



# **Personnel Ordinance**

# Contents

<b>Section 1. General Provisions</b> .....	1
<b>1.1 Purpose:</b> .....	1
<b>1.2 Scope:</b> .....	1
<b>1.3 Employee Knowledge and Information of Policy:</b> .....	1
<b>1.4 Equal Employment Opportunity:</b> .....	2
<b>1.5 Americans with Disabilities Act Compliance:</b> .....	2
<b>1.6 Administration by City Manager/Designee:</b> .....	2
<b>1.7 Official Personnel File:</b> .....	2
<b>1.8 Maintenance of Personnel Files</b> .....	2
<b>1.9 Consequences:</b> .....	2
<b>Section 2. Definitions</b> .....	3
<b>2.1 Administrative Leave</b> .....	3
<b>2.2 Anniversary Date:</b> .....	3
<b>2.3 Annual Leave:</b> .....	3
<b>2.4 Appeal:</b> .....	3
<b>2.5 Applicant:</b> .....	3
<b>2.6 Appointed Exempt Employee:</b> .....	3
<b>2.7 City Business:</b> .....	3
<b>2.8 Classified Employees:</b> .....	3
<b>2.9 Compensatory Time:</b> .....	3
<b>2.10 Conflict of Interest:</b> .....	4
<b>2.11 Demotion:</b> .....	4
<b>2.12 Department Head:</b> .....	4
<b>2.13 Designated Work Area:</b> .....	4
<b>2.14 Dismissal:</b> .....	4
<b>2.15 Due Process:</b> .....	4
<b>2.16 Elected Official:</b> .....	4
<b>2.17 Exempt Employee:</b> .....	4
<b>2.18 Fraternalization:</b> .....	4
<b>2.19 Full-time:</b> .....	5
<b>2.20 Grievance:</b> .....	5
<b>2.21 Hiring Board:</b> .....	5

2.22	<b>Holiday Pay:</b> .....	5
2.24	<b>Immediate Family Member:</b> .....	5
2.25	<b>Inclement Weather:</b> .....	5
2.26	<b>Insubordination:</b> .....	5
2.27	<b>Job Abandonment:</b> .....	5
2.28	<b>Lateral Transfer:</b> .....	5
2.29	<b>Layoff or Reduction in Force:</b> .....	6
2.30	<b>Medical Disability Termination:</b> .....	6
2.31	<b>Non-Exempt Employees:</b> .....	6
2.32	<b>Overtime:</b> .....	6
2.33	<b>Part-time Regular Employees:</b> .....	6
2.34	<b>Performance Review:</b> .....	6
2.35	<b>Probationary Employee:</b> .....	6
2.36	<b>Program Paid Employee:</b> .....	7
2.37	<b>Promotion:</b> .....	7
2.38	<b>Reclassification:</b> .....	7
2.39	<b>Safety Sensitive Position:</b> .....	7
2.40	<b>Sick Leave:</b> .....	7
2.41	<b>Standard Operating Procedures (SOP):</b> .....	7
2.42	<b>Student Intern:</b> .....	7
2.43	<b>Suspension:</b> .....	7
2.44	<b>Terminable-At-Will:</b> .....	8
2.45	<b>Temporary/Seasonal Position:</b> .....	8
2.46	<b>Transfer:</b> .....	8
2.47	<b>Volunteer Firefighter:</b> .....	8
<b>Section 3. Employment Status</b> .....		8
3.1	<b>Full-Time Regular Employee:</b> .....	8
3.2	<b>Part-Time Employee:</b> .....	8
3.3	<b>Appointed Employee:</b> .....	9
3.4	<b>Exempt Employee:</b> .....	9
3.5	<b>Probationary Employee:</b> .....	9
3.6	<b>Temporary Employee:</b> .....	10
3.7	<b>Program Paid Employee:</b> .....	10

<b>Section 4. Management and Appointed Positions</b> .....	10
<b>4.1 City Mayor:</b> .....	10
<b>4.2 City Manager:</b> .....	11
<b>4.3 City Clerk:</b> .....	11
<b>4.4 Chief of Police</b> .....	11
<b>4.5 Fire Chief</b> .....	12
<b>Section 5. Recruitment and Selection</b> .....	12
<b>5.1 Hiring, Appointments, and Promotions:</b> .....	12
<b>5.2 Recruitment Posting Procedure:</b> .....	12
<b>5.3 Applicant Responsibility:</b> .....	13
<b>5.4 Selection:</b> .....	14
<b>5.5 Insurance and Bonding Requirements:</b> .....	16
<b>5.6 Employment of Relatives:</b> .....	16
<b>5.7 Ineligibility for Hire or Rehire:</b> .....	17
<b>5.8 Ineligibility of Applicants for Police department:</b> .....	17
<b>5.9 After Employee Selection:</b> .....	17
<b>Section 6. Changes in Employment Status</b> .....	18
<b>6.1 Employment Status Changes:</b> .....	18
<b>6.2 Promotion:</b> .....	18
<b>6.3 Transfer:</b> .....	18
<b>6.4 Demotion:</b> .....	19
<b>6.5 Resignation:</b> .....	20
<b>6.6 Reduction-in-Force:</b> .....	20
<b>6.7 Retirement:</b> .....	22
<b>6.8 Death:</b> .....	22
<b>Section 7. Employee Conduct</b> .....	22
<b>7.1 Employee Conduct:</b> .....	22
<b>7.2 Reporting for Work:</b> .....	25
<b>7.3 Candidate for Public Office:</b> .....	25
<b>7.4 Conflict of Interest:</b> .....	25
<b>7.5 City Property:</b> .....	26
<b>7.6 Discrimination:</b> .....	27
<b>7.7 Dress and Appearance:</b> .....	27

7.8 Nepotism: .....	28
7.9 Fraternization: .....	28
7.10 Media Relations: .....	29
7.11 Social Media: .....	29
7.12 Personal Business:.....	31
7.13 Performance Review:.....	31
7.14 Prohibited Political Activities: .....	32
<b>Section 8. Discrimination and Harassment Prevention .....</b>	<b>33</b>
8.1 Discrimination and Harassment Including Sexual Harassment: .....	33
8.2 Discrimination and Harassment Procedures: .....	34
8.3 Workplace Violence Prevention: .....	37
<b>Section 9. Employee Discipline .....</b>	<b>38</b>
9.1 Approval by City Manager: .....	38
9.2 Basis for Employee Discipline:.....	38
9.3 Progressive Discipline:.....	40
9.4 Conditions or Actions Not Grievable: .....	41
9.5 Informal Grievance Procedures: .....	42
9.6 Pre-Determination Hearings:.....	42
9.7 Formal Grievance Process: .....	43
<b>Section 10. Compensation and Benefits .....</b>	<b>45</b>
10.1 Total Compensation: .....	45
10.2 Hours of Work: .....	45
10.3 Breaks: .....	46
10.4 Pay Periods and Timekeeping: .....	46
10.5 Overtime Pay .....	47
10.6 Overtime Exemption for Fire and EMT personnel: .....	47
10.7 Overtime Exemption for Police Officer .....	48
10.8 Compensatory Time: .....	48
10.9 Shift Differential Pay:.....	48
10.10 Call-back and On-Call Pay: .....	49
10.11 Final Paycheck: .....	50
10.12 Holiday Pay: .....	51
10.13 Gratuities:.....	51

10.14 Per Diem and Mileage: .....	52
10.15 PERA Benefits:.....	52
10.16 Insurance Benefits: .....	52
10.17 Educational Benefits:.....	52
10.18 Clothing Allowance:.....	52
10.19 Employee of the Quarter:.....	53
<b>Section 11. Leave.....</b>	<b>53</b>
11.1 Authorized Leave:.....	53
11.2 Unauthorized Leave:.....	53
11.3 Annual Leave: .....	53
11.4 Sick Leave with Pay:.....	54
11.5 Reporting Sick Leave: .....	55
11.6 Sick Leave Abuse: .....	56
11.7 Sick Leave Donation: .....	56
11.9 Bereavement Leave:.....	57
11.10 Family Medical Leave: .....	57
11.11 Civic Duty Leave:.....	57
11.12 Military Leave:.....	58
11.13 Leave Without Pay.....	59
11.14 Leave of Absence.....	59
11.15 Administrative Leave with Pay for Personnel Matters .....	60
11.16 Administrative Leave Due to Inclement Weather and Special Conditions .....	60
11.17 Occupational injury Time/Worker’s Compensation .....	61
<b>Section 12. Telecommuting .....</b>	<b>62</b>
12.1 Purpose.....	63
12.2 Policy .....	63
12.3 Reasons for Telecommuting.....	63
12.4 Eligibility.....	64
12.5 Security of Confidential Information .....	65
12.6 Procedures .....	65
<b>Section 13. Drug Testing.....</b>	<b>66</b>
13.1 Drug and Alcohol Abuse and Testing Policy .....	66
<b>Section 14. Dispute Resolution.....</b>	<b>66</b>

<b>14.1 Policy .....</b>	<b>66</b>
<b>14.2 Formal Dispute Procedures.....</b>	<b>66</b>
<b>14.3 City Manager Level .....</b>	<b>67</b>
<b>14.4 Conditions or Actions Not to be Disputed.....</b>	<b>67</b>

# Section 1. General Provisions

## 1.1 Purpose:

The purpose of the City's Personnel Policies and Procedures Manual is to establish consistent basic policies and practices concerning relationships between the City of Belen and its employees. This personnel policy manual further establishes the formal grievance procedure available to regular employees with respect to demotions, dismissals and suspensions. The provisions of this personnel policy manual shall apply to all City employees, except that the provisions governing merit and the grievance of disciplinary actions do not apply to the appointed exempt positions which include the City Manager, City Clerk, Police Chief, and Fire Chief.

- A. For employees within the applicable bargaining unit, this Personnel Policy is subject to The City of Belen Collective Bargaining Agreement (CBA) with the American Federation of State, County, and Municipal Employees, Council 18, City of Belen Public Employees Local (513), and any mutually adopted amendments thereto.
- B. For employees with more than ten (10) years of experience at the adoption of this policy, will still be eligible for any pay or benefits in regards to retirement that were defined in past personnel ordinances that are no longer eligible according to this policy.

## 1.2 Scope:

Definite rules and regulations cannot be readily formulated for every possible problem and situation. This ordinance serves as a general basis and guide for the proper, efficient, and effective administration for personnel matters of the employees of the City of Belen. The personnel rules contained herein replace and supersede all previously issued personnel rules and regulations including but not limited to the City of Belen Personnel handbook adopted in 1981, 2013, 2021 and all amendments and regulations related thereto.

## 1.3 Employee Knowledge and Information of Policy:

The Human Resource Director shall provide a copy of this policy to present employees and to all new employees with instructions to familiarize themselves with the provisions of these rules. Employees shall sign an Acknowledgement Form that they have received, and will, review the manual. A copy of the Personnel Policy is also available on line at [www.belen-nm.gov](http://www.belen-nm.gov).



**1.4 Equal Employment Opportunity:**

The City of Belen is an equal opportunity employer, and will not discriminate against anyone for any reason on the basis of political, religion, affiliation, marital status, pregnancy, color, disability, medical conditions, military background, gender, sexual orientation, sexual identity, age, national origin, ancestry, race, or ethnic background.

**1.5 Americans with Disabilities Act Compliance:**

The City of Belen has committed itself to comply with the Americans with Disabilities Act which protects qualified individuals with disabilities from discrimination in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions and privileges of employment.

**1.6 Administration by City Manager/Designee:**

The City Manager serves as the appointed Chief Administrative Officer of the City Government and is subject to direction by the Mayor and Council in a duly described Mayor-City Manager form of Government. The City Manager shall administer the personnel system and the terms of this personnel policy to include all future approved amendments. Department Heads work under the City Manager. Supervisors and employees work under the supervision of their Department Head/Supervisor. Department Heads shall also assist in administering the terms of this personnel policy.

**1.7 Official Personnel File:**

Documents including but not limited to records, certifications, employment applications, evaluations, internal investigation reports and disciplinary actions are maintained by the Human Resources Director.

**1.8 Maintenance of Personnel Files**

Physical access to an employee's records shall be in the control of the Human Resources Director. An employee's records may be reviewed by the employee, the employee's department head, and the department head of the department to which an employee may be transferred, the City Manager, and Grievance Hearing Officers. If an employee wishes someone other than those authorized to have access to the employee's file, he must request so in writing.

**1.9 Consequences:**

Violations of the enclosed policies may result in disciplinary action up to and including termination.

## **Section 2. Definitions**

### **2.1 Administrative Leave**

Leave with or without pay granted, at the recommendation of the Department Head, and approval the City Manager

### **2.2 Anniversary Date:**

A date that is twelve (12) months from an employee's date of hire or appointment to a specific position.

### **2.3 Annual Leave:**

Leave with pay granted to a regular or qualified appointed employee, after accrual at a specific rate, to be used by an employee at the employee's discretion, with prior approval of the appropriate Supervisor.

### **2.4 Appeal:**

Written request that a decision of a formal grievance be reconsidered at a further stage in the grievance procedure.

### **2.5 Applicant:**

A person who has submitted a formal application, on an official City personnel application form or via the City's online application system, for a posted vacant position within the City.

### **2.6 Appointed Exempt Employee:**

An individual who is appointed to an exempt position by the governing body. Appointed employees for the City of Belen include the Police Chief, Fire Chief, City Clerk, and the City Manager.

### **2.7 City Business:**

The performance of an employee's job duties as assigned.

### **2.8 Classified Employees:**

All full-time regular employees who have successfully completed their probationary period.

### **2.9 Compensatory Time:**

Time off granted to employees covered by the Fair Labor Standards Act (FLSA), in lieu of overtime pay on the basis of one and one-half (1 1/2) hours compensatory time for each hour

of overtime physically worked in excess of forty (40) hours in one work week. The work period and number of hours to be worked prior to qualifying for overtime/compensatory time by employees covered by the Fair Labor Standards Act 207(k) exemption shall be determined based on the guidelines of that exemption.

**2.10 Conflict of Interest:**

A situation in which a person is in a position to derive personal benefit from actions or decisions made in their official capacity.

**2.11 Demotion:**

A personnel action which reduces the employee's responsibilities and/or pay. Demotions may be voluntary, involuntary or may be the result of disciplinary action. Demotions are subject to the grievance procedures.

**2.12 Department Head:**

The employee who had responsibility for supervision and/or administering a department.

**2.13 Designated Work Area:**

A designated part or section of a building or site, set aside for specific work functions.

**2.14 Dismissal:**

The involuntary separation of an employee from their position with the City of Belen

**2.15 Due Process:**

The right granted to a full-time or part-time regular employee who has completed their probationary period.

**2.16 Elected Official:**

A person who is elected, by the citizens, to serve the City of Belen.

**2.17 Exempt Employee:**

An employee occupying a position determined to have met the exemption requirements as defined in Department of Labor regulations relating to the Fair Labor Standards Act, and whose compensation is based on a fixed annual salary. Exempt employees are not entitled to overtime pay or compensatory time off.

**2.18 Fraternalization:**

An association or relationship on intimate terms between two employees, otherwise known as workplace romance.

**2.19 Full-time:**

All employees who work a minimum of forty (40) hours per week are considered full-time employees.

**2.20 Grievance:**

A formal complaint by an employee concerning disciplinary action taken by management which may result in loss of pay or change in job status.

**2.21 Hiring Board:**

A three to five-person board created to conduct interviews of applicants for a specific job opening. This board consists of the Human Resource Director, the appropriate Department Head and any other applicable personnel.

