

City of Aztec Personnel Policy



October 2024

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SECTION 1. INTRODUCTION

1.1. Intent and Purpose.

The City of Aztec's Personnel Policy establishes the framework for the administration of City's personnel policies. The Personnel Policy was adopted by the Aztec City Commission at its regular meeting of October 8, 2024. The effective date of the Personnel Policy is October 2024.

The purpose of this handbook is to establish basic personnel policies and practices governing relations between the City of Aztec and its employees. This handbook does not constitute an employment contract. This means that employees are free to terminate employment at any time for any reason, and the City of Aztec retains that same right. This handbook may not cover every possible situation, and may be amended by the City Manager, as necessary, with the approval of the City Commission.

The policies and procedures contained herein shall replace and supersede those contained in the December 2020 Personnel Policy.

This handbook of personnel policies should be interpreted as a whole rather than interpreting individual sections or sentences in isolation and out of context. Official interpretation of these policies and procedures shall be made by the City Manager and Personnel Administrator.

Individual department personnel policies, rules, regulations, and procedures may be promulgated with the concurrence of the Personnel Administrator and the approval of the City Manager to ensure that they are not in conflict with the substance of the Personnel Policy.

The City Manager, pursuant to New Mexico Law, has final authority to approve or disapprove personnel actions of all City employees and to act in accord with City Commission policies, consistent with provision of the City Personnel Policy.

1.2. Public Employment.

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

1.3. Line of Authority.

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

The City of Aztec is a Commission-Manager form of government. The governing body in a commission-manager municipality consists of five commissioners, one of whom is selected as mayor by a vote of the majority of commissioners. The Commission is responsible for setting policy for the general operation of the City, approving budgets, and contracts and establishing rules, regulations, ordinances and policies. The Commission appoints a City Manager who is

responsible for personnel and the proper and efficient administration of the municipal government.

It is the responsibility of the Personnel Administrator to recruit for the City, and assist the City Manager and Supervisors in the selection and hiring of personnel. The City Manager is responsible for hiring Department Heads (management personnel).

The personnel program consists of an Affirmative Action Policy and all other procedures related to personnel. The personnel program is administered by the Personnel Administrator under the direction of the City Manager. The Personnel Policy rules and procedures shall apply to all employees. The City of Aztec is an Equal Opportunity Employer.

1.4. Amendment of Rules.

Amendments to these personnel rules may be proposed by the City Manager to the City Commission as needed. All amendments shall be adopted by ordinance and shall become effective upon adoption by the City Commission, proper publication as provided by state statutes, and notification of all employees. Any changes to State or Federal laws that are applicable to this policy are adopted by reference without formal City Commission action.

1.5. Adoption of Personnel Rules.

Any employee working within a Department which has written Department or Administrative regulations separate from this Personnel Policy shall abide by the more stringent requirement of the two policies.

All employees employed at the time of the adoption of the Personnel Policy, and in the positions covered by the Personnel Policy, shall be subject to the provisions of the policy, and all rules and regulations issued pursuant to the policy.

1.6. Administrative Procedures and Regulations.

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

1.7. Personnel Administrator.

In the context of the Personnel Policy, Personnel Administrator is used to reference the position responsible for Human Resources administration. In the absence of a Personnel Administrator, a Designee may be appointed by the City Manager.

1.8. Supervisor.

The use of Supervisor throughout the Personnel Policy is utilized as a reference for Immediate Supervisor and/or Department Head.

SECTION 2. RECRUITMENT AND SELECTION

2.1. Policy.

The City of Aztec supports Equal Employment Opportunity through an Affirmative Action Plan whereby the City recruits and selects the most qualified persons for positions established within the city. Recruitment and selection shall be conducted in a manner that will ensure open competition, provide equal employment opportunity, and prohibit discrimination or favoritism because of race, color, religion, sex, national origin, age, disability, sexual orientation and gender identity, ancestry, physical or mental handicap, serious health condition, spousal affiliation, or any other legally protected status.

Any discrimination complaint should be filed within 180 days of the alleged discrimination with the Personnel Administrator.

2.2. Personnel.

The City Manager employs all persons engaged in the administrative service of the municipality.

2.3. Postings.

When a request to fill a vacancy has been reviewed by the Personnel Administrator, approved by the City Manager and/or the Finance Director, the vacancy shall be filled as outlined below.

Note: *Police personnel shall be responsible for establishing the hiring and testing process for all police officers.*

1. Internal Posting. The vacancy shall be posted internally as an opening for City of Aztec employees for consideration. The opening will be announced through the City's internal e-mail system and will remain open for three (3) days. A copy of the Job Description will be available at City Hall. City Employees will need to complete a City of Aztec Job Application and submit it to the Human Resources Office.
(AR 2014-40; Incorporated into Personnel Policy 2015)
2. External Posting. Job announcements shall be posted in places available to the general public. External postings shall include pertinent job information, including minimum job qualifications. Postings may include the essential functions, work environment, physical, and cognitive requirements. External postings may be announced through advertisement in newspaper, City web site, e-mail, and other means deemed necessary.
3. Duration. Job announcements shall be posted (internally or externally) for not less than three (3) business days before a position is to be filled. This period of time may be waived by the City Manager or Personnel Administrator for emergency placements or special situations.
4. All advertising shall contain the following statement: *The City of Aztec is an Equal Opportunity, Reasonable Accommodation Employer.*

2.4. Former Employees.

1. Former employees who left the city in good standing may be considered for rehire.
2. Former employees who resigned without written notice or who were dismissed for disciplinary reasons may not be considered for rehire.
3. A former employee rehired shall be considered a new employee from the date of hire.

2.5. Application Form.

All applications for employment shall be made on forms prescribed by the Personnel Administrator.

2.6. Application Submittal.

All applications must meet posted deadlines in order to be accepted. All applications, resumes and other required documentation shall be submitted to the Human Resources Office or City Hall either in person, by mail, e-mail or fax.

2.7. Internal Applicants.

All existing employees, including part-time and seasonal employees who meet the minimum job requirements, qualifications, and education, shall be subject to the same tests as external applicants. An applicant's current supervisor may be contacted to verify performance, skills, and attendance. The Department Head may also review the personnel file.

Employees who are on disciplinary probation or suspension shall not be eligible to apply for posted jobs.

2.8. Rejection of Application.

An applicant may not be considered for hire for the following reasons:

1. Has deliberately falsified an application or resume. (Current employees who violate this section shall be subject to disciplinary action, up to and including termination).
2. Is unable to perform the essential function of the position, with or without reasonable accommodations.
3. Has failed to pass a pre-employment background check, including driving record check, finger printing, and/or any other State or Federal checks.
4. Applicant with a poor driving record, as determined by the City through MVD driving records and NM Self Insurers Fund, shall be disqualified for employment.
5. The applicant is under the age of 18 and the position requires the applicant to operate a motor vehicle (Age exception: Youth employees hired by the City)

6. Is unable to meet the minimum job qualifications, education, and experience requirements as outlined in the job description.
7. Has submitted an application after an announcement closed, or has submitted an application for an unannounced position.
8. Has submitted an incomplete application, submitted only a resume, failed to provide any references when requested, or failed to provide copies of documents cited in the job announcement by closing date.
9. Receives a positive test or diluted test result on a pre-employment drug test.
10. The applicant upon notification of a positive test may request a second drug test. A second test shall be allowed only if applicant submits to the pre-employment drug test the day of notification, and the second test is at the applicant's own expense.
11. Those applicants that receive a positive test on a pre-employment drug test (whether one or two tests failed) shall not be eligible to submit another application for employment for a period of six months.

2.9. Application Review and Referral.

The intent of the application review process is to maximize reliability, objectivity, and validity through a practical and job-related assessment of applicant attributes necessary for successful job performance and career development. This process also provides opportunities at various levels through promotion. Reasonable attempts should be made to fill vacancies from current City employees.

1. Selection Method. The Personnel Administrator, with input from the Supervisor, shall be responsible for determining selection methods to obtain the best qualified candidates for each position.
2. Application Pool. Applications will be considered active for a period of six months. The applicant must contact the Personnel Administrator and request the application be considered for other positions. Upon recommendation by the Supervisor, the Personnel Administrator may contact the next qualified applicant if same position applied for opens within 90 days of receiving the application, eliminating the need to re-advertise.
3. Performance Testing. The Personnel Administrator may require assistance from the Supervisor to develop performance tests. A performance test is conducted to assess skills and qualifications needed to match the position available. Tests may also be given for positions requiring certain physical dexterity, physical fitness, or operation of certain equipment in order to test the applicant's ability to perform within the job description.
4. Security. Every precaution shall be taken by all persons participating in the development and maintenance of testing materials to maintain the highest level of integrity, security, and confidentiality.

5. Nepotism Prohibited. The Personnel Administrator, the Supervisor, the City Manager, or other staff shall identify and resolve any potential conflict that may occur as a result of nepotism ([Refer to Appendix A - Nepotism](#)).
6. Pre-Selection Prohibited. No City employee or elected official shall promise job appointments to any person. All inquiries regarding vacancies should be referred to the Personnel Administrator.
7. Interviews & Testing. The Personnel Administrator shall arrange interviews and testing.
8. Conditional Offer of Employment. An offer of employment shall be made by the Personnel Administrator or the City Manager to the applicant who is determined to be the most qualified for the position available. Those applicants who interviewed but were not offered a conditional job offer, shall be notified by letter or email.
9. Physicals, Drug Screens/Testing. The City shall require persons selected for employment to successfully pass a physical examination and drug screen, which shall include testing for alcohol and controlled substances as part of the conditional job offer. Law enforcement officers may also be required to successfully complete the psychological and polygraph testing.
10. Reference, Background, Driving, Past Employment Verification. Reference checks, background checks, driving records, verification of past employment, and information provided on the applicants job application or resume shall be verified as part of the conditional job offer. The Personnel Administrator may require additional information as deemed necessary to fulfill Department Policies and position requirements.

2.10. Disqualification from Conditional Offer.

A candidate may be disqualified from consideration for any of the following reasons:

1. Physically unable to perform the duties of the position, and the individual's condition cannot reasonably be accommodated without undue hardship in the workplace;
2. The candidate does not complete a medical examination;
3. If the exam reveals use of alcohol, illegal drugs, and/or controlled substances;
4. Unacceptable driving record, invalid driver's license, or no driver's license when position requires;
5. Unacceptable background check.
6. Failure to pass physical examination.

2.11. Start Date.

The Personnel Administrator shall inform the successful applicant of a start date for employment.

2.12. Employee Orientation.

The Personnel Administrator shall contact the Supervisor to schedule an employee orientation. The new employee shall be provided the City's Personnel Policy, Administrative Regulations, Safety Policy, and information regarding City benefits, payroll, and other pertinent information.

Each Supervisor shall ensure that the department to which the new employee is assigned makes provisions for specific orientation to the new employee regarding departmental functions, responsibilities, and unique requirements of the department. The new employee should refer questions to Supervisor or Personnel Administrator.

2.13. Probationary Period.

Probationary Period is the trial period during which a determination is made as to whether or not an employee is suitable for his/her position. The probationary employee is evaluated on the employee's ability, potential, and performance. A probationary employee serves "at will" and can be dismissed with or without cause by the City during probationary period.

An employee is allowed to transfer or be promoted while in their initial probationary period. At a minimum, an accumulative twelve (12) months of probationary period must be served.

1. Newly Hired. The probationary period for all newly hired employees is twelve (12) months. At six (6) months from the date of hiring, the supervisor will conduct an employee evaluation. The evaluation will be used to provide the employee with guidance as to whether the employee is meeting the job expectations or if the employee requires more improvement in order to continue employment.

If the decision is to *extend* probation, (for any time period up to an additional 6-month period) the employee shall be notified verbally. The Supervisor contacts the Personnel Administrator and a Personnel Action Form is prepared.

If, at any time during the twelve (12) month probationary period, the decision of the Supervisor is to *discontinue* the employee's employment, the City Manager shall be notified verbally by the Supervisor. The Supervisor contacts the Personnel Administrator, and a Personnel Action Form is prepared. The Supervisor shall inform the employee of termination prior to the start of the workday or at the end of the workday.

2. Police Officer. The probationary period for a police officer shall be as follows: placed on a 12-month probationary period at the completion of the basic police academy.
3. Uncertified Officers: Officers who are not certified by a recognized law enforcement academy on their hire date will remain on probation until twelve (12) months AFTER completion of basic law enforcement academy. Anniversary date for purposes of annual performance review will be one (1) year from date of hire.

4. Certified Officers: Officers who have law enforcement certification at the time of hire by the City will be on a twelve (12) month probationary period. Anniversary date for purposes of annual performance review will be one (1) year from date of hire.
5. Promotional Probation. The probationary period for an employee receiving a promotion within a department shall serve a twelve (12) month probation in their new position. The employee's anniversary date changes with the promotion. If the promoted employee does not satisfactorily complete his/her promotional probation, the Supervisor with approval by the City Manager shall determine on a case-by-case basis if the promoted employee shall be returned to the position previously held if still available. If the prior position or an equivalent position is not available, the employee may be released from employment with the City.
6. Transfers. The probationary period for an employee transferring from one job classification to another job classification within the same pay grade, or from one department to another shall have a twelve (12) month probationary period. The anniversary date shall change to the date of transfer. This section excludes duty assignments within a department.

If an employee transferring to a new department is earning a higher rate of pay than what is posted for the position, the employee shall retain current rate of pay if recommended by Supervisor and approved by City Manager.

7. Reclassification. A Department Head must provide written justification to the City Manager for the reclassification of an employee's position. Upon approval by the City Manager, an employee's position may be reclassified. A new job description must be completed and forwarded to the Personnel Administrator.

2.14. Responsibility.

The Personnel Administrator is responsible for the overall management of the recruitment and selection processes including employment-related agency relationships.

2.15. Forms.

All forms completed during orientation by the new employee shall become part of the employee's personnel file. It is the responsibility of the employee to ensure that the employee information is current and accurate during their employment. Any changes to employee information, needs to be reported to the Personnel Administrator.

2.16. Internship Program.

1. Purpose. As part of an outreach and educational program, departments may find themselves in need of developing an internship program. The internship program is to provide a student with practical experience that could assist the student in their academics and pursuit of a career in public service. The student is expected to both learn from and contribute to this employment opportunity.

2. Eligibility. The internship position will be subject to the following eligibility requirements:
 - 1) Student is a continuing high school or college student; and
 - 2) Student must have a 2.5 GPA or higher; and
 - 3) Demonstrate that the work study is applicable to their education (through a letter of recommendation from a dean or teacher which clearly states a beneficial aspect of the work study to the student's curriculum).
 - 4) Wages for interns working a curriculum-related project must be justified by the Department Head, reviewed by the Personnel Administrator with approval by Finance Director and the City Manager.
 - 5) Interns being paid to work on City-generated projects or activities will be paid according to an approved student wage schedule.

3. Procedures. The internship position will be subject to the following procedure requirements:
 - 1) All internship positions shall be posted to the web site and/or advertised in the local newspaper and/or school system;
 - 2) Applications will be accepted by all candidates that meet the *Eligibility* qualification;
 - 3) The intern shall be treated as a temporary, part-time or full-time employee as specified in Section 3.2.5;
 - 4) Employment is per semester, not to exceed two (2) semesters (budget allowing).
(AR 2015-43; Incorporated into Personnel Policy 2015)

SECTION 3. CATEGORIES OF EMPLOYMENT

3.1. Classification System.

1. Exempt Employees. Salaried exempt employees are those whose duties, responsibilities, and compensation render them exempt from overtime requirements of the [Fair Labor Standards Act \(FLSA\)](#).
(AR 2005-18; Incorporated into Personnel Policy 2012)
2. Non-Exempt Employees. Non-exempt employees are those whose duties, responsibilities, and compensation cause them to not be exempt from overtime requirements of the same Act, and are to be compensated at a rate not less than one and one-half (1-½) times an employee's regular rate of pay for work in excess of forty (40) hours worked in an established 7-day period (43 hours for police officers). Overtime shall be paid monetarily.

3.2. Categories.

Scheduled work week is defined as Sunday through Saturday.

1. Regular.

- 1) Full-Time. An employee who is scheduled to work thirty (30) to forty (40) hours per seven-day period, shall be entitled to all employee benefits subject to terms, conditions and limitations of each benefit program.
- 2) Part-Time. An employee, who is scheduled to work twenty (20) to thirty (30) hours or more per seven-day period in a regular budgeted position, shall be entitled to all employee benefits subject to terms, conditions, and limitations of each benefit program on a pro-rata basis.
- 3) Part-Time (19 hours or less). An employee, who is scheduled to work 19 hours or less per seven-day period, shall not be eligible for employee benefits other than those mandated by law or as provided within this policy.

2. Temporary.

- 1) Full-Time. A temporary employee, who is scheduled to work thirty (30) to forty (40) hours per seven-day period. Full-time temporary employees are hired for a period not to exceed (6) months, and shall not be eligible for employee benefits.
- 2) Part-Time. A temporary employee, who is scheduled to work twenty (20) to thirty (30) hours per seven-day period. Part-time temporary employees are hired for a period not to exceed (6) months, and shall not be eligible for employee benefits.

3. Seasonal.

A full-time or part-time employee, hired to work during a particular season, whose employment ends with the season, shall not be eligible for employee benefits other than those mandated by law.

4. Acting Employee.

An employee assigned to temporarily assume the duties of a vacant position. An employee normally assumes the acting duties in addition to performance of his/her usual duties. However, an employee may be assigned by the City Manager to perform duties in a position not related to his/her regular duties.

5. Youth Employee.

A student hired to work temporarily shall not be eligible for employee benefits, other than those mandated by law. Hours will be restricted based on standards established by [FLSA](#).

6. Elected/Appointed Officials.

Salary and benefits determined by current State law and/or City Code.

7. Municipal Court Employees.

Municipal Court Employees have the same protections within the Personnel Policy as all other regular employees, except disciplinary action ([Section 6](#)) and that the Municipal Courts employees are considered to be at will employees.

3.3. Exempt Employees.

1. Under [FLSA](#), certain employees are exempt from the minimum wage and overtime requirements if they meet the requirements of the "Standard Test." The City Clerk's Office keeps a supply of "Standard Tests" for Executive, Administrative and Learned Professionals.
2. An exempt employee has virtually "no rights at all" under the [FLSA](#) overtime rules. About all an exempt employee is entitled to under the [FLSA](#) is to receive the full amount of the base salary in any work period during which he/she performs any work (less any permissible deductions). Nothing in the [FLSA](#) prohibits an employer from requiring exempt employees to "punch a clock," or work a particular schedule, or "make up" time lost due to absences. Nor does the [FLSA](#) limit the amount of work time an employer may require or expect from any exempt employee, on any schedule.
3. All exempt employees will record their time either electronically or on a paper time sheet. All time must be reviewed and approved by the Department Head. City Manager or designee approves all time for Department Heads.
4. Employees taking bank time (e.g., sick leave, vacation, personal day, professional leave), are required to submit a Leave Request (hard copy or electronically) which must be reviewed and approved by Department Head. City Manager or designee approves *Leave Requests* for Department Heads.
5. Employees taking a partial day(s) or full day(s) off will not have to deduct hours from their bank time if the time taken off is four (4) hours or less (e.g., sick leave, vacation, personal day, professional leave), when the scheduled eighty (80) hours per pay period of actual time has been worked. The Employee must submit a *Leave Request* so the Supervisor can account for the time off.

6. For partial day(s) or full day(s) off when an employee works less than scheduled hours in a pay period, time shall be deducted from bank time to bring total hours to scheduled hours on Employee's time sheet (e.g., sick leave, vacation, personal day, professional leave) and employee shall submit a *Leave Request*.
(AR 2004-07; Incorporated into Personnel Policy 2012)

SECTION 4. COMPENSATION AND BENEFITS

4.1. Compensation Plan.

It is in the best interest of the City to fairly compensate employees for the value of the work provided. Total compensation represents the largest ongoing expense to the City; therefore, in as much as budget allows and with Commission approval, the City Manager and the Finance Director shall strive for a fair compensation package that attracts and retains qualified and experienced employees. Ongoing reviews of the compensation package shall occur.

4.2. City Salary Schedules Defined.

There are two general categories for City employees: exempt and non-exempt ([Section 3.1 Classification System](#)).

4.3. Standards for Development of the Pay Plan.

Pay plan may be developed or updated on the basis of:

1. Responsibility (i.e. accountability, accuracy, and controls over work);
2. Knowledge (i.e. formal education, knowledge, skills, and abilities);
3. Difficulty of work (i.e. judgment and decisions required, complexity and variety of work);
4. Work environment (i.e. physical effort and working conditions);
5. Prevailing wages of other public entities;
6. Cost of living index;
7. Other economic/job factor/market considerations.

4.4. Administration and Amendments of the Pay Plan.

The Finance Department and City Clerk's Office personnel shall administer the pay plan. The Finance Director may recommend amendments to the City Manager. If approved by the City Manager, amendments shall be recommended to the City Commission for budgeting.

