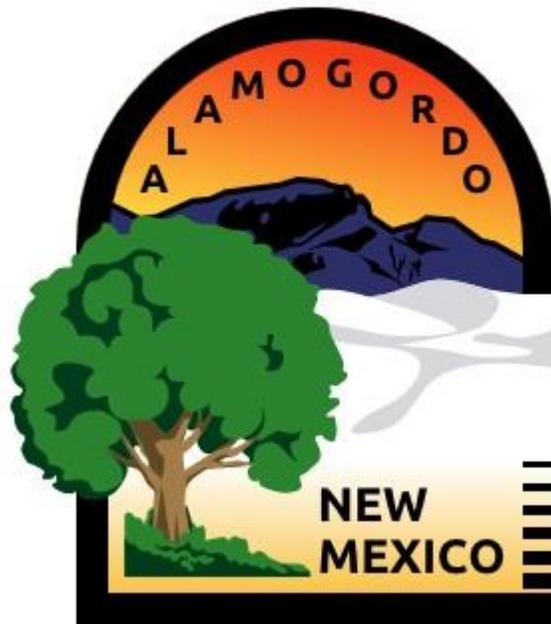


# City of Alamogordo Employee Manual



07/22/2022

## ABOUT THIS HANDBOOK/DISCLAIMER

We prepared this manual to help employees find the answers to many questions that they may have regarding their employment with City of Alamogordo. Please take the necessary time to read it.

We do not expect this manual to answer all questions. Supervisors and Human Resources also serve as a major source of information.

Neither this manual nor any other verbal or written communication by a management representative is, nor should it be considered to be, an agreement, contract of employment, express or implied, or a promise of treatment in any particular manner in any given situation, nor does it confer any contractual rights whatsoever.

No City representative other than City Manager may modify at-will status and/or provide any special arrangement concerning terms or conditions of employment in an individual case or generally and any such modification must be by an express written agreement signed by the employee and City Manager.

Many matters covered by this manual, such as benefit plan descriptions, are also described in separate City documents. These City documents are always controlling over any statement made in this manual or by any member of management.

This manual states only general City guidelines. The City may, at any time, in its sole discretion, modify or vary from anything stated in this manual, with or without notice, except for the rights of the parties to end employment at will, which may only be modified by an express written agreement signed by the employee and City Manager.

The official manual is on the City website located at [ci.alamogordo.nm.us](http://ci.alamogordo.nm.us), and is maintained by Human Resources.

This manual is subject to the terms of any applicable collective bargaining agreement.

This manual supersedes all prior manuals.

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## Section 1 - Governing Principles of Employment

### 1-1 Introduction

For employees who are commencing employment with City of Alamogordo (or the "City"), on behalf of City of Alamogordo, let me extend a warm and sincere welcome.

For employees who have been with us, thanks for your past and continued service.

I extend my personal best wishes for success and happiness here at City of Alamogordo. We understand that it is our employees who provide the services that our citizens rely upon, and who will enable us to create new opportunities in the years to come.

Brian Cesar, City Manager

### 1-2 Glossary of Terms

#### **ANNIVERSARY**

The date on which an employee was appointed to a regular position or the date of promotion/demotion/transfer.

#### **AT-WILL EMPLOYEES**

Those who serve at the will and pleasure of the City Manager or his or her designee and may be terminated at any time with or without cause and may not grieve such termination, except under certain contractual conditions.

#### **BENEFITS**

Taxable or non-taxable remuneration and/or services provided by the City which are separate and in addition to basic pay for time worked.

#### **CITY**

The municipal government, composed of the City Commission, the City Manager, all departments, divisions, agencies, and employees which comprise the organization design to provide service to the citizenry.

#### **CITY COMMISSION**

The duly elected or appointed officials who comprise the legislative body of the municipal government with powers defined by New Mexico Law.

#### **CITY MANAGER**

The municipal government's official who directs the administration of a City, or a person designated to assume the position on an acting basis, charged with complete responsibility of employees, facilities, and other resources set forth by New Mexico State Law and the City Charter.

## **CLASS**

One or more positions that are sufficiently alike in, warranting using the same (or similar) title, qualification requirements, examination, and pay grade. Sometimes called "Classification".

## **CLASSIFICATION PLAN**

An ordering of different positions in the City service according to duties, responsibilities, and required qualifications.

## **CONTINUOUS EMPLOYMENT**

The period during which the City employs a person in a regular status uninterrupted by termination or suspension.

## **CORRECTIVE ACTION**

An action taken to correct the behavior or the performance of an employee.

## **DEMOTION**

The assignment of an employee from one class to another which has a lower pay rate or grade and may be voluntary, involuntary, or corrective in nature.

## **DEPARTMENT DIRECTOR**

A City official designated with the responsibility for management of a major department of the City government. Departments may be comprised of several divisions with similar service missions.

## **DISABLED EMPLOYEES**

Individuals who have suffered a permanent disability while an employee of the City government.

## **DISMISSAL**

Involuntary termination of employment for reasons other than lack of funds or lack of work.

## **EAP**

Employee Assistance Program (EAP) is a benefit to aid employees in resolving personal problems.

## **ELIGIBLE**

A person has the right to do or obtain, satisfying the appropriate conditions or whose name is included with a list of qualified candidates for a vacant position.

**ELIGIBLE LIST**

A list of persons qualified to fill a vacancy in a particular class.

**EMPLOYEE**

An individual who is legally employed by the City government and is paid through the City payroll, except for contracted persons, and consultants.

**ENTRY LEVEL RATE**

The minimum base rate in any salary grade established for a class.

**FINAL RATING**

A job candidate's earned composite score or consensus rating for all aspects of the selection process.

**FRATERNIZATION**

To associate with others in a brotherly or congenial way.

**FULL-TIME**

A position that requires at least forty (40) hours work per work week.

**GRIEVANCE**

A formal or informal process for requesting a change to an official decision.

**GRADES**

An ordering of positions within a pay plan.

**JOB DESCRIPTION**

A written description of a class, which includes the position title, a general statement of duties and responsibilities, examples of typical duties performed, a statement of minimum qualification requirements, and definition of working conditions.

**JOB EVALUATION**

A review of the duties and responsibilities of a position and the qualifications required to perform the essential functions of the position.

**LAYOFF**

Involuntary termination of an employee due to lack of work, lack of funds, elimination of a position through reorganization, reclassification of positions, or other changes that have taken place.

**LWOP**

Leave without pay is used when all other leaves are exhausted, except when allowable by law.

**MANAGEMENT**

Persons, including directors, designated as head of a group of employees, a section, a major functional unit, or an activity, with authority and responsibility to exercise independent judgement; who assigns tasks, sets standards of job performance, recommends hires, transfers, suspensions, layoffs, recalls, promotions, and terminations of subordinates. Further, they may assign, reward or correct the action of others, and direct or adjust employee grievances.

**MEDICAL EVALUATION**

An objective assessment of the candidate as compared with medical standards.

**MEDICAL STANDARDS**

Medical requirements established by the City for all classes of positions. Inability to meet one or more medical standard(s) established for a position will result in rejection of the candidate or withdrawal of a conditional offer of employment.

**NEPOTISM**

Favoritism shown on the basis of family relationship by those with power or influence.

**NEW HIRE**

A person not previously employed by the City.

**OPEN COMPETITION**

Competition for a position which is available to all interested persons internally and externally.

**OVERTIME WORK**

Time worked for an hourly employee in excess of forty (40) hours per work week.

**PAID TIME OFF (PTO)**

Leave with pay granted after accrual to eligible employees for their own personal use.

**PAY**

Payment that is uniform from one payday to the next and does not depend on the number of hours worked.

## **PAY DIFFERENTIALS**

Also called "overlays." Pay for additional duties beyond what the position originally required.

## **PAY PLANS**

The salary schedules for salaried/exempt and hourly/non-exempt employees or any other class(es) of positions in the municipal service.

## **PAY RANGE**

The minimum and maximum base rates established for each pay grade.

## **PAY RATE**

Also called base rate. The specific salary established within each salary grade.

## **PER DIEM ALLOWANCE**

Daily allowable compensation for lodging and subsistence for in-state and out-of-state travel at the current reimbursement rate.

## **POSITION**

An authorized, budgeted job within the municipal service. A position may be vacant or occupied by an incumbent.

## **POSTING**

The advertising of vacant positions.

## **PREFERENCE**

The additional consideration that is given to a regular employee applying for an established vacancy who meets the minimum qualifications of a classification.

## **PROBATIONARY PERIOD**

A six (6) month or one year (12 month) trial period of employment, during which an employee is required to demonstrate fitness for regular employment and during which time the employee may be terminated without cause and without the right of a grievance process.

## **PROMOTION**

The assignment of an employee from one grade to another, which has a higher maximum rate of pay and greater responsibility. Promotion requires that an employee undergo another probationary period.

## **RECLASSIFICATION**

A change in duties, responsibilities, qualifications, title, and/or grade of a position as a result of a job evaluation.

## **REGULAR FULL-TIME EMPLOYEE**

A Regular Full-Time employee is one whose average workweek is no less than forty (40) hours in a seven (7) day period, has successfully completed the introductory period, and is entitled to employee benefits.

## **REGULAR PART-TIME EMPLOYEE**

A City employee who works less than forty (40) hours per week in a regularly budgeted position and has successfully completed the probationary period.

## **RE-HIRE**

Re-employment of a former employee, restored to the municipal service in good standing.

## **REINSTATEMENT**

An action whereby an employee is restored to the municipal service after involuntary termination or suspension.

## **RESIGNATION**

The voluntary termination of employment, prior to retirement, by an employee.

## **RETALIATION**

Adverse Action against an employee for engaging in legally protected activity. Can include any negative job action, such as demotion, discipline, firing, salary reduction, or job or shift reassignment. Retaliation can also be more subtle.

## **RETIREMENT**

Any employee retiring in good standing under City employment and under the New Mexico PERA Retirement system.

## **REVIEWER**

The rater's immediate superior or designee who is required to review and approve each performance evaluation within his or her purview before it is included as part of the reviewed employee's permanent record.

## **SEASONAL/TEMPORARY**

Full or part-time employees working not more than six (6) months per calendar year, for a special purpose, project, or definite number of projects during a peak season. These employees are not eligible for benefits, except as allowable by law, and may be terminated at any time with or without cause and without the right to grieve.

## **SELECTION TOOL**

Tools used separately or in combination, as appropriate, to obtain the best qualified applicants for vacant positions. Such devices may include, but are not limited to, work sample and performance tests, practical written tests, oral examinations, rating of training and experience, interview, skills tests, and others.

## **SEPARATION**

Removal of an employee from the municipal payroll for voluntary or involuntary reasons; to include dismissal, resignation, layoff, retirement, abandonment of the job, death, etc.

## **SERIOUS ILLNESS**

An illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature for which meets the definition of a serious illness in the Family and Medical Leave Act.

## **SUPERVISOR**

An employee with authority to exercise independent judgement on behalf of the City government to recommend hire, transfer, suspension, layoff, recall, promotion, demotion, discharge, and other personnel actions.

## **TERMINATION**

The resignation, retirement, dismissal, or death of an employee.

## **TEST**

A formal method by which an applicant's or employee's qualifications for employment or promotion are assessed.

## **TRANSFER**

Assignment of an employee from one position to another in the same pay grade, a lower pay grade, or a pay grade with the same or a lower minimum rate of pay. May also be assignment of an employee from one work site to another, from one Department to another, to more or less responsible or skilled occupations, or from one operational assignment to another in accordance with existing City policy. Transfers may be voluntary or involuntary. An involuntary transfer, which results in a reduction of base pay is considered a demotion.

## **UNAUTHORIZED ABSENCE**

Absence from duty without supervisory approval.

## **VACANCY**

An authorized position not occupied by an incumbent, which has been approved by the appropriate designated authority for filling.

## **WAGE**

Payment that is calculated according to the number of hours worked and which may fluctuate from one payday to the next as the number of hours worked varies.

## **ZERO TOLERANCE**

The act of imposing corrective action for all unacceptable behavior.

## **1-3 Objective**

It is the objective of the City of Alamogordo to provide the maximum possible service to the public within available funding and to provide courteous treatment to all persons having any dealings whatsoever with the City, under all circumstances. This manual is intended to be one of the means whereby the City will accomplish this objective.

## **1-4 Authority**

The following practices and procedures were developed under the authority of the City Commission and shall supersede any Ordinances or rules relating in any way to personnel heretofore adopted, except for those rules adopted as the result of any collective bargaining agreement adopted pursuant to the City's collective bargaining ordinance.

## **1-5 Purpose**

It is the purpose of this manual to establish a system of uniform and appropriate personnel procedures to improve the quality of personnel administration. It is not the purpose of this manual to create an express or implied contract of employment in any way. This manual will consist of good employment practices such as:

1. Recruiting, selecting and advancing employees on the basis of their knowledge, skill, and ability, as well as open consideration of qualified applicants for initial appointment.
2. Retaining employees on the basis of performance, correcting inadequate performance, and separating employees whose performance cannot be corrected.
3. Assuring fair treatment of applicants and employees in selection, promotion, training, and all other aspects of personnel administration without regard to political affiliation, race,

color, national origin, sex, age, religion, handicap, or any other protected status and with proper regard for their privacy and constitutional rights as citizens.

4. Assuring that employees are not coerced to support or oppose particular candidates or electoral issues and are prohibited from using their official authority for personal gain for the purpose of interfering with or affecting the outcome of an election.
5. To assist managers in the development of sound management practices and procedures, and to make effective, consistent use of Human Resources throughout the City.

## **1-6 Scope**

The scope of this manual includes a compilation of procedures, which governs and affects personnel administration for all departments within the jurisdiction of the Alamogordo City Government, unless otherwise specified.

## **1-7 Amendments**

The City Manager shall recommend changes to this manual to the City Commission as needs become apparent. Such changes shall become effective when the ordinance adopting such amendments becomes effective.

The City specifically reserves the right to repeal, modify or amend these policies at any time, with or without notice.

## **1-8 Administration of the Personnel System and Manual**

The City Manager shall administer all aspects of the personnel administration in accordance with these rules in compliance with City Ordinance, and the laws of the State of New Mexico and the United States of America.

Henceforth the City Manager may, with sole discretion, appoint a designee to fulfill any or all responsibilities of administration of this manual as deemed appropriate, except those specifically reserved to the City Manager by statute.

The City Manager shall:

1. Develop, maintain, and apply these procedures for the recruitment, compensation, promotion, training, discipline, and related aspects of personnel management for all personnel under the City's jurisdiction;
2. Maintain the classification and pay plans of the City;
3. Recommend to the City Commission such new or revised personnel rules as are deemed necessary and desirable;
4. Issue supplemental regulations and directives necessary for the effective implementation of these rules, which shall not invalidate the effect of these rules;

5. Approve contractual arrangements with any qualified person or agency for the performance of technical and professional services required in the establishment and operation of the personnel program;
6. Delegate to Department Directors the responsibilities and authorities described herein and such others as are deemed necessary for successful administration of the personnel program; and
7. Maintain or cause to be maintained an adequate employment record of each employee, including a record of official acts under these policies.

### **1-9 Authority to Develop Departmental Rules and Regulations**

Supplemental personnel rules and regulations, not in conflict with this manual, may be drafted by Department Directors to meet specific needs of their areas of responsibility. Such supplemental regulations must be authorized by the City Manager prior to implementation.

Proposed departmental rules and regulations should be reviewed by the City Attorney and the Human Resources Director prior to presentation to the City Manager for approval.

Such approved regulations must be distributed to the affected employees and an acknowledgement of receipt for each employee must be obtained by the supervisor with copies to Human Resources for placement into the employee personnel file.

Approved department rules and regulations shall be forwarded to the Legal Department and Human Resources to facilitate assistance in the management and enforcement of departmental regulations.

Approved department regulations shall have the same force and effect as those promulgated by this manual, provided however, that should there be a conflict between departmental regulations and this manual, this manual will govern.

### **1-10 Application of Provisions**

The provisions of this Employee Manual shall apply to all persons employed by the City, except as follows:

1. At Will employees are subject to the grievance procedure(s) outlined in their respective contract(s).
2. Members of City boards and committees appointed by the Mayor, City Commission, or City Manager.
3. Contract labor personnel.
4. Employees represented by a collective bargaining unit are covered by any provision of this Employee Manual not modified by their collective bargaining agreement.

## **1-11 Compliance with Federal/State Employment Laws and City Ordinances**

The City of Alamogordo promotes and will use its best efforts to comply with all federal and state employment laws as they apply to municipal government, as well as the Ordinances of the City of Alamogordo.

## **1-12 Equal Employment Opportunity**

City of Alamogordo is an Equal Opportunity Employer that does not discriminate on the basis of actual or perceived race, creed, color, religion, alienage or national origin, ancestry, citizenship status, age, disability or handicap, sex, marital status, veteran status, sexual orientation, genetic information, or any other characteristic protected by applicable federal, state or local laws. Our management team is dedicated to this policy with respect to recruitment, hiring, placement, promotion, transfer, training, compensation, benefits, employee activities and general treatment during employment.

The City will endeavor to make a reasonable accommodation to the known physical or mental limitations of qualified employees with disabilities unless the accommodation would impose an undue hardship on the operation of our business. If you need assistance to perform your job duties because of a physical or mental condition, please notify the Human Resources Office and your immediate supervisor.

The City will endeavor to accommodate the religious beliefs of its employees to the extent such accommodation does not pose an undue hardship on the City's operations. If you wish to request such an accommodation, please speak to your immediate supervisor and the Human Resources Office.

Any employees with questions or concerns about equal employment opportunities in the workplace are encouraged to bring these issues to the attention of the Human Resources Office. The City will not allow any form of retaliation against individuals who raise issues of equal employment opportunity. If an employee feels he or she has been subjected to any such retaliation, he or she should bring it to the attention of the Human Resources Office. Violation of this policy including any improper retaliatory conduct will lead to discipline, up to and including termination.

## **1-13 Harassment**

It is City of Alamogordo's policy to prohibit intentional and unintentional harassment of any individual by another person on the basis of actual or perceived race, creed, color, religion, alienage or national origin, ancestry, citizenship status, age, disability or handicap, sex, marital status, veteran status, sexual orientation, genetic information, or any other characteristic protected by applicable federal, state or local laws. The purpose of this policy is to ensure that no one harasses another individual.

### **Procedures for Reporting Harassment**

If an employee feels that he or she has been subjected to conduct which violates this policy, he or she should immediately report the matter to the employee's supervisor. If the employee is unable for any reason to contact this person, or if the employee has not received a response within five (5) business days after reporting any incident of what the employee perceives to be harassment, the employee should contact the Human Resources Office. Human Resources will consult with the Department Director. If

the person toward whom the complaint is directed is one of the individuals indicated above, the employee should contact the City Attorney's Office or the City Manager's Office.

Every report of perceived harassment will be investigated. Corrective action will be taken where appropriate. All complaints will be kept confidential to the extent possible, but confidentiality cannot be guaranteed.

Reporting harassment is a protected activity therefore, the City will not allow any form of retaliation against individuals who report unwelcome conduct to management or who cooperate in the investigations of such reports in accordance with this policy. If an employee feels he or she has been subjected to any such retaliation, he or she should report it in the same manner in which the employee would report a claim of perceived harassment under this policy. Violation of this policy including any improper retaliatory conduct will result in disciplinary action, up to and including termination.

The Harassment policy is a zero-tolerance policy.

## **1-14 Sexual Harassment**

It is City of Alamogordo's policy to prohibit harassment of any employee by any supervisor, employee, citizen, or vendor on the basis of actual or perceived sex or gender. The purpose of this policy is to ensure that all City employees are free from sexual harassment. While it is not easy to define precisely what types of conduct could constitute sexual harassment, examples of prohibited behavior include unwelcome sexual advances, requests for sexual favors, obscene gestures, displaying sexually graphic magazines, calendars, or posters, sending sexually explicit e-mails, text messages and other verbal or physical conduct of a sexual nature, such as uninvited touching of a sexual nature or sexually related comments. Depending upon the circumstances, improper conduct also can include sexual joking, vulgar or offensive conversation or jokes, commenting about an employee's physical appearance, conversation about your own or someone else's sex life, or teasing or other conduct directed toward a person because of his or her gender which is sufficiently severe or pervasive to create an unprofessional and hostile working environment.

### **Procedures for Reporting Sexual Harassment**

If the employee feels that he or she has been subjected to conduct which violates this policy, the employee should immediately report the matter to the employee's supervisor. If unable for any reason to contact this person, or if the employee has not received a response within five (5) business days after reporting any incident of perceived sexual harassment, the employee should contact the Human Resources Office. Human Resources will consult with the Department Director. If the person toward whom the complaint is directed is one of the individuals indicated above, the employee should contact the City Attorney's Office or the City Manager's Office.

Every report of perceived sexual harassment will be investigated. Corrective action will be taken where appropriate. All complaints will be kept confidential to the extent possible, but confidentiality cannot be guaranteed.

Reporting sexual harassment is a protected activity therefore, the City will not allow any form of retaliation against individuals who report unwelcome conduct to management or who cooperate in the investigations of such reports in accordance with this policy. If an employee feels that he or she has

been subjected to any such retaliation, the employee should report it in the same manner in which a claim of perceived harassment would be reported under this policy. Violation of this policy including any improper retaliatory conduct will result in disciplinary action, up to and including termination.

The Sexual Harassment policy is a zero-tolerance policy.

## **1-15 Workplace Violence**

City of Alamogordo is strongly committed to providing a safe workplace. The purpose of this policy is to minimize the risk of personal injury to employees and damage to City and personal property.

City of Alamogordo prohibits employees from engaging in any physical confrontation with a violent or potentially violent individual. However, we do expect and encourage employees to exercise reasonable judgment in identifying potentially dangerous situations.

### **Prohibited Conduct**

Threats, threatening language or any other acts of aggression or violence made toward or by any City employee will not be tolerated. For purposes of this policy, a threat includes but is not limited to, any verbal or physical harassment or abuse, any attempt at intimidating or instilling fear in others, menacing gestures, flashing of weapons, stalking or any other hostile, aggressive, injurious, or destructive action undertaken for the purpose of domination or intimidation.

### **Procedures for Reporting a Threat**

Emergency 911 should be contacted if needed.

If an employee feels that he or she has been subjected to conduct which violates this policy, he or she should immediately report the matter to the employee's supervisor. If the employee is unable for any reason to contact this person, or if the employee has not received a response within five (5) business days after reporting any incident of what the employee perceives to be harassment, the employee should contact the Human Resources Office. Human Resources will consult with the Department Director. If the person toward whom the complaint is directed is one of the individuals indicated above, the employee should contact the City Attorney's Office or the City Manager's Office.

Every report of perceived workplace violence will be investigated. Corrective action will be taken where appropriate. All complaints will be kept confidential to the extent possible, but confidentiality cannot be guaranteed.

If an employee is the recipient of a threat made by an outside party, that employee should follow the steps detailed in this section. It is important for the City to be aware of any potential danger, and to take effective measures to protect everyone from the threat of a violent act by an employee or by anyone else.

Reporting workplace violence is a protected activity therefore, the City will not allow any form of retaliation against individuals who report workplace violence or who cooperate in the investigations of such reports in accordance with this policy. If an employee feels that he or she has been subjected to

any such retaliation, the employee should report it in the same manner workplace violence would be reported under this policy. Violation of this policy including any improper retaliatory conduct will result in disciplinary action, up to and including termination.

The Workplace Violence policy is a zero-tolerance policy.

## **1-16 Anti-Bullying**

City of Alamogordo prohibits any form of bullying. Bullying is an act of aggression causing embarrassment, pain, or discomfort to someone. It can take a number of forms including, but not limited to physical, verbal, making gestures, or exclusion. It may be an abuse of power. It can be planned and organized, or it may be unintentional. It may be perpetrated by individuals or by groups of individuals.

The City is opposed to bullying and it will not be tolerated. If an employee feels that he or she has been subject to conduct in the workplace which violates this policy, he or she should immediately report the matter to the employee's supervisor. If the employee is unable for any reason to contact this person, or if the employee has not received a response within five (5) business days after reporting any incident of what the employee perceives to be bullying, the employee should contact the Human Resources Office. Human Resources will consult with the Department Director. If the person toward whom the complaint is directed is one of the individuals indicated above, the employee should contact the City Attorney's Office or the City Manager's Office.

Every report of perceived bullying will be investigated. Corrective action will be taken where appropriate. All complaints will be kept confidential to the extent possible, but confidentiality cannot be guaranteed.

Reporting bullying is a protected activity therefore, the City will not allow any form of retaliation against individuals who report bullying to management or who cooperate in the investigations of such reports in accordance with this policy. If an employee feels that he or she has been subjected to any such retaliation, the employee should report it in the same manner in which a claim of perceived bullying would be reported under this policy. Violation of this policy including any improper retaliatory conduct will result in disciplinary action, up to and including termination.

The Anti-Bullying policy is a zero-tolerance policy.

## **1-17 Alternative Dispute Resolution**

The City encourages the resolution of legal claims, including employment claims, through alternative dispute resolution ("ADR"), and intends to use ADR in disputes. Included below is a preliminary step which encourages, whenever possible, the use of mediation to resolve conflict. This step is intended to urge the consideration of the option of mediation, but in no way limits or preempts other remedies to which employees and the City are entitled by law.

When possible, the supervisor, manager, or director considering corrective action may file a request for mediation with the Human Resources' office prior to initiating corrective action. When mediation is pursued, participation in such session will be limited to the parties involved and the mediator. Other parties may be included, exclusive of any representative or attorney, at the discretion of the mediator.

Further, when mediation is pursued, all time limitations will be tolled as of the filing of the request for mediation with the Human Resource's Office and until such time as the mediation is completed. If a resolution is not reached through mediation, disciplinary action may ensue. A supervisor, manager, or director considering termination may not use mediation.

## **Section 2 - Recruitment and Selection**

### **2-1 Recruitment Policy**

#### **Policy**

It is the policy of the City to recruit and select the most qualified persons for positions in the City's service. Recruitment and selection shall be conducted in a manner that will ensure the City's best interest, open competition, provide equal employment opportunity, prohibit discrimination or favoritism as per federal and state laws and local ordinances.

#### **Recruitment**

The Human Resources Department policy is to conduct an active recruitment program designed to meet current and projected manpower needs. Recruitment will be tailored to the various classes of positions to be filled and will be directed to available sources likely to yield qualified applicants, including, but not limited to: internal posting, public notification through the New Mexico Department of Labor, media, web advertising, and posting at institutes of higher learning.

