

**PERSONNEL RULES AND REGULATIONS
THE CITY OF GALLUP**

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SECTION 1: GENERAL PROVISIONS

- 1.1** These rules and regulations are applicable to all employees of the City, except as otherwise specifically provided in these Rules and Regulations and the City of Gallup Ordinance. Responsibility and authority for the implementation and administration of these Rules and Regulations are vested in the City Manager, notwithstanding any other provisions of these articles and sections. The City at any time, with or without notice to employees, may amend, or make additions or deletions to these Rules and Regulations as the City Manager deems necessary. In addition, the need may arise for the City to depart from the provisions of these Rules and Regulations or to impose other expectations and procedures not expressed herein. Amendments shall be made by the City Manager.
- 1.2** These Personnel Rules shall be interpreted as a whole rather than interpreting individual sections or sentences in isolation and out of context. Official interpretations of these Regulations shall be made by the Personnel Director.
- 1.3** These Rules and Regulations are not intended to address all personnel issues that may arise and are not a contract.
- 1.4** A copy of these Rules and Regulations will be maintained in each Department and shall be available to all employees during normal business hours. In addition, a copy of these Rules and Regulations shall be given to each employee and each new employee on or about their first week of work. Each employee shall sign for having received the Rules and Regulations and shall read the Rules and Regulations. If any employee has any questions regarding the Rules and Regulations, the employee shall request assistance from his supervisor.
- 1.5** Subject to applicable Ordinances, Resolutions, or Policies of the City Council, the City Manager has and retains all rights to administer the affairs of the City, either personally or through his subordinates. These rights include but are not limited to:

 - A. Establishing the standard of work and employee conduct, suspending, discharging or otherwise disciplining employees.
 - B. Hiring, promoting, demoting, reclassifying, transferring, retiring, assigning and reassigning work.
 - C. Judging the employee's skill, ability, efficiency, and general performance.
 - D. Determining the starting and quitting times and number of hours to be worked.
 - E. Determining the assignment of work and the size and composition of the work force.

- F. Revising, eliminating, combining, or establishing new positions, jobs, classifications, reclassifications, and/or pay rates.
 - G. Establishing, closing down, or expanding the operation of any facility, department, or division, and reducing, increasing, altering, combining, transferring, or ceasing a department's operation, equipment, or service.
 - H. Contracting with non-employees to perform or receive municipal services and determining the services to be rendered, bought, or sold.
 - I. Introducing technological changes, new, improved or modified services, methods, techniques, and equipment and otherwise generally managing the operation and directing the work force.
 - J. Exercising judgment on all matters not specifically prohibited by law or Ordinance.
- 1.6** The City Manager, at any time deemed by him to be necessary or proper, by himself, his authorized designee or through his designated Personnel Director, may adopt, amend or rescind written administrative procedures, rules, regulations, or interpretations consistent with the Ordinance on Personnel Policies. Such procedures, rules, regulations, or interpretations shall be effective on the dates specified by the City Manager and shall be placed on record in the Personnel Office, to be open to public inspection during normal working hours.
- 1.7** In adopting these Rules and Regulations, specific gender pronouns for male and female, singular and plural have generally not been used. However, when a masculine pronoun has been used, it is intended to refer to both male and female employees.

SECTION 2: DEFINITIONS

The following definitions shall be used for descriptive purposes. If there is any conflict between the definition and the rule or regulation to which it applies, the latter shall take precedence.

Affirmative Action: A positive, continuing, result-oriented program, developed by the City to assure meaningful employment opportunities to all segments of the community and most specifically, to minority group members and women. It contrasts with simple non-discrimination, which implies a more passive observance of equal opportunity. Affirmative action requires the identification and elimination of those barriers to hiring and promotion which have the effect, although unintentional, of denying equal employment opportunities to minority group members and women. 06-10-05 E.H.

At-Will Employment: An employment relationship whereby either the City or the employee can terminate employment at any time, for any reason or no reason, with or without notice or cause.

Callback: Work required of an employee that requires the employee to return to the work site after leaving the work site at the end of the regular working day.

City Manager: The Chief Administrative Officer of the City.

Class Specification: A written statement of the characteristic duties, responsibilities, and qualification requirements that distinguish a given class from other classes.

Class Title: The designation of a class which becomes the official title of all positions allocated to that class for personnel purposes.

Classification (noun): One or more positions so nearly alike in the essential character of their duties, responsibilities, and qualifications that they may be designated a class with the same pay grade and title.

Classification (verb): Process of analysis based on comparative duties, responsibilities and qualifications by which appropriate classes are determined.

Classification Plan: A schematic list of classes supported by class specifications.

Demotion: A voluntary or involuntary move to a position with a lower rate of pay.

Director: One of two levels of Department Heads reporting directly to the City Manager.

Employee: An authorized and appointed incumbent of a position in the municipal service.

Executive Director: One of two levels of Department Heads reporting directly to the City Manager.

Exempt Employees: Employees whose job duties meet the tests established by the Fair Labor Standards Act (FLSA) and state law for exemption from overtime pay requirements.

For Cause Employee: Non at-will, non-probationary employee. 06-10-05 E.H.

Fringe Benefits: Cash or non-cash compensation to employees in addition to salary or compensation paid for services rendered.

Grievance: A written, formal complaint by an employee, based on an actual error, or discrimination in the application of any personnel rule or a disciplinary action which has an actual negative financial impact as opposed to an anticipated negative financial impact on the employee.

Job Vacancy: An unoccupied position for which funds are allocated and the City decides to fill the position.

Lay-Off: The separation of an employee from the City due to deletion of position, shortage of work or funds, reorganization, or any other reason where the business need for the lay-off is not based on employee performance.

Leave: A management authorized absence from regularly scheduled work for reasons specified in the Personnel Rules.

Management: The City Manager, Executive Directors and Directors.

Non-exempt Employee: Employees whose job duties have been identified by the City to not meet the tests established by the Fair Labor Standards Act (FLSA) and state law for exemption from overtime pay requirements.

On Call Assignment: An off duty employee who is assigned by his supervisor to a status in which the employee is; (1) required to be available for recall to duty, and (2) required to carry a pager or cell phone in order to be contacted or required to leave word at his home or with his supervisor where he can be contacted. The method to be used for contacting the employee is a City prerogative.

Overtime: Management authorized time worked by a non-exempt employee in excess of that employee's standard workweek or work period (firefighters have a 28 day work period), as per the FLSA.

