



City of Bloomfield

# **Employee Handbook**

Adopted May 26, 2009

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**15. ACKNOWLEDGEMENTS OF RECEIPT OF PERSONNEL HANDBOOK AND REVIEW OF POLICIES AT ORIENTATION ..... 56**

## **FORWARD**

### **Welcome to our team!**

Whether you have just joined our staff or have been employed with the City of Bloomfield for a while, we consider our employees to be our most valuable resource. We are confident that you will find our City to be a dynamic and rewarding place in which to work and we look forward to a productive and successful association.

This handbook has been written to acquaint you with the policies and procedures that govern the employer and employee relationship. **This handbook does not constitute a contract of employment.** We have prepared this handbook to provide you with information covering most aspects of your employment, and to answer questions you might have about your job. Employees are responsible for reading, understanding and abiding by the policies and procedures contained in this Handbook.

**We are excited that you are part of our team!**



# 1. INTRODUCTION

## 1.1 Intent and Purpose

The purpose of this handbook is to establish basic personnel policies and practices between the City of Bloomfield (“City”) and its employees. This handbook may not cover every possible situation, and may be amended by the City Manager, as necessary, with the approval of the City Council. The City Manager, pursuant to New Mexico law, has final authority to interpret these policies and procedures, and to approve or disprove personnel actions with the assistance of the Human Resources Director, in accordance with City Council policies. These policies and procedures replace the July 1, 1994 Personnel Policy, and all amendments to it. This handbook should be interpreted as a whole rather than interpreting individual sections or sentences in isolation and out of context. Individual department policies and procedures can be created with the agreement of the Human Resources Director and the approval of the City Manager to ensure that they do not conflict with the remainder of the Personnel Policy.

## 1.2 Public Employment

Public employees are responsible to the citizens of the City. High standards of work ethics and good relations with the public are essential characteristics of public employment. Public employment is the operation of the organization which is geared toward providing service rather than toward making a profit. The objective is to provide services to the public while operating in a business-like manner.

## 1.3 Line of Authority

### 1. Subdivision of State

The City is a political subdivision of the State of New Mexico and is subject to various rules, regulations and policies as issued by the New Mexico government.

### 2. Mayor-Council

The City is a Mayor-Council form of government with a City Manager. The governing body in a Mayor-Council municipality consists of four councilors, and one Mayor, all of whom are elected. The Council is responsible for setting policy for the general operation of the City, approving budgets, contracts and establishing rules, regulations, ordinances and policies. The Council acts by a majority vote, with the Mayor voting in case of a tie. The Mayor appoints the City Manager with confirmation by the Council. The City Manager is responsible for personnel and the proper and efficient administration of the municipal government. A list of new hires and separations will be provided to the City Council on a monthly basis.

### 3. Hiring

Requests for additions to the work force or for replacement must be submitted to the Human Resources Director, Finance Director and the City Manager for

approval prior to recruitment. If new employment involves a position that was not budgeted and approved by the City Council, the City Manager must seek funding and recruitment approval before recruitment action, regardless of grade level. The personnel program, up to Department Head level, is administered by the Human Resources Director under the direction of the City Manager. The Human Resources Director is responsible for recruiting, and to assist the City Manager and Department Heads in selecting and hiring personnel. The Personnel Policy shall apply to all employees.

#### **1.4 City Manager/Mayor/Council Authority**

The City Manager will inform the Mayor in advance of any anticipated hiring, promotion, suspension, demotion and termination actions involving Department Heads. The Mayor will advise the City Manager to proceed or to obtain Council input. If Council input is necessary, after obtaining Council input regarding the hiring and firing of Department Heads, the City Manager has authority to make the final decision.

#### **1.5 Amendment of Rules**

Amendments to the Personnel Policy may be proposed by the City Manager to the City Council as needed. All amendments shall be adopted by resolution and shall become effective upon adoption by the City Council, proper publication as provided by state statutes and notification to all employees.

#### **1.6 Adoption of Personnel Rules**

All employees employed when the Personnel Policy Ordinance is adopted, and in the positions covered by the Personnel Policy, shall be subject to the provisions of the Policy, as well as all rules and regulations issued pursuant to the Policy. Any employee working within a Department which has written Department or administrative rules separate from this Personnel Policy will abide by the more stringent of the two policies.

#### **1.7 Administrative Procedures and Regulations**

The City Manager, at any time deemed necessary, may amend or rescind written administrative procedures consistent with this Policy. Such procedures shall be effective on the date specified by the City Manager and shall be placed on record in the Human Resources Office, together with this Policy, to be open to public inspection during normal working hours. The Administrative Regulations and/or procedures shall be distributed to all employees in a timely manner.

## 2. RECRUITMENT AND SELECTION

### 2.1 Overview

It is City policy to recruit and select the most qualified persons to fill City positions. Recruitment and selection will be conducted in a manner that will ensure open competition, provide equal employment opportunity, and prohibit discrimination or favoritism because of race, creed, color, religion, sex, national origin, ancestry, age, disability, sexual orientation or any other legally protected status. Police and Fire department heads shall be responsible for establishing the hiring and testing process for all police officers and firefighters, with oversight by the Human Resources Director and City Manager.

### 2.2 Job Postings

#### 1. Internal Posting of Openings

All openings subject to posting procedures will be posted on appropriate City bulletin boards. Each notice will include:

- a) The functional classification or title of the opening and the salary range, grade and step plan,
- b) A summary of major duties,
- c) Position requirements to include experience, education and/or training requirements, and/or special skills needed, and
- d) When the job opening closes (deadline for submitting application).

#### 2. Internal Posting Procedures

- a) Vacancies will be posted on City bulletin boards for three (3) working days.

#### 3. Eligibility

- a) Any full-time employee may apply for an internal posted opening, provided he or she has completed their 12 month probationary period. Employees will be ineligible for openings if either of the following apply:
  - The employee is currently under disciplinary observation.
  - Unsatisfactory job evaluation within the past twelve (12) months.

#### 4. Positions Posted

All City openings will be posted internally except for Department Heads, for which the Mayor and City Council may determine an appropriate recruitment method. However, management and the Council retain the right to fill openings without internal posting if:

- a) The placement is being sought for an employee who is returning from a leave of absence, or whose City assignment might be subject to layoff, reclassification or termination.

- b) Special recruitment situations exist and the Council votes to waive the posting.
- c) The Human Resources Director has the option to post internal and external openings concurrently if the situation warrants, with input from the Department Head.

5. Procedure

The hiring manager or supervisor will review and approve the job description for the opening, complete a “Notification of Assignment Posting” Form and submit both to the Human Resources Department. City administrative staff will ensure that each internal opening notice is posted on all appropriate City bulletin boards.

### **2.3 Application Form and Submission**

All employment applications shall be made on forms approved by the Human Resources Director and listed on the City’s Web Page. All applications must meet posted deadlines in order to be accepted. When submitting a resume, an application form is still required. All applications will be submitted to the Human Resources Director either in person, by mail, e-mail or fax.

### **2.4 False Statements**

Employees are required to sign a statement on your job application that all of the information furnished to the City was true. The statement also warned that falsifying employment records is considered a serious offense and may lead to termination at any time of City employment. Appropriate discipline will also be taken for falsification of any reports regarding to absence from work, claims made about injuries while on the job or on City premises, benefit claims, as well as any City communications or records.

### **2.5 Nepotism**

City policy prohibits hiring of relatives pursuant to the following guidelines:

1. Restriction

No relative can be hired as an employee, including contract employees if related to a City Councilor, Mayor, or the City Manager by blood or marriage through the third degree of kindred (see definition of “relative” in paragraph 3 below); with the exception of temporary or seasonal employees through the second degree of kindred.

2. Confidential Official

No relative can be hired as an employee of any classification or contract employee if the relative’s status or employment might be influenced by a City “confidential official.” A confidential official is a Department Head or director who has direct responsibility over a functional area, including the Human Resources Director and Payroll Specialist. No relative will be employed

within any department, section or work group of a director, manager and or supervisor.

3. Definition of Relative

First degree—parents and children. Second degree—grandparents, grandchildren, brothers and sisters. Third degree—great grandparents, great grandchildren, aunts, uncles, nieces and nephews.

4. Change in Status after Hire

No relative shall be promoted or transferred into a position that would place him or her in direct supervisory relationship with another relative. Occasions will occur, due to career development, promotions or marital status changes, where an existing City employee may have an indirect working relationship with a relative who was previously employed. If this occurs, the relative (employee) and/or City manager/supervisor and/or confidential official will continue employment under “grand fathered” status. The same applies to “relatives” of Councilors or the Mayor. A relative who was actively employed before a Councilor or Mayor was elected will continue his or her employment in a “grand fathered status.” If circumstances arise where difficulties are encountered due to the employment of a “grand fathered” employee, the facts and circumstances should be documented and reported to the Council for resolution.

**2.6 Pre-Employment Screens**

1. Drug Screen

All applicants offered a City position are required to undergo a City funded urinalysis substance abuse test as a condition of employment. (See Drug Free Workplace, Section 9.5) CDL drivers will be subject to Department of Transportation (DOT) regulations.

2. Physical Exam

All applicants offered employment will be required to undergo a pre-employment and medical examination to determine fitness for their required job duties.

3. Driver History

Employees who require a CDL license to perform their job duties, police officers and those employees required to drive City vehicles are subject to a monthly screen of their driving history to assure compliance with legal requirements and public safety.

**2.7 Employee Orientation**

1. New Employee

The Department Head or Supervisor will contact the Human Resources Director to schedule an employee orientation to be conducted within the first week of

employment. The Human Resources Director will provide information regarding all City benefits and payroll information. The Human Resources Director will distribute the City's Personnel Policy and any other pertinent information to the new employee. New employees will sign an acknowledgement they have received the Personnel Policy and other pertinent policies. Any questions about these issues should be directed to your Department Head or the Human Resources Director.

2. Department Head - Supervisor

Each Department Head or Supervisor will make sure that the department to which the new employee is assigned makes provisions for specific new employee orientation regarding departmental functions, responsibilities, and unique requirements.

3. Safety

Safety is an important responsibility of every employee. The City maintains a separate Safety Manual which will be reviewed with each new employee by the Department Head or Supervisor.

## **2.8 Probationary Period**

Probationary Period is the trial period during which a determination is made as to whether or not an employee is suitable for their position. The probationary employee is evaluated on the employee's ability, potential and performance. The probationary period is 12-month for all employees, including Department Heads. A probationary employee serves "at will" and can be dismissed with or without cause by the City during probationary period. Police Officers will be placed on a 12-month probationary period at the completion of the basic police academy.

1. New Hire

New hires will be evaluated after 3 and 9 months of employment. Prior to the completion of the new hire probationary period, management shall decide whether or not to recommend continued employment. If a decision is made to extend probation, the employee shall be notified both verbally and in writing. If the decision is to discontinue employment, a Termination Form shall be prepared by the employee's Supervisor with written reasons for the termination. If a decision is made to continue employment, a Personnel Action Form shall be prepared by the Human Resources Director changing the employee from probationary status to regular status.

2. Promotion

Promotion is defined as the assignment of an employee any of the following reasons:

- a) Change from one classification to another classification with a higher minimum base rate and greater responsibility;
- b) New position;

c) Different department.

City employees selected for promotions will serve a 12-month probation in their new position. The employee's anniversary date will change with the promotion. If the promoted employee does not satisfactorily complete their promotional probation, the Department Head and Human Resources Director, with approval by the City Manager, will determine on a case-by-case basis if the promoted employee will be returned to the position previously held if still available. If the prior position or an equivalent position is not available, the employee will be released from City employment.

3. Extension

The Department Head, with the approval of the City Manager, may extend both new hire and the promotional probation up to an additional 6-month period. After the extended probation the employee must either be terminated from employment or placed on regular status.

4. Demotion

The assignment of an employee from one classification to another with a lower base rate and less responsibility. A lesser base rate will be decided upon by the Department Head, reviewed by the Human Resources Director with final approval by the City Manager on a case-by-case basis. An employee's anniversary date will not change. A probationary period will not be required.