4.5. Entry Level Pay Rates.

The entry-level rate is the minimum rate in the pay grade for the position. The Department Head, subject to approval by the City Manager and the Finance Director (for budgetary purposes), may recommend a candidate above the entry-level rate if:

1. The applicant has prior experience.
2. The applicant has exceptional qualifications.

3. The applicant has qualifications which are unique or critical to the position.
4. The applicant is a former employee who left in good standing with the city.

4.6. Compensation Factors.

There is no requirement that all individuals assigned to the same classification or grade receive the same pay. Factors such as employment longevity, certifications, promotion, reallocation, merit increases, and other reasons permitted by personnel rules may cause different pay. These individual pay differences do not violate the equal pay for equal work requirement.

4.7. Pay Rate Adjustments.

1. Transfers (Reassignment). When an employee is transferred (*reassigned*) from one position to another within the same classification (*pay grade*); the employee may continue to receive the same base rate (*rate of pay the employee is currently earning*). When reassignment includes greater responsibility a higher base rate may be recommended by the Department Head, reviewed by the Personnel Administrator and the Finance Director with final approval by the City Manager. This section excludes duty assignments within a department.
2. Promotion. The assignment of an employee from one classification to another classification with greater responsibility. A base rate shall be recommended by the Department Head, reviewed by the Personnel Administrator and the Finance Director with final approval by the City Manager on a case-by-case basis. The position may be filled internally at the discretion of the department head.
3. Demotion. The assignment of an employee from one classification or grade to another classification or grade with a lower base rate and less responsibility. A lesser rate of pay shall be recommended by the Department Head, reviewed by the Personnel Administrator with final approval by the City Manager on a case-by-case basis. An employee shall be entitled to a predetermination hearing as defined in [Section 6](#).
4. Full Reinstatement. When reinstated from layoff for lack of work or from suspension from duty (with or without pay), the employee may be restored to the same classification or grade the employee had at the time of the employment action. Leave accrual rates may be restored to previous levels.
5. Reinstatement to a Lower Grade. If reinstated to a lower classification or grade, for whatever reason, a lower base rate may be recommended by the Department Head, with final approval by the City Manager.
6. Completed Certification. The employee for which a certification is required will provide a copy of their completed testing or certificate of completion for course work to their respective Department Head and/or Personnel Administrator for initiation of a *Personnel Action Request*. A pay increase that is directly tied to obtaining a certification or completed testing will become effective on the date that the Personnel Administrator completes the *Personnel Action Request* and will be seen on the next

full pay period (e.g. if a *Personnel Action Request* is completed in the middle of a pay period, the change in pay will not be seen until the next pay period).
(AR 2019-59; Incorporated into Personnel Policy 2020)

4.8. Personnel Action Request Form.

All personnel actions require a *Personnel Action Request* (PAR) form to be generated by the Personnel Administrator or designee. The form is circulated to obtain signatures.

4.9. Reporting of Time.

Accurately and truthfully recording work time is the responsibility of every employee. Altering, falsifying, or tampering with time sheets is prohibited, and may result in disciplinary action up to and including termination. It is the employee's responsibility to enter time and sign time sheet to certify the accuracy of all time recorded.

4.10. Eligibility for Overtime Pay.

[FLSA](#) non-exempt employees shall become eligible to be compensated monetarily at one and one-half (1½) times for all actual hours worked in excess of forty (40) hours during a regularly scheduled seven-day work week (43 hours per 7-day period for police officers). Listed are examples of when an employee shall be compensated for overtime and when an employee shall not be compensated:

1. Those employees who work less than forty (40) hours per week shall be compensated at straight time.
2. Overtime pay for [FLSA](#) exempt employees is not required for those employees who work more than forty (40) hours per 7-day period.
3. Employees called for an emergency or during a holiday week shall be compensated for all hours physically worked at straight time up to forty (40) hours within a forty (40) hour pay week and one and one-half (1-½) times monetarily for additional hours worked greater than forty (40) hours in a pay week.
4. Non-exempt employees required to work a recognized holiday shall be paid straight time.
5. Police Officers working shift schedules shall be given additional vacation time as outlined in the Administrative regulation.
6. Part-time seasonal and temporary personnel working less than forty (40) hours per week shall receive straight time unless hours worked in a 7-day period exceed forty (40) hours; then they shall be compensated at one and one-half (1½) times for actual hours worked.

4.11. Overtime Authorization and Recordkeeping.

Supervisors shall approve overtime and must maintain accurate records on non-exempt employees who work overtime and the reasons for the overtime. The City Manager may request any overtime to be worked to receive prior approval. Any adjustments made in overtime records shall be accompanied by a written explanation of why the adjustments were made.

4.12. Compensated Volunteers.

Policy. Employees are encouraged to volunteer their time for community services. In most instances, the time volunteered occurs outside an employee's normal work schedule and is for duties substantially different from the employee's normal work duties/responsibilities. This time is not compensable. However, there are a few exceptions as noted in 1-3 below.

Scheduling. Occasionally, volunteer duties may conflict with normal scheduled work hours. The employee is responsible for advising his/her Supervisor of his/her volunteer duties. The Supervisor has the option to allow or disallow an employee to volunteer during normal work hours, based on the needs of the department.

1. The City operates a Volunteer Fire Department. Employees are encouraged to join this organization ([Section 4.22](#)). The volunteers are paid an allowance based on each call in which they participate, and number of years of service with the organization. Allowance subject to withholding as identified by law.
2. A City Facility can be rented by groups for a variety of functions. It may be necessary for security to be provided depending on the event, and/or the subsequent cleaning of the city facility following the completion of the event. Parties renting the center complete a *Rental Agreement* in which it is agreed what they will pay for the required security and cleaning. The fees are collected in advance of the services being provided.
3. Businesses and organizations may also contract with the Police Department for a variety of police related services. Again, willing Police Officers may work during their off duty time to provide these services. The contract, and not the City, specifies the amount of compensation, which must be communicated to the volunteer prior to services being provided. The compensation for these volunteer services is then included in the employee's regular paycheck, but the hours are not included when calculating overtime compensation for on duty hours.

4.13. On-Call, Emergency/Standby, and Show Up Policy & Definitions.

1. Policy. Non-exempt employees who make their time after hours available for City service will be paid as provided by FLSA. Employees who are free to use their off time as they please are not considered to be on call. The employee is not entitled to additional wages or an overtime premium by virtue of being on call, waiting to be called to come to work. Payment for callback, on call and backup assignments is defined and illustrated below.

2. Definitions.

Call Back Pay

Non-exempt employees who are called back after having completed a prescribed workday will be paid for additional hours worked at the overtime rate, notwithstanding the forty (40) hour workweek definition. Also, employees who are called back and are dismissed by the management before working one (1) hour will be paid a minimum of one (1) hour.

Emergency/Standby Employee

An individual required to standby his/her post ready for duty and whose time is controlled by the Supervisor is considered an employee on standby. Employees on standby are not able to use this time for their own purposes and move about freely. Such periods of time are usually short periods and those occurrences are not predictable. This time is compensated one and one-half times (1-½) for actual hours worked or required to standby in excess of forty (40) hours in a workweek for a regular employee and 43 hours for police officers. (Emergency/Standby Employee is used during disasters and not for normal routine on-call.)

On-Call Pay

Non-exempt employees who are required to work rotating assignments that require the employee to respond on short notice and must be on the jobsite unimpaired and fully capable within 30 minutes, shall receive one-hour base pay for each day on-call.

Show-Up Pay

Sometimes referred to as Call-Out pay. This payment is awarded to designated non-exempt employees who report to work when called out from off-duty status, but time spent is less than one hour. These employees will be compensated for a minimum of one hour of time beginning from the time they leave their residences until they are released from duty and return home. Time will be calculated at one and one-half time (1 ½) if hours worked in a workweek are greater than forty (40) hours for a regular employee, or 43 hours for police officers. [\(AR 2023-82; Incorporated into Personnel Policy 2024\)](#)

4.14. **Holiday Pay Procedure.**

1. The following are recognized by the City on the calendar date that it occurs:

- New Year's Day (January 1)
- Martin Luther King Jr. (Third Monday in January)
- President's Day (Third Monday in February)
- Memorial Day (Last Monday in May)
- Juneteenth (June 19th)
- Independence Day (July 4th)
- Labor Day (First Monday in September)
- Columbus Day (Second Monday in October)
- Veteran's Day (November 11th)

- Thanksgiving (Fourth Thursday in November)
 - Christmas (December 25th)
2. Any recognized holiday that falls on a Saturday will be recognized on the preceding Friday and any holiday that falls on a Sunday will be recognized on the following Monday. All other Holidays will be recognized on the day that they fall on the calendar.
 3. Holiday hours will be accrued with the first pay period of the calendar year based upon eleven (11) recognized Holidays. Holiday hours will be equal to a regular employee's normally scheduled hours per day as of January 1. Holiday hours for the year will be pro-rated based on hire date.

Example:

11 holidays during the year and employee is scheduled to work 8 hours per day; accrued holiday hours will be 88 hours.

Accrued holiday hours expire on December 31 annually and are not subject to pay out upon termination of employment.

4. Holiday hours are to be used only on recognized City holidays with the exception of the following:
 - 1) Regular employees required to work recognized holidays will be paid straight time, but will have the ability to use their Holiday hours for that particular Holiday on another day after the recognized Holiday within the calendar year with Department Head approval.
 - 2) Regular employees whose regularly scheduled days off fall on a recognized holiday will also have the ability to use their holiday hours for that particular holiday on another day within the year with Department Head approval.
 - 3) Employees using holiday hours on another day than that observed by the City shall coordinate time with their supervisor and/or Department Head. If a leave request is directed, the employee will enter the leave request as vacation and change the time code to holiday pay in the appropriate time sheet.
5. If an employee is using holiday hours for a designated holiday and is called in to work, the compensation is the full number of holiday hours for the recognized holiday plus the hours worked.
6. All other employees (part-time or temporary) without Holiday hours will enter time on their time card as leave without pay (LWOP).
7. City Administrative offices will be closed on recognized holidays.
8. Police Officers are exempt from this policy.
(AR 2019-63; Incorporated into Personnel Policy 2020)

4.15. Pay Plan Increases.

The fiscal budget approved and adopted by the City Commission may include merit increases, incentives, and/or pay plan adjustment as presented by the City Manager and the Finance Director.

4.16. Longevity Pay.

The fiscal budget approved and adopted by the City Commission may include longevity pay as presented by the City Manager and the Finance Director.

4.17. Workers' Compensation.

All City employees are covered under the provisions of the New Mexico Workers' Compensation Act (WCA).

1. Report of Injury. Regardless of the nature or severity of the injury, the City requires that all injuries sustained on the job must be reported to the employee's immediate supervisor. Once the employee has notified his supervisor the Employee will report the injury to the Safety Coordinator or Personnel Administrator and to complete the appropriate forms (see Safety Policy for forms). The forms are then submitted to the Self Insurer's Fund by the Personnel Administrator.
2. Injuries Requiring Medical Attention. If a serious injury occurs that requires emergency medical attention, call 911 immediately. The supervisor should notify the Safety Coordinator or Personnel Administrator regarding the injury as soon as possible. Documentation should be completed and turned into the City Clerk's Office within 48 hours of the injury (First Report of Injury, Accident Investigation Form and HIPPA Approval Form). A copy of any documentation received from the medical provider should be forwarded to the City Clerk's Office.

If an injury occurs which requires medical attention but is not an emergency the employee may contact the Safety Coordinator or City Clerk office for assistance in setting an appointment with the City's Medical Provider. Within 48 hours of the injury the employee and Safety Coordinator or Personnel Administrator shall complete the appropriate forms. A copy of any documentation received from the medical provider should be forwarded to the City Clerk's Office.

3. Injuries Requiring No Medical Attention. If an injury occurs which does not require medical care the Safety Coordinator or Personnel Administrator will complete a Notice of Accident (1/2 sheet) and an Accident Investigation form within 48 hours of the injury (see Safety Policy for forms).
4. Recording of Time. Detailed information regarding proper coding of time sheets is available from the City Payroll Clerk.
5. Workers Compensation Payment. If an injury/illness requires the employee to be off work longer than seven days, worker's compensation payments will begin. Worker's

Compensation pays two-thirds (2/3) of the normal salary. Please refer to Workers Compensation Handbook for more information. The employee has the choice of supplementing the remaining third (1/3) with any leave that they have accumulated, however total compensation cannot exceed 100%.

If an employee chooses to supplement their Worker's Compensation pay with their leave, the employee shall instruct the Self Insurer's office to send their pay to the City.

If there is a duplicate payment to the employee, then all funds received as a duplicate payment from Worker's Compensation will be reimbursed to the City. Specific information regarding workers' compensation payments and supplementing of payments with accrued leave is available from the Human Resources office. The City Manager will make a determination how long this benefit will continue.

6. Miscellaneous Information.

- 1) A variety of booklets from the Division of Worker's Compensation are available in the City Clerk's Office.
- 2) An employee is welcome to contact the Self Insurer's office at any time regarding their claim.
- 3) The City will enforce all safety rules and employees who violate them will be disciplined up to and possibly including termination. Willful violation of safety standards may also result in a reduction of Worker's Compensation benefits.
- 4) The City Clerk's Office will forward a copy of the *Accident Investigation Report* to the employee's immediate supervisor.
(AR 2010-26; Incorporated into Personnel Policy 2012)

4.18. **Cell Phone Compensation.**

1. The City will pay a cell phone allowance to employees required by their department heads to carry a cell phone. Cell phone allowances shall be established within an Administrative Regulation.
2. The monthly allowance will be added to the employee's salary with appropriate tax deducted. To qualify for an allowance, a current monthly bill, including the cell phone number of the employee, billing period, evidence of data package, and plan costs, must be submitted to the Finance Department prior to implementation of allowance. The Department Head will submit this documentation with their recommendation to the City Manager for approval. The Finance Department will not implement a monthly allowance without written City Manager approval.
3. The monthly allowance will be included on the employee's paycheck for the first pay period ending in the month (pay period ending date will vary month to month, anywhere from the 1st to the 14th).

4. Each employee is responsible for their personal cell phones; the city will not advise on choice of carriers, type of contracts or phones and will not manage an employee's cell phone account. Cell phone service costs exceeding any allowance provided by the City are the employee's responsibility.
5. Department Heads are responsible for ensuring that departmental employees receiving a cell phone allowance have functioning service at any time. Employees receiving work-related phone calls after scheduled work hours should log this time onto their timesheet.
6. Employees receiving a cell phone allowance are required to advise their department head immediately if there is an interruption in service, discontinuation of service, or changes in service, An employee's failure to maintain cell phone service as required by the Department may result in disciplinary action. The department head will notify the Finance Department of such changes.
7. It is the responsibility of each employee to be aware of local laws regulating the use of cell phones while driving. As per City Code ([Section 24-25](#)) the use of cell phones while operating a motor vehicle within the City is not allowed.
(AR 2015-43; Incorporated into Personnel Policy 2015; AR 2011-28; Incorporated into Personnel Policy 2012)
8. Employee phones which are compensated in part by the City are subject to public records requests.

4.19. Professional Organization Membership Compensation.

Dues and membership fees for employees in some professional organizations may be paid by the City of Aztec, and may constitute reportable, taxable income for employees. Taxability of these payments is based on whether membership is required for completion of the employee's duties and/or advances the business interest of the City. To qualify as non-taxable, there must be a logical connection between membership in the organization and the employee's job.

(AR 2003-02; Incorporated into Personnel Policy 2012)

4.20. Uniform Compensation.

1. Applicability.

The term "annually" is defined as the fiscal year July-June. Each fiscal year each department will track their uniform budget and it will be at the sole discretion of the department head to determine how their budget is spent.

The following departments will generally not be taxed for shirts, jackets, hats, sweatshirts, hoodies, vests, etc. with city logos. This applies only to employees who are identified in the uniform exemption determination. It does not include administrative personnel in those departments.

- Animal Control
- Electric Department
- Fire Department

- General Services
- IT
- Police Department
- Public Works
- Senior Center
- Tourism

2. Determination for non-taxable uniform allowance for City of Aztec Employees.

There is no specific statutory guidance from the IRS on clothing or uniforms which leaves it up to the employer to adopt a "reasonable person" approach when deciding if the benefit should be taxable or non-taxable to the employee.

The city applied the general rules for the "working condition fringe benefits" and the reasonable person test to determine if some items should be considered non-taxable to certain employees.

Under the "working condition fringe benefits" medical personnel uniforms are tax exempt to the employee because they readily identify the employee as medical personnel and would be tax deductible if purchased by the employee. Applying this approach to the "reasonable person" test it was concluded that the uniforms of city personnel who are required by the city to wear shirts with city logos because they need to be readily identified as city employees should be tax exempt to the employee.

This guideline was used to determine when a city employee needs to be readily identified:

- 1) They regularly encounter the public in situations that could potentially put them in harm's way.
- 2) They may need to enter property/houses such as to shut off utilities, enforce code compliance or an emergency.
- 3) They may be put in a position to take control of a situation that needs the identification of a city employee for the protection of the employee or public, such as animal control.

Under this tax exemption shirts, jackets, hats, sweatshirts, hoodies, vests, etc. with city logos are nontaxable to employees who meet these criteria as identified by the department head. Personnel and elected officials who are not required to wear uniforms will not be included in this exemption.

All items issued to the employee will remain the property of the city and shall be returned within 24 hours of termination of employment. Failure to return items may result in deductions of cost from the employee's last paycheck.

3. Taxable Items.

The following items are considered taxable to all classes of city employees (without exception). It is the responsibility of the Department Head to advise Payroll of these taxable items.

- 1) Shoes which could be worn outside of work including insulated shoes and non-metallic construction boots/shoes that won't set off metal-based security systems.
 - 2) Any special clothing such as business attire and formal wear
 - 3) Any item that is readily adaptable to everyday wear such as jeans and non-insulated overalls.
4. Personal Protective Equipment and Uniforms.
Personal Protective Equipment and Uniforms will be covered separately under the safety policy.

(AR 2023-83; Incorporated into Personnel Policy 2024)

4.21. Jury Duty Compensation.

1. City employees who are required to serve as a juror in any federal, state, or local court of law within San Juan County will record their time served as regular time on their time sheets.
2. Any compensation received by the employee from the courts will be reimbursed back to the City.
3. Employees are required to advise their immediate supervisor of potential dates as soon as possible and include any documentation provided by the court.
4. Compensation for jury duty served outside of San Juan County will be evaluated as each situation presents itself. Items of consideration will be where the jury is to be convened, length of service, potential compensation, etc. individuals involved in the evaluation include the employee, immediate supervisor or Department Head, Personnel Administrator (or designee) and City Manager. The final decision will be made by the City Manager.

4.22. Volunteer Fire Department Service and Compensation.

The City of Aztec operates a Volunteer Fire Department and employees are encouraged to join.

Volunteers are paid an allowance based on each call in which they participate and number of years of service with the organization. This policy is set by the Fire Department and details about the organization may be obtained from the Fire Chief.

Any employee may serve with the Aztec Volunteer Fire Department with the approval of the Department Head. Occasionally, volunteer duties may conflict with normal scheduled work hours. The Department Head has the option to allow or disallow an employee to volunteer during normal work hours based on the needs of the department.

The employee will be allowed ten (10) paid hours per pay period for fire calls during normal working hours. All time shall be recorded on the employee's timecard. Time will be paid by the department they are assigned to. Any time over this amount will be at the employee's expense and charged to comp time or vacation time.

The employee will not be paid by both their City Department and Fire Department for the same time. The employee should use discretion on types of calls and may be required to leave only on a second call basis. The employee will be required to notify their department head or supervisor with the time they are leaving their job to answer a fire call and upon returning. A copy of the Fire Department log will be presented to the Department Head at the end of each pay period to verify hours away from the employees normal work schedule. If time is not recorded, the employee could be subject to [Section 5 Leave and Holidays](#).

(AR 2005-12; Incorporated into Personnel Policy 2012)

4.23. Employee Assistance Program (EAP).

The City offers an Employee Assistance Program to all employees and their families to assist with personal and work related problems. Employees may seek assistance at any time. Supervisors may recommend that employees utilize the EAP for assessment, treatment or treatment referral. Employee shall utilize leave (i.e. vacation, sick, personal day, professional leave) for necessary assessment and/or treatment. The EAP is strictly confidential and is designed to safeguard an employee's privacy and rights.

4.24. Remote Work.

An employee may be authorized to remote work due to extenuating circumstances when deemed necessary by the City Manager or City Commission. The employee must submit a Remote Work request to the Department Head and City Manager for approval of a remote work schedule. The employee must submit an updated work schedule to the Department Head and City Manager for approval if any changes are made.

4.25. Employee Temporary Assignment.

Compensation for vacant positions filled temporarily will be determined by the City Manager through consultation with the Personnel Administrator, Department Head, and consideration of availability within the current fiscal budget.

(AR 2022-81; Incorporated into Personnel Policy 2024)

SECTION 5. LEAVE AND HOLIDAYS

5.1. Leave Definitions.

Leave is an employee benefit made available by the City of Aztec for eligible employees. Leave generally falls in two categories:

1. Leave With Pay. Absence from duty with pay.
2. Leave Without Pay. Absence from duty without pay.

5.2. Administrative Leave.

An employee may be placed on Administrative Leave pending the outcome of any investigation, with or without pay, on the recommendation of the Department Head and approval of the City Manager. Paid leave may be approved at the discretion of the City Manager.