Pay or Compensation Plan: The aggregate of pay rates (either single rates or ranges) assigned to each class of positions in the classification plan.

Pay Range: All pay rates from minimum to maximum established for a class in the pay or compensation plan.

Pay Rate: A designated single rate of pay within a pay range of the approved compensation plan.

Performance Evaluation: Written evaluation of the job performance of an employee by a supervisor.

Position: Any position of employment with the City, including but not limited to, regular full-time appointment, regular part-time employment, temporary appointment, or term appointment in the City's budget approved by the City Council.

Promotion: The change of an employee from a position in one grade to a position in a higher grade level with a pay rate higher than pay rates of the prior position. 06-10-05 E.H.

Reclassification: Process of analysis by which an established position is reviewed by the Personnel Department to determine whether the duties and responsibilities of that position require a change in class and/or pay range designation.

Resignation: The voluntary separation of an employee from the municipal services.

Retirement: The voluntary separation of an employee who has become eligible for retirement under PERA.

Safety Committee: The advisory committee that monitors the safety and health of City of Gallup workers by setting and enforcing standards for improvement in workplace safety and health. 06-10-05 E.H.

Transfer: The appointment or assignment of an employee to a different position and/or classification at the same classification level and the same pay range.

Workers' Compensation: Required benefits paid to eligible employees who sustain covered on-the-job injuries.

SECTION 3. POLICY STATEMENTS

- 3.1 *Equal Employment Opportunity.*** The City is an Equal Employment Opportunity Employer. The City reaffirms its commitment to comply with applicable federal and state laws regarding nondiscrimination in employment. Unlawful discrimination against any person in recruitment, examination, hiring, classification, training, promotion, retention, assignment of duties, granting of rights and benefits, or any other terms and conditions of employment because of race, color, religion, sex, age, mental or physical disability, national origin, or veteran status is prohibited. The City further reaffirms its intent to provide reasonable accommodation, where appropriate, for written documented disabilities of employees or employment applicants.
- 3.2 *Affirmative Action Plan.*** It is the policy and intent of the City of Gallup to provide equality of opportunity in employment, fully consistent with applicable local, state and federal laws. Specifically, this means that in all matters affecting employment and applications for employment, the City of Gallup will take affirmative action to insure that each employee or applicant, regardless of race, color, religion, national origin, sex or age, will be accorded equal treatment with respect to the terms and condition of employment, the administrations of rate of compensation, access to various kinds of training, participation in social and recreational programs and opportunities for both lateral movement and advancement with the City of Gallup, (including those cases where there is a bona fide occupational statutory requirement or qualification). *06-10-05 E.H.*
- 3.3 *Sexual Harassment Policy.*** It is the policy of the City of Gallup to maintain a working environment free from all forms of sexual harassment.
- A. Sexual harassment is defined as follows: unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or advancement;
 2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
 3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
- B. For example, unwanted and unwelcome physical contact, foul language, sexually oriented propositions, jokes or remarks, obscene gestures or the display of sexually explicit pictures, cartoons or other materials may be considered offensive to another employee and, thus, is prohibited.

- C. An employee who believes that she/he has been the victim of sexual harassment shall immediately report the matter to the Personnel Department or the City Manager. Any director, supervisor, manager or department head who becomes aware of any possible sexual harassment shall immediately advise the Personnel Department or City Manager, who will handle such matters in a lawful manner to ensure that such conduct does not continue. All complaints of sexual harassment will be investigated in as discreet and confidential a fashion as possible. No person will be adversely affected in employment with the City as a result of bringing complaints of sexual harassment.
- D. Any employee who violates this policy will be subject to appropriate disciplinary action, up to and including termination from employment with the City.

3.4 *Immigration Reform and Control Act.* In compliance with the Immigration Reform and Control Act of 1986, the City requires all newly hired employees to present documented proof of identity and eligibility to work in the U.S. Employees will be required to furnish this information within three (3) working days of hire date.

3.5 *Accident Policy.* The Safety Committee is hereby empowered to prescribe mandatory discipline for all avoidable accidents with such authority to equal any Executive Director. Timely notice, investigation and employee discipline for avoidable and preventable accidents is critical to a successful safety program. Accidents determined to be avoidable and/or preventable can result in employee suspension without pay even for a first offense, due to the importance and seriousness of failing to follow appropriate safety protocol and procedures. *06-10-05 E.H.*

- A. Notification and Investigation. The Safety Coordinator shall be notified by the department head in writing within 24 hours of any accident resulting in property damage or personal injury. The accident investigation shall be completed and fully documented by the department head or immediate supervisor within 72 hours of the accident.
- B. Disciplinary action shall be recommended immediately upon conclusion of the accident investigation. Discipline will not be imposed until the affected employee is allowed the due process of a pre-determination hearing.
- C. Penalties. All avoidable accidents involving lost time, injuries or property damage in excess of \$100, including employees receiving citations for vehicle accidents in City-owned vehicles:

First Offense:	Minimum three (3) working days of suspension
Second Offense:	Thirty (30) working days of suspension if recurring within 18 months
Third Offense:	Termination of employment, if recurring within 36 months of any first offense

Such offenses can be cleared by payment of full restitution to the City. Any offense resulting in \$15,000 or more in injuries or property damage shall result in termination, even for a first offense. Those offenses of \$10,000 up to \$14,999 in losses shall carry a 30-day suspension, (working days).

3.6 *Americans with Disabilities Act, (ADA)*. In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990, the City will not discriminate against qualified individuals with disabilities on the basis of disability in the City's services, programs, or activities. In employment, the City does not discriminate on the basis of disability in its hiring or employment practices and complies with all regulations promulgated by the U.S. Equal Employment Opportunity Commission under Title I of the ADA. 06-10-05 E.H.

SECTION 4: DRUG AND ALCOHOL POLICY

4.1 Statement of Purpose. The purpose of this policy is:

- A. To set standards for the implementation of drug testing programs in employment;
- B. To ensure that drug testing procedures are implemented in a manner that is fair to employees and that will achieve reliable results;
- C. To educate employees about the dangers of drug abuse in the work place and to provide employees who have drug abuse problems, an opportunity for assessment and rehabilitation;
- D. To advise all City employees that the unlawful manufacture, distribution, dispensation, possession, or use of drugs or alcohol is prohibited in the work place and to specify the actions that will be taken against employees for violations;
- E. To advise all employees of the dangers of drug use in the work place and of the employment consequences of drug use; and
- F. To ensure that all Elected Officials and Department Heads are charged with the responsibility of supporting and publicizing this Drug Free Work Environment Policy.

