City of Aztec
ORDINANCE 2015-445

Amendment of Article I, Section 17.1 of Chapter 17 - Personnel

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF AZTEC:

SECTION ONE

Sec. 17-1. Personnel Policy.

The document entitled "City of Aztec Personnel Policy, Revised September, 2015" is adopted by reference.

SECTION TWO

Effective Date.

This Ordinance shall be in full force and effect from and after its passage and publication as provided by law.

PASSED, APPROVED AND ADOPTED This ____Day of _____, 2015.

_____
Sally Burbridge, Mayor

ATTEST:

_____
Karla Sayler, City Clerk

APPROVED AS TO FORM:

_____
Larry T. Thrower, City Attorney

_____
Advertised Date

_____
Effective Date

PROPOSED PERSONNEL POLICY CHANGES in RED

SECTION 2. RECRUITMENT AND SELECTION

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 Resource Department (from AR 2014-040). ~~A full job description shall be available at City Hall or in the Human Resources Department. A letter of interest describing full qualifications of the position shall be required by any current employee applying.~~

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 ~~Personnel Administrator~~ 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.

2.16 Internship Program (from AR 2015-43)

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 Director 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).

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 (includes driving record check, finger printing, and/or any other State or Federal checks).

SECTION 3. CATEGORIES OF EMPLOYMENT

3.2 Categories

Scheduled work week is defined as Sunday through Saturday.

1. Full-Time Regular. A full-time employee, who is scheduled to work forty (40) hours per seven-day period, [forty-three (43) hours per seven-day period for police officers] shall be entitled to all employee benefits subject to terms, conditions and limitations of each benefit program.

2. Full-Time Temporary. A full-time temporary employee, who is scheduled to work forty (40) hours per seven-day period. Full-time temporary employees are hired for a period of less than ~~nine (9)~~ six (6) months, and shall not be eligible for employee benefits.

3. Part-Time Regular. A part-time employee, who is scheduled to work less than forty (40) hours, but twenty (20) 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.

4. Part-Time Regular -19/hrs 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.

5. Part-Time Temporary. A temporary employee, who is scheduled to work less than forty (40) hours per seven-day period. Part-time temporary employees are hired for a period less than ~~nine (9)~~ six (6) months, and shall not be eligible for employee benefits other than those mandated by law.

6. 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.

7. 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.

8. Youth Employee. A student hired to work temporarily shall not be eligible for employee benefits, other than those mandated by law.

9. Elected/Appointed Officials. Salary and benefits determined by current State law and/or City Code.

SECTION 4. COMPENSATION AND BENEFITS

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. Occasional periods when no work is performed due to vacation leave or sick leave, the leave shall not be calculated as time worked during that pay period.

2. Those employees who work less than forty (40) hours per week shall be compensated at straight time.

3. Overtime pay for FLSA exempt employees is not required for those employees who work more than forty (40) hours per 7-day period.

4. 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.

5. Non-exempt employees required to work a recognized holiday shall be paid ~~double~~ straight time.

6. Police Officers working shift schedules shall be given additional vacation time as outlined in the Administrative regulation.

7. 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.

4.14 Holiday Pay Procedure

~~On those dates designated by the City Manager, all regular employees shall be eligible for holiday pay equal to their regularly scheduled work day with the following provisions:~~

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

- New Years Day (January 1)
- Easter Sunday
- Memorial Day (Last Monday of May)
- Independence Day (July 4th)
- Labor Day (First Monday in September)
- Thanksgiving (Last Thursday of November)
- Christmas (December 25)

City offices will be closed on these recognized days and employees will use available accrued leave for that day. Employees without available leave will not be compensated for those days and will record the day as Leave Without Pay. Employees required to work those days will be paid straight time.

1. If an employee is using vacation for a designated holiday and is called in to work, the compensation is the full number of vacation hours for the recognized holiday plus the hours worked.

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

5. ~~If a holiday occurs on a day when an employee is scheduled to work and is not at work due to illness, that day shall not be deducted from the employee's sick leave accrual, but shall be charged as a holiday. A physician's return to work may be required by the Supervisor.~~

6. ~~If an employee is sick the day before or the day after a paid holiday, a physician's return to work may be required by the Supervisor.~~

7. ~~Holiday hours physically worked by non-exempt employees (except police officers) shall be paid at double time.~~

8. ~~On-call employees called to service on a holiday shall be paid at double straight time.~~

9. ~~Non-exempt employees whose normal scheduled day off falls on a paid holiday shall not be compensated for the holiday.~~

10. ~~At the discretion of the City Manager approval of time off (maximum 4 hours ½ day) may be given to employees on the day prior to Thanksgiving and Christmas, and other holidays as announced by the City Manager. Such approval is not meant to create a right in regards to early out time off being granted during holidays; it is provided for direction and clarification for who shall receive time off and how time shall be recorded.~~

~~Reporting to Work on Holidays.~~

1. ~~All public safety positions must report to work as scheduled.~~

2. ~~Any employee as deemed necessary by the City Manager and/or Department Head must work if there is an essential need.~~

~~Recording Time Procedures.~~

1. ~~All full-time, part-time employees regularly scheduled to work on a Holiday shall record the hours on their time card as Leave with Pay hours worked.~~

2. ~~All full-time, part-time employees who have scheduled vacation shall record the hours on their time card as Vacation.~~

3. ~~All full-time, part-time employees who may be sick on a Holiday which they were scheduled to work shall record the hours on their time card as a Sick Day.~~

4. ~~Any part-time employee who is scheduled to work from noon on in which employees have been released early by the City Manager, shall record the hours on their time card as Leave with Pay.~~

5. ~~Any other time recording situations that have not been addressed in this regulation shall be discussed with and approved by City Manager prior to recording.~~

SECTION 5. LEAVE AND HOLIDAYS

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 six (6) 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 City of Aztec Personnel Policy, 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 as determined by the City Manager and Finance Director and may not be funded on an annual basis.