When there is reason to believe or suspect that the safety or welfare of a City department, its facilities, its property or the safety or welfare of the department's employees or the public may be endangered or an investigation may be impaired, an employee whose conduct is being investigated may be placed on Administrative Leave.

Administrative Leave under this section shall not constitute discipline. During this period, the employee shall not attend his/her regular work site or any other City facilities, except as designated in the notice of administrative leave. The employee shall remain available during normal work hours to meet with the Supervisor or City Manager as requested.

The City Manager may also authorize paid administrative leave for employees when it is in the best interests of the City to do so.

[\(AR 2020-65; Incorporated into Personnel Policy 2020\)](#)

5.3. Professional Leave.

Exempt employees shall be permitted a maximum of sixty (60) hours of paid Professional Leave per calendar year (pro-rated according to hire date) and cannot be accumulated into the following year. The City Manager shall approve Department Heads request for Professional Leave. All other exempt personnel must get approval for Professional Leave from their Department Head. Professional Leave allows the employee to be away from work without losing any work-related benefits.

1. Exempt employees are required to attend a minimum of twelve (12) Commission meetings in a calendar year.
2. If Commission meeting attendance is met within a calendar year, the exempt employee shall receive their professional leave for the following year.
3. When an employee terminates for any reason, the employee shall be paid for any unused Professional Leave.
4. Attendance will be documented by a sign in sheet if attended in person or through identification through the login process when attending remotely.

5.4. Annual (Vacation) Leave.

Annual Leave (also referred to as vacation) may be taken from time to time, depending on unused accrual and approval by immediate Supervisor. The individual must be employed in a regular, budgeted full-time or part-time position. Annual leave for part-time regular positions shall be calculated on a pro-rata basis.

All full-time or part-time (20+ hours) regular employees shall be eligible for annual leave after six (6) months of employment in the benefit position. Use of the leave can occur after this time.

Request for annual leave prior to six (6) months of employment shall require approval by Supervisor, and shall be recorded as leave without pay.

All employees are encouraged to schedule vacations with his/her Supervisor as early in the year as possible.

Calculation of Annual Leave for Regular Benefit Employees

If the employee’s regularly scheduled pay period is eighty (80) hours, he/she will accumulate the maximum amounts (see table below).

Total Years of Service	Bi-Weekly Rate Percentage	Hour Accruals Per Pay Period	Maximum Hours Accrued Per Year
0 through 4 inclusive	3.8464%	3.08 hours	80 hours
5 through 14 inclusive	5.7693%	4.62 hours	120 hours
15 or more	7.6928%	6.15 hours	160 hours

If the employee’s regularly scheduled pay period is less than 80 hours, but 20 hours or more, the employee can calculate his/her annual leave accumulation in the following manner:

Regular Scheduled Hours: 60 hours per pay period
 Bi-weekly Rate: 3.8464% (from table above)

Example:
60 hours X .038464 = 2.31 hours per pay period
2.31 hours X 26 pay periods per year = 60 hours vacation annually

Calculation of Annual Leave for Police Officers

Police officers working shift schedules will accrue vacation per years of service as outlined above plus an additional 3.8462 hours bi-weekly. This equates to the following when your regularly scheduled pay period is 80 hours (see following table):

Total Years of Service	Bi-Weekly Rate Percentage	Additional Hours	Hour Accruals Per Pay Period	Max Hours Accrued Per Year
0 through 4 inclusive	3.8464%	3.8462	6.9262 hours	80 hours
5 through 14 inclusive	5.7693%	3.8462	8.4662 hours	120 hours
15 or more	7.6928%	3.8462	10.000 hours	160 hours

Calculating hours to be accrued:

- 0-4 years Bi-weekly rate 3.8464% x 80 hrs = 3.08 (3.08 + 3.8462 = 6.9262 Bi-weekly hours accrued)
- 5-14 years Bi-weekly rate 5.7693% x 80 hrs = 4.62 (4.62 + 3.8462 = 8.4662 Bi-weekly hours accrued)
- 15+ years Bi-weekly rate 7.6928% x 80 hrs = 6.154 (6.154 + 3.8462 = 10.00 Bi-weekly hours accrued)

No more than 55 days (440) hours of Annual Leave (vacation) shall be carried from one calendar year to a subsequent calendar year, per personnel policy.

[\(AR 2005-16; Incorporated into Personnel Policy 2024\)](#)

5.5. Annual (Vacation) Leave Maximum Accrual Allowance.

No more than 360 hours of Annual Leave shall be accumulated for any city employee, with the exception of certified police officers, who may be allowed to accumulate 440 hours.

When an employee terminates for any reason, the employee shall be paid for all accrued annual leave only if employee has completed his/her initial twelve (12) month probationary period.

5.6. Annual (Vacation) Leave Payout.

The purpose of vacation payout is to reduce the long term liability to the City and taxpayers associated with employee accrued leaves. It is the policy of the City to recognize employee service through the availability of vacation based on years of continuous employment to regular employees who are eligible for city benefits (as defined in [Section 3.2 Categories of Employment](#)). Vacation payout is available to all regular employees under the following provisions:

Vacation payout is subject to budgetary constraints and may not be funded on an annual basis.

Employees who have a minimum of one hundred (100) hours vacation available, may at their option, sell back vacation hours to the City as follows:

Vacation Hours Available	Vacation Hours Buy Out
100 hours	10 hours
150 hours	20 hours
200 hours	30 hours
250 hours	forty (40) hours

The Finance Department will advise employees annually in August, via city email, of the opportunity for vacation payout if funding is available. The employee must provide written notification of intent to sell vacation hours to the Finance Department by the date identified in the email notice. If insufficient vacation hours are available to the employee at the time of payout, the hours requested for payout may be reduced or eliminated. The employee should consider future vacation hour requirements prior to a vacation payout request to avoid insufficient time available for a planned vacation or City Holiday. Vacation payout will be processed on the pay date identified in the email notification by the Finance Department and is subject to deductions required by law.

(AR 2012-33; Incorporated into Personnel Policy 2012)

5.7. Personal Day.

One regularly scheduled day with pay is provided as an additional benefit. A request for the personal day must be approved in advance. The personal day shall be used by the last pay period ending in December and will not carry over to the next calendar year.

All regular employees shall be eligible for one (1) personal day at 6 mos. of hire date.

When an employee terminates for any reason, the employee shall be paid for the accrued personal day only after twelve (12) months of employment has occurred.

5.8. Leave of Absence and Leave Without Pay (LWOP).

Upon request by the employee with proper approvals a period of leave may be granted without pay to any regular employee for a period of time not to exceed ~~six (6) months~~ one (1) week unless approved by City Manager. The City of Aztec may not contribute to or maintain insurance, PERA, or any other retirement or benefit program for the employee while an employee is on leave of absence.

This classification, hereinafter referred to as Leave Without Pay (LWOP), may be voluntarily or involuntarily for a variety of reasons.

1. Involuntary LWOP - Employees are usually assigned to this status for disciplinary reasons as a result of employee misconduct (See [Section 6.2](#)).
2. Voluntary LWOP - LWOP may be approved only when all other leave has been exhausted. This type of leave may be requested by employees for a variety of reasons not covered under the Family and Medical Leave Act. Approval of LWOP is by Department Head for up to one (1) regular work week. LWOP greater than one (1) regular work week requires approval from the City Manager. Each request shall be considered in terms of work load, staffing levels, business necessity, availability of personnel, timeliness, and other job-related factors.
3. Reinstatement from Involuntary or Voluntary LWOP Status - Reinstatement will be made only if a vacant position exists for which the employee who was on LWOP, qualifies. The City Manager shall make the final determination concerning

reinstatement based on suitability, budgetary constraints, staffing levels, and other related factors.

4. Continuation of Certain Benefits during LWOP Status - The following shall apply when an employee is on LWOP for one full pay period or longer. The Department Head is charged with the responsibility of making sure that employees receive information on what happens to their benefits during that period. If the LWOP status is due to medical disability, as defined by the Family Medical Leave Act, the employee may continue to be covered under the City's group insurance by paying his/her portion of the benefit. All other contributions such as accrual of Sick and Annual Leave, contributions to PERA and all other kinds of paid leave are forfeited during the period of LWOP.

5.9. Sick Leave.

1. 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, injury, or for a qualifying event as defined by the Family Medical Leave Act ([FMLA](#) and [Section 5.18](#)).
2. Sick Leave shall accrue at ninety-six (96) hours per year for regular full-time employees.
3. Employees regularly scheduled for less than eighty (80) hours but more than forty (40) hours per pay period shall accrue sick leave at the rate of 4.6155% of regularly scheduled hours per pay period.
4. Abuse of Sick Leave shall result in disciplinary action up to and including termination. Sick Leave abuse is defined as charging Sick Leave for work absences when not sick, except for an [FMLA](#) qualifying event. Any of the following conditions may indicate a need to review sick leave use:
 - 1) Patterns of Use:
 - After pay day; or
 - Using the same day of the week repeatedly; or
 - The day before or after recognized holidays; or
 - The day before or after annual leave; or
 - The day before or after weekends; or
 - When a review of the Personnel Leave Register reveals that Sick Leave is being used at the same rate that it is being accrued.
 - 2) The Supervisor Department Head may require an employee to provide verification from a physician that an absence was caused by a medical situation anytime there is reasonable suspicion that Sick Leave is being abused.
 - 3) In the absence of approved family/medical leave, any employee wishing to take sick leave must notify their Department Head of the illness prior to the time they are expected to report to work. Notification is to be made by telephone, text message, or email. The Department Head may, at the time of the illness or upon

the employee's return to work, require a doctor's statement confirming the medical necessity for the employee's absence and the length of time necessary to be away from work. The Supervisor may also require a doctor's statement allowing the employee to return to work.

- 4) Whenever an employee has been absent from duty because of an injury/illness for forty (40) consecutive work hours, the employee may be required to have certification by a physician documenting the time required to be away from work and a return date. Failure to provide certification by a doctor for absence under this scenario will result in leave without pay and disciplinary action.

(AR 2020-64; Incorporated into Personnel Policy 2020)

- 5) All physician documents shall be turned into the Personnel Administrator as part of the employee's medical record.

- 6) In extenuating circumstance, an employee may use his/her accrued sick leave to care for members of his/her family inside or outside the hospital, and/or during surgery when recommended by the Department Head and approved by the City Manager (See [Section 10 Definitions. Family](#)).

(AR 2015-44; Incorporated into Personnel Policy 2015)

Note: Notification from another employee or relative is not acceptable, except in an emergency situation.

5.10. Sick Leave Maximum Accumulation Allowance.

No more than 1,040 hours of Sick Leave shall be accumulated for any City employee.

5.11. Sick Leave Payout Reserved.

Employees who have accumulated Sick Leave in excess of 480 hours, as of April 30th of the current year (no exceptions) may at their option sell back hours to the City with the following provision:

1. Written notification of intent to sell Sick Leave must be given to the Finance Department between the dates May 1 through May 15. Payout shall be processed with the first pay date in June. Maximum Sick Leave that may be sold back to the City in any given calendar year shall be forty (40) hours.
2. Due to budgetary constraints the selling of Sick Leave can cease at any time as deemed necessary by the City Manager and the Finance Director.

5.12. Sick Leave Payout – Retiring Employees.

Employees with fifteen or more consecutive years of service, who separate or retire while on the active payroll, shall be paid for unused Sick Leave to a limit of 347 hours (1,040 divided by 3) or at a ratio of 3:1.

Example: *Employee retires in October with 760 hours of accumulated sick leave. In May of the same year (calendar) the employee sold back to the city 80 hours of sick leave. The employee shall be paid for 173 hours. (760 divided by 3 minus 80*

5.13. Sick Leave Bank.

1. The City has established a Sick Leave Bank to provide an employee additional paid sick leave when an employee is unable to work due to illness, injury, or for a qualifying event as defined by the Family Medical Leave Act ([FMLA](#) and [Section 5.18](#)). [See Appendix A. Definitions for Family.](#)
2. Employees who wish to join the Sick Leave Bank will contribute vacation, personal or professional leave at an amount equal to one-fifth of their regular weekly scheduled hours. In January of each year, all members will again contribute their annual amount until the bank has accumulated 1,000 hours. Failure to contribute annual hours as necessary will result in loss of membership.
3. Contributed leave hours (new members or replenishment) will be recorded in electronic personnel/payroll system.
4. Any employee who wishes to join the Sick Leave Bank may do so by signing a participation form in the Human Resources Office. Employees become eligible to request Sick Leave Bank time six (6) months from the time they sign the participation form. Withdrawing from membership will not entitle the employee to previously donated days.
5. The Personnel Administrator shall forward all requests to the Administrative Review Committee for review. This Committee will be comprised of the Personnel Administrator, Finance Director, and one Department Head who does not supervise the employee. In addition, the supervisory Department Head will be available to advise the committee. The Administrative Review Committee may consider an employee's leave usage, previous use of sick leave bank and other factors in determining a recommendation to the City Manager. The Administrative Review Committee will submit a recommendation to the City Manager. The City Manager will make the final decision and the Personnel Administrator will contact employee.
6. Provisions for requesting funds:
 - 1) An employee must be a member of the Sick Leave bank for a minimum of twelve (12) before they are eligible to request to draw from the Bank.
 - 2) Employees must request in writing to the Personnel Administrator to draw from the Sick Leave Bank preferably thirty (30) days prior to the needed time or as soon as the need is identified.
 - 3) Each request must be accompanied by a Doctor's Statement as to the medical need and estimated length of absence.

- 4) Any sick or injured employee must use all of their own available leave time (sick, vacation, personal day, compensatory, administrative) before being eligible for time from the Sick Leave Bank.
 - 5) An employee must have a reasonable expectation of returning to work in order to be eligible to draw from the Sick Leave Bank.
 - 6) Employees receiving Workers Comp will not be eligible for the Sick Leave Bank.
 - 7) An employee on maternity or paternity leave is eligible to apply to the Sick Leave Bank in cases of exceptional medical circumstances (for parent or child).
 - 8) Maximum time to be transferred to any employee will not exceed 480 hours per illness or injury.
 - 9) The Finance Department will deduct the employee's accruals (vacation, sick) each pay period.
 - 10) Employees who have a catastrophic illness or injury and are able to work a modified work schedule may apply to the Sick Leave Bank.
7. Employees will have the option to donate any number of vacation, personal, and/or professional leave hours to the Sick Leave Bank above and beyond the standard deduction set forth in [Section 5.13](#).
(AR 2016-47; Incorporated into Personnel Policy 2015)

5.14. Sick Leave Donation and Sick Leave Request.

1. Sick Leave Donation (Benefit Employee). City employees will be allowed to donate vacation, professional, or personal leave to another employee for sick leave. There is no maximum of hours that can be donated. The time can be used for sick leave only and can be donated to any City Employee whether Full-time or Part-time. An employee is limited to one request per year. Additional requests will be reviewed by the administrative review committee. Upon donation of hours, those hours are no longer available to the employee donating (e.g., no refund).
(AR 2013-37; Incorporated into Personnel Policy 2015)
2. Sick Leave Request (Non-benefit Employees Only).
 - 1) This Sick Leave Request is only for non-benefit employees.
 - 2) The donation of time will be straight hour for hour; there will be no conversion of hourly pay scale to hourly pay scale.
 - 3) Human Resources will generate an email that states "A City employee is in need of (insert number) number of hours. Please respond if you would like to donate vacation hours to this employee."

- 4) Once the number of hours requested by the individual, Human Resources will then generate an email stating “The number of hours requested has been fulfilled for this employee. Thank you for your donation. No additional hours are needed at this time.”
- 5) Upon donation of hours, those hours are no longer available to the employee donating (e.g. no refund).

5.15. Bereavement Leave.

All regular benefited employees upon approval by Department Head and City Manager may take paid *Bereavement Leave* per occurrence for a death in the immediate family ([Appendix A. Definitions - Family](#)), see example below for maximum hours per occurrence.

	<u>Max Hours</u>
Regular Full-time (40 hours)	40 hours
Regular Part-time (20 to 30 hours)	20 to 30 hours
Regular Part-time (up to 19 hours)	0 hours

An employee may be permitted to extend his or her bereavement leave using accrued vacation time, professional time, or the employee’s personal day as approved by Department Head.

Upon approval of the Department Head and City Manager, the employee may be authorized a paid absence of one day to attend the funeral of a friend or family member not listed in Appendix A. Definitions. Payment for Bereavement Leave shall be computed at the bereaved employee’s regular base rate.

5.16. Military Leave.

1. Military Leave is a benefit which gives regular employees an opportunity to fulfill their annual active duty training obligation in the active reserves or National Guard.
2. Employees are asked to inform their Supervisors as soon as notification is received. Members of organized reserve units or the National Guard ordered to active duty training shall be given up to eighty (80) hours of paid military leave per calendar year. These eighty (80) hours are in addition to other leave benefits.
3. If the period of duty exceeds the eighty (80) hours, the employee may use accrued vacation leave, professional leave, or his/her personal leave day.
4. Employees on military leave with pay shall continue to accrue annual and sick leave.
5. This policy does not apply to temporary employees.
6. Veterans Day Observance. Any employee who is a Veteran shall be provided Veterans Day off as an additional benefit, and shall be paid his/her regularly scheduled hours, provided this will not cause undue hardship within a department.

Reference: [The Uniformed Services Employment and Reemployment Rights Act](#) (USERRA)

5.17. Jury Duty/Court Leave.

Regular employees are authorized to be absent from duty without loss of usual pay when required to serve as a juror or witness for any federal, state, or local court of law. Employees are required to advise their Supervisors of potential dates as soon as possible. Compensation for such service is outlined in [Section 4.21](#).

5.18. Family and Medical Leave.

The City complies with all provisions of the Federal [FMLA](#).

5.19. Disability Pay Status.

1. When the employee is drawing disability benefits as a result of on-the-job illness or injury, the employee may continue as a participant in the City's group insurance. The employee is responsible for his/her portion of the premium. The employee in this status shall be designated for payroll purposes as being on Leave with Pay.
2. In the case of any disability insurance leave taken in excess of forty (40) hours, the City has the right to require the employee to periodically inform the Department Head of the expected remaining duration of the leave. Therefore, employees will contact their Department Heads weekly by telephone and monthly in writing as to their expected duration of leave.

5.20. Holidays.

Refer to [Section 4.14](#).

5.21. Voting Leave.

All City employees who are registered to vote in primary, general, and municipal elections shall be allowed up to two (2) hours off from work to vote if they are unable to vote in the hours provided for voting. Employees requesting time off to vote must be registered voters, and must coordinate absence from their duties with Supervisors so as not to adversely impact City operations.

5.22. Leave Requests.

Each eligible employee must submit a request in advance of the time he/she elects to be absent from regular duties. Exceptions may be made in cases of illness, accident, or emergency. These exceptions require the employee to complete the leave request within the pay period or upon return to work.

Requests for leave do not guarantee that the request will be approved. Supervisors shall consider each request on a case-by-case basis. Approval shall be considered in terms of workload, staffing levels, and availability of personnel, timeliness, and other job-related factors. Leave requests shall be approved by Supervisor.

Exempt employees that plan to take leave less than half of their regularly scheduled work day do not need to submit a formal leave request unless they do not work a total of the 40 hours required to work in the work week. However, the exempt employee shall formally request leave through email, phone, text message or in person and complete the appropriate documentation on their timecard upon return.

[\(AR 2013-36; Incorporated into Personnel Policy 2015\)](#)

5.23. Inclement Weather Leave.

It is the policy of the City of Aztec to remain open and conduct normal city business in all kinds of weather, unless the City Manager and/or Chief of Police determine conditions are so severe that travel is prohibited.

In the event of inclement weather that decreases the safety of our streets and roads, the City will operate under a delayed schedule:

1. The City will delay for two (2) hours.
2. The decision to close city offices will be determined by City Manager and/or Police Chief. This decision is based entirely upon the concern for the overall safety of employees.
3. Any employee may come to work before City offices are open to the public, however employees are asked to use their best judgment in determining the safest route.
4. Department Heads may allow employees to report to work at different times due to weather conditions at and near his/her home, however department heads are responsible for the daily functions of the department.
5. All essential staff must report to work taking extra precautions when driving. Essential staff include; Police, Public Works, Electric, General Services, and any other department that is deemed essential by the City Manager.

The City Manager will make the official call as early as possible. The City Manager will notify all department heads.

Department heads are responsible for establishing notification procedures within their respective departments and advising employees of city delays or closings. Employees will record the officially closed hours not worked as *Leave with Pay*. Employees cannot use Sick Leave hours.

[\(AR 2010-27; Incorporated into Personnel Policy 2012\)](#)

5.24. Domestic Abuse Leave.

It is the policy of the City to grant up to fourteen (14) days per calendar year of paid or unpaid leave to employees who are victims of domestic abuse to secure an order of protection, meet with attorneys, and attend court related proceedings ([New Mexico State Law - Domestic Violence](#)).