4.2 Policy Statement

- A. The following regulations represent the City of Gallup's policies concerning drug and alcohol use. These policies are effective immediately and shall apply to all City employees. Violation of these policies may be cause for dismissal.
- B. All City employees are strictly prohibited from:
 - 1. Using or being under the influence of illegal drugs to any degree during working hours or while actively engaged in the duties of employment, including but not limited to, lunch periods, breaks, or while on call;
 - 2. Consuming alcohol or having sufficient quantities of alcohol in their system to impair mental or bodily functions to any degree during working hours or while actively engaged in the duties of employment, including, but not limited to, lunch periods, breaks, or while on call;
 - 3. Using or being under the influence of prescription or over-the-counter drugs during working hours or while actively engaged in the duties of employment to the extent that the use of any such legal drug may affect

the safe and efficient performance of the employee's job duties, or may endanger the safety of co-workers or members of the public;

4. Possessing, selling, transferring, or purchasing illegal drugs during working hours, while on City property, or while operating City-owned vehicles or equipment.
- C. The City maintains an Employee Assistance Program (EAP) for employees. Employees with problems pertaining to substance abuse are encouraged to seek assistance under this program on a voluntary basis.

4.3 Employee Drug/Alcohol Testing *01/15/2007;EH*

A continuing relationship of employment with the City necessitates that an employee comply with the Drug Free Work Environment Policy. Refusal to submit to testing, to produce an adequate specimen, or tampering with a specimen is cause for dismissal.

Under the City of Gallup Drug Testing Policy, employees are classified as either “high-risk” or “regular” employees.

A. High Risk Category Position. A position in which impairment by drug or alcohol use would constitute an immediate and direct threat to public health or safety. High-risk employees are subject to all forms of testing described herein. For the purposes of this policy a high risk category position shall encompass:

1. All sworn employees of the police department and any employee, probationary or otherwise, with authorization to carry a firearm.
2. Any civilian employee of the police department who through the duties and course of his/her employment has access to information that could affect the outcome of police duties in the area of drug enforcement and anyone working in close proximity and familiarity with the police regarding drug interdiction, enforcement or investigation.
3. All City employees who are employed as correction officers or detention officers.
4. All employees of the Fire Department who engage in firefighting and/or respond to calls for emergency medical assistance and/or such persons who receive such calls and dispatch the services of the Fire Department.
5. Any employee who is authorized to routinely transport passengers on behalf of the City in a motor vehicle.

6. Any employee who operates heavy and/or hazardous equipment and any employee routinely working in close physical proximity to such equipment.
7. Any employee who performs mechanical maintenance or repair work on City vehicles and/or heavy or hazardous equipment or who handles hazardous material.
8. Any employee who is required to maintain a commercial drivers license as a condition of employment.
9. Any employee who performs the duties of a lifeguard at any of the City's swimming pools.

B. Authorized Testing

1. Pre-employment Drug Testing. All offers of employment for regular positions or high-risk category positions, whether full-time, part-time, seasonal or temporary exceeding 29 days, are extended subject to the condition of the applicant passing a drug test. The test results shall be considered as part of the pre-employment screening. The Personnel Department shall be notified solely upon the basis of the pass/fail results of the drug test.
2. Random Drug Testing. A type of testing whereby a computer randomly selects employees for drug tests and which provides for equal probability in regard to individual or group selection. Urinalysis will be used for random testing.
3. Mandatory Mass Drug Testing. A procedure applicable to those employees occupying employment positions classified in the high-risk category whereby an entire specified group or subgroup of employees are required to undergo drug testing. Urinalysis will be used for random testing.
4. Reasonable Suspicion Drug and Alcohol Testing. Testing for Reasonable Suspicion. In such a case, the employee will be transported to the collection site by the Drug Test Coordinator or designee. Reasonable suspicion means a belief based on objective facts sufficient to lead a prudent person to conclude that a particular employee is unable to satisfactorily perform his or her job duties due to drug or alcohol impairment. In making a determination of reasonable suspicion, the factors to be considered include, but are not limited to the following: *06-10-05 E.H.*
 - a. Observable phenomena based upon specific, present observations concerning the appearance, behavior, and speech or body odors of the employee. *06-10-05 E.H.*

- b. Abnormal conduct or erratic behavior while at work, absenteeism, tardiness, or deterioration in work performance;
 - c. A report of drug/alcohol use provided by a credible eye-witness with first-hand knowledge which has been independently corroborated;
 - d. Evidence that an individual has tampered with a drug/alcohol test while in the employ of the City;
 - e. Evidence that an employee has caused, or contributed to an accident while at work;
 - f. Evidence that an employee is involved in the use, possession, sale, solicitation, or transfer of drugs while working for the City or while on the City's premises or operating a City vehicle, or City machinery or equipment.
5. For Cause Drug and Alcohol Testing. A subcategory of reasonable suspicion drug and alcohol testing and which definition is incorporated herein. Any employee may be required to submit to a drug or alcohol test when:
- a. Credible evidence exists that he/she has contributed to the cause of an accident while operating any equipment, vehicle or machinery belonging to the City.
 - b. Credible evidence exists that an employee has engaged in the use or sale of drugs while in the employ of the City of Gallup. Such evidence without limitation shall include evidence of a conviction for a drug related offense or a report of drug use provided by a reliable and credible sources which has been independently corroborated.
 - c. There is cause for suspicion that the employee has tampered with a urine specimen.
 - d. He/she has discharged a firearm or other deadly weapon, in the course of his/her employment and that employee or another person has been injured.
 - e. When for cause testing is utilized, the Drug Test Coordinator or his agent may at his/her discretion, direct that an alcohol breath test, blood sample and/or urine specimen be taken.

C. Appeal

1. Any employee who is adversely affected by a finding described in this policy may file an appeal and follow the appeal of a disciplinary action procedures set out in these Personnel Rules.
2. Any employee filing an appeal will waive the confidentiality of any drug test results at said hearing and either the employee or City may disclose the results to the necessary and appropriate parties.
3. The City will be able to use the drug test results in any appeal hearing to support its proposed disciplinary action.