#### **Posting of Vacancies**

The Human Resources Department policy is to post and advertise job announcements in order to attract an adequate number of applicants and to promote an environment of competition that in turn will assure the selection of the most qualified candidates for any given position. These announcements shall include information sufficient to inform applicants of the pertinent features of the job.

The Human Resources Office will in its best efforts create a pool of qualified applicants to encourage diversity and ensure Equal Employment Opportunity in hiring. The following practices for listing positions will be followed under the Human Resources Department's direction with regard to Equal Employment Opportunity in the City of Alamogordo:

1. Regular full-time positions must be open for a minimum of five (5) workdays; and
2. Must be advertised in the City's paper of record and/or on the City's official web site, except when the City determines that a given position is to be filled from within the City organization or through an employment agency such as the New Mexico Department of Labor, it will not be required to advertise in said paper of record.

A recruitment posting shall not be required when a position is reclassified pursuant to Employee Manual Section 4-17. Classification of Positions, Reclassification Procedure, and the reclassified position is not vacant.

#### **Application Forms**

All applications for employment shall be submitted to the Human Resources Department on the standard City application form either electronically or in hard copy. Such application forms shall require background information to include training, experience, and other pertinent information that is not prohibited by law. All applications must be signed, either electronically or in writing, and proof of

qualification may be required. An application for employment will not be accepted beyond the closing date of a job vacancy announcement. Resumes without an application, and incomplete or late applications will not be accepted. Electronic and faxed applications will be accepted under the same procedure. All applications and resumes shall become the property of the City and shall become a permanent part of the personnel file upon being hired.

### **Applicant Qualifications**

Qualifications are the primary consideration in filling any position. Experience, education, training, skills, and other abilities, as well as specific position requirements and the prior employment history of the applicant, are considered in appraising individual qualifications. Qualifications are subject to change within job fields and according to job descriptions prior to posting.

Notwithstanding the foregoing, no person shall be eligible to have his or her name certified for original appointment to the position of Police Officer if such person has not reached his or her twenty-first birthday on the date of the application for the position, or the position of Firefighter if such person has not reached his or her eighteenth birthday on the date of application for the position.

### **Rejection of Applications**

The Human Resources Department may reject any application, which indicates that the applicant does not meet the minimum qualifications as established. Applications may also be rejected for, but not limited to the following, and consistent with the American with Disabilities Act, when the applicant:

- A. has falsified an application or resume;
- B. has been a no call/no show for three (3) or more confirmed interviews in a period of twelve (12) months;
- C. is unable to perform the duties of the position, for whatever reason(s);
- D. does not pass the pre-employment tests as outlined in this manual;
- E. refuses to submit, or does not submit in a timely manner, documents required by the established position or by law to determine the applicant's suitability for employment in the United States of America under the Immigration Reform Act, Social Security Act, or documents required to determine established education for the position;
- F. has an unsatisfactory employment record or personal record as evidenced by information contained on the application form or by results of a background check;
- G. is not within the legal age prescribed by law or City Ordinance;
- H. fails to meet any standards applicable to the physical or mental demands of the position;
- I. fails a pre-employment drug test;

J. cannot be licensed or insured for the operation of City vehicles and equipment as required by the job description;

K. cannot be licensed for or maintain professional certification as required by the job description;

L. was dismissed from City service as a result of the corrective action process;

M. did not give a two week notice before termination. Two-week notice may be waived, with documented approval, from the Department Director and Human Resource Director to accommodate extenuating circumstances; or

N. where an employee resigns to avoid dismissal or other corrective action.

### **Selection Hiring Process**

The Human Resources Department shall be responsible for determining selection methods to obtain the best-qualified applicants for each class of positions. Such selection methods may include the interview process, job relevant testing, and examinations. In the development of selection methods, Human Resource Department shall confer with departments, consultants, or others skilled in/or familiar with minimum job requirements. The minimum passing score is 70% or greater for interviews, testing, and examinations.

Human Resources will be responsible for developing and maintaining a background check program that is appropriate depending on the nature of each position. Applicants must provide a written authorization to the City which notifies the applicant that the City will conduct a background check and that the applicant agrees.

### **Interview Process**

The Human Resources Department shall coordinate the interview process. As a supplement to the selection process, applicants who have passed the application process may be interviewed by a panel of three (3) or more panelists. In processes where only three (3) or fewer applicants pass the application process, the Department Director or designee may choose to interview the applicants in lieu of using a panel. The City Manager has the authority to approve, by request of the Director, elimination of the panel interview.

All interviews will strictly adhere to Equal Opportunity Laws and the Americans with Disabilities Act.

### **Interview Panels**

The Human Resources Department and Department Directors will coordinate the selection of panel members, scheduling of applicants, development of questions, and rating process.

### **Rating and Recommendation Process**

All applicants will be rated individually on the information provided by the applicant during the interview. The Human Resources Department will tabulate all scores and provide a listing to the Department Director of the three (3) top scoring applicants in alphabetical order or will provide the top

scoring applicant. Filling the position from the top three (3) scoring applicants or from the top scoring applicant will be determined by the Department Director or designee at the time a request is submitted to fill a vacancy. Where there is a tie score among the third of the top three (3) applicants, all four (4) top ranking applicants will be listed in alphabetical order. The Department Director will advise the Human Resources Department of his or her recommended selection. If the Department Director finds that none of the applicants are suitable, the remaining applicants will then be reconsidered or, if necessary, the position will be re-advertised.

### **Eligibility for Hire Roster**

Applicants who pass the initial interview phase will be placed on an eligibility roster for a period of six (6) months from the date of the initial interviews. Police, Fire and Dispatcher rosters will be for a period of twelve (12) months, from the date of the initial interviews. Placement on the eligibility roster will be in order beginning with the highest scoring applicant to lowest scoring applicant. Should the position become vacant within the relevant time period, the top applicants on the roster who passed the initial interview phase may be considered by the Department Director before re-advertising the position.

### **Notice of Non-Selection**

The Human Resource Department and/or in some cases, the Department Director or designee, will notify applicants of their status during the process when it is determined the applicant is no longer being considered.

## **2-2 Procedures for Hiring**

### **Authorization for Hiring**

Department Directors, or designee shall submit each request to fill a vacancy, to the Human Resources Department on the prescribed requisition form. The Human Resources Department shall verify each request and present it to the City Manager or his or her designee. The City Manager may or may not authorize the vacancy be filled.

### **Required Licenses and Certificates**

Applicants/employees are responsible for meeting all job-related requirements at the time of application, hire, transfer, or promotion as outlined in the job description. This may include licenses, certificates, permits, degrees, and registrations.

Employees are responsible for paying any fees in obtaining such license, etc., unless otherwise specified by the City Manager, Department Director, or designee.

### **Failure to Maintain Job Qualifications**

Employees are required to maintain qualifications and certifications necessary for their position. Employees who have lost such certification requirement/job qualifications are responsible for:

- A. Immediately notifying both their immediate supervisor and their Department Director on the first day of employment after such a loss; and
- B. Not performing any work, or related function, without the required certification.

### **Pre-Employment Screening**

Pre-Employment testing may include, dependent on the position, but are not limited to a functional capacity examination, position competency test, and/or physical testing.

### **Background Checks**

The Human Resources Department will obtain signed releases and authorizations to conduct background and reference checks. Background checks may include, dependent on the position, but are not limited to employment history, criminal history, driving history, education verification, and credit history as appropriate.

Supervisors may review previous performance reviews and disciplinary actions of current employee's being considered for a new position and may consider this information when selecting a successful candidate.

### **Post Offer, Pre-Employment Examinations**

Pre-employment examinations may include, dependent on the position, but are not limited, to a pre-employment drug test, a physical, a polygraph, hearing test, eye test, and/or a psychological examination.

### **Recommendation for Hire and Appointment**

The City Manager, or his or her designee, has the authority to approve or disapprove a recommended selection. Upon the City Manager's written approval, and upon completion of all pre-employment procedures, the Human Resources Department will notify the finalist of a conditional offer of employment.

### **Conditional Offer of Employment**

The Human Resources Department shall notify the successful applicant of the conditional offer of employment and will schedule them to attend orientation. Unless prior approval is obtained from the City Manager, the City will not reimburse travel or relocation expenses in conjunction with the hiring process.

### **Rejection of Employment Offer**

In the event an applicant rejects an offer, the position may be offered to another candidate from the top three (3), the next highly qualified applicant from the same selection pool, or it may be re-opened for recruitment. A Director may choose not to hire candidates that remain eligible in the recruitment file.

## **New Employee Orientation**

Each new employee is required to attend a New Employee Orientation coordinated by the Human Resources Department.

The employee's department is responsible for providing additional information on departmental rules and regulations that set forth standards, regulation, duties, training, hours of work, reports, leave requests, safety, dress code, etc.

## **Categories of Employment**

### **A. Probationary:**

A six (6) month or one year (12 month) trial period of employment, during which an employee is required to demonstrate fitness for regular employment and during which time the employee may be terminated without cause and without rights to the grievance process.

Probationary periods may be extended for an additional period of up to six (6) months. Extended probationary periods must be initiated and served prior to the end date of the initial probationary period. Such an extension will be effective the day following the end of the initial probationary period.

**B. Regular Full Time:** A Regular Full-Time employee is one whose average workweek is no less than forty (40) hours in a seven (7) day period, has successfully completed the probationary period, and is entitled to employee benefits; or meets the requirements of the Affordable Care Act.

**C. Regular Part Time:** A City employee who works less than forty (40) hours in a seven (7) day period, is in a regularly budgeted position, has successfully completed the probationary period, and is entitled to qualifying employee benefits.

**D. Temporary/Seasonal:** Full or part-time employees whose work assignment is budgeted not to exceed six (6) months in a calendar year for a special purpose, project, or definite number of projects during a peak season. These employees are not eligible for benefits and time as a temporary or seasonal employee does not count towards future benefit eligibility. Such employees are probationary their entire tenure, regardless of the number of seasons for which they have been rehired, and may be terminated at any time with or without cause and may not grieve this termination.

**E. Intermittent:** An employee qualified to work in one or more job assignments who is on call to work at irregular intervals in one or more City departments. This employee is not entitled to City benefits and is paid only for hours worked.

**F. Emergency:** A full-time or part-time person hired to ensure continuity of municipal services during an emergency. Emergency appointments need only approval by the City Manager. Such employees are not eligible for City benefits.

**G. Acting:** A current employee appointed to temporarily assume the duties of a position, of a higher classification, pending the return of the employee in that position or a regular competitive appointment. A current employee who assumes the acting appointment may be required to also perform his or her usual duties.

**H. Professional:** A person from outside the work force who is appointed on a temporary basis by the City Manager, to a vacant position pending selection of a qualified person.

**I. Special Programs:** These are employees who are assigned to work areas anywhere in the City for the purpose of training or re-training. These individuals are not City employees, and all benefits and insurance coverage are the responsibility of the agency that has placed said individuals with the City. The City is not responsible for extending regular employment of these individuals.

### **Employee Preference**

Current full-time and part-time, regular non-probationary employees, or employees who have successfully completed a probationary period during their current term with the City, who apply for and are qualified for a vacancy and that are selected for the interview process, will be given a ten percent (10%) preference on each passing score given by a panel member, which will be added to their interview score before being referred for the final interview with the Department Director. The 10% preference will only be added to each score after passing the minimum passing score. The minimum passing score is 70% or greater. This preference does not guarantee selection or appointment to any vacancy. Where two (2) or more City employees are the only applicants being considered for final selection, seniority with the City, past performance, evaluations, and attendance (barring the courtesy of emergency/medical leave) may be considered in the final selection.

### **Employee Identification Cards**

The Human Resource Department will issue all employees a City Employee Identification Card (I.D. Card). The employee will carry the I.D. card when on Official City business. Each employee is responsible for safeguarding and updating his or her issued I.D. card. All identification cards remain the property of the City and must be returned to the Human Resource Department upon termination of employment. Failure to return the I.D. card may result in a charge being withheld from the final pay in accordance with the City Property policy.

City retirees will be provided with an I.D. card, from the Human Resources Department for required identification when requesting recreational City benefits. A City retiree is defined as an employee retiring in good standing under City Employment and under the New Mexico PERA retirement system. City retiree I.D. Cards are not required to be returned to the City.

### **2-3 Transfers/Promotions/Demotions**

City employees are encouraged to apply for a transfer or promotion to vacant positions for which they are qualified. In order to promote, the City will allow on-duty employees to attend testing and interview procedures for other City positions, during scheduled work hours, under the following conditions:

- Appropriate notice is given to the supervisor of the absence from work; and
- Employee will report to work immediately following appointment if during scheduled work hours.

Employees will not be compensated for time to attend testing and/or interviews that are conducted outside of their normally scheduled work hours.

The City Manager, or designee, may, for the good of the City, transfer an employee to a vacant position within a department or division or to a different department or division within the City. Transfers may be approved without conducting an open or internal recruitment only in cases resulting in either a budget savings to the City and/or more effective and efficient operations as determined by the City Manager. The City Manager may also transfer an employee to another position without conducting a recruitment in the case of an employee being involuntarily demoted, or in other extenuating circumstances. Employees cannot be laterally transferred outside their PERA Retirement classification where the transfer is detrimental to the employee's vested interest, unless employee initiated.

### **Pay Upon Transfers/Promotions/Demotions/Reclassifications**

Employees who are transferred, promoted, demoted, or reclassified may have their pay changed accordingly. Internal salary equity shall be considered when setting pay.

No transfers will be made outside the pay range for the new position.

### **Change of Anniversary Date & Probationary Period**

A regular employee who is promoted, demoted, or transferred will have his or her anniversary date changed to the effective date of said personnel action for evaluation and seniority in grade purposes only. Any probationary period served will be as outlined in that section.

Employees transferring may have their pay changed accordingly.

## **Section 3 – Compensation**

### **3-1 Compensation**

The term "Compensation" refers to base salary and other forms of compensation to include, but not limited to, fringe benefits such as paid leaves, insurance, retirement pensions, incentive plans, and paid holidays. The Compensation Plan shall strive for fair market compensation in terms of service provided to the community for resources expended.

#### **Purpose and Policy**

It is the policy of the City to establish a compensation system that will allow the City, within budgetary constraints, to effectively compete for qualified personnel and to ensure that salaries are equitable and commensurate with the duties performed by each employee.

#### **Salary Plan**

A salary plan shall be prepared and reviewed by the City Manager, and approved in the budget by the City Commission, and shall apply to all employees not covered by a labor contract unless the labor contract specifies otherwise. Employees covered by a labor contract shall be compensated as referenced in their respective agreements. A copy of the current salary plan shall be on file in the Human Resources Office.

#### **Cost of Living**

Cost-of-living adjustments/salary modifications may be granted by the City Manager as determined through approved government appropriations. If granted, employees will move upward to the next step in their currently assigned pay grade. This movement will be effective the first day of the pay period of the new fiscal year as approved.

All increases are subject to budgetary constraints.

#### **Maintenance of the Salary Plan**

The City will review the salary plan at least every five (5) years to determine the current need for an updated salary plan. If it is determined that an updated salary plan is necessary, the City will contract with an outside vendor to complete a full compensation and classification study.

The City will review the Consumer Price Index (CPI) at least every five (5) years and determine the previous five (5) full year average. The salary plan steps may be adjusted in an amount equal to the CPI's previous five (5) full year average upon approved government appropriations. During any fiscal year that the salary plan steps are adjusted per the CPI five (5) full year average, employees will remain in their current step and will receive an increase in pay equal to the amount of the current step adjustment.

Movement through the pay plan steps and CPI adjustments will be as approved through government appropriations.

The Human Resources Department shall be responsible for the maintenance and administration of the City's Salary Plan. Any recommended changes shall be presented to the Department Director and the City Manager for approval.

### **Standards for Development of the Salary and Compensation Plan**

The Compensation Pay Plan is directly tied to the Classification Plan and is determined on the basis of:

1. Uniformity of pay for each class.
2. Relative difficulty and responsibility of positions.
3. Prevailing wages within the identified relevant public sector markets.
4. Consumer Price Index.
5. Financial policies of the municipality.
6. Difficulty in recruiting suitable employees.
7. Other economic considerations.

### **Classification Plan**

Positions that require similar qualifications and similar duties and responsibilities are assigned to the same salary level. The City may conduct periodic studies to determine if an employee is working above or below the responsibility level for that position. Where unusual conditions exist that affect the market value of a position, the salary may be adjusted accordingly by the City Manager.

### **Classification and Re-Classification of Positions**

An internal and external analysis will be conducted by Human Resources for any new position or existing position that has experienced significant changes in duties or qualification requirements. Human Resources will provide a recommendation to the Department Director and City Manager for approval.

### **Compensation System**

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

The entry level rate is the 1st step in the assigned pay range for the position.

Successful external candidates meeting the minimum requirements or otherwise qualifying for a position shall start at Step 1 of the pay range.

Successful external candidates exceeding the minimum requirements of the position will be calculated and placed in the appropriate step (up to step 10) per the following:

1. An additional step in the assigned pay grade for each two (2) full years of experience exceeding the minimum requirements of the position and/or;
2. An additional step in the assigned pay grade based on each level of degree awarded exceeding the minimum requirements of the position. To be considered for step credit the degree awarded must be in the degree field of study as designated in the current position description or is determined to be closely related.

A Department Director, subject to approval by the City Manager, may recommend for appointment, a candidate above Step 1, up to Step 10, of the pay range for extenuating circumstances if:

1. Multiple recruitments have failed to yield a qualified candidate, and/or
2. The applicant has qualifications which are unique or critical, and/or
3. A survey of the market reveals that the City is not competitive.

### **Employee Pay Rate Adjustments**

Pay rate adjustments shall be administered as follows:

Seasonal employees promoting from seasonal to regular status shall start at step 1 of the new position.

1. **Transfers.** When an employee is transferred (reassigned) from one position to another within the same pay grade he or she shall continue to receive the same step assignment and rate of pay.

2. **Promotions.** A promotion is defined as an assignment from one grade to another, which has a higher minimum and maximum rate of pay and greater responsibility. Upon promotion the employee will receive the higher of:

A. Step 1 or placement in the step that provides at least a ten (10) percent increase when the new position is at least one (1) salary grade higher, or

B. Step 1 or placement in the step that provides at least a fifteen (15) percent increase when the new position is at least two (2) or more salary grades higher, or

C. Placement in the new salary grade at step three (3) of the new pay range, provided the employee has successfully completed their initial probationary period; or

1. An additional step in the assigned pay grade for each two (2) full years of experience exceeding the minimum requirements of the position and/or;
2. An additional step in the assigned pay grade for each degree level awarded exceeding the minimum requirements of the position. To be considered for step credit the degree awarded must be in the degree field of study as designated in the current position description or is determined to be closely related.

Higher salary grade is determined by the percentage difference between the step 1 rate of the employee's current position vs. the step 1 rate of the new position. When going from the non-management table to the management table each 1.039 percent difference is equal to one step difference.

The new pay rate, upon promotion, shall not exceed the maximum of the new pay range.

3. **Reclassification.** Upon an upward reclassification of a position the affected employee will receive the higher of:

A. Step 1 or placement in the step that provides at least a ten (10) percent increase when the new position is at least one (1) salary grade higher, or

B. Step 1 or placement in the step that provides at least a fifteen (15) percent increase when the new position is at least two (2) or more salary grades higher, or

C. Placement in the new pay grade at step three (3) of the new pay range, provided the employee has successfully completed their initial probationary period.

D. For a downward reclassification the affected employee shall remain at their current step in the current pay range but will move to the step in the new pay range that provides an increase effective on the same date as the next step movement is approved through government appropriations.

4. **Demotion.** The placement of an employee from one class to another which has a lower pay rate or grade, resulting in a decrease in pay. In the case of a demotion, the employee's base salary shall be adjusted at the lower of:

A. Placement in the step that provides at least a ten (10) percent decrease in pay when the new position is at least one (1) salary grade lower, or

B. Placement in the step that provides at least a fifteen (15) percent decrease in pay when the new position is two (2) or more salary grades lower.

C. The maximum base salary of the new pay grade.

D. An employees pay when an involuntary movement to a lower pay grade occurs will be evaluated based on the extenuating circumstances surrounding the reason for the pay grade change.

E. An employee transferring or demoting back to their previous position will be placed at their previously assigned step in the pay range for the previous position, plus any across the board or step increases applied since the employee moved from that position.

Lower salary grade is determined by the percentage difference between the step 1 rate of the employee's current position vs. the step 1 rate of the new position. When going from the management table to a non-management table each 1.039 percent difference is equal to one step difference.

## **Additional Compensation**

The City Manager may recommend additional forms of compensation in addition to the Salary Plan in the best interest of the City and within the amounts approved in the budget by the City Commission. The manner in which the award of additional compensation is to be determined will be outlined in writing by the City Manager and maintained in the Human Resources Department.

Employees who have reached step 25 of their assigned pay range will remain at step 25.

## **Overtime/Compensatory Time**

Overtime and Compensatory time will be paid in accordance with the Fair Labor Standards Act. A maximum limit of compensatory time may be set by the City Manager, not to exceed the rate set by local, state, or federal law. Exempt employees are not eligible for overtime pay and will be paid in accordance with the Fair Labor Standards Act.

## **Responsibilities and Authority to Approve Overtime/Compensatory Time**

Employees may not work beyond their scheduled hours without prior approval from their Department Director or their designee. This written approval will be on an exception report form or other standard City forms within the work week. Department Directors are responsible for the accurate recording of all overtime and compensatory time on the employee's exception report. Accrued compensation time shall be utilized prior to accrued PTO, unless otherwise approved by the Department Director. Overtime and compensatory time will be administered in accordance with local, state, and federal laws.

When allowed by law, Department Directors may utilize compensatory time off in order to conserve their budgeted overtime for emergencies. Compensatory time accrued must be taken by the last day of the next to the last pay period of the fiscal year, unless otherwise approved by the City Manager, or the employee will be paid out for the compensatory time he/she has accrued. Employees will be paid for all compensatory time they have earned and not used at the time of termination or fiscal year end.

## **Premium Pay**

Time worked on specific projects, emergencies, or grant funded projects may be paid at a premium rate of time and a half the regular rate at the discretion of the City Manager prior to overtime pay being required by law.

## **Compensation for Temporary Acting or Overlay Assignment**

When an employee is assigned to fulfill the duties and responsibilities of a vacant position in a higher classification on a temporary basis, he or she may be paid additional compensation at the discretion of the City Manager or designee.

Acting pay for fulfilling the duties and responsibilities of a vacant position in a higher classification will be either at a rate equal to step 1 of the higher classification or the employee fulfilling said duties will be given a ten percent (10%) increase, whichever is greater.

The preceding provision shall not apply to those circumstances where a person is temporarily assigned to fulfill the duties and responsibilities of a Department Director. Instead, the employee shall be paid additional compensation either at a rate equal to step 1 of applicable director positions appropriate pay range or placed at the step that provides at least a fifteen percent (15%) increase, whichever is greater.

The compensation paid to any individual serving in the capacity of acting, temporary, or interim City Manager, shall be fixed by the City Commission.

When an employee is temporarily assigned a project or task outside of the scope of their current position and is not fulfilling the capacity of a vacant position, at the City Manager or designee's discretion the employee may receive overlay pay at a rate to be determined by the City Manager or designee. This provision does not apply to assigned tasks that qualify as "other duties as assigned".

For the purpose of this section, temporary is defined as a period of time in excess of thirty (30) calendar days.

Pay for any assignment under this provision will begin on the first day of the assignment.

When the temporary acting or overlay assignment is complete, the employee's salary shall revert to the previous level.

Internal equity may be considered when setting temporary acting or overlay pay.

If an employee separates from employment, either voluntarily or involuntarily, or as the result of a retirement, while temporarily assigned to a higher classification as a Department Director, Assistant City Manager, or as the City Manager, any accrual payouts made in conjunction with the separation, retirement, or PTO Conversion shall be calculated and paid without the additional rate of the temporary or acting pay or salary.

### **Holiday Pay**

When a non-exempt employee works on the actual holiday, the employee shall be compensated at a holiday pay rate for all hours worked on the actual holiday. All time worked on actual holidays will be paid at one and one half (1 ½) times the normal hourly rate, in addition to the holiday leave pay if applicable. For example, if Christmas Day is Sunday and the City observes the holiday on Monday, the employee who is scheduled to work on Sunday, the ACTUAL holiday, will receive the holiday pay rate of one and half (1 ½) times the normal hourly rate. The employee who works on Monday, the observed holiday, will receive the eight (8) hours of holiday leave pay and regular pay for the time they work on the observed holiday.

In cases where an employee works both the actual holiday and the City observed holiday, only the actual holiday will be considered a holiday for the purposes of using the holiday pay rate.

The starting date of employees' shifts will be used to determine whether the employee worked the holiday. For example, if an employee's shift begins at 7:00 p.m. on Christmas Eve and continues through 7:00 a.m. on Christmas morning, they will not be considered to have worked the holiday. If the employee works from 7:00 p.m. on Christmas Day to 7:00 a.m. on December 26<sup>th</sup>, they will be considered to have worked the holiday for the entire shift.

## **Bi-Lingual Pay**

Regular non-exempt employees may be compensated at a rate of \$.50 per hour for their bilingual abilities based on the following conditions:

- A. The language is recognized by the City Manager as adding to the increased productivity and efficiency of the City.
- B. A written request from the employee and written authorization from the direct supervisor and the department director outlining the benefit to City services is submitted to Human Resources;
- C. Employee must prove proficiency by meeting the standards established and administered by the Human Resources Department.
- D. Employee will be available during scheduled work hours to translate when requested by City personnel.
- E. If the need for the ability exists and the Departmental budget allows for the additional costs, as determined by the Department Director.
- F. Bilingual pay may be removed at any time when determined to be in the best interest of the City as determined by the City Manager or designee.

Exempt employees are not eligible for this benefit.

## **Certification Pay**

Regular non-probationary employees, in the position currently held, may be compensated at a rate of \$.60 per hour for obtaining authorized certification(s) under the following conditions:

- A. The certification is not a requirement of the employee's current job description;
- B. The certification is generally issued by a Federal, State, or professional association;
- C. The certification is justified by the employee's Director, and approved by the City Manager, as being a benefit to the position and the City for the employee to hold the certification and the department budget allows for the additional cost;
- D. Pay for an authorized certification will begin the first day of the pay-period following submission of the original certification document to Human Resources and justification by the appropriate Director;
- E. Certification pay may be removed at any time when determined to be in the best interest of the City as determined by the department director; and
- F. Pay for certifications with an expiration date will end on the last day of the pay period in which the certification expires.

