed for cause, may request in writing a hearing before the Personnel Appeals Board. Unless such written request is filed with the Personnel Officer within two (2) weeks following notification of the action, the action is final.

9.26 Appeals Board. The Personnel Appeals Board shall be selected as follows:

1. Three (3) members are to be appointed by the Mayor with the consent of the City Commission. These initial Mayor-appointed members shall be appointed for period of two (2) and three (3) years respectively therefore members appointed to serve in these positions for a period of five (5) years.
2. The remaining two (2) members shall be chosen by the covered employees and shall consist of one employee below the level of supervisor and one employee at the supervisor level, or higher, to exclude the Chief of Police, to serve initial terms for four (4) and five (5) years respectively. After the completion of the initial terms, the newly-elected employee and Department Head shall serve only so long as they remain employees of the City and occupy positions in accordance with the provisions of their appointment.
3. Vacancies on the Board shall be filled by the appointing or selecting authority in the same manner as the original member in such appointee or selectee shall serve either for the remainder of the term of the position vacated or for five (5) years if the appointment or selection of the new member corresponds with the expiration of a previous term.
4. Any member of the Appeals Board may be removed by a majority vote of the City Commission for cause after a public hearing and may be suspended immediately by the Mayor for cause pending such hearing.
5. The Personnel Appeals Board shall annually select a Chairman by majority vote of the full Board, such Chairman to be selected from the Mayor appointees to the Board.
6. A majority (three (3)) members of the Board shall constitute a quorum of said Board.

## **RULES OF PROCEDURE FOR THE PERSONNEL APPEALS BOARD**

### **A. GENERAL**

1. Hearings before the Board shall be conducted in accordance with the requirements of New Mexico's Open Meetings Act:
  - (a) Hearings shall be conducted in executive session, unless the employee requesting such hearing also requests, in writing, that it be conducted in public.
2. Hearings before the Board shall be conducted informally according to these rules. Formal rules of evidence shall not apply, but the Board shall consider only the evidence that is presented at the hearing and need consider only such evidence that it considers reliable. The Board may exclude evidence that it regards as irrelevant, cumulative, or unreliable.
3. Participation in hearings before the Board shall be limited to the aggrieved employee and his or her Department Head or the City Manager, and any witnesses either party may present.
4. No record shall be made of proceedings before the Board.

### **B. ORDER OF PRESENTATIONS**

1. The Department Head or City Manager initially shall present the bases for the personnel action at issue to the Board, supported by whatever testimony and exhibits are appropriate, and limited to those bases previously identified to the employee by the Department Head or City Manager.
2. The employee shall be provided the opportunity to respond to the presentation of the Department Head or City Manager, to challenge the personnel action at issue and rebut the bases for such action. The scope of the employee's presentation shall be limited to the bases for grievance previously identified by the employee in his or her notice previously filed with the City Manager requesting such hearing before the Board.
3. The Department Head or City Manager shall have the opportunity to present evidence in rebuttal to the employee's presentation.

**C. EXHIBITS**

1. Each party may offer exhibits as evidence in support of its position.
2. A party offering such exhibit must provide the other party with a copy of the exhibit at the time it is offered to the Board during the hearing

**D. WITNESSES**

- 1 Each party may offer the testimony of witnesses in support of its position.
2. Any witness offered by a party shall be subject to questioning by the opposing party and by the Board upon the completion of his or her initial testimony.
- 3 Redirect questioning of witnesses may be permitted within the discretion of the Board.

**E. BURDEN OF PROOF**

- 1 If the Department Head or City Manager shows that there are reasonable Grounds to believe the c against the employee are true and support the personnel action at issue, and the employee fails to rebut the bases for such action, the Board shall uphold the action.

**F. DECISION OF THE BOARD**

1. The decision of the Board shall be by a majority vote of Board members present for the hearing.
2. Board members voting in the majority shall designate one of the majority' members to draft the decision of the Board.
  - (a) The Board decision shall state, with regard to each of the bases offered by the Department Head or City Manager for the personnel action at issue, the Board's opinion regarding whether reasonable grounds exist to believe such charge is true and supports the action at issue.
3. Any Board members voting in the minority may issue a separate opinion or opinions.

**G. ATTORNEY REPRESENTATION**

1. The aggrieved employee may, at his or her own cost, have legal representation present at the hearing before the Personnel Appeals Board provided said legal counsel gives written notice to the Human Resources Manager of his Representation at least seven (7) days prior to the commencement of the Personnel Appeals Board hearing. In such event, City management may also have legal representation.

