



HUMAN RESOURCES DEPARTMENT

**PERSONNEL POLICIES
AND WORK RULES**

Effective March 25, 2021

Chapter 1 Definitions

As used in these Rules and Procedures, the following words and terms shall be defined as follows:

- 1.1 **Anniversary Date** means the anniversary of an employee's hire date, but may also refer to an employee's anniversary for promotions, demotions, transfers or other personnel actions.
- 1.2 **Anything of Value** means any goods that have a certain utility to the recipient that is real and that is normally purchased.
- 1.3 **Break in Service** means any period following termination of employment of at least one normal work day and shall affect the employee's anniversary date.
- 1.4 **Business Day** means a day upon which City offices are open to the public: typically, Monday through Friday, except for City-recognized holidays.
- 1.5 **Candidate** means any person who has qualified under these Rules for employment to a position in a specified classification.
- 1.6 **Classification** means one or more positions in the City sufficiently similar in duties and responsibilities, degree of supervision exercised or received, and minimum qualifications, so that the same descriptive title may be used to designate them and the same salary grade applied to all such positions.
- 1.7 **Classified Position** means a job which requires a regularly assigned combination of duties to be performed by one employee in the City and a position which is not temporary and may or may not be exempt under the Fair Labor Standards Act.
- 1.8 **Compensation Plan** means a series of salary grades. Each position is assigned to a grade, based upon the evaluation of the position.
- 1.9 **Complaint** means an expression of dissatisfaction and a request for a review by an employee of a possible violation of a City Personnel policy or procedure.
- 1.10 **Confidential** means work-related communication that is not intended to be disclosed to other persons, other than those with a bona fide need to know.
- 1.11 **Controlled Substance** includes, but is not limited to, heroin, opioids, cocaine, or PCP as well as legal drugs not prescribed by a licensed physician.
- 1.12 **Corrective Action** means verbal warnings, written warnings, and written reprimands.

- 1.13 **Demotion** means the change of an employee, for disciplinary or other reasons, from a position in one class to a position in a class with a lower salary grade, for which the employee qualifies.
- 1.14 **Department** means the administrative grouping of divisions, sections, units and subunits as specified by the current City organizational chart as adopted by the Governing Body.
- 1.15 **Deputy Director** means an employee who serves as an assistant to the department director and who is empowered to act in the absence of the director.
- 1.16 **Director or Department Director** means the head of a department of the City.
- 1.17 **Disability** means a temporary or permanent physical or mental condition attributable to an intellectual, psychiatric, cognitive, neurological, sensory, or physical impairment, or combination thereof, restricting a person's everyday activities, and ability to perform the essential functions of a job.
- 1.18 **Disabled Person** means anyone who has a medically documented physical or mental impairment which substantially limits one or more major life activities or has a record of such an impairment or is regarded as having such an impairment. Life activities are those that affect employability; substantially limits means that a person is likely to have difficulty getting, keeping, or advancing in a job because of an impairment.
- 1.19 **Discharge** means the involuntary termination of an employee for disciplinary reasons.
- 1.20 **Disciplinary Action** means suspension, demotion or dismissal.
- 1.21 **Employee** means any person placed on the City payroll to perform work for the City for which compensation is received.
- 1.22 **Employee Relations** means all matters that are subject to consultation, negotiation and communication among employees, between employees and supervisors, or between the Governing Body and executive, supervisory, or other employees.
- 1.23 **Employment** means the hiring of a person into a position.
- 1.24 **Employment Application** means all written material submitted by an individual to indicate interest in a position with the City.
- 1.25 **Equal Employment Opportunity** expresses the commitment of the City to provide equal access to job opportunities for applicants and employees regardless of race, age, religion, color, national origin, ancestry, sex, physical or mental handicap or medical condition.
- 1.26 **Exempt Position** means any City office, job, or position of employment determined by the Administration to be exempt from application of the Fair Labor Standards Act and for which the City is not obligated to compensate for work in excess of 40 hours per week.

- 1.27 **Fair Labor Standards Act (FLSA)** means the federal law enacted by the U.S. Congress in 1938, as amended, to regulate minimum wages, overtime pay, equal pay, record-keeping and child labor standards.
- 1.28 **Furlough** means temporary unpaid leave for employees due to economic conditions of the City, the economy as a whole, or operational needs of the City, whether due to declared state of emergency, or other significant factor.
- 1.29 **Family Member (Recruitment/ Hiring Purposes or Bereavement Eligibility)** is defined as a relative within the third degree of blood or marriage to include parent, step-parent, sibling, spouse (or domestic partner, affidavit must be on file), child, stepchild, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, great grandparent, great grandchild, niece/nephew, and aunt/uncle of the employee and shall also include persons with whom the employee has a legal custodial relationship.
- 1.30 **Family Member (Sick Leave and FMLA Purposes)** Family member means children, parents, spouse, and domestic partner.
- 1.30 **Good Standing** refers to the status of a former employee who left employment with the City under favorable circumstances. Determining factors include, but are not limited to giving sufficient resignation notice, cooperation with exit interview process and general demeanor in departure process.
- 1.31 **Governing Body** refers to the Mayor and City Council. A member of the Governing Body can refer to the Mayor or a City Councilor.
- 1.32 **Hatch Act** means that federal law (5 USC Sections 1501 to 1508) which prohibits certain partisan political activity by an employee whose principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States or a federal agency.
- 1.33 **Job Description** means a written statement of duties and responsibilities which are characteristic of a position and includes the education, experience, knowledge, and ability required to perform the duties of the position.
- 1.34 **Just Cause** means any behavior relating to the employee's work, which is inconsistent with the employee's obligation to the City. Just cause includes but is not limited to: inefficiency; incompetency; misconduct; negligence; insubordination; performance which continues to be inadequate after reasonable efforts have been made to correct it; or conviction of a felony or misdemeanor where the provisions of the Criminal Offender Employment Act apply.

- 1.35 **Layoff** means the involuntary separation, without prejudice, of an employee when a position has been abolished because of insufficient funds, lack of work resulting in a reduction in force or reorganization, or due to conditions created by a declared state of emergency.
- 1.36 **Leave of Absence** means a period of approved absence from active work during which unpaid as defined under the applicable section of Chapter 9 of these rules.
- 1.37 **Light Duty Assignment** means a specific assignment lasting no longer than ninety (90) days, which a department director may grant with the advance approval of HR, for an employee who is temporarily restricted from performing their essential job functions.
- 1.38 **Management** means the collective body of those who direct, supervise, or administer within the City's organization of departments, divisions, and sections.
- 1.39 **Mandate** means any federal law, federal regulation, state law, state regulation, Sandoval County ordinance, municipal ordinance of the City of Rio Rancho, resolution of the City of Rio Rancho, approved motion of the Governing Body, personnel rules and regulations, departmental rules and regulations, and rulings of federal, state, metropolitan, and municipal courts.
- 1.40 **Nonexempt Position** means any city job or position that is subject to the terms and provisions of the Fair Labor Standards Act and requires the payment at one-and-one-half (1-1/2) times the employee's base rate of pay for all overtime hours worked.
- 1.41 **Probationary Period** means a period of twelve (12) months served by an employee, during which the employee demonstrates the ability to adequately perform the job.
- 1.42 **Promotion** means the change of an employee from a position in one classification to a position in a classification with a higher salary grade.
- 1.43 **Reclassification** means a change of a position from one classification to another.
- 1.44 **Reemployment** means the employment of a former employee in any position with a new employment start date.
- 1.45 **Resignation** means a voluntary termination from employment by the employee.
- 1.46 **Resolution** means the full permanent record of an official action, policy, or position adopted by an affirmative vote by a majority of all members of the Governing Body, and having the force of law upon the employees and operations of the City.
- 1.47 **Rules** means the Personnel Policies and Work Rules as may be amended, distributed in accordance with the provisions of the City's personnel ordinance.

- 1.48 **Salary Grade** means a division of the wage and salary schedule to which a salary range is assigned.
- 1.49 **Selection** means the choosing of a candidate for employment.
- 1.50 **Seniority** refers to duration of uninterrupted employment with the City.
- 1.51 **Supervisor** means an employee who manages a recognized work unit and who customarily and regularly directs the work of one or more employees. Direction includes being involved and making recommendations, which are given particular weight, regarding each subordinate's work assignments, training, work schedule overtime authorization, performance evaluation, hiring, or discipline.
- 1.52 **Suspension** means the involuntary leave without pay of an employee for disciplinary reasons. In no event shall a suspension exceed thirty (30) calendar days or equivalent work hours.
- 1.53 **Temporary Position** means a position for which the services performed by an employee are required for a period of no more than nine (9) months.
- 1.54 **Term employee** means individuals employed for a specific period of time.
- 1.55 **Termination** means the separation from employment with the City, whether due to layoff, resignation, dismissal, or other reason.
- 1.56 **Test** means a method of measuring qualifications, fitness and ability, and includes examinations that are either written, rated, oral, physical or in the form of a demonstration of skill or ability, or any combination thereof.
- 1.57 **Transfer** means the movement of an employee from one classified position to another classified position within the same pay grade without a break in service.
- 1.58 **Unexcused Absence** means an absence which is not timely requested given the circumstances for each employee's responsibilities for an absence for which documentation is required, but not provided, upon the employee's return to work. Any unexcused absence shall be considered also to be Absent Without Leave (AWOL).
- 1.59 **Veteran** means any person, except one receiving a retirement annuity, who served in the United States Armed Forces for at least one hundred eighty (180) days and/or was separated under other than dishonorable conditions. An individual separated from the armed forces prior to completing one hundred eighty (180) days of service for a service-connected disability or under hardship conditions shall be considered a veteran.

Chapter 2 General Provisions

2.1 Authority

The following Personnel Policies and Work Rules are adopted by the Governing Body of the City of Rio Rancho by Resolution No. 34/Enactment No. 21-033 and take effect March 25, 2021.

2.2 Prior Rules

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

2.3 Compliance

All employees covered by the provisions of these Personnel Policies and Work Rules (“Policies and Rules”) shall conform to, comply with and aid in all proper ways in carrying out the provisions of these Policies and Rules.

2.4 Penalties

Any employee, who, alone or with others, violates any provisions of these Policies and Rules, in addition to any other penalty imposed for such violations, is subject to disciplinary action, including suspension or termination.

2.5 Purpose

These Policies and Rules are set forth for the purpose of promoting efficiency in the conduct of public business and trust and to assure fair and impartial treatment for all City employees and applicants for employment.

2.6 Coverage of these Policies and Rules

These Policies and Rules shall apply to all positions and employees except:

- A. Officials elected by popular vote or appointed to fill vacancies in elective offices.
- B. Members of City boards and commissions.
- C. Those on a professional services contract.
- D. Employees in American Federation of State, County, and Municipal Employees (AFSCME) Local 3277 Bargaining Unit accreted classifications. Such employees remain covered by prior Personnel Policies and Work Rules adopted on February 26, 1992 (as amended).

If a conflict occurs between these Policies and Rules and a Collective Bargaining Agreement, the Collective Bargaining Agreement will prevail.

2.7 Guiding Principles

The principles of these policies are based on the City's adopted mission, vision, and values as expressed in the City's most current and adapted Strategic Plan, specific to Government Services and Equal Employment Opportunity compliance.

2.8 Interpretations and Matters Not Covered

The City Manager may issue supplemental or additional policies as necessary to carry out and uphold the City Administrative Policies and Procedures.

2.9 Technical Rules

These Policies and Rules relate to the matters of personnel administration and may not cover every department's procedures, standard practices, standing orders, or other technical matters. A department director shall make such departmental rules and procedures as are consistent with these Policies and Rules. Department rules and procedures shall be subject to approval by the City Manager. Upon adoption, the department director shall file a copy of the departmental rules and any amendments or changes with the Human Resources (HR) Department.

2.10 Changes, Modifications, and Revisions of these Rules

A. Changes

These Policies and Rules are issued by authority of the Governing Body, and may be amended by the City Manager, subject to Governing Body approval. Suggestions for amendments to or changes in these Policies and Rules are welcome and may be submitted in writing to the HR Department.

B. Temporary Modifications

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

2.11 Distribution of Personnel Policies and Rules

Copies of these Policies and Rules and all amendments thereto shall be made available to all employees. Directors shall maintain a hard copy in their respective departments. Employees shall be responsible for reviewing, acknowledging, and complying with all polices and updates as they are issued. New employees shall be afforded access to these Policies and Rules.