## **Wage Garnishments and Assignments**

It is the policy of the City to comply with all lawful claims against the wages of our employees, such as garnishments, assignments, and child support orders.

In accordance with applicable federal and state laws, corrective action may not be taken against any individual whose wages have been garnished or assigned. When the City receives a garnishment or assignment, the Finance Department will be responsible for informing the employee of the notice received and will maintain such records.

## **Pay Days**

Paychecks shall be issued bi-weekly, on Thursday, or as designated by the City Manager. A payroll period consists of two calendar weeks from Sunday midnight to Sunday midnight, or the end of the shift in progress at that time.

## **Work Week**

Except as otherwise provided by a labor agreement, the Department Director shall assign the work day. The workweek shall be a seven (7) day period beginning on Monday at 12:01 a.m. and continuing through Sunday at midnight. This regulation does not apply to employees who are FLSA "exempt".

The City Manager has the authority to establish work periods that are within the Fair Labor Standards Act. These periods will be in writing by the City Manager and maintained in the Human Resources Department.

## **Time Clock**

A. Non-exempt employees will clock in and out at their scheduled time.

B. Falsification of time records including, but not limited to clocking in/out for a coworker is a breach of this policy. Any errors or accidental omissions must be documented on an exception report and signed by the employee, the supervisor, and the Department Director.

C. Department Directors have overall responsibility for the timely and accurate submission of employee time through the City's timekeeping system. Actual time entry may be delegated to a department employee.

## **3-2 Unemployment Insurance**

The City provides for Unemployment Insurance benefits for all employees as required by law.

## Section 4 - Operational Policies

### 4-1 Probationary Period

A probationary period is an opportunity for the City to acclimate, train, and evaluate the employee's work ethic, skills, and performance. It also is an opportunity for the employee to decide whether he or she is happy being employed by the City.

Probationary employees, including those on an extended probationary period, may be terminated at any time with or without cause and may not grieve a termination.

A probationary period will not be served for a contracted at-will employee.

#### **Regular Employee Probationary Period**

- A. The first six (6) months of employment for regular employees is a probationary period.
- B. An employee who is selected for a voluntary transfer, promotion, or demotion shall commence another six (6) month probationary period or as designated by an applicable Union Agreement.
- C. An employee who is involuntarily transferred or demoted will serve another six (6) month probationary period, except in cases where an employee is transferred or demoted back to a position previously held and the probationary period was completed.
- D. An employee whose position is reclassified upward, while holding the position, will not serve another probationary period.
- E. An employee who auto promotes under the City's Automatic Promotion Policy will commence another probationary period as outlined in the Automatic Promotion Policy or applicable Union Agreement.

#### **APD/AFD Probationary Period**

- A. The first twelve (12) months of employment for; sworn Police positions, Firefighter, Code Enforcement Abatement Officer/Firefighter, Code Enforcement Officer/Firefighter, and Fire Command personnel, is a probationary period.
- B. A certified Police Officer hired by the City who is currently certified in New Mexico or another state that has at least one (1) year of verifiable experience as a certified officer will serve a six (6) month probationary period.
- C. Sworn Police positions, Firefighters, and Fire Command personnel, who are promoted within the same career field will serve a six (6) month probationary period, if their initial probationary period has been completed. If the initial probationary period has not been completed the remainder of the initial probationary period will be served and the additional six (6) month probationary period will be served.
- D. At the conclusion of the probation period, it shall take an affirmative action through completion of a written Performance Evaluation to place the employee in a regular non-probationary status.

- E. If timely affirmative action is not taken the employee will be considered to have successfully completed their probationary period on the effective date of the probationary period end date. The evaluation will still be required.

**Extension of Probationary Period**

- A. The City may extend the probationary period if it desires. Probationary period extensions are done only upon recommendation by the supervisor to the Department Director, through the Human Resources Office, and notice to the employee. Requests to extend the probationary period must include a written evaluation, a Personnel Status Form, and in some cases a Performance Improvement Plan (PIP) to document the employee’s abilities, inabilities, demonstrated potential, expectations, and the situation in general.
- B. The documentation necessary to extend a probationary period will be completed prior to the last day of the initial probationary period end date. Extensions will be effective the day following the end of the initial probationary period.
- C. Extensions of the probationary period will only be for an additional period of up to six (6) months.
- D. While employees will begin earning PTO hours upon hire, they are not eligible to use PTO until they have successfully completed their initial probationary period or extended probationary period if applicable.

**Other**

- A. Employees commencing a subsequent probationary period will be eligible for any leave benefits they were entitled to on the effective date of the transfer, demotion, or promotion.

**4-2 Performance Review**

City of Alamogordo endeavors to review performance annually. A positive performance evaluation does not guarantee an increase in salary, a promotion or continued employment. Compensation increases and the terms and conditions of employment, including job assignments, transfers, promotions, and demotions, are determined by and at the discretion of management.

**Performance Evaluations**

Each regular employee shall be given a written performance evaluation in accordance with the following time factors:

- A. At completion of the probationary period and extension of probationary period if applicable;
- B. At mid-point of probationary period if employee is serving a one (1) year probationary period;
- C. For an annual evaluation period of March 1 through February of the following year; evaluations are due within thirty (30) days of the expiration of the evaluation period.

## **Special Evaluations**

Employees should be evaluated under the following special circumstances:

A. Progress of an employee's performance may be provided to probationary employees periodically throughout their probationary period. This communication may be either written or verbal but must be documented.

B. When there is a notable change, either positive or negative, in an employee's performance level and quality.

Performance Evaluations will be submitted to Human Resources for an initial review of language prior to issuing to the employee. The Human Resources Department may refer questionable evaluations to proper management levels for resolution.

The employee shall have the opportunity to input information, to agree or disagree, and should sign the document acknowledging the receipt of the evaluation. Should an employee refuse to sign, the supervisor should have another supervisor witness the employee's refusal to sign the evaluation.

In addition to these formal performance evaluations, the City encourages employees and supervisors to discuss job performance on a frequent and ongoing basis.

Completed evaluations shall be forwarded to the Human Resource Department for final review and/or action i.e., removal of introductory status, or other action related to the evaluation, and filing of the evaluation in the employee's personnel file.

## **Unsatisfactory Evaluations**

Marginal or unsatisfactory performance is unacceptable. If an overall rating of an employee's performance is marginal or unsatisfactory the employee may be subject to a Personal Improvement Plan (PIP) from their supervisor through the Department Director and the Human Resources Office.

## **4-3 Employment Records**

The employee should keep his or her personnel file up to date by informing the Human Resources Office of any changes. The employee also should inform the Human Resources Office of any specialized training or skills he or she may acquire in the future, as well as any changes to any required visas. Unreported changes of address, marital status, etc. can affect withholding tax and benefit coverage. Further, an "out of date" emergency contact or an inability to reach the employee or emergency contact in a crisis could cause a severe health or safety risk or other significant problem.

The official personnel records for each employee are maintained in the Human Resources Office and are the property of City of Alamogordo. Such records may include the employee's application, the original copy of each Personnel Status Change Form, performance evaluations, corrective action documents, attendance and leave records, and any other pertinent information.

Inclusion of documents in the employee's personnel file is at the discretion of Human Resources and/or the City Manager.

Departments may maintain unofficial personnel records for their employees, which may include copies of each personnel Status Change Form, performance appraisals, corrective action documentation, attendance and leave records, and any other pertinent information.

Confidential auxiliary files containing personal benefit, Workers' Compensation, Family Medical Leave, background, medical and/or treatment records, and investigations may be kept and are the property of the City of Alamogordo. Such records may include, but are not limited to health insurance enrollment information, beneficiary information, physical examination reports, health history reviews, laboratory test results, reports from physicians and psychologists, hospital records, and other medical reports.

The City Manager, or designee, shall be the final authority for approval or disapproval of all personnel transactions.

Personnel records will only be released as allowed in the State of New Mexico Inspection of Public Records Act (IPRA).

Personnel records will be retained in accordance with the New Mexico Administrative Code and the Health Insurance Portability and Accountability Act (HIPAA).

#### **4-4 Medical Examinations/Alcohol/Drug Screening**

City employees may be required to take medical and or alcohol/drug tests by the City's designated provider.

Refer to Section 7-1. Drug-Free and Alcohol-Free Workplace

#### **4-5 Psychological Examinations**

As a condition of employment or continued employment, City employees may be required to take psychological examinations by a City approved health care provider.

#### **4-6 Working Hours and Schedule**

City of Alamogordo is typically open for business from 8:00 am to 5:00 pm, Monday through Friday. However, some Departments of the City provide services outside of the typical business week. Employees will be assigned a work schedule and will be expected to begin and end work according to the schedule. To accommodate the needs of our citizens, the City reserves the right to change individual work schedules on either a short-term or long-term basis.

## **4-7 Timekeeping Procedures**

Employees must record their actual time worked for payroll and benefit purposes. Non-exempt employees must record the actual time the performance of work begins and ends, as well as the beginning and ending time of any departure from work for any non-work-related reason. Exceptions or corrections to the work schedule will be submitted on forms as prescribed by management.

Non-exempt employees may not start work until their scheduled starting time and may not work beyond their scheduled work hours without prior approval.

Exempt employees are required to record absences from work.

Altering, falsifying, or tampering with time records is prohibited and subjects the employee to discipline, up to and including termination.

It is the employee's responsibility to sign time records to certify the accuracy of all time recorded. Any errors in the time record should be reported immediately to a Supervisor or Time Keeper, so the City can resolve the matter quickly and amicably.

## **4-8 Overtime**

During periods of extremely high activity, additional work may be required. Supervisors are responsible for monitoring business activity and requesting overtime work if it is necessary. Effort will be made to provide employees with adequate advance notice in such situations.

Any non-exempt employee who works overtime will be compensated at the rate of one and one-half times (1.5) his or her normal hourly wage for all time worked in excess of forty (40) hours each week, unless otherwise required by law.

Employees may work overtime only with prior management authorization.

For purposes of calculating overtime for non-exempt employees, the workweek begins at 12:01am on Monday and ends 168 hours later on Sunday at midnight.

Exempt employees are not eligible for overtime or compensatory time compensation.

## **4-9 Safe Harbor Policy for Exempt Employees**

It is our policy and practice to accurately compensate employees and to do so in compliance with all applicable state and federal laws. To ensure proper payment and that no improper deductions are made, employees must review pay stubs promptly to identify and report all errors.

Employees classified as exempt salaried employees will receive a salary which is intended to compensate them for all hours they may work for City of Alamogordo. This salary will be established at the time of hire or classification as an exempt employee. While it may be subject to review and modification from time to time, such as during salary review times, the salary will be a predetermined

amount that will not be subject to deductions for variations in the quantity or quality of the work performed.

Under federal and state law, salary is subject to certain deductions. For example, unless state law requires otherwise, salary can be reduced for the following reasons:

- Full-day absences for personal reasons;
- Full-day absences for sickness or disability;
- Full-day disciplinary suspensions for infractions of any City policy and/or City of Alamogordo Ordinances;
- Family and Medical Leave absences (either full- or partial-day absences);
- To offset amounts received as payment from the court for jury and witness fees or from the military as military pay;
- The first or last week of employment in the event the employee works less than a full week; and
- Any full work week in which the employee does not perform any work.

Salary may also be reduced for certain types of deductions such as a portion of health, dental or life insurance premiums; state, federal or local taxes; social security; or contributions to a deferred compensation or pension plan.

In any work week in which the employee performed any work, salary will not be reduced for any of the following reasons:

- Partial day absences for personal reasons, sickness or disability;
- An absence because the employer has decided to close a facility on a scheduled work day;
- Absences for jury duty, attendance as a witness, or military leave in any week in which the employee performed any work (subject to any offsets as set forth above); and
- Any other deductions prohibited by state or federal law.

However, unless state law provides otherwise, deductions may be made to accrued leave for full- or partial-day absences for personal reasons, sickness, or disability.

Exempt employees who are absent from the workplace less than a full day, but more than half of their scheduled workday are required to use accrued leave for the number of hours equal to half of the workday.

If the employee believes he or she has been subject to any improper deductions, the employee should immediately report the matter to a supervisor. If the supervisor is unavailable or if the employee believes it would be inappropriate to contact that person (or if the employee has not received a prompt and fully acceptable reply), he or she should immediately contact Department Timekeeper, Human Resources, or any other supervisor in City of Alamogordo with whom the employee feels comfortable.

#### **4-10 Paychecks**

The employee will be paid bi-weekly for all the time worked during the previous pay period.

Payroll stubs itemize deductions made from gross earnings. By law, the City is required to make deductions for Social Security, federal income tax and any other appropriate taxes. These required deductions also may include any court-ordered garnishments. Payroll stubs also will differentiate between regular pay received and overtime pay received.

If there is an error in an employee's pay, the employee should bring the matter to the attention of their supervisor or timekeeper immediately so the City can resolve the matter quickly and amicably.

Paychecks will be given only to the employee, unless he or she requests that it be mailed, or authorizes in writing another person on the City's designated form, to accept the check.

#### **4-11 Direct Deposit**

City of Alamogordo encourages employees to use direct deposit for payroll purposes. Authorization forms are available from Human Resources or Payroll.

A check can be an actual check if requested by the employee at least seven (7) days prior to pay day.

#### **4-12 Early Release of Paycheck**

City of Alamogordo will permit the early release of a paycheck prior to a scheduled pay date. Any early release will not be an advance payment of services not rendered as prohibited by Section 30-23-2 NMSA1978.

Requests for the early release must be submitted on the City designated form and have the prior approval of the Department Director, Finance Director, and City Manager.

Approved forms will be submitted to Payroll for processing.

#### **4-13 Investigations, Inquiries, and Audits**

The City reserves the right to conduct appropriate investigations, inquiries, or audits for the purpose of monitoring the adherence of all City employees to all policies and procedures.

City employees are required to be truthful and forthcoming when responding to an inquiry. City employees shall maintain confidentiality of all investigations. This includes while the investigation or inquiry is being conducted and remains in effect after the investigation has concluded. Employees shall not attempt to interfere or otherwise influence the investigation. Violations of this policy may result in corrective action.

City employees must cooperate with investigations pursuant to Garrity Rights originating from a 1967 United States Supreme Court decision, Garrity v. New Jersey.

The complainant will receive notice of completion of the investigation; however, the complainant is not privy as to what action was taken, if any.

Requests for copies of investigations are made through the City Clerk's Office pursuant to the New Mexico Information and Public Records Act. City employees receiving corrective action involving a financial impact may receive a copy of the investigation upon request in compliance with due process.

#### **4-14 False Statements/Fraud**

No employee shall willfully or corruptly;

- make any false statement; or
- falsify or alter official documents/records; or
- mark rating or report falsely with regard to any test, certification, appointment or investigation; or
- in any manner commit any fraud, conceal any wrongdoing, or knowingly withhold information about wrongdoing in connection with employment with the City or with work-related conduct of any City employee.

#### **4-15 Corrective Actions**

##### **Policy**

It shall be the policy of the City to administer corrective action fairly, reasonably, and impartially. Employees and the City are best served when corrective action is administered to correct actions rather than to punish.

##### **Grounds for Corrective Action**

The continued employment of City employees shall be based on reasonable standards of job performance and personal and professional conduct. Refusal to meet these standards or comply with City policies shall constitute just cause for corrective action including, but not limited to Alternative Dispute Resolution, verbal or written reprimands, suspensions, demotions, termination, arrest, and/or prosecution.

Refer to Section 1-17. for Alternative Dispute Resolution information.

##### **Type of Action Administered**

Corrective action is not primarily intended to be punitive, but rather to maintain the efficiency and integrity of City service. The degree of corrective action administered will depend on the nature and severity of the infraction and the employee's prior record. Management has the right to bypass the progressive discipline process. Corrective action shall be in accordance with any applicable City policies and procedures as well as local, state, and federal laws and regulations.

It is the responsibility of each supervisor, manager, and department director to evaluate thoroughly the circumstances and facts as objectively as possible, follow the corrective action procedures outlined herein, and apply the most suitable form of corrective action.

Should a City employee be subsequently charged and convicted of a crime following corrective action, the City reserves the right to take additional corrective action up to and including termination, as allowed by law.

### **Corrective Action Procedures**

Depending on the type of action administered, there are different procedures required for issuing corrective action. Some of these procedures are required by law.

The City's designated Corrective Action form is required for all corrective actions.

All Corrective actions shall be given in private, including verbal warnings, except when the warning applies evenly to all employees of a division or department.

Documented corrective actions may be used as a basis for further progressive discipline.

The following list outlines details of each corrective action that shall be reviewed with the employee and shall be documented within all corrective actions:

- The nature of the infraction;
- The specific reasons supporting the cause;
- The discipline to be imposed;
- The effective date;
- What action must be taken by the employee to avoid further corrective action, up to and including termination;
- When correction of the infraction is expected;
- Policies or procedures violated; and
- What the employee's rights are with relation to the grievance process, if applicable.

All Corrective actions involving suspensions without pay, demotions, or termination require consultation with the Human Resource Director prior to Corrective action being administered to ensure actions are being administered fairly, consistently, and in compliance with applicable laws.

A copy of any corrective action is to be given to the employee at the time of the discussion. The employee shall sign the corrective action to acknowledge receipt. If the employee refuses to sign the acknowledgment, then the supervisor and one other witness, of a supervisory capacity, shall note on the corrective action that the employee received a copy thereof and refused to sign it.

### **Administrative Leave Pending Investigation**

An employee may be placed on administrative leave in cases where it is necessary to investigate a situation to determine what corrective action may be justified. This leave gives the supervisor the opportunity to investigate the situation when it is serious enough for the employee to be removed from the work environment. Investigatory suspensions may be with pay. If after the investigation, it is determined that the employee was not guilty of any violation, the employee will be returned to work,

and cleared of all charges. If, however, the employee is found in violation, then the appropriate corrective action may be taken.

An employee serving administrative leave pending investigation remains eligible for paid observed holidays.

### **Verbal Warnings and Written Reprimands**

Corrective actions in the form of verbal warnings and written reprimands are the responsibility of each supervisor and do not require intervention by the Human Resources Department.

Supervisors shall inform the Department Director of verbal warnings and written reprimands given.

Probationary employees may be terminated at any time and may not grieve this action, or any other corrective action taken.

### **Verbal Warning**

This type of corrective action should be applied to infractions of a relatively minor degree or in situations where the employee's performance needs to be discussed.

Records of verbal warnings will be kept by the supervisor or manager but must include the Directors signature prior to filing.

Verbal warnings are not grievable.

To prepare the action refer to Section 4-15. *Corrective Actions, Corrective Action Procedures.*

### **Written Reprimand**

This notice will be issued in the event the employee continues to disregard a verbal warning or if the infraction is severe enough to warrant a written reprimand.

The original, signed by the employee, will be forwarded to the Human Resources Department and placed in the employee's personnel file.

To prepare the action refer to Section 4-15. *Corrective Actions, Corrective Action Procedures.*

### **Suspension Without Pay**

This form of corrective action may be taken as result of a severe infraction(s) of City of Alamogordo Ordinances, Citywide and Departmental policies, and procedures, and/or any applicable laws regulated by an outside authority and including, but not limited to, insubordination, theft, illegal or destructive acts or for repeated violations. An employee may also be suspended after repeated offenses of a less serious nature if the supervisor has documented the offenses and appropriate behavioral changes have not resulted from previous corrective action.

Suspensions shall not exceed thirty (30) scheduled workdays or a maximum of 240 scheduled work hours.

Suspensions will be scheduled at the discretion of the Department. Employees serving a suspension without pay remain eligible for paid observed holidays occurring during the suspension; however, the paid holiday shall not also satisfy an imposed day of suspension without pay.

FLSA exempt employees may be suspended for one (1) or more full days.

To prepare the action refer to Section 4-15. *Corrective Actions, Corrective Action Procedures.*

### **Demotion**

Demotion may be used in those instances where an employee is unwilling or unable to perform the responsibilities of the position. Demotion is not to be used as a substitute for dismissal when dismissal is warranted.

The pay rate of an employee who is demoted may be reduced to the appropriate rate of the new pay grade of the position into which the employee is demoted.

To prepare the action refer to Section 4-15. *Corrective Actions, Corrective Action Procedures.*

### **Involuntary Termination**

Employees may be recommended for termination in instances involving, infraction(s) of City of Alamogordo Ordinances, Citywide and Departmental policies, and procedures, and/or any applicable laws regulated by an outside authority for repeated violations, and including, but not limited to, insubordination, theft, illegal or destructive acts. An involuntary termination will require the Human Resources Director consultation prior to being administered. An employee may also be dismissed after repeated offenses of a less serious nature if the supervisor has documented the offenses and appropriate behavioral changes have not resulted from previous corrective action.

To prepare the action refer to Section 4-15. *Corrective Actions, Corrective Action Procedures.*

### **Probationary Termination**

Probationary employees may be terminated at any time and may not grieve this action or any other corrective action taken.

## **4-16 Grievance and Arbitration Procedure**

- A. Upon agreement by both the City and the grieving employee, the grieving employee's representative shall be allowed to address the grievance/appeal on the grieving employee's behalf.
- B. As a condition of employment, employees are required to appear as witness in grievance hearings when requested by the City.
- C. Employees called as witnesses during time off shall be paid in accordance with the Fair Labor Standards Act (FLSA) by the City for the time spent at the hearing.

- D. Grievance is defined as a misinterpretation, misapplication, or violation of a specific subsection of an article of this manual. Corrective actions involving a written reprimand, suspension, demotion, or termination may also be grieved under this procedure.
- E. The following are considered non-grievable:
1. Lay-offs;
  2. Changes in policies and procedures;
  3. Performance evaluations;
  4. Promotions;
  5. Changes in duty stations or shifts;
  6. Matters mandated by City, State, and/or Federal law;
  7. Matters in which the City is without authority to act; and/or
  8. Other matters of inherent management rights, unless they are directly related or a direct consequence of a grievable matter.
- F. The grievance must be in writing and shall include:
1. Identification of the specific Article, subsection, and language in this manual that is alleged to have been violated;
  2. Identification of the action or inaction that generated the grievance;
  3. The management employee(s) involved in the alleged violations;
  4. The date of the alleged violation;
  5. The specific relief requested; “to be made whole” is not an acceptable specific relief and;
  6. The grievance must be signed and dated by the employee and the employee’s representative, if the employee elects to be represented.
- G. “Working days” is defined as days the City administrative offices are open for business.
- H. Failure to submit a grievance within five (5) working days following the discovery of the act, or the condition which gave rise to the grievance, will constitute forfeiture of the right to file. Furthermore, any grievance determination not appealed to the succeeding level within the time limits expressed herein shall be considered as closed. When it is mutually agreed by the parties in writing, the time limits expressed herein may be extended. Either the Union or employee may drop the grievance at any Step.
- I. Grievance Steps:
1. Step 1. The initial filing of a written grievance shall be with the Department Director or designee with a copy to the Human Resources Director and shall occur within five (5) working days of the commission or omission of the act that generated the grievance.
  2. Step 2. Within five (5) working days of filing the grievance with the Department Director, a meeting between the aggrieved employee and the Director will be scheduled at a mutually agreed date and time. The Director will have five (5) working days from

the date of the meeting to respond to the aggrieved employee in writing. If the grievance is not resolved with the Department Director's decision, the grievance may be appealed to the City Manager or designee by filing the appeal in writing, to the Human Resources Director, within five (5) working days of the Department Director's decision.

- 3.** Step 3. Within five (5) working days of filing the grievance with the City Manager, a hearing between the aggrieved employee and the City Manager will be scheduled. The City Attorney or designee will be present to present the City's case. The City Manager will have five (5) working days from the date of the hearing to respond to the aggrieved employee in writing. If the grievance is not resolved with the City Manager's decision, within ten (10) working days, the grievant or representative may advance the grievance to arbitration. The grievant or representative, may submit a written request for an unrestricted regional list of seven (7) arbitrators from the Federal Mediation and Conciliation Service (FMCS) within ten (10) working days of City Manager or designee's decision. The request to the FMCS shall include notice to the City's Human Resources Director.
  - a.** Within ten (10) working days of receipt of the list of arbitrators from FMCS, the parties shall meet to select an arbitrator. The parties will alternate striking names on the list until only one name remains. The remaining name shall be the arbitrator. The party to strike the first name shall be the grievant.
  - b.** If an issue of arbitrability exists, the Arbitrator shall determine such issues through the filing of pre-hearing briefs prior to scheduling the hearing on the merits. If the Arbitrator determines the grievance to be arbitrable, the party who raised the issue of arbitrability shall file for another arbitrator panel to hear the merits of the grievance. Such request for a second panel shall be filed within five (5) workdays of receipt of the Arbitrator's decision on arbitrability.
  - c.** The Arbitrator is limited to interpreting and applying the language in this manual. The Arbitrator shall not add to, subtract from, or alter the manual in any way, nor shall the Arbitrator substitute his or her discretion for the City where such discretion is retained by the City.
  - d.** The decision of the Arbitrator shall be final and binding on the parties and considered a decision under compulsory arbitration of the New Mexico Uniform Arbitration Act.
  - e.** The Arbitrator's charges for services and expenses shall be shared equally by the parties.
  - f.** Each party is responsible for its representation and witness costs.
  - g.** This is the only grievance procedure available and shall be the sole and exclusive method for resolving any and all claims arising from the alleged violation of this manual or a grievance of corrective action where applicable.
  - h.** Any of the time limits outlined within the grievance process may be extended upon mutual agreement.