**2.22 Holiday Pay:**

Pay received on designated holidays. Holiday pay is paid at the same rate as the employee's regular pay and shall not exceed the number of regularly scheduled hours.

**2.24 Immediate Family Member:**

Immediate family is limited to the spouse, parents, stepparents, foster parents, father-in-law, mother-in-law, children, stepchildren, foster children, sons-in-law, daughters-in-law, grandparents, grandchildren, brothers, sisters, brothers-in-law, and sisters-in-law.

**2.25 Inclement Weather:**

Severe, rough, harsh; stormy weather which interrupts certain operations.

**2.26 Insubordination:**

The conduct of an employee constituting defiance, disobedience, dissension, rebelliousness, or resistance to supervision. Acts of insubordination may result in disciplinary action up to and including dismissal.

**2.27 Job Abandonment:**

An employee who misses three (3) consecutive scheduled shifts without notifying their direct supervisor (no show and no call).

**2.28 Lateral Transfer:**

The transfer of an employee from one department to another department within the City with the same grade and salary.

**2.29 Layoff or Reduction in Force:**

The involuntary separation of an employee from the city, without fault on the part of the employee, due to abolishment of position, reorganization, lack of work, lack of funds, or any other reason determined by the City Manager.

**2.30 Medical Disability Termination:**

The termination of an employee from City employment when the employee is unable to perform the essential functions of the position due to a medical condition be it mental or physical.

**2.31 Non-Exempt Employees:**

All employees who are not exempt employees as defined in Department of Labor regulations relating to the Fair Labors Standards Act. Non-exempt employees shall receive overtime pay or comp time as directed for actual hours worked in a normal work week in excess of 40 hours.

**2.32 Overtime:**

Any hours by a regular non-exempt employee in excess of forty (40) hours every week with the exception of fire and police. Law Enforcement employees will receive overtime for any hours work actually worked over eighty-six (86) hours during a fourteen (14) day work period. Fire Protection employees will receive overtime for any hours work actually worked over two hundred and twelve (212) hours during a twenty-eight (28) day work period. Employees shall receive overtime only for hours actually worked. Holiday, annual, sick and other leave hours shall not be considered actual work hours.

**2.33 Part-time Regular Employees:**

An employee who works less than forty (40) hours per week. For benefits purposes, an employee must work 20 or more hours to qualify for pro-rated benefits.

**2.34 Performance Review:**

The written objective review made by the employee's supervisor of an employee's performance relating to the employee's assigned duties.

**2.35 Probationary Employee:**

A full-time employee hired, promoted, or transferred to fill a classified or qualified appointed regular position who has not yet completed the six (6) month period of employment during which time the employee is terminable-at-will; with the exception of

law enforcement and fire personnel, whose probationary period is twelve (12) months for certified officers and firefighters and eighteen (18) months for uncertified officers.

**2.36 Program Paid Employee:**

Employee assigned to work with the City of Belen and is being paid by another program for a determined amount of time.

**2.37 Promotion:**

Transfer to a position requiring additional responsibilities and duties, which may include a salary adjustment. Employees shall serve a ninety (90) day probationary period following the promotion.

**2.38 Reclassification:**

Where an established position is reviewed, by process of analysis, to determine whether the duties and responsibilities of that position merit a change in class designation.

**2.39 Safety Sensitive Position:**

A job or position where the employee has the responsibility for his or others people's safety. (i.e. fire, police, water, wastewater, community maintenance, parks, and operators of motorized equipment).

**2.40 Sick Leave:**

Sick leave may be granted for absence from duty because of personal illness, illness in the immediate family, injuries or legal quarantine, provided that the employee has accumulated sick leave.

**2.41 Standard Operating Procedures (SOP):**

A standard operating procedures handbook developed for and used by the Fire and Police Departments. The SOP shall not supersede the City of Belen's Policy and Procedures Manual.

**2.42 Student Intern:**

An employee attending school acquiring credit by working for the City. Student interns are not entitled to benefits.

**2.43 Suspension:**

An enforced leave of absence without pay for disciplinary reasons which becomes effective after a pre-determination hearing has been conducted. An employee may waive his/her right

to a pre-determination hearing, at which time the suspension will take effect as determined by the City Manager.

**2.44 Terminable-At-Will:**

A terminable-at-will employee is one who fills an appointed, program paid, temporary, or part-time position, or is one who has not completed his probationary period. A terminable-at-will employee serves at the discretion of the city, and his/her employment can be terminated without cause. A terminable-at-will employee cannot grieve suspension, demotion, dismissal, or other disciplinary actions.

**2.45 Temporary/Seasonal Position:**

A position that is vacant due to the temporary absence of an employee or a position that is seasonal in nature. A temporary position may be one that is created for a special project purpose and for a short term basis which may not exceed (1) one year.

**2.46 Transfer:**

The assignment of an employee from one position to another, from one work site to another, from one department to another, or from one operational assignment to another having more or less level of responsibility and rate of pay. Transfers may be voluntary or involuntary.

**2.47 Volunteer Firefighter:**

A volunteer non-salaried firefighter who is listed as an active member on the rolls of a fire department. A volunteer firefighter who receives reimbursement for personal out-of-pocket costs shall not be considered a salaried firefighter.

## **Section 3. Employment Status**

**3.1 Full-Time Regular Employee:**

A full-time regular employee is a classified employee who has completed the probationary period and who normally is scheduled to work the number of hours set forth in Section 2.19. A full-time regular employee is eligible for all rights and benefits provided by the City. A full-time regular employee cannot change to part-time status without the approval of the City Manager.

**3.2 Part-Time Employee:**

A part-time employee is paid by the hour. A part-time employee generally is scheduled to work less than forty (40) hours per week. A part-time employee who works over twenty

(20) hours per week accrues annual and sick leave at pro-rated rate. A part-time employee is terminable at will

### **3.3 Appointed Employee:**

An appointed employee is an individual who is appointed by the governing body. Appointed employees for the City of Belen include the Police Chief, Fire Chief, City Clerk and the City Manager. Appointed employees shall receive a salary set by the governing body. Appointed employees are considered exempt employees as defined by the Fair Labor Standards Act (FLSA). Appointed employees are terminable-at-will and cannot avail themselves of the grievance procedure set forth herein, but are entitled to all other benefits provided by the city.

### **3.4 Exempt Employee:**

Exempt employees shall receive a fixed annual salary. Exempt employees are not entitled to overtime pay or compensatory time off. An exempt employee is occupying a position determined to have met the exemption requirements as defined in Department of Labor regulations relating to the Fair Labor Standards Act.

### **3.5 Probationary Employee:**

The purpose of the probationary period is to evaluate the employee's ability, potential, and performance. A full-time probationary employee is one who is hired to fill a regular or qualified appointed position who has not yet completed their probationary period of employment. A probationary employee shall accrue annual and sick leave at the same rate as a classified employee, but may not use any of the accrued annual leave or their personal day during the first six (6) months of employment.

- A. To determine whether an employee has satisfactorily completed the probationary period, the employee's department head/supervisor shall review the employee's performance and the employee's ability to work with the public, peers, supervisors, and management. A probationary employee shall be reviewed at the end of the probationary period, and may be evaluated at any other time during the probationary period.
- B. An employee hired to fill a law enforcement and fire position shall serve a twelve (12) month probationary period for certified officers and firefighters and an eighteen (18) month probationary period for uncertified officers. Failure to obtain any required certifications within the probationary period shall result in the employee's dismissal.



- C. If an employee does not satisfactorily complete the probationary period, the employee will be dismissed. Proposed dismissal of a probationary employee must be discussed with the Human Resource Director and approved by the City Manager.
- D. An employee who fills a temporary position and is subsequently hired to fill a regular position shall serve the required probationary period. The beginning date of the probationary period is the date the employee changes from temporary or part-time to probationary status.
- E. A part-time employee hired to fill a full-time position shall be subject to a six (6) month probationary period.
- F. Accrued annual leave may not be used by an employee during the first six months of employment. The City Manager may grant the use of any accrued annual leave on an emergency basis with appropriate documentation.
- G. The probationary period may be extended at the discretion of the City Manager in cases where further evaluation is needed. Department Directors shall create an employee developmental plan.

### **3.6 Temporary Employee:**

A temporary employee is hired on either a full-time or part-time basis to a seasonal position, a position established for a special project, or a vacant position due to the temporary absence of an employee. A temporary employee shall not exceed a term of more than one (1) year. A temporary employee is terminable-at-will, is not entitled to grieve personnel actions, does not receive city benefits, and does not accrue leave.

### **3.7 Program Paid Employee:**

An employee assigned to work with the City of Belen and is being paid by another program for a determined amount of time. A Program Paid Employee is terminable-at-will, is not entitled to grieve personnel actions, does not receive city benefits, and does not accrue leave.

## **Section 4. Management and Appointed Positions**

### **4.1 City Mayor:**

The Mayor is the Chief Executive Officer (CEO) of the City as a municipal corporation organized under the laws of the State of New Mexico. As such, the Mayor has the responsibilities established in NMSA 1978, Sections 3-11-4, 3-11-5, and 3-11-6, and is

thereby charged by Law with the supervision, operation and daily management of the City, through the City Manager. The City Manager is under the direct supervision of the Mayor and shall directly supervise employees of the City and be responsible for the effective management of the administrative affairs of the City. Any employee with issues or concerns regarding their employment with the City shall first attempt to resolve those issues at the lowest level of supervision before addressing their concerns with their department supervisor, superintendent and/or director.

#### **4.2 City Manager:**

Under the general supervision of the Mayor, the City Manager has the responsibilities established in NMSA 1978, Section 3-14-14. The City Manager shall supervise all aspects of the personnel system and terms of the City of Belen Personnel Policy, including but not limited to the authority to hire and terminate. The Human Resources Director shall assist the City Manager in the implementation of these functions as they relate to the daily personnel operations of the City and shall cause to be performed the administrative and technical personnel activities of the City in order to ensure legal and statutory compliance by the City with the provisions of this Personnel Policy, any negotiated and binding Collective Bargaining Agreement (CBA), and the personnel and labor related laws of the State of New Mexico, the United States and applicable funding sources or contracts the City enters into agreements with. The City Manager shall be a salaried position as defined in the Fair Labor Standards Act (FLSA) and shall receive a salary set by the governing. The City Manager shall not be entitled to overtime pay, compensatory time, or to the grievance process, but shall receive all other benefits provided to Full-Time Regular Employees.

#### **4.3 City Clerk:**

The City Clerk is appointed by the mayor with the consent of the governing body. Under the general supervision of the Mayor, the City Clerk has the responsibilities established in NMSA 1978, Section 3-13-1. The City Clerk must attend all meetings of the governing body and is responsible for keeping custody of all minutes, ordinances and resolutions approved by the governing body, recording all proceedings, ordinances and resolutions of the governing body and upon request must furnish copies of municipal records. The City Clerk shall be a salaried position as defined in the Fair Labor Standards Act (FLSA) and shall receive a salary set by the governing. The City Clerk shall not be entitled to overtime pay, compensatory time, or to the grievance process, but shall receive all other benefits provided to Full-Time Regular Employees.

#### **4.4 Chief of Police**

The Chief of Police is appointed by the mayor with the consent of the governing body. Under general supervision by the City Manager, the Chief of Police must follow all duties established for Police officers in NMSA 1978, Section 3-13-2. The Chief of Police shall be a salaried position as defined in the Fair Labor Standards Act (FLSA) and shall receive a salary set by the governing. The Chief of Police shall not be entitled to overtime pay,

compensatory time, or to the grievance process, but shall receive all other benefits provided to Full-Time Regular Employees.

#### **4.5 Fire Chief**

The Fire Chief is appointed by the mayor with the consent of the governing body. Under general supervision by the City Manager the Fire Chief is responsible for all aspects of the fire departments. The City Manager shall be a salaried position as defined in the Fair Labor Standards Act (FLSA) and shall receive a salary set by the governing. The Fire Chief shall not be entitled to overtime pay, compensatory time, or to the grievance process, but shall receive all other benefits provided to Full-Time Regular Employees.

## **Section 5. Recruitment and Selection**

### **5.1 Hiring, Appointments, and Promotions:**

All shall be made on the basis of the best qualified individual that meets the job requirements. The City Manager, along with the Department Head and Human Resources Director will make the decision based on: skills, education, background, experience, professional interview references, and a result of pre-employment examinations when required. All employees are subject to drug test and background checks per authorization provided by the applicant.

### **5.2 Recruitment Posting Procedure:**

Whenever filling a vacant position, the Department Head must submit a signed "Requisition for Hire" form to the Human Resource Director. The "Requisition for Hire" must be signed by the Department Head, Finance Director and City Manager before submission to the Human Resources Director. Within two (2) business days of receipt of the request, the Human Resource Director shall post the opening.

#### **A. Internal Posting:**

Whenever filling a regular position, the Department Head will notify the Human Resource Director of the position to be filled. The Human Resource Director will post the vacancy internally for five (5) days unless otherwise specified by a collective bargaining agreement.

#### **B. External Posting:**

If there are no qualified City employees or no internal applications are received, the vacancy will be advertised externally for two (2) weeks.

#### **C. Dual Posting:**

The City Manager or Human Resources Director may order a position to be simultaneously posted both internally and externally based on the specific needs of the City or the position. Unless specified by a collective bargaining agreement.

### **5.3 Applicant Responsibility:**

#### **A. Submission of Applications:**

Applications for employment shall be accepted at City Hall during normal business hours or through the City's online application system. Applicants shall be considered for positions for which they have applied and are qualified. Applications must be submitted on the employment application form or system provided by the city with any other applicable documents attached. A separate application must be submitted for each position for which the person is applying.

##### **1. Incomplete, late or inaccurate applications:**

Applications submitted which are not complete, do not include all required information or materials, or are not submitted at or prior to the indicated deadline may, at the sole discretion of the City, be rejected. Applications that include inaccurate or false information may be rejected or excluded from further consideration.

##### **2. Ineligible Applications:**

Applications submitted by individuals who have been fired by the City for serious disciplinary measures will be ineligible for hire or rehire. Internal applications that have a disciplinary action in their file within the last ninety (90) days. Applications submitted by individuals who currently serve or within the prior two years have served as a voting member of the City Council are also ineligible for hire or rehire

#### **B. Proof of Qualification:**

The applicant is responsible for furnishing proof of qualifications or possession of any license, certification, or degree when these requirements are necessary and set forth in the job description.

#### **C. Immigration Act Compliance:**

The applicant is responsible for furnishing proof of identification and right to work in accordance with the Immigration Reform and Control Act of 1986. If the applicant cannot furnish the required documentation, then the applicant is ineligible for work.

#### **D. Certification:**

The applicant is responsible for signing the employment application and certifying as to the truth of all statements made in the application.

**E. Testing:**

The City may require an applicant to submit to testing for certain bona fide occupational qualifications. Testing may include, but is not limited to: rating of education and experience, written, oral, or physical test. The City may request a demonstration of the skills or abilities needed to perform the essential job function in accordance with the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101. See 29 C.F.R. Part 1630.14 (a) Pre-employment inquiry). The Human Resources Department shall maintain and assure the confidentiality and security of all physical or mental examinations and processes. Examinations shall be developed in accordance with established professional techniques and relevant federal laws, regulations, and guidelines.

**F. Reasonable Accommodations for Disabilities:**

Applicants under consideration for employment shall disclose any reasonable accommodations required to enable them to perform the duties of the job for which they are applying.