5. Transfers

A transfer is a change from one job classification to another job classification within the same pay range or from one department to another. A transferred employee will be subject to a new probationary period, and the employee's anniversary date will be changed to the day of transfer. This section excludes temporary assignments within a department.

6. Reclassification

Reclassification involves the elimination of an employee's current position. A Department Head, upon review by the Human Resources Director and approval of the City Manager, may reclassify an employee's position. A new job description must be completed and forwarded to the Resources Director. A reclassified employee will be subject to a new probationary period, and the anniversary date will change with the reclassification.

7. Merger of Positions (11-28-2011)

Merger of positions is defined in Section 4.6. An updated job description must be completed and forwarded to the Human Resources Director. The City Manager, on a case-by-case basis, shall have the authority to require a non at-will probationary period. Regardless of whether the employee is given a not at-will probationary period, the City Manager shall have the authority to review, from time to time, the efficacy of the Merger of Positions on a case-by-case basis. The anniversary date will not change. This section excludes temporary assignments within a department.

### **3. EQUAL EMPLOYMENT OPPORTUNITY, ANTI-DISCRIMINATION AND ANTI-HARASSMENT**

#### **3.1 Equal Employment, Non-Discrimination & Anti-Harassment Policy**

The City is an equal opportunity employer. The City makes employment decisions without regard to a qualified person's race, creed, color, religion, sex, national origin, ancestry, age, disability, or sexual orientation, subject to reasonable requirements permitted by law. The City is committed to a work environment in which all individuals are treated with respect and dignity. Therefore, The City requires that all relationships among persons in the workplace will be respectful, business-like and free of prejudice and harassment. The City prohibits and will not tolerate discrimination or harassment.

#### **3.2 Responsibilities**

##### 1. Department Heads and Supervisors

- a) Creating an atmosphere free of discrimination and harassment.
- b) Insuring all employees are informed of this policy and the penalties for violation.
- c) Reporting complaints of discrimination or harassment in an expeditious manner to the Human Resources Director.

##### 2. Employees

- a) Compliance with this policy and for respecting the rights of co-workers.

#### **3.3 Americans with Disabilities Act (ADA) Policy**

##### 1. Discrimination Prohibited

It is City policy not to discriminate against any qualified employee or applicant with regard to any terms of employment because of the person's disability or perceived disability, so long as the employee can perform the essential job functions. Consistent with this policy, the City will provide reasonable accommodations to a qualified individual with a disability, as defined by the Americans with Disabilities Act, who has made the City aware of the disability, if the accommodation is not an undue hardship on the City.

##### 2. Accommodation Request

Employees with a disability who believe they need a reasonable accommodation to perform the essential functions of their job should contact the Human Resources Director. Upon receipt of an accommodation request, the supervisor will meet with the employee to discuss and identify the limitations resulting from the disability and the potential accommodation that the City might make to help overcome those limitations. The City will determine the feasibility of the requested accommodation considering various factors, including, but not limited to, the nature and cost of the accommodation, the availability of tax credits and deductions, outside funding, the City's overall financial resources, and the

accommodation's impact on the operation of the company, including its impact on the ability of other employees to perform their duties and on the City's ability to conduct business. The City will inform you of its decision on the accommodation request. The law does not require the City to make the best possible accommodation, to reallocate essential job functions, or to provide personal use items (i.e., eyeglasses, hearing aids, wheelchairs etc.).

### 3. Reporting Discrimination

An employee or job applicant who believes that he or she has been discriminated against based on a disability should notify the Human Resources Director. If you believe the Human Resources Director has discriminated against someone based on a disability, report it to the City Manager who may notify the Council.

## 3.4 **Definitions of Harassment**

### 1. Sexual harassment

Sexual harassment constitutes discrimination and is illegal under federal, state and local laws. For the purposes of this policy, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when, for example:

- a) submission to such conduct is stated or implied as a term or condition of someone's employment;
- b) submission to or rejection of such conduct by an person is used as the basis for employment decisions regarding that person; or
- c) the conduct has the purpose or effect of unreasonably interfering with a person's work performance or creating an intimidating, hostile or offensive working environment.

Sexual harassment may include a range of subtle and not so subtle behaviors between individuals of the same or different gender. These behaviors may include, but are not limited to: unwanted sexual advances or requests for sexual favors; sexual jokes and innuendo; verbal abuse of a sexual nature; commentary about a person's body, sexual prowess or sexual deficiencies; leering, catcalls or touching; insulting or obscene comments or gestures; display or circulation in the workplace of sexually suggestive objects or pictures (including through e-mail); and other physical, verbal or visual conduct of a sexual nature. Sex-based or gender harassment includes conduct that does not involve sexual activity or language, but is directed at an employee because of their sex (e.g., male manager yells only at female employees but not males). This may also constitute discrimination if it is severe or frequent.

### 2. Other harassment

Harassment on the basis of any other protected characteristics is also strictly prohibited. Under this policy, harassment is verbal or physical conduct that insults or shows dislike toward a person because of a person's race, color,

religion, national origin, age, disability, sexual orientation or any other characteristic protected by law, and that:

- a) has the purpose or effect of creating an intimidating, hostile or offensive work environment;
- b) has the purpose or effect of unreasonably interfering with a person's work performance; or
- c) otherwise negatively affects a person's employment opportunities.

Harassing conduct includes, but is not limited to: epithets, slurs or negative stereotyping; threatening, intimidating or hostile acts; demeaning jokes and display or circulation in the workplace of written or graphic material that demeans or shows dislike toward a person or group, including through e-mail. These policies apply to all employees, and prohibit harassment, discrimination and retaliation by fellow employees, supervisors or non-employees. Conduct prohibited by these policies is unacceptable in the workplace and in any work-related setting outside the workplace, such as during business trips, business meetings and business-related social events.

### **3.5 Retaliation Is Prohibited**

The City prohibits retaliation against any employee who reports discrimination or harassment, or one who participates in an investigation of such reports. Retaliation against an employee for a good faith report of harassment or discrimination, or for participating in an investigation of a claim of harassment or discrimination, is a serious violation of this policy and, like harassment or discrimination itself, will be subject to disciplinary action, up to and including termination.

### **3.6 Reporting Complaints**

The City requires that all incidents of discrimination, harassment or retaliation be reported, regardless of the offender's identity or position. Employees who believe they have experienced harassing conduct must report complaints with the Human Resources Director before the conduct becomes severe or pervasive. If you believe the Human Resources Director has harassed you, report the complaint to the City Manager. Employees who have experienced conduct they believe violates this policy must also report the conduct. Early reporting and intervention are the most effective method of resolving actual or perceived incidents of harassment. Therefore, please promptly report any complaints or concerns so that prompt and corrective action can be taken.

Reporting Complaints	
Step 1	Report harassing conduct to the Human Resources Director. If you believe the Human Resources Director has harassed you, proceed to Step 2.
Step 2	Report the harassing conduct to the City Manager.

### **3.7 Investigation**

Any reported allegations of harassment, discrimination or retaliation will be investigated. The investigation may include individual interviews with the parties involved and, where necessary, others who may have observed the alleged conduct or may have other relevant knowledge.

### **3.8 Discipline**

Discipline for conduct constituting harassment, discrimination, retaliation or filing a knowingly false report of harassment will be handled appropriately up to and including termination.

## 4. CATEGORIES OF EMPLOYMENT

### 4.1 Classification System

#### 1. Exempt Employees

Exempt employees are those whose job duties and compensation make them exempt from overtime requirements of the Fair Labor Standards Act.

#### 2. Non-Exempt Employees

Non-exempt employees are those whose duties and compensation make them not exempt from overtime requirements of the same Act. If an employee works more than 80 hours per pay period with prior approval, over time shall be paid at a rate of one and one-half (1 ½) times an employee's regular pay rate.

### 4.2 Categories

#### 1. Full-Time Regular

A full-time City employee who works at least leave 40 hours per seven-day period is entitled to all employee benefits.

#### 2. Full-Time Temporary

Full-time temporary employees are hired for a period of less than nine (9) months and will not be eligible for employee benefits.

#### 3. Part-Time Regular

A City employee who works less than 40 hours per week in a regular, budgeted position. Such employees may be entitled to all employee benefits on a pro-rata basis; however, employees working less than 20 hours per week are not eligible for employee benefits.

#### 4. Part-Time Temporary

A temporary City employee who works less than 40 hours per week. Part-time temporary employees are hired on a short-term appointment of less than nine (9) months, and will not be eligible for employee benefits.

#### 5. Seasonal

A full-time or part-time employee hired to provide services during a particular season, whose employment ends with the season. These employees are not eligible for employee benefits.

#### 6. Contract Employee

A person who contracts with the City to perform a certain task for a set fee. A contract employee is not a regular employee. All duties, conditions, appointment duration, salary, benefits, and other terms shall be specified by contract. Contract employees shall be eligible for benefits as specified in the contract.

7. Student Employee

A student who works for the City on a part-time or full-time basis while enrolled in classes at an accredited college or high school. These employees are not eligible for employee benefits.

8. Elected/Appointed Officials

Salary and benefits determined by current ordinance. Elected officials are eligible for employee benefits.

9. Volunteer Fire Fighters and Police Reserve Officers

The City utilizes Volunteer Firefighters and Police Reserve Officers and neither group is subject to this handbook.

### **4.3 Temporary Assignments**

1. Selection

Where feasible, qualified employees expressing an interest will be given preference for a temporary assignment. Temporary assignments can serve to provide a meaningful career development orientation.

2. Administration

A temporary assignment will last at least two (2) complete bi-weekly pay periods, but should not exceed six (6) months. A temporary assignment may exceed six (6) months at the discretion of the City Manager. An employee selected to serve in a temporary assignment will be placed into the appropriate functional classification that applies to the temporary assignment.

3. Compensation

A temporary assignment that carries a higher grade than the employee's permanent assignment will result in a temporary promotion. Such employees will be raised to the salary level of the minimum of the temporary assignment range, for the duration of the temporary assignment. Non-exempt employees who are selected to fill exempt classifications will be treated as exempt employees for the duration of their assignment. Thus, overtime compensation will not be paid. Exempt employees who are placed into non-exempt classifications will be compensated for any and all applicable overtime hours worked, but administrative leave will not be available for the duration of the temporary assignment.

4. Lower Grade Classification

At times, based on unique work situations, an employee may be placed into a lower grade classification assignment. When this occurs, the employee will decrease 2 steps in the Pay Plan, for the duration of the temporary assignment. If the assignment continues beyond six (6) months, and the employee desires to continue in the temporary assignment, a salary adjustment will be necessary. Salary adjustments will be handled as follows:

- a) The employee's salary will be adjusted if it exceeds the temporary assignment maximum range. The adjustment to the maximum of the temporary assignment range will apply for the duration of the extended assignment period.
- b) If the employee's salary is below the maximum of the temporary assignment range, no adjustment will apply.

#### 5. Duration

Employees selected for temporary assignments should be given an estimate of the assignment duration. Also, a memorandum should be sent to the employee, explaining the temporary assignment and salary treatment that will apply during the duration of the assignment. The memorandum will be acknowledged by the employee.

#### **4.4 Creation of New Positions**

The City Manager shall seek the approval of the City Council prior to creating and budgeting for a new position(s).

#### **4.5 Abolishment of Positions**

The City Manager can recommend abolishing a position which is no longer needed, when approved by the City Council. If another position is open, for which work and funds are available, an employee may accept a demotion or transfer to avoid a layoff, but only if the employee is otherwise qualified for the new position. If the position is re-established, the person who held the position shall be given first consideration for reappointment.

#### **4.6 Merger of Positions (11-28-2011)**

Merger of Positions is defined as:

- 1) the combination of an existing filled position with another existing but vacant position;
- 2) such that the existing filled position assumes new and additional job responsibilities; and
- 3) the existing but vacant position remains unfilled but not abolished.

The combination of the existing filled position with the existing vacant position can be in whole or in part; that is, the existing filled position may assume all or any portion of the job responsibilities of the existing vacant position, which shall be reflected in an updated job description. This section excludes temporary assignments within a department.