1. Definitions:

Domestic Abuse

An incident of stalking or sexual assault, whether committed by a household member or not, or any incident by a household member against another household member that results in:

- 1) Physical harm;
- 2) Severe emotional distress;
- 3) Bodily injury or assault;
- 4) A threat causing imminent fear of bodily injury by any household member;
- 5) Criminal trespass;
- 6) Criminal damage to property;
- 7) Repeatedly driving by a residence or work place;
- 8) Telephone harassment;
- 9) Harassment; or
- 10) Harm or threatened harm to children.

Household Member

A spouse, former spouse, parent, present or former stepparent, present or former parent in-law, grandparent, grandparent-in-law, a co-parent of a child or a person with whom a person has had a continuing personal relationship (a dating or intimate relationship). Cohabitation is not necessary to be deemed a household member for the purposes of the Crimes Against Household Members Act ([NM Stat § 30-3-11](#)).

2. An employee who experiences domestic abuse may take up to 14 days per calendar year to:

- 1) Pursue an order of protection or other judicial relief.
- 2) Meet with law enforcement officials.
- 3) Consult with attorney, district attorney, or victim advocates.
- 4) Attend court proceedings for themselves, their child or a child for whom they are a legal guardian.

3. Procedures/Verification.

Employees requiring domestic abuse leave in an emergency must notify their Supervisor within 24 hours of starting leave. Otherwise, employees requesting domestic abuse leave must provide as much notice as possible of the circumstance. The verification may be a police report regarding the incident, a copy of an order of protection, or other court evidence such as a written statement from the employee's attorney, district attorney, victim advocate, or prosecuting attorney stating that the

employee, employee's child, or child for whom the employee is a guardian is scheduled to appear in court.

4. Privacy.

All information received from the employee shall be kept confidential. The City shall not withhold benefits coverage from an employee during the time he/she is on domestic abuse leave.

5.25. City Manager Discretionary Early Leave.

At the discretion of the City Manager, additional hours may be provided to employees to attend city events, Employee Association functions, and/or paid holiday observance. These hours are at the discretion of the City Manager and is not time employees should plan on receiving. If the hours are provided by the City Manager, employees scheduled to work those hours would record the hours not worked as *Leave with Pay*. Employees not working the day of discretionary leave (regular day off, vacation, sick, etc.) do not benefit from the discretionary leave.

(AR 2009-24; Incorporated into Personnel Policy 2012)

5.26. Hardship Payout of Vacation.

Providing that funds are available in the budget, an employee may request payout of vacation leave due to an economic hardship. An economic hardship occurs when an employee is unable to pay reasonable basic living expenses. The determination to allow such payout will be made by Administrative Review Committee and will vary according to the unique circumstances of the employee.

Examples may include but not limited to:

1. Unreimbursed medical expenses for an employee or employee's family member.
2. Funeral expenses.
3. Payment of college tuition and related educational costs such as room and board for the next 12 months for you, your spouse, dependents, or children who are no longer dependents.
4. Payments necessary to prevent eviction of the employee from their home, or foreclosure on the mortgage of the employee's principal residence.
5. Certain expenses for the repair of damage to the employee's principal residence.

If the request is approved, the Finance Department will reduce the total number of hours approved for payout by the following:

1. Vacation may be paid to the employee based on the total number of hours available at the last completed pay period from the request date. A maximum of 240 hours can be requested with a required balance of forty (40) hours retained in an employee's vacation leave.
2. Payout is taxable.

5.27. Leave through Employee Recognition.

Leave hours may be granted through some type of recognition such as the following:

1. Employee of the Year; or
2. Department of the Year; or
3. Employee Association Event.

These hours must be used within the calendar year or get paid out.

5.28. Vacation Accrual to Sick Leave.

Employees may request transfer of accrued vacation hours to their accrued sick leave hours. Requests shall be written and submitted to the City Manager. Approved requests will be provided to the Finance Department to transfer the hours. Record of the transfer will be made to the employee's electronic file and will be reflected on the next pay check summary.

Justification for the transfer may be varied but it is anticipated most frequently employees will request the transfer when their vacation hours are near the maximum accrual provided by Sec 5.5 of the Personnel Policy.

The maximum number of hours which may be accrued for sick leave is defined by [Section 5.10](#).

Vacation hours transferred to the accrued sick leave hours may not be transferred back to vacation hours in the future and all sick leave hours are subject to the restrictions defined in [Section 5.9](#).

(AR 2016-048; Incorporated into Personnel Policy 2020)

SECTION 6. DISCIPLINARY ACTION AND TERMINATIONS

6.1. Purpose.

The City expects employees to perform their assigned duties at or above satisfactory levels; to follow accepted standards of workplace behavior; and to comply strictly with all laws, rules and regulations.

6.2. Grounds for Disciplinary Actions.

Listed below are some, but not all, of employee actions which are reasons for disciplinary action or automatic termination. *This list is not exclusive. Incidents requiring discipline shall be handled on a case-by-case basis.*

1. Probationary Employees. At any time during the probationary period, or any extensions thereof, an employee whose performance does not meet the required standards of the position shall be terminated if the Supervisor does not believe that an extension of the probationary period would be of benefit. In such cases, the employee does not have the right to the grievance procedure since the probationary period is the final step in the selection process of regular employees.
2. Obtaining employment on the basis of false or misleading information.
3. Insubordination.
4. Continued unsatisfactory performance of duties.
5. Failure to work overtime when directed to do so by a supervisor.
6. Working hours not authorized by Supervisor.
7. Unwillingness of an employee to work satisfactorily with others; specifically due to any type of discrimination because of race, color, religion, sex, national origin, age, disability, sexual orientation and gender identity, ancestry, physical or mental handicap, serious health condition, spousal affiliation, or any other legally protected status.
8. Violation of the City's *Safety Policy* which endangers oneself, other employees, or the public.
9. Willful, negligent or careless operation or maintenance of city equipment.
10. Use of foul or inappropriate language that is offensive to other employees, or the public.
11. Violation of [Section 13. Drug and Alcohol Policy](#).
12. Any employee convicted of a second or subsequent DWI Offense.

13. Any employee exceeding 6 points in a twelve (12) month period on their driving record.
14. Loss of driver's license.
15. Unauthorized absence(s).
16. Continual tardiness.
17. Conflict of interest which results in private gain to the employee or detriment to City.
18. Coercion, intimidation, assault (including sexual assault), or threat of reprisal to any other employee.
19. Harassment of any kind on or off work premises, at any time (during work or after work hours), through means of text messaging, emails, cyberbullying, phone calls, personal confrontation, gossip, city or privately owned computers or similar devices.
20. Any employee activity which is found to substantially affect or lead to diminishing of the integrity, efficiency, or discipline of city service.
21. Theft or willful destruction of city property or co-workers property.
22. Acceptance of bribes.
23. Employees charged with criminal activities. (Employees may be placed on Administrative Leave with Pay or Leave without Pay pending final determination, or may be assigned other duties pending a final outcome of the matter. Each situation under investigation shall be administered on a case-by-case basis. The City Attorney shall review each case and advise the Supervisor, the Personnel Administrator, and the City Manager.
24. Fraud, embezzlement, or vandalism from the City.
25. Abuse of legitimate grievance processes resulting in repeated unsubstantiated claims.
26. Conviction of a felony the following shall apply:

Any employee who is indicted for a felony or who is bound over to District Court may, unless incarcerated, be retained on duty in present position pending final disposition of the matter by a court of law. *Exception:* If the crime for which the employee has been indicted or bound over is due to an alleged impropriety against the government or is of heinous or repugnant nature, the City reserves the right to suspend employment (without pay) until the matter is resolved. No employee charged with theft, fraud, embezzlement or vandalism against the City will be allowed to work until final disposition has been made. If the employee is vindicated the section below shall apply.

If incarcerated the employee may be placed on Leave without Pay. If the crime of which the employee is accused involves a tort or injury to a fellow employee, then the employee who is alleged to be the victim may request leave. Leave with pay for the victim shall be approved by the City Manager.

27. Any employee accused of using his/her position with the City for personal gain or to intimidate, coerce, implicate, or influence another citizen, or to obtain special favor or consideration, shall be placed on Leave without Pay pending thorough investigation of the allegation. Legal authority shall immediately be consulted for investigation and recommended action in such matters.
28. Violation of the City of Aztec Procurement Policy, established procurement procedures, and/or [Chapter 13 Public Purchases and Property NMSA 1978](#).
29. Negative gossiping about another employee or employee's family member.
30. Habitual or unexcused absenteeism.
31. Unreported arrest or citation.
32. Failure to report a second job or moonlighting.
33. Attempting to coerce other employees into a political cause or activity.
34. Falsification of records (e.g., absence, injuries, City communications, etc.).
35. Abuse of the City's telephone system (e.g. excessive personal calls).
36. Unauthorized children and/or pets in the work place.

6.3. Vindication.

If the employee is vindicated of a charge or complaint made by City officials or of a charge directly related to the employee's City duties, retroactive payment and benefits for the period of absence shall be made. However, no retroactive payment for the period of absence without pay shall be made if incarceration is not due to City-related complaint. Reimbursement of benefits may be recommended. Any time an employee is absent without pay, in excess of one (1) month, this time shall not count towards longevity, vacation or sick leave accrual.

Note: *These rules do not represent every conceivable type of offense, but reflect those most frequently encountered. Penalties imposed as a result of infractions of the rules may be modified by the City when extenuating circumstances are found. Likewise, flagrant infractions of the rules of conduct may result in action of greater severity*

6.4. Disciplinary Actions – Verbal, Written, Suspension and Termination.

The City may take the following disciplinary actions and has discretion to impose any appropriate discipline without first imposing a lesser form of discipline.

Verbal Contact Report. If an employee commits a violation of work rules, City policy, or procedure, the Supervisor may verbally notify the employee that an official warning is being given. The Supervisor shall outline and document possible solutions to correct the problem.

Written Reprimand. A written reprimand given by the Supervisor shall be entered into an employee's personnel record along with any Verbal Contact Report(s), subject to the Right of Appeal and Review in accordance with the procedures provided in [Section 7](#). Notification of action must be given to Personnel Administrator.

Suspension. A Supervisor may suspend an employee from work without pay for flagrant violation or disregard of work rules, personnel policies, and regulations for varying periods of time approved by the Supervisor and the City Manager. The suspension notice shall include a warning that termination may result if the behavior is not corrected. Any suspension of more than five (5) scheduled days shall require a hearing (unless waived by employee). Notification of action must be given to the Personnel Administrator. All suspensions from work shall be entered into an employee's personnel record. Employees shall have the right to appeal as specified in [Section 7](#).

An employee who receives a suspension shall be provided by the supervisor an *Employee Action Plan* upon returning to work. The *Employee Action Plan* shall detail the areas, actions and goals necessary to improve the employee's performance. An employee's failure to meet the *Employee Action Plan* will result in termination.

Termination. Employees may be terminated for flagrant violation or disregard of work rules, personnel policies, or work rules, for failure to respond to prior discipline, failure to meet the goals set forth in the *Employee Action Plan*, or unsatisfactory work performance.

Note: *Flagrant disregard for policies, procedures and regulations may warrant immediate termination as approved by the City Manager. Notification of action must be given to Personnel Administrator.*

6.5. Termination or Resignation.

1. Voluntary Termination

When an employee decides to leave employment, he/she shall submit written notice to his/her Department Head by either email, written paper form, or phone text message. Lack of a two (2) weeks' notice may make the employee ineligible for rehire. Proper notice shall become part of the employment record. All City property including, but not limited to, keys, laptop computers, vehicles, tools, uniforms etc., must be returned at separation. Employees who resign voluntarily are asked to complete an exit interview that will help the City pinpoint any areas of employee dissatisfaction.

2. Involuntary Termination

This action may be initiated for any violation(s) as outlined in [Section 6.2](#). Employee shall be presented with a Termination Notice prior to actual termination and with written notice of the reason(s) for termination. All City property including, but not limited to, keys, laptop computers, vehicles, tools, uniforms etc., must be returned at separation.

3. Layoff

Layoff is defined as severance of an employee from the work force due to lack of work or funding allocation. Layoff is made without prejudice and is not the fault of the affected employee.

If a position for which work and funds are available, an employee may accept a demotion or transfer to avoid a layoff, but only if the employee is otherwise qualified for the new position and a position exists.

An employee laid off shall have the first right of refusal of his/her position if the position becomes open within one (1) year.

An employee laid off but accepts another position within the City within one (1) year of lay off will be treated as a transfer employee.

When more than one employee is in a position which has been scheduled to be discontinued, the following criteria may be considered to identify which person is to be laid off:

- Versatility and/or value to the department;
- Overall job performance as compared to others within the department;
- Longevity within the department; or
- Longevity with the City.

4. Termination Notice

Employees who have completed probation must be presented with a Termination Notice prior to actual termination. The termination notice shall include:

- 1) Written notice of the reason(s) for the termination.
- 2) Time frame of various actions.

6.6. **Predetermination Hearing.**

The procedures for terminating, demoting, or suspending a regular, full-time or part-time employee who has completed probation are as follows:

1. The Supervisor shall notify the affected employee; both orally and in writing, of his/her recommendation to terminate, demote, or suspend the employee from City service, and reason(s) for doing so.
2. The Supervisor who initiates such action shall complete a *Notice of Intent to Terminate, Demote or Suspend* form. The completed form shall include:

3. The recommended effective date, the reason(s) and relevant documentation to support termination, demotion, or suspension.
4. Such documentation shall be attached to the notice. A copy of the notice and supporting documentation shall be furnished to the employee at time of oral notification.
5. An employee may request a predetermination hearing in the event of a proposed demotion or suspension. If employee requests a hearing, Supervisor contacts Personnel Administrator for date, time, and location of hearing. The hearing shall take place within ten (10) workdays of notice.
6. Upon requesting a hearing the employee shall be placed on Administrative Leave utilizing vacation, professional leave, and/or personal day, pending the hearing outcome. If employee has run out of leave, the employee shall be placed on Administrative Leave without pay. In case of demotion, the employee shall maintain his/her position pending the outcome of the hearing.
7. The City Manager is the hearing authority in the case of an appeal of a suspension or demotion. Unless the City Manager is the direct supervisor then the hearing officer may be appointed by the Personnel Administrator or designee. Employee and Supervisor shall present their cases. The appeal of a suspension or demotion is a personnel action. Internal personnel actions are a matter between the employee and the City and are not public hearings.
8. The City Manager shall notify the Personnel Administrator within three (3) workdays of final decision. The decision of the City Manager shall be final. The Personnel Administrator shall contact the Supervisor and employee within one (1) workday of the City Manager's final decision. In the case of an appeal of a termination refer to [Section 6.7](#).

6.7. Appeal of a Termination.

The Personnel Administrator or City Manager shall appoint an external or internal Hearing Officer to hear the appeal of a termination.

1. Personnel Administrator. The Personnel Administrator shall record the hearing. The Personnel Administrator shall maintain the original recording for a period of six (6) months.
2. Authority of Hearing Officer. The appointed hearing officer shall have authority to:
 - Review all documents pertinent to the case including the employee's personnel file;
 - Rule on the relevance or other admissibility of evidence;
 - Question the parties and their witnesses, if any;
 - Reprimand or exclude from the hearing any person for improper or contemptuous conduct;

- Take any other action consistent with this regulation, the Aztec City Code, the laws of the State of New Mexico and the laws of the United States.
3. Parties and Representation. The parties are the City of Aztec and the employee. One person such as legal counsel or other representation may be present at the hearing for each party to confer with. The employee must notify the Personnel Administrator twenty-four (24) hours prior to the time of the hearing if legal counsel will be present.
 4. Witness/Witnesses. The employee must notify the Personnel Administrator twenty-four (24) hours prior to the time of the hearing if witness or witnesses will be present to testify on his/her behalf.
 5. Conduct of Hearing. Every party to the proceedings shall have the right to present his/her case or defense by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross examination as may be required for a full and true disclosure of the facts. The hearing officer shall be the judge of the relevance of the evidence offered.
 6. Closed Meeting. The appeal of a termination is a personnel action. Internal personnel actions are a matter between the employee and the City and are not public hearings. Those permitted to attend are the representatives of the City and the employee and his/her representative(s).
 7. Decision of the Hearing Officer. The Hearing Officer shall forward his/her statement of findings and conclusions, based on the evidence presented at the hearing, to the City Manager for review. The City Manager shall make a final decision within three (3) workdays and notify Personnel Administrator.
 8. Findings and Conclusions. The Personnel Administrator shall notify the employee and the Department Head orally within one (1) workday of the City Manager's final decision. A copy of the findings and conclusions shall be provided to the employee when requested, and shall be included in his/her personnel file.

6.8. Abolishment of Positions.

The City Manager can abolish a position which is no longer needed within the City work force.

6.9. Disbursement of Final Paycheck (Voluntary).

When an employee resigns his/her position, the earned salary or wages plus any other compensation (such as annual leave accrual) shall be due and payable on the next regular payday, accrued leave payout, greater than 100 hours, may be paid out over a period of time as requested by the employee and approved by the City Manager or Finance Director.

6.10. Disbursement of Final Paycheck (Involuntary).

When an employee is terminated from employment, the earned salary or wages plus any other compensation (such as annual leave accrual) shall be due and payable (in accordance with [FLSA](#)) no later than five (5) days following termination.

SECTION 7. EMPLOYEE ETHICS, GRIEVANCES & DISCRIMINATION COMPLAINTS**7.1. Employee Ethics.**

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

1. Misuse of Official Position. City employees may not use their official position to secure employment or obtain contracts from other organizations, accept pay from anyone other than the City for the performance of their official duties, take or withhold official action on a matter in which they have an outside personal or financial interest; use City time, equipment, property, or facilities for personal and/or financial benefit; or coerce subordinates in any manner which will result in outside financial benefit to the Supervisor.
2. Improper Gifts. City employees may not accept gifts of any value greater than twenty-five dollars (\$25.00) that benefit the employee's personal or financial interest if it can be reasonably inferred that the gift is intended to influence the employee's actions or judgment. Any gift received by an employee, whose action can affect the giver, must be reported to the employee's Supervisor immediately. Gifts include money, items of value, services, loans, travel, entertainment, hospitality and employment.
3. Improper Use or Disclosure of Information. No City employee may use or disclose any information gained from City employment if the use or disclosure could result in a financial or personal benefit to the employee and no information shall be disclosed to a family or household member, unless that information has already become public. No current employee may use or disclose confidential information acquired during employment.
4. Improper Influence in Grants, Contracts, Leases or Loans. No City employee whose action or inaction can affect the award, administration of a City grant or contractor loan, may apply for, be a party to or have an interest in that city grant, contract or loan.
5. Improper Representation. No City employee may accept outside payment or financial benefit to represent, advise, or assist an individual in any matter being handled by the employee's administrative department.
6. Conflicting Financial Interests. An employee who has substantial financial interest or who acquires such interests, directly or indirectly, in any corporation, firm, or person who contracts with the City shall disclose that interest in writing to the City Manager.
7. Legal Requirements. No employee will do anything in the conduct of business which would violate any local, state, or federal law.
8. Use of Information Technology. City E-Mail services are provided for official City business use. Personal E-Mail is not official City business, although minimal use of

E-Mail for personal communications is acceptable if it does not violate the Technology Policy. Authorized system administrators may monitor E-Mail and Internet Use. Abuse of the Technology Policy will be brought to the attention of the Department Head, City Manager and Human Resources and may result in disciplinary action up to and including termination. The Technology Policy is available on the City's Intranet - KIVA.

(AR 2004-08; Incorporated into Personnel Policy 2024)

9. Aiding a Violation of Employee Ethics Policy. Aiding another City employee to violate this policy is prohibited.

7.2. Ethics Violation Procedure.

1. Complaints about the ethical conduct of a current City employee shall be filed in the Human Resources Office.
2. The Personnel Administrator shall forward a copy of the complaint to the employee's supervisor.
3. The Supervisor shall review the written documentation to determine whether a violation exists. The Supervisor must forward a response to the Personnel Administrator within five (5) workdays of receipt.
4. If determined a violation occurred the Personnel Administrator shall select the Ethics Policy Review Committee to investigate the complaint. (City Commission shall review all facts in a closed session when complaint filed is directed against the City Manager.)
5. The Ethics Policy Review committee shall consist of three individuals as determined by the Personnel Administrator. The committee shall within three (3) workdays of receipt of the complaint review and issue a written memorandum to the City Manager (copy to the Personnel Administrator) with recommendation for discipline.
6. Upon receipt and review of the recommendation from the Ethics Committee the City Manager shall determine the type of discipline up to and including termination, within three (3) workdays.
7. The City Manager or Personnel Administrator shall notify the employee of the disciplinary action.

7.3. Employee Grievance.

Every eligible employee with a grievance shall have the privilege of presenting the grievance in accordance with the following procedure without fear of reprisal (e.g. [whistle blowing](#)). The following definitions apply to this section:

Eligible Employee

Any regular full-time and regular part-time employee. The City Manager, temporary employees, and probationary employees shall not have access to the grievance procedure.