- 1 The City will accommodate applicants and employees with a disclosed disability in compliance with the Americans with Disabilities Act (ADA) throughout the recruitment and hiring process, and provide "reasonable accommodation" when the cost of such is deemed "reasonable" within the City's ability to pay, and where to do so does not impair the City in its business necessities.
- 2 If the results of any testing or exam give indication of physical or mental limitations that would prevent the applicant from reasonably performing the duties of the position, consistent with ADA regulations, the City will engage in an interactive process in an effort to identify an accommodation that is reasonable and effective, and if no reasonable accommodation is identified, then the applicant may be rejected as not meeting the required qualifications for the job.
- 3 Subject to the provisions of the ADA, any applicant who tests positive for the presence of illicit drugs will be denied employment.
- 4 A disabled applicant may be required to submit to a physical exam only subsequent to a job offer being made and only if all new hires are required to do the same.

**5.4 Selection:**

Selection shall be made by a hiring board and will be based on the following: skills, educational background, experience, personal interview, references, and results of pre-employment examinations.

**A. Employment Reference Checks:**

References provided by the applicant shall be checked by the Human Resource Director prior to hiring. Applicants will be asked to sign a written authorization on the employment application for the city to check references. Only those applicants who sign

this written authorization will be considered for the position for which they have applied.

**B. Driver's License Checks:**

All applicants are subject to a motor vehicle check to verify that they have a valid New Mexico driver's license. If the applicant has an out of state driver's license, they must obtain a New Mexico driver's license within ninety (90) days of employment with the City. If an applicant's driver's license is suspended, revoked or not valid for any reason, they shall not be considered for City employment.

**C. Criminal History Check:**

All applicants selected for employment will be asked to sign a written authorization for the City to conduct a criminal history check. Any applicant who refuses to sign the written authorization shall not be considered for employment with the City. If the criminal history check reveals a conviction of a crime that is job-related for the position in question as described in NMSA 1978, 28-2-1 or 10-1-3, et seq., the applicant is ineligible for hire with the City.

**D. Physical Examination:**

Public health and safety demand that employees be physically able to perform the duties of the job classification to which they are hired. A physical examination may be required before an applicant is appointed/hired to any full time, part-time or temporary vacant position conducted at the expense of the City. The results of the exam will be evaluated by the Human Resource Director and, if needed, the Department Director.

**E. Drug Testing/Medical Examinations:**

Applicants to whom positions have been offered shall be required to undergo medical examinations, which may include urinalysis, blood testing, and radiographic examination. Drug testing will be done for all new hires. Employment medical examinations must be completed and reviewed before the employee can report to work. Offers of employment are contingent upon the physician's statement that the individual can perform the assigned duties and tasks of that position and is drug free. The Human Resource Director will arrange all physical and drug testing appointments. Employment medical examinations will be paid for by the City.

**F. Employment Eligibility Verification:**

A. All candidates who have accepted an offer of employment with the City shall complete and sign the Employment Eligibility Verification 1-9 Form the first day of employment or no later than two (2) days after date of hire. On the form, an employee must attest to their employment authorization. Also, the employee must present to the Human Resources representative acceptable documents evidencing identity and employment authorization.

- B. The City will examine the employment eligibility and identity documents an employee presents. This list of acceptable documents can be found on the last page of the 1-9 Form. The City of Belen Human Resources representative will complete the 1-9 Form to document verification of the identity and employment authorization of each new employee (both citizen and noncitizen) hired for employment and will retain the 1-9 Form for three years after the date of hire or for one year after employment is terminated, whichever is later.
- C. The City of Belen participates in E-verify and uses an internet based system to compare information from an employee's Employment Eligibility Verification 1-9 Form, to data from the U.S. Department of Homeland Security and Social Security Administration records to confirm employment eligibility.

### **5.5 Insurance and Bonding Requirements:**

All candidates who have been offered employment in a position where insurance and/or bonding is required by law must submit documentation demonstrating that they meet the criteria for such insurance and/or bonding and are currently or will be insured and/or bonded within thirty (30) days of accepting the position with the City.

### **5.6 Employment of Relatives:**

- A. Relatives of current employees are disqualified from occupying a position (either through hiring, promotion, or transfer) that will be working directly for or supervising the current employees. The City Manager, may waive this provision, when this relationship will not create a direct or indirect supervisor/subordinate relationship; or will not create either an actual conflict of interest or the appearance of a conflict of interest and another qualified candidate or employment alternative is unavailable.
- B. Employees who marry or become part of a relative/romantic relationship or members of the same household after assuming a position may continue employment as long as there is not:
  - 1. A direct or indirect supervisor/subordinate relationship between the employees; or
  - 2. An actual conflict of interest or the appearance of a conflict of interest.

If one of the above situations occurs, the City will attempt to transfer one of the affected employees to another suitable position within the City of Belen organization, without loss of pay or seniority to the employee. If an accommodation of this nature is not feasible, the employees will be permitted to determine which of them will resign.

- C. All employees who do have a family member working for the city must disclose this on their application for employment. If they become family members after assuming their position they must immediately notify the Human Resources director of the relationship.

### **5.7 Ineligibility for Hire or Rehire:**

An applicant shall be considered ineligible for hire or rehire by the City if the applicant:

- A. Made any false statement or omission on the employment application.
- B. Unable to furnish proof of identification and right to work as defined by section 5.4(F).
- C. Refused to sign authorization for reference checks credit check drug test, or background check.
- D. Not met the requirements of the position.
- E. Failed to complete pre-employment examinations or other requirements as directed by the city.
- F. Not met the criteria for insurance or bonding as required by City or State law.
- G. Been dismissed from City service as a result of a disciplinary measure.
- H. Not been certified by a physician that the applicant can perform the physical requirements of the position.
- I. Does not have a valid New Mexico driver's license as described in section 5.4(B)
- J. Failed to provide a written two week notice of resignation from a previous City position or did not otherwise leave previous City employment in good standing. The City Manager may waive the two (2) week notice requirement.
- K. Been convicted of a felony as described in NMSA 1978, 28-2-1, or convicted of an infamous crime as defined in NMSA 1978, 10-1-3.
- L. The above list is not necessarily exclusive, and may not include all of the reasons that would make an applicant ineligible for hire or rehire.

### **5.8 Ineligibility of Applicants for Police department:**

No person under indictment, convicted of a felony or involved in a drug, alcohol, or domestic violence related incident, shall be eligible for employment in law enforcement position.

### **5.9 After Employee Selection:**

#### **A. Approval by the City Manager:**

The Human Resources Director is responsible for notifying the City Manager of all new hires. The City Manager has overall say for all new hires. The Human Resources Director will notify the Department Head as to when the employee can begin work.

#### **B. Notification of Hire:**

The Department Head is responsible for submitting a personnel change form to the Human Resource Director when an applicant has been selected for employment. At this time, the Human Resource Director will give the applicant a verbal conditional hire and will schedule the employee for a physical examination, drug testing, and background check as defined by section 5.4 (D-E)



**C. Employee Orientation:**

After the results of an applicant's pre-employment checks, the Human Resources Director will give the applicant a formal offer letter and schedule their employee orientation. All new hires are required to have an employee orientation with the Human Resource Director. The employee orientation is necessary to complete the proper employment paperwork and to inform the employee of their rights as defined by this Personnel Policy Manual. The Human Resource Director will schedule all employee orientations and is responsible for notifying the employee of the date and time of the orientation.

## **Section 6. Changes in Employment Status**

**6.1 Employment Status Changes:**

All employment status changes (change in category of employment, pay changes, transfers, promotions, demotions, separations, etc.) shall be documented in writing on a Personnel Change Form. No status change will take effect until all required approvals have been met.

**6.2 Promotion:**

The City of Belen encourages the professional growth of its employees and rewards the initiative, creativity, effort, commitment, and diligence of its employees through the promotional process. City employees are encouraged to take advantage of promotional opportunities and apply for higher paying positions for which they qualify. An employee's eligibility for promotion will be determined by the requirements of the vacant position and their education, work performance, work behavior/conduct, skills, knowledge, and ability to meet those requirements.

- A.** Current employees who receive a promotion shall complete a probationary period of ninety (90) days. If the employees cannot successfully finish their probationary period, the HR Director will recommend employment decisions to the City Manager, and the City Manager at its own discretion adopts or modifies or declines the HR Director's recommendation consistent with this Policy.

**6.3 Transfer:**

**A. General Transfer:**

Employees may be moved from one position to another at the same rate of pay either voluntarily or involuntarily. An employee may be transferred if it is in the best interest of the city. Involuntary transfers are not grievable no matter the amount of time an employee has been with the City.

1. An employee may be transferred from one position to another position in the same classification within a department or office.
2. Intradepartmental transfers may be made with the recommendation of the Department Director and the signature approval of the City Manager.
3. Current employees who receive a general transfer shall complete a probationary period of ninety (90) days. If such a transfer involves a probationary employee, time served in the former employment status shall be credited toward achievement of classified status and accumulated personal leave shall be retained.
4. If the employees cannot successfully finish their probationary period, the HR Director will recommend employment decisions to the City Manager, and the City Manager at its own discretion adopts or modifies or declines the HR Director's recommendation consistent with this Policy.

**B. Medical Transfer.**

An employee who has been certified by a licensed physician as being physically unable to perform the duties of the employee's current position may be transferred to a position in which the physician certifies the employee is able to work, if one is available that the employee is qualified to perform.

1. Employees shall meet with a member of the Human Resources Department to engage in an interactive communication process about the need for any work accommodations.
2. Transfers for medical reasons require the signature approval of the City Manager. Current employees who receive a medical transfer shall complete a probationary period of ninety (90) days. If the employees cannot successfully finish their probationary period, the HR Director will recommend employment decisions to the City Manager, and the City Manager at its own discretion adopts or modifies or declines the HR Director's recommendation consistent with this Policy.

**6.4 Demotion:**

- A. An employee may be demoted to a vacant position for which the employee is qualified when the employee would otherwise be terminated because the employee's position is being abolished and there are no appropriate vacancies at the same level, or when the employee's job is being reclassified, or when the employee does not have the ability to perform satisfactorily in their current position in the estimation of the City, or when the employee voluntarily requests a demotion.
- B. Demoted employees will normally receive a reduction in pay to the salary of the new position.

- C. Only a classified employee eligible for grievance proceedings who was demoted due to an inability to render satisfactory performance in the position presently held may file a grievance.
- D. Current employees who receive an involuntary demotion shall complete a probationary period of ninety (90) days. If the employees cannot successfully finish their probationary period, the HR Director will recommend employment decisions to the City Manager, and the City Manager at its own discretion adopts or modifies or declines the HR Director's recommendation consistent with this Policy.

### **6.5 Resignation:**

An employee voluntarily resigning shall submit, in writing, a two-week notice of resignation. Failure to provide written two-week notice of resignation may be grounds for refusal of future employment with the City. Unauthorized absence from work for a period of three (3) consecutive, regularly scheduled working days may be considered a voluntary resignation.

- A. The original letter or written notice of resignation shall be forwarded to the Human Resources Department within two (2) days of notification to the Department Director and must be accompanied by a Personnel Change Form.
- B. The City Manager, with the recommendation of the Department Director, may relieve the employee from reporting to work during the two (2) week notice period, if documented in writing on the Personnel Change Form.
- C. An Employee may rescind their resignation within three (3) work days of submitting their resignation; the City may honor the rescission of resignation if it is submitted within the prescribed time limit.
- D. If an Employee gives a verbal resignation, the Supervisor/Department Director shall require the employee to submit a written notice of resignation.

### **6.6 Reduction-in-Force:**

Occasionally, despite the best efforts of the City, certain economic or funding circumstances may result in the unanticipated need to reduce the City workforce in order to address reduced revenues, loss or reduction in grants, reorganization, reductions in or the elimination of municipal services, or other budgetary, policy and organizational conditions impacting organizational staffing. If such reductions occur, the following procedures are required to be followed in order to provide a minimalized and orderly impact on City employees:

**A. Notice.**

Employees will be given written notice of any reduction in force specifying the reasons and the expected duration of the reduction in force.

1. Employees to be laid off may be notified at any time during a pay period and may be allowed to work through the end of that regular pay period or receive pay to the end of that period at the discretion of the City Manager.
2. Accrued personal leave shall be paid on the next regularly scheduled pay day.

**B. Order.**

If it becomes necessary for the City to reduce the number of City employees because of a lack of funds or a lack of work, such reductions will normally occur in the following manner:

1. Temporary and Probationary employees will normally be laid off before full or part-time classified employees. The City Manager may determine on a department by department basis that a position cannot be filled by a classified employee and a temporary or probationary employee must be retained to meet specific job or City requirements.
2. Reduction in Force of Classified Employees shall be recommended by the Department Director and approved by the City Manager. Length of City service will normally be the determining factor in a reduction in force. However, an employee's suitability for jobs remaining, ability to perform

**C. Recall:**

Employees laid off or demoted due to a reduction in force will normally be called back to work in their seniority order within classification according to the following procedures:

1. All Employees laid off by the City due to lack of work, lack of funds or a reduction in work force are eligible for rehire for up to six (6) months. The City will advise the employee of their recall by certified or registered United States mail with delivery confirmation. A copy of such recall notice will be furnished to the local Union President, if applicable.
2. No new employees within the affected job, title and classification will be hired by the City during the six (6) month recall period until eligible laid off Employees have been given the opportunity to return to fill reopened positions. An employee, upon receiving notice of recall, shall within ten (10) working days of delivery confirmation notify the City Manager in writing of their intent to return to work. A recalled employee must report to work not later than fourteen (14) calendar days from the date of delivery confirmation, unless there are extenuating circumstances approved by the City Manager. An employee who fails to respond to the recall within ten (10) working days will forfeit any and all recall rights.

3. Laid-off employees have the responsibility of keeping the City informed as to their correct mailing address. Failure to do so on the part of the employee shall result in the forfeiture of any and all recall rights. Laid-off employees will be kept on an active list for recall for a minimum of six (6) months.
4. A full-time Classified Employee who returns to their previous position will not have to serve a new probationary period.

#### **6.7 Retirement:**

Employees who are contemplating retirement should contact the New Mexico Public Employees Retirement Association (PERA) to certify their eligibility for retirement benefits and obtain an estimate of benefits. The employee's Supervisor/Department Director and the Human Resources Director should also be notified of the employee's intent to retire with an estimated date of retirement in order to assist in the process and facilitate a smooth transition. Employees who file notice with the City and PERA for retirement are not eligible for Unemployment Compensation.

#### **6.8 Death:**

In the event of an employee's death, notification to the City by a family member, by a law enforcement agency, publication of a notice of death in a newspaper of record, receipt of a copy of a certificate of death or mortuary notice or other reasonable record affirming the death of an employee shall serve to self-terminate employment. The last day of work recorded by the employee shall serve as the termination date for purposes of determining the last date of employment. The deceased employee's estate, as determined by the records on-file with the City Human Resources Department, as stated by the employee during their employment, shall serve as the party entitled to any and all benefits to which the employee would have been entitled had they resigned from City service in good standing.