4.4 Drug Free Work Place Act Notifications

Any employee convicted of a drug or alcohol violation shall inform the Drug Testing Coordinator (DTC) in writing of the conviction no later than five (5) calendar days after the conviction. If required by the Drug Free Work Place Act, the DTC shall inform the appropriate federal agency of the conviction as required.

4.5 Education and Training

- A. This policy shall be provided to every City employee and training and education programs shall be made available. Supervisors and managers will receive a minimum of sixty minutes of drug and alcohol specialized training designated to promote the necessary skills to:
 1. Inform employees of this policy;
 2. Enforce the policy;
 3. Identify the signs of drug and/or alcohol use;
 4. Intervene constructively; and
 5. Integrate an employee effectively back into his/her work group following intervention and/or treatment.
- B. Non-supervisory employees will receive a minimum of sixty minutes training on the effects and consequences of prohibited drug/alcohol use on personal health, safety, and the work environment.

SECTION 5: APPOINTMENT PROCESS

5.1 Recruitment and Application Process

- A. **Announcement of Vacancies.** The Personnel Office shall prepare job announcements using such publicity as deemed appropriate to reach prospective qualified applicants for the position to be filled. All job announcements and other publicity material concerning position vacancies shall explicitly state that the City is an Equal Employment Opportunity Employer.
- B. **Application.** All persons wishing to apply for employment with the City must complete an approved job application form and must submit the form to the Personnel Office before the position posting period closes. A separate application must be submitted for each position for which a person wishes to be considered. Such forms shall provide applicant information concerning training, experience, references, and other job-related data.

5.2 Nature and Types of Examinations

- A. **Selection Techniques.** The selection techniques used in the examination process shall be job-related, objective, of a practical nature, and shall relate to those factors which, upon the review of the Personnel Director, can reasonably be expected to measure the job-related abilities of the applicant to perform the duties and responsibilities of the position to which he seeks to be appointed and meet other job-related expectations. Examinations shall consist of job-related selection techniques which will assess the qualifications of candidates, such as, but not necessarily limited to, achievement and aptitude tests, other written tests, personal interviews, oral boards, assessment centers, performance tests, physical agility tests, evaluation of daily work performance, work samples, investigation of references, or any combination of these or other job-related tests.
- B. **Open Competitive Examination.** Open competitive examinations may be given for those positions determined to require testing within the municipal service unless the needs of the service require a promotional examination.
- C. **Promotional Examination.** Whenever an adequate number of candidates are available, as determined by the Personnel Director and the appropriate Executive Director with the approval of the City Manager, a promotional examination may be held as a means of establishing qualified employees for promotion to fill existing or future vacancies. Promotional examinations may include any of the selection techniques mentioned in this section, or any combination of them.
- D. **Right of Appeal.** Any applicant or candidate who believes that he has been denied appointment because of a discriminatory selection may request a review by the

Personnel Director or his designee, who shall investigate and make recommendations to the City Manager. The decision of the City Manager shall be final and binding.

5.3 Employment Lists

- A. The Personnel Director shall establish an employment list as a means of recommending qualified individuals to fill existing or future vacancies. Employment lists shall be of three types:
1. A list of qualified applicants identified by the Personnel Department consisting of employees and/or non-employees.
 2. Open competitive employment lists, which shall include the names of persons who have successfully completed a class or position examination that was announced as an open competitive examination.
 3. Promotional employment lists must be posted five (5) working days in advance of promotion and shall include the names of those employees who have successfully completed a promotional examination for a position or a class of work. Such a list may be used in conjunction with other recruitment procedures at the discretion of the Personnel Director. Placement on an employment list shall not entitle an applicant or candidate to appointment to any position.
- B. Duration of Lists. Employment lists for all positions shall remain effective for six (6) months. At the request of an Executive Director, the effective duration of an employment list may be extended by the Personnel Director for up to an additional 90 calendar days.
- C. Recall Lists. The names of qualified individuals who have been laid off shall be placed on appropriate recall lists in order of total continuous cumulative time served with the City of Gallup including probationary and non-probationary regular, full-time status. Employees on recall lists shall receive preference for employment over any other employee seeking promotion or transfer. Recall lists shall remain in effect for twelve (12) months.
- D. Removal of names from list. The name of any person appearing on an employment or recall list shall be removed by the Personnel Director if the person requests in writing that his name be removed; if he fails to respond to a notice of appointment or recall mailed to his last known address; or when the list expires, as specified in these rules. The names of persons who resign shall automatically be dropped from promotional employment lists.

- E. Waivers. When a candidate has submitted a written waiver waiving appointment, his name shall automatically be dropped from such list.

5.4 Position Vacancies

- A. Method of Filling Vacancies. Any vacancy authorized to be filled for any position in the municipal service shall be filled by reemployment recall, transfer, promotion, demotion, or by the selection of an individual certified by the Personnel Director from an appropriate employment list.
- B. Notice to Personnel Director. Whenever a vacancy is to be filled, written notification shall be given to the Personnel Director. If there is not a recall list available for the class, the vacancy shall be filled by transfer, demotion, appointment from a promotional employment list, or appointment from an open employment list.
- C. Appointment. All persons shall be selected on the basis of job-related criteria. No person shall be selected for employment without the approval of the Executive Director with concurrence of the Personnel Director and the authorization of the City Manager. Notification of employment shall be done by the Personnel Director.

5.5 Medical Examinations and Medical Inquiries

- A. Examinations after an offer of employment has been made: The City may require a medical, mental health, or psychological evaluation after an offer of employment has been made and prior to the commencement of employment and may condition the offer of employment on the results of the examination.
- B. Post-employment Medical Inquiries: After employment commences, the City may require an employee to undergo a medical examination or inquiry if job-related and consistent with business necessity, as determined by the City.
- C. The examination will be conducted by a City approved health care provider.