Employees who have a minimum of ~~80~~ 100 hours vacation available as of October 15th of the current year, may at their option, sell back vacation hours to the City as follows:

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

Written notification of intent to sell vacation hours must be provided to the Finance Department between the dates of October 25th and November 10th. 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 needs to consider future vacation plans prior to a vacation payout request to avoid insufficient time available for a planned vacation.

Vacation payout will be processed with the pay date immediately preceding Thanksgiving (fourth Thursday in November) and is subject to deductions required by law.

5.7 Personal Day

One regularly scheduled day is provided as an additional benefit. A request for the personal day must be approved in advance. The personal day shall not carry over to the next calendar year.

All full-time and part-time regular employees shall be eligible for the personal day ~~after six (6) months of employment~~ immediately upon employment. When an employee terminates for any reason, the employee shall be paid for the accrued personal day~~ if employee has completed his/her initial six (6) months of employment~~.

5.9 Sick Leave

5. Patterns of use; i.e., after pay day, using the same day of the week repeatedly, the day before or after recognized holidays, the day before or after annual leave, or the day before or after weekends.

11. In extenuating circumstance, an employee may use his/her accrued sick leave to care for members of his/her ~~immediate~~ family inside or outside the hospital**,** and/or during surgery when recommended by the Supervisor and approved by City Manager. ~~Immediate~~ 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, sister-in-law, or domestic partner.

~~12. For domestic partners, a Domestic Partnership Affidavit form must be completed which demonstrates residency has been for twelve (12) or more months.~~

5.11 Sick Leave Payout

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 ~~eighty (80)~~ 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.

5.14 Donation and Sick Leave Special Request

1. Donation. City employees will be allowed to donate vacation, professional, personal leave or comp time to another employee's sick leave at any time. This donation is for the benefit of those employees with minimal or no sick leave time accrued and are in need of time off for sick leave. There is a 20 hour minimum and no maximum on 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. (from AR 2013-037)

2. Sick Leave Request.

   1) City employees will be allowed to donate vacation / professional leave / personal day ~~/ comp time~~ to another employee's sick leave. The person requesting the special Sick Leave does not have to be a member of the Sick Leave Bank, however all other avenues of sick leave have to be exhausted before making the special request.

   2) All City employees will have access to this provision (including non benefit and part-time employees).

   3) The donation of time will be straight hour for hour; there will be no conversion of hourly pay scale to hourly pay scale.

   4) 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."

   5) 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."

5.19 Leave Without Pay Status

This classification, hereinafter referred to as LWOP, may be awarded 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. In those cases LWOP status assumes the form of

suspension from duty without pay for a specific period of time. In every case involuntary LWOP status is initiated by the Supervisor and approved by the City Manager.

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 discretionary on a case-by-case basis. 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 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 Supervisor is charged with the responsibility of making sure that employees receive information on what happens to their benefits during that period. The employee may continue as a member of the Employee Health Care Plan in accordance with the provisions of the applicable insurance contract by paying both his/her share and the City's share. If the LWOP status is due to medical disability, as defined by the Family Medical Leave, 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, ~~Holiday Pay,~~ contributions to PERA and all other kinds of paid leave are forfeited during the period of LWOP.

5.21 Holidays

~~Regular full-time, regular part-time and probationary employees shall be paid for the time that they are regularly scheduled to work for up to ten (10) scheduled holidays as determined by the City Manager. The City Manager shall post the holidays for the calendar year no later than January 1 each year.~~

1. In lieu of holiday pay, regular full time and part time employees will accrue additional vacation time instead of holiday pay. Employees will be required to use available leave on recognized holidays or time will be Leave Without Pay. Hours are available for use after six months of employment. The amount of vacation time accrued will be based on years of service as defined in 5.4

   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)

   Maximum accrual of total vacation hours are defined in 5.5

~~2. Police Officers working shift schedules shall be given additional vacation time instead of holiday pay. The amount of vacation time accrued will be based on years of service as~~

~~outlined in the personnel handbook plus an additional 3.8462 hours bi-weekly. This equates to the following when an officer works a regularly scheduled pay period (80 hours):~~

~~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)~~

5.23 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 time card upon return. (from AR 2013-36)

5.24 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. If the City school system delays classes for 2 hours – City offices will open at 10:00 am. ~~operate on a 3 hour delay.~~
2. If City school system closes for the day – City offices will ~~operate on a 3 hour delay~~ open at 10:00 am. 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 and any other department that is deemed essential by the City Manager.

The City Manager will make the official call by 6:00 am (for 10 hr days) and 7:00 am (for 8 hr days). The City Manager will text all department heads.

Department heads are responsible for establishing notification procedures within their respective departments and advising employees of city delays or closings.

5.26 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.

SECTION 6. DISCIPLINARY ACTION AND TERMINATIONS

6.2 Grounds for Disciplinary Actions

Addition of the following to the list:

28. Violation of the City of Aztec Procurement Policy, established procurement procedures, and/or Chapter 13 Public Purchases and Property NMSA 1978

SECTION 10. DEFINITIONS

Children and/or Pets at Work

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.

SECTION 12. CITY VEHICLE POLICY

12.1 City Vehicle Use

Addition of the following:

13. Minimum age to drive a City vehicle is 18 years old and must have a valid driver's license with no restrictions and an acceptable motor vehicle record.

SECTION 14. DRUG AND ALCOHOL POLICY

14.3 Definitions

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.

Pay Day

The normal payday shall be every other Thursday when City is on a 4/10 schedule, otherwise payday shall be every other Friday (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.