2.12 Policy Limitation

These policies do not create a contract between the City of Rio Rancho and any employee, or grant to any employee the right to be continued in the employment of the City of Rio Rancho, or limit the right of the City of Rio Rancho to discharge employees.

Chapter 3 Employment Policies

3.1 Recruitment and Selection

The City is committed to ensuring equal opportunity to all qualified individuals. Recruitment and selection shall be conducted in a manner that provides equal employment opportunity, and prohibits unlawful discrimination because of race, color, religion, national origin, ancestry, physical or mental disability (provided reasonable accommodation is possible), pregnancy, age, sex, sexual preference, gender identity, spousal affiliation, veteran status, or genetic information in accordance with the City's Equal Employment Opportunity policy. The HR Director shall be responsible for ensuring compliance with City policies and rules, and contractual obligations concerning the recruitment and selection of City employees.

3.2 Interviewing for Internal Positions

Current City employees interviewing for City positions shall be permitted to attend such interviews on paid work time (including related travel time to and from interviews) if the interviews are during employees' current work schedules. Any employee selected for an interview for a City position who wishes to be paid regular work time for the interview shall request time off from their supervisor as soon as practicable. Supervisors shall not unreasonably deny an employee's request for time off to attend an interview for a City position unless it creates an undue operational burden.

3.3 Disclosure of Employment Applications

Applications submitted by candidates for employment at the City of Rio Rancho are public records and are subject to public inspection in accordance with the New Mexico Inspection of Public Records Act (IPRA). Certain information provided by candidates that is not subject to public disclosure under IPRA will be redacted before such application information is produced for inspection.

3.4 Restrictions on Employment

A. Employment under Age 18

The City of Rio Rancho's minimum age for full-time regular employment is 18 years of age. The only exception may be for selected seasonal, temporary, or part-time positions as allowed by federal or state law. Applicants younger than 14 years of age are not eligible for employment with the City of Rio Rancho.

B. Employment of Family Members

Applications for employment with the City from relatives of current City employees will be considered on the same criteria as the public at large. Hiring officials may not hire or supervise a family member or a family member of a line supervisor without the advance approval of HR. For the purposes of

this policy, family members are defined as individuals related by blood or marriage within the third degree, adoption, or living in the same household and applies to all employee categories, regardless of regular or temporary status.

- C. In the event two employees within the same department establish a relationship by marriage and are not in positions of supervision, both may continue in their current positions. However, if two employees are in positions of direct supervision of one another and these two employees establish a relationship by marriage, the City Manager may transfer one of the employees to a position removed from the supervisory control of the other if it is determined that such transfer is in the best interests of the City. If such transfer is determined to not be in the best interests of the City, the affected employees shall determine which one shall resign from City employment.
- D. Family members of elected City officials and the City Manager will not be employed. However, with regard to elected officials, any family member employed before such officials are elected may remain employed but are not eligible for rehire if the employee leaves City employment and wishes to return while such elected official remains in office. In addition, family members of a department director or deputy director will not be employed within the same department as the director or deputy director.
- E. A waiver/ exception to this section may be granted only through the adoption of a resolution by the Governing Body at an appropriately noticed public meeting of the Governing Body. Only a Governing Body Member (Mayor or City Councilor), City Manager, or the HR Director may sponsor and seek Governing Body consideration of a waiver/ exemption resolution.

3.5 Residency Restriction

The City of Rio Rancho requires that its employees reside permanently within a 100-mile radius of the City in order to become employed and while employed. Deviations from this residency restriction must be approved in advance by the HR Director.

3.6 Probationary Period

All newly hired or rehired City of Rio Rancho employees, except those hired into seasonal or temporary positions, are employed on a probationary basis as required by their respective job classification. During this probationary period, a determination is made as to whether or not an employee is suitable for continued employment. During their probationary period all employees serve “at will” and can be dismissed with or without cause by the City and without right of appeal.

Any employee who transfers to a new position during their probationary period shall serve a minimum of six (6) months or the remainder of their probationary period, whichever is longer, as required by their respective job classification.

Upon satisfactory completion of the probationary period, an employee will be considered Regular Employee (either Full-Time or Part-Time) with full rights and privileges under these rules.

Any employee or probationer who transfers to a new position as a Police Officer Cadet or Firefighter Cadet shall serve the full probationary period required by the new position.

3.7 Work Schedule

The City establishes work schedules as required by workloads, work flow, operational needs, and efficient utilization of HR.

A. Full-Time (Regular) Work Schedule

The workweek for all employees (except for some Fire and Rescue) begins at 12:00 am on Monday and ends at 11:59 pm on Sunday. A typical work schedule for full time employees shall consist of forty (40) hours. The exact work schedule of working hours shall be determined by each department director, and the employees shall be informed of their daily work schedule.

B. Part-time Work Schedule

The work schedule for part-time employees shall consist of fewer than forty (40) hours in a work week. Part-time employees will work the hours designated by their position classification and department director.

C. Overtime

There may be occasions when nonexempt employees (as defined in the FLSA) will be required to work more than their normal schedule. **No employee is permitted to work overtime unless authorized in advance by the supervisor with the approval of the department director.** Overtime will be assigned by the supervisor to employees performing the particular job function which requires the overtime.

3.8 Work and Time Reporting Expectations for FLSA Exempt Employees

It is expected that all FLSA exempt employees work 40 hours per week. While such employees should adhere to a set work schedule to the extent possible, the totality of reported hours for each two-week pay period should equal 80. It is understood that deviations may occur on occasion; however, workweeks consisting of less than 40 hours should be rare exceptions, with time recorded properly and approved by supervisors of FLSA exempt employees.

For workdays in which FLSA exempt employees work less than their normal schedule, time should generally be made up within the same pay period. In cases where FLSA exempt employees work less than half of their hours in a given workday, and the time is not made up during the current two-week pay period, the time not worked should be accurately recorded with the appropriate preapproved leave code (vacation, sick, etc.). All hours worked should be recorded to the nearest 15 minute interval using proper payroll codes, for workload management

and accounting purposes. Rules for time reporting under this policy are promulgated through the City Administrative Policies and Procedures (as amended).

3.9 Attendance

Employees shall report to their assigned work location in accordance with their work schedules, unless a supervisor has granted their request for approved leave, and shall report to duty, capable of performing their essential job functions, with or without accommodation. Employees are expected to adhere to their work schedules with regularity and punctuality.

When an employee is unable to report to work on time or will be absent due to an emergency, the employee must notify their supervisor at least one (1) hour before the start of their shift or as soon as practicable.

If the employee's attempt to notify the supervisor is unsuccessful, the employee shall notify the next level manager, providing all pertinent information related to the absence.

If the absence continues for more than one (1) day, the employee shall advise the supervisor of the anticipated length of absence including the expected date of return to work.

Prior to the employee's return to work, the City may request an employee provide confirmation and/or documentation of the need for the absence.

An employee is considered tardy if he/she is not ready for work at the beginning of their scheduled workday/ shift. An established pattern of tardiness may be subject to corrective and/or disciplinary action.

3.10 Outside Employment

Employment with the City is the employee's primary responsibility. The City depends on its employees to engage their full attention and efforts to all assigned work duties and work schedule, which should be taken into consideration when engaging in additional employment.

Should a new employee wish to continue existing outside employment in addition to their work as a City employee, the employee must notify HR as soon as possible.

Should an existing employee desire to seek additional work or employment outside of the City, the employee must submit a written detailed request, which specifies all terms and conditions concerning the outside employment to their department director prior to accepting any outside employment. If the department director approves the request, the department director shall submit the approval notice to the HR Director for final review and approval.

Outside employment shall not be considered an excuse for poor job performance, absenteeism, tardiness, or failure to work overtime. Whenever outside employment may cause or contribute to any of the items listed in above, the employee shall discontinue their outside employment or the employee may be subject to disciplinary action, up to and including termination.

3.11 Workplace Attire and Hygiene

All City of Rio Rancho employees are expected to present a professional image to clients, visitors, customers, peers and the public, as determined by directors of each department. As a public entity, all clothing shall be free from speech or images displaying political positions or sentiments and any images which may be reasonably considered offensive or inflammatory. The same expectations also apply to any other items or images on an employee's person which is visible to the public including, but not limited to, facemasks, hats, jewelry, exposed tattoos, badges, safety gear, lanyards, etc. Acceptable, professional personal appearance is an ongoing requirement of employment with the City. For additional information on related procedures and religious accommodations, please consult the City Administrative Policies and Procedures (as amended).

If an employee arrives at work inappropriately dressed, they will be required to go home, change into conforming attire or properly groom, and return to work. Any employee required to return home and change attire or address hygiene issues is not entitled to be paid for that period of time. If an employee's poor hygiene or use of excessive perfume/cologne is problematic, the supervisor should consult HR for guidance, discuss the problem with the employee privately and should indicate specific areas to be corrected. If workplace attire/ hygiene problems persists, supervisors should consult with HR for further guidance.

3.12 Telework

Teleworking is the concept of working from home or another location on a full, part-time, or intermittent basis. Teleworking is not a general employee benefit, but rather a privilege and/or an alternative method of meeting the needs of the department. Teleworking is not available to all positions and personnel. Additionally, some personnel may be mandated to telework to ensure continuity of operations or due to lack of available on-site workspace. Teleworking requires the approval of the department director or designee and is not a viable option for all employees or positions. For additional information on requirements and procedures, reference the City's Administrative Policies and Procedures (as amended).

Chapter 4 Classification Plan

4.1 Classification Plan

All City positions, except elected officials or appointees to boards, committees, commissions or authorities, whether occupied or vacant, are assigned to classifications of work in accordance with the actual duties and responsibilities of the positions. There may be one or more positions in a classification. The Classification Plan is subject to approval by the City Manager.

4.2 Responsibility of the Human Resources Department

The HR Department shall have the primary responsibility to maintain the City Classification and Compensation Plans. On a continuing basis, the HR Department shall review the classifications for their appropriateness and shall submit recommendations to the City Manager for action.

4.3 Employment Classifications

A. Employee Fair Labor Standards Act (FLSA)

The Fair Labor Standards Act as regulated by the Department of Labor classifies employee positions as either "exempt" or "nonexempt." The FLSA classification designation of a position determines how employees may be paid, among other things, for hours worked in excess of forty (40) hours per week and whether or not they are subject to the minimum wage and overtime provisions of the FLSA. HR determines which positions will be exempt or nonexempt in accordance with the Department of Labor (DOL) laws and rules.

B. Exempt Employees

Exempt employees are salaried employees not subject to the minimum wage and overtime provisions of the FLSA, and are expected to customarily perform duties requiring approximately 40 hours per week. For additional information and procedures regarding time reporting, see the City Administrative Policies and Procedures Manual (as amended).

C. Nonexempt Employees

Nonexempt employees are paid on an hourly basis and are subject to the minimum wage and overtime provisions of the FLSA. The hours worked by nonexempt employees are reported via timekeeping system. These employees shall receive overtime pay in accordance with FLSA.

D. Full-Time (FT) Regular

City employees budgeted to work 35 or more hours per week, have completed their probationary period, and are entitled to employee benefits.

E. Part-Time (PT) Regular

City employees budgeted to work at least 20, but no more than 34 hours per week in a regular, budgeted position, have completed their probationary period, and are entitled to prorated employee benefits.

F. Bargaining Unit Position Designations

Bargaining Unit Positions are designated as: AF (AFSCME), FF (Fire Union), or PO/ DS (Police Union). These positions are also subject to Collective Bargaining Agreements (CBAs), which often supersede certain City Policies. All bargaining unit positions are non-exempt for the purposes of overtime under the FLSA.

G. Management Confidential (MC)

Positions are not represented by a bargaining unit and are classified as such due to meeting the definition of “management”, “supervisor”, or “confidential” under the State of New Mexico’s Public Employee Bargaining Act (PEBA). MC positions may be either exempt or nonexempt for the purposes of overtime, as determined by the FLSA.

H. Executive Benefitted (EB)

Employees in these positions are executive level and are at-will. These positions include but are not limited to City Manager, Deputy City Manager, City Attorney, City Clerk, Department Directors, Economic Development and Business Relations Manager, and Public Affairs Division Manager.

I. Non-Benefitted (NB)

City employees budgeted to work less than 20 hours per week and temporary employees. Such employees are not entitled to employee benefits or bargaining unit representation.