5.6 Types of City Employment

- A. Regular Full-Time. An employee working 40 hours minimum per week and has completed the probationary period. Such employee is eligible to receive full fringe benefits according to these Rules and Regulations. *01/15/2007;EH*
- B. Regular Part-Time. An employee working not less than 21 hours and not more than 39 hours per week. Such employee is entitled to partial fringe benefits, limited to medical, dental, vision and life insurance coverage and PERA retirement. *01/15/2007;EH*
- C. Casual Part-Time. An employee hired to work 20 hours or less per week or 40 hours or less per pay period whose employment shall not exceed more than nine (9) consecutive months. Such employee is not entitled to any fringe benefits and whose employment is considered at-will. *01/15/2007;EH*
- D. Seasonal Employment. An employee hired to provide services during a particular season whose employment shall not exceed more than nine (9) consecutive months. Such employee is not entitled to any fringe benefits and whose employment is considered at-will. *01/15/2007;EH.*
- E. Acting Appointment:
 - 1. For the good of the municipal service or in the event of a temporary job vacancy, or for the purposes of providing training, the City Manager may temporarily assign an employee to a different job classification. Assignment of acting status shall entitle the employee to a pay increase. The City Manager may not compensate or assign an employee to acting status for a period of less than one calendar month nor more than six (6) calendar months unless it is determined otherwise.
 - 2. Acknowledgment of Conditions of Acting Appointment: All employees shall sign, at the time of appointment, a form acknowledging their understanding of the terms and conditions of their appointment. Failure to obtain such an acknowledgment shall not alter the terms and conditions of the employee's appointment as set by the City.

5.7 Probation and Evaluations

- A. Firefighters and sworn police officers shall be subject to a twelve (12) month probationary period. The probationary period shall apply to the original appointment or rehire following 30 calendar days of separation from City employment. If a temporary employment is converted to a regular employment or term employment, the employee will be subject to a complete probationary period. *Amended 8-12-04 E.H.*

- B. All other employees hired into a classified position other than those identified in (A.) above, shall be subject to a six (6) month probationary period. *Amended 8-12-04 E.H.*
- C. The starting pay for probationary employees will be the appropriate grade and step, depending on experience. *See also Section 6.7.* Upon successful completion of the six-month probationary period and a satisfactory evaluation, the employee will advance one numeric step within the pay grade. This excludes firefighters and police officers. *01/15/2007;EH*
- D. Employment during a probationary period is at-will employment. Probationary employees have no grievance rights.
- E. The supervisor will conduct a performance review during the first 90-day period and at the end of the six-month probationary period. A satisfactory six-month evaluation will be considered a recommendation for further employment. The supervisor will submit such evaluation to the Personnel Department for action to retain employee's full-time, regular status. *01/15/2007;EH*
- F. Injury leave or sick leave in excess of two (2) weeks and all leave without pay will not be counted toward the completion of the probationary or trial period.

5.8 Nepotism

As set forth by Ordinance No. C2003-6, 07-08-2003, An Ordinance Amending Section 1-24-5-6, Nepotism, of the Municipal Code of the City of Gallup.

- A. Direct Supervision
 - 1. No person shall be hired, promoted, demoted or transferred to a position which is under the direct supervision in the departmental chain of command or a relative who is related by blood, adoption or by marriage to the third degree of kindred.
 - 2. The third degree of kindred includes spouses, parents, children, brothers, sisters, grandparents, grandchildren, aunts, uncles, nieces and nephews. The restriction shall also apply to relationships having the characteristics of a family relationship and to members of the same household.
- B. Indirect Supervision
 - 1. No person shall be hired, promoted, demoted or transferred to a position at the level of Executive Director and above who is related by blood, adoption or marriage to the second degree of kindred of any of the following individuals: Mayor, City Councilor, City Manager, City

Attorney and employees at the level of Executive Director of a department and above.

2. The second degree of kindred includes spouses, parents, children, brothers and sisters.
3. This Ordinance, (*Ord. C2003-2, 07-08-2003*) shall not apply to anyone employed by the City of Gallup prior to July 1, 2003 or to seasonal employees or part-time employees who work 1,000 hours or less per year and grant-funded positions.
4. Any employment contrary to this Ordinance, (*Ord. C2003-2, 07-08-2003*) shall be null and void, and any person giving or allowing such employment shall be liable to the City of Gallup for any and all money paid out.

SECTION 6: CLASSIFICATION AND PAY PLAN

6.1 Class Designation

Except for the position of the City Manager and City Attorney, each position within the City shall be part of the classification plan, shall be identified by a class specification and class title, and all positions within the same classification shall be subject to the same pay range except that the pay of the Executive Director or Director shall not have a specific pay range and the pay is negotiable. The classification plan is subject to the approval of the City Manager.

6.2 New Positions

Subject to the availability of funds, no person shall be employed by the City to fill a position within any classification or pay range not included in the approved classification plan until the plan has been approved by the City Manager to include such classification or pay range. Such approved position must be included in the annual budget. *06-10-05 E.H.*

6.3 Maintenance of Classification Plan

The City Manager may periodically instruct the Personnel Director to review the duties and responsibilities of any or all positions within the City.

6.4 Reclassification

- A. Reclassifications are the result of positions requiring substantially different duties, responsibilities, skills, and qualifications from their present classification. Employees may assume different responsibilities, certifications or job titles that may result in a different classification level.
- B. Administration of the Reclassification Process. The Personnel Department is responsible for the evaluation of positions within the City's Classification System.
- C. A supervisor, with approval from the department head, may make a written request to the Personnel Director to have a position's present job duties analyzed to determine if the duties are substantially different and to determine if a different job classification is warranted.
- D. Reclassification requests will be reviewed by the Personnel Director. All reclassifications are subject to the approval of the City Manager.
- E. The reclassification of a position to a lower or higher pay range does not require a pay adjustment if the employee's pay rate falls within the reclassified pay range.

- F. If an increase in pay is required as a result of the employee's pay being lower than the lowest rate of pay for the reclassified pay range, the pay increase will become effective the first full pay period following the approval of the reclassification.
- G. When there is a reclassification request that does not follow the above outlined rules, a written request to include a justification for a reclassification shall be submitted to the Personnel Director, who will review the request and submit his recommendation to the City Manager. Such requests are subject to the approval of the City Manager.

6.5 Establishment and Review of Compensation

The City Manager may instruct the Personnel Director to review and recommend changes to the pay and benefits plans.

6.6 Pay Rates Assigned

All employees shall be paid in accordance with the approved pay or classification plan. The City Manager shall have final authority with respect to the assignment or change in assignment of pay.