The City Manager shall seek the approval of the City Council prior to creating and budgeting for a new position(s).

## **5. WORK HOURS**

### **5.1 Work Week**

The workweek shall be forty (40) hours. A pay period consists of two (2) workweeks. For the purpose of calculating overtime under the Fair Labor Standards Act (FLSA), the work week shall begin at 12:01 a.m. on Sunday and end at 12:00 midnight on the following Saturday. Police Officers and Fire Fighters may work irregular shifts as determined by their respective departments. Shift changes will be subject to notification to the City Council.

### **5.2 Absenteeism/Tardiness**

Employees are expected to report for work on time and on a regular basis. Absence includes late arrival at work as well as leaving early. Unnecessary absenteeism and lateness are expensive and place an unfair burden on other employees. If you are going to be absent or late for any reason, you must notify your supervisor two (2) hours before your start time, unless otherwise specified by department policy. Frequent absenteeism may require verification from your doctor.

Notification from another employee or relative is not acceptable, except in an emergency. Excused absences (with pay) are fully described in the Excused City Time policy. (See Section 8.2). Failure to give proper notice of your absence, or if your supervisor considers your reason unacceptable, you may be charged with an unexcused absence. Employees will only be paid for time actually worked unless their absence falls under leave provisions.

Unauthorized absences from work shall be considered job abandonment. Time lost due to unexcused reasons may subject you to disciplinary action. An employee who fails to call in for three successive days to their immediate supervisor will be considered to have voluntarily resigned.

### **5.3 Breaks**

#### **1. Meal break**

Employees will have a sixty (60) minute meal break to be taken at a time set by the Department Head. The lunch break will be taken on the employees' own time, and is not paid. However, if work is required through the lunch hour, no break shall be charged and considered time worked. Additionally, any lunch break that does not exceed 20 minutes will also be compensated as time worked.

#### **2. Rest Breaks**

Employees may take two 15 minute breaks each day, one in the morning and one in the afternoon. Employees may leave their workstation at this time. The 15 minutes include travel time to and from break. Field employees shall take breaks in the field at work site unless authorized by Department Head to break

elsewhere. The supervisor may schedule breaks to ensure proper coverage at all times. There will be no accumulation of breaks.

#### **5.4 Inclement Weather**

The City Manager will evaluate weather situations and determine whether work times are delayed or whether City offices will be closed depending on the severity of the weather. Each department head will call their employees to inform them of a delay. Employees in the following departments are expected to report as scheduled: Police, Fire, Parks, Water, Wastewater and Municipal Operations Center. If the offices are closed, employees receive straight time for the time off, and employees required to stay are paid overtime, for actual time worked for the hours called by the City Manager.

## **6. COMPENSATION AND PAYROLL**

### **6.1 Pay Plan**

The City has a Pay Plan that consists of wages plus all other benefits of value to the employee, which result in a cost to the City.

### **6.2 Standards for Development of the Pay Plan**

The Pay Plan is tied to the Step Plan. Pay ranges may be determined on the basis of:

1. Uniformity of pay for each class;
2. Relative difficulty and responsibility of positions;
3. Prevailing wages with public and private entities;
4. Cost of living index;
5. Financial policies of the City (i.e., budget process); and/or
6. Other economic considerations.

### **6.3 Administration and Amendments of the Pay Plan**

The City Manager, Finance Director and Human Resources Director will administer the plan and review the plan every two (2) years by cost of living reviews and comparative wage surveys with other similarly situated governmental entities. The Finance Director and/or Human Resources Director may recommend amendments to the City Manager. If approved by the Manager, amendments shall be recommended to the City Council for budgeting purposes.

### **6.4 Pay Rate Adjustments**

#### **1. Transfers (Reassignment)**

When an employee is transferred (reassigned) from one position to another within the same classification (pay grade); the employee may continue to receive the same base rate and will be subject to a 12 month probationary period. The employee's anniversary date will change to the date of transfer. This section excludes temporary duty assignments within a department.

#### **2. Promotion**

The assignment of an employee from one classification to another classification with a higher minimum base rate and greater responsibility. The employee will be subject to a minimum of 12 month probationary period. An employee's anniversary date will change to date of promotion. A base rate shall be decided upon by the Department Head, reviewed by the Human Resources Director and Finance Director with final approval by the City Manager on a case-by-case basis.

#### **3. Demotion**

The assignment of an employee from one classification to another with a lower base rate and less responsibility. A lesser base rate will be decided upon by the Department Head, reviewed by the Human Resources Director with final approval by the City Manager on a case-by-case basis. An employee's anniversary date will not change. A probationary period will not be required. An employee is entitled to an Appeal Hearing as set out in Section 11.5.

4. Full Reinstatement

When reinstated from layoff for lack of work or from suspension from duty (with or without pay), the employee may be restored to the same classification and step the employee had at the time of the employment action.

5. Reinstatement to a Lower Grade

If reinstated from a layoff for lack of work to a lower classification, from suspension from duty (with or without pay), the employee shall receive a salary decrease consistent with the new position. A regular employee is entitled to an Appeal Hearing as set out in Section 11.5.

6. Reclassification

A reclassification is the elimination of employee's current position, and change to a different classification. The employee's anniversary date will change with the reclassification. A probationary period will be required.

7. Personnel Action Form

All personnel actions require a personnel action form. Notification must be given to the Human Resources Director for a form to be generated.

8. Merger of Positions (11-28-2011)

Merger of Positions is defined in Section 4.6. A base rate shall be decided upon by the Department Head, reviewed by the Human Resources Director and Finance Director, with the final approval by the City Manager on a case-by-case basis. An employee's anniversary date will not change. The City Manager, on a case-by-case basis, shall have the authority to require a not at-will probationary period. Regardless of whether the employee is given a not at-will probationary period, the City Manager shall have the authority to review, from time to time, the efficacy of the Merger of Positions on a case-by-case basis. If the City Manger determines at any point that the Merger of Position is not feasible or otherwise beneficial for the City, he or she shall have the authority to return both the existing filled position and the existing vacant positions to their initial pre-merger job responsibilities. In such an instance, the employee shall retain his or her initial pre-merger position and the employee shall return to his or her original pre-merger base rate, and a probationary period will not be required. This section excludes temporary assignments within a department.

## **6.5 Regular Rate Defined**

The regular rate for an employee is defined as the hours paid to that employee in a scheduled workweek. A scheduled workweek is defined as a forty-hour workweek for regular employees, and 80 hours per pay period for police officers.

## **6.6 Eligibility for Overtime Pay**

Non-exempt employees who work more than 40 hours in an established pay period when approved by a supervisor shall be paid at the rate of one and one-half (1½) times an employee's regular rate of pay for all actual hours worked. During periods when no work is performed due to vacation leave or sick leave, the leave cannot be calculated as time worked during that pay period. Those periods, whether paid or not, must be deducted and cannot be included as time worked. Employees who work 80 hours or less in a pay period shall be compensated at straight time. Overtime pay for FLSA exempt employees is not required for those employees who work more than 40 hours per work week.

Emergency overtime eligibility during a holiday week, or any other authorized absence—employees called to resolve an emergency after regular working hours shall be

compensated for all hours physically worked at straight time up to 40 hours at one and one-half (1½) times the employee's regular rate.

Non-exempt employees required to work a Holiday will be paid regular pay plus time and one-half (2 ½) time.

Part-time seasonal and temporary personnel working less than 40 hours per week will receive straight time unless hours worked in a 7-day period exceed 40 hours. In that case, they will be paid at one and one-half (1½) times their regular rate for actual hours worked.

## **6.7 Overtime Authorization and Recordkeeping**

Department Heads must maintain accurate records on non-exempt employees who work overtime and the reasons for the overtime. The Department Head or Supervisor must approve overtime. Any adjustments made in overtime records must be accompanied by a written explanation of why the adjustments were made.

## **6.8 Compensated Volunteers**

### **1. Policy**

The City encourages its employees to volunteer their time for community services. In most instances, the time volunteered occurs outside an employee's normal work schedule and is for duties substantially different from the employee's normal work duties/responsibilities. This time is not compensable. However, there are a few exceptions.

### **2. Scheduling**

Occasionally, volunteer duties may conflict with normal scheduled work hours. The employee is responsible for advising their Department Head and/or Supervisor of their volunteer duties. The Department Head has the discretion whether or not to allow an employee to volunteer during normal work hours, based on the needs of the department.

## **6.9 Call Back and Standby Pay**

### **1. Policy**

Non-exempt employees who are required to be on-call or on standby and who make their time after hours available for City service will be paid as provided by FLSA. Employees who are free to use their off time as they please, not required to remain on City premises but required to be reached by phone or pager, the time while on-call is not considered to be working time. The employee is not entitled to additional wages or an overtime premium by virtue of being on-call, waiting to be "paged" or "called" to come to work. Payment for Call-Back, On-Call and Back-up assignments is defined and illustrated below.

### **2. Definitions**

- a) Call Back Pay:

Non-exempt employees who are called back after having completed a prescribed workday will be paid for additional hours worked at the overtime rate, notwithstanding the forty (40) hour workweek definition. Also, employees who are called back and are dismissed by the management before working two (2) hours will be paid for a minimum of two (2) hours.

b) On-Call (Primary) Pay:

Non-exempt employees who are required to work assignments that require the employee respond on short notice, and be fully capable.

c) On-Call (Secondary) Pay:

Non-exempt employees who are required to work assignments that require the employee to leave work where they may be reached and be fully capable.

Day of Week	Hours	Call Back	On-Call Primary	Back-Up Secondary
Friday	5:00 p.m.— midnight	2 hours	2 hours	1 hour
Saturday	12:01 a.m.— midnight	2 hours	4 hours	2 hours
Sunday	12:01 a.m.— midnight	2 hours	4 hours	2 hours
Monday	12:01 a.m.— 8:00 a.m.	2 hours	2 hours	1 hour

d) On-Call (Primary) Pay (Firefighters):

Non-exempt firefighters who are required to work rotating weeknight assignments that require the employee respond within five (5) minutes and be fully capable.

Day of Week	Hours	On-Call Primary
Thursday — Wednesday	10:00 p.m.— 6:00 a.m.	4 hours

e) If the additional worked hours (worksites) exceed the 40 hour workweek, overtime rates would apply for time beyond 40 hours.

### 6.10 Holiday Pay Procedure

All regular employees will be eligible for holiday pay on those dates approved by the City Council equal to their regularly scheduled work day, with the following provisions:

1. Paid Holidays

If a paid holiday occurs while an employee is away on annual leave, the employee's supervisor will account for that day as a holiday on the employee's time sheet.

2. Holiday When Employee is Scheduled to Work

If a holiday occurs on a day when an employee is scheduled to work and is not at work due to illness, that day should not be deducted from the employee's sick leave accrual, but will be charged as a holiday.

3. If Employee is Sick Before or After a Paid Holiday

If an employee is sick the day before or the day after a paid holiday, a physician's return to work may be required by the Department Head. An illness that occurs the day before or the day after a paid holiday may be investigated.

4. Holiday Hours for Non-exempt Employees

Holiday hours physically worked by non-exempt employees, including Police Officers working shift schedules, will be paid regular pay plus time and one-half time which equals 2 ½ time.

5. On-call Employees

On-call employees called to service on a holiday shall be compensated eight hours straight time plus one and one-half (1½) time for hours physically worked on call.

6. Non-Exempt Employees

Non-exempt employees whose normal scheduled day off falls on a paid holiday shall not be compensated for the holiday, however, they may take another day off within the same pay period, as approved by their Department Head.

7. Seasonal/Temporary/Student Employees

Seasonal/Temporary/Student employees will not be paid unless they physically work the holiday and will be paid their regular pay.

### **6.11 Payroll Schedule**

All employees will be paid by check on a biweekly basis, on the Friday after the end of the pay period. If a scheduled payday falls on a City-observed holiday, employees will usually be paid on the day preceding the holiday.