## J. Details Governing Grievance Procedures:

1. If a question arises about whether an issue is a grievable matter the City Manager reserves the right to make that determination.
2. Reasonable attempts will be made to resolve the grievance to the mutual satisfaction of the employee and the city.
3. Grievances filed against the City Manager shall follow the same process and timeline as grievances against other employees, as described above in Section 4-16 Grievance and Arbitration Procedure. However, the grievance shall be filed with the Human Resources Director or designee, or the Assistant City Manager or designee. The Human Resources Director or Assistant City Manager, or designee thereof, shall provide the grievance to the City Commission under limited personnel matters in executive session at the next scheduled Commission meeting. The Commission shall provide direction to the Human Resources Director or Assistant City Manager, or designee thereof, for any action deemed necessary, if any. Should an investigation be required, the Commission shall provide direction to staff about whether an internal or external investigation will be conducted. The Human Resources Director or designee shall provide any results to Commission in executive session. If required by law, City Commission shall provide notice to the public of their direction to staff in open session following executive session.
4. Protection Against Retaliation - The City and its employees will not retaliate against any person who, in good faith, uses the grievance procedures.
5. In the interest of providing a fair and unbiased process, the City Manager or Director may be substituted with another City Director or the Assistant City Manager for the purpose of a grievance. This substitution shall be allowed in cases when there is a conflict or when the City Manager or Director is the supervisor imposing the corrective action.
6. At-Will employees are ineligible for the grievance process except as provided for in their respective employment contract.
7. Any of the time limits in the grievance procedure may be extended upon mutual agreement. However, if no action is taken within one (1) calendar year from the date of the grievance to the Department Director or the City Manager the grievance will be considered closed, and the action upheld.
8. When the proposed discipline is termination, the employee is not eligible for administrative leave with pay or paid holidays during the grievance process. However, if the proposed termination is not upheld during the grievance or arbitration process, the employee will be back paid for this period.

9. The corrective action may be imposed prior to the completion of the five (5) working days if the employee elects not to file a grievance; however, only upon mutual agreement between the supervisor and the employee, and said agreement is documented in writing.
10. Employees may be accompanied by one personal representative. The employee is responsible for arranging said representation but must notify the Human Resources Director or designee they intend to do so at least two (2) working days before the hearing. The supervisor initiating the proposed action shall also attend unless the employee has requested otherwise. Other Department Directors are not permitted to serve as the employee's personal representative.
11. The department's notice provided to the employee prior to the meeting shall be sufficient to apprise the employee of the basis for the proposed disciplinary action. Reliance upon the contents of the Corrective Action notice shall not limit the City at subsequent meetings from presenting witness testimony and additional documentation not submitted prior to or during the meeting. The purpose of a meeting is to give the employee the opportunity to respond to the Corrective Action notice and to provide information why the proposed action should not be taken. The rules of evidence shall not apply to the meeting, nor are there specific procedural regulations for the conduct of the meeting.
12. Meetings prior to step 3 (with the City Manager), of the grievance process shall not be recorded by audio or visual equipment nor should there be any attempt to make a verbatim record of the proceedings. Hearings with the City Manager shall be recorded as a verbatim record of the proceedings.
13. The Department Director, City Manager or designee(s) may either uphold the recommended Corrective Action, or impose a lessor or more severe action as deemed appropriate by the Director, City Manager or designee's findings.
14. If the sustained discipline is termination, the termination will be effective upon notice being given to the employee by the Director or designee.
15. The official termination date shall be documented in the employee's employment record with the date the employee received notice from the Director or designee. In the case of termination, a meeting request to the City Manager, per the grievance process, shall be considered a post-termination meeting. All other corrective actions will be imposed as described in the notice unless the employee and Department Director otherwise agree.

#### **4-17 Classification of Positions**

All positions/classifications in the City's service shall be grouped into classes and each class shall include those positions sufficiently similar as to character of work, required performance, and level of responsibility, so that:

- A. An equivalent level of training, experience, knowledge, and ability, and other qualifications may be required of incumbents;
- B. Comparable tests of such qualifications may be used to select incumbents; and
- C. The same salary range will apply with equity under substantially equal working conditions; or
- D. Positions that are unusual for reasons such as market demand will be classified according to reasonable market standards.

Position descriptions and job specifications shall be maintained by the Human Resource Office for all positions. Any changes to position descriptions must be submitted to Human Resources. Requests that result in a position's reclassification will require the City Manager's approval.

The position descriptions should include Job Title, Department, Division, FLSA Status, Effective Date, Summary of Position, Supervision Received, Supervision Exercised, Essential Functions, Other Duties, Minimum Qualifications, Special Requirements, Working Conditions, History Summary, Job Hazard Analysis, and Approval section.

### **Reclassification Procedure**

Revision of position descriptions and re-allocations within the classification plan shall be made as often as is necessary to provide current information on positions and classes.

It shall be the duty of the Human Resource office to examine the nature of all positions and to allocate them to existing or newly created classes, to make changes in the duties and responsibilities of existing positions.

When a new position is requested by a Department Director or the duties of an old position are substantially changed, the Department Director shall submit a change request form and written recommendation to the Human Resource Office including justification for the reclassification, emphasizing changes in position responsibilities or requirements for qualifications (i.e., experience, education, certifications, etc.).

The request will be reviewed by the Human Resource Office. The Human Resource Department will use a standardized method in reviewing new position descriptions or requests for changes to existing position descriptions. This method will value the position responsibilities, requirements, and qualifications to accurately classify or reclassify the position.

If the request is justified, the budget impact will be determined, and a recommendation will be made to the City Manager. The City Manager shall be the final decision-maker for all reclassification requests. If approved, the Human Resource Office will take the necessary steps to implement the reclassification. Reclassification of a position currently filled and not vacant shall not require the position be posted for recruitment. No reclassification involving an upgrade of salary that would overspend the authorized department budget will be approved without City Commission approval.

## **4-18 References**

City of Alamogordo will respond to reference requests through the Human Resources Department. The City will provide general information concerning the employee such as date of hire, date of separation, rehire eligibility status, and positions held.

Requests for further information must be in writing and a release from the individual the request is for must be obtained. These responses will be returned in writing based on information verifiable in the employee or former employee's personnel file.

This policy does not prohibit an employee from giving a personal reference as long as the employee is not acting as a representative of the City and the reference is not on City letterhead.

Please refer all requests for City references to the Human Resources Department.

## **4-19 Separation from Employment**

### **Voluntary Termination**

Should an employee decide to leave the City, he or she shall provide their supervisor with at least two (2) weeks, or four (4) weeks when retiring through PERA, advance written notice of departure.

Failure to comply with this policy may be cause for denying re-employment with the City.

In some cases, it may be in the City's best interest to release an employee upon receipt of an employee's resignation, such as when an employee is still in training, and it would not be beneficial to continue with training. The release of an employee in situations where it is found to be beneficial for the City will be at the director's discretion and will not penalize the employee's rehire eligibility.

Where an employee resigns to avoid dismissal or other corrective action, the resignation may be accepted at the discretion of the Department Director with City Manager approval, and the employee will not be subject to rehire.

### **Retirement**

Service retirement is voluntary termination after having satisfied the requirements of P.E.R.A. Retiring employees are requested to give the City at least four (4) weeks written notice prior to retirement date.

### **Involuntary Termination**

This action is originated by the City and may be initiated for a variety of reasons to include, but not limited to:

A. Termination during the probationary period.

B. Termination for cause.

C. Layoff.

### **Disability Retirement**

This is an involuntary termination that is necessitated by an injury or illness, which renders the employee incapable of performing his or her job duties. The retirement will be in accordance with P.E.R.A. for eligible employees.

### **Layoff**

Layoff is an involuntary termination of employment for lack of work, lack of funds, reclassification of positions, re-organization of the City's work force, elimination of positions or other changes that have taken place.

The City Manager is responsible for administering the layoff or reduction in force.

No regular full-time, non-probationary, employee shall be laid off involuntarily if there is a vacant position for which the employee is qualified. The City Manager is responsible for offering transfers or re-employment to employees facing layoff. Employees who accept another position are considered to have voluntarily transferred.

The City will provide at least thirty (30) days advance notification prior to layoff, except in the case of an emergency.

Employees with the least amount of seniority within their position shall be laid off first.

### **Recall from Layoff**

Laid off employees shall be recalled for vacancies based on those who meet the minimum requirements of the vacant positions. Where applicable, employees who are equally qualified will be recalled by seniority. When an employee does not respond to the City's recall notice within seven (7) calendar days, the City's obligation to recall the employee shall cease. The City shall have no obligation to recall an employee after he or she has been on continuous layoff for a period that exceeds one (1) year.

### **Abandonment**

Employees who are absent from their job for one (1) shift or workday without notifying their supervisor are considered to have abandoned their job voluntarily. The date of termination will be the same date as the first day the job was abandoned.

The employee may apply for reinstatement in writing directly to the City Manager within five (5) working days from the date of termination due to abandonment. Within five (5) working days a meeting will be arranged between the employee and the City Manager or designee. Time limits may be extended upon mutual agreement between the employee and the City Manager or designee. If the City Manager determines that the employee is to be reinstated, such time missed will be charged against the employee's accrued leave or leave without pay.

For purposes of administering this Section, “Working days” is defined as days the City administrative offices are open for business.

### **Return of City Property**

All City property including, but not limited to I.D. cards, laptop computer, keys, radios, tools, cell phones, City credit cards, uniforms, policy and procedure and/or rules and regulation manuals, etc., must be returned at separation. Employees also must return all the City's confidential information upon separation. To the extent permitted by law, employees will be required to repay the City, (through payroll deduction, if lawful) for any lost or damaged City property.

Any item that identifies a person as a City employee must be returned upon separation. This does not include employee appreciation gift items.

Footwear and lifeguard uniforms are not required to be returned.

### **4-20 Exit Interviews**

All employees, either separated voluntarily or involuntarily must report to the Human Resource Department for end of employment processing.

#### **Exit Interview**

All regular employees who separate from the City's service may be requested to participate in an exit interview on forms provided by the Human Resource Department. Participation in completing the exit interview form is voluntary on the part of the exiting employee.

Exit interviews are often helpful to determine fully not only why an employee has decided to resign, but to seek out opportunities for improvement in the City’s overall operations and employee relations. Department Directors and the employee's supervisor(s) will receive a copy of the ex-employee's exit interview.

## **Section 5 - Benefits**

### **5-1 Benefits and Leave**

In addition to good working conditions and competitive pay, it is City of Alamogordo's policy to provide a combination of supplemental benefits to all eligible employees. These benefits include time-off benefits, such as paid time off and holidays, and insurance and other plan benefits.

The next few pages contain a brief outline of the benefit programs City of Alamogordo provides employees and their families. The information presented here is intended to serve only as guidelines and continuation of benefits are not guaranteed.

The descriptions of the insurance and other plan benefits merely highlight certain aspects of the applicable plans for general information only. The details of those plans are spelled out in the official plan documents, which are available for review upon request from the Human Resources Office or online at [www.mybenefitsnm.com](http://www.mybenefitsnm.com). Additionally, the provisions of the plans, including eligibility and benefit provisions, are summarized in the summary plan descriptions ("SPDs") for the plans (which may be revised from time to time). In the determination of benefits and all other matters under each plan, the terms of the official plan documents shall govern over the language of any description of the plans, including the SPDs and this manual.

Further, City of Alamogordo (including the officers and administrators who are responsible for administering the plans) retains full discretionary authority to interpret the terms of the plans, as well as full discretionary authority with regard to administrative matters arising in connection with the plans and all issues concerning benefit terms, eligibility and entitlement.

While the City intends to maintain these employee benefits, it reserves the absolute right to modify, amend or terminate these benefits at any time and for any reason.

If employees have any questions regarding benefits, they should contact the Human Resources Office.

### **5-2 Deferred Compensation**

The City allows an option to any regular employee to invest a portion of his or her earnings into a Deferred Compensation Plan. The employee may request a payroll deduction to be administered by the Human Resources Office for this purpose.

### **5-3 Education Assistance**

The City, subject to the availability of funds, may provide education assistance to regular non-probationary employees. The courses or training program or type of degree must enhance or create a skill that is directly related to the employee's profession, skill or craft, and must demonstrate a benefit to the City. The determination for reimbursement is the responsibility of the Department Directors and will be handled in accordance with the City's Educational Assistance Internal Policy.

Employees are expected to attend courses on their own time unless other arrangements are pre-approved.

Education reimbursement will be based on a grade of "C" or Pass. A "D" or failing grade will result in the denial of the reimbursement.

To be reimbursed, employees must still be employed by the City when evidence of satisfactory course completion is received. EXCEPTION: Employees whose employment is terminated, because of a downsizing or reorganization will be reimbursed if they complete their course work after their employment is terminated. Employees will be required to serve a pre-determined tenure of service upon completion of the course or will be responsible for paying the City back on a pro-rated basis for the educational reimbursement received for the course.

## **5-4 Employee Assistance Program**

City of Alamogordo provides an Employee Assistance Program (EAP) for employees and their dependents. This program offers qualified counselors to help cope with personal or work-related problems.

The City of Alamogordo may provide an Employee Assistance Program (EAP) subject to the availability of funds. The purpose of this program is to provide employees and their immediate family members with assistance in resolving personal problems that may have an adverse effect on job performance. The program may deal with a broad range of human problems such as emotional, behavioral, family, marital, alcohol and/or substance abuse, financial, legal, or other personal problems.

When an employee uses this program by self-referral, their use will be confidential and will remain anonymous to the City. Self-referral usage of the EAP is limited to the provisions of the contract with the EAP provider. Employees who use the EAP on their own will be required to use accrued leave or take leave without pay to attend appointments during work hours.

A Director may refer an employee to the EAP as a condition of continued employment. In these cases, the information the employee discusses with their provider will remain confidential under provider, client privileges. The City will be provided information from the provider regarding the employee's attendance and fitness to safely perform the essential functions of their job. Employees who are referred to the EAP by their supervisor will be allowed a reasonable amount of administrative leave with pay to attend appointments that occur during their normal work hours.

Contact the Human Resources Department for further information.

## **5-5 Insurance Programs**

### **Health, Dental, Vision, and Disability Coverage**

Regular full-time or part-time employees may participate in the City's health, dental, and vision insurance programs.

All regular full-time employees are eligible to join the City's Group Insurance Plan, which provides coverage for the employee and the employee's dependents. Participation is subject to the City's and the

Carrier's Agreement which is on file with the Human Resources Department. The City's participation in providing Group Medical Insurance is subject to modification, termination, or change of carrier at any time. The City pays a portion of the plan as approved by the City Commission.

Participation is on a voluntary basis and the employee may join or withdraw from the plan at any time the plans and IRS rules allow.

An employee requesting coverage is required to apply for coverage within the first thirty (30) days of employment, otherwise enrollment will not be available until open enrollment, or a qualifying event has occurred.

Continuation of medical coverage will be in compliance with any applicable laws.

Employees meeting eligibility requirements under the Affordable Health Care Act will be responsible for their share of premium costs which meets guidelines under the Act.

Regular part time employees that work a minimum of twenty (20) hours per week are eligible to enroll in the City's group insurance plans. Regular part time employees will be responsible for 100% of the premium costs.

Upon becoming eligible to participate in these plans, you will receive information on obtaining Summary Plan Descriptions (SPDs) describing the benefits in greater detail. Please refer to the SPDs for detailed plan information.

### **Basic Life Insurance Coverage**

All regular full time and regular part time employees that work a minimum of twenty (20) hours per week are eligible to receive, at no cost to the employee, a Basic Life Insurance policy.

### **5-6 Community Services Facilities Benefit**

The following service benefits are provided by the City of Alamogordo (Community Services Department) to all regular full time and part time employees.

May be required to show City ID for participation.

These discounts are subject to change without prior notice. Contact Human Resources for the most current list of discounts available.

Except as specifically noted below, retirees under the NM PERA Retirement System that are in good standing with City employment upon retirement are eligible for service benefits. City retirees will be provided with an ID card from the Human Resources Department to receive eligible discounts.

### Alamo Senior Center

The Senior Center Exercise Facility may be used at no cost to the employee. Donations are appreciated from family members and guests over the age of 60. Family and guests under 60 will be required to pay the set fees. Participation will only be available in the event a senior member is not displaced.

### Alameda Park Zoo

Employees will receive free entry to the zoo. Family members and guests are required to pay entrance fees.

### Alamogordo Family Recreation Center

Recreational facilities include free use of the swimming pool (public swim, lap swim, aqua walk) and gymnasium (for basketball, pickleball, etc.) for the employee only.

Youth program discount only applies to the employee's minor dependent children. Employee or the employee's spouse may initiate enrollment and payment for said youth programs. Participation at the discounted rate will only be available in the event the program has available space. Discount request must be made at the time of registration.

### Sgt. Willie Estrada Memorial Civic Center

Employees will be charged the non-profit rate for rental of the Civic Center Auditorium only. All other amenities including but not limited to the kitchen, conference rooms, and alcohol service are billed at regular price.

### Desert Lakes Golf Course

Employees are eligible for an annual golf membership for \$712.50. Green fees for 9 holes are \$8.50 and green fees for 18 holes are \$17.00. All applicable taxes apply. Rental fees for golf carts and other charges or fees will be at the normal rate. All users are subject to "Code of Conduct" rules. This discount is not available to retirees.

### 19<sup>th</sup> Hole Restaurant

City employees will receive a fifteen percent (15%) discount off a lunch entree limited to Monday through Friday. Family members and guests will be required to pay full pricing. This discount is not available to retirees.

## **5-7 Retirement Plan**

### **Retirement**

Any employee who qualifies as mandatory under PERA guidelines, except the City Manager who has the option of joining the ICMA 401 Plan in lieu of PERA, participates in the Public Employees Retirement Association of New Mexico (PERA).

Enrollment and benefit forms are provided by the Human Resource's Office. It is the employee's individual responsibility to keep information related to their retirement account as to name, address, and beneficiary up to date.

## **Retiree Health Care**

As part of the City's participation in PERA, eligible employees participate in the New Mexico Retiree Health Care Authority. This participation provides the benefit of health insurance to PERA retirees.

Detailed information on specific retirement benefits is available at [www.nmpera.org](http://www.nmpera.org) for PERA and at [www.nmrhca.org](http://www.nmrhca.org) for Retiree Health Care Authority.

## **5-8 Training**

Where the City is the one requiring additional certification or licensing beyond any required for appointment to the position held or sought by any regular full time employee, the City will be responsible for scheduling and paying all costs associated with the acquisition of the required training or licensing.

Where training is approved, employees must comply with the Finance Department's guidelines for payment and reimbursements of training. Department Directors shall not approve City paid time or training funds for employees seeking training outside their assigned classification and where the City does not request it.

The City may, subject to the availability of funds and the Department Directors approval, pay for necessary training for employees who are required to maintain a license or certificate as outlined in the employees job description.

## **5-9 Workers' Compensation**

On-the-job injuries are covered by our Workers' Compensation Insurance Policy. If employees are injured on the job, no matter how minor, they should report the incident immediately to their Supervisor. Failure to follow City procedures may affect the ability of the employee to receive Workers Compensation benefits.

Workers Compensation benefits will be administered in accordance with State of New Mexico Worker's Compensation Law.

## **5-10 Administrative Leave**

### **Administrative Leave**

It is recognized that certain events arise that make administrative leave necessary. The Department Director or designee may place an employee on administrative leave with pay based on certain events. These events may include:

- A. The removal of an employee for the safety or welfare of other employees, and/or the public;
- B. The removal of an employee for the purpose of protecting the Cities facilities or properties;

C. The removal of an employee to conduct an investigation;

D. The removal of an employee whose conduct or welfare is at issue;

E. When an employee is referred to the Employee Assistance Program by the supervisor as outlined in the Employee Assistance section. Employees will be granted a reasonable amount of administrative leave for appointments scheduled during normal work hours.

Employees in pre-termination status are not eligible for administrative leave with pay or paid holidays. These employee's will be provided administrative leave without pay pending the outcome of their grievance process.

The basis for such administrative leave shall be documented, in the written administrative leave notice to the employee, and submitted to the Human Resources Director at the time of or within two (2) business days of the administrative leave commencing.

Administrative leave under this section shall not constitute corrective action. During the administrative leave, the employee shall not attend his or her regular work site or any other city facilities, except as designated by the Department Director. The employee shall remain available during normal work hours to meet with the Director or designee, as requested.

A Director with concurrence from the Human Resources Director has authority to approve up to five (5) consecutive working days for non-shift workers and seven (7) consecutive calendar days for shift workers. Leave beyond these limitations will only be authorized by the City Manager.

### **Unauthorized Absence**

Any leave not authorized according to the appropriate rules set forth in this manual shall be deemed to be an unauthorized absence without pay. All unauthorized absences shall be initially recorded as unauthorized LWOP. Upon receiving information of the reasons behind the unauthorized absence, the Department Director may change the leave to Paid Time Off or compensatory time used, without losing the right to give the employee corrective action up to and including termination. After one (1) shift or workday of unauthorized absence, employees are subject to termination under the Abandonment section of this manual.

Refer to Section 4-19. Separation from Employment, Abandonment for employees who are absent from their job for one (1) shift or workday without notifying their supervisor.

### **5-11 Bereavement Leave**

We know the death of a family member is a time when employees wish to be with their families.

The City shall allow up to three (3) days of paid Bereavement Leave for regular full-time employees in cases of death in the immediate family.

The City shall allow up to three (3) days of paid Bereavement Leave for regular part time employees, pro-rated based on the employee's annual budgeted hours, in cases of death in the immediate family.

Employees who must travel 500 miles or more one-way will be allowed two (2) additional days of Bereavement Leave for a maximum total of five (5) days. Bereavement leave benefits for regular part time employees will be pro-rated based on the annual budgeted hours for these two (2) additional days.

For the purposes of this provision, immediate family is defined as: spouse, domestic partner, child, grandchild, brother, sister, parent, grandparent, step, half, and in-law relatives of the same.

Employees must consult with their supervisor prior to commencing bereavement leave.

In administering this policy, the City may require verification of death.

### **5-12 Jury Duty**

City of Alamogordo supports the obligation of all U.S. citizens to serve on a jury when summoned to do so. All employees will be allowed time off to perform such civic service as required by law. Employees are expected to provide a copy of their jury duty and verification of their completed service, available from the court.

Employees are also expected to keep management informed of the expected length of jury duty service and to report to work for the remaining portion of the day if excused by the court.

Employees on jury duty leave will be paid for their jury duty service in accordance with state law; however, exempt employees will be paid their full salary for any week in which time is missed due to jury duty if work is performed for the City during such week.

Some courts pay jurors a fee in exchange for their jury duty. Employees shall remit to the City all compensation received for such service performed during normal working hours. All remitted jury service fees will be turned in to the Finance Department, excluding mileage fees.

### **5-13 Lactation Breaks**

The City will provide a reasonable time to accommodate an employee desiring to express breast milk for the employee's infant child, in accordance with and to the extent required by applicable law.

The City will make reasonable efforts to provide employees with the use of a room or location other than a toilet stall for the employee to express milk in private. This location may be the employee's private office, if applicable. The City may not be able to provide additional break time if doing so would seriously disrupt the City's operations, subject to applicable law. Please consult the Human Resources Department if you have questions regarding this policy.

Employees should advise management if they need break time and an area for this purpose. Employees will not be discriminated against or retaliated against for exercising their rights under this policy.

## **5-14 Meal Periods/Breaks**

Meal periods are usually one (1) hour, unless otherwise specified due to work demands and as pre-authorized by the Department Director. Meal periods are not counted as time worked, unless the employee is not relieved from duty during the meal period. Where meal periods are not taken by the employee and the supervisor has not requested or assigned a verbal or written duty, the employee shall be compensated for time worked, but may be subject to corrective action by their supervisor. Rest breaks may be provided with one (1) fifteen (15) minute rest period the first half of the workday and one (1) fifteen (15) minute rest period the second half of the workday. Rest breaks may not be accumulated, or used in correlation with lunch, at the beginning of work or prior to leaving from work. Breaks will be taken in designated non-work areas but may not be away from the facility unless the employee has obtained prior supervisor approval or direction. Supervisors shall be responsible for scheduling and may authorize or limit rest breaks if continuous work is required.

## **5-15 Paid Time Off**

The City acknowledges how hard employees work and recognizes the importance of providing time for rest and relaxation. Employees are encouraged to get this rest by taking paid time off.

### **Leave Defined**

Leave is any authorized absence, with or without pay, during regularly scheduled work hours, which is approved by the proper authority. Leave is an employee benefit, and all leave shall be earned and granted to employees as set forth in the following rules.

### **General Leave Approval**

Leave will be granted on the basis of the work requirement as a priority, but whenever possible on the personal wishes of the employee. Requests for leave will be approved, denied, and governed through the chain of command.

### **Paid Time Off (PTO)**

Paid Time Off (PTO) is available to cover employees needs for time away from work for vacation, sickness, or to handle personal affairs.

### **PTO Accrual**

Regular full-time employees earn PTO hours based on the multiplier used times the regular hours paid each pay period, excluding overtime and other hours that are in addition to the budgeted base position hours of 2080. The longer an employee remains with the City of Alamogordo, the larger the multiplier will be based on the following table:

<b>Full Years of Service</b>	<b>Maximum PTO Hours Earned Per Year</b>	<b>Maximum PTO Days Earned Per Year</b>	<b>Multiplier</b>
0-5 Years	172	21.50	0.082692308
6 Years	180	22.50	0.086538462
7 Years	188	23.50	0.090384615
8 Years	196	24.50	0.094230769
9 Years	204	25.50	0.098076923
10-15 Years	212	26.50	0.101923077
16 Years	220	27.50	0.105769231
17 Years	228	28.50	0.109615385
18 Years	236	29.50	0.113461538
19 Years	244	30.50	0.117307692
20 Years & Up	252	31.50	0.121153846

The multiplier will be increased to the next incremental rate effective the first full pay-period following the employee's eligible anniversary date.

PTO hours are calculated and updated each biweekly pay period through the payroll system. Employees whose positions are budgeted for 2080 hours per fiscal year may only earn PTO hours up to the maximum per year listed in the calculation table above. Employees may not borrow against future PTO accruals or carry a negative PTO balance.

### **PTO Requests**

It is important that employees plan PTO use carefully so that appropriate replacements can be scheduled. Employees are responsible for requesting PTO in writing and submitting it to their supervisor for approval at least one (1) week in advance for all time off, except in those cases where advance notice is not possible i.e. hospitalization, family emergency, etc, or when otherwise agreed to by the supervisor. In the instance of an unplanned absence, the employee is responsible for making every effort to notify their supervisor at least one (1) hour before the beginning of their scheduled work period. If an employee has not notified the supervisor of their absence by mid shift, the employee may be subject to 4-19 Separation from Employment/Abandonment. Abandonment does not override the PTO request requirement.

If an employee calls in sick for three (3) or more consecutive days, the employee may be required to provide his or her supervisor with a doctor's note on the day the employee returns to work.

An absence shall be considered unauthorized whenever the employee's supervisor or designee has not been properly notified before the shift begins. Responsibility for excusing an unauthorized absence

shall rest with the immediate supervisor. An unauthorized absence may be paid if PTO accruals are available, and the supervisor has approved the unauthorized absence. An unauthorized absence may be recorded as leave without pay at the discretion of the supervisor.