6.7 Pay Rates at Initial Employment

Upon initial employment, all persons shall be paid at the entry rate within the grade for the classification. An Executive Director may, at his discretion, authorize starting pay at rate higher than the entry rate within the designated pay grade up to the third step of the pay plan, based upon experience and qualifications and as recommended by hiring authority. However, any pay recommendations beyond the third step must be approved by the City Manager. *See also Section 5.7.C. 01/15/2007;EH*

6.8 Performance Pay Increases Within Assigned Salary Ranges

The City Council will authorize any general wage increase including an annual advancement in the wage plan for employees. The City Manager shall have final review of all performance pay increases within assigned salary ranges. Also, employees on performance improvement plans who have had less than satisfactory performance during the previous twelve (12) months are not eligible for a performance increase. The City Manager will determine pay increases for department heads, (Directors and Executive Directors). *06-10-05 E.H.*

6.9 Performance Evaluations

Non-probationary employees' performance shall be documented when their performance is considered by their supervisor to be below satisfactory. The documentation shall consist of an evaluation which will be identified as a "Performance Improvement Plan" (PIP). The PIP shall include the following; *Amended 11/26/01 D.R.*

1. The deficiencies related to the unsatisfactory performance,
2. The needed improvement necessary for the employee to achieve satisfactory status,
3. The time period in which this improvement must occur,
4. The consequences of the failure to correct the deficiencies, and
5. The signature of the employee and the supervisor. The signature of the employee only acknowledges receipt of the performance improvement plan.

6.10 Completion of Probationary Period

Affirmative action is required by the Supervisor to convert a probationary employee to a regular employee upon completion of the probationary period. Failure to obtain written documentation of completion of the probationary period signed by the Department Head and delivered to the Personnel Director will result in the termination of the probationary employee. *01/15/2007;EH*

6.11 Salary Based Employees¹ *01/15/2007;EH*

Employees exempt from FLSA as executive, administrative or professional employees are paid on a "salary basis." "Salary basis" means that an exempt employee regularly receives, each pay period and on a weekly or less frequent basis, a "predetermined amount" of compensation that cannot be reduced because of variations in the quality or quantity of work performed.

- A. Seven exceptions to the salary basis, "no pay-docking" rule. Employers may make deductions from salary of exempt employees in the following situations;
 1. An absence from work for one or more full days for personal reasons, other than sickness or disability;

¹ FLSA Section V, A through D; Salary Basis Test and Permissible Deductions

2. An absence from work for one or more full days due to sickness or disability if deductions are made under a bona fide plan, policy or practice of providing wage replacement benefits for these types of absences;
3. To offset any amounts received as payment for jury fees, witness fees, or military pay;
4. Penalties imposed in good faith for violating safety rules of “major significance,” such as “no smoking” rules in explosive plants, oil refineries and coal mines;
5. Unpaid disciplinary suspension of one or more full days imposed in good faith for violations of workplace conduct rules, such as rules prohibiting sexual harassment or workplace violence;
6. Proportionate part of an employee’s full salary may be paid for time actually worked in the first and last weeks of employment;
7. Unpaid leave under the Family and Medical Leave Act.

SECTION 7: CHANGES IN EMPLOYMENT STATUS

7.1 Transfers and Pay upon Transfers

- A. When a vacancy is announced, any qualified employee may apply for transfer to the position. All qualified applicants are assured consideration, although no employee is assured selection. *06-10-05 E.H.*
- B. An employee may voluntarily request a transfer to a properly announced vacant position within that employee's department or division or to a different division or department within the City. All transfers are subject to the approval of the City Manager.
- C. An employee upon transfer to a higher grade shall be considered a promotion and shall receive pay according to 7.2. *06-10-05 E.H.*
- D. An employee upon transfer to a lower grade shall receive same step in lower grade of current pay rate, which may result in lower pay. *Amended 8-12-04 E.H.*
- E. An employee upon lateral transfer within the same grade shall receive same pay rate. *Amended 8-12-04 E.H.*
- F. The City Manager, for the good of the service, may transfer an employee within a department or division or to a different department or division within the same classification, (title and pay).

7.2 Promotion and Pay upon Promotion

An employee upon promotion shall receive nearest higher step plus one step above the current rate of pay. *Amended 8-12-04 E.H.*

7.3 Demotion and Pay upon Demotion

- A. The City retains the right in its sole discretion to change the status of a particular employee, employees, or a class of employees for any reason, including, but not limited to, budgetary constraints, reorganizations, reductions in force, reassignment, deficiency in job performance or misconduct of the employee.
- B. An employee shall upon demotion be paid at nearest step of the lower grade below the employee's prior pay rate. *Amended 8-12-04 E.H.*

7.4 Resignations/Dismissal/Layoffs

- A. Resignations. Any employee wishing to voluntarily terminate employment with the City shall give written notice to his immediate supervisor before termination.
- B. Dismissal. Employee terminations or dismissals from employment shall be guided by the provisions of Section 10.5.
- C. Layoff. The City Manager may, for the good of the service, reduce the work force and lay off employees. Within each division, the order of layoff shall be determined by the City Manager and on the basis of factors that include, but are not limited to qualification and seniority. All regular full-time employees laid off within a division shall be placed on a recall list for one year and within that year shall be returned to work within the division in reverse order of layoff, provided a vacancy exists and the employee is qualified to perform the job to be filled. Any employee so re-employed shall retain any seniority accrued up to the date of the layoff and any benefits and leave accrued and not cashed in up to the time that the employee was laid off.
- D. Pay at Separation
 - 1. Resignation: If an employee resigns, the wages and compensation shall become due and payable at the next succeeding payday.
 - 2. Dismissal: If an employee is terminated, the payment of unpaid wages or compensation shall be governed by appropriate state statute or federal legislation.
- E. Involuntary Separation of Service. At-will full time employees of Executive Director rank and higher will receive two months severance pay for involuntary separation of service, provided separation is not due to violation of City Code of Conduct. *06-10-05 E.H.*

SECTION 8: HOURS OF WORK, STANDARD WORK WEEK, AND OVERTIME

8.1 Work Week

The regular work week for all employees, except public safety personnel and firemen, shall consist of forty (40) hours worked over seven (7) consecutive calendar days beginning Monday at 12:01 a.m. and ending Sunday at midnight. The work week for public safety personnel and firemen will be based on the 207-K provision of the FLSA.

8.2 Overtime

- A. Non-exempt employees shall be paid overtime as required by the FLSA. Overtime at the rate of one and one half the regular rate of pay will be paid for actual hours worked in excess of the regular workweek for eligible employees as follows:

Non-public safety employees will be paid overtime for actual hours worked in excess of forty (40) hours within a seven (7) consecutive day period as identified in 8.1 above.

Sworn Police Officers and Corrections Officers will be paid overtime for actual hours worked in excess of Eighty-four (84) hours within a fourteen (14) consecutive day period as per the Police Department S.O.P.