J. Grant Funded (GF)

A GF appointed employee is hired (full or part-time) into a position that is funded and defined by a grant and designated to run for a defined period of time. Employees in this category are not eligible for bargaining unit membership and may not be eligible for benefits. Employees in this category are at-will employees, and their employment may be terminated at any time, without rights to appeal.

K. Term (TE)

The City may employ individuals for a one-time, finite period, the terms and provisions of which are memorialized through written agreement.

L. Temporary (TP) or Seasonal (SE)

The City may employ individuals on a temporary or seasonal employment status, which shall be limited to no more than nine (9) months in duration. Temporary employees shall not be eligible for bargaining unit membership or employee benefits nor receive any of the benefits provided by these rules. Employees in this category are at-will employees, and their employment may be terminated at any time, with or without cause, and without any right to appeal.

4.4 Class Specification and Position (Job) Descriptions

A written job description shall include the position title, a summary of duties and responsibilities, examples of typical duties performed, a statement of minimum qualification requirements, essential functions, employment designation, and a definition of working conditions, which shall be maintained for each classification as follows:

- A. The HR Department shall review job descriptions on an ongoing basis and as needed.
- B. Job descriptions shall be written to incorporate the essential functions of the job which must be performed with or without a reasonable accommodation.

4.5 Change in Classification Status and/or Anniversary Date

Any change in classification status shall be approved by the HR Director or designee. In cases of promotion, transfer or demotion, the effective date of the classification will become the employee's anniversary date for purposes of seniority and performance evaluation deadlines. A change in classification shall take effect at the beginning of a pay period, unless an exception is made by the HR Director. Such status changes shall include:

A. Promotion

A promotion is the advancement from one's position to a position in a higher grade, with higher level duties and responsibilities. An employee shall meet all requirements of the new position before being promoted.

1. Nonexempt Employees

An employee being promoted to a nonexempt position will be paid at the minimum of the new range or receive a pay increase of 5%, whichever is greater. A higher increase, of up to an additional 3%, may be recommended by the department director and approved by the HR Director. Any additional increase due to special circumstances must be approved by the City Manager.

The effective date of an employee's promotion becomes that person's new anniversary date.

2. Exempt employees

Upon promotion to an exempt position, the employee may receive a pay increase within the grade of the new position. The amount of the increase, up to a maximum of 15%, will be determined upon recommendation by the department director and approved by the HR Department with final consideration by the City Manager. Any promotional increase above that limit must be approved by the City Manager. The effective date of the promotion becomes the employee's new anniversary date.

3. Lateral Transfer

A lateral transfer is a voluntary movement of an employee from one classified position to another classified position in the same grade, without a break in service. Lateral transfer does not include a pay increase or adjustment in most cases. Lateral transfers are subject to the same probationary period and re-employment rights as promotions.

B. Demotion

A demotion is the movement of an employee from a position in one pay grade to a different position in a lower grade. Any demotion may be subject to an automatic decrease in pay, pursuant to HR Director's determination.

C. Involuntary Transfer

Involuntary transfers of employees may be made to best use employee skills, education, or experience. A transfer may involve employee reassignment to another position within the City. The HR Director and the City Manager determine if and how an employee may be transferred involuntarily.

D. Reclassification

A reclassification is the transformation of a position from one class to another to recognize a significant change in the duties and responsibilities of a position. All reclassification requests shall be presented to the HR Department for evaluation and recommendations. If, as a result of review conducted by the HR Department, it is determined that the duties being performed in a specific position are not appropriate to that classification or grade, the position may be reclassified and the following will apply:

1. In most cases, if the position is assigned to a higher salary grade, the new rate of pay shall follow the same rules as stated for promotions.
2. In most cases, if the position is assigned to a lower salary grade, the new rate of pay shall follow the same rules as stated for demotions.

E. Changes in Employee Status or Pay Rate

A change in an employee's status from part-time to full-time or from full-time to part-time shall not affect the employee's hourly pay rate. A change in employee status shall be effective at the beginning of a pay period unless an exception is made by HR.

F. Temporary Interim Assignments

1. An employee may be assigned to fill a vacant position on a temporary or interim basis. If the vacant position is in a grade which is lower than the position of the employee temporarily assigned, the employee shall not have a reduction in pay.
2. If the position to which the employee is temporarily assigned is in a grade which is higher than said employee's regular position and outside of the scope of the employee's current job responsibilities, the employee shall receive a pay adjustment.
 - a. The temporary assignment must be for a period of more than thirty (30) consecutive days. The employee's temporary pay adjustment will take effect on the 31st day of the assignment.
 - b. An employee who accepts a temporary assignment in accordance with this policy is eligible to receive an increase of 5% above their current pay rate or the minimum of the new grade whichever is greater. Any department director's recommendation exceeding 5% is subject to HR Director approval.
3. If the position to which the employee is temporarily assigned is FLSA exempt, the assignment is for a period of more than thirty (30) consecutive days, and the employee receives a temporary increase in pay, said employee shall be considered FLSA-exempt for the duration of the temporary assignment.
4. If the temporary assignment consists of some but not all higher-level responsibilities, the amount of the pay adjustment shall be subject to the department director's recommendation, but the HR Director shall make the final determination.
5. At the conclusion of the temporary assignment, the employee shall return to the former position and rate of pay, adjusted for any intervening cost of living adjustments.

Chapter 5 Compensation Plan

5.1 Objectives

In an effort to hire and retain the most qualified employees, the City of Rio Rancho has developed a formal salary administration program. The fundamental objective of this program is to ensure that employees are paid in relation to the value of the work they perform and that all employees receive equitable compensation for their qualifications, skills, abilities, and successful performance in their respective positions. All provisions of these objectives are contingent upon the availability of funds.

5.2 Rate Schedules

The City of Rio Rancho will maintain wage rate schedules setting forth a series of salary grades, numbered from the lowest to the highest. Each salary grade will have a salary range, the minimum of which corresponds to the lowest rate usually paid to a fully qualified employee; a midpoint; and a maximum, which is the greatest value the position has to the City. Every position shall be assigned to a salary grade.

Regularly, HR and City Manager shall review the competitive rates of pay for City positions, and, subject to the availability of funds, may make any necessary adjustments in the rate schedule, to be effective for the next fiscal year. Term and temporary employees may not be eligible for any cost of living increases.

5.3 New Positions

Subject to City Manager approval, HR may create new City positions classified according to similar duties and responsibilities associated with other City positions.

5.4 Hiring Rate

The recommended hiring rate for a new employee is the minimum rate in the designated pay grade for the position.

In rare situations when a candidate has exceptional qualifications, that candidate may be offered a rate of pay between minimum and midpoint of the range. Such exceptions must be approved by the HR Director. Any hiring rate above the midpoint of the range must be approved by the City Manager before an offer may be made.

5.5 Payroll Procedures

Payroll personnel shall timely and accurately process and account for employee pay. The Payroll Office abides by state and federal laws, labor agreements, Bureau of Labor standards, and the City of Rio Rancho Personnel Policies and Work Rules. Each employee is responsible for reviewing her/his paystub for accuracy (including hours paid, accruals, and correct

withholding). Any and all suspected errors in a given pay period shall be reported to payroll personnel before the end of the following pay period. Any and all overpayment of wages shall be reported by employees to payroll personnel immediately. Overpayment of wages shall be repaid immediately to the City either by lump sum payment or by withholding future wages due to the employee, until such overpayment is fully repaid.

A. Paydays

The pay periods for City employees are biweekly. Employees receive their paychecks on the Friday following the close of the pay period. In the event that a payday Friday is observed as a holiday, every effort will be made to distribute the paychecks to employees on the workday preceding the holiday.

B. Recording of Hours

All City employees shall keep a clear and accurate record of their hours worked and leave taken. At the end of the pay period, each employee shall complete and confirm their time record verifying its accuracy. For additional information on time reporting for FLSA-exempt employees, reference Chapter 3 (Time Reporting Requirements for FLSA-Nonexempt Employees), or City Administrative Policies and Procedures (as amended).

C. Overtime Provisions

1. Approval

There may be occasions when nonexempt employees will be required to work more than their normal schedule. A supervisor may assign an employee to perform a particular job function which requires overtime. No employee is permitted to work overtime unless authorized in advance by the supervisor with the approval of the department director. Where operations are continuous, an employee shall remain at the work place until replaced by the next shift employee or the supervisor.

2. Pay

Federal law mandates that FLSA nonexempt employees (non-law enforcement only) must receive overtime pay for hours worked in excess of 40 in a workweek of at least one and one-half times their regular rates of pay. Part-time employees will be paid at their straight time hourly rate for all hours worked up to forty (40) hours in a workweek.

a. Flex-Time in Lieu of Overtime

Employees may select to flex their schedules in lieu of overtime pay if agreed upon with their supervisors before working the overtime.

4. FLSA exempt employees are not eligible for overtime. Overtime for nonexempt Police Officers and Emergency Fire and Medical Service employees shall be paid in accordance with applicable Federal law.
5. Hours paid for but not worked, such as vacation, holidays, sick leave, paid administrative leave, etc., shall not be counted in computing overtime.

5.6 Cost of Living (COLA) Increases

- A. Annually, the Governing Body may allocate a percentage or range of percentages available for cost of living pay increases in the annual operating budget.
- B. An employee's base rate of pay shall not exceed the maximum rate for that employee's position

5.7 Spanish Language Interpreter Specialty Pay

Spanish speaking interpreter needs within various Departments and Divisions have been established and are continually assessed. Employees may volunteer and test for vacant interpreter opportunities. Once established as interpreters, employees will be identified as such on the City phone list and will be expected to assist, as needed, during their scheduled work hours within their respective department, in addition to other departments, as needed. Employees designated as interpreters will be paid an additional bi-weekly stipend. For more information on qualifications and procedures related to this policy, refer to the City Administrative Policies and Procedures Manual (as amended).

5.8 Retention Differential

In some cases, in order to retain employees being actively recruited to similar or identical positions or employment in the same or similar career path outside of the City, the City Manager may consider or authorize a one-time incentive pay increase to induce that employee to remain with the City. For more information on retention differential, reference the City's Administrative Policies and Procedures (as amended).

5.9 Service Awards

Employees may receive service awards for meeting certain tenure milestones with the City. For more information on service awards, reference the City Administrative Policies and Procedures (as amended).

Chapter 6

Performance Evaluation

6.1 Definitions

EE means Employee Evaluation.

ME means Manager Evaluation.

Performance Appraisal Form means the City Employee Evaluation and Manager Evaluation form.

Rater means immediate supervisor.

Reviewer means supervisor's supervisor.

Opening means first two (2) weeks of employment.

Interim means semi-annually at six (6) months of employment or six (6) months prior to an employee's anniversary date.

Annual means every 12 months. (Due each year to HR by established deadline.)

6.2 Policy

City of Rio Rancho Employees who are probationary, career, temporary (temp), or term status will be evaluated using the City's Performance Evaluation forms. This policy requires that an employee performance evaluation document be initiated by the supervisor by appointment, reassignment, promotion, demotion, reduction, transfer, and as otherwise scheduled by the City.

6.3 Manager Performance Evaluation Training

Managers and supervisors must successfully complete the City Human Resource Department's training course on employee performance management. Only those supervisors and managers who have completed the approved training are approved to evaluate subordinates. New supervisors and managers must have successfully completed employee performance management training within 30 days of their hire date, or as soon as practicable.

6.4 Frequency of Evaluations and Interim Reviews

The performance and development of a career employee must be evaluated annually by the immediate supervisor. At least one interim review during the rating period is recommended. The final performance evaluation must be received by the HR Department by the date designated by the City on an annual basis. The reviewer should preview and agree to the rater's comments and ratings prior to a formal performance evaluation conference between the rater and the employee where the ratings are presented.

The performance and development of a probationary employee shall be reviewed prior to the completion of their probationary period. If deemed appropriate, additional reviews will be issued throughout the probationary period. The department director shall evaluate interim reviews.

The performance and development of an employee, supervisor, or manager who transitioned from a prior City position shall be issued an evaluation prior to the completion of one-year in that new position. It is recommended that an interim review be conducted during this initial rating period.

An interim evaluation may be performed whenever a supervisor needs to make an employee's performance a matter of record. Upon change of immediate supervisor, the former supervisor is required to complete an interim review on the existing ME/ EE (not a close-out) and the existing ME/EE remains in effect for the entire review period. The new supervisor continues to appraise the employee based on the existing ME/EE. The new supervisor must contact HR as soon as practicable upon change of supervisor when there are personnel actions initiated by the former supervisor.