While employees will begin earning PTO hours upon hire, they are not eligible to use PTO until they have successfully completed their initial probationary period, extended probationary period, or their initial six (6) months of employment if not on an extended probationary period. Employees serving an initial twelve (12) month probationary period shall be eligible to use their PTO hours upon successful completion of the first six (6) months of their probationary period. An exception will be granted, and current hours made available if the employee provides documentation of illness signed by a licensed medical professional. Individual circumstances may also be considered and approved by the Department Director.

Except as allowable by law, employees eligible to use PTO hours must use accrued PTO hours and accrued compensatory time prior to utilizing LWOP or donated leave.

### **PTO & Injury on the Job**

If an employee is injured on the job during their probationary period, they will have access to their available PTO leave balance to cover lost time that they are not compensated for in any other manner for the first seven (7) calendar days. Should the leave balance not be sufficient to cover the time, leave-without-pay may be authorized.

### **PTO Maximum Roll Over**

The maximum amount of earned PTO hours employees can roll over at any fiscal year end is 480 hours. Exceptions may be approved by the City Manager, only under extenuating circumstances which could not be planned or expected. Approved excess leave must be utilized by the employee within ninety (90) days, or by October 31 of the new fiscal year.

Up to July 1, 2003, any employee having a balance in excess of 480 hours will have their current PTO balance serve as their maximum PTO roll over balance until the employee either separates service or their balance falls below 480 hours. At such time their balance falls below 480 hours their maximum limit then becomes 480 hours.

### **Exhaustion of PTO**

Only Department Directors or their designees, on a case-by-case basis, can grant time off without pay. PTO will not accrue during periods of leave without pay.

### **PTO & Separation of Employment**

Employees will be paid up to 480 earned, unused hours of PTO upon their retirement date through PERA. Payment for unused PTO shall be paid at the employee's regular base rate of pay at the time of retirement. PTO in excess of 480 hours will be forfeited.

Employees will be paid up to 360 earned, unused hours of PTO upon separation of employment; not in conjunction with retirement through PERA. Payment for unused PTO shall be paid at the employee's regular base rate of pay at the time of separation. PTO in excess of 360 hours will be forfeited.

All accruals cease as of the date of separation.

PTO will not be paid out to employees who terminate during their first six (6) months of employment status.

### **PTO Conversion**

Employees may convert a maximum of one-hundred-sixty (160) PTO hours per fiscal year for a cash payment at a rate of one (1) hour of pay for one (1) hour of leave. This conversion is only possible for PTO balances over 240 hours. The remaining PTO balance after the conversion may not drop below 240 hours. The minimum number of hours employees may convert per conversion is eight (8) hours. The maximum number of times an employee may convert leave to pay during the fiscal year is four (4). All requests to convert leave to pay must be submitted to the Human Resources Department at least seven (7) calendar days before the pay date the employee wishes to receive the payment.

### **Voluntary PTO Transfer**

There are times when employees may face conditions which require an extended absence from duty and subsequently result in the exhaustion of their PTO. In such cases, upon the employees request and after consultation with the Department Director, the City Manager may permit a regular full-time employee to receive PTO donations from other qualified employees under this subsection, under the following conditions:

The employee or an immediate family member suffers from an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature which has caused, or is likely to cause, the employee to go on leave without pay status or terminate City employment and:

- The employee's absence and the use of shared PTO are warranted;
- The employee has depleted or will shortly deplete his or her PTO reserves; and
- The employee has abided by all personnel rules regarding PTO use.

PTO donations under this provision may not exceed 480 hours per event, unless otherwise determined by the City Manager or designee.

Such leave shall be donated in one (1) hour increments, with a minimum donation of eight (8) hours per donor.

An employee who has accrued a PTO balance of more than 240 hours may request that the City Manager transfer a specified amount of PTO to another employee authorized to receive PTO under this section. In no event may the employee request a transfer of an amount of PTO that would result in his or her own PTO balance going below 240 hours.

An employee separating from City service, after completing their first six (6) months of employment, may donate PTO below the minimum balance of 240 hours, provided the recipient is currently on FMLA leave and/or has been approved by the City Manager to receive PTO donations.

The amount of PTO time transferred under this section which remains unused shall be returned to the employee or employees who transferred the leave when the City Manager finds that the leave is no longer needed or will not be needed at a future time in connection with the illness or injury for which the leave was transferred. The return of unused PTO will be pro-rated based on the number of hours the donator contributed to the total hours donated under the most recent reconciled balance. If a donating employee is no longer employed the hours remaining from the donator will be shared equally among employees currently approved to receive donations.

Donation forms will be filed in the personnel file of the donating employee.

Under no circumstances, including termination, can donated PTO hours be converted to cash.

## **5-16 Paid Holidays**

The City Manager shall determine which holidays employees of the City will observe, and the date of observation.

Regular full-time and part-time employees will be paid for the following holidays:

New Year's Day

Martin Luther King, Jr. Day

President's Day

Memorial Day

Independence Day

Labor Day

Veterans' Day

Thanksgiving Day

Day after Thanksgiving

Christmas Day

One (1) Floating Holiday

Holiday pay, including Floating Holiday, for regular part time employees will be calculated based on a pro-rated eight (8) hour holiday and the annual budgeted hours for the position held.

If a holiday falls within an eligible employee's approved leave period, the eligible employee will be paid for the holiday. Leave benefits will not be charged.

Employees serving a suspension without pay shall remain eligible for observed paid holidays occurring during the suspension period; however, the observed paid holiday, including the Floating Holiday, shall not also satisfy an imposed day of suspension without pay. Employees are not eligible for paid observed holidays, including the Floating Holiday, while on administrative leave without pay in the pre-disciplinary process for a proposed termination of employment except in the circumstance the employee's termination is not upheld, in which case the paid holiday would be included in the back-pay for this period.

In the event a holiday falls on Sunday the following Monday shall be deemed to be the holiday. In the event the legal holiday falls on Saturday, the proceeding Friday shall be deemed to be the holiday. In these cases, time worked on the actual holiday on Saturday or Sunday will be the time that is eligible for holiday pay in accordance with the section on Holiday Pay under Compensation.

Employees will receive one (1) Floating Holiday per fiscal year to be used for a purpose of their choice. The Floating Holiday will accrue in each eligible employee's accrual bank on the pay date following the first full pay-period in the new fiscal year. Use of Floating Holidays will be requested and approved by the supervisor in the same manner as required for use of PTO. Floating holidays must be used in the same fiscal year accrued. Floating Holidays will not be carried over to the next fiscal year and are not eligible for conversion to pay. Employees hired during the fiscal year will have the Floating Holiday calculated based on a pro-rated basis for the pay-periods remaining in the fiscal year.

Full and part-time employees eligible for the Floating Holiday upon the effective date of this Manual will have a full year's Floating Holiday added to their accruals as outlined above.

### **5-17 Voting Leave**

An employee who is registered to vote shall be granted up to two (2) hours with pay, between the opening and closing times of the polls, to vote on all election days. Time off will not be granted to employees who's normal work day begins more than two (2) hours after the opening time of the polls or ends more than three (3) hours prior to the closing time of the polls. Time off for voting will not be utilized for any other purpose.

The employee's supervisor should be notified prior to utilizing the Voting Leave. The time of day will be regulated by the supervisor to minimize disruption of service. The employee may be required to produce proof of voter registration.

### **5-18 Other Benefits**

The City may offer other benefits to employees to be paid in whole or part by the employee through a payroll deduction or other means.

City contributions to any benefit are contingent upon available funding and required approvals.

## Section 6 - Leaves of Absence

### 6-1 Personal Leave

If regular full-time employees are ineligible for any other City leave of absence, City of Alamogordo, under certain circumstances, may grant a personal leave of absence without pay. A written request for a personal leave should be presented to the Department Director at least two (2) weeks before the anticipated start of the leave. The Department Director will prepare a recommendation to the City Manager, through the Human Resources Department. The recommendation will include the reason for the request, the day it will start and expected day of return, and how it will impact department operations.

If personal leave is requested for medical reasons and employees are not eligible for leave under the federal Family and Medical Leave Act (FMLA) or any state leave law, medical certification also must be submitted. The request will be considered on the basis of staffing requirements and the reasons for the requested leave, as well as performance and attendance records. Normally, personal leave will be granted for a period of up to twelve (12) weeks. However personal leave may be extended if, prior to the end of leave, employees submit a written request for an extension to management and the request is granted.

Employee's that are on approved personal leave:

1. Are not eligible to withdraw their PERA retirement benefits.
2. Will not earn leave benefits, during any duration of leave without pay (LWOP).
3. Are not eligible for holidays that fall during the period of LWOP.
4. Shall not use LWOP to work for another employer or pursue self-employment.
5. Are eligible to continue participation in the City's health insurance program provided the employee makes arrangements to pay the City the full insurance premium if LWOP exceeds two full pay periods.
6. Will be responsible for the employee and employer share of the premiums.
7. Shall be terminated if they fail to return on the day specified unless an extension has been authorized in advance.
8. Employees must use all accumulated leave and comp-time prior to utilizing LWOP under this provision.
9. Are not eligible to participate in the donated leave provision.

Upon completion of the personal leave of absence, the City will attempt to return employees to their original job or a similar position, subject to prevailing business considerations. Reinstatement, unless FMLA qualified, is not guaranteed.

Failure to advise management of availability to return to work, failure to return to work when notified or a continued absence from work beyond the time approved by the City will be considered a voluntary resignation of employment.

## 6-2 Military Leave

If employees attend yearly Reserves, National Guard duty, or Civil Air Patrol (Civil Air Patrol per HB22 7.1.2020), of New Mexico, they will be eligible to receive military leave with pay, not to exceed fifteen (15) working days in a federal fiscal year, October 1 through September 30, then unpaid military leave of absence provided the absence does not exceed applicable statutory limitations.

All employees called to active duty in emergencies declared by the Governor of New Mexico or the President of the United States for short periods of time shall be granted military leave with pay not to exceed fifteen (15) working days. This emergency military leave is outside of the provision above for military leave.

A copy of orders must be attached to all requests for military leave, annual or emergency.

This leave applies to individuals who voluntarily or involuntarily leave employment to perform service in a uniformed service.

To be eligible for military leave, employees must provide management with advance notice of service obligations unless they are prevented from providing such notice by military necessity or it is otherwise impossible or unreasonable to provide such notice.

Employees should give management as much advance notice of their need for military leave as possible to ensure proper coverage while employees are away.

Provided any absence does not exceed applicable statutory limitations, employees will retain reemployment rights and accrue seniority and benefits in accordance with applicable federal and state laws.

Authority for all military leave shall be within the provisions of Federal, State, and Local Laws.

## 6-3 Family and Medical Leave

### **The Family and Medical Leave Policy**

Employees may be entitled to a leave of absence under the Family and Medical Leave Act (FMLA). This policy provides employees information concerning FMLA entitlements and obligations employees may have during such leaves. If employees have any questions concerning FMLA leave, they should contact the Human Resources Office.

### **I. Eligibility**

FMLA leave is available to "eligible employees." To be an "eligible employee," an employee must: 1) have been employed by the City for at least 12 months (which need not be consecutive); 2) have been employed by the City for at least 1,250 hours of service during the 12-month period immediately preceding the commencement of the leave; and 3) be employed at a worksite where 50 or more employees are located within 75 miles of the worksite.

## II. Entitlements

As described below, the FMLA provides eligible employees with a right to leave, health insurance benefits and, with some limited exceptions, job restoration.

### A. Basic FMLA Leave Entitlement

The FMLA provides eligible employees up to 12 workweeks of unpaid leave for certain family and medical reasons during a 12-month period. The 12-month period is determined based on a 12-month period measured forward from the start date of the employee's first FMLA leave. Leave may be taken for anyone, or for a combination, of the following reasons:

- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son, daughter or parent (but not in-law) who has a **serious health condition**;
- For the employee's own serious health condition (including any period of incapacity due to pregnancy, prenatal medical care or childbirth) that makes the employee unable to perform one or more of the essential functions of the employee's job; and/or
- Because of any **qualifying exigency** arising out of the fact that an employee's spouse, son, daughter or parent is a military member on covered active duty or called to covered active duty status (or has been notified of an impending call or order to covered active duty) in the Reserves component of the Armed Forces for deployment to a foreign country in support of contingency operation or Regular Armed Forces for deployment to a foreign country.

For the purpose of this section “parent” is defined as the biological, adoptive, step, or foster parent of an employee or an individual who stood in *loco parentis* to the employee when the employee was a son or daughter. The definition of parent does not include parent-in-law.

To determine further qualifications as a family member or next of kin refer to 29 C.F.R. § 825.122.

An employee’s written statement or other documentation asserting the relationship is required.

A **serious health condition** is an illness, injury, impairment or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities. Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

**Qualifying exigencies** may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, caring for the parents of the military member on covered active duty and attending post-deployment reintegration briefings.

## **B. Additional Military Family Leave Entitlement (Military Caregiver Leave)**

In addition to the basic FMLA leave entitlement discussed above, an eligible employee who is the spouse, son, daughter, parent or next of kin of a **covered service member** is entitled to take up to 26 weeks of leave during a single 12-month period to care for the service member with a serious injury or illness. Leave to care for a service member shall only be available during a single 12-month period and, when combined with other FMLA-qualifying leave, may not exceed 26 weeks during the single 12-month period. The single 12-month period begins on the first day an eligible employee takes leave to care for the injured service member.

A "**covered service member**" is a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status or is on the temporary retired list, for a serious injury or illness. These individuals are referred to in this policy as "current members of the Armed Forces." **Covered service member** also includes a veteran who is discharged or released from military services under conditions other than dishonorable at any time during the five years preceding the date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation or therapy for a serious injury or illness. These individuals are referred to in this policy as "covered veterans."

The FMLA definitions of a "serious injury or illness" for current Armed Forces members and covered veterans are distinct from the FMLA definition of "serious health condition" applicable to FMLA leave to care for a covered family member.

## **C. Intermittent Leave and Reduced Leave Schedules**

FMLA leave usually will be taken for a period of consecutive days, weeks, or months. However, employees also are entitled to take FMLA leave intermittently or on a reduced leave schedule when medically necessary due to a serious health condition of the employee or covered family member or the serious injury or illness of a covered service member. Qualifying exigency leave also may be taken on an intermittent basis.

## **D. No Work While on Leave**

The taking of another job while on family/medical leave or any other authorized leave of absence is grounds for immediate discharge, to the extent permitted by law.

## **E. Protection of Group Health Insurance Benefits**

During FMLA leave, eligible employees are entitled to receive group health plan coverage under the same terms and conditions as if they had continued to work.

## **F. Restoration of Employment and Benefits**

At the end of FMLA leave, subject to some exceptions including situations where job restoration of "key employees" will cause the City substantial and grievous economic injury, employees generally have a right to return to the same or equivalent position with equivalent pay, benefits, and other employment terms. The City will notify employees if they qualify as "key employees," if it intends to

deny reinstatement, and of their rights in such instances. Use of FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of an eligible employee's FMLA leave.

### **G. Notice of Eligibility for, and Designation of, FMLA Leave**

Employees requesting FMLA leave are entitled to receive written notice from the City telling them whether they are eligible for FMLA leave and, if not eligible, the reasons why they are not eligible. When eligible for FMLA leave, employees are entitled to receive written notice of: 1) their rights and responsibilities in connection with such leave; 2) City's designation of leave as FMLA-qualifying or non-qualifying, and if not FMLA-qualifying, the reasons why; and 3) the amount of leave, if known, that will be counted against the employee's leave entitlement.

The City may retroactively designate leave as FMLA leave with appropriate written notice to employees provided the City's failure to designate leave as FMLA-qualifying at an earlier date did not cause harm or injury to the employee. In all cases where leave qualifies for FMLA protection, the City and employee can mutually agree that leave be retroactively designated as FMLA leave.

## **III. Employee FMLA Leave Obligations**

### **A. Provide Notice of the Need for Leave**

Employees who take FMLA leave must timely notify the City of their need for FMLA leave. The following describes the content and timing of such employee notices.

#### **1. Content of Employee Notice**

To trigger FMLA leave protections, employees must inform the Human Resources Office of the need for FMLA-qualifying leave and the anticipated timing and duration of the leave, if known. Employees may do this by either requesting FMLA leave specifically, or explaining the reasons for leave so as to allow the City to determine that the leave is FMLA-qualifying. For example, employees might explain that:

- a medical condition renders them unable to perform the functions of their job;
- they are pregnant or have been hospitalized overnight;
- they or a covered family member are under the continuing care of a health care provider;
- the leave is due to a qualifying exigency caused by a military member being on covered active duty or called to covered active-duty status to a foreign country; or
- if the leave is for a family member, that the condition renders the family member unable to perform daily activities or that the family member is a covered service member with a serious injury or illness.

Calling in "sick," without providing the reasons for the needed leave, will not be considered sufficient notice for FMLA leave under this policy. Employees must respond to the City's questions to determine if absences are potentially FMLA-qualifying.

If employees fail to explain the reasons for FMLA leave, the leave may be denied. When employees seek leave due to FMLA-qualifying reasons for which the City has previously provided FMLA-

protected leave, they must specifically reference the qualifying reason for the leave or the need for FMLA leave.

## **2. Timing of Employee Notice**

Employees must provide 30 days' advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days' notice is not possible, or the approximate timing of the need for leave is not foreseeable, employees must provide the City notice of the need for leave as soon as practicable under the facts and circumstances of the particular case. Employees who fail to give 30 days' notice for foreseeable leave without a reasonable excuse for the delay, or otherwise fail to satisfy FMLA notice obligations, may have FMLA leave delayed or denied.

### **B. Cooperate in the Scheduling of Planned Medical Treatment (Including Accepting Transfers to Alternative Positions) and Intermittent Leave or Reduced Leave Schedules**

When planning medical treatment, employees must consult with the City and make a reasonable effort to schedule treatment so as not to unduly disrupt the City's operations, subject to the approval of an employee's health care provider. Employees must consult with the City prior to the scheduling of treatment to work out a treatment schedule that best suits the needs of both the City and the employees, subject to the approval of an employee's health care provider. If employees providing notice of the need to take FMLA leave on an intermittent basis for planned medical treatment neglect to fulfill this obligation, the City may require employees to attempt to make such arrangements, subject to the approval of the employee's health care provider.

When employees take intermittent or reduced work schedule leave for foreseeable planned medical treatment for the employee or a family member, including during a period of recovery from a serious health condition or to care for a covered service member, the City may temporarily transfer employees, during the period that the intermittent or reduced leave schedules are required, to alternative positions with equivalent pay and benefits for which the employees are qualified and which better accommodate recurring periods of leave.

When employees seek intermittent leave or a reduced leave schedule for reasons unrelated to the planning of medical treatment, upon request, employees must advise the City of the reason why such leave is medically necessary. In such instances, the City and employee shall attempt to work out a leave schedule that meets the employee's needs without unduly disrupting the City's operations, subject to the approval of the employee's health care provider.

### **C. Submit Medical Certifications Supporting Need for FMLA Leave (Unrelated to Requests for Military Family Leave)**

Depending on the nature of FMLA leave sought, employees may be required to submit medical certifications supporting their need for FMLA-qualifying leave. As described below, there generally are three types of FMLA medical certifications: an **initial certification**, a **recertification** and a **return to work/fitness for duty certification**.

It is the employee's responsibility to provide the City with timely, complete, and sufficient medical certifications. Whenever the City requests employees to provide FMLA medical certifications, employees must provide the requested certifications within 15 calendar days after the City's request,

unless it is not practicable to do so despite an employee's diligent, good faith efforts. The City will inform employees if submitted medical certifications are incomplete or insufficient and provide employees at least seven calendar days to cure deficiencies. The City will deny FMLA leave to employees who fail to timely cure deficiencies or otherwise fail to timely submit requested medical certifications.

With the employee's permission, the City may contact the employee's health care provider to authenticate or clarify completed and sufficient medical certifications. If employees choose not to provide the City with authorization allowing it to clarify or authenticate certifications with health care providers, the City may deny FMLA leave if certifications are unclear.

Whenever the City deems it appropriate to do so, it may waive its right to receive timely, complete and/or sufficient FMLA medical certifications.

### **1. Initial Medical Certifications**

Employees requesting leave because of their own, or a covered relation's, serious health condition, or to care for a covered service member, must supply medical certification supporting the need for such leave from their health care provider or, if applicable, the health care provider of their covered family or service member. If employees provide at least 30 days' notice of medical leave, they should submit the medical certification before leave begins. A new initial medical certification will be required on an annual basis for serious medical conditions lasting beyond a single leave year.

If the City has reason to doubt initial medical certifications, it may require employees to obtain a second opinion at the City's expense. If the opinions of the initial and second health care providers differ, the City may, at its expense, require employees to obtain a third, final and binding certification from a health care provider designated or approved jointly by the City and the employee.

### **2. Medical Re-certifications**

Depending on the circumstances and duration of FMLA leave, the City may require employees to provide recertification of medical conditions giving rise to the need for leave. The City will notify employees if recertification is required and will give employees at least 15 calendar days to provide medical recertification.

### **3. Return to Work/Fitness for Duty Medical Certifications**

Unless notified that providing such certifications is not necessary, employees returning to work from FMLA leaves that were taken because of their own serious health conditions that made them unable to perform their jobs must provide the City with medical certification confirming they are able to return to work and the employees' ability to perform the essential functions of the employees' position, with or without reasonable accommodation. The City may delay and/or deny job restoration until employees provide return to work/fitness for duty certifications.

### **D. Submit Certifications Supporting Need for Military Family Leave**

Upon request, the first time employees seek leave due to qualifying exigencies arising out of the covered active duty or call to covered active duty status of a military member, the City may require employees

to provide: 1) a copy of the military member's active duty orders or other documentation issued by the military indicating the military member is on covered active duty or call to covered active duty status and the dates of the military member's covered active duty service; and 2) a certification from the employee setting forth information concerning the nature of the qualifying exigency for which leave is requested. Employees shall provide a copy of new active-duty orders or other documentation issued by the military for leaves arising out of qualifying exigencies arising out of a different covered active duty or call to covered active duty status of the same or a different military member.

When leave is taken to care for a covered service member with a serious injury or illness, the City may require employees to obtain certifications completed by an authorized health care provider of the covered service member. In addition, and in accordance with the FMLA regulations, the City may request that the certification submitted by employees set forth additional information provided by the employee and/or the covered service member confirming entitlement to such leave.

#### **E. Substitute Paid Leave for Unpaid FMLA Leave**

Employees are required to use any accrued Paid Time Off while taking unpaid FMLA leave.

The substitution of paid time for unpaid FMLA leave time does not extend the length of FMLA leave and the paid time will run concurrently with an employee's FMLA entitlement.

Leaves of absence taken in connection with a disability leave plan or workers' compensation injury/illness shall run concurrently with any FMLA leave entitlement. Upon written request, the City will allow employees to use accrued Paid Time Off to supplement any paid disability benefits.

#### **F. Pay Employee's Share of Health Insurance Premiums**

During FMLA leave, employees are entitled to continued group health plan coverage under the same conditions as if they had continued to work. Unless the City notifies employees of other arrangements, whenever employees are receiving pay from the City during FMLA leave, the City will deduct the employee portion of the group health plan premium from the employee's paycheck in the same manner as if the employee was actively working.

If FMLA leave is unpaid, employees must pay their portion of the group health premium through a "pay-as-you-go" method.

The City's obligation to maintain health care coverage ceases if the employee's premium payment is more than 30 days late. If the employee's payment is more than 15 days late, the City will send a letter notifying the employee that coverage will be dropped on a specified date unless the co-payment is received before that date. If employees do not return to work within 30 calendar days at the end of the leave period (unless employees cannot return to work because of a serious health condition or other circumstances beyond their control), they will be required to reimburse the City for the cost of the premiums the City paid for maintaining coverage during their unpaid FMLA leave.

### **IV. Exemption for Highly Compensated Employees**

The City may choose not to return highly compensated employees (highest paid 10% of employees at a worksite or within 75 miles of that worksite) to their former or equivalent positions following a leave

if restoration of employment will cause substantial economic injury to the City. (This fact-specific determination will be made by the City on a case-by-case basis.) The City will notify employees if they qualify as a "highly compensated", if the City intends to deny reinstatement, and of the employee's rights in such instances.

## **V. Questions and/or Complaints about FMLA Leave**

If you have questions regarding this FMLA policy, please contact the Human Resources Office. The City is committed to complying with the FMLA and, whenever necessary, shall interpret and apply this policy in a manner consistent with the FMLA.

The FMLA makes it unlawful for employers to: 1) interfere with, restrain or deny the exercise of any right provided under FMLA; or 2) discharge or discriminate against any person for opposing any practice made unlawful by FMLA or involvement in any proceeding under or relating to FMLA. If employees believe their FMLA rights have been violated, they should contact the Human Resources Office immediately. The City will investigate any FMLA complaints and take prompt and appropriate remedial action to address and/or remedy any FMLA violation. Employees also may file FMLA complaints with the United States Department of Labor or may bring private lawsuits alleging FMLA violations.

## **VI. Coordination of FMLA Leave with Other Leave Policies**

The FMLA does not affect any federal, state, or local law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement that provides greater family or medical leave rights. For additional information concerning leave entitlements and obligations that might arise when FMLA leave is either not available or exhausted, please consult the City's other leave policies in this manual or contact the Human Resources Office.

The City of Alamogordo administers family and medical leaves of absence in accordance with the Family and Medical Leave Act of 1993.

### **6-4 Volunteer Emergency Responder Job Protection Act**

An employee's rights under the New Mexico Statute Chapter 12, Article 10C-1-4, Volunteer Emergency Responder Job Protection Act will be administered in accordance with the Act.

### **6-5 The Uniformed Services Employment and Reemployment Rights Act**

An employee's rights under The Uniformed Services Employment and Reemployment Rights Act (USERRA) will be administered in accordance with the Act.

### **6-6 Other Leave**

City of Alamogordo recognizes that an employee may have a need to be excused from work in order to attend to personal situations beyond their control. The purpose of this policy is to outline the parameters

for Domestic Victims Leave. Under this policy, the following circumstances may be approved for critical personal leaves for employees who are:

- victims of domestic violence
- victims of criminal acts
- victims of natural disasters
- family members of military service members - refer to FMLA Policy under Section 6 of this manual.

All regular full and part time employees, regardless of length of service, are eligible for leave which meet any of the above-referenced criteria. Such approved periods of leaves will be unpaid except where an employee elects to use available paid time off.