## **SECTION 10: EMPLOYEE GRIEVANCES**

### **10.0 POLICY**

All classified employees in Truth or Consequences city service shall be treated equitably and fairly in all matters affecting their employment. Any employee shall be granted the right to present a grievance and shall be afforded the opportunity to understand and resolve matters without fear of reprisal.

10.01 Managerial Employees. Managerial employees serve at the convenience of management and do not enjoy recourse to the city employee grievance procedure. They may, however, request a hearing by the city commission if they feel they have been treated unjustly. The city commission shall hear any grievance by managerial employees no later than thirty days from the original date of its initiation. The city commission's decision shall be final, except for recourse to the Equal Employment Opportunity Commission, the New Mexico Human Rights Commission, and the District Court, which is available to all citizens.

### **10.1 INFORMAL RESOLUTION PROCEDURE**

Any employee with a problem in which he feels he has been treated unfairly, unequally, or unjustly shall first attempt to discuss and resolve the matter with his immediate supervisor and department head. Every effort shall be made to conciliate the matter in as expedient, reasonable and objective manner as possible.

10.11 Personnel Officer or Designee. If employee and supervision cannot resolve the matter the employee and /or supervisor can request the personnel officer to mediate the matter and offer his advice toward resolution. Every reasonable effort shall be made by management to resolve the matter reasonably and satisfy the employee. If no mutual resolution to the matter can be made, the employee may file a formal grievance.

### **10.2 FORMAL GRIEVANCE PROCEDURE**

10.21 Submittal of Formal Grievance to Department Head. Employee grievances unsuccessfully conciliated through the informal resolution procedure may submit a formal grievance to his department head within two (2) weeks from the initial date of the matter of grievance. The employees shall state

the nature of the alleged grievance and make a recommendation for remedial or corrective action to be taken in his behalf.

- 10.22 Personnel Officer or Designee. The department head shall forward the formal grievance to the personnel officer or designee, no more than one (1) week after initial receipt. The department head shall submit in writing his account of the grievance to the best of his knowledge, after informal resolution attempts and preliminary investigation of the matter have been made, and make a recommendation for resolution. The personnel officer or designee shall review the grievance and attempt to negotiate a satisfactory solution to the matter within no more than ten (10) days after initial receipt of the formal grievance. If his fails, the aggrieved shall have all or any of the following recourses of action available. The following actions will be coordinated by the personnel officer or designee.
- 10.23. City Manager. A formal meeting with the city manager to attempt a satisfactory resolution of the grievance to be fully documented within two (2) days of the initial receipt of the formal grievance.
- 10.24 Committee Hearings. A formal hearing with the Personnel Appeals Board to be fully documented within thirty (30) days of the initial receipt of the grievance. The following conditions shall apply:
- 10.241           The aggrieved, the committee, and/or management may request the presence and/or testimony of persons with information relevant to the grievance.
- 10.242           The aggrieved, the department head, and the supervisor (if applicable) and the City Manager shall be present at the hearing. **The aggrieved employee may, at his or her own cost, have legal representation present at the hearing provided said legal counsel gives written notice. In such event, City management may also have legal representation present.**
- 10.243           The Board shall submit in writing its determinations to the aggrieved, the department head, and city manager within forty-eight (11 S) hours upon conclusion of the hearing to include whatever recommendations it deems proper to be initiated and followed. All determinations shall be substantiated and justified in writing, and shall require the final approval of the city manager.

- 10.25 Compliance Determination. The city manager shall submit a written Documented response to the aggrieved, the Board and the city commission within five (5) days after submittal by the Board. The city manager shall justify and substantiate his reasons for alteration or change to the Board's recommendations, or may approve the recommendations as written. The city manager's final determinations and recommendations shall be binding and the aggrieved shall comply with them, unless the aggrieved is granted a further hearing by the city commission as follows.
- 10.26 City Commission. If the aggrieved employee finds no satisfactory solution through the above procedures and actions, he may request in writing within \*ten (10) days\* from the date of the City Manager's final determination, a further review by the City Commission. It shall then be the City Commission's alternative to reject or grant the request as follows:
- 10.261            Reject the request and accept the City Manager's final determination and recommendations in full, as written, and notify the aggrieved and the City Manager of that action within thirty (30) days of initial request of the aggrieved.
- 10.262            Grant the aggrieved a further review. If further review is granted, the City Commission may utilize any of the following options for such a review:
1. Grant a full evidentiary hearing at a date determined by the City Commission.
  2. Limit the hearing to written briefs submitted by the employee and the City Manager and/or their legal representatives.
  3. Grant a further hearing only if the employee establishes the existence of such evidence that could not have been presented at the time.
  4. A review for the sole purpose of determining the appropriate penalty, whereby the City Commission is already satisfied that culpability has been established.