### **6.12 Timesheets**

To ensure that accurate records are kept of hours actually worked and of the leave time taken, all non-elected employees are required to record time worked and absences on department timekeeping records. Actual hours worked and leave time taken must be recorded accurately. Failure to accurately record time can result in disciplinary action up to and including termination.

## 7. BENEFITS

### 7.1 Educational Aid

The City shall reimburse 100% of the cost of an employee's tuition and associated instructional materials (books, etc.), not to exceed \$2,000 in a fiscal year (July 1 through June 30). This subsidy is contingent upon the employee completing the course of instruction with a passing grade of C or better. Instruction must be work-related and approved by the Department Head and City Manager prior to registering.

### 7.2 Employee Assistance Program

The City provides the Employee Assistance Program to assist employees in resolving issues and problems through counseling and support service resources. The services, limited to four visits, are for benefit-eligible employees and qualified dependents residing in the employees' household and are free of cost to employees.

### 7.3 Medical, Disability and Life Group Benefits

The City provides regular employees with Group Insurance benefits. A regular employee is scheduled to work twenty (20) or more hours per work week on a continual basis. This definition excludes coverage for seasonal, temporary and student employees. (see Employment Classifications). The specifics of the coverage are detailed in Group Insurance Certifications, which are the "controlling documents" for determining eligibility and coverage.

#### 1. Types of Coverage

##### a) Medical, Vision, Prescription Drug Expense and Dental Care:

Coverage may be provided for regular employees and their qualified dependents. Coverage may provide for a comprehensive array of medical, dental and vision care benefits that include "pharmaceutical expense" provisions. Participants in the City's Group Benefit Plan must be willing to share a portion of the premium cost (see Section 7.3.2 below).

##### b) Life Insurance benefits:

Includes basic and supplemental coverage. Dependent Life Insurance coverage may also be provided.

##### c) Weekly Disability Income Insurance:

Coverage may be provided for all regular employees

##### d) Premium Only Plan (IRS 125):

Regular employees can elect to pre-tax their qualified insurance premiums. Additional voluntary benefits may be provided by the carrier approved for the IRS 125 Plan.

2. Co-Sharing Premium Cost (City and Eligible Employee)

a) Annual Determination:

Annually, through the budget process, the premium cost percentages to be shared between the City and the employee will be determined, including employee, employee plus one and family coverage.

b) Right to Amend:

Because future conditions cannot be foreseen with certainty, the City does reserve the right to amend, terminate or change the amount contributed to Group Medical Plan coverage.

3. Effective Date

Medical Group Plan coverage becomes effective the first day of the month following thirty (30) days of employment for regular employees. It is extremely important that eligible employees give full consideration to immediate coverage at their time of eligibility. This is critical because if coverage is not taken on the "first date of eligibility," the employee must submit evidence of insurability. The insurance company must then evaluate the medical status of the applicant and his or her dependents. The insurance company (or carrier) has the option of declining coverage. Employees electing coverage at "initial eligibility" are not subject to medical screening.

4. Open Enrollment

Open enrollment occurs in the month of June each year. An employee may obtain coverage for themselves and qualified dependents during Open Enrollment, with coverage effective July 1.

5. Special Enrollment Life Events

It is important for employees with Medical Group coverage to inform the Human Resources Director of newly born children and/or changes in dependent status (family coverage needs). Newly acquired family members must be immediately enrolled in Medical Group coverage to avoid the need for medical screening (evidence of insurability) and the possibility of coverage rejection. Dependent data must be provided to the "insurance carrier" no later than 30 days after birth or 30 days after dependent status was acquired. The employee is responsible for notifying the Human Resources Director within 10 days in changes in dependent status due to divorce, death of dependent or if the spouse loses employment. Failure to timely make notification may subject the employee to disciplinary action.

6. Continuation of Medical Coverage after Job Separation and Other Life Events (COBRA)

Coverage after separation from City employment and other qualifying events can be continued under COBRA. COBRA continuation coverage can become available to you and members of your family when you would otherwise lose your group health coverage. You must give notice of qualifying events such as divorce or

legal separation or a dependent child's losing eligibility for coverage as a dependent child, in writing, to the Plan Administrator, within 60 days after the qualifying event. For additional information about your rights and obligations, you should contact the Human Resources Director.

#### **7.4 Professional Associations**

City employees are encouraged to belong to organizations that will benefit their occupation. Dues, membership and subscriptions may be paid by the City. Appropriate travel and per diem expenses to attend meetings and/or training programs will be considered for reimbursement. Employees may make application to their Department Head for payment by the City. Requests that merit consideration will be referred to the City Manager for final review and action. The City Manager will have final authority whether or not to approve professional association and training expense requests, and association travel and per diem expenses.

#### **7.5 Retirement - New Mexico State Retirement Plan (PERA)**

The City currently pays into the Public Employees Retirement Association for all appointed, full-time, and part-time regular employees. All regular employees must work an average minimum of 20 hours per week. Temporary/Seasonal/Student employees are not eligible for PERA. Certain exclusions exist for members of New Mexico Educational Retirement Plan and retirees of PERA. Please consult with the Human Resources Director for more information.

#### **7.6 Deferred Compensation (457 Plan)**

Employees may enroll in the State of New Mexico Deferred Compensation Plan. This benefit is voluntary and participation is governed by the terms and conditions of the Plan Document. Please consult with the Human Resources Director for more information.

#### **7.7 Credit Union**

Direct deposits may be made to employees' credit union accounts with appropriate paperwork provided to the Payroll Specialist.

#### **7.8 Safety Equipment Reimbursement**

The City shall reimburse employees up to \$150.00 per fiscal year (July 1 through June 30), or up to two fiscal years totaling \$300.00, for prescription safety glasses. For employees engaged in construction/maintenance activities, the City shall reimburse employees up to \$180.00 per fiscal year (July 1 through June 30) for up to two pair of steel toed boots. Documentation of the purchase and cost is required for reimbursement

## **7.9 Unemployment Insurance**

The City participates in the State Unemployment Insurance Program. Employees who separate from their employment with the City may be eligible for unemployment benefits in accordance with the rules and provisions as provided by the State

## **7.10 Workers Compensation**

All City employees are covered under the provisions of the New Mexico Workers' Compensation Act. All on the job accidents must be reported immediately to the employee's supervisor. The supervisor and the injured employee must complete the appropriate forms and forward to the Human Resource Office as soon as possible or no later than 8 hours after injury/accident. Pursuant to state regulations, the City reserves the right to choose the first medical provider. After 60 days, the employee has the right to change medical providers. Return to work documents must be submitted by the employee to the Human Resource Office before returning to work.

If the injury or illness prevents an employee from returning to work, the Workers Compensation (WC) leave will be subject to the following conditions:

- The first seven (7) calendar days for the day the employee leaves work as a result of the injury may be counted as sick leave or vacation leave, provided the employee has a sufficient leave balance.
- If the period of injury last longer than twenty-eight (28) calendar days from the day the injured employee leaves work as a result of the injury or illness, disability benefits will be counted from the day the employee first left work.
- Sick leave and vacation leave will not continue to accumulate during any full calendar month(s) in which the employee is absent due to WC leave. Also, holiday pay will not apply.

The City's make-up benefit will ensure that those employees whose earnings are above the state salary cap will receive an overall benefit that will equal 66.667% of their salary level while on authorized Workers' Compensation leave. This make-up benefit is considered "salary compensation" and will be subject to federal and state taxes. The make-up benefit for employees earning above the "salary cap" is limited to the initial six (6) month period of Workers' Compensation disability.

## 8. LEAVE

### 8.1 Sick leave

Sick leave is provided for all regular employees to avoid loss of income when an employee is unable to perform work due to illness or injury. Sick leave begins to accrue on the first month of employment, but cannot be used until after three continuous months of employment have been completed.

#### 1. Accrual

An employee accrues sick leave at the rate of eight (8) hours per month. A regular part-time employee's rate of accrual will be prorated in accordance with hours actually worked. Sick Leave can not be accrued during a period when leave of absence without pay (LWOP) is granted.

#### 2. Use

An employee may take accrued and vested sick leave for generally accepted medical or health maintenance reasons, for themselves or for the care of qualified dependents after completing three months of continuous employment. In the event of a Workers Compensation injury or illness during the three month waiting period, an employee may use accrued sick leave. Sick leave may be taken for illness or disability of the employee or any dependent living within their household, or related to the first degree by blood or marriage.

#### 3. Pay

Employees absent from work due to illness or injury will be on the payroll in a leave-with-pay status for time equal to leave already accrued. Any absence for illness beyond accrued credit will result in carrying the employee on the payroll in a leave-without-pay status.

#### 4. Absence

Employees who are absent from work due to illness must report their absence to their supervisor before the start of their shift. (See absenteeism, section 5.2.)

#### 5. Abuse

If it is suspected that sick leave is being abused, the supervisor or department head may request a physician's statement of the reasons for illness. Sick leave cannot be used to extend vacation leave. That is an abuse of privilege which is not permitted.

#### 6. Maximum Accumulation

Sick leave will be accumulated, or carried forward, up to a maximum of 720 hours (90 days). Sick leave beyond 720 hours (90 days) in a given fiscal year is subject to special settlement. Compensation for Sick leave hours in excess of 720 shall be paid at 25% of the employee's base hourly pay. Example: Employee completed a fiscal year (June 30) with 710 credited hours. Those 710 hours are

carried forward into a new fiscal year. During the next fiscal year, 96 hours are credited, and the employee used 26 hours.  $710 \text{ hours} + 96 \text{ hours} - 26 \text{ hours} = 780 \text{ hours}$ .  $780 \text{ hours} - 720 \text{ hours} = 60 \text{ hours}$ . Employee shall be compensated for 25% of the 60 hours over the 720 maximum allowable accumulations. Payment is made in July of each year.

7. Separation from Employment

a) Normal separation:

Compensation will be based on 25% of the sick leave value based on the employee's rate of compensation upon separation.

b) Retirement:

Compensation will be paid based on 50% of the sick leave value based on the employee's rate of compensation at retirement.

8. Donation Credits

A City employee who has sick leave credits beyond thirty (30) days (240 hours) may donate up to 20% to another employee. This will only apply in cases of documented illness where the receiving employee has exhausted all sick leave and vacation credits. Time donated will be converted on a day-for-day (hour for hour) basis. If the receiving employee does not use all of the donated credits, the remaining hours (credits) will be prorated back to employees who voluntarily donated credits per fiscal year.

**8.2 Excused City Time**

The City recognizes certain absences as excused time off with pay. Where practical, employees shall coordinate their needs for ECT in advance. In case of emergency, employees are expected to call in prior to or within two hours after their normal work day begins to advise of the need to take ECT. Regular employees will be allowed ECT based on need, based on the following guidelines:

1. Administrative Leave

Exempt employees will be granted sixty (60) hours of administrative leave per calendar year. Administrative leave will not be carried over from one calendar year to another. No compensation will be paid for unused Administrative Leave upon separation.

2. Court Summons

An employee may be granted ECT when summoned to appear in court as a witness unless he or she is a party to the case or an expert witness. Employees summoned to appear in their official capacity as a City employee are not covered within this policy. Such attendance is considered a compensated time within the scope of assigned duties.

3. Jury Duty

Employees shall provide documentation of jury duty service to their supervisor. Employees excused for jury duty will be paid their regular compensation and any fees received for jury service. Employees must return to work after jury duty is completed.

4. Co-worker Death

ECT may be arranged in advance with the employee's supervisor for employees who wish to attend a co-worker's memorial or funeral service within a fifty (50) mile radius. This benefit is also available to Seasonal and Temporary Part-Time employees

5. Death in Immediate Family

Employees will be granted three (3) days of ECT to make funeral arrangements and attend services for immediate family. For the purposes of this policy, "immediate family" includes: spouse, children, mother, father, sister, brother, grandparents, grandchildren, mother-in-law, father-in-law, son-in-law, daughter-in-law, step family of the same relations and foster parents and children. If travel exceeds 299 miles each way, the employees will be allowed two (2) additional ECT days.