Grievance

A formal, written complaint from an employee concerning actions or inactions taken by an employee or the City. The written complaint can be in the form of a letter or email. If by email, the Subject: line should contain the following statement: "Official Personnel Complaint."

Note: *Promotions, demotions, reclassifications, transfers, reassignments, performance reviews, or changes in shift rotations may not be grieved by an employee unless they are a direct consequence of a disciplinary action to that employee.*

The grievance process involves the following steps:

1. First, an attempt shall be made to resolve the matter through informal discussion with the employee's Supervisor or Department Head. This should be done within five (5) working days after the occurrence.
2. If the matter cannot be resolved informally, the employee shall submit a complaint in writing, to the Personnel Administrator within five (5) working days after Step 1 has been attempted. The written grievance shall clearly define the problem and the request for corrective action. The Personnel Administrator may discuss the problem with the Supervisor/Department Head, or arrange a meeting with the employee and supervisor in an attempt to resolve the problem. If the complaint is not mutually resolved, proceed to next step.
3. The City Manager shall review all documentation for city employees. In the event the City Manager requires clarification, a meeting shall be scheduled with the employee and/or Supervisor. The City Manager's decision is final.
4. The City Commission shall review all documentation in a closed session when a complaint is filed against the City Manager.

7.4. Discrimination, Harassment Complaint Procedures.

1. Procedure for Employee.

The City strives to maintain a working environment free from harassment; including sexual harassment or sexual misconduct, by any of its employees. Any individual who feels that he/she has been discriminated against or harassed by any City Employee, or a City policy or procedure because of race, color, religion, sex, national origin, age,

disability, sexual orientation and gender identity, ancestry, physical or mental handicap, serious health condition, spousal affiliation or any other legally protected status, shall proceed as outlined below.

- 1) As soon as possible after the alleged discriminatory incident(s), the complainant shall submit a written complaint to the Personnel Administrator.
- 2) The Personnel Administrator shall begin an investigation immediately upon receiving the complaint. City employees are strongly encouraged to cooperate with an investigation and to be truthful with the investigator. Failure to be truthful may result in disciplinary action.
- 3) The Personnel Administrator or designee shall submit a written report of the findings to the City Manager.
- 4) The City Manager shall review the report, confer with City Attorney and determine whether a discriminatory or harassment practice has occurred.
- 5) Following the City Manager's determination, the Personnel Administrator or City Manager shall inform the complainant of the decision.
- 6) In the event the complaint is upheld, the City Manager shall proceed with disciplinary procedures consistent with existing City policy.

2. Procedure for City Manager

If the City Manager is accused of discriminatory or harassment incident(s):

- 1) As soon as possible after the alleged discriminatory incident(s), the complainant shall submit a written complaint to the Personnel Administrator.
- 2) The Personnel Administrator or designee shall begin an investigation immediately upon receiving the complaint. City employees are strongly encouraged to cooperate with an investigation and to be truthful with the investigator. Failure to be truthful may result in disciplinary action.
- 3) The Personnel Administrator or designee shall submit a written report of the findings to the City Commission.
- 4) In closed session, the City Commission shall review the report, confer with the City Attorney and determine whether discriminatory or harassment incident(s) has occurred.
- 5) Following the City Commission's determination, the Personnel Administrator shall inform the complainant of the decision.
- 6) In the event the complaint is upheld, the City Commission shall proceed with disciplinary procedures as deemed appropriate.

7.5. Responsibilities of Supervisors.

1. Responsible for creating an atmosphere free of discrimination and harassment.
2. Responsible for insuring all employees are informed of this policy and the penalties for violation.
3. Responsible for reporting complaints of discrimination or harassment in an expeditious manner to the Personnel Administrator.
4. Retaliation against an employee by co-worker(s) and/or supervisor(s) for making a complaint is strictly prohibited and may result in disciplinary action, up to and including termination.

7.6. Responsibilities of Employees.

1. Employees are responsible for compliance with this policy and for respecting the rights of their co-workers.
2. Retaliation against a co-worker for making a complaint is strictly prohibited and may result in disciplinary action, up to and including termination.

SECTION 8. EMPLOYEE PERFORMANCE REVIEWS

8.1. Purpose.

The performance evaluation provides a means for discussing, planning, and reviewing the performance of each employee. In addition to these formal performance evaluations, supervisors and employees are encouraged to discuss job performance on a frequent and ongoing basis.

Regular performance evaluations:

- Help employees clearly define and understand their responsibilities;
- Suggest ways in which employees can improve performance;
- Identify training needs;
- Provide a forum for goal setting;
- Provide a fair basis for awarding compensation based on merit or other compensation as identified by City Manager and approved through the budget process.

8.2. Performance Review Schedule.

All regular employees (full-time and part-time; as defined in [Section 3.2](#)) shall be given a performance review on the following occurrences:

1. At the completion of the probationary period, *Employee Action Plan*, or other times as deemed necessary by a Supervisor and approved by the Department Head; and
2. Yearly - on anniversary date or promotional date as designated by the Personnel Administrator and approved by City Manager.

8.3. Review Coordination.

Initiation of the performance review shall be the primary responsibility of the Supervisor. The Personnel Administrator shall maintain a schedule of performance evaluation timetables.

8.4. Evaluation Review.

1. The Supervisor will be available to meet with the employee to review the evaluation.
2. Employee shall be responsible for following through on goals, objectives and comments as noted on the evaluation.
3. Each employee has the right to comment on his or her performance review. If the employee chooses to do so in writing, such comments shall be included in his/her personnel file.
4. The performance evaluation shall be signed both by the employee and supervisor within four (4) working or business days of the employee receiving their evaluation.
5. A performance review does not always result in an automatic salary increase.

6. No presumption of performance shall be made in the absence of a performance review.
7. Any employee evaluated below a *Satisfactory* performance level will require a Performance Plan.
8. When necessary, the Department Head and/or Supervisor may create a Performance Plan for an employee who does not evaluate well. The Performance Plan will identify areas where improvement is required and how those improvements can be achieved in order to improve their future evaluation.

8.5. Responsibility and Action Steps.

1. The evaluation forms provided by the Personnel Administrator shall be accessible to Supervisors.
2. All performance evaluations shall be forwarded to the City Manager.
3. The City Manager shall forward the evaluation to the Personnel Administrator for review then the Personnel Administrator will process the Personnel Action form.
4. The completed evaluation shall be retained in the employee's personnel file after all appropriate signatures are obtained.

8.6. Merit Increases.

1. Merit increases for the current fiscal year are established in the most current Pay Plan located in the Personnel Office.
2. Regardless of evaluation, no merit increase is available if an employee has reached the maximum level in their respective grade in the pay plan.

SECTION 9. PERSONNEL RECORDS

9.1. Disclosure of Personnel Information.

All requests for information about an employee shall be referred to the Personnel Administrator. The Personnel Administrator may disclose dates of employment, final title or position, wage or salary levels and work location.

9.2. Signed Authorization for Disclosure of Personnel Information.

The Personnel Administrator shall also respond to requests for eligibility for rehire (whether or not a two week notice was given) and reason for separation or termination, with a signed release from current or former employee. The release shall be filed in the employee's personnel file.

9.3. Disclosure of Personnel Information to Law Enforcement Agencies.

Information shall be given to duly authorized requests from law enforcement agencies, including investigators, summonses, subpoenas and judicial orders. Information not deemed confidential within a personnel file is considered public information, as published in the Public Records Act.

The City need not inform an employee that personal information has been disclosed to law enforcement agencies if it concerns an investigation into the employee's on-the-job conduct, especially when an employee's actions endanger other employees, city security, or property.

9.4. Personnel Records.

The Personnel Administrator shall maintain a complete file of each employee's records containing information as determined by established law, in a secure location.

Each Supervisor may maintain a file on each employee in his/her charge, including performance evaluations, attendance records, notes, memos or letters, or other information relating to an employee's job and personal performance. At least once a year, information in the department file is reviewed and, when appropriate, purged.

The City has a commitment to the privacy of confidential information kept in its personnel records. The City uses only ethical and lawful means to gather information about or from an applicant or employee. Whenever reasonable, the City gathers it directly from the employee concerned. Personal information about an employee which is not job-related shall not become part of an employee's file. Personnel payroll data and medical records shall be kept separately from the personnel file.

9.5. Inspection of Personnel Records.

Employees may examine their own personnel records in accordance with state law. Personnel records are available through the City's Personnel Database or directly from the Human Resources Office. All personnel records requests shall be submitted to the Human Resources Office in writing. Employees have the right to request a correction, ask for a deletion or write a statement of disagreement with any item in the file. Files may not be removed from the Personnel Office.

9.6. Corrections of Personnel Records.

The following are procedures for requesting corrections of personnel records:

1. Submit request in writing to the Personnel Administrator outlining the request to correct documentation and the reasons.
2. The written request shall be reviewed by the City Attorney and Personnel Administrator.
3. If the request is granted, change(s) to documentation shall be made by Personnel Administrator.
4. If request for correction is denied, a statement of disagreement may be written and presented to the Personnel Administrator for inclusion in the employee's file. This statement becomes permanent documentation in the file.

9.7. Personnel File Contents.

The file shall contain the following:

- The original employment application.
- The job description of position for which employee was hired, and current job description.
- The originating personnel action showing occupation, date of beginning employment and salary.
- Copies of all letters of memorandums pertaining to job performance, regardless of origination.
- Records of certificates of educational training, achievements, and completion.
- Records of disciplinary actions, such as a reprimand, suspension, termination and grievances.
- Application for retirement program.
- Other related actions/forms concerning payroll deductions, merit increases etc.
- Medical documentation.
- Financial documentation.

Documents may be removed from the employee's permanent record upon written recommendation of legal counsel, if requested by the employee.

9.8. Personnel File Maintenance.

The above records shall be maintained in a secure accessible location.

Access to an employee's confidential personnel file shall be available to the employee, the City Manager, the Personnel Administrator, the City Clerk, and the employee's Department Head.

Finance shall keep records containing name, address, occupation, time sheets, rate of pay, total wages paid each pay period, vacation and sick leave accrual and use, and any other records necessary for computation of pay.

9.9. Former Employees.

Former employees may be given, (upon written request) copies of documents in his/her personnel file.

SECTION 10. DEPARTMENT POLICIES

10.1. Department Policies.

1. When a City Department has adopted written policies and procedures, these shall apply in conjunction with the Personnel Policy and any other policies established by the City. If there is a conflict between policies, the more stringent policy will be followed.
2. A signed acknowledgement shall be obtained when Departmental Policies are distributed to employees in that department. The acknowledgment shall be sent to the Personnel Administrator for inclusion in the employee's personnel file.
3. Department Policies shall be posted on the City's Intranet (KIVA).

SECTION 11. CITY VEHICLE POLICY

11.1. City Vehicle Use.

Certain employees are required to use City-owned vehicles to carry out their duties. Any employee who operates a City vehicle must follow these rules:

1. Employee must possess a valid operator's license for the class of vehicle being driven.
2. Employee must have an acceptable motor vehicle record.
3. Employee using the vehicle must be conducting City business.
4. Employee must receive prior approval from Supervisor and City Manager before driving vehicle for personal use.
5. Employee is responsible for checking the vehicle at the beginning of each workday to assure that the vehicle is in good mechanical condition and properly equipped.
6. The driver of the City vehicle is responsible for the condition of the vehicle.
7. Employee(s) must wear seat belt(s) at all times while vehicle is in motion. The driver shall instruct any passenger to fasten seat belt before vehicle is in motion.
8. Employee must operate the vehicle in a safe manner conforming to traffic laws and road conditions.
9. Smoking is prohibited in all City vehicles.
10. Employee shall not leave keys in vehicles for any reason.
11. Flammables such as gasoline must be stored in approved containers for transportation.
12. All accidents must be reported immediately.
13. Any employee who has an automobile accident caused by the employee must submit to a drug screen within two (2) hours of accident. In the event the employee is injured and medical attention is required, the drug screen shall be administered at the hospital or urgent care.
14. Minimum age to drive a City vehicle is 18 years old, and drivers must have a valid driver's license with no restrictions.
15. City liability insurance requires that ALL city employees attend defensive driving every two (2) years provided by the city OR the employee may provide evidence of attendance through other equivalent and approved course.

Any violation of the rules listed above may result in disciplinary action up to and including termination.

11.2. Personal Use of Automobiles.

1. Use of City vehicles for personal travel is not permitted unless the employee has the approval of Department Head and City Manager.
2. Personal use of City vehicles is limited to commuting to and from the employee's workplace. The value of the commute will be \$1.50 per one-way trip, \$3.00 per round-trip. If more than one employee commutes in the same vehicle, the \$1.50 is applied to each employee. Any changes to the value of the commute, per IRS code, will be applied. Police are exempt per IRS code.
3. Employees who drive City vehicles to commute must complete the time sheets indicating the number of days that they are using the automobile.
4. Only employees who are on call, or generally called out, are authorized to take home City vehicles. The employee must live within twenty (20) miles of the city limits.

SECTION 12. DRESS CODE and OFFICE APPEARANCE POLICY**12.1. Dress Code Policy.**

A neat professional dress is a requirement. It is expected that all employees will exercise good judgment and dress appropriately for their jobs and follow their departmental policy. The following are factors to take into consideration when determining appropriate dress:

1. The nature of the employee's work.
2. Safety considerations, such as necessary precautions when working near machinery or hazardous work areas. Employees will be required to wear proper safety equipment at all times, without exception for any reason.
3. The nature of public contact, if any, and the normal expectations of outside parties with whom the employee works.
4. The prevailing dress practices of other workers in similar jobs.
5. Relaxed attire may be worn on the last day of the work week as long as it meets the approval by the appropriate supervisor or department approved policy.
6. Departmental Uniform Policy (see Section 15).
7. Employees shall not wear the following:
 - 1) Non-departmental approved tank tops or t-shirts;
 - 2) Shorts above the knees;
 - 3) Sweat pants;
 - 4) Denim type pants that are worn at the knees, pockets, or seat area or with "fashion tears";
 - 5) Flip-flops.

12.2. Office Appearance.

In order to convey an image of efficiency and professionalism, and to prevent accidents or injuries, all City facilities should be kept neat and orderly. Employees should leave public areas such as the copy machine areas, coffee stations, conference rooms, restrooms, and kitchens in a clean and orderly condition.

12.3. Disciplinary Action.

When an employee's dress or office appearance does not comply with established standards, the Supervisor will discuss the matter with the employee. The Supervisor may initiate disciplinary action if dress attire or office appearance continues to not comply with standards set.

SECTION 13. DRUG AND ALCOHOL POLICY

13.1. Purpose.

The safety of the employee is a serious concern of the City of Aztec. Drug and alcohol use may pose a serious threat to the employees' safety. While at work, each City of Aztec employee has a responsibility to the public to deliver services in a safe, efficient, and conscientious manner. In order to perform a job in the safest manner possible, City of Aztec employees must be able to work in a drug-free environment and themselves be free from the effects of alcohol and other job impairing substances while on the job. Accordingly, while on the job or in the City of Aztec vehicle, the use, sale, distribution, possession, or being under the influence of an intoxicating liquor, controlled substance, drug not medically authorized, or any other substance which impairs job performance or poses a hazard to the safety and welfare of the employee, the public, or the other employees, is strictly prohibited and will result in disciplinary action up to and including termination.

The use of illegal drugs or alcohol on the job, or being under the influence of these substances, casts serious doubt on the employee's ability to perform his job functions and undermines the public confidence in the integrity of that employee and of the City of Aztec.

13.2. Policy.

It shall be the policy of the City of Aztec to make reasonable efforts to maintain a drug and alcohol free work place. The City of Aztec shall have periodic training on the policy and on drug and alcohol abuse. This policy shall be given to each employee.

13.3. Definitions.

Abuse of City of Aztec property

Is exemplified by, but not limited to, the following:

1. Negligent or willful damage or destruction of City of Aztec equipment or property;
2. Waste of materials or negligent loss of tools or materials;
3. Improper maintenance of equipment;
4. Damage caused by the use of tools or equipment for purposes other than that for which the tool or equipment was intended.

Accident

Any on the job injury which requires medical attention beyond first aid for the employee(s) and/or any other person involved, and/or cause the employee to lose time from work. It is also considered an accident when City of Aztec property has been damaged during the work shift. The damage property value shall be more than \$1,500 as determined by department head. Also see definition of vehicle accident.

Alcohol

The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

Alcoholic beverage

Alcohol, or any beverage, containing more than one-half of one percent by volume, which is capable of use for beverage purposes, either alone or when diluted.

Alcohol concentration (or content)

The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an Evidential Breath Test (EBT) or converted from a urine or blood sample.

Authorized Personnel

Authorized personnel are the Personnel Administrator, City of Aztec Manager, and the specific Department Director. Also, on a case by case need to know, the supervisor shall also be considered authorized personnel. Personnel who are authorized to have access to alcohol or drug test results or medical information pertaining to this policy will maintain complete confidentiality regarding this information.

Cannabis

Cannabis means all parts of the plant Cannabis containing a delta-9-tetrahydrocannabinol concentration of more than three-tenths percent on a dry weight basis.

The City has a zero-tolerance policy for cannabis use. Employees may be disciplined, up to and including termination, on the basis of a positive drug test that indicates any amount of delta-9-tetrahydrocannabinol or delta-9-tetrahydrocannabinol metabolite.

The City may not take adverse employment action against an employee holding a non-safety sensitive position for medical cannabis use authorized by the Lynn and Erin Compassionate Use Act, NMSA 1978 §§ 26-2B-1 *et seq.*, provided that the employee is not under the influence of cannabis during working hours, on City property, while operating City vehicles or equipment, or while on call or standby duty.

Collection Facility

A hospital, clinic, or laboratory, or other valid facilities, approved by the City of Aztec to be used to collect body fluid or breath samples to be analyzed for specific controlled substances or alcohol. The facility will have all the required resources, materials, equipment, and supervision to provide for the collection, security, temporary storage, and transportation of the samples to the testing facility, or to conduct alcohol testing.

Confidentiality

The results of any drug or alcohol test shall be strictly confidential and shall not be disclosed without the prior written approval of the employee tested unless otherwise required by law. However, nothing in this paragraph will prohibit the lab, the MRO, or testing facility from releasing information relevant to an employee's test results to the authorized City of Aztec personnel. Additionally, only those persons authorized and those directly involved in the decision making process related to the tested employee will obtain any drug or alcohol testing information retained by the City of Aztec. There may be some instances where overriding public health or safety concerns may require the release of information otherwise considered confidential.

Constitutional Rights of Employees

The City of Aztec respects the constitutional rights of its employees. All actions taken by City of Aztec officials shall be consistent with the Constitution and laws of the United States and the State of New Mexico.

Controlled substances

Any drug, substance or immediate precursor listed in Schedules I-V or Penalty Groups 1-4 of the Controlled Substance Act of 1988 as it may be revised from time to time.

Department Head

The person in charge of a department or designee.

Departmental policy

A Department's policy will prevail over this policy only where it is more restrictive than this policy and is not in direct conflict to this policy.

Disciplinary action

When this term is used it means discipline up to and including termination.

Drug or Illegal drug

Any drug in any detectable amount which is not legally obtainable under state and federal law; any drug which is legally obtainable but has not been legally obtained; any prescribed drug not legally obtained; any prescribed drug not being used for the prescribed purpose; any over-the-counter drug being used at a dosage level different than recommended by the manufacturer or being used for a purpose other than intended by the manufacturer; and any drug being used for a purpose not in accordance with bona fide medical therapy. Examples of illegal drugs are cannabis substances such as marijuana and hashish, cocaine, heroin, phencyclidine (PCP), and so-called designer drugs and look-alike drugs.

Manager

The City of Aztec Manager or designee.

Medical Review Officer (MRO)

A licensed physician (doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his medical history and any other relevant biomedical information.

Motor vehicle

As defined by [State Statute 66-1-4.11](#); "Every vehicle that is self-propelled."

Personnel Administrator

The Personnel Administrator or designee.

Physician

A physician licensed by the State Board of Medical Examiners.

Proper medical authorization

Use of prescription medications should be as directed by a physician. Employees may provide the City with a prescription or written approval from a physician for the use of a drug during the course of medical treatment.

Employees holding safety sensitive positions shall disclose to the City any prescription medication they are taking that may affect their ability to perform the essential functions of their positions. Such employees shall provide documentation from a physician addressing the employee's ability to perform essential job functions.