The leave provided for in this policy is supplemental to any leave that may be required under applicable laws such as the Family and Medical Leave Act (FMLA) and the Uniformed Services Employment and Reemployment Rights Act (USERRA). You may have similar rights under state law. Employees should look to their leave rights under such laws before resorting to the leave provided for in this policy.

Any request for leave for one of the reasons itemized above must be made in writing, must be for a specified period, and approved by the Department Director.

All leave requests may require documentation supporting the necessity for the leave. Such documentation must be provided within a reasonable time period following the request and may include court, military, insurance, physician, or other documents that verify the need for leave.

The City reserves the right to restrict leave or the duration of a leave if the leave will cause a major impact on City operations.

Domestic Victims leave may be taken in a continuous block of time or sporadically and is limited to fourteen (14) workdays in a calendar year; however, employees may submit subsequent documented leave requests for continuation of leave when necessary.

Eligible employees who take leave under this section are entitled to receive group health plan coverage under the same terms and conditions as if they had continued to work and are responsible for ensuring that a benefit payment schedule is arranged with payroll if necessary.

This policy will be administered pursuant to New Mexico Statute 50-4A-1-8, Promoting Financial Independence for Victims of Domestic Abuse Act.

For eligibility requirements contact Human Resources.

## **Section 7 - General Standards of Conduct**

### **7-1 Drug-Free and Alcohol-Free Workplace**

#### **SECTION 1 APPLICABLE TO ALL CITY OF ALAMOGORDO EMPLOYEES**

##### **PURPOSE**

The purpose of this Policy is to implement a substance abuse and alcohol misuse policy in a manner which provides for a safer environment for all City employees and the public; and is compliant with Title 49 Code of Federal Regulations Part 382 as it applies to every person and to all employers of such persons who operate a commercial motor vehicle in any State and is subject to the commercial driver's licensing requirements.

It is intended that this policy will be interpreted and implemented in a manner consistent with anti-discrimination requirements including the Americans with Disabilities Act.

##### **SEVERABILITY**

In the event that any portion of this policy or any portion of the regulations it incorporates are declared unenforceable, the remainder of this policy and such regulations shall remain in full effect.

##### **APPLICABILITY**

This policy applies to all City of Alamogordo employees and applicants, except where otherwise regulated in Section 2, by the Department of Transportation (D.O.T), for employees holding commercial licenses as part of their job description or are being paid certification pay for a commercial license that is not a requirement of their job description but is found to be beneficial to the City.

It shall be the responsibility of the City Manager to determine which positions are safety-sensitive based on the position's essential duties, requirements, and the risk of liability.

##### **Federally Mandated Employees**

Federally mandated employees are those working under the rules of the U.S. Department of Transportation (DOT) and the Federal Motor Carrier Safety Administration (FMCSA). These are employees whose job requires a Commercial Driver's License (CDL) or for employees holding CDL that is not a requirement of the job descriptions but is found to be beneficial to the City. Federally mandated employees are subject to pre-employment, post-accident, random, and reasonable suspicion testing.

##### **Safety Sensitive Employees**

Safety sensitive positions for the purpose of this policy are: sworn and non-sworn Police, Dispatch, Dispatch Command Staff, Animal Control Manager, Animal Control Officer, Evidence Technician, Firefighter, Fire Lieutenant, Fire Command Staff, Code Enforcement Officer/Firefighter, Code Enforcement Abatement Officer/Firefighter, Code Enforcement Supervisor, Recreation Center Van Driver, Senior Center Van Driver, Lifeguard, and those positions regulated by D.O.T. for the operation of a commercial vehicle. Safety Sensitive employees are subject to pre-employment, post-accident, random, and reasonable suspicion testing.

It shall be the responsibility of the Human Resources Office to notify the affected employees of their status upon hire or in the event of a change in safety sensitive determinations.

## **PROHIBITIONS**

1. Employees are prohibited from reporting to work under the influence of alcohol or controlled substance(s), from consuming, or possessing illegal drugs or alcohol during assigned work hours including lunch periods, rest breaks and periods when the employee is in pay status or on call.
2. No employee shall consume alcohol within the eight (8) hours prior to the start of the employee's scheduled shift.

### **A. DRUG TESTING**

The City of Alamogordo and its contracted testing facility shall adhere to the D.O.T. guidelines for drug testing. Split urine specimens collected under this policy shall not be used to test for any other drugs than Marijuana, Cocaine, Opioids, Phencyclidine, or Amphetamines.

Any drug testing component utilized by the City of Alamogordo shall have professionally trained collection personnel, quality assurance requirements for urinalysis procedures, and strict confidentiality requirements.

### **B. PRIVACY ASSURED**

Any individual subject to testing under this policy, shall provide urine specimens in privacy unless there is a reason to believe that a particular individual may alter or substitute the sample.

A collection site staff member of the same gender as the individual tested, may observe the individual provide the urine specimen when such staff member has a reasonable suspicion to believe that the individual may attempt to alter or substitute. If the collection provider does not have a same gender individual available, the City will provide an observer who shall be a member of City Management. The following are grounds for an observed test under this section:

1. The employee has presented a urine specimen that falls outside of the normal temperature range  $32^{\circ} - 38^{\circ} \text{C}$  or  $90^{\circ} - 100^{\circ} \text{F}$ ; and
2. The employee declines to provide an oral body temperature; or
3. The oral body temperature varies by more than  $1^{\circ} \text{C} / 1.8^{\circ} \text{F}$  from the specimen temperature; or
4. The last urine specimen provided by the employee (on a previous occasion) was determined by the testing lab to have a specific gravity of less than 1.003 and a creatinine concentration below .2g/L;
5. The collection site personnel observes conduct clearly and unequivocally indicating an attempt to substitute or adulterate the sample (e.g. substitute urine in plain view, blue dye in specimen presented, etc.); or

6. The employee has previously been determined to have used a controlled substance without medical authorization.

### **C. BREATH ALCOHOL TEST**

1. The City of Alamogordo's contracted testing facility will adhere to breath alcohol procedures of Title 49 Code of Federal Regulations Part 40.
2. Breath alcohol shall be collected by a certified Breath Alcohol Technician utilizing a Department of Transportation approved Evidentiary Breath Testing machine.
3. The employee giving the sample shall complete step 2 of the certification on the Alcohol Testing Form.
4. Refusal by the member to sign the certification shall be regarded as a refusal to take the test and will be automatically considered a positive result and will result in corrective action up to and including termination.
5. If the screening test is greater than zero (0) the driver shall take a confirmation test.
6. The confirmation test shall be conducted within not less than 15 minutes and no more than 30 minutes of a positive screening test.

### **D. PRE-EMPLOYMENT TESTING**

All offers to an external applicant, for initial employment with the City of Alamogordo, shall be extended conditionally upon the applicant successfully passing a pre-employment drug test with a negative result.

1. A current full-time or part-time non-safety sensitive employee that is being placed, transferred, or promoted into a non-safety sensitive position is exempt from the pre-employment drug test provision.
2. A current full-time or part-time non-safety sensitive employee being placed, transferred, or promoted into a safety-sensitive position is subject to the appropriate pre-employment drug test with a negative result.
3. A current full-time or part-time safety sensitive employee that is being placed, transferred, or promoted into another safety-sensitive position is exempt from the pre-employment drug test provision.
4. A current full time or part time non D.O.T. Safety Sensitive employee being, placed, transferred, or promoted into a D.O.T. Safety Sensitive position is subject to the appropriate pre-employment drug test, as regulated by D.O.T., with a verified negative result.
5. A current full time or part time D.O.T. Safety Sensitive employee being placed, transferred, or promoted into another D.O.T. Safety Sensitive position is exempt from the pre-employment drug test provision.
6. Seasonal employees promoting to regular status will be tested pursuant to the guidelines described in 1-5 above.

Procedure:

1. The City of Alamogordo shall direct the applicant or employee to an appropriate collection facility with the designated form.
2. The drug test must be undertaken as soon after notification as possible.
3. When an employee being placed, transferred, or promoted submits to a drug test under any of these provisions and has a verified positive result, the employee shall be subject to corrective action up to and including termination.
4. Should an applicant have a pre-employment drug test with a positive result, the conditional offer of employment shall be rescinded.

## **E. RANDOM TESTING**

All employees designated as “Safety Sensitive” per the “Applicability”, Section are subject to random drug and alcohol testing.

Procedure:

1. Tests are unannounced and the City of Alamogordo will notify the employee of any selection for a random test just prior to testing.
2. The employee shall immediately present him or herself for testing at the designated collection location noted on the random selection notice form.
3. Any employee not reporting for testing immediately shall be deemed to have refused to test and shall be subject to corrective action up to and including termination.

Employees on shift work will present themselves for testing upon notification from their supervisor.

## **F. RANDOM SELECTION**

The following represents how and how often random selections occur:

1. The rate of selection is 50% per annum for drugs and 25% per annum for alcohol. These rates may be adjusted by the Department of Transportation guidelines;
2. The selections are done by a scientifically valid process through the facility contracted to perform drug and alcohol tests.

## **G. POST-ACCIDENT TESTING**

All employees are subject to post-accident drug and/or alcohol testing. All employees are required to report all accidents involving personal injury and illness and/or vehicles and equipment immediately. Reports will be made to the immediate supervisor, Human Resources, and the City Safety Coordinator within one (1) hour unless extreme circumstances prohibit the immediate reporting. Detailed reporting procedures for accidents are defined in the City's Safety & Health Manual, Section 2.

Employees involved in on-the-job accidents are subject to post accident testing. Testing will be determined in coordination with Human Resources and the Department Director or designees thereof. The decision to test will be based on any requirements outlined in this policy, the City Health and Safety

Manual, the employee's accident history, the severity of the accident, and any other circumstances surrounding the accident.

1. SAFETY SENSITIVE AND NON-SAFETY SENSITIVE POSITIONS:

- Testing will be conducted immediately following the accident if information is provided by credible sources, or it is reasonable and independently corroborated that objective facts indicate the driver is under the influence of controlled substance or alcohol.
- Police involved in an accident who use deadly force are subject to drug and alcohol testing. Deadly force means, that force which a reasonable person would consider likely to cause death or serious bodily harm.

2. DEPARTMENT OF TRANSPORTATION (D.O.T) REGULATED EMPLOYEES:

Testing for both alcohol and drugs shall be conducted for each surviving driver:

- If the accident involved the loss of human life;
- Who receives a citation under State or local law for a moving traffic violation arising from the accident;
- Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident;
- One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

All D.O.T employees requiring post-accident testing will report for testing within two (2) hours of the accident and shall remain readily available for such testing or may be deemed by the employer to have refused to submit to testing.

Procedure:

1. If test(s) are not administered within two hours following the accident, the employer shall prepare and maintain on file a record stating the reasons the test was not promptly administered.
2. If a test required by this section is not administered within eight hours following the accident, the employer shall cease attempts to administer an alcohol test and shall prepare and maintain the same record.
3. The results of breath or blood test for the use of alcohol by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of post-accident testing, provided the tests conform with the applicable Federal, State, or local alcohol testing requirements, and that the results are obtained by the City of Alamogordo.

Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a driver from leaving the scene of an accident for the period

necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

## **H. REASONABLE SUSPICION TESTING**

Reasonable suspicion testing may be based upon, among other things:

1. Observable phenomena, such as direct observation of drug and/or alcohol use or possession and/or the physical symptoms of being under the influence of drug(s) and/or alcohol, or a pattern of abnormal conduct or erratic behavior.
2. Abnormal conduct or erratic behavior may include the following, which is not intended to be all inclusive:
  - Abnormally dilated or constricted pupils
  - Glazed stare-redness of eyes
  - Flushed face
  - Change of speech (ie. faster or slower)
  - Constant Sniffing
  - Redness under nose
  - Needle marks
  - Change in personality
  - Forgetfulness
  - Constant fatigue or hyperactivity
  - Smell of alcohol
  - Slurred speech
  - Difficulty walking
  - Slowed reaction rate
  - Dulled mental processes
3. Information provided by credible sources or independently corroborated;
4. Newly discovered evidence that the driver has tampered with a previous drug and/or alcohol test.

Procedures:

1. If an employee is suspected of using illegal drugs, the appropriate supervisor will gather all information, facts, and circumstances leading to and supporting this suspicion.
2. The employee shall be driven to an approved collection site and the appropriate reasonable suspicion drug and/or alcohol test shall be administered.
3. The employee will be placed on Administrative Leave and taken home or may be picked up by a responsible friend or family member.
4. The Director and Human Resources will be notified immediately.
5. The appropriate supervisor will promptly prepare a written report detailing the circumstances which formed the basis to warrant the testing on the City's designated form.

6. This report should include the appropriate dates and times of reported drug/alcohol related incidents, names of credible sources of information, rationale leading to the test, and the action taken.
7. Completed forms will be submitted to Human Resources for proper filing.

Reasonable suspicion testing does not require certainty; however, mere “hunches” are not sufficient to meet the standard for testing.

## **I. REFUSAL TO TEST**

1. Refusal by the employee to take any required test(s) shall be considered an automatic positive test result and will be grounds for corrective action up to and including termination.
2. Any employee who refuses to be tested when so required will be subject to removal from any safety sensitive function and will be subject to corrective action, up to and including termination.

Refusal to test and incomplete tests are:

### **Alcohol:**

1. Fails to present him or herself for testing, within the designated time frame, after he or she has received notice that testing is occurring;
  2. Employee fails to complete and sign the breath alcohol testing form;
  3. Fails to provide breath, or to provide an adequate amount of breath; or
  4. Fails to otherwise cooperate with the testing process.
- If there is an inability for the driver to provide an adequate amount of breath the driver shall be directed by the City of Alamogordo, if required to, obtain, and as soon as practical, an evaluation from a licensed physician why the employee could not deliver an adequate sample.
  - If the licensed physician is unable to conclude that a high degree of probability existed that a medical problem resulted in the inadequate sample, the test is considered as a refusal and automatically considered a positive test and will result in corrective action up to and including termination.
  - If the driver refuses to take a confirmation test he or she shall not operate a motor vehicle or perform any safety sensitive function and will be subject to corrective action up to and including termination.

### **Controlled Substance Urine Sample:**

1. Fails to provide an adequate urine sample without a genuine inability to provide a specimen after he or she has received notice of the requirement for urine testing;
2. Fails to present him or herself for testing, within the designated time frame, after he or she has received notice that testing is occurring;
3. Engages in conduct that clearly obstructs the testing process; or

4. The employee has presented a urine specimen that falls outside the normal temperature range of 32<sup>0</sup> - 38<sup>0</sup> C or 90<sup>0</sup> - 100<sup>0</sup> F; and
5. The employee declines to provide an oral body temperature.

#### **Consequences of Refusing to Test:**

Refusals to test are treated as if they were a positive test result for either alcohol or controlled substances and will subject the employee to corrective action up to and including termination.

#### **J. TEST RESULTS**

Should an employee receive a positive or non-negative drug or alcohol result:

1. Under no circumstance will the employee be allowed to drive.
2. The Director and Human Resources will be notified immediately.
3. A valid prescription may be the cause, and if documentation can be provided, the employee may return to duty, if there is no sign of impairment until the confirmation result is in.
4. If documentation of a valid prescription cannot be provided the employee will be placed on Administrative Leave pending the result of the confirmation test.
5. The employee shall be subject to corrective action up to and including termination.

#### **Opportunity to Justify a Positive Drug or Non-Negative Test Result:**

When a drug test result has been returned by the laboratory to the Medical Review Officer (MRO), he or she shall perform their duties. For example, the Medical Review Officer may choose to conduct employee medical interviews, review employee medical history, or review any other relevant biomedical factors. The Medical Review Officer must review all non-negative and positive results.

Evidence to justify a positive result may include, but is not limited to:

1. A valid prescription; or
2. A verification from the individual's physician verifying a valid prescription.

Individuals are not entitled, however, to present evidence in a trial-type administrative proceeding, although the Medical Review Officer has the discretion to accept evidence in any manner that they deem most efficient or necessary. If the Medical Review Officer determines there is not justification for the positive result, such result will be considered a verified positive test result. The Medical Review Officer shall immediately contact the appropriate official upon obtaining a verified positive test result.

#### **K. LEGAL MEDICATION USE**

1. Any employee in a safety sensitive position who is taking prescribed, non-prescribed, and/or over the counter medication containing alcohol for illness or injury must report the use of these substances to his or her employer.

2. It is the responsibility of the employee to determine the effects of these medications and/or drugs on job performance and safety. Generally, the effects would be considered substantial enough to warrant removal from job duties if the container states that driving should not be done after taking the medication, or drowsiness occurs after taking the medication.
3. In the event that these medications adversely affect performance or safety to the extent that the employee must be relieved from duty no disciplinary action will be taken against the employee. He or she may be required to take Paid Time Off, leave without pay, or be placed in a less sensitive position if available.
4. No prescription drugs shall be brought into the workplace by any person other than the person for whom the drug is prescribed by a licensed medical practitioner and shall be used only in the manner, combination, and quantity prescribed.

#### **L. VOLUNTARY ASSISTANCE (SELF REFERRAL)**

The City encourages employees who believe or suspect that they may be abusing a substance to voluntarily refer themselves to the Employee Assistance Program (EAP). The EAP staff is prepared to assist employees requesting their services. Employees may self-refer at any time except within twenty-four (24) hours after an accident, as defined in this policy, or after being notified that they must submit to a random or reasonable suspicion drug/alcohol test. Except as otherwise provided in this policy, an employee's use of the EAP services shall remain confidential.

As a part of its efforts to promote employee wellness, the City maintains an Employee Assistance Program (EAP) and encourages employees to voluntarily seek assistance regarding substance abuse. However, because employees who are substance abusers do not always avail themselves of this program, the City, as a responsible employer, elects to take additional steps to deter substance abuse which may impact the workplace.

1. Any employee who self-refers shall be placed on the appropriate leave status. Employees who voluntarily seek assistance for substance abuse may receive, without charge, an evaluation with a Substance Abuse Professional (SAP) through the City of Alamogordo EAP. Recommendations from the SAP will be met, at the employees own expense. Employee will remain on leave status until the Substance Abuse Professional documents that he or she is ready and able to return to assigned job duties without endangering the safety of themselves or others; the employee has completed a return-to-duty drug and/or alcohol test with a negative result; and the City has been provided with a return-to-work agreement.
2. The return-to-work agreement shall require that the employee remain compliant with his or her treatment program and non-compliance is grounds for corrective action up to and including termination. In addition, the return-to-work agreement shall include an agreement to submit to periodic and unannounced follow-up testing which must consist of at least six (6) tests during the first twelve (12) months following the return-to-work and may be done for up to sixty (60) months; and a standard, limited waiver of confidentiality, with respect to compliance with the treatment program only, to allow the Human Resources Office or designee to monitor compliance with the program.
3. During treatment, the employee's leave status shall be as follows: First, accrued leave shall be exhausted and, if insufficient, the employee shall be placed on leave without pay in

accordance with the City of Alamogordo Employee Manual. Any leave taken, either paid or unpaid, shall be considered leave taken under the Family and Medical Leave Act.

4. Employees who are not compliant with the SAP recommended treatment program within thirty (30) calendar days from the date of self-referral shall be subject to corrective action up to and including termination.
5. Referrals to a Substance Abuse Professional play an important role in preventing and resolving employee drug use or alcohol abuse by providing employees an opportunity to discontinue their use.
6. All Substance Abuse Professional operations shall be confidential in accordance with this policy relating to records and confidentiality.

## **M. RETURN TO DUTY TESTING**

The City of Alamogordo shall ensure that an employee returning to duty after testing positive for alcohol has undergone a return to duty test with a verified negative result.

For any substance, the employee returning to duty shall have undergone a controlled substance test with a verified negative result.

The requirements for return-to-duty testing will be performed as outlined in 49 CFR part 40, subpart O.

At the discretion of the City Manager, an employee may return to duty in a safety sensitive position when the employee has been referred to a Substance Abuse Professional and the employee has provided the City with an appropriate return to duty release from the Substance Abuse Professional.

## **N. FOLLOW UP TESTING**

All employees referred through administrative channels who undergo a counseling or rehabilitation program for drug/alcohol use through a Substance Abuse Professional will be subject to unannounced testing following completion of such a program, recommended by the Substance Abuse Professional.

Employees who refuse to submit to periodic, unannounced follow-up testing administered pursuant to a return-to-work agreement shall be subject to corrective action up to and including termination.

An employee with a verified positive test during the follow-up testing administered pursuant to a return-to-work agreement shall be subject to corrective action up to and including termination.

Follow-up testing is separate and in addition to any other testing required by other provisions of the City's Drug and Alcohol Abuse Policy. Appropriate discipline shall be imposed for verified positive tests under those provisions without regard to an employee's participation in the self-referral program.

## **O. EDUCATION AND TRAINING**

This policy shall be provided to every City employee, and training and education programs shall be made available. Supervisors and Managers will receive a minimum of 120 minutes each of drug and alcohol specialized training designed to promote the necessary skills to:

- Inform employees of this policy;
- Enforce this policy;
- Identify the signs of drug and/or alcohol use; and
- Integrate an employee effectively back into his or her work group following treatment.

Non-supervisory employees will receive a minimum of 120 minutes training on the effects and consequences of prohibited drug and/or alcohol use on personal health, safety, and the work environment.

## **P. OTHER REQUIREMENTS**

Department Directors or other Supervisors may not adopt additional substance abuse and/or testing policies without the prior written approval of the City Manager.

All City of Alamogordo employees have the duty and are required to report to their supervisor any suspected drug or alcohol use of another employee while on duty. Failure to do so may result in corrective action.

### **SECTION 2 APPLICABLE TO DEPARTMENT OF TRANSPORTATION (DOT) REGULATED EMPLOYEES ONLY**

City of Alamogordo complies with Title 49 Code of Federal Regulations Part 382 relating to the Department of Transportation regulations for employees operating on the City's behalf as a commercial driver.

#### **Title 49 Code of Federal Regulations Part 382**

**382.601(b) (1):** Contact the Human Resources Office at (575) 439-4399 for any questions relating to the City of Alamogordo Drug and Alcohol Abuse Policy.

**382.601(b)(2):** The operation of the following categories of Commercial Motor Vehicles (CMV) by a Commercial Driver Licensed driver subjects the Commercial Driver Licensed driver to the provisions of Title 49 Code of Federal Regulations Part 382:

A motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

1. Has a gross combination weight of 26,001 or more pounds inclusive of a towed unit a gross vehicle weight rating of 10,000 pounds; or
2. Has a gross vehicle weight rating of 26,001 or more pounds; or
3. Is designed to transport 16 or more passengers, including the driver; or
4. Is any size and is used to transport hazardous material(s) requiring the motor vehicle to be placarded.

**382.601(b) (3):** The following are the Safety Sensitive functions that place drivers into the provisions of the Department of Transportation's Drug & Alcohol testing requirements:

1. All time that a carrier or shipper plant, terminal, facility, or other property, or on any public property waiting to be dispatched, unless the driver has been relieved from duty by the City of Alamogordo;
2. All time inspecting equipment as required or otherwise inspecting, servicing, or conditioning commercial motor vehicle at any time. All driving time which means all time spent at the driving controls of a commercial motor vehicle during operation;
3. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth;
4. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded;
5. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

The following constitutes a verified positive controlled substance test result:

SUBSTANCE CONFIRMATORY TEST CUT OFF LEVELS (ng/ml)

Marijuana metabolites 15

Cocaine metabolite 100

Opioids:

Morphine 2000

Codeine 2000

Hydrocodone/Hydromorphone 100

Oxycodone/Oxymorphone 100

6-Acetylmorphine 10

Phencyclidine 25

Amphetamines:

Amphetamine 250

Methamphetamine 250

MDMA/MDA 250

**382.601 (b) 10:** The following are consequences for drivers found to have an alcohol concentration greater than zero (0)%:

Levels of alcohol concentration over zero (0)% require an employee to be relieved of safety sensitive functions. The driver is then subject to the full range of disciplinary action, including termination.

**382.601 (b) 11:** The following is information concerning the effects of alcohol and controlled substances.

## **ALCOHOL**

Although used routinely as beverage for enjoyment, alcohol can also have negative physical and mood-altering effects when abused. These physical or mental alterations in a driver may have serious personal and public safety risks.

### **HEALTH EFFECTS**

An average of three or more servings per day of beer (12 oz.) Whiskey (1 oz.) or wine (6 oz.) over time, may result in the following health hazards:

- Dependency
- Fatal liver disease
- Kidney disease
- Pancreatitis
- Ulcers
- Decreased sexual functions
- Increased cancers of the mouth, tongue, pharynx, esophagus, rectum, breast, and malignant melanoma birth defects such as Fetal Alcohol Syndrome.

### **Social Issues**

- 2/3 of all homicides are committed by people who drink prior to the crime.
- 2-3% of the driving population are legally drunk at any one time. This rate doubles at night and on weekends.
- 2/3 of all Americans will be involved in an alcohol-related accident during their lifetime.
- The separation and divorce rate in families with alcohol dependency problems is seven (7) times the average.
- 40% of family court cases are alcohol-related.
- Alcoholics are 15 times more likely to commit suicide.
- More than 60% of burns, 40% of falls, 69% of boating accidents, and 76% of private aircraft accidents are alcohol related.
- Over 17,000 fatalities occurred in 1993 in highway accidents, which were alcohol-related. This was 43% of all highway fatalities.
- 30,000 people will die each year due to alcohol caused liver disease.
- 10,000 people will die each year due to alcohol-related brain disease or suicide.
- Up to 125,000 people die each year due to alcohol-related conditions or accidents.

## **Workplace Issues**

- It takes one hour for the average person (150 pounds) to process one serving of alcohol from the body.
- Impairment can be measured with as little as two drinks in the body.
- A person who is legally intoxicated is 6 times more likely to have an accident than a sober person.

## **Reporting Legal Drug Use**

The reporting requirements which arise under Title 49 Code of Federal regulations Parts 40 and 382 are an element of this policy. To the extent such reporting requirements hinge on operations in interstate, or intrastate, commerce or application of United States Department of Transportation regulations or require reporting to Federal agencies, such reporting requirements will be implemented to the degree to which they apply.

The City of Alamogordo utilizes a Third-Party Administrator (TPA) to data base employee drug/alcohol testing information, conduct random drug/alcohol selections, and receive testing results. The TPA acts as an agent for the employer. It does not replace the employer or responsibilities for meeting the Department of Transportation requirements.