Firefighters assigned to the fifty-six (56) hour workweek will be paid overtime for hours worked in excess of two hundred and twelve (212) hours within a twenty-eight day (28) cycle as per the Fire Department S.O.P.

- B. The City Manager will designate those employees whose job duties qualify them as eligible for overtime compensation and those employees whose positions are exempt. It will be the responsibility of the Personnel Director to review and make recommendations according to the requirements of the Fair Labor Standards Act (FLSA) regarding the designations of positions as FLSA exempt or not exempt.
- C. Response to reasonable requests for overtime work outside regular business hours is a strict condition of employment for all employees. *01/15/2007;EH*

8.3 Compensatory Time Off

- A. In lieu of monetary overtime compensation, compensatory time off may be given in accordance with the procedures established herein and applicable law. Non-exempt employees may agree in advance and in writing to take compensatory time off and will earn compensatory time off of one and one-half hours for every

hour of authorized overtime work. Compensatory time off will be paid at the employee's regular hourly rate and will not count as hours worked for overtime calculation purposes in the work week in which this leave is taken. The compensatory time may be preserved, used, or cashed out. As the compensatory time earned by an employee constitutes a legal liability for the city, no employee may accumulate more than 75 hours of compensatory time (equivalent to 50 hours of overtime worked). As the needs of each department vary, the procedures for utilization of the earned compensatory time will be established by an Administrative Regulation.

- B. Compensatory time must be used within thirty (30) calendar days of when the compensatory time was earned. If the compensatory time is not used in the specified period, the City, at its option, will either cash out the compensatory time earned or extend for a like period, and for one time only, the time for the employee to use the earned compensatory time. The City Manager may authorize further extensions. Upon termination of employment, the employee will be paid for unused compensatory time.
- C. Salary based employees cannot accumulate compensatory time. *06-10-05 E.H.*

8.4 Work Breaks

The Executive Director or his designee may provide for work breaks during the working day. No more than two such breaks shall be granted, not to exceed 15 minutes each. The granting of such breaks shall depend on the constraints of working conditions within each department, and regulations regarding such breaks shall be set forth by the Executive Director or Director of the respective department, to be reviewed by the City Manager.

8.5 FLSA Exempt Employees

- A. Salaried exempt employees are those whose duties, responsibilities and compensation cause them to be exempt from overtime requirements of the Fair Labor Standards Act, (FLSA). All other employees are non-exempt.
- B. Positions in the following classes are considered exempt:
 - 1. Executive. Compensation is paid on a salary basis at a rate not less than \$455 per week, supervising at least two or more full-time employees and has the authority to hire or fire employees.
 - 2. Administrative. Compensation is paid on a salary basis at a rate not less than \$455 per week whose primary duty is the performance of office or non-manual work directly related to the management of general business

operation of the City and exercises discretion and independent judgment with respect to matters of significance.

3. Professional. Compensation is paid on a salary basis at a rate not less than \$455 per week whose primary duty is the performance of work requiring advanced knowledge in a field of science or learning customarily acquired by prolonged course of specialized intellectual instruction and exercises discretion and independent judgment.
 4. Computer. Compensation is paid on a salary basis or if compensated on an hourly basis of not less than \$27.63 per hour and employed as a computer systems analyst, computer programmer, software engineer or other similarly skilled worker whose primary duty must consist of:
 - a. The application of systems analysis techniques and procedures, including consulting with users to determine hardware, software or system functional specifications;
 - b. The design, documentation, testing or creation or modification of computer programs related to machine operating systems; or
 - c. A combination of the duties described above which require the same level of skills.
 5. Highly Compensated. Total annual compensation of \$100,000 or more which must include at least \$455 per week paid on a salary whose primary duty is the performance of at least one of the duties of an exempt Executive, Administrative or Professional employee.
- C. The exempt employee must receive the full salary for any week in which the employee performs any work, regardless of the number of days or hours worked. The City adheres to the “no pay-docking” rule according to the FLSA and prohibits improper pay deductions for exempt employees.

SECTION 9: LEAVE AND FRINGE BENEFITS

9.1 Insurance and Retirement

- A. Life and Health Insurance. Subject to the availability of funds, the City may sponsor and make available to the employees, life and health insurance through a group insurance plan. The requirements for employee participation, the cost of participation for the City and the employee, coverage, and terms, will vary from time to time according to the contracts entered into, and shall be specifically inquired into by the employee. To the extent required by a group insurance contract entered into by the City, employee participation is a condition of employment.
- B. Retirement (P.E.R.A.). The City is subject to the provisions of the laws of the State of New Mexico concerning participation in the state program for public employee retirement and disability. Participation is mandatory, except as expressly allowed by State law. The terms for participation of the City and its employees may, within the provisions of State law, vary from time to time. Benefits shall be those provided under State law.
- C. Regular full-time employees or elected officials who are exempt from P.E.R.A. may participate in a 401 tax deferred plan sponsored by the City. Contributions by the City shall be the same as for employees under the P.E.R.A. *06-10-05 E.H.*

9.2 Holiday Leave

- A. Legal Public Holidays for the City are:
 - New Year's Day
 - Martin Luther King's Birthday
 - President's Day
 - Good Friday, 1:00 p.m. - 5:00 p.m.
 - Memorial Day
 - Independence Day
 - Labor Day
 - Veteran's Day
 - Thanksgiving Day and Friday after
 - Christmas Day
- B. Each year the City Manager shall publish the dates on which the legal public holidays shall be observed.
- C. Except for firefighters below the rank of lieutenant, all regular full-time and term employees will be eligible for holiday pay.

- D. Firefighters below the rank of lieutenant are not eligible for holiday pay as specified in the negotiated labor contract. *06-10-05 E.H.*
- E. Legal public holidays occurring during a period of vacation or bona fide sick leave will be counted as holiday leave and not as vacation or sick leave. This does not apply to firefighters covered under “D” above.
- F. Employees who are not normally scheduled to work on a holiday and are called in to work on an emergency situation declared by the Department Head will be paid at 1 ½ times the regularly hourly rate for all hours worked on that holiday.