Reasonable cause (or reasonable suspicion)

That the actions, appearance, and/or conduct of an employee who is on duty are indicative of the use of a controlled substance or alcohol. Reasonable suspicion shall include, but not be limited to, the following:

1. Abuse of City of Aztec property;
2. Employee behavior problems such as fighting, declining work performance, argumentative, uncooperative, or other disruptive behavior;
3. Receipt of written or oral statements by others concerning use of drugs or alcohol by employees or being under the influence;
4. Possession of any drug or alcoholic beverage, or any drug or alcoholic beverage container, or any drug paraphernalia, during working hours, in a City of Aztec vehicle or on City of Aztec property;
5. Indications of being under the influence or intoxication which include but not limited to the following:
 - Abnormally dilated or constricted pupils glassy eyes
 - Aggressiveness
 - Glazed stare or redness of eyes
 - Change of Speech (e.g. faster or slower)
 - Increased appetite for sweets
 - Change of personality (e.g. paranoia)
 - Inattentiveness
 - Constant fatigue or hyperactivity
 - Job impairment (inability to perform)
 - Constant sniffing
 - Difficulty walking
 - Mood swings
 - Disorientation needle marks
 - Drowsiness
 - Odor of alcohol
 - Dulled mental process
 - Excessive unexplained absences
 - Redness under nose
 - Excitement or Confusion

- Sudden weight loss
- Euphoria
- Unsteady gait or balance
- Flushed face
- Other erratic behavior
- Forgetfulness

Refusal to submit to alcohol or drug test

That an employee:

1. Refuses to sign a consent to testing form;
2. Fails to provide adequate breath or urine for testing without a valid medical explanation after he has received notice of the requirement for testing;
3. Engages in conduct that clearly obstructs the testing process.

Any refusal listed above will be treated the same as a positive illegal, controlled substance with a positive test result or a breath alcohol.

Substance abuse

Is exemplified by, but not limited to, the following:

1. Ingestion, inhalation, or injection of a controlled substance without proper written medical authorization;
2. Ingestion of an alcoholic beverage during working hours.
3. Ingestion or inhalation of cannabis during working hours.
4. Ingestion of an alcoholic beverage in a City of Aztec vehicle, or while operating City of Aztec equipment, or while on call or stand by duty;
5. Ingestion or inhalation of cannabis in a City of Aztec vehicle, or while operating City of Aztec equipment, or while on call or standby duty;
6. Ingestion of alcoholic beverage, or ingestion or inhalation of cannabis, during non-working hours, which causes an employee to be unable to work in a safe and effective manner during working hours;
7. Use of prescription or over-the-counter medication in a manner which it was not intended.

Testing facility

A certified laboratory or facility, approved by the City of Aztec to analyze body fluid or breathe samples for specific controlled substances or alcohol. A copy of the City of Aztec Drug and Alcohol Policy shall be provided to the testing facility. The testing facility shall comply with the

procedures outlined in this policy when conducting tests. The testing facility shall contact the City of Aztec Personnel Administrator.

Under the influence

Is defined as abnormal behavior during working hours or while on call or on standby duty, which results from indulging to any degree in any alcoholic beverage, controlled substance, or drug which may limit an employee's ability to safely and efficiently perform duties or poses a threat to the safety of the employee or others.

Vehicle accident

After a vehicle accident in which an employee is involved during working hours and/or after a vehicle accident in which the employee was at fault (as determined by law enforcement officer, safety coordinator, or supervisor) when driving a City of Aztec vehicle at any time.

Working hours (on duty)

From the time the employee arrives at the job site until the time he leaves including all lunch or other types of breaks.

13.4. Department Heads and Supervisors.

1. Training. Department Heads and Supervisory employees will be provided with specialized training on alcohol misuse and drug abuse.
2. Supervisor's Responsibilities. When an observation or knowledge of an employee being under the influence of drugs or alcohol or who poses a hazard to the safety and welfare of the employee or others, the supervisor will immediately notify the Department Head or designee in a confidential manner.
3. Department Head. If the Department Head makes a determination that reasonable suspicion exists to conduct a drug or alcohol test, the Department Head or designee will contact the HR Personnel Administrator to schedule a drug screen and if warranted a breath alcohol screen.
4. The Department Head or designee will transport the employee to the collection facility.
5. This information shall also be maintained in complete confidentiality as stated in this policy. Breach of confidentiality relating to test results or any other related matters will subject the employee to disciplinary action.

13.5. Employees.

1. Notification to Supervisor of Authorized Drug Use. Each employee holding a safety sensitive position shall report the use of medically authorized drugs which can impair job performance to their Department Head. The Department Head in turn must notify the HR department. It is the employee's responsibility to determine from the physician whether or not the drug would impair job performance depending upon the nature of the employee's job. Failure to report the use of such drugs or failure to provide proper evidence of medical authorization may result in disciplinary action. Any information

received from an employee under this provision will be kept confidential except to the extent it may be shared with individuals who are in a need to know position.

The City of Aztec reserves the right to have a physician of its own choice determine if the medication produces hazardous effects at the prescribed dosage and may restrict the employee's work activity.

2. Additional Employee Responsibilities. Each employee who observes or has knowledge of another employee in an impaired condition to perform the job duties or who poses a hazard to the safety and welfare of the employee or others shall promptly report this fact to the immediate supervisor. The employee making the observations must file a written report to the suspected employee's supervisor by the end of the shift of observing or learning of the condition. Any employee concealing the use of or condition of being under the influence of drugs, controlled substances, or alcohol by other employees on the job, or failing to make such a report will be subject to disciplinary action.

Any employee who makes a reasonable cause observation or who may be a witness at an accident scene shall also maintain complete confidentiality. Breach of confidentiality in the matter will subject the employee to disciplinary action.

3. Call Back to Duty. Employees called back to work who have been consuming intoxicants shall report this usage to the person calling them for special duty. Employees will not be required to report for call back duty until such a time that they are in compliance with this drug and alcohol policy (or their own departmental policy if it is stricter than this policy). In the event the employee was on call or standby duty, disciplinary action may be imposed.
4. Employee Cooperation. All employees are expected to cooperate in the testing process. Any conduct that clearly obstructs the testing process such as tampering with the specimen or the testing procedure will result in termination.
5. Required Drug and/or Alcohol Testing. Testing shall be conducted:
 - (1) After an offer of employment.
 - (2) After an accident (see definitions).
 - (3) After a vehicle accident (see definitions).
 - (4) When a reasonable suspicion exists (see definitions).
6. Testing Methods. The methods by which substance abuse or alcohol use will be tested may include, but are not limited to, the following:
 - (1) Urinalysis
 - (2) Breath analysis
 - (3) Blood screening
 - (4) Hair analysis
7. The supervisor of an employee who is seriously injured and cannot provide a breath or urine specimen at the time of the accident will notify the HR Personnel Administrator

to notify the hospital and request that the hospital perform the tests necessary to determine the presence of controlled substances or alcohol in the employee's body at the time of the accident.

13.6. Procedures for Administering Tests.

When an employee or applicant is required to submit to a drug and/or alcohol test, the employee or applicant shall complete a consent form prior to testing. The form authorizes the exam/test and the release of medical information regarding the medical condition and any test results. When the employee or applicant reports to the collection facility, he/she will be required to show positive picture identification. Consequently, employees are required to carry a valid driver's license with them while at work.

1. After an Offer of Employment. Refusal to submit to the drug/alcohol test will be regarded the same as a positive drug test result or breath alcohol greater than .02 and the job offer will be withdrawn.
2. After an Accident Requiring Medical Attention, Vehicle Accident, or Reasonable Suspicion. An employee shall be required to submit to a drug and/or alcohol test within two (2) hours. Refusal or failure to submit to the drug/alcohol test will be regarded the same as a positive drug test result or breath alcohol greater than .02 and the employee shall be subject to disciplinary action. If this is a subsequent positive, the employee shall be terminated.

When an employee is required to submit to a drug and/or alcohol test, due to an accident requiring medical attention, vehicle accident, or reasonable suspicion, the employee will be driven to the collection site by the Department Head or designee.

3. Medical Examination. If the employee is unable to provide adequate breath or urine to conduct testing, the City of Aztec may require the individual to undergo a medical evaluation to develop pertinent information concerning whether the individual's inability to provide a specimen is genuine or constitutes a refusal to test. The cost of the medical exam shall be paid by the City of Aztec and the employee will remain on administrative pay while awaiting the results of the medical exam.
4. Waiting for the Test Result. The applicant will not be permitted to begin work with the City of Aztec until the results of the test are received by the Personnel Administrator.

An employee, who has been sent for a test due to suspicious reasonable cause, shall remain off duty with administrative pay until the results of the controlled substances test are received by the Personnel Administrator. However, when an employee has been sent for a test due to post accident, the Department Head shall determine whether the employee is to remain off duty in a leave of absence status or shall be permitted to continue work if the employee does not operate any motorized or gas-powered equipment, or any vehicle.

5. Breathe Alcohol Testing. Alcohol testing may be obtained through the blood or urine analysis and the certified lab shall convert the analysis into a breath alcohol reading. However, the City of Aztec may choose to have the employee's breath alcohol content

analyzed using an Evidential Breath Testing device (EBT) operated by a Breath Alcohol Technician (BAT). The test shall be conducted in a private setting.

13.7. Post Test Procedures and Exam Results.

If requested, a copy of the results of the test shall be supplied to the employee tested and the original results shall be maintained in a locked cabinet in the Personnel Administrator's office for a period of at least two years, after which time they may be destroyed. However, the Personnel Administrator may maintain the results and any reports on individuals who have violated this policy for the purpose of recording the number of violations.

1. Negative Results. If the test results are negative, no disciplinary hearing will be held.
2. Positive Results. A Medical Review Officer (MRO): shall review and interpret positive results obtained from the lab. The MRO will examine the possible alternate medical explanations for any positive test results and give the individual testing positive an opportunity to discuss the test results prior to making a final decision. The MRO will then contact the Personnel Administrator with the information. The MRO may verify a positive test result to the Personnel Administrator without having communicated with the employee if the employee expressly declines to discuss the results of the test, or if the employee has not contacted the MRO within 24 hours after notification.
3. Positive Drug Test Result. The employee will be immediately placed on unpaid administrative leave and will not be allowed to perform any work on behalf of the City of Aztec.
4. Second Sample. An employee whose urine sample has tested positive has the option, within 72 hours of being notified by the MRO, of having the other portion of the split sample tested by the same lab or another certified lab. The employee will remain on administrative leave while awaiting the results of the re-test.
 - 1) If the second portion produces a negative result, or for any reason, the second portion is not available, the test is considered negative, no sanctions will be imposed and no disciplinary hearing will be held.
 - 2) If the second portion confirms a positive result, the employee will be provided with a notice of a meeting with Personnel Administrator and Department Head.
5. First Time Offense. If this is the employee's first time for a positive result for drugs or alcohol testing .02 or greater the employee may voluntarily agree to be evaluated by a substance abuse professional (SAP) who will determine what assistance if any, the employee needs in resolving the problem. Failure of the employee to accept assistance will result in immediate termination. If the employee chooses to follow through with the course of action the SAP chooses, then the employee will not be terminated for drug or alcohol abuse at this time, however the employee will be subject to disciplinary leave as stated in [Section 13.13](#).
 - 1) If the employee tests positive for illegal drugs they will not be allowed to return to work until they provide a negative test result within thirty (30) days. The employee

will be on unpaid administrative leave but can use any other leave time (e.g., sick leave, vacation) available. The employee will also be responsible for 100% of the cost for testing and fees. The City will specify the testing facility.

- 2) Once the employee has returned to work, the employee shall be required to submit to unannounced drug and alcohol testing at least six times while on duty during the twelve (12) months agreement for improvement process. The employee's Department Head and/or the Personnel Administrator will determine when the unannounced tests will be conducted.
 - 3) If the employee chooses not to be evaluated by the professional or the employee does not follow through with the course of action directed by the SAP, then this action by the employee shall be treated as though this were a subsequent positive result.
 - 4) This does not apply to an employee on their initial probation period. An employee on initial probationary period will be terminated.
6. Subsequent Positive Results. For drugs or alcohol testing at .02 or greater will result in termination of the employee's employment with the City of Aztec, within a seven (7) year time period starting from the initial time of offense or positive test. An employee terminated as a result of a second offense is not eligible for re-hire.

13.8. Operation of Vehicles and Equipment.

Any time the alcohol test produces a positive test equal to or greater than 0.02, the Department Head or designee shall ensure that the employee does not drive himself home in either his personal vehicle or in an assigned City of Aztec vehicle.

Under no instances shall an employee operate a motor vehicle or motorized equipment while he is suspected of or is intoxicated, under the influence of drugs, or under the influence of medication which may affect the employee's ability to operate such equipment.

13.9. Searches and Inspections at the Workplace.

An employee as well as City of Aztec property and equipment may be searched when there is reasonable suspicion to believe that the employee is in violation of this policy.

The City of Aztec may conduct general inspection and searches for drugs or alcohol on City of Aztec premises or in City of Aztec vehicles or equipment wherever located. Searches and inspections may be initiated without prior notification and conducted at times and locations deemed appropriate by the City of Aztec.

An employee may have the right to refuse a search, however, an employee's consent to a search is required as a condition of employment and the employee's refusal will result in disciplinary action up to and including termination, even for a first refusal. Employee has the right of a third party of their choice present during the search.

Controlled substances, drugs believed to be illegal; drug paraphernalia found on City of Aztec property will be turned over to the appropriate law enforcement agency and full cooperation given to any

subsequent investigation. Substances which may be identified as an illegal drug by a layman's examination will be turned over to law enforcement authorities as well.

13.10. Employee Convictions.

Convictions are subject to disciplinary action up to and including termination even for the first offense.

13.11. Special Provisions.

Police Detectives and Officers who are required to be in possession of firearms, alcohol, or drugs in the course and scope of their employment, will be exempt from the provisions of this policy pertaining to possession of. Police employees are instructed to refer to the guidelines established by the Department's internal operating procedures.

13.12. Reservation of Rights.

The City of Aztec reserves the right to interpret, change, rescind, or depart from this policy in whole or in part without notice. Nothing contained in this policy shall be construed as creating or constituting a contract with any employee, whether expressed or implied.

13.13. Disciplinary Leave.

An employee who receives disciplinary leave specific to this policy shall get three (3) scheduled workdays without pay.

SECTION 14. SMOKING AND ELECTRONIC CIGARETTE POLICY

14.1. Definitions.

Electronic cigarette

An electronic device that delivers vapor for inhalation. Electronic cigarette shall include any refill, cartridge, and any other component of an electronic cigarette. Electronic cigarette shall not include any product approved by the food and drug administration for sale as a drug or medical device.

14.2. Public Buildings.

Smoking, including electronic cigarettes, is not permitted in any municipal buildings as well as within 50 feet of entrances to those places ([NMSA 1978, § 24-16; Dee Johnson Clean Indoor Air Act](#)).

14.3. City Vehicles.

Smoking, including electronic cigarettes, is prohibited in all City vehicles (see also [Section 11](#)).

SECTION 15. UNIFORM POLICY

15.1. In General.

1. All City employees shall be provided a City Photo ID by the Information Technology office. The City Photo ID shall be visible during working hours, excluding field personnel in uniform. All field employees shall be able to produce a City Photo ID upon request.
2. All uniform shirts, jackets, coats or hats shall have City of Aztec identification in the form of the City's logo and department name.
3. All field employees are required to wear a uniform, provided that the department has adequate funding available in their fiscal year budget. Uniforms will be provided for each field employee, department head, supervisor, and/or employees that perform field work or are exposed to the elements.
4. Uniforms issued to an employee shall become the responsibility of that employee for cleaning and maintenance. Loss or destruction of uniforms or equipment that is not a result of employee negligence may be replaced by the Department. Negligence or carelessness could result in disciplinary action and/or replacement through an employee's paycheck.
5. Each employee is required to wear the uniform during normal scheduled work hours or shifts. An employee refusing to wear the City provided apparel during work hours or wears torn, soiled uniforms may be subject to disciplinary action.
6. The Department Head at their sole discretion may approve replacement of any uniform that is damaged or ruined during work activities exceeding the expense limits or quantities established in the Administrative Regulation.
7. Employees attending training session, or schools out of uniform are encouraged to dress appropriately and in good style. Employees that are provided "polos" or other nice cloths will be required to wear them as part of the City uniform when attending training unless travel requires formal dress like court. Apparel that is not allowed is as follows:
 - 1) Non-departmental approved tank tops or t-shirts;
 - 2) Shorts above the knees;
 - 3) Sweat pants;
 - 4) Denim type pants that are worn at the knees, pockets, or seat area or with "fashion tears";
 - 5) Flip-flops.
8. Specific color and design with the City and/or Department logo will be specified by department head as the need arises.
9. If an employee voluntarily resigns from his or her position or is terminated by personal actions within three (3) months of date of hire they will reimburse costs associated

with uniforms. If the employee does not return any items in the employee's possession within twenty-four (24) hours from termination, the cost of the items will be withheld from their final pay check.

15.2. Personal Protective Equipment (PPE).

1. This section has been developed in accordance with 29 CFR 1910-132 Occupational Safety and Health Administration (OSHA), American National Standards Institute (ANSI), Manual on Uniform Traffic Control Devices (MUTCD), and APPA (American Public Power Association) safety manual. Additional information and requirements concerning the selection and use of PPE can be found by referring to these standards.
2. Additional PPE that may be required can be authorized by the department head.
3. Recognizing the importance of employee safety, the department will provide all PPE for employees to carry out their job duties in a safe manner.
4. Certain apparel falling under the category of Personal Protective Equipment (PPE) shall conform to this uniform policy.
5. PPE is not taxable.

15.3. Uniform Compensation.

The City shall provide uniforms for employees as budgeted funds are available and as required in each Departmental Policies. Compensation for Uniforms is established in [Section 4.20](#) with fiscal compensations established in an Administrative Regulation.

[\(AR 2003-03; Incorporated into Personnel Policy 2012\)](#)

15.4. Definitions.

General Attire

Is considered any combination of hats, shirts, jackets, or vests that is used for purpose of identification as a City Employee. General attire is taxable under Federal Tax code.

General Uniform

Uniform attire as dictated by Departmental Policy which may include boots, jackets, overalls, pants, and shirts. General uniform is taxable under Federal Tax code.

Personal Protective Equipment (PPE)

Equipment for the purpose of employee safety. Such equipment includes boots which have steel toes or other specialty rating, clothing which has a fire retardant rating (jackets, overalls, pants, shirts), prescription safety glasses. Personal Protective Equipment is NOT taxable under Federal Tax code.

Restricted Uniform

Restricted uniforms are unique in purpose, are a condition of employment with the City and use of items defined as restricted uniforms are restricted to on duty hours or as determined by Department Head or City Manager in official representation of the employee's position. Specific

items comprising a restricted uniform is defined by written Department and/or Personnel Policy. Departmental policies may include additional restrictions beyond this policy and each employee is responsible to be knowledgeable of those regulations within their respective departments. Departmental policies specific to uniforms, not incorporated in the Personnel Policy, will be provided to the Finance Department to determine compliance with IRS regulations, City policy and application during the ordinary course of City operations.

[\(AR 2018-57; Incorporated into Personnel Policy 2020\)](#)

Restricted Uniforms (Specific to Police Department)

Uniform shirts (long sleeves, short sleeves), hats, pants, gloves, vests, tactical vests, traffic vests, winter jackets, windbreaker jackets, rain jackets or any clothing items issued by the Aztec Police Department and worn while on duty, for training or on special assignment. Class "A" uniforms are a restricted uniform. Uniform components including name tags, badges, emblems, etc. are considered part of the restricted uniform.

Any police uniform and any other uniform equipment issued by the Aztec Police Department may not be worn except when acting in an official police capacity unless permission is obtained from the Chief of Police or designee. All uniforms are the property of the Aztec Police Department and shall be returned upon separation from the police department.

Each employee will be held accountable for all issued uniforms and equipment. Loss or destruction of uniforms or equipment that is not a result of employee negligence will be replaced by the Department. Negligence or carelessness could result in disciplinary action and/or reimbursement from the employee. A memo to the chief is required on all lost or damaged equipment.

[\(AR 2018-57; Incorporated into Personnel Policy 2020\)](#)

15.5. Animal Shelter.

1. Uniform Style. Will consist of jeans and shirts with City logo, employee name and department embroidered on the shirt. Officers will wear badges on their belts.
2. Footwear. Any shoe or boot that is comfortable and has good no skid/slip grip tread. Muck boots shall be worn when cleaning the dog kennels.
3. Equipment. All equipment remains the property of the Aztec Animal Shelter and must be returned to the Director if employment ends with this department. Equipment issued may include but is not limited to:
 - Animal Shelter badge
 - Keys
 - Motorola Handheld Radio
 - Bite stick with holster
 - Flashlight with holster
 - Gloves
 - Leash with pouch

15.6. Community Development Office.

The Community Development Office interacts with the public and is required to present itself in a “neat professional appearance.” Employees of Community Development are required to dress appropriately for the jobs they are performing. Therefore, failure to follow the dress regulations contained in this section shall be grounds for discipline.