The department director or designee approves all interim, final probationary and annual evaluations.

6.5 Employee Rebuttal

Within 10 business days of receiving an annual evaluation, employees may submit a rebuttal, which will become a part of the personnel file. The rebuttal is a matter of record only and does not require any action or response. Employees may use the City's formal complaint resolution procedure (see Chapter 8) to dispute the supervisor's rating when the employee believes that policy and/ or proper procedures have not been followed.

6.6 Monitoring and Compliance

It is the responsibility of each reviewer to ensure that each supervisor and manager successfully completes training for employee performance management within 30 days of hire or as soon as practicable. Reviewers shall review each evaluation to monitor for quality, fairness, consistency, and compliance with this policy. Managers and supervisors who fail to comply with this policy may be subject to disciplinary action up to and including dismissal.

6.7 Confidentiality

Performance evaluations, being matters of opinion, are not open to public review and are not considered public record. They are protected and confidential documents under 14-2-1 NMSA 1978, as amended. However, since performance evaluations are considered a necessary part of each employee's employment history, such documents may be reviewed by appropriate supervisory personnel.

Chapter 7

Corrective and Disciplinary Action

7.1 Objectives

Employees play a critical role in assisting the City of Rio Rancho fulfill its mission and vision. Supervisors have the responsibility to train and support employees to understand their job requirements, to improve performance, and to address negative issues which affect their work and the workplace. Reasonable expectations of employee conduct are necessary for a productive and efficient workplace.

7.2 Employee Responsibilities and Rights

Employees are responsible for reviewing and following established City policies, procedures, and practices. These policies and procedures are available to employees electronically on the intranet. Employees shall work in an efficient, competent, cooperative, and respectful manner and fulfill their job requirements. Employees' rights and remedies differ depending on employment classification

7.3 Director and Supervisor Responsibilities

Directors and supervisors shall ensure that employees understand job requirements and expectations and address problems relating to performance or conduct in a timely and effective manner. Prior to initiating disciplinary action against an employee, directors and supervisors are required to consult with HR for guidance. For additional information on this requirement and related procedures, please refer to the City Administrative Policies and Procedures (as amended).

To achieve optimal results regarding performance and conduct, when addressing performance and conduct issues, Supervisors shall work with HR to engage the following:

7.4 Progressive Discipline

The City uses progressive discipline when applicable for regular employees who violate or fail to comply with City policies, procedures, rules or expectations. Progressive discipline does not apply to all circumstances and each case is evaluated individually. Progressive discipline includes the following principles to provide notice regarding performance or conduct:

- A. Employees will be treated in a fair and consistent manner.
- B. Repeated violations of rules or policies will not be tolerated.
- C. Deficient performance or misconduct may result in discharge.
- D. Dismissal without prior or progressive discipline may be warranted.

Corrective and disciplinary action may be applied in a matter proportionate to the performance or conduct issue in relation to prior corrective or disciplinary action.

Disciplinary action or corrective action includes but is not limited to the following:

- A. Oral or Written Warning (Corrective)
- B. Written Reprimand (Corrective)
- C. Performance Improvement Plan (Corrective)
- D. Suspension (Disciplinary)
- E. Demotion (Disciplinary)
- F. Discharge (Disciplinary)

7.5 Documentation

Whenever corrective or disciplinary action is necessary, timely and thorough documentation is required. Documentation reflects the accurate facts, circumstances, and communication between the supervisor and the employee.

7.6 Disciplinary Actions, Regular Classified Employees

Proposed disciplinary actions, which include suspensions, demotions, and discharges shall follow the process below:

A. Notice of Contemplated Disciplinary Action

In order to initiate disciplinary action against an employee, the department shall serve a notice of contemplated disciplinary action to the employee. This notice shall:

1. Cite the specific incidents constituting just cause;
2. reference any applicable policy, statute, ordinance, rule or directive;
3. provide an explanation of any documentation, evidence and/or facts relied upon;
4. specify the contemplated disciplinary action; and
5. state that the employee has five (5) business days from service of the notice of contemplated disciplinary action to respond in writing or to request a face-to-face meeting.

B. Employee Representation

A representative of the employee's choice may respond to the notice of contemplated disciplinary action and may be present at the face-to-face meeting.

Informal Meeting

1. If the employee requests a face-to-face meeting in response to the notice of contemplated disciplinary action, the department director shall notify the employee of the date, time and location of that meeting; the meeting shall be held within five (5) calendar days from when the department received the request for the face-to-face meeting.
2. The employee and department director may agree in writing to an alternate date, time or place for the face-to-face meeting.
3. The face-to-face meeting shall be between the department director and the employee. The purpose of the face-to-face meeting is to allow the employee or the employee's representative to respond to the allegations in the notice of contemplated disciplinary action. This meeting is not intended to be a full-evidentiary hearing, rather it is an opportunity for the employee or representative to explain the employee's position regarding the allegations.
4. If a written response is filed with the department director and the employee also participates in the face-to-face meeting, the department director shall consider all information provided before arriving at a final decision regarding disciplinary action.

Notice of Final Action

1. The department director shall deliver written notice of final disciplinary action to the employee no later than five (5) business days following any written response or face-to-face meeting, whichever is later.
2. The notice of final action shall include:
 - a. The final disciplinary action to be taken;
 - b. the evidence constituting just cause which shall be limited to evidence referenced in the notice of contemplated disciplinary action;
 - c. applicable policies, statutes, ordinances, rules or directives violated by the employee;
 - d. a discussion of the employee's defenses as stated in any written response and/or face-to-face meeting; and
 - e. the date of delivery of the notice of contemplated disciplinary action.

7.7 Disciplinary Actions, Directors and At-Will Employees

Directors and other at-will employees serve at the pleasure of City Administration, pursuant to the City Charter.

Chapter 8

Complaint Resolution Procedure

8.1 Objective

To establish a process for City of Rio Rancho employees, supervisors, and managers to identify and resolve job-related complaints, requiring prompt consideration and promoting resolution at the lowest level possible.

8.2 Definition

A Complaint under this chapter is an assertion by a City of Rio Rancho employee to a supervisor or manager that alleges a violation, misinterpretation, or misapplication of City Policies and Work Rules, existing department or division policies or procedures, terms or conditions of employment, or applicable state or federal civil rights and anti-discrimination laws. Alleged violations of labor contracts or regulations should be grieved through the applicable legal or contractual process.

8.3 Complaint Procedure and Resolution Process

An employee filing a complaint must be personally aggrieved and the alleged violation must be within the control of the City to remedy. At any stage of the resolution process, complainants shall be free from restraint, interference, coercion, discrimination or reprisal.

Complaints must be initiated by the grieving party within ten (10) business days of when complainant is, or reasonably should be, aware of the concern.

Step 1: Supervisor

The complainant must verbally discuss the alleged violation with the supervisor who has the authority for resolving the issue within ten (10) workdays of the incident being aggrieved, either in-person or telephonically. The supervisor must respond in writing within ten (10) workdays. If no response is provided or the employee believes the response insufficient, the employee's request shall be deemed denied.

Step 2: Department Head

If the issue is not resolved through discussion with the supervisor, the complainant must submit a formal written complaint to the department head who has authority to address the issue within ten (10) workdays of the supervisor's Step 1 response. A copy of the complaint must be sent to the HR Director by the complainant. The written complaint must include:

- A. The complainant's name, title, office and department/ division;
- B. a thorough explanation of the matter, including the specific date(s) of the alleged

- violation, misinterpretation or misapplication;
- C. evidence to support the allegations including citation of the specific rule, regulation, policy, procedure or law which has been violated;
- D. the relief requested; and
- E. the date and a summary of Step 1 process.

The department head shall respond in writing within ten (10) workdays of receipt of the written complaint. The department head shall consult with HR to prepare the Step 2 response.

Step 3: City Manager

If the issue is not resolved at Step 2, the complainant may submit a formal written complaint to the City Manager within ten (10) days of the department head's Step 2 response. A copy of the Step 3 complaint must be sent to the HR Director by the complainant. The written complaint must include:

- A. The complainant's name, title, office and department/ division;
- B. a thorough explanation of the matter, including the specific date(s) of the alleged violation, misinterpretation or misapplication;
- C. evidence to support the allegations including citation of the specific rule, regulation, policy, procedure or law which has been violated;
- D. the relief requested; and
- E. the date and a summary of the step 1 process and step 2 process.

The City Manager shall respond in writing within ten (10) workdays of receipt of the written complaint, and may within this time period, request a meeting with the complainant to discuss the complaint and its settlement. The decision of the City Manager at Step 3 shall represent the determination of the City and shall be final. If the City Manager has a conflict of interest bearing on the issue, the City Manager shall delegate the matter to the Deputy City Manager.

Additional Information

- A. The parties may extend the time limits at any step through mutual written agreement.
- B. In the event either party is out of the office for a full business day, the time limits are extended for a corresponding amount of time.

- C. Any questions regarding this procedure may be directed to the HR Director.

Chapter 9 Leave, Holidays, and Benefits

9.1 Objectives

The City of Rio Rancho supports a productive work-life balance for its employees. The City of Rio Rancho encourages employees to take approved time off of work in accordance with these policies. Except for Police & Dispatch, Fire & Rescue, and AFSCME Bargaining Unit employees, all other eligible City employees are subject to sick and vacation benefits under this policy.

9.2 Vacation

A. Eligibility

All regular and probationary employees are eligible to earn and use paid vacation from the date of hire pursuant to the following:

B. How Vacation Leave is Accrued

Eligible employees accrue vacation each pay period only during time actually worked and during any paid leave authorized by the City. For any hours during a pay period an employee is on unpaid leave, no vacation leave shall accrue. Vacation leave may not accrue during absences for short-term disability, long-term disability, or workers compensation.

C. Vacation Accrual

- 1. Full-time employees in positions that are not included in a bargaining unit*** shall accrue vacation from their date of hire, and such vacation shall be credited for each biweekly pay period in which the employee receives pay in accordance with the following schedule:

Date of Hire through end of year 3: 10 Days per year (80 hours)
Beginning of year 4 through end of year 10: 15 days per year (120 hours)
Beginning of year 11 through end of year 14: 20 days per year (160 hours)
Beginning of year 15: 25 days per year (200 hours)
- 2. Part-time employees who work an average of twenty (20) or more hours per week*** shall accrue vacation on the same basis as regular full-time employees, prorated to the average time worked by such part-time employees.
- 3. Part-time employees who work an average of less than twenty (20) hours per week*** are not entitled to vacation benefits.

D. Use of Leave

1. Employees must request and receive approval of vacation in advance from their immediate supervisor. Employees shall request vacation at least two weeks in advance of the dates desired, or as soon as practicable. Such requests are subject to the approval of the department director. Every effort will be made to accommodate the employee's request, but final approval will depend upon the City's operational needs being fully met. It is recognized that in certain emergency situations an employee may not be able to request leave in advance and the supervisor should give such a request fair and reasonable consideration.
2. Employees will not be granted vacation in excess of the amount accrued at the time requested.
3. Employees may carryover accrued but unused vacation from one fiscal year to the next. However, the amount to be carried forward may not exceed three hundred twenty (320) hours. Any unused vacation in excess of 320 hours as of the end of the fiscal year or upon separation of employment shall be deemed forfeited.
4. Vacation leave shall not be paid out, except upon separation from employment.
5. Vacation leave cannot be utilized in lieu of "sick leave", unless the employee's sick leave balance is exhausted, or as allowed for approved leave under FMLA.
6. Upon separation of employment for any reason, the employee shall be paid for all vacation accrued but not taken as of the last day worked, up to a maximum of 320 hours.
7. In the event a recognized holiday(s) occurs during an employee's vacation, the employee will be paid for the holiday and the time not charged to vacation time.

9.3 Sick Leave

Sick Leave is an employee benefit provided by the City which provides time off from regular duty with pay when an employee is unable to work due to illness, for attending a doctor's appointment, an FMLA qualifying event, or for illness/treatment of a family member as defined in Chapter 1).

Full-time employees shall accrue sick leave from their date of hire at the rate of one day per month, prorated for each biweekly pay period in which they receive pay.