The aggrieved and City Manager shall be notified of the City Commission's actions within thirty (30) days of the initial request of the aggrieved.

- 10.27 Alternative Recourse for Satisfaction. In the event employee cannot obtain satisfaction for his grievance from the city grievance procedures available, he may file a grievance with the New Mexico Human Rights Commission, the District Court, or any other recourse available to all citizens. Management shall assist employee in his efforts for an alternative recourse of action by advising him of the formal procedures necessary to file such grievances.
- 10.28 Confidentiality. All information and documentation involved with the grievance procedure shall be strictly confidential.
- 10.29 Legal Assistance. Under no circumstances shall the city of Truth or Consequences be required to provide legal assistance to an aggrieved employee. However, the aggrieved or the city may obtain their own assistance.

**City of Truth or Consequences**

505 Sims Street  
Truth or Consequences, New Mexico 87901  
City: (575)894-6673 Fax: (575)894-7767

**REQUEST FOR GRIEVANCE HEARING**

I, THE UNDERSIGNED, HEREBY REQUEST A FORMAL GRIEVANCE HEARING BEFORE THE PERSONNEL APPEALS BOARD OF THE CITY OF TRUTH OR CONSEQUENCES.

I WISH FOR THIS HEARING TO BE (\_\_\_ OPEN) (\_\_\_ CLOSED) TO THE PUBLIC.

I (\_\_\_ WILL) (\_\_\_ WILL NOT) HAVE LEGAL COUNSEL PRESENT AT THE HEARING.

I (\_\_\_ DO) (\_\_\_ DO NOT) GIVE PERMISSION FOR MY PERSONNEL FILE TO BE REVIEWED BY THE PERSONNEL APPEALS BOARD AT THE HEARING.

THE FOLLOWING IS A BRIEF NARRATIVE OF THE NATURE OF Y GRIEVANCE AND THE REMEDY I AM SEEKING FROM THE BOARD:

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\_\_\_\_\_  
SIGNATURE OF EMPLOYEE

\_\_\_\_\_  
DATE

## **SECTION 11: CASH HANDLING POLICY**

### **11.0 Purpose**

The purpose of the Cash Handling Policy is to define responsibilities for the management of cash receipts and/or change funds in order to prevent mishandling of city funds.

### **11.1 Policy**

It is the policy of the City of Truth or Consequences to establish and maintain a strong system of internal controls to safeguard against the mishandling or mismanagement of City funds. Effective measures must be in place to safeguard all cash or check receipts until they can be reported and delivered to the City Clerk's office. Inappropriate unaccounted funds (i.e. 'take-a-penny, leave-a-penny', etc.) are prohibited.

### **11.2 Cash Collection Points**

- A. "Cash Collection Point" is defined as: a specified location that routinely engages in monetary transactions for City funds.

The Department Supervisor, working in conjunction with the City Clerk/Treasurer, and with the approval of the City Manager, may establish cash collection points for handling City monetary transactions. The City Clerk/Treasurer's office will maintain a complete listing of authorized cash collection points and the amounts of the change funds.

### **11.3 Change Funds**

The City Clerk/Treasurer's office will maintain a complete listing of all authorized change funds, along with their amounts, and the names of the custodians.

The City Clerk/Treasurer will determine the amounts of the change funds.

The City Clerk/Treasurer, in conjunction with the City Manager, will have the authority to deny the establishment of a change fund.

At the request of the Department Head having custody of a change fund, the City Clerk/Treasurer, in conjunction with the City Manager, will have the authority to increase or decrease the amount of a change fund.

All Departments having custody of a change fund must report and deposit their revenues to the City Clerk/Treasurer's office on a daily basis. Such reporting must be done on a schedule set by the City Clerk/Treasurer.

Borrowing or taking money from a change fund for reasons other than City business is prohibited.

#### **11.4 Cash Receipts**

Employees involved with handling cash must have both an awareness and a commitment to strong internal controls pertaining to cash handling.

Employees of the Utility Office and of the City Clerk's Office who handle cash will each be assigned his/her own cash drawer, and will be accountable for the cash contained in the drawer. Departments with small change funds may have in-house procedures to provide for accountability. The City Clerk/Treasurer will review such departmental change fund procedures to ensure that all procedures for cash handling are in compliance with City policy.

All cash drawers must have some form of physical security (i.e. lock) to secure cash, checks, and receipts during working hours, as well as a locked secure area for storage after working hours.