## **Section 7. Employee Conduct**

#### **7.1 Employee Conduct:**

Employees are expected at all times to conduct themselves in a positive professional manner in order to promote the best interests of the City and to maintain high standards of cooperation, efficiency and integrity in their work performance. Employees shall deal with the public and all City employees with courtesy, diligence, and promptness. Supervisors and Department Directors are responsible for providing leadership and mentoring that creates an opportunity for employees to achieve professional standards of performance and conduct and, at the same time, holds employees accountable for their actions. Appropriate City of

Belen employee conduct and behavior expectations includes but is not limited to the following areas. Employees are expected to:

- A. Perform job duties, responsibilities and assigned tasks in accordance with management expectations, established quality standards, and in a manner that reflects the highest ethical and professional standards. Employees shall carry out direct and appropriate work instructions/assignments from their Supervisor/Department Director and shall comply with these rules and regulations;
- B. Create a harmonious work environment for co-workers, supervisors/management, and the public by maintaining a positive, cooperative and helpful attitude; and be willing to get along with others and communicate respectfully with each other. Each employee has a role and responsibility to support a productive and healthy workplace;
- C. Support teamwork and workplace behavior that fosters collaboration, customer service, and working for the good of the Department and the City of Belen. Be receptive to constructive feedback; be open to input from your co-workers, Supervisors/Department Directors, City Administration and the public;
- D. Cooperate fully and in a timely manner with City investigations and provide truthful information in all statements and testimony; refrain from fraud, falsification, deceit, theft or departing from the truth;
- E. Promote cooperation and collaboration by following the chain of supervision, policies and procedures in attempting to resolve any workplace issues or problems;
- F. Report to management any suspicious, threatening, or potentially violent, unsafe, illegal immoral or unethical behavior or conduct by coworkers, customers, contractors, or suppliers;
- G. Report to work as scheduled, ready for work and not unfit, hung-over, fatigued or impaired due to the use of alcohol or other controlled substances;
- H. Comply with all City, State and Federal safety rules, policies, procedures, and regulations; wear the proper safety attire and equipment and notify Supervisor(s) immediately when replacements are needed or equipment is missing;
- I. Never engage in unauthorized or personal use of City vehicles or equipment; never allow unauthorized passengers in City vehicles/equipment or while operating a City vehicle. Any non-work-related passengers are unauthorized. Authorized passengers shall be determined by the City Manager;

- J. Never falsify or alter any City records or reports, such as time and attendance sheets, employment applications, personnel records, travel and expense reports, medical records or other organizational records;
- K. Refrain from behavior or conduct that is offensive or undesirable, or which is contrary to the best interest of the City, your Department or the public;
- L. Refrain from engaging in malicious and disorderly conduct, force, threats of use of force, theft, misappropriation, destruction of public or private equipment, tools, vehicles or property, abuse or waste of public and/or private property, engaging in actions that create the appearance of impropriety, use of obscene language and other inappropriate conduct while engaged in the performance of their job, while representing the City, while wearing a City uniform or driving a City vehicle or where such conduct reflects adversely on the image of the City. City uniforms and clothing with City logos should only be used while officially on-duty or on-call;
- M. Never refuse to follow management's lawful instructions and direction concerning a job-related matter or be insubordinate; and refrain from creating or contributing to an unproductive work environment through encouraging bad morale, undermining Supervisors or the chain of command;
- N. Hold any confidential information or communication derived through their City employment in the strictest confidence and shall not share, reveal or use such, unless it is subject to public disclosure, necessary to conduct City business, or to prevent death or serious bodily harm/injury. Disclosure should be through approved City channels and policies, such as IPRA or the Mayor-appointed City Public Information Officer;
- O. Report the loss of a driver's license or other required license or certification in writing to the Human Resources Department within two (2) work days; and report criminal charges and/or conviction of criminal charges or motor vehicle accidents impacting driver safety status with the City in writing to the Human Resources Department within two (2) work days;
- P. Never steal, destroy, deface , damage, or misuse City property, equipment, vehicles or another employee's property;
- Q. All City property, equipment, and vehicles shall not be altered in any way without prior written approval. Some examples of altering City property include but are not limited to adding unauthorized or personal stickers to city vehicles,
- R. Never use profanity, offensive or obscene language; never fight, gamble, sleep on the job, encourage a fight, participate in playing pranks or engage in horseplay or other behavior or conduct unbecoming a City employee;

S. Never engage in harassment, discrimination, or retaliation.

### **7.2 Reporting for Work:**

All employees are to be at their designated work areas on time and ready to work. They shall work until the scheduled quitting time, unless permission of the Supervisor/Department Director has been obtained for different work hours. Employees shall adhere to their work schedules with regularity and punctuality.

### **7.3 Candidate for Public Office:**

Any employee who is declared a candidate for public office shall take leave of absence at least thirty (30) days prior to Election Day for all primary, general and other elections. All employees shall comply with statute regulations regarding their candidacy for public office, including the New Mexico Governmental Conduct Act (chapter 10.16 NMSA 1978) and the Hatch Act (5 U.S.C. Section 1501 to 1508). Any employee elected to a public office shall terminate their position with the City of Belen if the public office is full-time or if the part-time public office is incompatible with the proper discharge of the employee's responsibilities.

### **7.4 Conflict of Interest:**

Employees must disclose promptly any circumstance that might constitute a conflict of interest or appear to be a conflict of interest. If such a situation develops, the employee must immediately notify their Department Director and complete a City of Belen Disclosure Statement Form, pursuant to the New Mexico Governmental Conduct Act (NMSA 1978, Section 10-16-1 et seq.). An employee or public official of the City of Belen is required to make disclosure of potential conflicts of interest with regards to outside employment, familial relationships, and disclosure of substantial business interests. In addition, employees must complete a City of Belen Disclosure Statement Form every twelve (12) months. Failure to complete the City of Belen Disclosure Statement Form or failure to provide complete and accurate information may subject an employee to disciplinary action and may result in any authorization to engage in self-employment, supplemental or outside employment being terminated.

#### **A. No employee shall:**

1. Engage in any business or transaction, have a financial or other personal interest, direct or indirect, accept private employment or other public employment, or render services for private interest, which is incompatible with the proper performance of the employee's responsibilities, which gives the appearance of impropriety, or could tend to impair their independence of judgment or action in the performance of their duties.



2. Accept any gift, whether in the form of money, service, loan, thing, or promise, from any person that could tend to impair the employee's independence of judgment or action in the performance of their duties.
3. Disclose confidential information concerning property, government or affairs of Belen without proper legal authorization, or use such information to advance the financial or other private interest of self or others.
4. Accept any gift, whether in the form of money, service, loan, thing or promise, from any person which to their knowledge is interested directly in any manner whatsoever in business dealings with the City; provided, however, that any such employee who is a candidate for public office may accept campaign contributions and services in connection with any such campaign. Represent the private interests of any third-party in any action or proceeding before any Board or Committee before which the employee appeared on behalf of the City while an employee of the City or within one year of terminating their employment with the City.
5. Participate in the selection, the negotiation or the making of any contract with any business or entity in which he has a direct or indirect financial interest.

**B. Self-Employment, Supplemental or Outside Employment:**

- A. The City has the right to refuse authorization or to terminate authorization to engage in self-employment, supplemental or outside employment which:
  1. Involves the use of City time, facilities, equipment, or supplies.
  2. Causes the employee to be less efficient in performing their duties for the City.
  3. May cause or lead to a conflict of interest with the Belen for the employee or any of the employee's subordinates.
  4. Involves the acceptance of any gift or gratuity whether in the form of money, service, loan, thing or promise, by the employee or any of the employee's subordinates to perform any services related to their duties or their subordinate's duties with the City.
  5. Results in an increase in the employee's use of leave.
- B. The authorization for Outside Employment may be denied in the City's sole discretion due to inadequate performance, attendance, number of hours of outside employment, perceived conflict of interest, or any other reason which the City deems necessary for the efficient operation of City government.

**7.5 City Property:**

Employees shall not misuse City property, records, or other materials in their care, control, or custody; nor shall any City property, records, or other material be removed from the premises of the City offices. Employee shall not use City property, records or equipment for personal use. Employees may bring personal supplies, property and/or work tools to work and use for City purposes. Employees who bring personal property do so at their own risk and take full liability. The City will not assume responsibility for damaged, lost, or

stolen personal property. Employees who bring personal property must first get written approval by the department director and

#### **7.6 Discrimination:**

Employees will not discriminate against anyone for any reason on the basis of political or religious opinions or affiliation, marital status, pregnancy, color, disability or medical condition, military background, gender, sexual orientation, age or because of national origin, ancestry, race or ethnic background.

#### **7.7 Dress and Appearance:**

A. City employees are expected to always be dressed in a manner suitable to their employment position, to assure public safety, and in order to maintain an excellent public service environment, to wear the proper attire, and to maintain an appropriate personal appearance. Employees are also expected to maintain good personal hygiene in order to maintain a good public image and foster harmonious working environments.

1. Department heads are responsible for determining and enforcing the dress standards for their respective areas of responsibility.
2. Employees are responsible for wearing proper attire, being properly groomed, and practicing personal hygiene suitable for the job they were hired to perform. Clothing shall be neat and clean. All clothing, accessories, and shoes should be functional and safe for the type of work performed.
3. Employees not following these dress and appearance policies will be sent home without pay until the proper dress and appearance is altered.
4. An employee unsure of what is appropriate should check with their supervisor. Each department must have a written dress code policy outlining what is appropriate for each position.
5. Employees shall not have any visible vulgar, offensive, or gang related tattoos.
6. The City reserves the right to advise any employee at any time that his/her grooming, attire or appearance is unacceptable.
7. Employees will be expected to comply with any reasonable suggested change. Failure to do so will result in discipline. Repeated lack of compliance may result in further disciplinary action, up to and including termination of employment.

B. Employees required to wear uniforms should wear uniforms that are kept clean and neat. Uniforms bearing City of Belen identification patches or words may not be worn

inappropriately at any time. Uniforms are not to be worn during off duty hours, except under exceptional circumstances approved by the City Manager.

1. Upon separation from the City, any and all City issued equipment and uniform items must be returned to Supervisor/Department Director.
2. If employee refuses or fails to turn in uniforms at end of employment, the cost of the uniform will be withheld from the employee's last check.

### **7.8 Nepotism:**

Nepotism, for purposes of this personnel policy manual, is defined as the practice of giving preferential treatment in areas of employment including but not limited to selection, benefits, pay, promotion and discipline to an employee's family member. A City employee may not supervise anyone who is a blood relative, related by legal adoption or marriage. A Supervisor is anyone who directly supervises, controls or influences the overall status of employees.

### **7.9 Fraternalization:**

Fraternalization (workplace romance) among employees is prohibited during working hours regardless of status and gender and inner-departmental fraternalization is prohibited at all times. The non-fraternalization policy supports the City's commitment to provide all employees a workplace free of sexual misconduct or behaviors that hinders our objective to serve our citizens and to maintain a safe and productive workplace. It is also intended to ensure that employees are not improperly disadvantaged because of a romantic relationship between a Supervisor and an employee. Employees are bound to honor the City's discrimination and harassment policies and agree to act professionally and not engage in conduct that might prove offensive or discriminatory to other employees. Employees are expected to conduct themselves in a manner that promotes respect, trust, safety and efficiency in the workplace. Fraternalization hinders the work performance of those employees involved as well as those who work around them.

#### **A. Workplace and dating:**

The City holds its employees to the highest ethical and professional standards. As such, we have created a fraternization policy that outlines our guidelines regarding employees forming personal relationships with each other. Our goal is to protect the well-being of our employees and retain the professional working environment. Relationships between supervisors and their subordinates is strictly prohibited. If a relationship between supervisor and subordinate arises, please refer to section 5.6.

#### **B. Unacceptable Behavior:**

At the workplace, employees who are in a relationship should possess appropriate and professional behavior. Any activity that is offensive or distracts other employees, interrupts operations, and reduces productivity is considered improper.

Any employee in a relationship should avoid the following actions to include but not limited to:

1. Arguing during the working hours.
2. Inappropriate contact for the work place.
3. Exchange non-work-related messages or calls during business hours.
4. Discuss personal matters which may be uncomfortable to others.

**C. Acceptable Behavior:**

The company believes that a partner's existence at the workplace is difficult to neglect. In that case, the following actions are considered acceptable.

1. Report any relationships or conflicts of interest to the Human Resources Director as soon as they arise on the designated City form.
2. Maintain a professional demeanor while on duty.

**D.** Any inappropriate behavior or violation of this policy is grounds for disciplinary action up to and including termination.

**7.10 Media Relations:**

Statements to the public on behalf of the City are to be made only by the Public Information Officer designated by the City Council. City employees contacted by the media shall direct inquiries to the City Manager. No City employee shall make a public statement on any matter involving litigation or personnel matters.

**7.11 Social Media:**

The City of Belen respects the desire of employees to participate in social media during their personal time. The use of social media is strictly prohibited during work hours unless they are authorized by the City Manager to do so. Social media, for purposes of this policy include blogs, microblogs, message boards, chat rooms, electronic newsletters, online forums, social networking sites, and other sites and services that permit users to share information with others in a contemporaneous manner. In general, employees who participate in social media are free to publish their own personal information without restrictions by City. Employees must avoid, however, posting information that could place the City at a competitive disadvantage or cause financial damage or liability to the City. If an employee chooses to identify himself or herself as an employee of the City of Belen on a personal website or blog, he or she must adhere to the following guidelines:

- A. Employees must make it clear to the readers that the views expressed are the employees alone and they do not necessarily reflect the views of the City. Employees are prohibited from acting as a spokesperson for the City of Belen or posting comments as a representative of the City. If employees choose to publish content after-hours that involves their work or subjects regarding the City, a disclaimer should be used, such as

“The postings on this site are my own and do not represent the City of Belen’s positions, strategies or opinions.”

- B. Employees may not use the City’s logo on any personal social media network.
- C. Employees may not take any inappropriate pictures in their City uniform and post it to any social media accounts.
- D. Employees may not disclose any information that is confidential or proprietary to the City of Belen or to any third party that has disclosed information to the City. Consult with the City Manager for guidance to what constitutes as confidential information.
- E. Employees are responsible for maintaining the city’s positive reputation and presenting the City in a manner that safeguards the positive reputation of themselves, as well as, the city’s employees, managers, etc.
- F. If social media activity is compromising, defaming, releases confidential information, or libelous, the City Manager may request a cessation of such commentary and the employee may be subject to disciplinary action up to and including termination.
- G. Employees should be aware of the impact their actions may have on their images, as well as the City of Belen’s image. The information that employees post or publish may be public information for a long time.
- H. Employees should be aware that the City of Belen may observe content and information made available by employees through social media. Employees should use their best judgment when posting or sharing material. Employees should avoid posting material that is either inappropriate or harmful to the City or its employees.
- I. Although not an exhaustive list, some specific examples of prohibited social media conduct include posting commentary, content, or images that are defamatory, pornographic, proprietary, harassing, libelous, or that can create a hostile work environment.
- J. Social media networks, blogs, and other types of online content sometime generate press and media attention or legal questions. Employees should refer these inquiries to the City Manager.
- K. Employees should get permission from the City Manager before referring to or posting images of current or former employees, volunteers, or program participants. Additionally, employees should get appropriate permission to use a third party’s

pictures, copyrights, copyrighted material, trademarks, service marks or other intellectual property.

- L. Subject to applicable law, after-hours online activity that violates this policy may subject an employee to disciplinary action up to and including termination.

**7.12 Personal Business:**

Personal business shall not be conducted during work hours with the exception of breaks and lunches. City employees should not conduct personal business within view or hearing of the public.

**7.13 Performance Review:**

Staff performance evaluations provide a review and evaluation of an individual's performance. It is the responsibility of the employee's direct supervisor to ensure performance evaluations are done in a timely manner. Supervisors who do not complete performance evaluations as prescribed shall be subject to disciplinary action up to and including termination. Completed performance evaluations are maintained in the employee's personnel file.