Eligible employees accrue sick leave each pay period only during time actually worked and during any paid leave authorized by the City. For any hours during a pay period an employee is on unpaid leave, no sick leave shall accrue. Sick leave may not accrue during absences for short-term disability, long-term disability, or workers compensation.

Part-time employees who work an average of twenty (20) hours or more per week shall accrue vacation on the same basis as regular full-time employees, prorated to the average time worked by such part-time employees. Part-time employees who work an average of less than twenty (20) hours per week are not entitled to vacation benefits.

There shall be no maximum limit to the amount of unused sick leave accrued.

Employees will be eligible to use sick leave benefits from their date of hire. Sick leave benefits will be based on the employee's work schedule and will be paid at the employee's straight time rate of pay in effect on the date the illness commenced. Sick leave will not be paid in excess of the number of hours accrued at the time of the absence. Should the period of absence exceed the amount of sick leave accrued, employees may request to receive any other paid leave for which they are eligible at that time. Any further period of absence for which sick leave or other paid leave is not available shall be in accordance with the City's policy regarding leave without pay.

Employees may request sick leave benefits for absences caused by illnesses or injuries and for medical appointments, i.e., appointment for doctors, dentists, physical therapists, etc. Disabilities relating to pregnancy will be treated as any other temporary disability.

Illnesses or medical appointments in the employee's family (see Chapter 1) which require the employee's absence from work may be taken as sick leave. Absences of more than three consecutive days require notification to HR and may be subject to FMLA rules.

Payment of accrued sick leave benefits may continue to an employee who is released to return to work on a part-time basis, but in no case may the combined payments be greater than the employee's usual weekly rate of pay, excluding overtime.

The City retains the right to request a statement from a qualified professional to verify the request for use of sick leave. Employees who have been absent due to a disabling illness or injury may be required to provide a statement from their physician releasing them to return to their normal duties. The City retains the right to obtain clarification from an employee's treating physician as to whether or not the employee is fit for duty when it has been determined by the employee's supervisor or manager that the employee's safety is in jeopardy due to their return to their position.

Sick leave conversion: To reward employees for low usage of sick leave, sick leave may be converted to vacation leave according to the following procedures:

1. Full-time employees who use no more than 40 hours of sick leave during a calendar year (January 1 through December 31), leave without pay, or other unexcused absence during the calendar year may convert 8 hours of sick leave to vacation.
2. Full-time employees who use no more than 32 hours of sick leave, leave without pay, or other unexcused absence during the calendar year may convert 16 hours of sick leave to vacation.

3. Full-time employees who use no more than 16 hours of sick leave during a calendar year (January 1 through December 31), leave without pay, or other unexcused absence during the calendar year may convert 32 hours of sick leave to vacation.
4. Part-time employees who use no more than 16 hours of sick leave during a calendar year (January 1 through December 31), leave without pay, or other unexcused absence during the calendar year may convert 4 hours of sick leave to vacation.
5. Part-time employees who use no more than 12 hours of sick leave, leave without pay, or other unexcused absence during the calendar year may convert 8 hours of sick leave to vacation.
6. The additional vacation time converted under this policy will be credited effective the 2nd pay period in January of each year for the period covering the preceding twelve (12) calendar months.
7. To be eligible to participate, employees must have been employed for the complete calendar year.

Sick leave benefits upon separation in Good Standing:

Employees hired after April 1, 2021:

1. An employee, after serving ten (10) continuous years with the City of Rio Rancho, may convert sick leave to vacation leave up to 160 hours.
2. An employee, after serving fifteen (15) continuous years with the City of Rio Rancho, may convert sick leave to vacation leave up to 240 hours.
3. An employee, after serving twenty (20) continuous years with the City of Rio Rancho, may convert sick leave to vacation leave up to 320 hours.
4. An employee, after serving twenty-five (25) continuous years with the City of Rio Rancho, may convert sick leave to vacation leave up to 480 hours.

Employees hired before April 1, 2021, may choose either the prior option or the following (if eligible):

1. An employee, after serving ten (10) years with the City of Rio Rancho, upon retiring under PERA, shall be eligible to convert available sick leave hours to vacation using the following conversion rates:
 - a. The first 250 hours may be converted at a ratio of 4:1, i.e.,

four (4) hours of sick leave to one (1) hour of vacation;

- b. The second 250 hours may be converted at a ratio of 2:1; and
 - c. An additional 500 hours may be converted at a ratio of 1:1 for a maximum of 1,000 sick leave hours converted to 687.5 hours of vacation leave.
2. An employee, after serving fifteen (15) years with the City of Rio Rancho, may convert sick leave to vacation leave at the same rates set forth above separation from the City in good standing.

9.4 Paid Time-Off (PTO)

Employed Members of Service (MOS) of Rio Rancho Police Department (RRPD) and Rio Rancho Fire & Rescue Department do not accrue vacation and sick leave. Rather, these MOS accrue PTO as stipulated in their respective Collective Bargaining Agreements.

9.5 Terminal Leave

Once an employee has announced their intent to retire from the City under PERA, they may choose to go onto terminal leave for up to 3 continuous months preceding their official retirement date. Upon commencement of terminal leave, future leave accruals stop, vacation balances shall be reduced to the maximum separation threshold (if applicable), PTO is reduced to the maximum separation threshold (if applicable), and sick leave is converted to vacation (if applicable). Employees may then use available vacation or PTO for a maximum of 3 months total time while remaining on the books as a City employee. Any existing accrual balances remaining after terminal leave has ended will be paid out on the employees' final paycheck.

9.6 Medical Leave

A. FMLA leave

Any employee may request a leave of absence for personal or family illnesses, or for the birth or placement of a child for adoption or foster care, for up to twelve (12) weeks in any consecutive twelve (12) month period of time in accordance with the provisions of the Family and Medical Leave Act (FMLA) of 1993. Any leave in excess of twelve (12) weeks must be approved by the HR Director.

The twelve (12) weeks of leave may be taken as needed, subject to the following conditions:

1. Employee will use accrued sick leave. When this is exhausted, employee shall use accrued vacation leave. Thereafter, any additional available paid leave balances

shall be used. Upon exhausting all paid leave, all additional approved leave shall be unpaid.

2. In the event of a medical disability, the employee must provide to the HR Department a certification from the treating physician verifying the medical reason for the disability and indicating the estimated length of disability. Where foreseeable, this notice shall be provided at least thirty (30) days in advance of the leave.
 3. If the requested leave is for the birth or placement of a child for adoption or foster care and both parents are employees of the City, the leave shall be for a combined total of twelve (12) weeks. The employees shall decide between themselves how the time off shall be split. Intermittent use of FMLA leave is not permissible for the birth or placement of a child for adoption or foster care.
 4. Employees will be eligible to maintain their benefits during the leave of absence provided they continue to pay the employee portion of the premium to the City on a timely basis.
 5. For the first twelve (12) weeks, return to the same or an equivalent position is guaranteed. In the case of a leave in excess of twelve (12) weeks, the City will make every attempt to hold the employee's position open unless, due to business necessity, it is necessary to fill the position on a regular basis. Business necessity will be determined by examining the anticipated length of the absence in light of the availability of a temporary replacement and the anticipated recruitment period needed to fill the position.
- B. In the event of an on-the-job injury or occupational illness, the employee will be paid their full regular pay, with appropriate deductions in accordance with the New Mexico Workers Compensation Act, until the commencement of temporary total disability or partial disability. Payment will be made under this section, and provided entirely by the City, only when the employee is absent for the entire waiting period in accordance with the Act.
1. For the duration of the disability, the employee may continue to use accrued leave, integrated with the Worker's Compensation benefits, in order to receive 100% of usual weekly compensation, excluding overtime.
 2. All payments and procedures are in accordance with the provisions of the New Mexico Worker's Compensation Act. All other conditions are in accordance with Section A. above.

9.7 Military Leave

Leave for military purposes shall be granted as follows:

- A. Any employee who is inducted into or enlists in any branch of the Armed Forces of the United States will be granted a military leave of absence without pay. Employees who have been granted such military leave of absence shall be paid by the City in accordance with all applicable Federal and State Laws.
- B. Any employee who is a member of any Armed Forces Reserve component or National Guard unit shall be granted military leave of absence for all required military duty including examinations, drills, training and emergency obligations. Full-time employees and part-time employees who are granted a military leave under this provision shall be eligible to receive pay in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA). If approved leave under USERRA exceeds afforded paid time, the employee may use other accrued leave or take the remainder of the leave without pay.
- C. Immediately upon receipt of orders to report for military duty, employees shall submit a copy of the orders, together with a written request for a military leave of absence, to their department director and the Department of HR.
- D. Employees will be eligible to maintain their benefits when called to active duty provided they continue to pay the employee portion of the premium to the City on a timely basis.

9.8 Bereavement Leave

The City of Rio Rancho recognizes the need of its employees for time off in the event of a death in their family or a colleague in City government.

Employees shall notify their supervisor or department director of their need for Bereavement leave and specify the relationship of the family member. In the event of the death of an employee's family member, three (3) days leave with pay shall be granted. Family member is defined as a relative within the third degree of blood or marriage to include parent, step-parent, sibling, spouse (or domestic partner, affidavit must be on file), child, stepchild, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, great grandparent, great grandchild, niece/nephew, and aunt/uncle of the employee and shall also include persons with whom the employee has a legal custodial relationship.

Vacation leave or leave without pay may be allowed for an employee to attend the funeral of a relative not included in the aforementioned family group. Such requests shall not be unreasonably denied. In the event of the death of a colleague within the City, an employee may take Bereavement leave, not to exceed three (3) hours, for the time required to attend the funeral. If requested, employee shall produce documentation in regards to the death and familial relationship.

If an employee provides documentation from a doctor that a serious illness, including but not limited to a possible death situation exists in the employee's immediate family, HR may grant

appropriate leave to the employee in accordance with the Family and Medical Leave Act, if requested by the employee.

If out-of-state travel is required to attend the funeral of a family member as defined herein, the department director will grant two (2) additional days of absence with pay. Additional time off may be requested and the granting of such requests will be at the discretion of the department director. Such requests shall not be unreasonably denied. The additional time off may be charged to other paid leave or taken as leave without pay.

Full-time employees will be paid at their straight time rate. Part-time employees, who work an average of twenty (20) or more hours per week, will be paid for the hours they were scheduled to work but did not due to the death of the family member.

9.9 Jury or Witness Leave

The City acknowledges the obligations of employees to serve when called as a juror or witness in court. Employees must notify the supervisor or department director and the HR Department immediately upon receipt of the notice to report to court. Appearances in court related to personal, non-job related matters, are not compensated or covered under this policy. Such time off as may be required may be charged to other paid leave or must be taken as leave without pay.

- A. Full-time employees and part-time employees who work an average of twenty (20) or more hours per week will be paid at their straight time rate for the hours they were scheduled to work but did not work due to their court appearance.
- B. Any fees or allowances paid to the employee as a result of jury duty, litigation-related testimony or statements (except for reimbursement for travel and actual out-of-pocket expenses), for which payment was made to the employee, shall be remitted to the City Financial Services Department , but not to exceed the base wages paid to the employee.
- C. When an employee is released from court service, temporarily or permanently, the employee shall return to work to complete the remaining hours of the workday.
- D. In the event an employee is required to appear in court in connection with the employee's job duties, such hours will be counted as hours worked for purposes of weekly pay and/or overtime.

9.10 Voting Leave

The City considers the casting of one's ballot in all elections both a right and a duty of the individual. Therefore, employees are encouraged to register and to vote in all elections.

- A. Employees may use up to two (2) hours of absence during normal working hours, excluding the lunch hour, for the purpose of casting a ballot in an election qualified under state law. (NMSA 1978 Sec. 1-12-42, as amended) Employees will be granted

this time, up to a maximum of two (2) hours, with pay, on Election Day. However, employees are not entitled to this time off to vote if the normal starting time is more than two (2) hours after the polls open or if the normal quitting time is more than three (3) hours prior to the closing of the polls.

- B. Employees who wish to exercise the right to vote on Election Day during working hours must advise the supervisor or department director in advance, in order for the period of absence to be scheduled to assure a smooth flow of work. The supervisor or department director may specify the period during the workday when each employee may be absent. In order to request and utilize voting leave, employees must be registered to vote, utilize granted voting time specifically for such purposes, and are subject to audit.

9.11 Personal Leave Without Pay

For compelling personal reasons not authorized under FMLA, a non-temporary employee may request a personal leave of absence without pay, not to exceed twelve (12) weeks.