All cash and check receipts must be counted daily and all cash drawers must be balanced at the end of each day. Reconciling and depositing of all receipts must be under dual control.

Receipts for payments will be given to customers upon request.

#### **11.5 Checks**

Checks received by mail should be receipted and deposited the day they are received.

No two-party checks or postdated checks may be accepted.

No checks may be accepted for more than the amount of the current transaction for the purpose of receiving cash or change back.

All checks returned unpaid by the bank (insufficient funds, payment stopped, account closed, etc.), must be collected in cash, and payment must include all charges incurred by the City for their return.

No checks may be cashed.

## **11.6 Credit Card Payments**

The City Clerk's office will maintain a complete listing of all authorized credit card terminals.

All departments authorized to accept credit card payments must exercise reasonable care in screening transactions to prevent misuse. The employee handling the transaction is responsible for ensuring that the person using the credit card is authorized to do so.

A transaction fee, equal to the fee charged to the City by the credit card company, will be added to the credit card transaction total. Said fee will be established by the City Manager.

Credit card payments will not be accepted for more than the amount of the current transaction for the purpose of receiving cash or change back.

## **11.7 Voided Transactions**

The Department Head must approve all voided transactions. The supervisor's initials or signature on the voided transaction will signify approval. Supporting documentation with a written explanation for the voided transaction must be maintained.

## **11.8 Bank Deposit Preparation and Transportation**

Deposits will be made daily. For security purposes, all deposits will be handled under dual control, and no fewer than two employees will take the deposits to the bank. It is recommended that the schedule for making deposits be kept confidential and should be varied whenever possible. All deposit slips must be kept in a secured location when not in use.

## **11.9 Cash Audits**

Cash audits may be conducted at random at the discretion of the Department Head, or of the City Clerk/Treasurer. No fewer than two cash audits per year must be performed. All cash audits must be properly documented and reported. Documentation of any cash audit is to be maintained as a permanent record. All discrepancies must be reported and investigated as prescribed in Section 11.10.

Confidentiality regarding cash audits is of paramount importance, and must be maintained by all parties involved.

### **11.10 Cash overages and shortages**

Cash overages or shortages must be immediately investigated by the supervisor and resolved if possible. A record of all overages/shortages, along with a written explanation, will be maintained for each cash handler, and will be reviewed as necessary by the supervisor. Repeated cash discrepancies will subject the employee to the following disciplinary actions:

1. \$19.99 or less: the first occurrence will result in a verbal warning. A second occurrence will cause a written notice of disciplinary action to be placed in the employee's personnel file. A third occurrence will cause a written notice of disciplinary action to be placed in the employee's personnel file and a one-day suspension without pay. Further occurrences may be considered cause for termination of employment.
2. \$20.00 to \$99.99: The first occurrence will cause a written notice of disciplinary action to be placed in the employee's personnel file. A second occurrence will cause a written notice of disciplinary action to be placed in the employee's personnel file and a one-day suspension without pay. Any further occurrences may be considered cause for termination of employment.
3. \$100.00 or greater: Any discrepancy within this range may be considered cause for immediate termination.

Any supervisor who has knowledge of a problem in this area and fails to report and document the problem will be subject to disciplinary action in accordance with City policy.

## POLICY REVISED OR AMENDMENTS BY RESOLUTION

RESOLUTION #	DATE	DESCRIPTION
AMENDED	10/9/2001	Section 9 "Termination & Disciplinary" 9.2 (Lay Off) reviewed and approved to 9.2 Reduction in Force
AMENDED	11/24/2003	Section 9 "Termination & Disciplinary" Amended rules of procedure for personal appeals board
AMENDED	11/24/2003	Section 10 amended by resolution #8-88 adopted 11/28/1988 revision approved 11/24/03
16- 07/08	12/12/2006	Section 8 " Employee Benefits " revised
05 07/08	6/24/2007	Section 1 "Recruitment, Selection, Advancement & Training" Revised
05-07/08	6/24/2007	Section 2 "Employment" revised
14-07/08	11/27/2007	Section 3 "Dress Code" revised
18-07/08	2/12/2008	Section 11 "Cash Handling" new
19-07/08	2/29/2008	Section 4 "Position Classification" revised
19-07/08	2/29/2008	Section 5 "Pay Classification" revised
26-07/08	4/22/2008	Section 6 "Employee Performance Appraisals" revised
30-07/08	4/22/2008	Section 7 "Employee Work Rules" revised
20-10/10	04/26/2011	Section 1.3 Advancement and Training Section 2.2 Regular Hire Section 5.5 Pay for Overtime Work Section 5.6 Work on a Holiday