6. Voting

Employees will be granted two (2) consecutive hours of time to vote if they are unable to vote in the hours provided for voting. Requests shall be made in advance of Election Day, and management may specify the hours during which the employee may be absent. This benefit is also available to Seasonal and Temporary Part-Time employees.

### **8.3 Family and Medical Leave**

The Family and Medical Leave Act (FMLA) gives eligible employees the right to take up to 12 weeks of unpaid leave, or paid leave if it has been earned, in a fiscal year. Employees are required to use accrued paid leave (vacation, sick leave, etc.) as all or part of the 12-week entitlement. Employees on Family and Medical Leave will continue to accrue vacation and sick leave benefits.

1. Definition

A family and medical leave of absence is defined as an approved absence available to eligible employees for up to twelve weeks of unpaid (or paid leave if it has been earned) per fiscal year. Leave may be taken upon the birth of the employee's child, upon the placement of a child with the employee for adoption or foster care, when the employee is needed to care for a child, spouse, or parent who has a serious health condition; or when the employee has a serious health condition.

## 2. Scope

The provisions of this policy shall apply to all family and medical leaves of absence unless the leave is covered under other paid employment benefit plans or policies for any part of the twelve weeks of leave to which the employee is entitled. In other words, if an employee is entitled to paid leave under another benefit plan or policy, the employee may be required to take the paid leave concurrently.

## 3. Eligibility

To be eligible for leave under this policy an employee must have been employed for at least twelve months in total, and must have physically worked at least leave 1250 hours during the twelve month period preceding the commencement of the leave.

## 4. Procedures

### a) Completion of Request for Family and Medical Leave of Absence Form:

A request for Family and Medical Leave of Absence Form must be completed by the employee. This form should be completed in detail, signed by the employee, submitted to the Human Resources Director. If the leave is foreseeable, the employee must provide at least 30 days' advance notice or as soon as practicable, normally the same business day or next business day if off work when employee learns of need for leave. If less than 30 days notice is given, the employee may be required to provide an explanation of why 30 days' advance notice was not practicable (i.e., planned medical treatment for a serious health condition of employee or family member, expected birth etc.) If there is an emergency where 30 days cannot be given, notice must be given as soon as possible. Any period of delay in notification may count as non-FLMA absence.

### b) All requests for family and medical leaves of absence due to illness:

Will include a completed Medical Certification form completed by the medical provider.

### c) Both forms may be obtained at the Human Resources Office.

## 5. Provisions Not Addressed in Policy

Any provisions not addressed in this policy will be governed by the Federal Family and Medical Leave Act of 1993 and subsequent amendments.

## **8.4 Service Member Family and Medical Leave**

The Family and Medical Leave Act (FMLA) allows eligible employees to take leave for a covered family member's service in the Armed Forces ("Servicemember FMLA"). Servicemember FMLA provides eligible employees unpaid leave for any one, or for a combination, of the following reasons:

1. Qualifying Exigency

A “qualifying exigency” arising out of a covered family member’s active duty or call to active duty in the Armed Forces in support of a contingency plan; and/or

2. Caring for a Covered Family Member

To care for a covered family member who has incurred an injury or illness in the line of duty while on active duty in the Armed Forces provided that such injury or illness may render the family member medically unfit to perform duties of the member’s office, grade, rank or rating.

For more information, contact the Human Resources Director.

**8.5 Holidays**

The following 11 days have been designated by the City to be paid holidays for all full-time regular employees. Part-time regular employees are provided paid holidays at one-half the benefit provided to full-time employees, or 4 hours paid for each holiday; seasonal, temporary and student employees will not be paid unless they are schedule to work the holiday and at regular pay:

New Year's Day.....	January 1st
Martin Luther King’s Birthday.....	2nd Monday in January
Presidents Day.....	3rd Monday in February
Memorial Day.....	Last Monday of May
Independence Day.....	July 4th
Labor Day.....	1st Monday in September
Columbus Day.....	2nd Monday of October
Veteran's Day.....	November 11th
Thanksgiving Day.....	4th Thursday of November
Christmas Day.....	December 25th
Personal Holiday.....	Per calendar year

The actual day to take the holiday may be moved with the approval of City Council.

Regular non-exempt employees who must work on a holiday will be paid for all hours worked (minimum of two (2) hours guaranteed) at a rate of time and one-half time their regular rate. This overtime is in addition to the employee’s normal pay for the holiday.

Seasonal, temporary and student employees will be paid for any hours worked on a holiday on a straight-time basis unless the hours worked during the workweek have exceeded the standard forty (40) hours.

## **8.6 Leave Requests**

A Leave Request must be completed by all employees prior to taking Vacation Leave approved by the Immediate Supervisor or Department Head. This may be done electronically or hard copy. A Leave Request must be completed for all other requests (i.e. administrative, Excused City Time, sick leave, leave without pay, bereavement etc.) within the pay period or upon return to work and must be approved by your Supervisor or Department Head (electronic or hard copy). A Department Head's Leave Request must be approved and signed by the City Manager or designee (electronic or hard copy).

## **8.7 Leave Without Pay Status**

Leave Without Pay (LWOP) may be awarded voluntarily or involuntarily for a variety of reasons. While an employee is on LWOP status, they are on the inactive payroll and all employer benefit contributions are suspended. NOTE: The Family Medical Leave Act (FMLA) provides for a continuation of benefit payments for qualifying events.

### **1. Involuntary LWOP**

Employees are usually assigned to this status for disciplinary reasons as a result of employee misconduct. In those cases, LWOP status assumes the form of suspension from duty without pay for a specific period of time. Involuntary LWOP status is initiated by the Department Head and approved by the City Manager. This action may be appealed (see Appeal Process 11.5).

### **2. Voluntary LWOP**

LWOP may be approved only when all other leave has been exhausted. This type of leave may be requested by employees for a variety of reasons not covered under the FMLA. Approval of LWOP is discretionary on a case-by-case basis. Each request will be considered in terms of work load, staffing levels, business necessity, and availability of personnel, timeliness, and other job-related factors. Voluntary LWOP status must be initiated by the Department Head and approved by the City Manager.

### **3. Reinstatement from Involuntary LWOP Status**

Reinstatement will be made only if a vacant position exists for which the employee who was on LWOP qualifies. The City Manager shall make the final determination concerning reinstatement based on suitability, budgetary constraints, staffing levels and other related factors.

### **4. Continuation of Certain Benefits.**

The immediate Supervisor or Department Head is responsible to make sure that employees on LWOP status receive information on what happens to their benefits during that period. The employee may continue as a member of the Employee Health Care Plan in accordance with the provisions of the applicable insurance contract by paying both his/her share and the City's share. If the LWOP status is due to medical disability as defined by the FMLA, the employee may continue to be covered under the City's group insurance by paying only

his/her portion of the benefit. All other contributions such as accrual of Sick and Vacation Leave, Holiday Pay, contributions to PERA and all other kinds of paid leave are forfeited during the period of LWOP.

## **8.8 Military Leave**

The City supports employee participation in military reserve and National Guard service and associated annual and/or special training programs. City employees will be provided time off to attend annual encampments and/or special training sessions required to maintain "Active Reserve or Guard" status. Employees are required to coordinate training attendance requirements with management to ensure that proper scheduling requirements are taken into consideration.

### **1. Eligibility**

City employees who are active members of the National Guard, Air National Guard or other active Reserve Components of the Armed forces are eligible to apply and receive approval, where appropriate, for Excused City Time (ECT) to attend annual encampments and/or training sessions or other related training requirements.

### **2. ECT**

Employees will be granted ECT under the following conditions:

- a) To attend annual two-week encampments and/or training sessions.
- b) To attend cruises associated with encampments and/or training sessions.
- c) To attend service schools relative to special courses of instructions.
- d) To meet mandatory penalty training requirements imposed as a result of missing training sessions. These sessions normally require absences up to forty-five (45) days.
- e) To perform active duty in emergencies declared by the Governor or for short periods of time not to exceed twenty-five (25) days.

City employees will be provided ECT (administrative time off) for only fifteen (15) days. Additional time off will be non-compensated (LWOP), unless vacation time is used.

### **3. Scheduling**

Because encampments and/or training sessions are typically scheduled in advance, employees must advise management of the need to attend training sessions no later than three (3) months in advance. A written request outlining the dates of training and enclosing notice of training (orders, etc) must be provided, unless an exception is approved by the City Manager.

### **4. Compensation & Benefits on ECT**

Military pay (base pay only) received will offset City compensation (base salary). Upon return from military service, employees will present to the Payroll Specialist the official record of their military compensation. Based on the

military base pay received, the balance of the proper City base pay will be paid. EXAMPLE: If military base pay was \$700.00 and normal City base pay is \$960.00, the employee would be entitled to a City payment of \$260.00, less appropriate taxes and payroll deductions. Vacation and Allowable Sick Time will continue to accrue during period of service. Medical and dental coverage and like benefits will continue, and where appropriate, the employee share of premium deductions applies. In cases of non-pay status, the employee may arrange to continue medical and dental coverage by separate payments of his/her elected coverage premium amount. Pre-arrangements should be made before departing for training (contact Payroll Specialist).

5. Reinstatement

If military service results in extended military duty the City employee will be eligible for employment reinstatement rights upon completion of active duty service. The employee shall be reinstated within a reasonable time to the same position or to a position of like seniority, status and pay upon application within ninety (90) days after being relieved from active military service.

**8.9 Vacation Leave**

1. Regular Full-Time and Part Time

The City grants vacation leave to its regular full-time and part-time employees. Regular, full-time employees earn vacation credits on a monthly basis at the following rates:

**Regular Full-time Employees**

<u>Years of Service</u>	<u>Accrual Rate</u>
0-5 years	8 hours per month/12 days per year
5-10 years	10 hours per month/15 days per year
10 or more years	14 hours per month/21 days per year

Regular part-time employees earn vacation credit prorated based on a 40 hour work week. (An employee who works 20 hours per week earns 50% credit; and employee who works 32 hours per weeks earns 80% credit). Accrual begins the first day of employment. Vacation leave will not accrue while an employee is on a non-pay (LWOP) status.

2. Milestone

New credits are awarded at the beginning of the service milestone year. Example: Employment begins April 15, 2008. Effective April 16, 2013, new milestone credits based on “5 but less than 10” years will begin.

3. Seasonal/Temporary/Student

These positions do not receive vacation credits, but may take leave without pay, if approved in advance by the employee’s supervisor.

4. Maximum Accrual

Vacation credits may be carried forward from fiscal year to fiscal year. The maximum accruals are as follows:

<b>Years of City Employment (most recent employment)</b>	<b>Maximum Hrs. per Fiscal Year End (June 30)</b>	<b>Maximum Days per Fiscal Year End (June 30)</b>
Less than 5 years	240 hours	30 days
5 but less than 10 years	300 hours	37.5 days
10 and more years	360 hours	45 days

Employees whose credits exceed those listed above as of June 30 will lose the credits in excess of the maximum stated amounts.

5. Urgent Work Situations

Sometimes due to urgent work situations, an employee may be unable to take a planned vacation. When this occurs, and the employee would be subject to a loss of vacation credits (maximum carry-forward), a cash settlement for possible lost credits may be appropriate. The facts regarding the urgent work situation will be documented and submitted to the City Manager for consideration. In no case should a commitment of an “urgent work environment” be made until the documentation is reviewed and acted upon by the City Manager. Settlement for management employees must be referred to the City Council for consideration.

6. Cash Settlement at Job Separation

Employees will be paid for unused vacation credits upon separation of employment. Payment will be made on the basis of the employee’s normal salary at separation.

7. Scheduling

City supervisors and managers will ensure that an “annual vacation schedule” is established. Vacation may be taken as weekly periods, individual days, or even hourly increments as long as the periods chosen meet with departmental approval. It is important that the vacation schedule take into consideration work activity during the year. Each employee will be given the opportunity to indicate their preference for a planned vacation. If a conflict in scheduling occurs, the employee with greater seniority will be given preference. Although vacation should be scheduled, “unscheduled” vacation requests will be appropriately considered. Unscheduled vacation requests must be made as soon as possible.