- A. An employee must submit a request in writing, setting forth the inclusive dates and the reason(s) for the leave requested, to the department director. Such requests must be forwarded to the department director and the HR Director for approval.
- B. An approved personal leave of absence shall not result in the employee's loss of seniority or benefits, provided the employee reimburses the City for all insurance benefits. The reimbursement shall be calculated at the full cost of the insurance, unsubsidized by the City. The leave of absence shall not count as time worked for accrual of benefits based on active service with the City, i.e., vacation, sick leave, PERA service credit, etc.
- C. Employees who fail to return to work by the expiration of the leave of absence shall be considered to have voluntarily resigned from employment with the City.

9.12 Holidays

The Governing Body of the City of Rio Rancho shall annually set the holiday schedule to be observed by the City, not to exceed 11 days annually.

- A. Full-time employees shall be paid holiday pay at their straight time rate for the holiday hours observed on each of the designated holidays. No holiday hours paid in a given week shall count towards eligibility for overtime.
- B. Part-time employees who work an average of twenty (20) hours or more per week shall receive holiday pay at their straight time rate for the holiday hours observed, if an observed holiday occurs during their scheduled working hours. Employees who work an average of less than twenty (20) hours per week will not be paid for the holidays.

- C. Nonexempt employees who are required to work on a designated holiday will be paid at their straight time rate for the hours worked in addition to receiving holiday pay.

9.13 Educational Expense Reimbursement

Educational expense reimbursement is a privilege, subject to restrictions and parameters. For information regarding eligibility, funding, application, responsibilities, and related procedures for the Educational Expense Reimbursement policy, reference the City's Administrative Policies and Procedures (as amended).

9.14 Other Benefits

- A. The City of Rio Rancho shall provide such other benefits, as are required by law and as may be, from time to time, approved by the Governing Body and for which monies are appropriated. These benefits may include any or all of the following, and the City may share with the employee in the cost of some or all of the benefits provided:
 - 1. Retirement plan
 - 2. Health insurance benefits
 - 3. Dental insurance benefits
 - 4. Vision insurance benefits
 - 5. Life insurance benefits
 - 6. Accidental Death and Dismemberment insurance benefits
 - 7. Disability insurance benefits
 - 8. Worker's Compensation benefits
 - 9. Unemployment Compensation benefits
 - 10. Medicare portion of Social Security
 - 11. Retiree Health Care
- B. Part-time employees who work less than an average of twenty (20) hours per week and temporary employees are not eligible for any of the above benefits except Worker's Compensation, Unemployment Compensation, Medicare and Social Security, as appropriate.

- C. Participation in the above listed benefits by eligible employees is voluntary except for the Retirement Plan, Worker's Compensation, Unemployment Compensation, Retiree Health Care and Medicare, which are mandatory for all eligible employees.
- D. The City's insurance and other benefits are subject to the terms and conditions established by law or set out in contracts with the providers, and information concerning these benefits may be obtained from the HR Department.

9.15 Changes to Benefits

The Governing Body reserves the right to modify, change, add or remove benefits at any time.

Chapter 10

Separation of Employment

10.1 Definition

Separation of employment with the City of Rio Rancho is defined as separation of an employee from the workforce as follows:

Resignation

An employee will be considered to have resigned if the employee:

1. Submits a letter of resignation to his/her department director or supervisor designating the last day of work. The letter may include the reasons for resignation. Employees are expected to give notice at least 14 calendar days prior to their last day of work. An employee may request to modify the effective date of the resignation subject to the Department Director's approval. Once the resignation is accepted by the Department Director, employees may not revoke their resignation unless the HR Director agrees to the revocation;
2. Has an unexcused absence from work for three (3) consecutive days without notification or authorization; or
3. fails to return to work, within the prescribed time limits, following an authorized leave of absence.

Retirement

Employees may elect to retire after meeting the eligibility requirements as defined by the Public Employees Retirement Association of New Mexico (PERA). Employees are expected to give notice to their supervisor and director a minimum of 14 calendar days prior to their last day. Employees should contact HR between six (6) months and one (1) year prior to their anticipated retirement date in order to obtain guidance on benefits.

Death

In the event of the death of an employee, the supervisor shall notify HR immediately. HR will assist the next of kin in completing separation forms and other employment or benefit forms.

End of Term or Assignment

At the conclusion of a position's term or temporary assignment, notice is not required. Because all term or temporary positions entail separation upon completion of the term or assignment. No prior notice is required of the separation.

Discharge

Discharge for unsatisfactory performance, misconduct, policy violations or other reasons deemed appropriate by the City. (See Chapter 7 for discharge provisions.)

10.2 Exit Interview

As part of the separation process, the HR Department shall provide the opportunity for employees to complete an exit interview before leaving employment with the City. The information collected may be used to determine employment trends, and to identify and correct areas of concern.

10.3 Final Pay

Pay to discharged employees shall be paid within five (5) days of such discharge. When an employee separates employment for any reason, all wages are due no later than the next succeeding pay day.

10.4 Return of City Property

At the time of separation, employees must return all City property (tools, uniforms, keys, identification badge, and/or any other items) issued to them. Deductions from the employee's final pay may be made if City property or funds are not returned. Collection efforts by the City for reimbursement of City property not returned may be initiated.

Chapter 11 Employee Conduct

11.1 Employee Behavior

City employees must adhere to the highest standards in the exercise of powers and duties of employment including conducting themselves in a manner that maintains public confidence in the day-to-day responsibilities of a public employee, in accordance with the City of Rio Rancho's Ordinances. Employees shall conduct themselves always in a manner that instills and protects the public's trust and confidence. Conduct that interferes with the City's operations, that brings discredit to the City, or that is disrespectful to members of the public or fellow employees may result in discipline up to and including dismissal.

11.2 Employee Conduct Expectations

All employees shall fulfill their employment duties and carry out their personal affairs in a manner that protects the public's trust and confidence in the City and its employees. All employees' conduct shall be in conformance with the rules listed below and applicable state law. Any violation may result in discipline up to and including termination of employment.

- A. Employees shall not conduct personal or commercial business while on duty.
- B. Employees shall not engage in any activity which conflicts in any way with their City employment.
- C. Employees shall not use their positions with the City in an attempt to coerce or influence anyone for personal gain or benefit, nor shall employees use City employment to compel goods or services to which they are not entitled.
- D. Employees shall not reveal any confidential communications derived through their employment.
- E. Employees shall not commit any dishonest or fraudulent act, including falsifying any public record.
- F. All employees shall comply with City Ordinance and New Mexico State Law regarding the receipt of any gift, gratuity, or hospitality.
- G. Employees shall carry out direct instructions from their supervisor, shall perform the duties and responsibilities stated in their job description, including related work assigned by their supervisor, and shall comply with these rules and other departmental rules. Refusal to follow a supervisor's order or disregarding a supervisor's authority constitutes insubordination.
- H. Employees shall refrain from negligent conduct and shall exercise reasonable care when performing their job duties.

- I. Employees shall refrain from violence, use of force, threats of the use of force, bullying, harassing behavior, appearances of impropriety, use of obscene language, and inappropriate conduct while engaged in the performance of their job, while representing the City, while wearing City uniforms or driving a City vehicle, or where such conduct jeopardizes the public's trust and confidence.
- J. Employees shall not use or allow non-City employees to use City property, equipment, or materials for personal use.
- K. Possession of unauthorized firearms or weapons on City property or facilities is strictly prohibited. Other than law enforcement, all firearms or weapons must be authorized by HR.

11.3 Conflict of Interest and Disclosure

- A. Employees shall avoid transactions and relationships that create a conflict of interest or the appearance of such. Where a conflict of interest is unavoidable, employees shall disclose the conflict of interest to their Department Director or the HR Director immediately upon discovering the conflict, and shall subordinate the conflicting interest to the public interest.
- B. Employees shall exercise their duties without prejudice or favoritism.
- C. Employees shall not engage in any conduct that could create in the mind of a reasonable observer the belief that persons will receive better or different services if gifts, personal benefits or political or charitable contributions are provided.
- D. Employees shall not solicit or receive gifts, personal benefits, favors, gratuities or political or charitable contributions, or Anything of Value under circumstances which may tend to create a reasonable belief that special access, services, favors, or official or unofficial actions will be provided in exchange. Nor may Anything of Value be solicited or received from a person or business doing business with the City, contracting with the City, regulated by the City, has an application pending before the City, or whose interests may be affected by the City.
- E. Employees shall not accept Anything of Value from a person, business, or other entity when the Employee knows or reasonably should know that said person, business, or entity does any business with the City, desires to do business with the City, contracts with the City, is regulated by the City, has an application pending before the City, or whose interests may be affected by the City.

11.4 Political Activity

No employee shall:

- A. Use their 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. coerce, attempt to coerce, command, or advise an employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purpose.
- C. retaliate against or threaten any employee who does not vote for certain candidates, require employees to contribute to a political fund, influence subordinate employees in any political activity, advise employees to take part in political activity and matters of a similar nature, or engage in political activity while on duty;
- D. function as an officer of a political organization while on duty;
- E. be an elected official where such service conflicts with the employee's duties and responsibilities with the City;
- F. carry out activities that are in violation of the Hatch Act; or
- G. be required to participate in any political activity.

In any event, all employees' political activities are subject to requirements and restrictions under local, state and federal law.

11.5 Vehicle Use Policy

Employees shall not carry unauthorized passengers while operating a City vehicle. For additional information including general guidelines, insurability requirements, driver's responsibilities, accident and vehicle damage reporting, post-accident testing, take home vehicles, and revocation of driving authority, reference the City's Administrative Policies and Procedures Manual (as amended).

11.6 Workplace Violence

The City is committed to maintaining a workplace that is free from hostility, violence or threats of violence. The City will not tolerate hostile acts, bullying, threats or violent behavior in the workplace or on City property. Employees and supervisors are expected and required to report instances of workplace violence to HR, whether it is witnessed or reported. For additional

information on reporting requirements, guidelines, and procedures, refer to the City Administrative Rules and Procedures Manual (as amended).

11.7 Prohibited Acts

Prohibited workplace behavior includes verbal or physical conduct that may be reasonably construed to be hostile in nature, including but not limited to:

- A. Violent expressions of emotion, intimidation, bullying, harassment, or other abusive behavior against other employees or citizens that may be reasonably construed to be hostile or violent in nature;
- B. violent physical actions;
- C. direct or implied threats to do harm to person or to property, including intimidating use of one's body or physical objects;
- D. verbally abusive or intimidating language or gestures;
- E. threatening, abusive, or harassing communication of any kind;
- F. vandalism, destruction or sabotage of City or personal property;
- G. comments referencing violent acts which are reasonably perceived to be a threat; or
- H. any other behavior reasonably perceived to be a threat of imminent harm against an employee or member of the general public.

11.8 Reporting of Arrests and Convictions

Employees are required to report any and all arrests and convictions to the HR Director within 24 hours. Discipline up to and including termination may occur depending on the severity of the conduct and if the nature of the conduct renders the employee unable to perform the essential functions of their job, or deems them unfit for their job based on the nature of the arrest or conviction. To the extent allowable by law, the HR Director shall maintain confidentiality.

Chapter 12

Equal Opportunity and Non-Discrimination

12.1 Overview

The City of Rio Rancho is committed to creating and maintaining a work environment in which employees work together in a productive and positive atmosphere free from all forms of intimidation and harassment. With respect to City employment, city operated programs, services, or facilities, the City does not condone or tolerate any unlawful discrimination on the basis of race, religion, sex, sexual orientation, gender identity, color, ancestry, serious medical condition, national origin, age, or disability.

As an equal opportunity employer, the City, seeks to comply with all federal and state law regarding nondiscrimination, including but not limited to Title VII of the Civil Rights Act of 1964 (as amended); New Mexico Religious Freedom Restoration Act, Sections 28-22-1 to 28-22-5; NMSA 1978; and the New Mexico Human Rights Act, Sections 28-1-1 to 28-1-7, 28-1-7.2, 28-1-9 to 28-1-14, NMSA 1978.

12.2 Discrimination Prohibited

To help ensure equal treatment and access to all programs, facilities, and services, the City is committed to an atmosphere free from all forms of discrimination and harassment. Disparate treatment and harassment are each a form of discrimination which may evidence a hostile environment and/or retaliatory conduct.