General Guidelines: The general dress code guidelines are as follows:

1. All clothing must be neat, clean, and in good repair.
 2. Prescribed uniforms and safety equipment must be worn if applicable.
 3. Footwear must be appropriate for the work environment and functions performed.
 4. Hair must be neat, clean and well-groomed.
 5. Beards, mustaches, and sideburns must be maintained in neat and well-groomed fashion.
 6. Jewelry is acceptable except where it constitutes a health or safety hazard.
 7. Good personal hygiene is required.
 8. Dress and personal appearance must be appropriate to the work setting particularly if the employee has public contact.
 9. Any visible tattoos shall not be obscene, sexually explicit, discriminatory to any legally protected category (including, but not limited to, national origin, race, religion, sex, and sexual orientation), extremist, and/or gang-related. Any non-conforming tattoos will be covered with clothing or a bandage while at work.
 10. For employees working with the public, objects, articles, jewelry or ornamentation of any kind that may impact safety or service to the public shall be removed, covered with a bandage, or replaced with a clear, plastic spacer.
 11. Shorts, sweats, yoga pants, and t-shirts are prohibited, unless part of a required uniform or specifically authorized by the department director.
 12. If an employee has a question about how any provision of this policy applies to him/her, the employee should immediately raise the matter with his/her supervisor for consideration and determination.
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- 1) Uniform Style: Office staff is required to wear a dress shirt, polo shirt, collared shirt, blouse, and sweater. T-shirts are specifically prohibited.
 - 2) Denim: Denim jeans are allowed. Denim jeans need to be free from rips, tears, or holes.
 - 3) Footwear: Comfortable and/or dress shoes in good condition are required. The Code Compliance Officer, Planner, or those exposed to the field are required to wear proper footwear for field work. Bare feet, stocking feet, slippers or flip-flops are prohibited within the Community Development Department.

15.7. Electric Department.

1. Uniform Style. The Electric Department will have specific color and design with the City or Department logo on the left side chest area of the apparel and Electric Department spelled out on the right side chest area of the apparel.
2. Footwear. All field personnel are required to wear boots that are classified as PPE.
3. Equipment. All PPE items will be provided to the employee. It is the employee's responsibility to ensure he/she has the appropriate PPE for each assigned task. If an employee is unsure of the type of PPE needed for a task, he/she should seek guidance from the Supervisor on the PPE needed for that task.
4. Exceptions. None.

15.8. General Services – Parks and Recreation.

1. Uniform Style. The General Services Department uniform shirt will have the City or Department logo on the chest area of the apparel.
2. Footwear. All field personnel are required to wear boots that are classified as PPE.
3. Equipment. All PPE items will be provided to the employee. It is the employee's responsibility to ensure he/she has the appropriate PPE for each assigned task. If an employee is unsure of the type of PPE needed for a task, he/she should seek guidance from the Supervisor on the PPE needed for that task.
4. Exceptions. Shorts may be worn at the discretion of the Department Head depending on health and safety concerns of the Department. Shorts will be neat in appearance with hemmed legs, in a dress or semi-casual style one color with belt loops. No baggy, basketball, surfer or swim suit style shorts are allowed. Shorts will be no higher than the individual's hand width from the top of the knee or not fall below the top of the knee while the individual is in the standing position. If shorts are worn, employees will be required to carry long pants or bib overalls so that a clothing change can be made immediately if job requirements change.

15.9. Police Department.

Uniforms will be issued upon initial employment. Uniform items will be replaced as needed. Leather gear and other equipment will be replaced as needed.

1. Handguns and Shotguns are issued to certified officers by the Firearms Instructor. The Firearms Instructor may vary the particular weapon issued according to duty assignment. The Captain or Firearms Instructor may retrieve Department weapons if an officer is not using or qualifying with that weapon. (See Firearms Policy.)
2. Each employee will be held accountable for all issued uniforms and equipment. Loss or destruction of uniforms or equipment that is not a result of employee negligence will be replaced by the Department. Negligence or carelessness could result in disciplinary action and/or reimbursement from the employee. A memo to the chief is required on all lost or damaged equipment.
3. All leather gear, uniforms, and accessories worn by personnel will be Department issued or conform to the specifications of issued uniforms and equipment. Items not issued must be approved by the Chief of Police or Designee before being used.
4. Each officer will be provided a bullet resistant vest which will be worn on all patrol duty assignments unless otherwise authorized by the Chief of Police or designee.
5. Officers will wear their badge on their uniform shirts while on duty. Name tags will be centered above the right shirt pocket flap. Additional badges such as Shooting Classification, D.A.R.E., etc. may be worn with the approval of the Chief of Police.
6. Supervisors will wear collar brass or sleeve insignia on their uniform to indicate their rank.
7. The footwear policy for uniformed members of this Department is as follows:
 - 1) Employees will receive a yearly boot allowance; as budget allows
 - 2) Uniform shoes or boots will be black in color and constructed of smooth leather uppers or permanent shine man-made uppers with a choice of out soles. Uppers may contain black Cordovan type material as long as the shoe/boot can maintain a shine;
 - 3) Shoes may be plain toe style or a walking/coach type shoe with black lacing. Wingtip, loafer or slip on shoes will not be acceptable;
 - 4) Boots may be the pull-on or lace up style with a plain toe. Hiking boots, engineer boots and construction boots will not be acceptable. Motorcycle officers must wear the approved style boots;
 - 5) Shoes or boots with design stitching or ornamental dressing as well as other decorated shoes or boots are not acceptable. All logos, tags or lettering that are not black in color shall be removed or the color altered to appear black in color;

- 6) All footwear should be sturdy, of high quality and shall be kept well polished and in good repair at all times;
 - 7) During inclement weather, galoshes, overshoes or snow boots may be worn. Boots of bright color or multicolor, stripes, designs or any printing or logos are not acceptable;
 - 8) Footwear must be professional in appearance and be maintained to acceptable levels. Shoes or boots found not to meet the above standards due to lack of maintenance or lack of quality will not be acceptable or approved for use.
 - 9) Footwear is for official police work only and should not be worn unless working in an official capacity for the police department.
8. Hair Styles:
- While on duty, all members and employees of this Department will be well groomed and clean in their personal appearance.
- 1) For Male Uniform Members, the policy is as follows:
 - (1) Hair will be neat, clean, and styled to present a groomed appearance;
 - (2) Hair should be kept collar length and not cover the ears;
 - (3) Sideburns will not extend below the bottom of the ear. Sideburns will not cover any part of the ear and will present a well groomed, professional appearance;
 - (4) Members will be clean shaven with the exception of mustaches. Mustaches will be neatly trimmed, not to extend below the corners of the mouth and professional in appearance.
 - 2) For Female Uniform Members, the policy is as follows:
 - (1) The hair must be pulled away from the face for clear, peripheral vision;
 - (2) Female members with collar length hair or longer wear it pulled back and secured for a neat, professional appearance. Braids, ponytails, and buns are acceptable styles.
9. Officers Attending Training Session, or Schools Out of Uniform.
- 1) Officers attending training session, or schools out of uniform are encouraged to dress appropriately and in good style. Apparel that is not allowed is as follows:
 - (1) Tank tops or t-shirts;
 - (2) Shorts;
 - (3) Sweats;
 - (4) Denim type pants that are wrinkled or worn at the knees, pockets, or seat area;

- 2) Dress shirts and slacks are required for males for court. Females may wear business attire or appropriate attire.
 - 3) Supervisors may approve a deviation from the above restrictions should an assignment dictate, or the training is of a nature where more casual wear is necessary.
 - 4) The Department may provide jackets that can be worn by all employees in cooler weather.
10. Restrictions on Uniform's are as follows:
- 1) The uniform hat will be the Department issued, which may be worn at the officers' discretion. The baseball cap will only be worn in inclement weather or when approved by a supervisor
 - 2) Any police uniform any other uniform equipment issued by the Aztec Police Department may not be worn except when acting in an official police capacity unless permission is obtained from the Chief of Police or designee. All uniforms are the property of the Aztec Police Department and shall be returned upon separation from the police department.
 - 3) Gloves may be worn at the discretion of the officer. They will be black or brown in color, of a plain design, with no ornamentation or logos. No "sap" gloves will be allowed.
 - 4) Tee shirts will be worn under the patrol uniform shirt. Tee shirts may be white, black or navy blue in color and a crew neck style.
 - 5) Black or navy blue turtle neck shirts may be worn under the patrol uniform shirt during cold weather at the discretion of the officer. The collar of the turtle neck shirt should not protrude above the collar of the uniform shirt.
 - 6) While wearing the Department uniform, navy blue or black socks will be worn with low quarter shoes.
 - 7) Officers in uniform shall not wear any visible jewelry with the exceptions of watches and wedding bands/engagement rings. Female officers may wear ear pins which are earrings that pierce the ear, however, are flush on both the front and back side. No part of the ear pin will extend off the ear.
11. Uniforms are defined as:
- 1) Uniform shirts (long sleeves, short sleeves), hats, pants, gloves, vests, tactical vests, traffic vests, winter jackets, windbreaker jackets, rain jackets or any clothing items issued by the police department and worn while on duty, for training or on special assignment.

- 2) Class "A" Uniform:
The Class "A" Uniform will be worn for special or formal events as deemed appropriate. The Class "A" Uniform will consist of the following components:
 - (1) Long sleeve uniform shirt;
 - (2) Ascot and braid/ or tie;
 - (3) Department hat;
 - (4) Ike Jacket
 - (5) All other standard uniform components.
- 3) Civilians will be issued uniform tops and jackets as prescribed below:
 - (1) If a civilian wears a uniform top everyday they will be supplied 4 tops with their name and city logo on them, 4 pairs of pants no more than twice per year. One jacket per year will be given with their name and city logo on it.
 - (2) If civilians opt to wear a uniform only part-time they will be only given 2 uniform tops with their name and city logo on them, 2 pair of pants no more than twice per year. One jacket per year will be given them with their name and city logo on it.
- 4) Evidence Tech may be given special uniform to protect them.
- 5) Part- time employees will receive ½ of the above order and one jacket.
- 6) Casual Thursday allow for wearing of Levi type jeans by civilians.

15.10. Public Works.

1. Uniform Style. The Public Works Department will have specific color and design with the City or Department logo on the left side chest area of the apparel and “Public Works Department” displayed on the right side chest area of the apparel.
2. Footwear. All field personnel are required to wear boots that are classified as PPE.
3. Equipment. All PPE items will be provided to the employee. It is the employee’s responsibility to ensure he/she has the appropriate PPE for each assigned task. If an employee is unsure of the type of PPE needed for a task, he/she should seek guidance from the Supervisor on the PPE needed for that task.
4. Exceptions. None.

15.11. Library.

Employees are expected to maintain a clean, well groomed, professional appearance, wearing clothing, which is in good condition, and appropriate for the employee's duties in a public library setting. The following items are not acceptable:

- Midriff-baring tops.
- Rubber flip flops.
- Clothing or shoes which restrict any bodily movement necessary to perform library duties which could involve sitting, standing, walking, bending, reaching and carrying.
- Very short skirts (Length must be close to the knees).
- Very tight or figure hugging clothing.
- Clothing that reveals excessive cleavage, back, chest, stomach, thigh or undergarments
- Clothing that displays or promotes vulgar or obscene ideas; promotes drugs, alcohol, sex, suicide, profanity.
- Clothing which obviously advertises a product or association with political party.

The Library Director may determine other types of clothing that are not appropriate for a specific work area.

15.12. Visitor Center.

The Aztec Visitor Center inherently invites the general public through its door. We attract and meet a wide variety of people – from residents looking to pay utility bills, to stop-ins needing directions to a particular destination, to tourists hoping for the latest information about must-see sites like the Aztec Ruins. It is necessary to establish a professional, clean, comfortable and inviting environment for our guests as well as employees. Therefore is it imperative that we offer a consistently professional appearance that mimics and dovetails our efforts to provide the friendliest, most attentive, and most responsive customer service possible.

1. Uniform Style. The style of attire at the Visitor Center is casual. Weather will dictate the style most days; however there will be special events or meetings when the Tourism and Marketing Supervisor will dictate the dress code, based on the style of event/meeting.
2. Shirts or Jackets. Shirts or Jackets purchased by the City shall have the City of Aztec or Tourism logo placed onto them.
3. Footwear. Comfortable shoes in good condition are required.

SECTION 16. SOCIAL MEDIA POLICY

16.1. In General.

In our digital society, social media is a rapidly evolving means of communication and engagement. Platforms such as Facebook, Instagram, and Twitter allow the City of Aztec government to communicate directly with the community we serve, exchanging news and information in real-time. The intended purpose of City social media sites is to disseminate information from the City to members of the public about the City's mission, meetings, events and activities, current issues, and items of general community interest.

City personnel shall follow all guidelines established within the most current City *Social Media Policy*. The *Social Media Policy* will be maintained by the Information Technology department and approved by the City Manager.

SECTION 17. MOTOR VEHICLE POLICY

17.1. Driver's License Required.

Employees are required to carry a valid driver's license with them while at work. Failure to carry a valid driver's license can be grounds for disciplinary action as specified in [Section 6. Disciplinary Action and Terminations](#).

17.2. Motor Vehicle Records.

1. All employees, public officials, and volunteers who operate a city vehicle and/or mobile equipment or use their own vehicle for city business are required to hold a valid driver's license. An employee who does not maintain a valid driver's license is subject to [Section 6. Disciplinary Action and Terminations](#).
2. Motor vehicle records (MVR) will be reviewed on a monthly basis by the Personnel Administrator. In addition to reviewing MVR for a current driver's license, the following items will also be reviewed:
 - 1) The driver's license class is correct for the type of vehicle and/or mobile equipment operated. Persons operating equipment falling under the Department of Transportation for Commercial Licensing shall obtain and maintain a Commercial Driver's License. Individuals who operate a city fire vehicle shall hold a valid Class E license.
 - 2) Number of points accumulated on the license in a twelve (12) month period. In accordance with NM Self Insurer's Fund Policy, employees who accumulate six (6) points on their license in a twelve (12) month period will be notified and any additional points will result in the employee becoming uninsurable on city vehicles/mobile equipment for the remainder of the twelve month period. Such violations are subject to [Section 6. Disciplinary Action and Terminations](#).
 - 3) DWI/DUI Offense, which is subject to [Section 6. Disciplinary Action and Terminations](#).
3. Any changes in an employee's driver license status (e.g., state, class, revocations, or restrictions) are to be reported to the Personnel Administrator as per Appendix A. Definitions: *Change of Employee Information*.

SECTION 18. SAFE WORKPLACE

The City is committed to upholding a high standard of safety to ensure the health and well-being of its employees and to provide safe and efficient services to the citizens of Aztec. Consistent with this commitment is the need to encourage a safe workplace by implementing and maintaining a *Safety Policy*. The City shall do all that is reasonable to prevent injury to its employees, and damage or injury to property and residents.

SECTION 19. VIOLENCE IN THE WORKPLACE

19.1. Purpose.

The City of Aztec and all of its employees are expected to maintain a workplace free from threats and acts of violence. The City of Aztec will work to provide a safe workplace for employees and for visitors to the workplace. Workplace violence is not limited to interaction between employees. It may also occur between employees and customers or citizens. It is important to take all signs of workplace violence seriously.

The City of Aztec will not tolerate any type of workplace violence committed by or against employees. Employees are prohibited from making threats or engaging in violent activities.

19.2. Prohibited Conduct.

Listed below are some, but not all, of employees conduct that is prohibited:

- Intentionally causing physical injury to another person.
- Making direct or indirect threats.
- Acting out in an aggressive or hostile manner that creates a reasonable fear of injury to another person or subjects another individual to emotional distress.
- Intentionally damaging employer property or property of another employee.
- Possessing an unauthorized weapon while on city property or while on city business.
- Committing acts motivated by, or related to, sexual harassment or domestic violence.

19.3. Reporting Procedure.

To maintain a safe workplace, employees must be able to report concerns about potentially dangerous situations or actual incidents of workplace violence to the city Personnel Administrator without fear of retaliation. Accordingly, any such reports may be made anonymously and appropriate steps will be taken to protect the reporting party's identity. The information provided will be investigated with confidentiality and will be handled appropriately. Information will be disclosed on a need-to-know basis. All parties involved in the incident will be informed of the results of the investigation.

The City of Aztec expects all employees to use good judgement when identifying and reporting co-workers, other persons, or incidents to the Personnel Administrator. These may include but are not limited to:

- Anyone engaged in conversations about dangerous weapons, having immediate access to any such weapons while at work or bringing any such weapon to work.
- Anyone who displays obvious signs of emotional instability (including stress, anger, hostility and so forth).
- Anyone who makes implied or outright threats.
- Anyone whose job performance changes drastically.
- Statements of desperation.
- Statements regarding suicide.

19.4. General Responsibilities.

- It is up to each employee to help make the City of Aztec a safe workplace for all.
- Notify a supervisor immediately of your observations.

19.5. Employee Responsibility.

- Be familiar with policies regarding workplace violence
- Be responsible for securing your own workplace.
- Be responsible for questioning and/or reporting strangers to a supervisor.
- Do not confront individuals who are a threat.
- Take all threats seriously.
- Be familiar with resources of the Employee Assistance Program.

19.6. Supervisors/Department Heads Responsibilities.

- Inform all employees of the Emergency Action Plan and Workplace Violence Policies.
- Ensure that all your employees know procedures for dealing with workplace violence.
- Ensure that employees know how to reach you in case of an emergency.
- Provide training.
- Respond to potential threats.
- Take all threats seriously.

19.7. Enforcement.

The City of Aztec does not tolerate implied threats, aggressive conduct or violence in the workplace. Any employee accused of engaging in any such conduct will be investigated. Should the investigation determine that the employee engaged in such conduct, the employee will be subject to disciplinary measures up to and including termination. The City of Aztec will also ensure that any individual it does not employ who engages in prohibited conduct is reported to the appropriate authorities and prosecuted to the fullest extent of the law.

SECTION 20. EMPLOYER PAID MEAL POLICY

20.1. Purpose.

The City has established an Employer Paid Meal policy. This policy is for City Employees and allows for the occasional meal to be paid by the City of Aztec.

20.2. Department Heads/Supervisors.

Cost of meals should be de minimis in nature as specified in the DFA White Paper and IRS rules. The frequency of meals should be rare to occasional and at no time should they exceed more than 4 times a fiscal year.

Occasional Basis

The meal is reasonable in value and is not provided regularly or frequently.

The meetings/events should be more than a social gathering. The meals should be limited to events that would create specific impacts to the city. Examples include a meal for an economic development opportunity, utility issue, Legislative concern or request, and public safety.

Meals with a business meeting are NOT taxable if it is a clear business setting and directly related to the City of Aztec.

Directly Related Test

Meal Reimbursements meet the directly related test and may be excludable from wages if:

1. The main purpose of the combined business and meal is the active conduct of business; and
2. Business is actually conducted during the meal period, and
3. There is more than a general expectation of deriving income or some other specific business benefit at some future time.

20.3. All Other Employees.

Meals can be provided at the convenience of the employer. (Convenience defined as – so not to disrupt job or workflow.)

Meals with a business meeting are NOT taxable if it is a clear business setting, directly related to the City of Aztec and approved by the Department Head.

Meals may be provided to Emergency Crews when deemed necessary by Department Head(s).
(AR 2007-23; Incorporated into Personnel Policy 2024)

Directly Related Test

Meal Reimbursements meet the directly related test and may be excludable from wages if:

1. The main purpose of the combined business and meal is the active conduct of business, and
2. Business is actually conducted during the meal period; and
3. There is more than a general expectation of deriving income or some other specific business benefit at some future time.

20.4. Procedures.

All requests for reimbursements must be justified. All employees are to clearly document and define on the SPO justification for reimbursement. Any questionable requests for reimbursements will be addressed by the Finance Department.

20.5. Out-of-Town.

All out-of-town meetings (must be at least 35 miles from work site), conferences, and events will continue to be governed by the per diem regulations currently in use. Any exception must be pre-approved by City Manager or designee.

APPENDIX A. DEFINITIONS

Absenteeism

All employees are expected to report for work on time and on a regular basis. Absence includes late arrival at work as well as early departure. Unnecessary absenteeism and lateness is disruptive, costly and places an unfair burden on other employees.

If the employee will be absent or late for any reason, he/she must notify the Supervisor prior to the beginning of his/her scheduled work day. Unexcused absence or chronic lateness will not be tolerated and shall result in disciplinary action.

Notification from another employee or relative is not acceptable, except under emergency conditions.

Notification to Supervisor shall be made by phone, text message or other electronic device, explaining reason for being absent or late.

An excused absence may include personal or family illness (as provided for in the Family and Medical Leave Act), jury duty, bereavement, or other reasons that would require the employee to miss all or part of a scheduled workday. The employee should be prepared to substantiate the reason for the absence. If the employee is absent frequently he/she may be required to furnish documentation, including medical statements from his/her doctor.

If the employee fails to give proper notification of his/her absence, or if the Supervisor considers his/her reason unacceptable, the employee will be charged with an unexcused absence. Employees will only be paid for time actually worked unless their absences fall under leave provisions.

An employee, who fails to contact the Supervisor for three (3) successive days, will be considered to have voluntarily resigned.

Accident/Injury

Every accident regardless of the seriousness must be reported to your supervisor. Every effort should be made to provide aid to the injured without risking further injury until medical help arrives (Refer to [Section 4.17](#)).

Administrative Review Committee

Administrative Review Committee consists of the Personnel Administrator, Finance Director, and one Department Head who does not supervise the employee. When requested, the supervisory Department Head can be available to advise the committee.

Affirmative Action Plan

The purpose of the Affirmative Action Plan is to recruit, employ, and promote the most qualified people based on the ability to perform the job sought, regardless of race, color, religion, sex, national origin, age, disability, sexual orientation and gender identity, ancestry, physical or mental handicap, serious health condition, spousal affiliation or any other legally protected

statues. All job announcements and other notices concerning position vacancies shall explicitly state that “The City of Aztec is an Equal Opportunity, Reasonable Accommodation Employer.”