## **9. EMPLOYEE CONDUCT**

### **9.1 Confidentiality**

City policy requires that employees follow the applicable city policies, state or federal laws when releasing confidential information to outside sources.

### **9.2 Conflict of Interest**

City policy requires that no employee will have a direct or indirect financial interest or by reason of corporate stock ownership, in any contract or in the sale to the City or to a contractor supplying the City of any land rights or interests in any land, material, supplies, equipment or services.

### **9.3 Dating**

The City discourages dating between co-workers. The City prohibits dating between supervisors and subordinates within the same department.

### **9.4 Dress**

A neat, business-like appearance and good hygiene are job requirements. It is expected that all employees exercise good judgment and dress appropriately for their jobs. Low cut tops are not allowed. Tattoos and body piercings (other than standard ear piercings) should be concealed in order to present a professional appearance. The following factors should be considered when determining appropriate dress:

- The nature of the employee's work.
- Safety considerations, such as necessary precautions when working near machinery or hazardous work areas. Employees will be required to wear proper safety equipment at all times, without exception for any reason.
- The nature of the employee's public contact, if any, and the normal expectations of outside parties with whom they will work.
- The prevailing dress practices of other workers in similar jobs.
- The City recognizes "Casual Friday" for employees, with the following restrictions: No tee-shirts or beach-type flip flops. Jeans must be in good condition. The City reserves the right to revoke this privilege.

When an employee's dress or hygiene does not comply with established standards, the supervisor will discuss the matter with the employee. The supervisor may take disciplinary action if the conduct continues to fail to comply with this standard.

## 9.5 Drug Free Workplace

### 1. Health and Safety

Abuse of drugs or alcohol on the job is unsafe. Substance abuse poses a significant health and safety threat to employees, co-workers and employers. The United States government has imposed legislation and regulations requiring a Drug Free Workplace. The City is required to implement comprehensive policies and procedures addressing workplace substance abuse.

### 2. Treatment

Chemical dependency may be successfully treated, allowing the employee to maintain or to return to satisfactory job performance. City policy is not to discipline an employee for chemical dependency, in and of itself. The City strongly encourages an employee who recognizes that he or she has a substance abuse problem to voluntarily seek assistance through medical providers and/or appropriate treatment programs.

### 3. Alcohol and Drug Use Prohibited at Work

The City prohibits employees (and others) from using, possessing, manufacturing, or transferring alcohol, drugs, or other controlled substances on City Property or in City vehicles. Intentional misuse of prescription drugs also violates this Policy. Violations will result in immediate termination for the first violation.

### 4. Pre-employment Testing

The City will conduct pre-employment substance abuse testing for all applicants for illegal or controlled substances. "Substances" are defined as any illegal or controlled drugs, including prescription medications. The term "abuse" may include "use." The testing cost will be paid by the City. Testing procedures will be conducted in a controlled manner that complies with legal requirements. Testing will be conducted with reasonable sensitivity to the applicant's privacy. Testing laboratories (or medical providers) used will be certified to meet governmental standards. Applicants testing positive for substances (besides medically prescribed drugs/medications), will be denied employment. Applicants may re-apply after six (6) months from the application.

### 5. Fitness for Duty Determinations

Employees are required to report to work unimpaired, in a mental and physical condition allowing them to perform their jobs productively. It is the ongoing responsibility of an employee's supervisor to determine the employee's fitness for duty while on work duty. If an employee, while on the job, is believed to be under the influence of alcohol or non-prescribed, illegal drugs or other controlled substances, the employee could be a risk to himself/herself and others. If a supervisor or management representative believes that there is a potential risk to the security, health and safety of the employee, a co-worker or

others, the supervisor or management representative is required to initiate fitness-for-duty or reasonable-suspicion substance abuse testing.

6. “For Cause” Substance Testing

“For-cause” substance testing may be required for, but not limited to involvement in a work-related vehicle (City owned or leased) crashes, industrial accidents, police shootings, or incidents that did or could have caused property damage.

All City of Bloomfield employees are subject to post-accident drug and alcohol testing when their actions or conduct contributed to an accident or vehicle crash; or cannot be completely discounted as a contributing factor to the accident; and where medical attention, greater than on-site first aid treatment, is required or where property damage exceeds \$1,000.

7. “Reasonable Suspicion” Testing

Substance testing may be performed on any employee if there is reasonable suspicion to believe that he/she may be under the influence of drugs or alcohol. Reasonable suspicion may include but is not limited to:

- a) abnormal or erratic behavior,
- b) physical symptoms such as slurred speech, poor or lack of coordination, glazed or bloodshot eyes, or a distinct breath odor,
- c) abnormal decline in work performance,
- d) frequent absence or tardiness, or
- e) adequately based information from a reliable source.

8. Random Testing

The City reserves the right to random test any employee for substance abuse.

9. Refusal to Test

An employee who refuses testing will be immediately suspended and placed on administrative leave status (pay or non-pay) pending investigation. Employment reinstatement with back pay and/or employment termination could follow given to the investigation findings.

10. Positive Test

Any employee, regardless of job classification, who tests positive for any substance abuse will be subject to termination for the first offense.

11. Reporting Job Related Convictions

An employee who is convicted, pleads nolo contendere, or is subject to the imposition of a sentence for on-the-job activity involving illegal drugs, controlled substances or alcohol is considered in violation of this policy, which will be subject to termination for the first offense. Employees are required to report such convictions to the Human Resources Director and/or City Manager within five (5) days of the conviction (court action). A conviction includes, but is not

limited to manufacture, distribution, sale, use or possession of any illegal drugs or controlled substance for which the individual does not have a current prescription from a licensed physician and DWI/DUI. Non-work related arrests must be reported by the next scheduled shift.

## **9.6 E-Mail, Internet and Voice Mail Policy**

### **1. Introduction**

The City's technology resources, including desktop, laptop and portable computer machines, Internet ("web") access, voice mail, and electronic mail ("e-mail") provide employees quick and efficient access to information. When used properly, these resources greatly enhance employee productivity and knowledge. This policy applies to all technological resources which are owned by the City, used on or accessed from City premises, or that are used for City business. It also applies to all activities using any City paid accounts or other tech services, such as Internet and Web access, voice mail and e-mail, whether or not the activity was conducted from City premises.

### **2. City Supplied Communications Systems**

City supplied communications systems, including but not limited to, voice mail, e-mail, electronic mailing lists, and cell phones, are intended to assist the City and its employees' performance of City-related business only. All City supplied communication systems are City property. As such, all voice mail, e-mail and text messages created, sent and received are City property. The City reserves the right to retrieve and read any message composed, sent or received. Even when a message is deleted, it is still possible to recreate the message. The ultimate privacy of messages is not guaranteed to anyone. Despite the City's right to retrieve, read or listen to any such messages, they should be treated as confidential by other City employees and accessed only by the intended recipient. Employees are not authorized to retrieve or listen to any messages that are not sent to them. Employees shall not attempt to gain access to another person's messages or files without proper authorization.

City supplied communications systems may not be used to solicit for commercial ventures, religious or political causes, investment, pyramid schemes, chain letters, spamming (unsolicited e-mail), or other non-City related purposes. In addition, City supplied communication systems may not be used to create or disseminate any offensive or disruptive messages. Messages that contain obscenity, pornography, threats, intimidation, defamatory content, sexual comments, jokes or images, racial slurs, gender-specific comments, or any comments, jokes or images that are intended or likely to offend a reasonable person on the basis of his or her age, physical or mental disability, gender, race, religion, national origin, physical attributes, sexual orientation, or other classification protected by law are strictly prohibited.

### 3. Internet Access

City supplied Internet access is supplied to assist the City and its employees in the performance of City-related business only. City supplied web access may not be used to create or send any offensive or disruptive messages, or to create, send, store, transmit, forward, cut, paste, copy, print, save, send by fax, upload, or download any messages in violation of the copyrights, trademarks, service marks, trade secrets, patents, intellectual property or other confidential or proprietary information of any party. Further, Internet access to sites and services which contain obscenity, pornography, threats, intimidation, defamation, sexual comments, jokes or images, racial slurs, gender-specific comments, or any comments, jokes or images that are intended to or are likely to offend a reasonable person on the basis of his or her age, physical or mental disability, gender, race, religion, national origin, physical attributes, sexual orientation, or any other classification protected by law are strictly prohibited.

In addition to these restrictions, City supplied Internet access may not be used for the unauthorized copying or transmission of text, software, photographs, video images, graphics, music or sound recordings. City supplied Internet access is provided for City-related use only and should not be used for the benefit of any individual or other business. Employees are prohibited from playing web-based games during normal work hours. Download of any software must be approved by the IT Specialist, unless approved by the Department Head.

### 4. Public Requests for E-mail Records

E-mail correspondence among elected officials to discuss public business is subject to the open meetings law, [NM 14-2-6]. Moreover, e-mail correspondence between the City employees may be a public record pursuant to [NM 14-2-6] and may be subject to public inspection. E-mail messages and attachments that are public record shall be made available for public inspection as provided by law. Each employee is the custodian of his or her incoming and outgoing e-mail. Whenever a request is made for e-mail records pursuant to [NM 14-2-6] the employee in question shall consult with the City Clerk or City Attorney to determine whether the requested records are public. When e-mail records are requested under [NM 14-2-6], the employee shall use whatever methods are efficient and cost-effective for the requesting person to inspect and copy the requested records. In order to facilitate research and retrieval of e-mail records that may be requested by the public, employees should take care to use a descriptive subject line that accurately reflects the topic of the e-mail correspondence.

By using City supplied communication systems and web access, and by signing an acknowledgement of this policy, employee consents to the City reviewing, intercepting, and/or disclosing all documents or messages created by, received by, sent by or on City communication systems. Unauthorized use of City supplied communications systems and web access may be grounds for disciplinary action, up to and including termination.

## 9.7 Ethics

City employees may not use their positions for personal gain or to give unwarranted benefit or treatment to any person. The City respects the employee's right to engage in activities outside his or her employment which are private in nature and do not in any way conflict with, or reflect poorly on the City. The City reserves the right however, to determine when an ethics violation has occurred.

### 1. Misuse of Official Position

City employees may not use their official position to secure employment or obtain contracts from other organizations; accept pay from anyone other than the City for the performance of their official duties; take or withhold official action on a matter in which they have an outside personal or financial interest; use City time, equipment, property or facilities for personal and/or financial benefit; or coerce subordinates in any manner which will result in outside financial benefit to the supervisor.

### 2. Gifts

City employees may not accept gifts exceeding a nominal value that benefit the employee's personal or financial interest if it can be reasonably inferred that the gift is intended to influence the employee's actions or judgment. Any gift received by an employee, whose action can affect the giver, must be reported to the employee's supervisor immediately. Gifts include money, items of value, services, loans, travel, entertainment, hospitality and employment.

### 3. Improper influence

No City employee whose action or inaction can affect the award, administration of a City grant or contractor loan, may apply for, be a party to or have an interest in that city grant, contract or loan.

### 4. Improper Representation

No City employee may accept outside payment or financial benefit to represent, advise, or assist an individual in any matter being handled by the employee's administrative department.

### 5. Legal Requirements

No employee will do anything in the conduct of business which would violate any local, state, or federal law.

### 6. Aiding a Violation of Employee Ethics Policy

Aiding another city employee to violate this policy is prohibited.

## 9.8 Outside Employment

The City depends on each employee to devote full attention and effort to City job duties, and considers City employment an employee's "primary" job. Outside employment will not be considered an excuse for poor performance, absenteeism, tardiness, or refusal to work

overtime. An employee wishing secondary employment, including self-employment, will submit a written request prior to accepting the job stating the type of employment and work hours involved. The request will be submitted to the employee's immediate supervisor for evaluation and approval by the Department Head and City Manager. The criteria to evaluate the request include whether the position:

1. Interferes with the employee's performance at the City
2. Represents a conflict of interest or
3. Harm's the City's credibility

Failure to comply with this procedure may be grounds for disciplinary action, up to and including termination.