12.3 Disparate Treatment

Disparate treatment is when an individual or group receives unfavorable or adverse treatment based on identify of one or more of the following protected classes: race, ethnicity, religion, national origin, physical or mental disability, pregnancy, age, gender, sexual orientation, gender identity, spousal affiliation, medical condition, or any other identity protected by state or federal law. The City of Rio Rancho expects all employees, clients, and constituents shall receive equal treatment and protection under state and federal law.

Below are examples which include, but are not limited to, the types of circumstances that reflect disparate treatment. Each situation must be evaluated on a case-by-case basis, with consideration of the totality of facts and circumstances.

- A. Without any rational basis and in contrast to similarly situated persons who are not members of any protected class, a person of a protected class is subjected to disparate or adverse treatment in the form of, e.g., unwarranted or disproportionate discipline, unequal pay, denied employment or promotion, or negative evaluation.
- B. One or more persons of a protected class are denied access to or participation in any of the City's facilities, programs, events, or services, based on that identity.

- C. A request for reasonable accommodation from any individual with a qualified disability or medical condition is denied without any rational basis.

12.4 Harassment

Harassment is manifested by hostile or adverse conduct directed at or imposed upon a person and linked significantly to the person's identity in one or more protected classes. Whether from one or more incidents, the effect or impact of harassment may be sufficiently severe or pervasive so as to unreasonably interfere with or threaten a person's physical or emotional wellbeing due to the perception of intimidation, hostility, or abusive environment.

Harassment becomes unlawful where 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

12.5 Sexual Harassment

The City seeks to create and maintain a work environment wherein employees work together in a collaborative, productive, healthy, and positive environment free from all forms of harassment, discrimination, and retaliation based on one's gender, gender identity, or sexual orientation. Sexual Harassment prevents the City of Rio Rancho from fulfilling its mission and service to the community. It is a violation of Title VII of the Civil Rights Act of 1964, as amended, and the New Mexico Human Rights Act, NMSA 1978, Sections 28-1-1 to 28-1-7, 28-1-7.2, 28-1-9 to 28-1-14.

Sexual harassment includes the unwelcome conduct of a sexual nature, including, but not limited to: unwelcome sexual advances, requests for sexual favors, verbalization of sexualized topics, and other verbal or physical harassment of a sexual nature. The gender, sexual orientation, and gender identity of a harasser and those of the harasser's victim are not relevant as to whether an allegation of unlawful discrimination has merit. A vague or innocuous statement may not alone constitute an unlawful act. However, conduct may occur frequently, severe enough, or within a certain context so that the effect of it creates a hostile or abusive environment or adverse employment action.

Sexual harassment or discrimination exists most commonly in two forms: 1) "quid pro quo" ("this for that") exchanges; and 2) a hostile or abusive environment.

- A. Quid pro quo sexual harassment occurs when a sexual favor is made either explicitly or implicitly a term or condition of an individual's employment or advancement;
- B. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- C. such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

While sexual harassment may occur in a situation of power differential between the persons involved, this policy recognizes that sexual harassment also may occur between persons of any level of working relationship. Additionally, the prohibition against sexual harassment applies regardless of any party's identity.

Examples of Sexual Harassment

Listed below are examples of behavior that can constitute sexual harassment. The list is neither comprehensive nor all-inclusive; in addition, each situation must be considered in light of the specific facts and circumstances to determine if harassment has occurred.

- A. Suggestive or obscene letters, notes, invitations.
- B. Electronic communications, such as e-mail, text messaging, and Internet use, that are sexual in nature.
- C. Unwelcome sexual jokes or comments (including favorable comments about someone's gender, body, or appearance).
- D. Impeding or blocking movements, touching, or any unwelcome physical interference or contact.
- E. Sexually oriented gestures or displaying sexually suggestive or derogatory objects, pictures, cartoons, posters.
- F. Threats or insinuations that refusal to provide sexual favors will result in reprisals; withholding support for appointments, recommendations, promotions, or transfers; or change of assignments or poor performance reviews or grades.
- G. Sexual or gender-based threat or physical violence, including, but not limited to, rape, sexual assault, sexual battery, and sexual coercion.

12.6 Harassment and Retaliation Prohibited

No City employee, volunteer, or contractor shall engage in any form of unlawful harassment while engaged in City business, whether on or off the work site.

Petty slights, annoyances, or isolated incidents—unless serious—do not rise to the level of unlawful harassment or retaliation. To be unlawful, the conduct must create a work environment that a reasonable person would find intimidating, hostile, or abusive.

Below are examples which include some, but not all, possible instances of behavior that may constitute unlawful harassment or retaliation. In each situation when harassment or retaliation is alleged, any conclusion or determination must be considered in light of attendant facts and circumstances.

- A. Unwelcome jokes, slurs, epithets, derisive names or terms, physical battery or assault, intimidation, ridicule or mockery, insults or put-downs, and interference with work performance linked to a person's identity in a protected class (e.g., racist or sexist jokes).
- B. Conveying disparaging, offensive, or abusive remarks to or about a person that are linked to that person's identity in a protected class.
- C. Displaying, forwarding, distributing, or exhibiting depictions or statements which are abusive, derogatory, or insulting toward members of any protected class.

Harassment can occur in a variety of circumstances, including, but not limited to, the following:

- A. The harasser may be the victim's supervisor, a coworker, an employer's contractor or agent, or a non-employee.
- B. A victim who is a member of a protected class need not be the harasser's direct target and may be affected by observing or learning about the harassing conduct.
- C. Economic injury or adverse employment action is not required for harassment to be deemed unlawful.

All Employees are encouraged to inform any harasser directly and immediately that the conduct is unwelcome and request that the harassment stop, unless personal safety is a concern. Employees should also report harassment to management and/or HR at an early stage.

12.7 Retaliation

Generally, unlawful retaliation occurs when an employer or manager engages in, condones, or causes some manner of adverse action against an employee as a response to that person's participation in a protected activity. Generally, a complaint of discrimination or harassment or cooperating in any workplace investigation regarding unlawful discrimination or harassment is a protected activity regardless of whether the underlying complaint is meritorious.

12.8 Reasonable Accommodation

The City of Rio Rancho can grant reasonable accommodation for employees or prospective employees who request it pursuant to federal and state law. Each request for reasonable accommodation requires case-by-case analysis and evaluation to determine whether and how reasonable accommodation may be possible. Any employee who may need reasonable accommodation in order to perform all essential job functions should contact HR.

12.9 Reasonable Accommodation for Religious Observances and Practices

The City of Rio Rancho can grant reasonable accommodation for an employee's religious observance or practice. Any employee who may need reasonable accommodation due to a religious observance or practice must submit the request to the HR Department far enough in advance of a religious occasion so that the City has a reasonable amount of time to determine whether such an accommodation is possible. If an employee's need for reasonable accommodation is reoccurring or seasonal, the employee's request must clearly explain that the need is reoccurring.

12.10 Reasonable Accommodation for a Disability

The City can grant reasonable accommodation for an employee due to a physical or mental disability recognized under the Americans With Disabilities Act (ADA). Any employee who may need reasonable accommodation due to such a disability must submit a request to HR. An employee may be required to provide a medical provider's certification and documentation for review and evaluation before reasonable accommodation may be granted.

Any employee with a disability recognized under the ADA may be approved to bring a bona fide, trained, and certified service animal to work that performs one or more essential functions related to that person's disability.

Any other circumstance where an employee may have a legitimate reason to bring an animal to work, shall be subject to formal request, evaluation, and approval or denial by the City Manager.

12.11 Light Duty Assignment

Some City departments may have available a "light duty" assignment for personnel who are temporarily restricted from performing the totality of their essential job functions. Light duty assignments shall be confined to a duration of up to ninety (90) consecutive days, and shall be coordinated with and approved by HR.

12.12 Denial of Request

Any request for accommodation due to a disability or for religious observance or practice must be reasonable. No request for accommodation is reasonable if it contemplates an undue hardship or burden for the City or if it contemplates severing any essential job function from an employee's job description.

12.13 Reporting Harassment, Discrimination, Retaliation

It is the policy of the City of Rio Rancho to prevent and eliminate all unlawful discrimination, harassment, and retaliation. Persons who believe they have been exposed to or witnessed unlawful harassment, discrimination, or retaliation should report the information in a timely manner.

The HR Department shall receive and manage complaints regarding violations of this policy. City managers and supervisors shall notify the HR Department immediately whenever they observe directly or receive concerns or complaints of unlawful discrimination.

Failure by any employee who knows or reasonably should know that unlawful discrimination or harassment has occurred or is occurring may constitute an offense or a violation of this policy which may entail disciplinary consequences up to and including dismissal.

12.14 Confidentiality

While the City of Rio Rancho recognizes that employees who report unlawful discrimination or harassment may wish to remain anonymous, the City has an obligation to address concerns and inquiries and investigate and address allegations. Therefore, the City cannot guarantee anonymity to anyone who reports unlawful discrimination or harassment. In situations where a complaint is received from an entirely anonymous source, the City will investigate all available information to determine what if any course of action may be necessary. However, unless the City receives sufficient information through an anonymous source or complaint from which it can investigate allegations, the City may be unable to take any further course of action.

12.15 Reporting Discrimination

Persons who believe they may have experienced discrimination may report the incident(s) to their chain of command or directly to HR.

Chapter 13

Usage of Information Technology Resources

13.1 Objective

The City recognizes that use of the information technology (IT) resources, including but not limited to Internet, Intranet, e-mail, hardware and software, is necessary in the workplace, and employees are encouraged to use IT resources responsibly, as unacceptable use can place the City and others at risk. This policy outlines the guidelines for acceptable use of the City's IT resources. For information regarding employee access to IT resources, email communications, social media, user privacy and monitoring, and non-compliance, reference the City's Administrative Policies and Procedures (as amended).

13.2 Scope

This policy shall be followed in conjunction with other City policies governing appropriate workplace conduct and behavior. Any employee who abuses City IT resources may be denied access and, as appropriate, shall be subject to disciplinary action up to and including termination. The City complies with all applicable federal, state and local laws as they concern the employer/employee relationship, and nothing contained herein should be misconstrued to violate any of the rights or responsibilities contained in such laws.

Questions regarding the appropriate use of the City's IT resources shall be directed to respective department management or the information technology (IT) department.

13.3 Policy

The City has established the following guidelines for employee use of the City's IT resources in an appropriate, ethical, and professional manner:

Confidentiality and Monitoring

All IT resources are the property of the City and not the employee. In general, use of the City's IT resources shall be job-related and not for personal use. The City reserves the right to examine, monitor, and regulate all employee's use of IT resources.

All employees must be aware and are hereby forewarned that their use of the City's IT resources-whether personal or business related-are subject to being regarded as public documents or, otherwise, they may be subject to discovery in litigation.

Appropriate Use

City employees are expected to use IT resources responsibly and productively as necessary for their jobs. Use of IT resources are intended solely for job-related activities.

Chapter 14 Employment Related Records

14.1 Personnel Records

- A. Personnel records for each employee in the City shall be maintained, stored, and secured in the HR Department. The HR file is considered to be the official employment file. The files are City property and will contain documentation regarding aspects of the employee's service. The City shall maintain these files in a manner that protects individual privacy, maintains appropriate security, prevents misuse of information, and complies with government record-keeping requirements and applicable law. Personnel records may not be removed or checked out from the HR Department.
1. Employees may request to inspect their own personnel file in the HR Department by appointment. Whenever a personnel file is being reviewed by an employee or authorized individual, an HR Department staff member shall be present at all times to assure the integrity of the file.
 2. Employees may obtain copies of their personnel file documents. Requests for large or excessive replication of personnel files may require initial payment for copying or downloading responsive documents.
 3. If an employee discovers an item in their own file that he/she believes to be inaccurate, irrelevant or incomplete, a written response and a request for a correction may be made to the HR Director only. The HR Department shall make the correction or notify the employee in writing of the reason for the refusal. This request and the refusal shall become part of the employee's personnel file.
- B. The personnel records maintained by the HR Department shall be the official documents for legal and reference purposes.
- C. In addition to the employee, only those persons authorized by the HR Department, and who have a legitimate interest, shall have access to the personnel records. The City Manager, Department Directors, City Attorney, present or potential future supervisors are the only persons outside of the HR Department authorized to review or have access to an individual's file without a written authorization statement signed by the employee.