Employment application forms shall contain the words; “Equal Opportunity Employer.”

Americans with Disabilities Act (ADA)

The Americans with Disabilities Act, Public Law 336 of the 101st Congress, enacted July 26, 1990, as amended. The ADA prohibits discrimination and ensures equal opportunity for persons with disabilities in employment. The City of Aztec is an Equal Opportunity Employer.

Arrests

Any arrest which may impact an employee’s job duties shall be reported immediately to their Department Head.

Breaks

Two 15-minute breaks each day, one in the morning and one in the afternoon, may be provided if there is sufficient coverage. Employees are allowed to leave their workstation at this time. The Supervisor schedules breaks to ensure coverage at all times. There will be no accumulation of breaks. The 15 minutes include travel time to and from break. Field employees shall take breaks in the field at work site unless authorized by Supervisor to break elsewhere. FLSA does not require employers to give employees breaks.

Cell Phones

Refer to [Section 4.18 Cell Phone Compensation](#). Actual compensation amounts will be established by Administrative Regulation.

Change of Employee Information

Certain data about employees is needed to satisfy legal requirements and insure efficient reporting. Information in employees’ records must be correct to alleviate any problems that could arise regarding taxes, employee benefits, or paychecks. Report changes to the Personnel Administrator promptly on any of the following:

- Name
- Address
- Marital Status
- Telephone Number
- Dependents
- Person(s) to notify in case of an emergency
- Driver’s License
- Insurance or retirement plan beneficiary
- Any limitations that require accommodation
- Medical plan coverage
- Courses completed

Children and/or Pets in the Work Place

The City discourages employees from bringing their children and/or pets to work during their regularly scheduled work hours. However, certain circumstances may arise that would

necessitate the need for special arrangements. In that case, the employee shall obtain approval from the Department Head or Supervisor.

Citation

Any citation which may impact an employee's job duties shall be reported immediately to their Department Head.

Conflict of Interest

The City expects employees to observe the highest moral and ethical standards in any dealings in which they represent the City ([Section 7.1 for Employee Ethics](#)).

Employees are to avoid any activities that create a conflict of interest. A conflict of interest is not easy to define. Some types of conflicts are noted in this policy under "Moonlighting", "Political Activities," and "Ethics". These are some but not the only conflicts that can trigger discipline. Various circumstances and relationships cited in City material might constitute a conflict of interest or violate the City's ethical standards. While the City recognizes and respects employees' rights to privacy to engage in personal activities outside the scope of employment, employees also have an obligation to refrain from activities that conflict or interfere with the City's operations.

Conviction

Convictions are subject to disciplinary action up to and including termination even for the first offense.

Department Head

The individual assigned to manage a department(s) or designee. This individual is responsible for the day to day operations of a department and oversees the hiring, reviewing, and terminating of employees.

Designee

An individual appointed or assigned by the City Manager (Department Head Designee) or Department Head (Supervisor Designee) to perform duties during his/her absence or need.

Discrimination

The City does not discriminate against anyone on the basis of race, color, religion, sex, national origin, age, disability, sexual orientation and gender identity, ancestry, physical or mental handicap, serious health condition, spousal affiliation, or any other legally protected status. The City does not base hiring, compensation, promotion, reduction-in-force, or any other employment decisions on the basis of an individual's race, color, religion, sex, national origin, age, disability, sexual orientation and gender identity, ancestry, physical or mental handicap, serious health condition, spousal affiliation or any other legally protected status. All such decisions are based on specific job-related performance standards that can be measured objectively.

Any employee who feels that he/she has been discriminated against should report it to his/her Supervisor or to the Personnel Administrator and if not satisfied, continue with the grievance process ([Section 7](#)).

Dress Code

Refer to [Section 12.1 Dress Code Policy](#).

Equal Employment Opportunity

It is the policy of the City that an individual's race, color, religion, sex, national origin, age, disability, sexual orientation and gender identity, ancestry, physical or mental handicap, serious health condition, spousal affiliation or any other legally protected status are not and shall not be considered in any personnel or management decisions.

Family

Family members are defined as follows: spouse, son, daughter, mother, father, brother, sister, grandparent, grandchild, step-parent, step-child, step-sibling, foster/adoptive child, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, and sister-in-law, or domestic partner.

Fighting

The City has a zero tolerance for physical fighting on City premises at any time, for any reason. If a fight does occur, the Supervisor shall interview all witnesses to get the facts as to who started the fight and why. Employee(s) will be expected to cooperate in any such investigation. Those found guilty of fighting will be subject to discipline, up to and including termination. Any employee who strikes a supervisor, manager, or any other employee, for any reason, shall be subject to immediate termination and possible criminal charges.

FLSA

Fair Labor Standards Act of 1938, as amended. The FLSA establishes minimum wage, overtime pay, recordkeeping, and youth employment standards affecting employees in the private sector and in Federal, State, and local governments.

FMLA

Family Medical and Leave Act of 1993, as amended. The [FMLA](#) entitles eligible employees of the City to take job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave ([FMLA](#)).

Health and Safety

The health and safety of employees and others are of critical concern. The City intends to comply with all health and safety laws applicable to City business. Employees are to ensure that work areas are kept safe and free of hazardous conditions. Employees are required to be conscientious about workplace safety, including proper operating methods, and recognize dangerous conditions or hazards. Any unsafe conditions or potential hazards shall be reported to the immediate supervisor. Employees are responsible for complying with the Safety and Health Policy.

Human Resources (HR)

The department that coordinates the hiring, administration, and training of personnel.

Inclement Weather

Refer to [Section 5.23. Inclement Weather Leave](#).

Illness on the Job

Employee's who become ill at work shall notify his/her Supervisor for permission to go home or seek medical attention.

Insubordination

Refusal of a legitimate request or assignment or the use of obscene or otherwise objectionable language to a Supervisor or Manager is insubordination. It undermines the discipline and authority needed in the workplace and cannot go unchallenged. Insubordination may result in discipline, up to and including termination. Employees never have to carry out a request or assignment that is unsafe, may result in injury or death, or has no job-related connection. Unsafe acts or unsafe conditions are to be reported immediately to Supervisor or City Manager.

Insurance

The City shall provide eligible employees the opportunity to enroll in a group health, life and dental insurance program. An eligible employee includes regular full time employees or part-time employees who are scheduled to work at least 20 hours per week. The City shall pay a percentage as set by federal law. Information regarding the group insurance program is available upon request from the Personnel Administrator.

Medicare

Employees qualified to enroll in Medicare Part A (hospital insurance) and Part B (medical insurance) may continue under the City's medical insurance plans- no action or notification from the employee is required.

The intent of this regulation is to continue to provide a Medicare eligible employee the same level of insurance premium participation as is provided to qualifying employees participating in the City's medical health insurance plans.

Determination of an employee's eligibility to enroll in Medicare and determination of the type of coverage is at the employee's discretion. The City will not advise employees in this determination. Medicare information is available at <https://www.medicare.gov/signup-change-plans> or through the Social Security Administration.

Employees who enroll in Medicare Part B and/or prescription coverage and determine not to continue under the City's medical insurance plan may terminate their City coverage effective with the coverage date provided by Medicare. Employees electing Medicare coverage and cancellation in the City's medical health insurance plan may qualify for a Medicare insurance premium allowance.

To qualify, the employee must currently have employee only coverage in a major medical health plan offered by the City. Employees who have coverage for spouse, child or family, may not qualify as Medicare plans are available for qualifying individuals only and not family members. If an employee elects to drop coverage for family members, insurance premium allowance is only available for the Medicare insurance premium costs specific to the employee.

This allowance is only available for Medicare Part A (currently no premium cost), Part B and Prescription coverage premium costs and maximum allowance may not exceed the employer's cost for employee only medical health insurance, lowest cost plan available.

An employee electing to drop medical health care coverage through the City may continue to participate in other health care coverage offered by the City (vision, dental, life and/or disability).

Moonlighting

The City depends on each employee to devote full attention and effort to the duties which have been assigned. Therefore, should an employee find it necessary to take an additional job, a letter stating the conditions of the second position must be submitted to the supervisor for approval prior to starting a second job. Failure to comply may be grounds for disciplinary action, up to and including termination.

It must be realized that employment with the City is the employee's primary responsibility. Outside employment shall not be considered an excuse for poor performance, absenteeism, tardiness, or refusal to work overtime.

No employee shall accept employment with another company when that employment would present a conflict of interest. Such conflict would be most likely if the other company is a competitor or supplier of the City.

No employee should establish or maintain an outside business interest that would cause any type of conflict.

Nepotism

The City shall accept employment applications from family members of employees. The Personnel Administrator, the Supervisor, the City Manager or other staff shall identify and resolve any potential conflict that may occur as a result of nepotism. There are four situations which shall prevent the City from hiring a family member of an employee, including elected officials.

- (1) If one family member would supervise or have disciplinary authority over another. An employee is not permitted to work in a position where his/her Supervisor or Department Head is a family member.
- (2) If one family member would audit the work of another.
- (3) If the interest of either the family member or the employee, or the family member and the City would be in conflict.
- (4) If the hiring of family members could result in a conflict of interest.

If any of the above situations are created through promotion, transfer, or marriage, one of the affected employees must be transferred (if position available) or terminated. If two employees marry they shall be subject to the same situations described above, unless state law or judicial decisions dictate otherwise.

Notice of Deposit (NOD)

Employees will receive an electronic copy of their Notice of Deposit to the employee's city and/or personal email. In the event email delivery is not possible, a paper copy of the Notice of Deposit will be generated. Department Heads will receive and be responsible for the distribution of the

paper Notice of Deposit. There are no exceptions to a Notice of Deposit unless a paper check is generated due to a change in an employee's banking situation. An employee has 30 days to notify the Finance Department of new bank information.

Pay Day

The normal payday shall be every other Thursday (26 pay periods per year). If payday falls on a bank holiday, payday shall be the previous business day. Applicable federal, state and local income taxes, as well as Federal Social Security taxes are withheld from each paycheck. The City reserves the right to obey all laws that pertain to paychecks including garnishments. Checks may be released early, but only in cases of emergency, and only after approval by the Supervisor. Report a lost check to Supervisor immediately.

All paychecks shall be issued through Direct Deposit. A Direct Deposit account must be established within 30 days of hire. Any paper checks and Notices of Deposits (NOD) are the responsibility of Department Heads. Final pay checks for terminated employees shall be through direct deposit or physically mailed, pending approval by department head.

Personal Protective Equipment (PPE)

It is the City's policy to provide and maintain safe and healthful working conditions. It is also the policy of the City to follow operating practices that will safeguard all employees and result in safe working conditions. The City shall furnish the required safety equipment to every employee whose work requires such equipment. Employees are required to follow the rules concerning the wearing of such equipment at all times without exception. Refusing to do so or removing equipment safe guards shall be considered an act of insubordination. The City considers safety violations extremely serious and discipline may include suspension or termination. Refer to City of Aztec Safety Policy and/or Departmental Policies.

Personnel Administrator

The individual responsible for the operation of the Human Resources Office or designee.

Physical Examinations

The City requires a pre-employment medical exam. Psychological testing may also be required. Employees being promoted or transferred may be required to undergo a physical examination. Declining performance or excessive absenteeism may also justify a medical exam.

Political Cause or Activity

Employees are encouraged to participate in the electoral process and support the political candidates of their choice. All such activity must be conducted on the employee's own time. Employees must not give the impression they represent the City or are acting on its behalf while taking part in political campaigning.

No campaign literature is to be distributed within City Hall, and no efforts should be made to convert other employees to a political cause during working hours. The City guarantees all employees freedom from political harassment. Employees who violate this policy are subject to discipline.

City employees who choose to run for the City Commission shall be required to resign their position with the City if elected. Employees who choose to run for any political office must do so on their own time. *Refer to Solicitation*

Pregnancy, Maternity or Paternity

The City does not discriminate on the basis of pregnancy, childbirth, or related medical conditions. Pregnancy is treated like any other medical condition. If an employee is able to perform her job safely and effectively, she will be permitted to work at all times during pregnancy. If she is unable to perform all necessary job functions, she will be treated in the same manner as other temporarily disabled employees. This may include alternative assignments, modified tasks, Disability Leave, Family Medical Leave or Leave without Pay. The City may require a pregnant woman to submit a doctor's statement concerning her inability to work before granting a leave of absence or paying sick leave benefits. The City shall comply with the American with Disabilities Act and the Family Medical Leave Act as they pertain to pregnancy (Reference FMLA).

Records, Falsification of

Appropriate discipline shall be imposed for falsification of any City documents pertaining to absence from work; claims made about injuries while on the job or on City premises, claims made on benefits provided by the City or government agencies, as well as any falsification of City communications or production records.

Religion and/or Religious Accommodation

It is the policy of the City to accommodate the religious beliefs of its employees whenever possible. The accommodation, however, cannot exert undue hardship on other employees or create a burden for the City. If the accommodation is not possible, the employee will be expected to assume his or her usual duties as previously scheduled.

Retirement

The State of New Mexico provides a retirement association (PERA – Public Employees Retirement Association) for all state and local government employees designed to reward career public servants and furnish security during retirement years. Employees should plan to begin processing for retirement at least three (3) months before the projected date of retirement. Disability benefits are available in some cases; inquire prior to termination of employment. *Refer to PERA website.*

Sick Leave Bank

Refer to [Section 5.13. Sick Leave Bank](#).

Smoking

Refer to [Section 14. Smoking Policy](#).

Solicitation

Contributions may not be solicited on City property by non-employees without the permission of the City Clerk. Distribution of written materials or solicitation of political issues on City premises shall be governed by New Mexico State Statute (*Refer to City Clerk*).

Supervisor

An individual in a department that assists the Department Head in the day to day operations of the department. This individual may evaluate subordinates within the department and provide recommendations to the Department Head.

Taxable Benefits

Also known as fringe benefit is any property or service or cash (other than salary) provided by employer. Examples are:

1. Use of City owned vehicle by City employee to commute to and from work.
2. Clothing (uniforms) provided by the employer for employees.
3. Meals and lodging per diem.
4. Educational expenses paid by employer.

Any fringe benefit provided by the City is taxable and must be included in recipient's pay unless the law excludes it.

Telephone, Personal Calls

The telephone system is intended primarily to serve the needs of the City and it is essential that each employee keep personal use from interfering with that purpose.

If the employee has personal calls to make, attempts should be made to do so during non-work periods. Employees should minimize the number of personal calls they receive through the City's telephone system and personal cell phones. Employees who abuse this policy may be subject to disciplinary action.

Temporary Illness

Below are examples of conditions that are indicators employee should not go to work or if at work employee should go home until improvement is made.

- Temperature of 100.4 or higher
- Vomiting
- Diarrhea
- Infections of the eyes
- Any open wound with drainage that has not been medically treated
- Flu symptoms (fever, cough, headache, chill, sore throat, muscle aches, fatigue)

Practice good health habits – Get plenty of sleep, be physically active, manage stress, drink plenty of fluids, and eat nutritious food. Practicing healthy habits will help employees stay healthy during flu season and all year long.

Theft

The intentional and/or unapproved removal of city property or use of city facility for personal gain or benefit.

Time Sheets / Time Cards

Time sheets are the recording of all hours of compensation. Time sheets are required to be completed by all City employees. Time sheets shall accurately reflect all hours worked; all absences to be compensated, and other types of leave. At the completion of the pay period, time sheets shall be signed by the employee and approved by the Supervisor. All leave-requests shall be signed by the Supervisor. Not reporting time accurately is grounds for disciplinary action, up to and including termination.

Training

The City may pay for expenses incurred for attending an accredited college or university class, training seminar, or certification program which is directly related to the employee's job and for which budgeted funds are available. Prior approval for all training is required.

In so far as possible, work schedules for employees may be adjusted to permit employee participation in an approved City training program. Probationary employees may be allowed to attend trainings and seminars when approved by their Immediate Supervisor and/or Department Head. College Classes and Certification Programs are available to regular full time employees at the completion of their probationary period. Covered expenses may include:

Apprenticeship Programs. Refer to Apprentice Agreement and Departmental Policy.

CDL Licensing.

The City shall pay for the initial licensing and DOT physicals required in obtaining a CDL when it is a requirement of the employee's job.

Obtaining a CDL requires a rigorous training and testing period, requiring study and self discipline. Each employee required to obtain a CDL must study and pass each requirement needed to obtain a CDL classification listed in their job description.

All academic studies for a CDL must be done by the employee on his/her own time.

Once an employee has successfully passed his/her written examinations and has been issued a CDL driving permit by the State Motor Vehicle Department (MVD), the City, depending on the department and staffing, may help and train an employee in preparation for taking the required driving examination.

Each employee is required to be declared fit for the job, according to federal standards, by a medical doctor or receive a medical waiver from the State MVD.

If an employee obtains additional endorsements that do not apply to the employee's work, the cost for the extra testing endorsement is paid out of pocket by the employee.

Physicals and drug screens as required by Department of Transportation (DOT) will be paid by the City only if CDL Licensing is a requirement of the employee's position, as outlined in the employee's job description and/or apprenticeship agreement. Failure to obtain and maintain a CDL shall result in disciplinary action including demotion or termination.

Renewals of a CDL license shall be paid by the employee.

Certification Programs.

The Department Head shall determine the need for certification within the department. The City shall pay travel and per diem for two out-of-town short schools per year per employee. (Examples: Water Wastewater, Finance Officer Certifications)

Unless the employee has a reason constituting an emergency, 100% attendance is mandatory.

At the completion of the short school, verification of grade must be submitted to the Personnel Administrator.

Departmental policies and job descriptions shall determine the requirements for continued employment as it relates to required certifications.

College Classes.

Tuition, books, and fees shall be paid by the City at 100% for a grade of "C" or above or a grade of "pass" in a pass/fail course.

At the completion of the class, the employee must submit verification of the grade to the Personnel Administrator.

If a grade of less than a "C" is received, or a "fail" received, the employee shall be responsible to repay the City for tuition, books and fees associated with the class. However, under certain circumstances, this requirement may be waived by the City Manager.

If the employee terminates employment and has not completed the class, the employee shall be responsible to repay the City for tuition, books, and fees associated with the class.

Note: *City Manager has the final decision when reviewing circumstances that may require employees to reimburse the City for costs associated with college classes or certification programs.*

Police Academy.

All entry level patrolmen not certified by the State of New Mexico shall attend and complete the required police training at an approved New Mexico Police Academy within their first year of employment with the City.

Certification is a state requirement; failure to complete the program constitutes termination of employment with the City.

Safety Training

City employees will be required to take a certain amount of Safety Training classes to fulfill the hour requirements established by the Self Insurer's Fund. This requirement establishes the minimum requirement for all employees. Individual department safety training requirements may exceed the minimum hours and employees should communicate with their supervisor/department head to understand the specific requirements of the employee's position.

Sexual Harassment Training (Mandatory)

City employees will be required to take a sexual harassment training course every two (2) years.

Travel

See the City of Aztec Travel Policy.

Uniforms

The City shall provide uniforms for employees as budgeted funds are available and as required in Departmental Policies. Refer to [Section 4.20. Uniform Compensation](#) and [Section 15 Uniform Policy](#).

Volunteer

Someone who performs service for the city without promise, expectation, or receipt of compensation for services rendered. This definition is not applicable to the Volunteer Fire department.

Whistle Blowing

The City shall protect employees who report in good faith what they reasonably believe to be a violation of state or federal law or conditions or practices that would put the health or safety of employees at risk. Employees shall first report the alleged violation, condition or practice to a person with supervisory authority over the employee and give the City time to remedy the situation. No employee shall be discharged, threatened, or discriminated against in any manner for reporting what he/she perceives to be wrongdoing. Insofar as possible, the confidentiality of the whistleblower shall be maintained. However, identity may have to be disclosed to conduct a thorough investigation, to comply with the law and to provide accused individuals their legal rights of defense.

These are the activities in which employees have a right to participate without being subject to disciplinary action or harassment:

- Filing discrimination charges with the EEOC or a state human rights agency.
- Filing unfair labor practice charges with the National Labor Relations Board or state agency.
- Filing a worker's compensation claim.
- Filing a complaint with OSHA about safety hazards or refusing an assignment because of fear that it might be dangerous.
- Engaging in lawful union activities.
- Claiming an equal pay or wage/hour law violation.
- Opposing or publicizing policies that violate laws, such as EPA, antitrust protection or fraudulent tax returns.
- Reporting fraud, corruption, or other forms of lawbreaking covered by the Racketeering and Corruption Organization Act (RICO, the Whistleblowing Protection Act of 1989 or by state whistleblower statutes).

The right of a whistleblower to have protection from retaliation does not include immunity for any personal wrongdoing that is alleged and investigated.

Workers Compensation

When injured in the workplace, employees have the right to reasonable medical care, and sometimes, wage replacement. After a workplace injury or illness, workers notify an employer which sets the system in motion for a workers' compensation claim.

Refer to [Section 4.17 Workers' Compensation](#).