### **9.9 Political Activity**

No City employee shall hold an elected office with the City of Bloomfield. City employees may participate in political campaigns, distribute literature or solicit political contributions or membership, provided that the activity is conducted away from the City premises, and is not conducted during working hours, or using a City vehicle. City employees shall not hold an elected political office if it will negatively affect the employee's performance or creates a conflict of interest with City work, as determined by the City Council. Membership on a local school board or an elected position with any post-secondary educational institution will not be considered holding a political office. Any employee elected to a City office must resign from City employment. City employees are free to hold membership in and supporting a political party; to vote; to express public or private opinions on political subjects and candidates, or to actively participate or decline to participate in any political meeting.

### **9.10 Smoking and Tobacco**

In compliance with State and Federal laws regarding smoking in government buildings, it is against the City's policy to smoke in City buildings or City vehicles. Government buildings and vehicles are considered an extension of the "office". Therefore, NO SMOKING, of any kind, of any substance, is allowed in any City facility, building, property, vehicle, within 50 feet of an entrance. Smokeless tobacco is also prohibited in City buildings and vehicles. This policy is designed to ensure the City maintains a Smoke Free/Tobacco Free environment and workplace.

### **9.11 Media Contact**

The City strives to keep the public well-informed by cooperating fully and impartially with authorized news media representatives in their efforts to gather factual information pertaining to City business. Release of non-routine or sensitive information should be cleared by the Department Head and/or City Manager prior to release.

## **9.12 Telephone and Cell Phone Use**

The telephone system is intended primarily to serve the needs of the City. It is essential that each employee keep personal use from interfering with that purpose. If you have personal calls, including text messages, to make, try to do so during non-work periods. Employees should minimize the number of personal calls they receive, including on their personal cell phones. Personal long distance calls may not be charged to the City at any time. Emergency personal calls will be placed collect to the receiving number or charged to the employee's private home number. If you use a cell phone for City business, if you are driving, you are encouraged to pull off the side of the road to make or take cell phone calls, with the exception of Police and Fire employees. Employees who abuse this policy may be subject to discipline.

## **9.13 Uniforms**

The City provides uniforms for employees as budgeted funds are available and as required in Departmental Policies. Uniforms are to be returned on separation for the City.

## **9.14 Use of City Vehicles**

Employees who are required to drive City vehicles are required to successfully pass a Defensive Driving course every three years. Driving records will be checked monthly for all employees required to drive City vehicles. City vehicles shall not be used to carry passengers other than in the interior or cab of the vehicles; the vehicle shall not be used to carry passengers in excess of the capacity thereof; shall not be used to push, propel or tow any vehicle, trailer or any other thing that is not within the scope of the job, without written permission of the City; shall not use the vehicle for any race or competition or for any illegal purpose; shall not be operated in a negligent manner; shall not be operated by any other person without written permission; and shall not carry passengers, property or materials in excess of the rated weight carrying capacity of the vehicle. Department policy may allow special use under certain circumstances.

## **9.15 Use of City Property or Facilities**

You are expected to exercise care in the use of City property and facilities. Negligence or unauthorized removal of property may be cause for disciplinary action. City property or facilities may not be used by any employee for personal use, or by the general public, except as approved by the Department Head or City Manager. At the end of your employment, all City property issued to you must be returned, (i.e., manuals, files, laptops, software, keys, cell phones, pagers, etc.). It is your responsibility to return City issued property to your Department Head or Supervisor.

## **9.16 Workplace searches**

City facilities and equipment do not belong to the employee, and the employee has no expectation or right of privacy in using the facilities and equipment. The City retains the right to search all City facilities and equipment if there is a reasonable basis to do so.

## **10. EMPLOYEE EVALUATION**

### **10.1 Purpose**

The performance evaluation provides a means for discussing, planning and reviewing the performance of each employee. Regular performance evaluations:

- help employees clearly define and understand their responsibilities;
- suggest ways in which employees can improve performance;
- provides a fair basis for awarding compensation based on merit;
- provides a forum for goal setting.

### **10.2 Evaluation Schedule**

All Full Time Regular and Part Time Regular employees shall be given a performance review:

- Upon completion of 3 and 9 months from starting employment or new position.
- Upon completion of the probationary period, or other times as deemed necessary by supervisor.
- Yearly at about the time of your anniversary date or promotional date as designated by the Human Resources Director and approved by City Manager.

### **10.3 Evaluation Coordination**

Supervisors are primarily responsible for initiating the performance evaluation. The Human Resources Director shall maintain a schedule of performance evaluation timetables and shall send a reminder to each Supervisor or Department Head.

## **11. DISCIPLINARY ACTION**

### **11.1 Expectations**

The City expects employees to perform their assigned duties at or above satisfactory levels, to follow accepted standards of workplace behavior, and to comply with all laws, rules and regulations. Supervisors and management should provide constructive coaching and feedback, and may impose disciplinary action, up to and including termination, based on the severity of conduct.

### **11.2 Management Responsibility**

Department Heads and Supervisors have the responsibility of identifying, evaluating and instituting measures to correct performance issues. Department Heads and Supervisors are expected to use the following prevention strategies:

1. Communicate the City's expected performance and behavioral standards.
2. Communicate the City's disciplinary system.
3. Provide employees training, recognition and feedback on performance standards.
4. Productively conduct periodic performance evaluations.
5. Apply positive disciplinary measures.
6. Apply progressive disciplinary measures when possible.

### **11.3 Grounds for Discipline**

#### **1. Probationary Employees**

At any time during the probationary period, or any extensions thereof, an employee whose performance does not meet the required standards of the position will be terminated if the supervisor does not believe that an extension of the probationary period would be beneficial. Probationary employees do not have the right to the grievance procedure since the probationary period is the final step in the selection process.

#### **2. General Grounds**

In general, grounds for discipline, up to termination, include but are not limited to:

- a) neglect of or failure to perform assigned job duties;
- b) interference with other employees' efforts to perform their job duties;
- c) violation of federal, state or local laws and regulations; and
- d) violation of City policy or departmental policy.

### 3. Specific Grounds

Specific reasons for discipline, up to termination, include but are not limited to:

- Insubordination, willful failure to obey lawful order of your supervisor.
- Continued, unsatisfactory performance of duties.
- Failure to work overtime when directed to do so by a supervisor.
- Inability to work satisfactorily with others.
- Conduct unbecoming of a City employee: (1) abusive attitude, language or conduct toward employees or others; (2) abuse of authority over employees or others; and (3) on or off-duty conduct that may harm the reputation of the City.
- Violation of safety laws, regulations, or guidelines.
- Negligence or careless in job performance.
- Negligence or loss of City property.
- Unexcused or excessive absenteeism and repeated tardiness.
- Violation of equal employment opportunity laws, including harassment and discrimination. (See Section 3).
- Willful and unauthorized removal and control of City, employee or general public's property.
- Preferential treatment of individuals or firms.
- Misappropriation or conversion of City, co-worker or the general public's property.
- Violating the Drug Free Workplace policy, even on the first offense.
- Fighting, restraining, or attacking any employee or other person while on duty; coercion, intimidation, assault, including sexual assault, or threat of reprisal to any other employee.
- Willful falsification or omission of City documents, records, forms or information required by the City.
- Conduct that is a violation of public policy or trust, or is corrupt.
- Disclosure of confidential information.
- Conflicts of interest (the improper use of position or confidential information for personal benefit or for the benefit of others).
- Criminal activity which jeopardizes effective or efficient business practices; poses a threat to the safety or security of persons or property; and failure to report pending criminal investigations and convictions.
- Theft or vandalism of City property.
- Ethical violations including misuse of position or acceptance of bribes, gifts or favors in exchange for favorable City action.
- Abuse of the legitimate grievance process resulting in repeated unsubstantiated claims.

- Abuse of meal or rest periods.

#### 4. Considerations

When determining the appropriate disciplinary action, the department head or supervisor should consider factors including, but not limited to:

- a) Seriousness and consequences of the performance deficiency.
- b) Employee's previous performance and/or conduct record.
- c) Previous disciplinary action for similar performance deficiencies.
- d) The disciplinary action that would be effective in correcting the employee's performance deficiency.

### **11.4 Employee Due Process Rights for Non-Probationary Employees**

#### 1. Notice of Intent

- a) All intended disciplinary action that results in unpaid suspension (of 3 days or more), demotion or termination, shall be provided in writing to the employee, which shall include:
  - The intended disciplinary action and date to be imposed.
  - Reasons for the action, including a statement of facts of each instance of unsatisfactory job performance resulting in the intended discipline.
  - The employee's right to respond, orally or in writing, within five (5) working days of the notice, or to challenge the intended action.

#### 2. Notice of Disciplinary Action.

After considering the employee's response to the Notice of Intent, if a decision is made to impose the action, a Notice of Disciplinary Action shall be made in writing to the employee that shall include:

- a) Notice to the effective date of the action.
- b) Reasons for the action, including a statement of facts of each instance of unsatisfactory job performance resulting in the action.
- c) A list of exhibits and witnesses supporting the statement of facts, including audio and video.
- d) The employee's right to appeal the action by submitting a written letter to the Human Resources Director within ten (10) working days of the Notice.

### **11.5 Appeals**

Any regular employee (who has successfully completed their initial probationary period) suspended without pay [for a period of 3 days or more], involuntarily demoted or involuntarily terminated, may appeal the action by filing a written Notice of Appeal with the Human Resources Director within ten(10) working days after the Notice of Disciplinary Action. An employee's failure to file a written Notice of Appeal within this time terminates

the right to a hearing, and the suspension without pay, demotion or termination shall be final.

### **11.6 Appeal Hearing Procedure**

The Mayor will appoint a Hearing Officer to hear the appeal. Within fourteen (14) calendar days of the receipt of Notice of Appeal, the Hearing Officer will set a hearing date, which shall be held within a reasonable time, not to exceed forty-five (45) calendar days from receipt of the Notice of Appeal. The employee must appear in person at the hearing and may present evidence. The employee may be represented by legal counsel. The case for the disciplinary action shall be made by the manager taking the action (Department Head or higher authority) and may also have the City Attorney as an advisor. The hearing shall not be bound by formal rules of evidence, but, they will be used as a guide, as determined by the Hearing Officer. The hearing shall be a closed meeting. Testimony shall be under oath. The hearing shall begin with the Manager's designee presenting evidence supporting the action, followed by the employee's defense and evidence, and will end with rebuttal by the parties. A record of the action taken shall be included in the hearing minutes.

### **11.7 Appeal Disposition.**

#### **1. Employees less than a Department Head**

Within fourteen (14) work days after the hearing, the Hearing Officer shall report findings and recommendations to the City Manager. If the Hearing Officer does not sustain the City action, the Hearing Officer's findings and recommendations shall be advisory in nature. The City Manager will have final discretion to affirm the original action, or modify it pursuant to the Hearing Officer's recommendations. The employee will not have a right of rehearing or to present additional evidence to the City Manager. The City Manager will act solely on the findings and recommendations of the Hearing Officer.

#### **2. Department Heads and Higher**

The Hearing Officer's findings and recommendations shall be reported to City Council on the first Council session after the hearing. If the Hearing Officer does not sustain the City action, the Hearing Officer's findings and recommendations shall be advisory in nature. The City Council may affirm the original action, or modify it pursuant to the Hearing Officer's recommendations. The employee will not have a right of rehearing or to present additional evidence to the City Council. The City Council will act solely on the findings and recommendations of the Hearing Officer.

## **12. EMPLOYEE GRIEVANCES**

### **12.1 Purpose**

It is City policy to provide for an orderly, informed and confidential process for employees to raise concerns considered in a fair and expedient manner without fear of reprisal. The purpose of the Grievance Procedure is to provide an effective method for the prompt resolution of employee concerns without reprisal.

### **12.2 Definition and Exclusions**

#### **1. Definition**

A grievance means any employee claim regarding his or her rights, benefits, privileges or interests that the employee believes has been violated, misapplied or misinterpreted. Claims of discrimination shall not be considered a grievance but will be considered as stated in Section 3.6.