14.2 Department/Division Records

- A. Departments/Divisions may maintain an unofficial or informal file for each of its employees which may include a copy of each Payroll Status Change, attendance and leave records, performance evaluations, corrective actions, and other pertinent information. These files shall not contain employee medical documents, or protected personal identifier information.

1. Such records shall be made available for inspection by the employee or who otherwise may have legal, contractual, or express authority.
 2. A copy of any appropriate record held in a departmental/division record shall be provided to the HR Department.
- B. Upon request, employees may obtain a copy of documents placed in the file and may present a written response to any documents in the file to be attached to the original documents.

14.3 Confidentiality of Records

Not all documents in personnel records are subject to public inspection. However, such records may be inspected with the written permission of the employee. For the purpose of preserving the confidentiality of records, the material listed below shall be regarded and treated as confidential:

- A. Records pertaining to physical and mental examinations and medical treatment of employees or their dependents.
- B. Letters of reference concerning employment, background investigations, licensing or permits.
- C. Letters or memoranda which are matters of opinion.
- E. Opinions in performance appraisals.
- F. Opinions concerning a person's reemployment status or why a person was not reemployed.
- G. Personal identifier information, including but not limited to date of birth, home address, phone number, personal email address, social security number, or financial account information.
- H. Any other documents regarded as confidential by law.

14.4 Employee Information

In order that personnel records be kept current, all employees shall notify the HR Department in writing concerning any changes in their personal status within twenty-four hours of the change, or as soon as practicable. Such status changes include:

- A. Change of legal name;
- B. change of address;

- C. change of telephone number;
- D. change of marital status and/or number of dependents;
- E. change of persons to be notified in cases of emergency;
- F. change of beneficiary; and
- G. change of driver's license status.

Chapter 15

Health and Safety in the Workplace

15.1 Safety Practices

The City of Rio Rancho is committed to providing a safe and healthful work environment for its employees. The City shall provide reasonable safeguards to ensure safe working conditions for its employees. Each employee shall make an individual commitment to the personal practice of good safety and recognize that safety is a personal responsibility.

- A. All employees shall perform their duties in a safe and careful manner and shall follow all federal, state, and local regulations, including wearing personal protective equipment (PPE) and using required safety equipment so as not to endanger themselves or others.
- B. All employees shall familiarize themselves with the hazards of materials and equipment they are working with and take appropriate precautions. Employees shall learn and follow safe work rules in the use of tools, equipment, and machinery normally used in their work.
- C. Each employee has the duty to immediately report safety concerns to a supervisor or manager, so that the issue can be reviewed and addressed.
- D. All employees shall use all safety apparel and equipment as designated for their respective work areas and job duties.
- E. Any employee involved in a work-related accident or exposure, or who gains knowledge of such, shall report it to a supervisor or manager immediately. Failure to report an accident in a timely manner may result in the loss of benefits to the employee and may include corrective or disciplinary action.

15.2 Drug Free Workplace Policy

The City of Rio Rancho is committed to protecting the safety, health and wellbeing of all employees and other individuals on City property or worksites. The City recognizes that alcohol and drug use pose a significant threat to the City's mission and vision. The purpose of this policy is to establish expectations for all employees and describe the mechanisms for maintaining a work environment at the City of Rio Rancho that is drug-free, safe, and in compliance with federal and state laws and regulations. This policy is governed and implemented by City of Rio Rancho Administrative Policies and Procedures (as amended).

- A. **Applicability.** This policy applies to all City of Rio Rancho employees and applicants for employment. In those instances in which there is a conflict between a collective bargaining agreement and the requirements of this document, the collective bargaining agreement prevails. Violations of this policy may result in discipline, up to and including dismissal. If an employee voluntarily discloses an addiction or

dependency problem, an opportunity will be provided to preserve his/her job with the City as outlined in the City's Administrative Policies and Procedures (as amended). A Return to Work Agreement between the employee and the City may be required before the employee is allowed to return.

B. Policy Statement. As a municipal employer and a federal grantee, the City of Rio Rancho complies with "The Drug Free Workplace Act" and the Federal Highway Administration (FHWA) drug and alcohol testing rules. The City cannot tolerate illegal activity and must ensure a work environment that is free from unauthorized or illegal use, possession, or distribution of alcohol or controlled substances. Employees who are involved with illegal drugs or other controlled substances, or who abuse alcohol, pose unacceptable risks to safe and efficient operations. Such employee behavior may also undermine public confidence in safe and efficient City operations.

C. Drugs

1. Unlawful manufacture, distribution, dispensing, possession, use, transfer, or sale of drugs is prohibited, regardless of whether this occurs at a City worksite, a City building or property, at official City functions or on City business.
2. Prescription and over-the counter drugs are not prohibited when taken in standard dosage and/or according to a physician's prescription. Any employee taking prescribed or over-the-counter medications shall be responsible for consulting the prescribing physician and/or pharmacist to ascertain whether the medication may interfere with safe performance of his/her job or prevent the employee from performing the essential functions of his/her job, with or without reasonable accommodation. If medication may impair or compromise the safety of the employee, fellow employees or the public, it is the employee's responsibility to request the use of appropriate leave, i.e., sick leave or Family Medical Leave, or request reasonable accommodation to perform the essential functions of their job.
3. The illegal or unauthorized use of prescription drugs is prohibited. It is a violation of this policy to intentionally misuse and/or abuse prescription medications. Appropriate disciplinary action will be taken if job performance deterioration and/or other accidents occur.

D. Alcohol

1. The unauthorized use or possession of alcohol or alcoholic beverages on a City worksite, a City building or property, at official City functions, on City business or City-sponsored events is prohibited. City-sponsored events include:
 - events that require an employee's attendance;
 - City-funded events where attendance is required; and,
 - City events that occur during scheduled work hours.

E. Violations

One of the goals of this policy is to encourage employees to voluntarily seek help with alcohol and/or drug problems. If, however, an employee violates the policy, he/she will face consequences, which may include discipline up to and including termination.

1. In the case of any job applicant who violates this policy, the offer of employment shall be withdrawn. The applicant may apply after one year and must successfully pass a pre-employment drug test and provide proof of successful completion of a treatment program.
2. Except for voluntary self-referral participants in an Employee Assistance Program (EAP) for substance abuse, the first instance in which an employee submits a sample for alcohol/drug testing which is found to contain alcohol or drugs or their metabolites shall be considered justifiable cause for discipline up to, and including, dismissal with or without prior disciplinary records. The employee shall be removed from any position performing a safety sensitive function, as defined in § G (4) (b) below. If an employee in a self-referral rehabilitation program fails to successfully complete it and/or repeatedly violates the policy, she/he may be terminated from employment. Nothing in this policy prohibits the employee from being disciplined or terminated for other violations and/or performance problems, including the inability to perform the essential functions of their job.
3. Employees in safety sensitive positions may face immediate termination upon violation of this policy.

F. Notification of Criminal Charge

Any employee, who is charged or convicted of any drug related crime shall notify the HR Director, in writing, within 24 hours. If the crime occurred on City premises or during work hours, the City will take appropriate action, particularly regarding state or federal regulations or requirements.

G. Drug and Alcohol Testing

1. To ensure the accuracy and fairness of the City's testing program, all testing will be conducted according to FHWA and Substance Abuse and Mental Health Administration (SAMHSA) guidelines, which include the following:
 - a. screening test;
 - b. confirmation test;
 - c. the opportunity for a split sample;

- d. review by a Medical Review Officer (MRO), including the opportunity for employees who test positive to provide a legitimate medical explanation, such as a physician's prescription, for a positive test result; and
 - e. a documented chain of custody.
 2. Breath Alcohol Testing will be administered by a Breath Alcohol Technician (BAT). If a violation of this policy has occurred, the HR Director will be notified immediately for further action in accordance with this policy and Administrative Policies and Procedures (as amended).
 3. All drug and alcohol testing information will be maintained in separate, confidential records.
 4. Testing shall be required under the following circumstances:
 - a. pre-employment;
 - b. random or mass testing for safety sensitive positions as designated by the Department of Transportation (DOT) regulations and FHWA or by the HR Director in accordance with specific departmental requirements;
 - c. employees in non-safety sensitive positions before transferring to safety sensitive positions;
 - d. upon reasonable suspicion (see Administrative Policies and Procedures, as amended) that an employee is impaired to the slightest degree by drug and/ or alcohol use;
 - e. as part of a self-referral treatment program for employees enrolled with the EAP, or other substance abuse program; and,
 - f. post-accident, in accordance with Administrative Policies and Procedures (as amended).
 5. The Department Director or his/her designee, the HR Director or his/her designee, or the City Manager, shall give the order for a test if reasonable suspicion occurs during working hours, or on City premises at any time.
 6. An employee shall be subject to the same consequences of a positive test if he/she refuses the screening or test, adulterates or dilutes the specimen, substitutes the specimen with that from another person or sends an imposter, will not sign the required forms, or refuses to cooperate in good faith with the testing process in such a way that prevents completion of the test.
 7. An employee who submits a sample for alcohol/drug testing which is found to contain alcohol or drugs or their metabolites shall not perform any safety sensitive function until successfully completing an evaluation and being released for duty by a medical officer authorized by the HR

Director. Employees, who do not perform safety sensitive job functions, may return to work if authorized by the City Manager and/or the HR Director. The City Manager may authorize the use of accrued leave until the employee is allowed to return to work.

H. Return to Work Agreements

1. At any time before testing for drugs or alcohol may become necessary, an employee who has voluntarily disclosed an addiction or dependency may be offered an opportunity to participate in rehabilitation. In such case, the employee must sign and abide by the terms set forth in a Return to Work Agreement as a condition of continued employment.
2. An employee who voluntarily admits to drug and/or alcohol abuse prior to drug screening or a reasonable suspicion incident shall be referred through the HR Department for assessment and counseling. Upon successful completion of all HR requirements, the employee may return as though returning from other medical leave. This provision may not apply to safety sensitive employees including but not limited to employees covered by restrictions as applicable, pursuant to rules and regulations imposed by the New Mexico Department of Transportation or the United States Department of Transportation.
3. Prior to Returning to Work, the employee must demonstrate successful completion of rehabilitation and fit for duty assessment. The employee may return as though returning from other medical leave, subject to follow-up testing and related requirements as determined by HR.

I. Assistance

The City recognizes that often alcohol, drug abuse, and addiction are treatable conditions. Similarly, early intervention and support improve the success of rehabilitation. Treatment for alcoholism and/or drug use may be covered by the employee benefit plan; however, the ultimate responsibility for recommended treatment belongs to the employee. To support employees, the City's Drug Free Work Policy recommends and encourages the following:

1. Employees contact HR if or when drug or alcohol problems appear that affect them or their family;
2. Employees utilize the services of qualified professionals to assess the seriousness of suspected drug or alcohol problems and identify appropriate sources of help;
3. Employees and their family members with alcohol and drug problems contact the City's EAP for assistance.
4. Allows the use of accrued paid leave while seeking treatment for alcohol and other drug problems.

J. Employee Responsibilities

A safe and productive drug free workplace is achieved through cooperation and shared responsibility. All employees are required to report to work unimpaired and available to perform their job duties. It is an employee's responsibility to:

1. Follow work rules and report unsafe, suspicious, or dangerous behavior, or activity;
2. Read and acknowledge this policy;
3. Inform HR of any alcohol and other drug problems in the workplace; and
4. Use the EAP;

K. Employer Responsibilities

It is the supervisor's responsibility to:

1. Inform employees of the drug free work policy;
2. Monitor the workplace to ensure a safe and drug free workplace;
3. Investigate reports of alleged violations;
4. refer employees to the EAP; and
5. clearly state consequences and counsel employees on policy violations.

15.3 Smoking, Tobacco Use, Vape Products:

- A. All City of Rio Rancho employees, customers and visitors are expected to comply with the regulations detailed in this policy.
- B. Smoking, tobacco in any form, and all vape product use is strictly prohibited in any City vehicle, building, and all other City premises not reserved for such activities.
- C. Enforcement
 1. Employees: Violations of this policy shall be construed as insubordination and shall be just cause for disciplinary action under the City of Rio Rancho Personnel Policies and Work Rules.
 2. Non-employees: The City employee in charge of any area or facility shall advise violators of this policy. If the violator persists, the City employee shall ask the violator to leave. If the violator refuses to leave and persists in violating this policy, the City employee shall request the assistance of the Rio Rancho Police Department to remove the violator from the City premises.