**A. Performance Review Periods:**

**1. Probationary Review:**

The Department Head shall discuss performance with the employee during the probationary period. The employee must receive a performance evaluation of satisfactory or better at the end of the probationary period before the employee can become a regular employee.

**2. Annual Review:**

All City employees shall have a performance review on an annual basis.

**3. Other Review Periods:**

Employees may receive an evaluation at any time, some reasons for a review are as follows: a change of job description, recommendations of any type of salary increase or decrease, demotion or suspension, and insubordination or unsatisfactory work performance.

**B. Employee Rebuttal:**

The employee may submit a rebuttal statement to the performance evaluation review, which will be attached to and become a part of the employee's personnel file. The rebuttal must be submitted within 10 days of the evaluation.

**C. Unsatisfactory Evaluation:**

In the event a regular employee receives an overall evaluation of unsatisfactory, the employee shall be provided with written information in the evaluation as to specific areas of deficient performance and steps for improvement, and also shall be warned that

failure to meet reasonable performance standards of the position within a set time period (not to exceed ninety (90) days) shall result in dismissal. An employee who receives an overall evaluation of unsatisfactory shall be re-evaluated at any time during the (90) ninety-day period following the unsatisfactory evaluation, and if performance remains unsatisfactory, shall be dismissed pursuant to the procedures in these rules.

#### **7.14 Prohibited Political Activities:**

All employees are prohibited from:

- A.** Using official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office, or for any other political purpose.
- B.** Directly or indirectly coercing, attempting to coerce, commanding, or advising a state or local officer or employee to pay, lend, or contribute anything of value to a party, committee or organization, agency, or person for a political purpose.
- C.** Threatening to deny promotions to any employee who does not vote for certain candidates, requiring employees to contribute part of their pay to a political fund, influencing subordinate employees to buy tickets to political fund-raising events and similar events, advising employees to take part in political activities and matters of a similar nature.
- D.** Engaging in political activity while on duty or campaigning on City property.
- E.** Displaying political stickers or posters on City owned vehicles or in any City office.
- F.** Using any City owned equipment, supplies, vehicles, space or property for political purposes.
- G.** Soliciting or handling political contributions or participating in any way in partisan fund-raising activities during work hours.
- H.** Serving in connection with, preparation for, organizing or conducting of a political meeting on any partisan political matter, or taking any other active part therein, during work hours.
- I.** Engaging in activity at the polls either during primary or general elections, such as soliciting votes, assisting voters to mark ballots, or transporting or helping voters to the polls on Election Day, unless the employee has been granted annual leave.
- J.** Acting as a recorder, checker, poll watcher or challenger of any party or candidate, unless the employee is granted annual leave. Serving in any position of election officer in which partisanship or partisan political management may be shown.

- K. Writing for publications or publishing any letter or article, signed or unsigned, soliciting votes in favor of or against any political party or candidate during work hours.
- L. Initiating or circulating partisan political nominating petitions during work hours.
- M. Engaging in political caucuses, or canvassing a district, or soliciting political support for a party, faction or candidate during work hours.
- N. Serving on or for any political committee, party, or other similar organization or serving as a delegate or alternate to a caucus or party convention on the county, state or national level, during work hours.

## **Section 8. Discrimination and Harassment Prevention**

### **8.1 Discrimination and Harassment Including Sexual Harassment:**

The City of Belen strictly prohibits any form of unlawful discrimination based on race, color, religion, gender, gender identity, sexual orientation, national origin, age, disability, political affiliation or lack thereof, or any other status. Improper interference with the ability of the City's employees to perform their expected job duties will not be tolerated. The City endeavors to maintain an environment that is free from all forms of discrimination, including harassment. All employees and job applicants are entitled to a work place or recruitment process that is free from discrimination and/or harassment. Every City employee has a responsibility to prevent discriminatory harassment (including sexual harassment) from occurring.

Discriminatory harassment within the workplace will not be tolerated. All employees are prohibited from engaging in discriminatory harassment of any other employee or other persons in the course of, or in connection with, employment. Any employee, including a Supervisor or Manager, who is found to have engaged in any form of discriminatory harassment in the course of their employment will be subject to appropriate disciplinary action, up to and including termination of employment. Disciplinary action will vary depending on the severity of the infraction. The desired standard for City employee conduct and behavior is one of cooperation, mutual respect, and professionalism.

#### **A. Discriminatory practices include but are not limited to:**

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



2. Sexual harassment includes, but is not limited to: requests for sexual favors, unwelcome sexual advances and other non-verbal, verbal or physical conduct of a sexual nature that creates a hostile environment for persons of either gender, sex-oriented verbal kidding, teasing, jokes, comments, display of sexually suggestive objects or pictures, physical contact such as hugging, patting, or brushing up against another's body.
3. A hostile environment is a result of severe or pervasive harassment that substantially interferes with an individual's work performance. The harassment must have been unwelcome and offensive to the victim and of a nature that would be offensive to the reasonable person.
4. The hostile-environment standard applies to harassment on the basis of race, religion, sex, sexual orientation, gender identity, color, ancestry, serious medical condition, national origin, age, or disability.
5. Examples of harassing conduct include, but are not limited to:
  - b. Sexual harassment: Gender-based jokes or comments.
  - c. Race or national-origin harassment: Epithets, slurs, or negative stereotypical comments, jokes or cartoons,
  - d. Age harassment: Remarks or jokes relating to a person's age.
  - e. Disability harassment: Disparaging remarks, slurs or jokes relating to a person's physical or mental disability.
  - f. Religious harassment: Coercion of employee participation in religious activities, verbal attacks or religious slurs.
  - g. Employment decisions based on stereotypes or assumptions about the abilities, traits, or performance of individuals of a certain sex, race, religion, sexual orientation or ethnic group, or individuals with disabilities.
  - h. Denying employment opportunities to a person because of marriage to, or association with, an individual of a particular race, religion, sexual orientation, national origin, or an individual with a disability.
  - i. Retaliation against an employee who takes one of the following actions: filing a complaint of discrimination, participating in a discrimination investigation, opposing discriminatory practices or exercising any other right under federal or state anti-discrimination laws. The City will not tolerate employment-based retaliation and any violation should be reported immediately.

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

## **8.2 Discrimination and Harassment Procedures:**

The Human Resources Department shall be responsible for formally notifying all employees, Department Heads, and Elected Officials, of the discrimination and harassment

policy. The Human Resources Department shall ensure that training on discrimination is periodically conducted, and that all employees receive this training.

- A.** The City Manager, Human Resources Director, Department Heads, managers and supervisors are responsible for creating a productive work environment in which discrimination, offensive conduct and harassment are not tolerated. They are responsible for taking immediate and appropriate corrective action in response to any confirmed violation of this policy and for assuring that no reprisals are taken against those who complain or participate in an investigation or oppose discriminatory conduct.
- B.** An employee or volunteer who feels they have been subjected to any harassment or believes that they have been treated in an unlawful, discriminatory manner should report the incident promptly to the supervisor, Department Head, the Human Resources Department, or City Manager. Every effort shall be made to resolve the complaint at the lowest level practicable. The complaint will be kept confidential to the extent possible given the circumstances and parameters of investigation permitted by law.
- C.** All employees, including supervisors, managers or directors, who become aware of possible discrimination of any employee, either as a result of having received a complaint directly from the employee or from personal observations, shall promptly report the situation to a Department Head, the Human Resources Director, or City Manager within two (2) business days.
- D.** The individual who receives a complaint of discrimination shall request that the employee complete the City's Internal EEO Complaint Form or shall document the complaint if the employee refuses or is unable to complete the form. A copy of the completed Internal EEO Complaint Form shall be provided to the complaining employee and to the Human Resources Department within two (2) business days of the employee's complaint.
- E.** The City is committed to investigate each complaint and to take immediate corrective action. The City Manager is responsible for the enforcement of these policies. The Human Resources Department shall provide guidance and assistance during the investigative process.
- F.** At no time shall the alleged offender assist in conducting the investigation.
- G.** The City Manager shall be responsible for appointing appropriate individuals to thoroughly investigate, document and recommend appropriate corrective action. The City Manager shall assure that all complaints are resolved promptly and effectively.
- H.** The investigation shall begin as soon as possible, preferably within five (5) business days of the investigator's receipt of any discrimination complaint and shall be

completed as promptly as possible given the scope and complexity of the particular complaint.

- I. The investigator shall consider whether it is appropriate to recommend that the alleged offender be placed on administrative leave pending the outcome of the investigation.
- J. The complainant and witnesses shall be reminded of the City's prohibition against retaliation.
- K. The investigator shall ask the complainant and witnesses not only about the alleged discrimination but also about any efforts by the interviewee to complain about the alleged discrimination and the responses, if any, of those who received such complaint(s). If it is determined that any person with authority to receive such complain(s) failed to ensure that such complaint(s) were documented and forwarded to the Human Resources Department, that individual shall be subject to appropriate disciplinary action.
- L. The results of all investigations of discrimination shall be forwarded to and reviewed by the City Manager and Human Resources Department within ten (10) business days of the conclusion of the investigation.
- M. If the City Manager determines that an employee has discriminated against or harassed another individual, prompt, appropriate disciplinary action will be taken, up to and including termination of employment.
- N. A closure interview shall be conducted with the complainant within ten (10) business days of the issuance of the investigative report informing the complainant of the results of the investigation and, where appropriate, that action will be or has been taken. The department head(s) of the complainant and alleged offender will be informed of the results of the investigation.
- O. No retaliation of any kind shall be taken against an employee who has asserted a complaint or who has reported or assisted in the investigation of a complaint of discrimination or harassment. If retaliation takes place this violation will lead to disciplinary action up to and including termination.
- P. If after the investigation of any complaint, if it is determined that the complaint is not verifiable and was not made in good faith or that an employee has provided false information regarding the complaint, disciplinary action may be taken against the complainant or any employee who gave false information, up to and including termination.

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

U.S. Equal Employment  
Opportunity Commission 505  
Marquette Ave., NW Albuquerque,  
NM 87102 (800) 669-6820

New Mexico Human Rights  
Commission 1596 Pacheco Street,  
Suite 103 Santa Fe, NM 87505  
(505) 827-6838

### **8.3 Workplace Violence Prevention:**

The City of Belen is committed to preventing workplace violence and to maintaining a safe work environment. If the employee displays any violence in the workplace or threatens violence in the workplace, the employee is subject to immediate termination of employment. No talk of violence or joking about violence will be tolerated. The City defines "violence" to include physically harming another, shoving, pushing, intimidation, coercion, fighting, brandishing weapons, acts of bullying, stalking, assault, vandalism, unauthorized possession or use of a firearm or prohibited weapon in the workplace or during work hours, and threats or talk of violence. This list is not exhaustive, and any other acts deemed inappropriate will also be investigated. The City reserves the right to take disciplinary action against this type of behavior and conduct, up to and including termination of employment.

The City is committed to providing a safe environment for employees, residents and visitors. In order to provide a safe workplace, the City requires compliance with the following provisions:

- A. All weapons prohibited. With the exception of City Police Officers, and any items needed for the course of your job duties. The City will not tolerate employees being in possession of any weapons on City property and also while on work duty on other premises.
- B. Inspections. Desks, telephones, issued cell phones, computers, lockers, etc. are the property of the City and as such, the City reserves the right to enter or inspect your work areas including, but not limited to, offices, desks, lockers, issued cell phones, computers, etc. and with or without notice of inspection.
- C. Reporting Requirements. It is everyone's responsibility to prevent violence in the workplace. If an employee observes or experiences such behaviors and/or conduct, they should report it immediately to a Supervisor/Department Director. Supervisors and Department Directors shall immediately notify the Human Resources Director and City

Manager. If the Supervisor or Department Director is responsible for the behavior and/or conduct, the employee should report to a non-involved Department Director, Human Resources Director and City Manager. If the employee believes the situation requires immediate action in order to avert a violent situation, the employee should contact the appropriate law enforcement agency immediately.

- D. Investigation and Findings. Any reported violation of this policy will be thoroughly investigated. The City of Belen will take appropriate disciplinary action based on the findings of the investigation. An employee whose behavior is determined to be in violation of this policy is subject to disciplinary action, up to and including termination.
  
- E. Employee Assistance Program. The City of Belen provides an employee assistance program (EAP) for all employees. The City's EAP offers free and confidential assessment, short-term counseling, prevention, crisis intervention, education, and referral services to employees and their eligible dependents. The EAP is a completely confidential service and is available 24/7, 365 days of the year to help employees and their dependents. Employees are encouraged to use the EAP whenever the employee feels the need for guidance in coping with life.

## **Section 9. Employee Discipline**

### **9.1 Approval by City Manager:**

The City Manager, as the pre-disciplinary hearing officer, will approve or disapprove all disciplinary recommendations from Supervisors and Department Heads for suspensions, demotions and dismissals. Suspensions without pay, demotions, and dismissals become effective when the City Manager approves the action.

### **9.2 Basis for Employee Discipline:**

#### **A. Just Cause Discipline:**

Disciplinary actions for regular employees are based on just cause in order to promote the efficiency of the services rendered by the City and the operation of its respective departments and offices. Disciplinary actions will be consistent with governing laws and regulations and will be taken without regard of political or religious opinions or affiliation, marital status, color, disability or medical condition, gender, sexual orientation, age or because of national origin, ancestry, race or ethnic background. No employee will be disciplined for refusing to perform an unlawful act.

#### **B. Definition of Just Cause:**

Just cause is defined as any conduct, action or inaction arising from, or directly connected with the employee's work or which is inconsistent with the employee's

obligation to the City and reflects the employee's disregard of the City's interest. Just cause includes, but is not limited to, inefficiency, incompetency, misconduct, negligence, insubordination, performance which continues to be inadequate after reasonable efforts have been made to correct the performance problems, or conviction of a felony or misdemeanor as described in Section No. 28-2-1 et seq. (NMSA 1978).

**C. Disciplinary Action:**

A Department Head may take disciplinary action in the form of a verbal or written reprimand, or may recommend to the City Manager suspension, demotion, or dismissal of an employee under the Department Head's authority, consistent with the departmental policies and this personnel policy manual. Copies of any documented disciplinary action must be furnished to the Human Resource Director's office for placement in the employee's file with the signature of the recipient acknowledging receipt of the action.

**D. Grounds for Disciplinary action include but are not limited to:**

The following includes those actions that may be a basis for disciplinary action. This list is not intended to be all-inclusive, but is illustrative of the types of actions that may lead to disciplinary action.

1. The employee's performance does not meet expectations.
2. The employee has been abusive in their language or actions, or has threatened or caused physical harm to others.
3. The employee has violated a written policy or order, or has failed to obey any lawful, reasonable directions given by his/her supervisor or other responsible City official.
4. The employee has been found under the influence of alcohol or drugs while on duty and/or in City facilities or has otherwise violated the Drug and Alcohol Abuse and Testing Policy.
5. The employee has been convicted of a felony or has engaged in any activity that violates State or Federal criminal statutes.
6. The employee has provided false or misleading information in any document, report, or statement related to their employment with the City. This includes but is not limited to the employment application and related materials, as well as complaints and grievances.
7. The employee has caused damage to City property or waste of City assets, through negligence, misconduct, intentional abuse, or destruction of city property.

8. The employee is unsafe to themselves, to other employees or to the public in the performance of their duties and responsibilities.
9. The employee has been inexcusably absent, has failed to receive prior approval for any absence, or has abandoned their position.
10. The employee has taken any action that discriminates on the basis of race, color, sexual orientation, gender, gender identity, religion, national origin, age, disability, or any other legally protected status.
11. The employee has engaged in prohibited political activities.
12. The employee has engaged in conduct - either during or outside of regular work hours - that brings discredit upon the City.
13. Theft of city property or unapproved use of city property for personal reasons.