1. Drug/alcohol testing records are first received by the Third-Party Administrator of the City's drug and alcohol program. The results are transmitted to the Human Resources Department who shall maintain them and, except as provided below or by law, the results of any drug/alcohol test shall not be disclosed without express consent of the tested employee.
2. Records of a verified positive drug/alcohol test result shall be released to the employee's Department Director.
3. Records of an employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test.

Failure to do so may result in disciplinary actions.

## **Alcohol's Trip Through the Body**

**Mouth and Esophagus:** Alcohol is an irritant to the delicate linings of the throat and food pipe. It burns as it goes down.

**Stomach and Intestines:** Alcohol has an irritating effect on the stomach's protective lining, resulting in gastric or duodenal ulcers. This condition if it becomes acute, can cause peritonitis, or perforation of the stomach wall. In the small intestine, alcohol blocks absorption of such substances as thiamine, folic acid, fat, vitamin B1, vitamin B12, and amino acids.

**Bloodstream:** 95% of the alcohol taken into the body is absorbed into the bloodstream through the lining of the stomach and duodenum. Once in the bloodstream, alcohol quickly goes to every cell and tissue in the body. Alcohol causes red blood cells to clump together in sticky wads, slowing circulation and

depriving tissues of oxygen. It also causes anemia by reduction of red blood cell production. Alcohol slows the ability of white cells to engulf and destroy bacteria and degenerates the clotting ability of blood platelets.

**Pancreas:** Alcohol irritates the cells of the pancreas, causing them to swell, thus blocking the flow of digestive enzymes. The chemicals, unable to enter the small intestine, begin to digest the pancreas, leading to acute hemorrhagic pancreatitis. One out of five patients who develop this disease dies during the first attack. Pancreatitis can destroy the pancreas and cause a lack of insulin thus resulting in diabetes.

**Liver:** Alcohol inflames the cells of the liver, causing them to swell and block the tiny canal to the small intestines. This prevents bile from being filtered properly through the liver. Jaundice develops, turning the whites of the eyes and skin yellow. Each drink of alcohol increases the number of live cells destroyed, eventually causing cirrhosis of the liver. This disease is eight times more frequent among alcoholics than among non-alcoholics.

**Heart:** Alcohol causes inflammation of the heart muscle. It has a toxic effect on the heart and causes increased amounts of fat to collect, thus disrupting its normal metabolism.

**Urinary Bladder and Kidneys:** Alcohol inflames the lining of the urinary bladder making it unable to stretch properly. In the kidneys, alcohol causes increased loss of fluids through its irritating effect.

**Sex Glands:** Swelling of the prostate gland caused by alcohol interferes with the ability of the male to perform sexually. It also interferes with the ability to climax during intercourse.

**Brain:** The most dramatic and noticed effect of alcohol is on the brain. It depresses brain centers, producing progressive incoordination: confusion, distortion, stupor, anesthesia, coma, death. Alcohol kills brain cells and brain damage is permanent. Drinking over a period of time causes loss of memory, judgement and learning ability.

## **DRUGS**

### **Marijuana**

#### **Health Effects**

- Emphysema-like conditions.
- One joint of marijuana contains cancer-causing substances equal to ½ pack of cigarettes.
- One joint causes the heart to race and be overworked. People with heart conditions are at risk.
- Marijuana is commonly contaminated with the fungus *Aspergillus*, which can cause serious respiratory tract and sinus infections.
- Marijuana lowers the body's immune system response, making users more susceptible to infections. Chronic smoking causes changes in brain cells and brain waves. The brain does not work as efficiently or effectively. Long-term brain damage may occur.
- Tetrahydrocannabinol (THC) and sixty (60) other chemicals in marijuana concentrate in the ovaries and testes.

- Chronic smoking of marijuana in males causes a decrease in testosterone and an increase in estrogen, the female hormone. As a result, the sperm count is reduced, leading to a temporary sterility.
- Chronic smoking of marijuana in females causes a decrease in fertility.
- A higher than normal incidence of stillborn births, early termination of pregnancy, and higher infant mortality rate during the first few days of life are common in pregnant marijuana smokers.
- THC causes birth defects including brain damage, spinal cord, forelimbs, liver, and water on the brain and spine in test animals.
- Prenatal exposure may cause underweight newborn babies.
- Fetal exposure may decrease visual functioning.
- User's mental function can display the following effects:

1. delayed decision making
2. diminished concentration
3. impaired short-term memory
4. impaired signal detection
5. impaired tracking
6. erratic cognitive function
7. distortion of time estimation

### **Workplace Issues**

- THC is stored in body fat and slowly released.
- Marijuana smoking has long-term effects on performance.
- Increased THC potency in modern marijuana dramatically compounds the side effects.
- Combining alcohol or other depressant drugs with marijuana increase the impairing effects.

### **Cocaine**

Used medically as a local anesthetic. When abused, it becomes a powerful physical and mental stimulant. The entire nervous system is energized. Muscles tense, heart beats faster and stronger, and the body burns more energy. The brain experiences an exhilaration caused by a large release of neurohormones associated with mood elevation.

## **Health Effects**

- Regular use may upset the chemical balance of the brain. As a result, it may speed up the aging process by causing damage to critical nerve cells. Parkinson's Disease could also occur.
- Cocaine causes the heart to beat faster, harder, and rapidly increases blood pressure. It also causes spasms of blood vessels in the brain and heart. Both lead to ruptured vessels causing strokes and heart attacks.
- Strong dependency can occur with one "hit" of cocaine. Usually, mental dependency occurs within days for "crack" or within several months for snorting coke. Cocaine causes the strongest mental dependency of all the drugs.
- Treatment success rates are lower than other chemical dependencies.
- Extremely dangerous when taken with other depressant drugs. Death due to overdose is rapid. Fatal effects are usually reversible by medical intervention.

## **Workplace Issues**

- Extreme mood and energy swings create instability. Sudden noise causes a violent reaction.
- Lapses in attention and ignoring warning signals increases probability of accidents.
- High cost frequently leads to theft and/or dealing.
- Paranoia and withdrawal may create unpredictable or violent behavior.
- Performance is characterized by forgetfulness, absenteeism, tardiness, and missing assignments.

## **Opioids**

- Narcotic drugs which alleviate pain and depress body functions and reactions.

## **Health Effects**

- IV needle users have a high risk of contracting hepatitis or AIDS when sharing needles.
- Increase pain tolerance. As a result, a person may more severely injure themselves and fail to seek medical attention as needed.
- Narcotic effects are multiplied when combined with other depressants causing an increased risk for an overdose.
- With increased tolerance and dependency combined, there is a serious financial burden for users.

## **Workplace Issues**

- Side effects such as nausea, vomiting, dizziness, mental clouding and drowsiness place the user at high risk for an accident.

- Causes impairment of physical and mental functions.

### **Amphetamines**

- Central nervous system stimulant that speeds up the mind and body.

### **Health Effects**

- Regular use causes strong psychological dependency and increased tolerance.
- High doses may cause toxic psychosis resembling schizophrenia.
- Intoxication may induce a heart attack or stroke due to increased blood pressure.
- Chronic use may cause heart or brain damage due to severed constriction of capillary blood vessels.
- Euphoric stimulation increases impulsive and risk-taking behavior, including bizarre and violent acts.
- Withdrawal may result in severe physical and mental depression.

### **Workplace Issues**

- Since the drug alleviates the sensation of fatigue, it may be abused to increase alertness during periods of overtime or failure to get rest.
- With heavy use or increasing fatigue, the short-term mental or physical enhancement reverses and becomes an impairment.

### **Phencyclidine (PCP)**

- Often used as a large animal tranquilizer. Abused primarily for its mood-altering effects. Low doses produce sedation and euphoric mood changes. Mood can rapidly change from sedation to excitation and agitation. Larger doses may produce a coma-like condition with muscle rigidity and a blank stare. Sudden noises or physical shocks may cause a “freak out” in which the person has abnormal strength, violent behavior, and an inability to speak or comprehend.

### **Health Effects**

- The potential for accidents and overdose emergencies is high due to the extreme mental effects combined with anesthetic effect on the body.
- PCP, when combined with other depressants, including alcohol, increases the possibility of an overdose.
- If misdiagnosed as LSD induced, and treating with Thorazine, can be fatal.
- Irreversible memory loss, personality changes, and thought disorders may result.

## **Workplace Issues**

- Not common in the workplace primarily because of the severe disorientation that occurs.
- There are five (5) phases to PCP abuse:

1. Acute toxicity causing combativeness, catatonia, convulsions, and coma.
2. Distortions of size, shape, and distorted perception are common.
3. Toxic psychosis with visual and auditory delusions, paranoia, and agitation.
4. Drug induced schizophrenia.
5. Induced depression which may create suicidal tendencies and mental dysfunction.

### **382.605 Referral, evaluation and treatment.**

Each driver who has engaged in conduct prohibited by Title 49 Code of Federal Regulations Part 382. sub-part B shall be advised by the employer of the resources available to the driver in evaluating and resolving problems associated with the misuse of alcohol and the use of controlled substances.

#### **382.413 Release of Alcohol and Controlled Substance Test Information by Previous Employers:**

The City shall, pursuant to a driver's written authorization, inquire about information on the driver's alcohol tests with a result of 0.04 or greater, positive controlled substance test results, and refusals to be tested within the preceding two years of employment application, which are maintained by the driver's previous employers.

If feasible this information must be obtained and reviewed by the City prior to the first time a driver performs a safety sensitive function. If it is not feasible to obtain the information prior to the driver performing a safety sensitive function the City has 14 calendar days to obtain and review this information. The City may not permit a driver to perform safety sensitive functions after 14 calendar days without having made a good faith effort to obtain the information as soon as possible.

If the driver stops performing safety sensitive functions for the City before the 14 calendar days expires, or before the information is obtained, the City must still make a good faith effort to obtain the information.

#### **382.601 (b) 11 (d): Certificate of Receipt:**

Drug/Alcohol educational material packets shall be distributed to covered employees. A minimum of two hours of supervisory training shall be required of all supervisors. Employees and supervisors are required to sign for the materials. A copy showing receipt shall be maintained by the City of Alamogordo, or the Third-Party Administrator, as part of the employee's confidential drug and alcohol file.

Pursuant to Title 49 Code of Federal Regulations Part 382, sub-part B you are advised by the City of Alamogordo of the resources available to the driver in evaluating and resolving problems associated with the misuse of alcohol and/or the use of controlled substances. You may not return to any “Safety Sensitive” position within the City of Alamogordo until such time as you have completed, or been released, by an approved Substance Abuse Program that contains: referral, evaluation, and treatment. A non-inclusive assistance resource listing:

- Zia Therapy / 900 First St., Alamogordo, NM 88310 / 575-439-4900
- Behavioral Health Services Division / 37 Plaza La Prensa, Sante Fe, NM 87507 / 505-476-9266
- Substance Abuse and Mental Health Services Administration (SAMHSA) /1-800-662-4357
- National Institute for Drug Abuse (NIH) [www.drugabuse.gov](http://www.drugabuse.gov) / 1-800-662-4357.
- American Addiction Centers / 888-231-4983.
- New Mexico Alcoholics Anonymous / 311 E. 9<sup>th</sup> St., Alamogordo, NM 88310
- New Mexico Alcoholics Anonymous / 1216 Mechem Dr. #7215, Ruidoso, NM 88345.
- Arid Clue Alcoholism Treatment / 334 W. Griggs Ave., Las Cruces, NM 88005 / 575-523-9850.
- New Mexico Alcoholics Anonymous / 2411 4<sup>th</sup> St., Albq., NM / 505-243-8426
- New Mexico Alcoholics Anonymous / 11605 Menaul Blvd., NE, Albq., / 505-292-1067
- National Institute on Alcohol Abuse and Alcoholism / [niaaa.nih.gov](http://niaaa.nih.gov) / 888-MY-NIAAA or 888-696-4222
- Open Minds, LLC, Tamara Dees, 1909 Cuba Ave., Suite #5 / 575-4378181
- LaRocque Counseling Assoc., LLC (EAP) / 1213 Michigan Ave. Alamogordo, NM / 575-437-8942.

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Employee Signature of Receipt

Date of Receipt

City of Alamogordo

Original: Employee Confidential Auxiliary File

Copy: Employee

## 7-2 Code of Ethics and Conflict of Interest

### **Code of Ethics: Public Employment as a Public Trust.**

City employees in performing their duties are required to conduct themselves in an ethical manner at all times. In performing their day-to-day duties and in their many contacts with residents and visitors, City employees should be aware that the impressions of City government are based upon their manner, appearance, speech, and conduct. Consequently, City government is dependent upon standards of reliability, integrity, industriousness, helpfulness, courtesy, efficiency, patience, grooming, dress, and language that are appropriate to the work situation and acceptable to the majority of the community. A public employee away from the job shall have the same rights as any other private citizen insofar as they do not interfere with their performance on the job or undermine the public confidence in the City, the employee, or another City employee.

### **Conflict of Interest**

It is City of Alamogordo's policy that all employees avoid any conflict between their personal interests and those of the City. The purpose of this policy is to ensure that the City's honesty and integrity, and therefore its reputation, are not compromised. The fundamental principle guiding this policy is that no employee should have, or appear to have, personal interests or relationships that actually or potentially conflict with the best interests of the City.

It is not possible to give an exhaustive list of situations that might involve violations of this policy. However, the situations that would constitute a conflict of interest in most cases include but are not limited to:

1. Holding an interest in or accepting free or discounted goods or services from any organization, or citizen that does, or is seeking to do, business with the City, or has interests that may be substantially affected by the performance or non-performance of the employee's official duties;
2. Being employed by (including as a consultant) or serving on the board of any organization which does, or is seeking to do business with the City, or has interests that may be substantially affected by the performance or non-performance of the employee's official duties;
3. Profiting personally through commissions, loans, grants, expense reimbursements, honorarium, contribution or other payments, from any organization or citizen that does, or is seeking to do business with the City, or has interests that may be substantially affected by the performance or non-performance of the employee's official duties, for representing, advising, presenting, or assisting in matters within official duties;
4. Misuse of official position or withholding official action on a matter in which they have an outside personal or financial interest;
5. Use of City time, services, equipment, property or facilities for personal and/or financial benefit;
6. Coercion of another employee in any manner which will result in outside personal and/or financial benefit;
7. Giving away or taking for one's self City owned property, property belonging to a citizen, or services outside of typical means addressed in City Ordinances;

8. Solicitation of or acceptance of, directly or indirectly, any gift that benefits 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, from any organization or citizen which does, or is seeking to do business with the City, or has interests that may be substantially affected by the performance or non-performance of the employee's official duties. For the purpose of this section, "gift" includes, but is not limited to: money, property, items of value, services, loans, favors, promises, travel, entertainment, hospitality, and employment, but does not include food and refreshments with a value of less than one hundred dollars (\$100) consumed in a day.
9. Disclosure of confidential information gained from City employment if the use or disclosure could result in a financial or personal benefit, unless that information has already become public;
10. Aiding in or not reporting any violation of the Code of Ethics and Conflict of Interest policies.

It is the employee's responsibility to report any actual or potential conflict that may exist between the employee (and/or an immediate family member) and the City in writing to the City Manager with a copy to the Department Director at the time any conflict occurs.

Any honorarium or contributions received must be turned over to the Finance Department.

Violations of or complaints relating to this policy must be reported immediately to the City Manager.

Violation of this Policy may result in disciplinary action up to and including termination.

### **7-3 Confidential Information**

During the course of work, an employee may become aware of confidential information about City of Alamogordo's business, including but not limited to information regarding City and/or citizen and employee personal information. It is extremely important that all such information remain confidential. Any employee who improperly copies, removes, destroys (whether physically or electronically), uses or discloses confidential information to anyone outside of the City without permission may be subject to disciplinary action up to and including termination. Employees may be required to sign an agreement reiterating these obligations.

### **7-4 Employee/Employer Relations**

All City employees are expected to treat each other in a respectful and courteous manner while on duty.

### **7-5 Workplace Conduct**

City of Alamogordo endeavors to maintain a positive work environment. Each employee plays a role in fostering this environment. Accordingly, we all must abide by certain rules of conduct, based on honesty, common sense and fair play.

Because everyone may not have the same idea about proper workplace conduct, it is helpful to adopt and enforce rules all can follow. Unacceptable conduct may subject the offender to disciplinary action, up to and including termination, in the City's sole discretion. The following are examples of some, but not all, conduct which can be considered unacceptable:

1. Obtaining employment on the basis of false or misleading information.
2. Stealing, removing, or defacing City of Alamogordo property or a co-worker's property.
3. Disclosure of confidential information.
4. Completing another employee's time records without authorization.
5. Violation of safety rules and policies.
6. Violation of City of Alamogordo's Drug and Alcohol-Free Workplace Policy.
7. Fighting, threatening, or disrupting the work of others, or other violations of City of Alamogordo's Workplace Violence Policy.
8. Failure to follow lawful instructions of a supervisor.
9. Failure to perform assigned job duties.
10. Violation of the Punctuality and Attendance Policy, including but not limited to irregular attendance, habitual lateness, or unexcused absences.
11. Gambling on City property.
12. Willful or careless destruction or damage to City assets, or to the equipment or possessions of another employee.
13. Wasting work materials.
14. Performing work of a personal nature during working time.
15. Violation of the Solicitation and Distribution Policy.
16. Violation of City of Alamogordo's Harassment or Equal Employment Opportunity Policies.
17. Violation of the Communication and Computer Systems Policy.
18. Unsatisfactory job performance.
19. Any other violation of City policy or local, state, or federal law.

Obviously, not every type of misconduct can be listed. City of Alamogordo reserves the right to impose whatever discipline it chooses, or none at all, in a particular instance. The City will deal with each situation individually and nothing in this manual should be construed as a promise of specific treatment in a given situation. However, City of Alamogordo will endeavor to utilize progressive discipline but reserves the right in its sole discretion to terminate the employee at any time for any reason.

The observance of these rules will help to ensure that our workplace remains a safe and desirable place to work.

## **7-6 Health and Safety**

The health and safety of employees and others on City property are of critical concern to City of Alamogordo. The City intends to comply with all health and safety laws applicable to our City. To this end, we must rely upon employees to ensure that work areas are kept safe and free of hazardous conditions. Employees are required to be conscientious about workplace safety, including proper operating methods, and recognizing dangerous conditions or hazards. Any unsafe conditions or potential hazards should be reported to management immediately, even if the problem appears to be corrected. Any suspicion of a concealed danger present on the City's premises, or in a product, facility,

piece of equipment, process or City practice for which the City is responsible should be brought to the attention of management immediately.

Periodically, the City may issue rules and guidelines governing workplace safety and health. The City may also issue rules and guidelines regarding the handling and disposal of hazardous substances and waste. All employees should familiarize themselves with these rules and guidelines, as strict compliance will be expected.

Any workplace injury, accident, or illness must be reported to the employee's supervisor as soon as possible, regardless of the severity of the injury or accident.

## **7-7 Hiring Relatives/Employee Relationships**

It is the City's policy to avoid the practice or appearance of nepotism through family relations or fraternization in employment. In carrying out this policy, the following family relationship or relationship through fraternization exists between the employees, and either employee:

A. would have the authority to appoint, remove, correct the action of, evaluate the performance of, or recommend any employment actions or conditions of employment of the other;

B. is asked to participate in a selection process where another has applied for a position; and/or

C. is under other circumstances which would place the employees in a situation of actual or reasonably foreseeable conflict between the City's interest and their own.

Should any of the relationships aforementioned exist, the employee shall advise their immediate supervisor and immediately withdraw from any conflicting action or processes.

While the City of Alamogordo encourages amicable relationships between members of management and their subordinates, or among members of the same department, it recognizes that involvement in a romantic relationship may compromise or create a perception that compromises an employee's ability to perform his or her job. Any involvement of a romantic nature between a supervisor and anyone he or she supervises, either directly or indirectly, is prohibited.

Any employee in a relationship that may cause the practice or appearance of nepotism in employment shall disclose the relationship in writing to their immediate supervisor immediately. Parties in such relationships may be reassigned at the discretion of the City Manager.

Violations of this policy may result in corrective action up to and including termination.

For the purpose of this section relative includes spouse, domestic partner, child(ren), parent, sibling, grandparent, grandchildren, in-laws, and step and half relatives of the same. This definition shall also include persons related by blood or marriage residing in an employee's home and to persons who have established a relationship by other operation of law or through lifestyle accommodations being equivalent of a marriage or family relationship.

## **7-8 Professional Dress and Personal Appearance**

The appearance and dress of employees is important in creating a favorable image supportive of public confidence. City employees should present a professional demeanor conducive to high work standards and consistent with job duties.

Employees are expected to report to work well groomed, clean, and dressed according to the position requirements. Some employees may be required to wear uniforms or safety equipment/clothing. Please contact your supervisor for specific information regarding acceptable attire for your position. If you report to work dressed or groomed inappropriately, you may be prevented from working until you return to work well-groomed and wearing the proper attire.

Uniforms that are supplied to employees by the City shall not be worn off duty and may be subject to tax in compliance with IRS rules.

## **7-9 Personal Visits and Telephone Calls**

Disruptions during work time can lead to errors and delays. Therefore, we ask that personal visits and telephone calls or other correspondence be kept to a minimum or occur preferably, during lunch or break time whenever possible.

## **7-10 Punctuality and Attendance**

Employees are hired to perform important functions at City of Alamogordo. As with any group effort, operating effectively takes cooperation and commitment from everyone. Therefore, attendance and punctuality are very important. Unnecessary absences and lateness are expensive, disruptive and place an unfair burden on fellow employees and supervisors. We expect excellent attendance from all employees. Excessive absenteeism or tardiness will result in disciplinary action up to and including termination.

We do recognize, however, there are times when absences and tardiness cannot be avoided. In such cases, employees are responsible for notifying their supervisor, through the chain of command, at least one (1) hour before the beginning of their scheduled work period. Asking another employee, friend or relative to give this notice is improper and constitutes grounds for disciplinary action. Employees shall contact their supervisor, stating the reason for the absence and its expected duration, for every day of absenteeism. If the employee knows in advance that he or she will be unable to report, the employee shall seek the supervisor's approval prior to that date. It is essential to give notice as far in advance as possible so that the supervisor can make proper accommodations to provide the services that the department must provide.

Individual departments may establish work rules requiring employees to call in with more than one (1) hour notice based on business necessity.

In cases of a medical or other such emergency the City will accept a call from a friend or relative. The City will evaluate each instance on a case by case basis.

Refer to Section 4-19. Separation From Employment for job abandonment.

### **7-11 Solicitation and Distribution**

To avoid distractions, solicitation by an employee of another employee is prohibited while either employee is on work time. "Work time" is defined as the time an employee is engaged, or should be engaged, in performing his or her work tasks for City of Alamogordo.

Distribution of advertising material, handbills, printed or written literature of any kind in working areas of the City is prohibited at all times.

No City employee shall be required to contribute funds to a community volunteer service or charity drive. Employees wishing to serve as volunteers to collect contributions from other employees will clear it with their Department Director before beginning solicitation.

### **7-12 Supplementary Employment**

The City shall be considered the primary employer for all regular employees. While the City does not prohibit employees from having a second job, secondary employment must not affect the employee's work hours, interfere, or conflict with the employee's regular duties, raise any ethical concerns, or necessitate long hours that may impact the employee's working effectiveness.

Employees that are contemplating secondary employment are required to submit a Supplementary Employment Form for approval, prior to engaging in secondary employment, to their Department Director. The written request should identify the secondary employer, the nature of the duties to be performed, and the anticipated hours the employee will be working. Supplementary employment will include in kind trade and bartering. This request will be promptly answered in writing and a copy placed in the employee's personnel file.

Disclosures of supplementary employment shall be made in writing on a Supplementary Employment Form to the Human Resources Department before entering City employment, and every year thereafter. Failure to disclose supplementary employment may result in corrective action.

Employees who are receiving Worker's Compensation or benefits under the Family and Medical Leave Act will not be allowed to engage in outside employment except as allowed by law.

### **7-13 Tobacco**

The use of smoking and chewing tobacco products, including but not limited to, cigarettes, e-cigarettes, cigars, and pipes is prohibited inside any City of Alamogordo facility, vehicle, or equipment.

1. The use of smoking tobacco products is allowed out-of-doors clear from any doorways, windows, or any ventilation system that may circulate the outside air to the indoors.
2. Smoking tobacco products are not to be used near any chemicals, gas pumps, or any other hazardous or flammable chemicals or materials.

3. Smokeless and smoking tobacco products may only be used during breaks and lunch periods.
4. Tobacco waste is to be disposed of properly using a designated fire-resistant container.

## **7-14 City Property**

Any item issued to an employee or in an employee's possession, including, but not limited to, employee keys, I.D. cards, computer, laptops, tablets, proximity cards, radios, tools, cell phones, City credit cards, uniforms, policy and procedure and/or rules and regulation manuals, all confidential information, etc. must be returned to the City upon request. Employees will be responsible for any lost, stolen, or damaged items. The value of any property issued and not returned may be deducted from the employee's paycheck, and the employee may be required to sign a wage deduction authorization form for this purpose.

Intellectual property created by an employee during the course of their duties, remains the property of the City of Alamogordo.

## **7-15 Operation of Vehicles**

All employees authorized to drive City-owned or leased vehicles or personal vehicles in conducting City business must possess a current, valid driver's license in the proper classification, and an acceptable driving record.

An employee must have a valid driver's license in his or her possession while operating a vehicle on or off City property. It is the responsibility of every employee to drive safely and obey all traffic, vehicle safety, and parking laws or regulations. Drivers must demonstrate safe driving habits at all times.

All occupants of a City vehicle will have a safety belt properly fastened, so if equipped, about their body at all times when the vehicle is in motion, in accordance with New Mexico state law.

City vehicles shall not be for personal use except incidentally.

An employee that requests and is approved to use their personal vehicle for City business must be insured and licensed. The same rules of conduct outlined herein will apply in cases of approved personal vehicle use.

### **Suspension or Revocation of Driver's License**

Any employee whose driver's license is suspended or revoked is not eligible to drive City vehicles. It is the responsibility of the employee to immediately notify his or her supervisor that their driving privilege has been suspended or revoked.

Any employee whose driver's license is suspended or revoked and who is required to drive as a part of his or her job may be considered unable to meet the minimum requirements of the job. On first occurrence and based on the decision of the Department Director, the employee may be:

- A. Suspended without pay for the period of license revocation if ninety (90) calendar days or less;

- B. Demoted with a pay decrease to a non-driving position indefinitely; or
- C. If the suspension or revocation is longer than ninety (90) calendar days, terminated.
- D. Considered for a reasonable accommodation if not detrimental to department operations.