#### **2. Exclusions**

A grievance shall not include, and the grievance policy shall not apply to any of the following:

- a) A matter on which the City is without authority to act.
- b) Any proceeding for employee disciplinary action.
- c) The content and structure of the Pay Plan.

### **12.3 Grievance Statement**

A grievance statement must:

1. State the act or omission the employee believes unjustly denied his or her rights, benefits, privileges or interests.
2. Arise out of an act or omission of management related directly to the grievance.
3. Concern a matter within the authority and control of the City.
4. State what you want to be done, which must be within the City's authority.

### **12.4 Grievance Procedures and Time Limits**

In attempting to resolve the concern, certain steps must be followed:

- Step 1 First, try to resolve the matter through informal discussion with your immediate supervisor. This should be done within five (5) working days after the occurrence.
- Step 2 If the matter cannot be resolved informally, submit your written grievance, within five (5) working days after Step One (1) to the

Human Resources Director. The written grievance (see 12.3) shall clearly state the problem and request what you want done. The Human Resources Director may discuss the concern with your immediate supervisor or arrange a meeting with the employee and Department Head to resolve the problem. If the complaint is not mutually resolved, proceed to Step 3.

Step 3 The employee may request the City Manager review all the facts. The Human Resources Director shall submit written documentation to the City Manager which may take up to ten (10) working days to resolve the problem. The City Manager's decision is final.

Step 4 Department Heads may appeal the City Manager's decision to the Mayor, in writing, within five (5) working days of the decision. The Mayor will review the appeal and determine if the appeal should be heard by the City Council. If so, the Human Resources Director will place the item on the next council meeting agenda following the Mayor's decision. If the Mayor decides not to refer the matter to City Council the City Manager's decision will be sustained.

## 13. JOB SEPARATION

### 13.1 Resignation

Employees shall give the City two (2) weeks advance notice in writing, stating the date of termination, forwarding address, and their reason for leaving City employment. Failure to comply with this notice requirement may impose a hardship on the City and will consequently be taken into consideration should the former City employee again seek employment with the City of Bloomfield.

### 13.2 Layoff and Workforce Reduction

#### 1. Authorization

City Council may authorize a reduction in the City's work force (layoff and/or permanent reduction-in-force actions) whenever the City Council determines it would be in the City's best interest due to a shortage of funds, lack of work, elimination of positions and such other reasons as deemed appropriate. City policy has established systematic procedures for reduction-in-force, layoff and rehire procedures which ensure essential City services are provided to residents.

#### 2. Determination and Selection Procedures

##### a) Determination:

Once the City Council determines the classifications and number of employees to be affected by a layoff or reduction in force, the employees with the least amount of seniority in the affected classification will be laid-off or affected by the reduction in force action. Those employees with equal seniority within the classification will be based on the employee's work records and performance evaluations within the affected classification.

##### b) General Layoff:

Under certain conditions, general layoffs and/or reduction in force actions may be appropriate (no targeted classifications). Employees to be affected will be based on seniority. City Council reserves the right to make exceptions to the "seniority" rule, to ensure that critical positions continue to be filled by qualified employees. Seniority shall be determined with respect to the most recent continuous City employment date. In all cases, however, temporary and/or seasonal employees will be selected before any reduction occurs within other employee classifications.

##### c) Procedures:

- **Notice**—The City Manager and Department Heads, in consultation with the Human Resources Director, will decide which employees within an affected classification are to be laid off or affected by a reduction-in-force based on this policy and other Council resolutions.

Employees identified to be laid off or separated due to reduction-in-force actions shall be given notice, both verbal and written, by their Department Head that their employment is terminated due to a reduction in work force, effective no less than fourteen (14) calendar days from receipt of the written notice.

- **Bumping Rights**—An affected employee who has held a position in another classification with the City may return to (“bump back”) the most recent previous classification held, if the employee performed satisfactorily in that previous classification, the previous classification has not been eliminated and the employee meets the current minimum job requirements. A request to “bump back” must be given to the Human Resources Director within five (5) days after receipt of the written notice of layoff or reduction in force action. If two or more qualified affected employees apply for bumping rights, the affected employee with the greater seniority (based on the most recent continuous employment date) shall be offered the assignment. The bumping back process will not apply if the layoff and/or reduction-in-force action is general (no targeted classifications). If the salary of an employee who has “bumped back” is greater than the maximum of the salary range for the classification into which the employee has moved, the employee’s salary will be adjusted to the maximum salary for that classification.
- **Appeal**—An employee notified of layoff and/or reduction-in-force termination may appeal his or her selection for termination to the City Manager. Written notice of an appeal must be received by the City Manager within five (5) calendar days from employee’s receipt of written notice of layoff and/or termination. The scope of appeal will be limited to whether the employee’s seniority was properly calculated and whether other employees within the classification with less seniority than the appealing employee.
- **Severance Pay**—The City will make severance payments to regular employees whose employment is involuntarily separated as a result of reduction-in-force action as follows.
  - Less than one (1) year of continuous service: Two (2) weeks of base pay (overtime and benefits excluded).
  - One (1) year but less than two (2) years of continuous service: Three (3) weeks of base pay (overtime and benefits excluded).
  - Two (2) but less than four (4) years of continuous service: Four (4) weeks of base pay (overtime and benefits excluded).
  - Four (4) years or more of continuous service: Five (5) weeks of base pay (overtime and benefits excluded).

No severance benefits will be granted for employees who leave City employment due to resignation or disability leave.

d) Re-employment:

- **Rehire List**—The names of affected employees whose employment with the City has been actually terminated pursuant to this layoff policy shall be kept on a “Rehire List” for a period of two (2) years from their termination date. The employee’s name shall be removed from the list if the employee is rehired by the City in a Regular employee classification. It is incumbent upon the employee to keep the City apprised of current contact information.
- **Reinstatement**—If, within two (2) years from the date a position was eliminated as part of the Work Force Reduction Plan, the City reinstates the position, the position will be offered to the employee laid off who had the most seniority within that classification before being laid off. If no employee laid off from that classification accepts the position, the procedures below will apply.
- **Open Recruitment**—No open recruitment for a City vacancy will be conducted until the Human Resources Director determines no person on the “Rehire List” is qualified for the vacancy.
- **Vacancies**—If the Human Resources Director determines people on the “Rehire List” may be qualified for a vacant position, she will forward the names and personnel information to the Department Head where the vacancy exists. The Department Head and other staff members shall interview the persons identified by the Human Resources Director as potentially being qualified for the position. If the Department Head, after consultation with staff, determines no person identified by the Human Resources Director is qualified for the vacant position, the Department Head will notify the Human Resources Director, who will then open the recruitment for the vacant position.
- **Seniority**—An employee laid off pursuant to this policy, and later rehired within two (2) calendar years from the date of separation shall have seniority calculated using service with the City before the separation and service after the date of rehire (determination of vacation credits and seniority should other work reduction plans be implemented).

e) Health Care Benefit Continuation:

The City will continue to contribute its share of the medical group premium for one (1) month after employment separation. (Example: If separation occurs on October 14, the City would continue premium support through November 30). Thereafter, the employee may continue coverage through COBRA procedures.

### **13.3 Termination**

Involuntary termination of employment may occur for a variety of reasons including, but not limited to:

Unsatisfactory performance during probationary period. This action is originated by a supervisor, approved by City Manager and may be initiated with or without cause, as the employee is an “at will” status.

1. Conclusion of a seasonal or temporary assignment.
2. Loss of student status.
3. Incapacity or inability to perform the “essential job functions” for which the employee was hired, with or without reasonable accommodations.
4. Failure to perform job duties adequately.
5. Violation(s) of the Personnel Policy.

### **13.4 Disbursement of Final Paycheck**

When an employee resigns his/her position, the earned salary or wages plus any other compensation (such as annual leave accrual) shall be due and payable on the next regular payday. When an employee is terminated from employment, the earned salary or wages plus any other compensation (such as annual leave accrual) shall be due and payable no later than five (5) working days following termination.

### **13.5 Exit Interviews**

Employees who resign from their position will be asked to complete an Exit Interview with the Human Resources Director. When an employee is dismissed from employment an Exit Interview is not completed.

## **14. PERSONNEL RECORDS**

### **14.1 Release of Personnel Information**

#### **1. References**

All requests for information about employees will be referred to the Human Resources Director or designee. The Human Resources Director may disclose dates of employment, final title or position, wage or salary levels, and work location.

#### **2. Law Enforcement.**

Information will be given to authorized requests from law enforcement agencies, including investigators, summonses, subpoenas and judicial orders. Information not deemed confidential within a personnel file is considered public information pursuant to the Public Records Act. The City does not need to inform an employee that personal information has been disclosed to law enforcement agencies if it concerns an investigation into the employee's on-the-job conduct.

### **14.2 Inspection of Personnel Records**

#### **1. Examination**

Employees may examine their personnel records per state law. You may request a correction, ask for a deletion or write a statement of disagreement with any item in the file. Files may only be reviewed in the Human Resources Office, and employees may not remove anything from their file. A request form may be obtained at the Human Resources office.

#### **2. Corrections**

Employees must submit a written request to the Human Resources Director to make corrections to their personnel file. The request will be reviewed by the City Attorney and Human Resources Director. If the request is granted, then the changes will be made by the Human Resources Director. If the request is denied, employees can then request that their statement of disagreement be placed in their personnel file. The statement of disagreement will be permanently placed in their file.

### **14.3 Change of Employee Information**

To satisfy certain legal requirements, certain information is needed for reporting functions of the Human Resource Department. Information in employees' records must be correct to avoid any problems that could arise regarding taxes, employee benefits, or paychecks. Employees must promptly report changes to the Human Resource Department in any of the following:

- Name, address and telephone numbers

- Marital Status and dependents
- Person(s) to notify in case of an emergency
- Insurance or retirement plan beneficiary
- Any limitations that require accommodation
- Medical plan coverage

**15. ACKNOWLEDGEMENTS OF RECEIPT OF PERSONNEL HANDBOOK  
AND REVIEW OF POLICIES AT ORIENTATION**

I acknowledge that I have received a copy of the City Personnel Policy Handbook. I have read the Handbook and agree to abide by the policies. I also acknowledge that in orientation, the following policies were specifically reviewed with me, and I understand and agree to abide by them (these are general summaries only):

**Conflict of Interest.** I will not have a direct or indirect financial interest by reason of corporate stock ownership, in any contract with the City.

**Discrimination and Harassment.** The City prohibits discrimination or harassment on the basis of race, color, national origin, religion, gender, age, disability, sexual orientation or any other characteristic protected by law. All incidents of discrimination and harassment must be reported to the Human Resources Director, where they will be investigated, and if confirmed, discipline imposed.

**Dress Code.** I will dress appropriately for my job. I will conceal tattoos and body piercings (other than standard ear piercings).

**Drug Free Workplace.** Substance abuse poses health and safety risks to employees and the public. The United States Government requires that the City impose a Drug Free Workplace. Use of controlled drugs or alcohol at work is prohibited. Random drug testing may occur, and I will be subject to termination if I test positive on the first offense.

**E-Mail, Internet and Voice Mail.** I understand that my use of the City's e-mail system, the Internet and the voice mail system constitutes my consent to all the terms and conditions of that policy. In particular, I understand that (1) the e-mail, Internet and voice mail systems and all information transmitted by, received from, or stored in those systems are City property, (2) the systems are to be used only for business purposes and not for personal purposes, and (3) I have no expectation of privacy in connection with the use of these systems. I consent to the City's monitoring my use of these systems at its discretion.

**No Smoking.** By state law, there is no smoking of any kind (including smokeless tobacco) in any City facility, building, property, or vehicle, and within 50 feet of any entrance.

**Outside Employment.** I must receive prior approval to obtain secondary employment. Decisions will be made based on any interference with my ability to perform my City job, whether there is any conflict of interest with the City and whether the position will compromise the City's credibility.

Please sign and date this Acknowledgement and return it to the Human Resources Director.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_