**E. Consultation with the City Manager:**

Dismissal, demotion, and suspension require consultation with the City Manager, the Human Resources Director, and the employee's Department Head before implementation. Whenever such consultation is not practical because of urgent circumstances, necessary action may be taken and the situations reviewed with the City Manager and Human Resource Officer as soon as practical.

**9.3 Progressive Discipline:**

An employee shall be progressively disciplined if appropriate. Each case of inadequate performance or act of misconduct shall be judged individually. The step of corrective action used depends on the severity of the infraction and the employee's previous work record. Because of the serious nature of some infractions, the first disciplinary action may be suspension or dismissal.

All actions involving substandard work performance, leading up to and including dismissal, require progressive warnings.

**A. Verbal Reprimand:**

A verbal reprimand is used for minor infractions such as informing the employee that his actions, behavior or conduct needs to change. A verbal reprimand is not grievable. A verbal reprimand must be documented with a copy provided to the employee. Record of a verbal reprimand remains in the department of origin unless or until it becomes part of a more serious disciplinary action.

**B. Written Reprimand**

1. An employee shall receive a written reprimand because the deficiency or infraction is of a greater degree than that for which a verbal reprimand may be used or if a verbal reprimand was not effective.
2. A copy of a written reprimand shall be placed in the employee's personnel file by the Human Resource Director after the Department Head has provided the employee with the original statement. The employee will be asked to acknowledge having read the comments by signing the statement. If the employee refuses to sign, a witness will attest in writing that the statement was presented to the employee for signature. The witness' signature indicates that the employee received the statement, but does not necessarily indicate concurrence with its content. The employee may respond with a written rebuttal, which shall be placed in the employee's personnel file. The placement of a written reprimand in an employee's personnel file is not grievable.

**C. Suspension Without Pay:**

An employee may be suspended without pay for a single serious offense or for continued inadequate job performance or misconduct after previous attempt(s) to correct the conduct have failed. Such suspension will not exceed ten (10) working days. Suspension of a regular employee is subject to the City's grievance procedures.

**D. Demotion:**

An employee may be demoted for continued inadequate job performance after previous attempt(s) to correct the conduct have failed, provided that there exists a lower position in the City and the employee meets the qualifications of the job. Demotion is not an appropriate disciplinary action for an employee who has a record of excessive absences or tardiness. Demotion of a regular employee is subject to the City's grievance procedures.

**E. Dismissal:**

Dismissal is the final consequence when progressive discipline has failed to change unacceptable behavior or performance. Dismissal is also appropriate when the employee has engaged in behavior that is of a serious nature, which is unacceptable for City employees, even though the employee has not been previously disciplined. The dismissal of an employee shall be subject to the City's grievance procedures unless the employee's position is an at-will, exempt, appointed, or unclassified position.

**9.4 Conditions or Actions Not Grievable:**

The following are not grievable:



- A. Disputes as to whether or not an established City practice or policy is proper.
- B. Matters where law mandates a method of review.
- C. Matters where the City is without authority to act or does not have the ability to provide a remedy.
- D. Temporary/Seasonal, Program Paid Volunteers, PRN's and Volunteer Firefighter employees released prior to or at the end of their anticipated employment period.
- E. Probationary employees dismissed prior to the expiration of their probationary period.
- F. Appointed exempt employees dismissed at any point during their employment with the City.
- G. Dismissal of terminable-at-will employees at any point during their employment.
- H. Performance evaluations, preferences for employment promotions, voluntary transfers, temporary assignments, removal from temporary assignments, and layoffs.
- I. Denial of sick leave donation requests.

### **9.5 Informal Grievance Procedures:**

The purpose of the informal grievance procedure is to provide employees with a fair and equitable process for resolving complaints or problems with general working conditions. Most grievances should be resolved at the lowest possible level and as informally as possible. The following procedures should be the last resort in addressing problems in the work place.

**Step I.** The affected employee shall discuss the problem with the first line supervisor and attempt to work out a solution. No written documentation is required and it is anticipated that most problems will be resolved at this level.

**Step II.** If the problem is not resolved by the supervisor, the employee may file a written complaint with the Department Head, Human Resources Director, or City Manager who shall intervene in an attempt to resolve the problem. The member of management who received the complaint shall meet with the affected employee and shall issue a written finding, which shall serve as the final decision.

### **9.6 Pre-Determination Hearings:**

An employee notified of possible suspension, demotion or dismissal or loss of pay shall be entitled to a Pre-Determination hearing before their Department Head.

#### **A. Notice**

An employee shall be notified in writing at least 48 hours prior to date and time of determination hearing. The notice shall disclose the reasons for the proposed disciplinary action and all evidence supporting the reasons, and shall state the time, place, and date of the hearing.

**B. Immediate Administrative Leave**

An employee may be placed on administrative leave with pay pending the outcome of the pre-determination hearing.

**C. Hearing Procedure**

The hearing shall be informal and shall be conducted the by their Department Head with the Human Resources Director. Legal counsel will not be allowed; however, an employee may be accompanied by another employee. The purpose of the hearing is to provide the employee with a reasonable opportunity to address or refute the reasons for the proposed disciplinary action. Employees may respond to the notice of disciplinary action in writing in lieu of appearing at the hearing.

**D. Waiver**

The Hearing may be waived by the employee in which case the disciplinary action is effective immediately.

**E. Decision**

The City Manager shall render a final decision in writing within three (3) business days of the hearing or receipt of the written response to the disciplinary hearing.

**F. Appeal**

An employee dissatisfied with the decision may file an appeal through the formal grievance process.

**9.7 Formal Grievance Process:**

If an employee is not satisfied with the decision from the pre-determination hearing, they may file a written request for a formal grievance hearing. The formal grievance procedure applies only to those employees appealing suspension without pay, demotion, or dismissal.

**A. The final arbiter of suspensions, demotions, and dismissals shall be a Hearing Officer.**

The Hearing Officer has the authority to set hearings for appeals of suspension, demotion, or dismissal, determine issues of grievability on such appeals and to render decisions.

**B. An employee may file a written request for a formal grievance hearing. If an employee chooses to file a written request for a formal grievance hearing, they shall do so within three (3) working days after receipt of a pre-determination hearing decision.**

**C. The Hearing Officer shall have the power to direct the City Manager to require the presence of city employees at any hearing conducted by the Hearing Officer for the purpose of testifying.**

D. The Hearing Officer shall not have the authority to amend, modify or arbitrate away any of the provisions of this division or the rules and regulations for employment relations. The Hearing Officer shall confine themselves to the precise issues submitted.

E. The Hearing Officer shall be selected as follows:

1. The city shall be responsible for obtaining hearing officers. In order to be eligible to serve as a hearing officer, one must have:
  - a. At least three years experience in the area of employment law or human resource management.
  - b. Experience in conducting administrative hearings and the ability to render and write unbiased and impartial decisions.
  - c. At least one year experience in labor arbitration. Required education may be substituted for experience.
  - d. Shall not be a former or current City employee or elected official.
  - e. Shall not be related within the third degree by marriage or kinship to the aggrieved employee, employee's Supervisor, employee's Department head, City Manager or any currently serving elected official.

F. The Hearing Officer Shall:

1. Rule on procedural and substantive issues of the hearing.
2. Prepare a written decision upholding, reversing or modifying the disciplinary action within ten (10) calendar days of the conclusion of the hearing. The decision shall contain findings of fact and conclusions of law. The decision shall be served on the parties by certified mail, return receipt requested.
3. Have the authority to only award back wages and city contributed benefits to the employee if the hearing officer has reversed or modified the disciplinary action. If the hearing officer awards back wages, the employee shall provide the city with a sworn statement of gross earnings and unemployment compensation since the effective date of the disciplinary action. The city shall be able to offset earnings and unemployment compensation received during the period against the back wages awarded. After a written decision is issued, the hearing officer shall retain jurisdiction of the case for the sole purpose of resolving any disputes regarding back wages and city contributed benefits.

G. Each party shall bear its own costs. The hearing officer's fees and expenses for a hearing shall be paid:

1. Equally by the city and employee if the employee's suspension, demotion or dismissal is modified by the Hearing Officer;

2. By the employee if the Hearing Officer finds in favor of the city; or
  3. By the City if the hearing officer finds in favor of the employee.
- H. Upon receipt of the hearing officer's decision, the City administration shall notify the grievant within five (5) working days of said decision.
- I. The Hearing Officer's decision is appealable to District Court pursuant to the provisions of the Uniform Arbitration Act, NMSA 1978 § 44-7-22 et seq.
- J. For all grievances involving the union and/or members of the collective bargaining unit, the grievance procedures agreed to and reflected in the Collective Bargaining Agreement will be followed. There shall be no other grievance or appeal procedure on any matter for the members of the collective bargaining unit other than that contained in the Collective Bargaining Agreement.

## **Section 10. Compensation and Benefits**

### **10.1 Total Compensation:**

In determining the total compensation value of any employee position, the full cost to the City of providing benefits to the employee must be considered. Total compensation is calculated as base salary plus cost of benefits. Preference will always be given to maintaining the cost and level of benefits to employees, before considering salary adjustments. In comparing benefit packages provided in the labor market, the City may evaluate both level and total compensation costs or other factors as deemed appropriate.

### **10.2 Hours of Work:**

Employees are responsible for reporting to work at their regular scheduled time. Any employee caught falsifying time will be cause for immediate termination.

- A. The basic work week for employees begins at 12 a.m. Saturday and ends at 11:59 p.m. on Friday.
- B. Employees will work their scheduled hours pursuant to work schedules established by their department heads. Actual work periods may fluctuate at the discretion of the department heads, subject to any federal or state statutory limitations relating to hours of work.
- C. Department Heads may adjust work schedules within any given workweek to avoid overtime, by allowing time off on one day of the workweek to compensate for extra

hours worked on another day. The schedule must be flexed within the same workweek for nonexempt hourly employees, not in another workweek even if it is in the same pay period.

- D. Salaried Exempt employees may adjust their work schedules with the permission of their immediate supervisor within any given pay period.
- E. Except as otherwise provided, employees will not be paid for travel time from home to the site of their work within City or from the work site to their home.
- F. All employees electing to receive the use of a City vehicle for purposes of traveling to and from their home and work shall agree to the following: The value of the use of the City vehicle shall be treated as taxable income in accordance with the Internal Revenue Code.

**10.3 Breaks:**

Full-time and part-time employees take a one (1) hour lunch break unless otherwise approved by your department head. Department heads approving a modified lunch must ensure adequate coverage for their department. Full-time employees are entitled to two (2) fifteen minute breaks per day; employees working four (4) hours or less per day are entitled to one (1) fifteen-minute break per day. Supervisors may limit or delay breaks if continuous work is required because of an emergency or unusual conditions.

**10.4 Pay Periods and Timekeeping:**

The City shall have a two (2)-week pay period, beginning at 12 a.m. on alternate Saturdays and ending at 11:59 p.m. on the following second Friday. Employees shall be paid Bi-weekly, every other Friday.

**A. Employee's Responsibilities:**

All employees are responsible for the following:

1. To accurately record all work time.
2. Timely requesting leave.
3. To document overtime time authorized by their respective supervisor on the correct form.
4. To approve all hours worked and leave taken by end of day on the last day of the pay period. Any failure to approve hours worked, may result in delay of an employee's paycheck.

5. If absent the employee may submit in writing a request for their department head or manager to approve their time
6. Each employee is responsible for their own recordkeeping unless the employee is absent from work.

**B. Department Head/Supervisor Responsibilities:**

1. To verify their employee's time worked.
2. To approve supervised employee's time worked.
3. Timely approve or deny all employee leave requests.
4. To have all time approved for the pay period by the following Monday at noon.
5. When the need arises department heads can request in writing for Human Resources, Payroll or the City Manager to do their required approvals.

**C. Failure to Comply**

If an employee or Department Head/Supervisor fails to meet their responsibilities as stated above, their paycheck will be held until the issue is resolved.

**10.5 Overtime Pay**

Overtime pay shall be paid to non-exempt employees only when overtime work is authorized by the department head. Employees working overtime without proper authorization may be subject to disciplinary action. The rate shall be one and one-half (1 ½) times regular pay for each hour of overtime and such payment shall be made only in cases when a non-exempt employee works over forty (40) "actual work hours" in a normal work week. Non-exempt patrol officers will receive overtime for "actual work hours" over eighty-four hours during a pay period. Holiday, vacation, sick and other leave hours will not be considered "actual work hours". Overtime hours worked will be recorded for each non-exempt employee and submitted to the Payroll Officer for each pay period on the designated forms.

**10.6 Overtime Exemption for Fire and EMT personnel:**

Overtime pay shall be paid to non-exempt Fire and EMT employees only when overtime work is authorized by the supervisor. Employees working overtime without proper authorization may be subject to disciplinary action. The rate shall be one and one-half (1 ½) times regular pay for each hour of overtime and such payment shall be made only in cases when a non-exempt employee works over two-hundred and twelve (212) "actual

work hours” in a twenty-eight (28) day period as stated in the FLSA. Holiday, vacation, sick and other leave hours will not be considered “actual work hours”. Overtime hours worked will be recorded for each non-exempt employee and submitted to the Payroll Officer for each pay period on the designated forms.

### **10.7 Overtime Exemption for Police Officer**

Overtime pay shall be paid to non-exempt police department employees only when overtime work is authorized by the supervisor. Employees working overtime without proper authorization may be subject to disciplinary action. The rate shall be one and one-half (1 ½) times regular pay for each hour of overtime and such payment shall be made only in cases when a non-exempt employee works over eighty-four (84) “actual work hours” in a normal pay period for patrol and over eighty (80) “actual work hours” for CID, Investigations, and civilian staff as stated in the FLSA. Holiday, vacation, sick and other leave hours will not be considered “actual work hours”. Overtime hours worked will be recorded for each non-exempt employee and submitted to the Payroll Officer for each pay period on the designated forms.

### **10.8 Compensatory Time:**

Compensatory time is time off for hours worked beyond forty (40) hours. A FLSA classified employee may, at the discretion of the department head, accrue compensatory time in lieu of overtime payment at the rate of one and one half (1 ½) hours of time for each hour worked in excess of forty (40) "actual work hours". Compensatory time hours accrued and taken off shall be recorded for each non-exempt employee and submitted in the timekeeping system.

#### **A. Compensatory Time Capped**

Compensatory time shall be capped at 80 hours. Once an employee reaches 80 hours of compensatory time accrued, they shall be paid overtime.

#### **B. Compensatory Time Not Available Under Forty**

Hours Compensatory Time is only available for hours actually worked above forty (40) hours. Any hours worked in excess of the employee's regular hours, but less than forty (40) hours, shall not be considered compensatory time.

### **10.9 Shift Differential Pay:**

Shift differential pay is intended to compensate police officers who report to work at odd hours, to relieve the previous shift as part of their duties and responsibilities. Shift differential pay will be given only for the number of “actual work hours” per shift. Employees who work between 6:00 p.m. to 6:00 a.m. the following day shall receive an additional fifty cents (\$0.50) per hour for each hour of regular worked during that time.

### **10.10 Call-back and On-Call Pay:**

To provide uniform standards and guidelines for determining when and to what extent employees will be compensated for work performed outside their regular hours and to ensure such standards conform to the Fair Labor Standards Act.

#### **A. Call-In Pay:**

Call-in is any circumstance when an employee is required by an authorized supervisor to return to the Department premises to perform duties at the Departments premises at times when the employee is not scheduled to work.