Employees will be subject to termination on the second occurrence of suspension or revocation of his or her driver's license within a five (5) year period, regardless of the time length of the revocation.

Any employee driving a City vehicle or operating City equipment while impaired by alcohol or illegal drugs will be subject to disciplinary action, up to and including termination as outlined in the City of Alamogordo Drug and Alcohol Free Workplace Policy.

Safety Sensitive drivers as defined by the Department of Transportation (D.O.T) are responsible for notifying their supervisor of any prescriptions identified in 21 CFR 1308.11 (391.42 (b)(12)) or any other substance such as amphetamine, a narcotic, or any other habit-forming drug. Human Resources is responsible for verifying and documenting a valid prescription from a licensed practitioner. Such notifications by the employee will be made on the next scheduled workday.

Any situation causing an employee to be convicted of any violation while driving a City vehicle will be reported to the Department Director for appropriate action.

The Human Resource office will review motor vehicle records of all employees in regular driving positions at least annually.

## **7-16 Personal and Company-Provided Portable Communication Devices**

City-provided portable communication devices (PCDs), including cell phones and personal digital assistants, should be used primarily for business purposes. Employees have no expectation of privacy in regard to the use of such devices, and all use is subject to monitoring, to the maximum extent permitted by applicable law. This includes, as permitted, the right to monitor personal communications as necessary.

Some employees may be authorized to use their own PCD for business purposes. These employees should work with the current IT contractor to configure their PCD for business use. Communications sent via a personal PCD also may be subject to monitoring if sent through the City's networks and the PCD must be provided for inspection and review upon request.

All conversations, text messages and e-mails must be professional. When sending a text message or using a PCD for business purposes, whether it is a City-provided or personal device, employees must comply with applicable City guidelines, including policies on sexual harassment, discrimination, conduct, confidentiality, equipment use and operation of vehicles. Using a City-issued PCD to send or receive personal text messages is prohibited at all times.

Please note that whether employees use their personal PCD or a City-issued device, the City's electronic communications policies, including but not limited to, proper use of communications and computer systems, remain in effect.

### **Portable Communication Device Use While Driving**

Employees who drive on City business must abide by all state or local laws prohibiting or limiting PCD (cell phone or personal digital assistant) use while driving. Further, even if usage is lawful, employees must choose to refrain from using any PCD while driving. "Use" includes, but is not limited to, talking, or listening to another person or sending an electronic or text message via the PCD.

Employees who are charged with traffic violations resulting from the use of their PCDs while driving will be solely responsible for all liabilities that result from such actions.

Texting and e-mailing while driving is prohibited in all circumstances.

### **7-17 Use of Communications and Computer Systems**

City of Alamogordo's communication and computer systems are intended primarily for business purposes; however limited personal usage is permitted if it does not hinder performance of job duties or violate any other City policy. This includes the voice mail, e-mail and Internet systems.

City of Alamogordo may access the voice mail and e-mail systems and obtain the communications within the systems, including past voice mail and e-mail messages, without notice to users of the system, in the ordinary course of business when the City deems it appropriate to do so. The reasons for which the City may obtain such access include but are not limited to: maintaining the system; preventing or investigating allegations of system abuse or misuse; assuring compliance with software copyright laws; complying with legal and regulatory requests for information; and ensuring that City operations continue appropriately during an employee's absence.

Users have no expectation of privacy regarding their use of the City of Alamogordo systems.

For more information see the City of Alamogordo, Computer and Telecommunications Policy on the City of Alamogordo website.

### **7-18 Use of Facilities, Equipment and Property, Including Intellectual Property**

Equipment essential in accomplishing job duties is often expensive and may be difficult to replace. When using City property, employees are expected to exercise care, perform required maintenance, and follow all operating instructions, safety standards and guidelines.

It is the employee's responsibility to timely report any motor vehicle accident, damage to City property, and/or injury occurring while conducting City business or while operating a City Vehicle.

Employees should notify their supervisor if any equipment, machines, or tools appear to be damaged, defective, or in need of repair. Prompt reporting of loss, damages, defects, and the need for repairs could

prevent deterioration of equipment and possible injury to employees or others. The supervisor can answer any questions about an employee's responsibility for maintenance and care of equipment used on the job.

Employees are prohibited from any unauthorized use of the City's intellectual property, such as audio and video tapes, print materials and software.

Improper, careless, negligent, destructive, or unsafe use or operation of equipment can result in disciplinary action, up to and including termination.

The City is not responsible for any damage to employees' personal belongings.

### **7-19 City Litigation Requirement**

As a condition of employment or continued employment, City employees must cooperate with City Officials in an effort to recover damages, benefits, settlements or any court or administrative action relating to any City business.

Any contact that occurs on City time that leads to police contact must be reported to a supervisor immediately.

Employees must cooperate with any resulting investigation(s).

### **7-20 City Travel Expense Reimbursement**

Travel expenses will be processed per the City of Alamogordo Travel Policy.

### **7-21 Bulletin Boards**

Important notices and items of general interest are continually posted on City bulletin boards. Employees should make it a practice to review bulletin boards frequently. This will assist employees in keeping up with what is current at City of Alamogordo.

Department Directors are responsible for current information and the posting of current job vacancies. Distasteful, risqué or potentially offensive or discriminatory materials shall not be posted.

### **7-22 Lobbying**

In order to assure that the official policies of the City are expressed during appearances before legislative bodies or other governmental agencies, the following rules will apply:

A. All testimony or statements, written or oral, given by an employee of the City before any governmental legislative body or other governmental agency shall strictly comply with the policies set forth by the City Commission, by motion, resolution, or ordinance.

B. When there is a lack of formal action by the City Commission, authorization must be obtained from the City Manager prior to any activity by an employee of the City.

C. The policies expressed above shall also apply to any correspondence written on City or departmental stationery and to any oral conversation where the speaker represents him or herself as an employee of the City.

D. The policies expressed above apply to all employees during normal working hours except that any written statement on City or departmental stationery applies at all times. Any employee who appears before any governmental legislative body or any agency during hours other than working hours will not represent themselves as employees of the City unless all information given is in compliance with this policy. If during the course of an appearance or oral interchange, the fact emerges that the person is an employee of the City, then a disclaimer will be issued that the information or testimony given represents the views of the employee and not that of the City. If information or testimony is given that is contrary to official policies of the City, then a statement to that effect will be given.

### **7-23 Political Activities**

City employees shall not engage in political activities while on the job, while wearing a City uniform, or while using City property. City employees shall not be expected, required, or coerced to contribute to any campaign. No City employee will represent the official position of the City at any political meeting or in any political activity without the prior approval of the City Manager or his or her designee.

A City employee choosing to campaign for political office during normal working hours shall utilize accrued leave or leave without pay.

A City employee who is elected to the Alamogordo City Commission shall resign from City employment prior to swearing in for the political seat.

### **7-24 Publicity/Statements to the Media**

All media inquiries regarding the position of the City as to any issues must be referred to the Communications & Marketing Administrator. Only the Communications & Marketing Administrator is authorized to make or approve public statements on behalf of the City. No employees, unless specifically designated by the City Manager, are authorized to make those statements on behalf of City. Any employee wishing to write and/or publish an article, paper, or other publication on behalf of the City must first obtain written approval from the City Manager.

### **7-25 Social Media Policy**

**SCOPE:** These rules have general applicability to all prospective and current employees, both classified and unclassified, officials, and others serving in an official capacity on behalf of the City, i.e. City representatives.

**PURPOSE:** To establish and publish the City's position on the permitted and prohibited use of all forms of social media by City representatives, for business use. The policy covers current and future forms of social media.

**POLICY:** The City may use social media to meet community needs, perform community outreach, problem-solving, and otherwise furthering the goals of the City. In doing so, the City's official use of social media must be at the highest professional standard.

## **OFFICIAL USE OF SOCIAL MEDIA**

- A. The City shall maintain a social media presence through its Communications and Marketing Office.
- B. No department shall have their own specific social media page or presence without the express consent of the City Manager.
- C. All department pages that are approved by the City Manager will be administered by the Communications and Marketing Administrator.
- D. Any director wishing to administer their own page shall fill out an application with the Communications and Marketing Administrator in the City's Public Information Office, which will then be considered. If approved, the department will be able to administer their own social media page but shall also continue to include the Communications and Marketing Administrator as an administrator as well.
- E. In order to minimize public confusion, City Employees should only publish or post information under the City's official username and profile.
- F. All social media content shall adhere to applicable state, federal, and local laws, regulations, the City's General Standards of Conduct and Code of Ethics. As such, if the City Manager or his or her designee feels the post is inappropriate, it will not be posted, at the City Manager's discretion.
- G. All contents published and received by the City using social media in connection with City business are public records, and therefore subject to record retention law.
- H. First Amendment: City representatives are cautioned that their speech, made pursuant to their employment duties, in the course of their official duties, or relating to their professional responsibilities, whether on or off duty, may not be protected by the First Amendment.
- I. No expectation of privacy: Communications sent or received using the City's electronic communications systems or equipment are the City's property, and are not individual's private property. City representatives using City equipment have no right to privacy and no expectation of privacy with respect to those communications, whether communicated via social media sites or otherwise. The City reserves the right to monitor, review, intercept or gain access to communications initiated or received by City representatives on the City's electronic communications systems and equipment. Use of the City's systems constitutes consent to such monitoring, reviewing, interception or access. The City is not required to provide notice to City representatives before or after any review of communications.

J. Social media is subject to the Inspection of Public Records Act (IPRA) and any other open records laws.

## **PRIVATE USE OF SOCIAL MEDIA BY CITY EMPLOYEES**

A. The City recognizes and respects that City employees may choose to have their own personal social media accounts and does not wish to regulate personal use.

B. However, employees should keep in mind that identifying one-self as a City employee and making disparaging remarks about the City on a public website is not appropriate, as noted in the City's General Standards of Conduct and Code of Ethics.

C. Therefore, employees are cautioned that acting in their capacity as a City employee and making adverse remarks about the City is considered to be in violation of this policy and disciplinary action may be taken as a result of the remarks.

## **VIOLATIONS OF THE SOCIAL MEDIA POLICY**

A. City employees who become aware of or having knowledge of a posting or of any website or webpage in violation of any provision of this policy should notify the appropriate supervisor, department director, human resources staff person or other high-level management official immediately.

B. Violations of this policy.

(1) Employees in violation of any provision of this policy are subject to disciplinary action, up to and including termination.

**EMPLOYEE RIGHTS:** Nothing in this policy is meant to restrict or prohibit City personnel rights under any applicable local, state, or federal laws.

## **7-26. Recording Devices and Cameras in the Workplace**

### **Recording Devices**

City of Alamogordo prohibits the recording of conversations or meetings unless the consent of all parties involved is obtained or is specifically allowed in this manual. As such, secret recordings, or recordings without permission of the City are prohibited in and on all City of Alamogordo owned and operated properties.

### **Restrictions on Recording**

Employees are prohibited from using audio or video recording devices in areas and or meetings where citizen, vendor, contractor, or employee privacy or confidentiality may be compromised.

Employees may record workplace activities that are not prohibited by law or do not compromise private or confidential information as described above.

## Cameras

City of Alamogordo reserves the right to install security cameras in work areas for specific business reasons, including but not limited to security and theft protection.

City of Alamogordo may find it necessary to monitor work areas with security cameras when there is a specific job or business reason to do so. The City will do so only after first ensuring that such action is in compliance with state and federal laws.

Employees do not have any expectation of privacy in work areas where duties are performed.

Employee privacy in non-work areas will be respected to the extent possible. City of Alamogordo's reasonable suspicion of onsite drug use, physical abuse, theft, or similar circumstances would be possible exceptions. Legal advice will be sought in advance in such rare cases where a non-work area privacy must be compromised.

Employees should contact their supervisor or the Human Resources department if they have questions or complaints with regards to this policy or violations thereof.

## 7-27. Service Animals

City of Alamogordo prohibits bringing a pet(s) to work; having a pet in vehicles, City owned buildings and premises, at classes, meetings, or other City events. Exceptions are only for qualified service animals, as defined by New Mexico's Service Animal Act and the Americans with Disabilities Act (ADA), for a person with disabilities.

A person with a disability uses a service animal as an auxiliary aid. In compliance with the ADA, service animals are welcome in all vehicles, buildings on City property and may attend any class, meeting, or other event. There may be an exception to certain areas including, but not limited to the Senior Center and Civic Center Kitchens. Exceptions will be evaluated on an individual basis.

Employees wishing to request a reasonable accommodation for a disability that includes a service animal, must contact the Human Resources Department and engage in the interactive process. The employee will be required to complete a *Request for Reasonable Accommodation* form and may be required to provide medical documentation, how the animal accommodates the employee's disability, proof of an animal's qualifications as a service animal, vaccinations, etc. All service animals must be registered with the Human Resources Department.

Requirements of an authorized Service Animal and responsible employee include:

- The service animal is immunized against rabies and other diseases common to that type of animal. All vaccinations must be current and on file with Human Resources;
- Animals must wear a rabies vaccination tag if appropriate;

- Service animal must be licensed per state law and local City Ordinance;
- Service animal must wear an owner identification tag (which includes the name and phone number of the employee) at all times;
- Animals must be in good health and free of parasites and insects;
- Animals must be on a leash, harness, or other type of restraint always, unless the employee is unable to retain an animal on leash due to a disability;
- Reasonable behavior is expected from authorized service animals while on City property;
- The employee must be in full control of the animal at all times. The care and supervision of the animal is solely the responsibility of the employee;
- Cleanliness of the service animal is the employee’s responsibility prior to bringing the animal to any City property; and
- The employee is responsible for cleaning up after the animal and disposing of waste; including providing cleaning supplies and waste bags.

For the purpose of this policy a “pet” is defined as a domestic animal kept for pleasure or companionship and does not fall under the protection of the ADA for a person with a disability. A “service animal” is defined by the ADA as any animal individually trained to work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals to an impending seizure or protecting individuals during one, and alerting individuals who are hearing impaired to intruders, or pulling a wheelchair and fetching dropped items. The employee of a disruptive and aggressive service animal may be asked to remove the animal from City property. If the improper behavior happens repeatedly, the employee may be told not to bring the service animal into any facility until the employee takes significant steps to mitigate the behavior. Any exceptions to this policy may only be authorized by the City Manager. Requests for exceptions will be made in writing to the City Manager through the appropriate Department Director.

## **7-28 A Few Closing Words**

This manual is intended to give employees a broad summary of things they should know about City of Alamogordo. The information in this manual is general in nature and, should questions arise, any member of management should be consulted for complete details. While we intend to continue the policies, rules and benefits described in this manual, City of Alamogordo, in its sole discretion, may always amend, add to, delete from, or modify the provisions of this manual and/or change its interpretation of any provision set forth in this manual. Employees should not hesitate to speak to management if they have any questions about the City or its personnel policies and practices.

## **Section 8 - Employee Handbook Related Forms**

## 8-1 Social Media Application

### CITY OF ALAMOGORDO

#### SOCIAL MEDIA APPLICATION

Applicant: \_\_\_\_\_ Department: \_\_\_\_\_

Host Site: \_\_\_\_\_

Reason for establishing new site:

---

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---

Which employees will be authorized to post, have access to the password, and act as moderators? Please list names of each administrator and password for the site.

Name Page Role

_____	_____
_____	_____
_____	_____
_____	_____

How often do you expect employees to post content?

---

How often will employees moderate content posted by the public?

---

City Manager approval: \_\_\_\_\_ Date: \_\_\_\_\_

The signed original copy of this application will be filed with the Communications/Marketing Administrator.



**8-3 Paycheck Release form**

**CITY OF ALAMOGORDO**

**PAYCHECK RELEASE FORM**

TODAY'S DATE: \_\_\_\_\_ PAY DATE OF CHECK TO BE RELEASED: \_\_\_\_\_

EMPLOYEE NAME: \_\_\_\_\_

This is my written authorization to release my paycheck to:

\_\_\_\_\_

(Name of Person Authorized to Pick Up Payroll Check)

I understand that my paycheck may only be picked up directly through the City Hall Payroll Office located at 1376 E. 9<sup>th</sup> St. Authorized person must show proof of ID at the time of check pick up.

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Authorized Person

\_\_\_\_\_  
Date Check Picked Up

\_\_\_\_\_  
Signature of Employee Releasing Check

\_\_\_\_\_  
Date Check Released

Original: Personnel File

CC: Payroll

**8-4 Request for Early Release of Payroll Check**

**CITY OF ALAMOGORDO**

**REQUEST FORM FOR EARLY RELEASE OF PAYROLL CHECK**

Date of Request: \_\_\_\_\_

Employee Name: \_\_\_\_\_

Payroll Period: \_\_\_\_\_

Scheduled Pay Date: \_\_\_\_\_

Early Payment Date Requested: \_\_\_\_\_

\_\_\_\_\_

Employee Signature                      Date

Department Approval:

I am authorizing that the aforementioned employee is given his or her payroll check early as indicated above, and that said payment is not an advance payment of services not rendered as prohibited by Section 30-23-2 NMSA1978.

\_\_\_\_\_

Department Director                      Date

\_\_\_\_\_

Finance Director                      Date

\_\_\_\_\_

City Manager                      Date

I am acknowledging that the payroll department is able to release the check requested by \_\_\_\_\_.

(if not by the date requested, explain why)\_\_\_\_\_.

\_\_\_\_\_

Accounting Manager                      Date

CC: Personnel File

## General Handbook Acknowledgment

This Employee manual is an important document intended to help you become acquainted with City of Alamogordo. This document is intended to provide guidelines and general descriptions only; it is not the final word in all cases. Individual circumstances may call for individual attention.

Because the City's operations may change, the contents of this manual may be changed at any time, with or without notice, in an individual case or generally, at the sole discretion of management.

Please read the following statements and sign below to indicate your receipt and acknowledgment of this Employee manual.

**The key provisions of this manual have been reviewed with me and I acknowledge my responsibility to know all provisions included in this manual. I understand that the policies, rules and benefits described in it are subject to change at the sole discretion of the City at any time.**

**I understand that my signature below indicates that I have been made aware that the City's Employee manual is available on the City's website at [ci.alamogordo.nm.us](http://ci.alamogordo.nm.us). Contact Human Resources or Legal for any questions regarding this manual.**

Employee's Printed Name: \_\_\_\_\_ Position: \_\_\_\_\_

Employee's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

The signed original copy of this acknowledgment will be filed in your personnel file.

## Receipt of Harassment Policy

It is City of Alamogordo's policy to prohibit intentional and unintentional harassment of any individual by another person on the basis of actual or perceived race, creed, color, religion, alienage or national origin, ancestry, citizenship status, age, disability or handicap, sex, marital status, veteran status, sexual orientation, genetic information, or any other characteristic protected by applicable federal, state or local laws. The purpose of this policy is to ensure that no one harasses another individual.

### **Procedures for Reporting Harassment**

If an employee feels that he or she has been subjected to conduct which violates this policy, he or she should immediately report the matter to the employee's supervisor. If the employee is unable for any reason to contact this person, or if the employee has not received a response within five (5) business days after reporting any incident of what the employee perceives to be harassment, the employee should contact the Human Resources Office. Human Resources will consult with the Department Director. If the person toward whom the complaint is directed is one of the individuals indicated above, the employee should contact the City Attorney's Office or the City Manager's Office.

Every report of perceived harassment will be investigated. Corrective action will be taken where appropriate. All complaints will be kept confidential to the extent possible, but confidentiality cannot be guaranteed.

Reporting harassment is a protected activity therefore, the City will not allow any form of retaliation against individuals who report unwelcome conduct to management or who cooperate in the investigations of such reports in accordance with this policy. If an employee feels he or she has been subjected to any such retaliation, he or she should report it in the same manner in which the employee would report a claim of perceived harassment under this policy. Violation of this policy including any improper retaliatory conduct will result in disciplinary action, up to and including termination.

The Harassment policy is a zero-tolerance policy.

I have read and I understand City of Alamogordo's Non-Harassment Policy.

Employee's Printed Name: \_\_\_\_\_ Position: \_\_\_\_\_

Employee's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

The signed original copy of this receipt will be filed in your personnel file.

## Receipt of Sexual Harassment Policy

It is City of Alamogordo's policy to prohibit harassment of any employee by any supervisor, employee, citizen or vendor on the basis of actual or perceived sex or gender. The purpose of this policy is to ensure that all City employees are free from sexual harassment. While it is not easy to define precisely what types of conduct could constitute sexual harassment, examples of prohibited behavior include unwelcome sexual advances, requests for sexual favors, obscene gestures, displaying sexually graphic magazines, calendars or posters, sending sexually explicit e-mails, text messages and other verbal or physical conduct of a sexual nature, such as uninvited touching of a sexual nature or sexually related comments. Depending upon the circumstances, improper conduct also can include sexual joking, vulgar or offensive conversation or jokes, commenting about an employee's physical appearance, conversation about your own or someone else's sex life, or teasing or other conduct directed toward a person because of his or her gender which is sufficiently severe or pervasive to create an unprofessional and hostile working environment.

### **Procedures for Reporting Sexual Harassment**

If the employee feels that he or she has been subjected to conduct which violates this policy, the employee should immediately report the matter to the employee's supervisor. If unable for any reason to contact this person, or if the employee has not received a response within five (5) business days after reporting any incident of perceived sexual harassment, the employee should contact the Human Resources Office. Human Resources will consult with the Department Director. If the person toward whom the complaint is directed is one of the individuals indicated above, the employee should contact the City Attorney's Office or the City Manager's Office.

Every report of perceived sexual harassment will be investigated. Corrective action will be taken where appropriate. All complaints will be kept confidential to the extent possible, but confidentiality cannot be guaranteed.

Reporting sexual harassment is a protected activity therefore, the City will not allow any form of retaliation against individuals who report unwelcome conduct to management or who cooperate in the investigations of such reports in accordance with this policy. If an employee feels that he or she has been subjected to any such retaliation, the employee should report it in the same manner in which a claim of perceived harassment would be reported under this policy. Violation of this policy including any improper retaliatory conduct will result in disciplinary action, up to and including termination.

The Sexual Harassment policy is a zero-tolerance policy.

I have read and I understand City of Alamogordo's Sexual Harassment Policy.

Employee's Printed Name: \_\_\_\_\_ Position: \_\_\_\_\_

Employee's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

The signed original copy of this receipt will be filed in your personnel file.

## **Receipt of Workplace Violence Policy**

City of Alamogordo is strongly committed to providing a safe workplace. The purpose of this policy is to minimize the risk of personal injury to employees and damage to City and personal property.

City of Alamogordo prohibits employees from engaging in any physical confrontation with a violent or potentially violent individual. However, we do expect and encourage employees to exercise reasonable judgment in identifying potentially dangerous situations.

### **Prohibited Conduct**

Threats, threatening language or any other acts of aggression or violence made toward or by any City employee will not be tolerated. For purposes of this policy, a threat includes but is not limited to, any verbal or physical harassment or abuse, any attempt at intimidating or instilling fear in others, menacing gestures, flashing of weapons, stalking or any other hostile, aggressive, injurious, or destructive action undertaken for the purpose of domination or intimidation.

### **Procedures for Reporting a Threat**

Emergency 911 should be contacted if needed.

If an employee feels that he or she has been subjected to conduct which violates this policy, he or she should immediately report the matter to the employee's supervisor. If the employee is unable for any reason to contact this person, or if the employee has not received a response within five (5) business days after reporting any incident of what the employee perceives to be harassment, the employee should contact the Human Resources Office. Human Resources will consult with the Department Director. If the person toward whom the complaint is directed is one of the individuals indicated above, the employee should contact the City Attorney's Office or the City Manager's Office.

Every report of perceived workplace violence will be investigated. Corrective action will be taken where appropriate. All complaints will be kept confidential to the extent possible, but confidentiality cannot be guaranteed.

If an employee is the recipient of a threat made by an outside party, that employee should follow the steps detailed in this section. It is important for the City to be aware of any potential danger, and to take effective measures to protect everyone from the threat of a violent act by an employee or by anyone else.

Reporting workplace violence is a protected activity therefore, the City will not allow any form of retaliation against individuals who report workplace violence or who cooperate in the investigations of such reports in accordance with this policy. If an employee feels that he or she has been subjected to any such retaliation, the employee should report it in the same manner workplace violence would be reported under this policy. Violation of this policy including any improper retaliatory conduct will result in disciplinary action, up to and including termination.

The Workplace Violence policy is a zero-tolerance policy.

I have read and I understand City of Alamogordo's Workplace Violence Policy.

Employee's Printed Name: \_\_\_\_\_ Position: \_\_\_\_\_

Employee's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

The signed original copy of this receipt will be filed in your personnel file.

## Receipt of Anti-Bullying Policy

City of Alamogordo prohibits any form of bullying. Bullying is an act of aggression causing embarrassment, pain, or discomfort to someone. It can take a number of forms including, but not limited to physical, verbal, making gestures, or exclusion. It may be an abuse of power. It can be planned and organized, or it may be unintentional. It may be perpetrated by individuals or by groups of individuals.

The City is opposed to bullying and it will not be tolerated. If an employee feels that he or she has been subject to conduct in the workplace which violates this policy, he or she should immediately report the matter to the employee's supervisor. If the employee is unable for any reason to contact this person, or if the employee has not received a response within five (5) business days after reporting any incident of what the employee perceives to be bullying, the employee should contact the Human Resources Office. Human Resources will consult with the Department Director. If the person toward whom the complaint is directed is one of the individuals indicated above, the employee should contact the City Attorney's Office or the City Manager's Office.

Every report of perceived bullying will be investigated. Corrective action will be taken where appropriate. All complaints will be kept confidential to the extent possible, but confidentiality cannot be guaranteed.

Reporting bullying is a protected activity therefore, the City will not allow any form of retaliation against individuals who report bullying to management or who cooperate in the investigations of such reports in accordance with this policy. If an employee feels that he or she has been subjected to any such retaliation, the employee should report it in the same manner in which a claim of perceived bullying would be reported under this policy. Violation of this policy including any improper retaliatory conduct will result in disciplinary action, up to and including termination.

The Anti-Bullying policy is a zero-tolerance policy.

I have read and I understand City of Alamogordo's Anti-Bullying Policy.

Employee's Printed Name: \_\_\_\_\_ Position: \_\_\_\_\_

Employee's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

The signed original copy of this receipt will be filed in your personnel file.