1. Employees who are called in to work, and physically report to work during off-shift hours will be entitled to a minimum of two (2) hours pay at the applicable rate if time is actual work hours.
2. Employees do not receive an additional two hours if they are called in again within the first two (2) hour call back.
3. Employees will be paid for all hours worked if over the minimum two (2) hours for call-ins.
4. Employees called during off-shift hours to resolve an issue and are able to do so without physically reporting to work will be paid only for the time taken to resolve issue.
5. Call-In hours will count towards the FLSA overtime actual work hours for non-exempt employees in regards to overtime.
6. Call-In pay provisions do not apply to hours worked consecutively prior to, or subsequent to, the employee's normal work schedule.

#### **B. On-Call Pay:**

On-call is any period of time, other than productive time, when an employee is required to remain at a specific off-premises location, so that the employee is able to immediately resume his/her duties, if required.

1. Department heads can assign off shift employees to remain on-call with the approval of the City Manager.
2. City employees assigned to "On Call" status shall be provided with a take home City of Belen Vehicle to be used only while responding to calls and to perform the assigned City duties when necessary.
3. Vehicles designated for on-call use will be designated by the Department Director.



4. Employees designated to be on-call during off-shift hours will be compensated \$1.60 per hour for every hour on-call.
5. On-call hours will not count toward the FLSA overtime actual work hours for non-exempt employees in regards to overtime or PERA calculations.
6. Employees will not be paid the on-call pay of \$1.60 for “actual work hours”.
7. On-call employees will not be paid on-call pay if on leave.
8. Employees shall provide two weeks’ notice for non-emergency variations from this schedule.
9. An employee on on-call status shall keep his/her cell phone charged, turned on and with them at all times.
10. Employees on call must ensure that they are physically fit and able to perform their duties upon reporting for duty.
11. Employees who are on-call may not be impaired or under the influence of alcohol, illegal drugs, controlled substances without a valid prescription, or controlled substances with a valid prescription which render the employee unable to appropriately perform their duties.

#### **10.11 Final Paycheck:**

An employee who is separated from employment shall receive their final pay in accordance with NMSA Section 50-4-4 and 50-4-5, which provides:

- A. Whenever an employer terminates an employee, the unpaid wages or compensation of such employee, if a fixed and definite amount, and not based on a task, piece, commission basis or other method of calculation, shall, upon demand, become due immediately and the employer shall pay such wages to the employee within five (5) days of such termination. Day one begins the day of dismissal and includes Saturday and Sunday.
- B. Whenever an employee (not having a written contract for a definite period) quits or resigns their employment, the wages or compensation shall become due and payable at the next succeeding payday.

- C. In case of death, final salary and compensation for unused annual leave shall be paid to the employee's named beneficiary or if unnamed, to the employee's estate.
- D. The City Manager or Human Resources Director shall release an employee's final paycheck only to the employee after receiving the appropriate separation documents and all City property is returned.

**10.12 Holiday Pay:**

Legal public holidays shall be approved and authorized by the City Council for each calendar year, usually at the regular Council meeting held in December for the next calendar year's designated holidays. The following conditions will apply with respect to holidays and holiday pay:

- A. If the city is closed for a holiday, departments that are affected will be paid as follows: full-time and part-time employees working over 20 hours per week will be paid the number of hours that they are normally scheduled to work that day.
- B. Full-time and part-time employees working over 20 hours per week who are entitled to holiday pay shall be paid one additional hour of pay for every hour "actually" worked on the designated holiday.
- C. If a holiday falls on an employee's regularly scheduled day off, the employee shall be granted an additional day off which shall be scheduled with the employee's supervisor within thirty (30) days before or after the holiday. Any holiday leave not used will be lost.
- D. Part-Time Employees working less than 20 hours per week and appointed employees are not entitled to holiday pay.
- E. When a holiday falls during an employee's vacation, the day shall be counted as a holiday, and not a vacation day.
- F. In order to receive pay for a designated legal holiday, an employee must be at work or on approved paid leave status on their scheduled workday immediately preceding and following the holiday. An employee absent without leave on their scheduled work day before or after a holiday will not receive pay for that holiday.

**10.13 Gratuities:**

All City employees are prohibited from accepting gifts or other considerations given with the intent of modifying the employees' performance of duties or encouraging the employees to make purchases from the individuals or vendors involved. Employees will

maintain the highest moral standards, and any attempt to provide gifts or other consideration, or to influence employee performance in any way, shall be reported to the Department Director.

**10.14 Per Diem and Mileage:**

All payments of per diem and mileage allowances to City employees will be made pursuant to the current adopted Travel Policy established by the City. No mileage or per diem shall be paid for regular job duties performed within the boundaries of the City without the prior written authorization of the City Manager. Approved mileage requests must include a copy of current and valid employee private auto insurance coverage for the vehicle used.

**10.15 PERA Benefits:**

All City employees, except seasonal, temporary employees, are required to join the Public Employees Retirement Association of New Mexico (PERA). Copies of the latest PERA rules and provisions may be obtained in the office of the Human Resource Director. While on Worker's Compensation Leave an employee shall not accrue PERA benefits.

**10.16 Insurance Benefits:**

The City of Belen offers an extensive benefit plan to all full-time, appointed, exempt employees, and elected officials. Benefits are also available to part-time employees who work 20 or more hours per week and who are scheduled to be employed longer than six months. The City pays a portion of the premium for such benefits. Insurance plans may be changed at the discretion of the City Council. Specific benefits of the current policy may be obtained from the Human Resources Director.

**10.17 Educational Benefits:**

The City of Belen supports the further education of its employees. When the education is directly related to the performance of his/her job and the employee is attending an accredited college or university, the employee may request reimbursement of the tuition from the City. Tuition reimbursement must be pre-approved and is contingent on successful completion of all course work (minimum 3.0 GPA) and available budgeted funds. If the City has paid the tuition for a course and the employee resigns or is dismissed within a one (1) year period following the City's payment of the tuition, the employee shall reimburse the City for the amount of the tuition. This reimbursement provision shall not apply if the employee is laid off or terminated for medical reasons.

**10.18 Clothing Allowance:**

Uniformed employees are allowed a clothing allowance depending on Collective bargaining agreement, or requirements by department directors.

**10.19 Employee of the Quarter:**

Any City employee may submit in writing his or her recommendation for an employee of the quarter and the reasons therefore. The employee of the quarter shall accrue one day of personal leave up to the amount of their regularly scheduled hours of compensation time and recognition on a plaque to be placed in City Hall. Leave accrued by the Employee of the quarter must be taken in the same day. Other forms of awards and/or recognition allowable under State and local laws may be instituted.

## **Section 11. Leave**

**11.1 Authorized Leave:**

Authorized Leave is any absence, with or without pay, during regularly scheduled work hours which has been approved by the City Manager, Department Director or other designated Supervisor. Leave is granted in accordance with work load requirements and must be approved in writing in advance whenever possible. The department head is responsible for the maintenance and transmittal of leave records to the Payroll Specialist.

**11.2 Unauthorized Leave:**

Unauthorized leave is any absence without the approval of the City Manager, Department Director or other designated Supervisor. Unauthorized leave is subject to loss of pay and/or disciplinary action, up to and including termination. If an Employee is absent without authorized leave for a period of three (3) consecutive days, they will be considered to have effectively resigned from City employment, without appeal except exceptional circumstances decided by the HR Director.

**11.3 Annual Leave:**

Annual leave is intended to give the employee time for rest and relaxation. It is important and recommended that each employee take at least one (2) two consecutive week vacation per year for revitalization based on accrued hours.

- A. Annual leave will accrue on a bi-weekly basis from the date of employment.
- B. No annual leave will be granted or taken before it is accrued.
- C. An employee does not accrue annual leave for overtime or during periods of leave without pay.

- D. Upon termination, retirement, or resignation from City employment, an employee shall be paid for the employee's unused accrued annual leave, unless that employee is still in the probationary period.
- E. Annual leave must be requested in advance of the time it is to be taken, except under approved instances. Leave requests should be submitted to the Supervisor at least two weeks prior to leave date to allow for proper coverage within department and office.
- F. Part-time regular employees will receive annual leave benefits on a prorated basis to the full-time (40 hour) workweek. Employees on leave without pay will not accrue annual leave time. Temporary/seasonal employees are not eligible for annual leave.
- G. The maximum annual leave hours that may be accrued by an employee during a calendar year is 240. All hours in excess of 240 hours must be taken by the last paycheck in December; this includes any time you will accrue through December 31st. Any hours after 240 at the last paycheck of the year will be involuntarily relinquished. The City Manager may approve an extension of time only when it is in the best interest of the City.
- H. A probationary employee shall accrue annual leave but shall not be able to use accrued leave hours until they have completed the cities six (6) months probationary period.
- I. In case of death, final salary and compensation for unused leave shall be paid to the employee's beneficiary designation, or if unnamed, to the employee's estate.
- J. Department heads are responsible for making sure that employees take at least one week of vacation each year.
- K. Annual leave is accrued at the following rates:

Years of Service	Bi-weekly Accrual	Yearly Accrual
0-3	4.62	120
4-7	5.54	144
8-12	6.46	168
13-15	7.38	192
16+	8.31	216

**11.4 Sick Leave with Pay:**

Sick leave may be granted for absences from work because of personal illness, injuries, and scheduled doctor's appointments for treatment, examinations, and medical evaluations for employee or immediate family, providing the employee has sufficient sick leave hours accumulated.

- A. Sick leave will accrue on a bi-weekly basis from the date of employment at a rate of 4.62 hours per pay period for full-time employees, and part-time regular employees will receive sick leave at their regular rate of pay on a basis prorated to the full-time workweek. Temporary/seasonal do not accrue sick leave.
- B. Sick leave may be taken during probationary period; however, a doctor's release note should be submitted to the employee's Supervisor upon their return to work.
- C. An employee who has been dismissed or is resigning his employment will not be compensated for unused sick leave hours accrued, except for an employee who meets the requirements for retirement. Such an employee will receive full compensation for sick leave hours not to exceed the maximum allowable hours accrued.
- D. Accumulated Sick Leave will cap at eight hundred (800) hours. Sick Leave in excess of eight hundred (800) hours shall be paid to the employee once each year at a rate of twenty-five percent (25%) of their unused sick leave. This compensation will be computed on a calendar year basis and paid in January of each year (Res. 1995-31).
- E. An employee does not accrue sick leave for overtime or during periods of leave without pay.
- F. An employee cannot take sick leave just before the employee's separation from city employment without a medical provider's certificate or receipt of provider visit.
- G. When an employee is absent from work for three (3) or more days, and such absence is chargeable to sick leave, the employee shall provide his/her Supervisor with a doctors' statement certifying the absence was legitimate. An employee must obtain a doctor's release before returning to work. Any employee taking sick leave of less than three (3) days may be requested by his/her Supervisor or the Department Head to provide a doctor's statement. An employee who does not return to work within three (3) days of the expiration of leave or release date by attending health care provider, the employee would be considered to have abandoned his/her position and will be terminated.

### **11.5 Reporting Sick Leave:**

Sick leave shall be reported to the employee's supervisor by the employee or an immediate family member on a daily basis and as soon as possible but no longer than thirty (30) minutes after the beginning of the employee's work shift unless the nature of the illness requires extended leave certified by the employee's medical provider and of which the employee's supervisor is notified.

**11.6 Sick Leave Abuse:**

Sick leave may be authorized by the employee's supervisor when an employee is unable to perform normal job duties due to medical considerations including, but not limited to: illness, injury, pregnancy, prearranged medical or dental examination, quarantine, therapy, counseling, and treatment, or when family member requires the personal attention of the employee. Authorization is subject to the approval of the department head. Department heads may request a doctor's note at any time if there is a pattern of sick leave use. An employee may be terminated for abusing sick leave.

**11.7 Sick Leave Donation:**

Donation of sick leave is strictly voluntary. Donation of sick leave is designed to assist employees who have exhausted all accrued leave and who have no other paid leave options available. This leave may be granted in the event of catastrophic illness or injury to the employee or the employee's immediate family or for good and sufficient reason as recommended by a Department Head and approved by the City Manager or designee. The following conditions shall govern donation of sick leave:

- A. The minimum eligibility qualifications for receiving or donating leave are:
  - 1. Employee has submitted all paperwork for Family Medical Leave (FMLA); has provided all required documentation; and has been approved to be placed on FMLA.
  - 2. The City Manager may waive the FMLA requirements in emergency situations with the consultation of the Human Resources Director.
  - 3. Full-time employees who have completed their probationary periods are eligible to receive a maximum of 240 hours in a rolling twelve (12) month period.
  - 4. A probationary employee may receive up to a maximum of eighty (80) hours of donated leave, with approval from the City Manager.
  - 5. Part time and temporary employees are not eligible to donate or receive leave.
  - 6. Employees wishing to receive medical or family emergency leave donations or for other valid reasons shall complete and submit a request in writing to the Human Resources Department. Employees are not permitted to directly solicit leave donations from other employees, either for themselves or for another employee.
  - 7. Leave donations will go into a donation pool which is converted to dollar amount for each employee receiving donated time.

8. The employee receiving the time is required to be on leave because of a serious health condition (either personal or immediate family), family emergency, or any other valid reason approved by the department head.
9. Donations of Sick Leave shall only be considered from employees who have accrued a Sick Leave balance of at least 160 hours. In no event may the employee request a transfer of an amount of Sick Leave that would result in their own accumulated Sick Leave going below 160 hours.
10. Any donated time at the end of the medical emergency or when no longer needed shall revert to the donating employees on a prorated basis.

**11.8 Personal Holiday:**

All regular employees are granted a personal holiday not to exceed the amount of hours of their regularly scheduled shift. Employees may take this leave at their discretion with the approval of their Department Head.

**11.9 Bereavement Leave:**

In the event of the death of an employee's immediate family member, the employee shall be entitled to bereavement leave with pay not to exceed three (3) days for family living in New Mexico and five (5) days for family outside of New Mexico. Employees shall provide documentation to determine eligibility. An employee may, with their Department Director or Supervisor's approval, use available personal leave for additional time off as necessary.

**11.10 Family Medical Leave:**

The City of Belen is subject to and complies with the provisions of the Family Medical leave act of 1993 as enacted and amended. The City of Belen implements the provisions of the Family Medical Leave Act (FMLA) based on a rolling twelve (12) month period. If an employee has exhausted their available sick leave, they shall be required to apply for FMLA after four (4) days of consecutive absences. If an employee is out on sick leave for two (2) consecutive weeks, the employee shall be required to apply for FMLA regardless of available leave.

**11.11 Civic Duty Leave:**

An employee shall be given necessary time off with pay for the following:

**A. Jury Duty**

Pay for jury duty shall be authorized only for those days that the employee is scheduled to work. If excused by the court during a workday, the employee shall return to duty if at least four (4) hours of City duty can be served in that work day. If the employee does



not return to work, the balance of the day will be charged to annual leave or leave without pay.

**B. Court Appearance**

When required by City duties or subpoenaed to appear before a court or City Grievance Board for the purpose of testifying in regard to City matters.

**C. Voting**

For purposes of a national, state, or local election, an employee who is registered to vote will be granted up to two (2) hours paid leave for voting, between the time of opening and the time of closing of polls on election day. The employee's supervisor may specify the hours for the leave. This leave will not be granted to any employee whose workday begins more than two (2) hours subsequent to the time of the opening of the polls, or ends more than three (3) hours before the closing of the polls.

**11.12 Military Leave:**

**A. Paid Military Leave for Reserve or National Guard Activities:**

All employees of the City who are members of the Armed Forces of the United States or members of organized reserve units or the National Guard shall be entitled to a maximum of fifteen (15) calendar days of military leave with pay per federal fiscal year (The federal fiscal year is the accounting period for the federal government which begins on October 1 and ends on September 30) when called or placed on active duty or required to attend organized courses of instruction or training periods thereof. A copy of the employee's official military orders is required to be provided to the Human Resources Department prior to the commencement of such leave.

**B. Unpaid Military Leave:**

In the event an employee is called to military duty for a period beyond the fifteen (15) days allowed for military leave, the period in excess of fifteen (15) days may be charged to an employee's Personal Leave or leave without pay, at the employee's discretion. Employees on military leave with pay shall accrue personal leave.

**C. The Uniformed Services Employment and Reemployment Rights Act (USERRA).**

USERRA protects the job rights of individuals who voluntarily or involuntarily leave employment positions to undertake military service. USERRA prohibits employers from discriminating against past and present members of the uniformed services, or applicants to the uniformed services, with regard to initial employment, reemployment, retention in employment, promotion, or any benefit of employment.

**D. Employees Returning Military Unpaid Military Leave**

Any employee who leaves a position they have held with the City, other than a temporary position, to enter the armed forces of the United States, national guard or organized reserve, and who serves on active duty and is honorably discharged or released from active duty to complete their remaining service in a reserve component, and who is still qualified to perform the duties of the City position previously held, shall be re-employed in such position or in a position of like seniority, status, and pay. To be re-employed in such position, the employee must submit application for re-employment within ninety (90) days after they are relieved from training or duty, or from hospitalization continuing after discharge for a period of not more than one (1) year.

1. The returning employee will be deemed to have accrued seniority and length of service rights as though their employment with the City had been continuous since the date of initial employment.
2. The returning employee shall retain all unused annual and sick leave accrued at the time of their departure for military service.

**11.13 Leave Without Pay**

The City Manager may grant regular employees leave without pay (LWOP) for up to three (3) days in any rolling six (6) month period. Upon recommendation of the department director and consultation with the Human Resources Director.

**11.14 Leave of Absence**

The City Manager may grant a Leave of Absence of up to six (6) months, when in their opinion said absence is in the best interests of the City. A Leave of Absence is unpaid leave and is subject to the following:

**A. Employee's Position Not Guaranteed**

The employee's position is not guaranteed upon return. The City shall attempt to return the employee to the same or similar position for which the employee is qualified but is not required to do so.

**B. Benefits at Employee's Expense**

An employee on a Leave of Absence does not accrue leave, nor does the employee receive City benefits. An employee wishing to continue receiving insurance benefits may do so at the employee's expense by submitting the employee's and the City's share of the premium to the Payroll Specialist on the regular pay day. Employees may use Annual Leave if available, during a Leave of Absence.

### **C. Family Medical Leave Act**

Leave of Absence shall not be used for purposes covered by the Family Medical Leave Act (FMLA).

### **11.15 Administrative Leave with Pay for Personnel Matters**

Employees may be placed on administrative leave with pay should any action of the Employee require investigation, or should it be determined by the City Manager to be in the best interests of the City, employee, or other employees while the investigation is conducted. Administrative leave shall not constitute discipline.

When it comes to the attention of the City Manager that an employee has been charged with a crime which is a felony under the laws of the State where the charges are brought, the City Manager may, upon determining that it is in the best interests of the City in order to protect and maintain the public's confidence and trust in City government, place the employee on unpaid administrative leave pending the outcome or disposition of the criminal charges.

The basis for a determination to place an employee on administrative leave shall be documented in writing and shall be submitted to the employee, the City Manager, and the Human Resources Director at the time the administrative leave is determined.

### **11.16 Administrative Leave Due to Inclement Weather and Special Conditions**

- A. The City Manager may authorize administrative leave with pay should the City close its offices and send employees home, whether due to inclement weather, safety considerations, in conjunction with community or City special events, or other unusual circumstances.
- B. Should City offices be closed for any reason and administrative leave granted to City employees as a result, all public safety, public works, facilities, management and other essential personnel required to report to work regardless of the delay or closure as part of their essential duties (as may be designated by the City Manager, Department Director or outlined in their job description) will be compensated for their actual time worked, any overtime or Holiday Pay that may apply, as prescribed by the Personnel Policy or CBA, and will additionally be paid for the full amount of approved Administrative Leave granted to all other employees.
- C. Employees that cannot make it to work due to inclement weather will be credited with the administrative leave authorized for any delayed opening or early closing and shall be charged with Annual Leave or, if no such leave has been accrued, leave without pay for all other normal work hours missed on that work day.

### **11.17 Occupational injury Time/Worker's Compensation**

Any Employee who suffers an on-the-job injury or illness is required, unless incapacitated, to immediately prepare and submit a Notice of Accident form to their Supervisor/Department Director and the Risk Manager. If the employee is unable to do so, the Supervisor or Department Director will fill out the Notice of Accident. Any unreported injury is grounds for disciplinary action. An Employee who suffers an on the job injury or illness that requires immediate emergency treatment and returns to work on the same workday will not be charged Sick Leave. The Supervisor/Department Director shall submit the Notice of Accident form and the required Supervisor's Investigation Report form to the Human Resources Department within seventy-two (72) hours. The injured or ill employee must sign a Worker's Authorization for Disclosure of Protected Health Information for Workers' Compensation Purposes form, and Doctor Selection Notice and submit them to the Human Resources Department. The Human Resources Department will send the forms, the Notice of Accident, and a New Mexico Workers' Compensation Administration - Employer' First Report of Injury or Illness to the New Mexico Self-Insurers Fund for evaluation. Workers' Compensation benefits will be awarded as provided by law. The injured employee must be driven by the Supervisor or Risk Manager for post-accident drug testing.

#### **A. Workers Compensation Process**

1. Employees injured on the job may choose any physician for their initial evaluation and treatment.
2. Employee and Supervisor must complete all necessary forms and submit them to the Human Resources Department as soon as possible.
3. If the employee is not able to work, the first seven (7) days after filing a Workers' Compensation claim are considered a waiting period during which no Workers' Compensation benefits are paid. The injured or ill employee will have to use Personal Leave or leave without pay, if necessary, during this period. After seven (7) days out of work, an injured or ill employee that has been approved for Workers' Compensation benefits may elect to be paid 66 2/3% of their average gross pay for the preceding twenty six (26) weeks (pursuant to Section 6.10 C Benefits at Employee's Expense), OR continue using Personal Leave. The employee's decision to receive workers' compensation benefits or to use Personal Leave while out of work must be designated on an Election of Benefits Form forwarded to the Human Resources Department. The HR Director will review this process in accordance with changed or amended laws and regulations and notify employees as to any changes to be made to this process.

4. Employees out on Workers' Compensation will also be placed on Family and Medical Leave which will run concurrently with their Worker's Compensation absence.
5. After sixty (60) days, the NM Self-Insurers' Fund can require an injured employee to be seen by another designated physician for reevaluation and treatment.
6. No Personal Leave or PERA benefits will accrue while an employee is receiving Workers' Compensation benefits.
7. Prior to the employee's return to work, the treating physician may be requested to submit a written report, based on the employee's current job description, to the Human Resources Director, indicating the date the employee will become able to return to their position. If the employee returns without a full release from the physician to perform the essential functions of the job, the physician's report shall state what, if any, restrictions apply. An employee will not be allowed to work without a physician's release. It shall be the decision of the Risk Manager and Department Director whether or not to allow the employee to return to light or restricted duty. The Department Director shall consider what, if any, special projects might be available in allowing a restricted or light duty assignment.

**B. Reduction of Worker's Compensation:**

Indemnity payments (two-thirds of wages) shall be reduced by ten percent (10%) when an injury is caused by the willful failure of the employee to use safety devices provided by the City.

1. No indemnity payment shall be made to any employee whose injury was caused by the intoxication of the employee or willfully suffered or intentionally inflicted by the employee.
2. No indemnity payment shall be made to any employee whose injury was caused solely by the employee being under the influence of a depressant, stimulant, or hallucinogenic drug as defined in the New Mexico Drug, Devise and Cosmetic Act, or under the influence of a narcotic drug as defined in the Controlled Substances Act unless the drug was lawfully dispensed or administered to the employee by a properly licensed practitioner.

## **Section 12. Telecommuting**

### **12.1 Purpose**

Telecommuting is an arrangement that allows City employees to work in a designated area outside the office. Telecommuting is a cooperative arrangement between employees, supervisors, department heads, and the City Manager.

### **12.2 Policy**

- A. Telecommuting is a privilege, not a right. All City employees who telecommute must have an approved telecommuting agreement under this policy. A City department may have additional telecommuting requirements, guidelines, or procedures, provided they are consistent with the intent of this program.
- B. Telecommuting does not change the duties, obligations, responsibilities, or terms and conditions of City employment. Telecommuting employees must comply with all City rules, policies, practices, and instructions.
- C. A telecommuting employee must perform work during scheduled telecommuting hours. Employees may not engage in activities while telecommuting that would not be permitted at the regular worksite. Telecommuting employees may take care of personal business during unpaid lunch periods, as they would at the regular worksite.
- D. The City Manager or the Department head may deny, end, or modify a telecommuting agreement for any reason that is not arbitrary or capricious. Similarly, a telecommuting employee may end or request to change a telecommuting agreement at any time. Employees may be removed from the Telecommuting Program if they do not comply with the terms of their telecommuting agreements.
- E. Departments providing equipment, software, or other supplies to telecommuting employees must reasonably allocate those resources based on operational and workload needs.
- F. All City policies and regulations regarding the use of computers and the internet apply while an employee is telecommuting, regardless of whether the employee is using City-provided or personal equipment.

### **12.3 Reasons for Telecommuting**

Telecommuting may be approved for the reasons listed below and if the employee meets the eligibility for telecommuting.

- A. Ensures the continuity of operations in an emergency.
- B. Greater flexibility for City employees and departments.
- C. Assists in providing reasonable accommodations to individuals with disabilities.
- D. Improved employee morale and job satisfaction

#### **12.4 Eligibility**

Eligibility for telecommuting is based on both the position and the employee. Not every job, or every employee, shall be deemed suitable for telecommuting.

##### **A. Position Eligibility**

Below is a list of reasons your job duties would be suitable or not suitable for telecommuting:

1. Are independent in nature.
2. Are primarily knowledge based.
3. Lend themselves to measurable deliverables.
4. Are not essential to the management of the department.
5. Do not require frequent interaction at the regular worksite with supervisors, colleagues, customers, or the public, in person or by phone.
6. Do not require continuous in-person customer service.
7. Do not handle secure materials determined by the department head, to be inappropriate for telework.

##### **B. Employee Eligibility**

Employees may be suitable for telecommuting when their personal characteristics, as determined by the department head include:

1. Demonstrated Dependability and responsibility.
2. Effective communication with supervisors, coworkers, and customers.

3. Demonstrated motivation.
4. The ability to work independently.
5. A consistently high rate of productivity.
6. A high level of skill and knowledge of the job (does not require any extra training).
7. The ability to prioritize work effectively.
8. Good organizational and time management skills.

### **12.5 Security of Confidential Information**

All files, records, papers, or other materials created while telecommuting are City property. Telecommuting employees and their supervisors shall identify any confidential, private, or personal information and records to be accessed and ensure appropriate safeguards are used to protect them. A department may require employees to work in private locations when handling confidential or sensitive material. Departments may prohibit employees from printing confidential information in telecommuting locations to avoid breaches of confidentiality.

Employees may not disclose confidential or private files, records, materials, or information, and may not allow access to City networks or databases to anyone who is not authorized to have access.

Employees may not store City information on private networks or personal devices. All data created while telecommuting must be available to City staff for purposes of compliance with public records laws.

### **12.6 Procedures**

Employees and Department heads must complete the following steps before telecommuting.

- A. An employee requesting to Telecommute must do so in writing.
- B. Department head must determine the eligibility of the employee requesting to telework.
- C. Department head and employee must sit down and come up with a telecommuting agreement that will be beneficial to the department, to include: Schedule, measurable deliverables, reports, time-frame and communication standards.



- D. Department head must submit the agreement to include the eligibility reason to the City Manager for approval. The City Manager has the discretion to determine if the reasoning for telework meets these guidelines. If he determines there is not sufficient reason for the employee to telework the request will be denied.

## **Section 13. Drug Testing**

### **13.1 Drug and Alcohol Abuse and Testing Policy**

The City of Belen is committed to a goal of a drug and alcohol free workplace in compliance with the Drug-Free Work Place Act of 1988. The City's drug and alcohol abuse and testing policy shall be governed by Resolution.

## **Section 14. Dispute Resolution**

### **14.1 Policy**

Classified employees subject to a CBA require a formal process for resolving disputes. However, classified employees should attempt to resolve any dispute before filing a formal request for dispute resolution. All parties should make a written record of attempts to informally resolve a dispute. If a satisfactory informal resolution cannot be reached, the employee may file a formal Request for Dispute Resolution.

### **14.2 Formal Dispute Procedures**

Department Director Level. A formal Request for Dispute Resolution must be presented in writing to the employee's Department Director, with a copy to the Human Resources Director. The formal Request for Dispute Resolution shall set forth:

- A. The employee's name, job title, and worksite.
- B. Their address, email address and telephone number; A description of the problem or problems.
- C. The relief or resolution requested.
- D. The signature of the employee.

The Department Director shall, in consultation with the Human Resources Director, respond in writing within five (5) working days of receipt of the Request for Dispute Resolution, and may within this same period, request a meeting to discuss the Dispute and seek a resolution. If the Dispute is not satisfactorily resolved at this level, it may be filed with the City Manager within five (5) working days after receipt of the written response or expiration of the time for response by the Department Director.

#### **14.3 City Manager Level**

If the Dispute has not been satisfactorily resolved by the Department Director, the employee may submit the Dispute to the City Manager. The City Manager shall respond in writing within ten (10) working days of receipt of the Dispute and may within this time period, request a meeting to discuss the Dispute and seek a resolution. The City Manager's decision will be final and binding.

#### **14.4 Conditions or Actions Not to be Disputed**

The following matters are not subject to Dispute Resolution:

- A. Disputes as to whether or not a city practice or policy is good.
- B. Matters in which a method of review is mandated by law.
- C. Matters where the City is without authority to act or does not have the ability to provide a remedy.
- D. Temporary or Seasonal employees, program paid volunteers, volunteer fire fighters, and/or Other Government Funded employees released prior to or at the end of their anticipated employment period.
- E. An action taken against any unclassified employee.
- F. Actions taken as a result of proven charges of discrimination based on race, color, national origin, religion, age, sex, ancestry, physical or mental handicap, serious medical condition, sexual orientation, spousal affiliation, or gender identity.
- G. Preferences for employment, promotions, transfers, temporary assignments, removal from temporary assignments and lay-offs.
- H. Termination of a probationary employee prior to the end of their probation.
- I. Letters of complaint from the public which a supervisor determines to be justified and appropriate to be placed in the employee's official personnel file.
- J. Any actions taken under Section 2.28.110.130 Drug and Alcohol Abuse in this Personnel Policy.
- K. Any specific discipline handed down under Section 2.28.130.010 EMPLOYEE DISCIPLINE in this Personnel Policy. Several levels of appeal are provided within the classified employee discipline process.
- L. Performance evaluations.
- M. Denial of Sick Leave Donation requests.
- N. Appointed exempt employees dismissed at any point during their employment.