9.3 Vacation/Annual Leave

A. Accruals

<u>Months Of Service</u>	<u>40 hour work week employees</u>	<u>42 hour work week employees</u>	<u>56 hour work week employees</u>
0-60 mos.	3.077 hrs per pay period	3.23 hrs per pay period	4.21 hrs per pay period
61-180 mos.	4.616 hrs/pp	4.847 hrs/pp	6.46 hrs/pp
181 mos. +	6.15 hrs/pp	6.458 hrs/pp	8.61 hrs/pp
Max accrual:	280 hours	294 hours	392 hours

The accruals identified for the 56 hour workweek are applicable to firefighters hired on or after June 25, 2001. Other Firefighters hired prior to June 25, 2001 are grandfathered at their accrual rate as of June 24, 2001.

At-Will Executive Director rank and higher shall accrue 160 hours per year. This policy only pertains to present at-will Executive Directors and higher and to such affected new hires or appointees. It does not affect and is not available to existing “for cause” employees. *06-10-05 E.H.*

- B. Non-emergency vacation requests shall be submitted at least ten (10) working days prior to the first day of vacation.
- C. Vacation/Annual leave may be canceled as a result of an emergency declared by the Department Head.

9.4 Sick Leave

- A. Accrual Rate. Regular full-time, forty, (40) hour work week employees will accrue sick leave at the rate of 3.69 hours per pay period. Regular full-time, forty-two (42) hour work week police and corrections employees will accrue sick leave at the rate of 3.875 hours per pay period. Regular full-time, fifty-six (56) hour work week firefighters will accrue sick leave at the rate of 5.17 hours per pay period.
- B. Sick leave accrual is limited to a maximum of 1500 hours.
- C. No payment shall be made for accrued sick leave at separation from service with the City except as follows:
1. As provided in Early Retirement/Sick Leave provisions described in Section 9.8.
 2. Annual Sale of Sick Leave. *06-10-05 E.H.*
 - a. Employees who have accumulated 600 hours of unused sick leave are entitled to be paid for unused sick leave in excess of 600 hours at a rate equal to fifty (50%) percent of their hourly rate of pay up to the specified maximum.

96 Maximum hours for 40 hour workweek employee
100 Maximum hours for 42 hour workweek employee
127 Maximum hours for 53-54 hour workweek employee
 - b. Payment for excess sick leave may be made only once per calendar year on the first payday in December.
 3. Employees who qualify for or initiate an application for any retirement plan under PERA or other qualified retirement program are entitled to be paid for unused sick leave at a rate equal to thirty-three, (33%) percent of their hourly rate for up to 1,000 hours of sick leave.
 4. Re-Employed Retirees under PERA or other qualified retirement program upon resignation are entitled to be paid for unused sick leave at a rate equal to thirty-three, (33%) percent of their hourly rate for up to 1,000 hours of sick leave. *01/15/2007;EH.*
- D. Paid sick leave is a benefit provided by the City for the use of employees during period of illness, sickness or medical treatment of the employee that prevent the employees from performing their assigned duties and for purposes identified in this section dealing with sick leave. It is the responsibility of supervisors and management personnel to verify that sick leave is being utilized properly. Failure

of the employee to cooperate completely in any investigation initiated by management regarding sick leave requested by the employee shall result in the denial of paid leave and possible disciplinary action. Abuse of this benefit will result in disciplinary action including possible dismissal.

- E. Sick leave is subject to the approval of the supervisor and must be requested prior to or at the beginning of the first work day and each successive work day the employee is absent, except when the employee has submitted a statement from a medical provider which justifies the absence and identifies the duration of the absence.
- F. Paid sick leave in excess of three (3) consecutive workdays requires a statement from a medical provider justifying the absence. A medical provider's statement may also be required prior to the approval of any paid sick leave when sick leave abuse is suspected and supported by patterns of usage, such as, but not limited to, repeated sick leave use on the day before and/or the day after the employee's days off.

9.5 Sick Leave Bank

- A. A Sick Leave Bank is an available pool of leave where employees can contribute Sick Leave to the bank which can be used by other employees when they have incurred a serious health condition which has caused the depletion of their accrued sick leave. To be eligible to join the Sick Leave Bank an employee must,
 - 1. Have completed at least three consecutive years of service with the City of Gallup;
 - 2. Have accrued at least 200 hours of sick leave at anytime during the employee's last continuous employment period; and
 - 3. Have donated the equivalent of one regular shift of sick leave to the Bank during the month of January preceding the submittal of the request for Sick Bank time.

This eligibility is repeated annually. Employees who are members of the Sick Leave Bank as of the effective date of these rules and regulations and who maintain their eligibility and membership continuously thereafter shall retain their membership in the Bank. *06-10-05 E.H.*

- B. The intent of the Sick Leave Bank is to provide employees who have exhausted all paid leave, but not abused sick leave, with some additional Sick Leave when a serious illness or disability occurs that prevents the eligible employees from performing their assigned duties for a significant period of time.

- C. Employees may request up to 30 working days on each application. No more than 60 working days or \$8,640 in compensation, whichever is greater, may be granted to an employee in any fiscal year. *06-10-05 E.H.*
- D. The Sick Leave Bank Committee is made up of Executive Directors who will review and decide on the approval or denial of requests for Sick Leave Bank Time. The decisions of the committee are final and not grievable.

9.6 Workers' Compensation/Injury Leave

- A. Any employee who sustains an injury by accident arising out of and in the course of his City employment may apply for and will be considered for Workers' Compensation by the State as per the New Mexico Worker's Compensation Act. *Amended 11/26/01 D.R.*
- B. The City of Gallup will allow employees to use sick or vacation hours for the first seven days of an injury and thereafter will, for 30 days ensure that the employee has no loss in pay or benefits. *Amended 8-12-04 E.H.*
- C. Employees with job incurred injuries shall be eligible for group insurance provided they notify the City within two (2) weeks of receipt of workers' compensation benefits and pay the entire premium after the third full calendar month after the injury. For the first three months the City will pay the same percentage of group insurance paid prior to the injury or as required by federal and/or State statute upon settlement.
- D. Employees receiving workers' compensation benefits shall not receive vacation leave or sick leave for the same time period. *Amended 8-12-04 E.H.*
- E. During the initial injury leave or succeeding workers' compensation leave, vacation or sick leave, the City may require the employee to respond to any requests for confirmation of continued eligibility for leave under this section.
- F. Workers Compensation time is not counted towards P.E.R.A. time. *Amended 11/26/01. D.R.*

9.7 Family and Medical Leave Act

- A. The Family and Medical Leave Act of 1993, (FMLA) provides for eligible employees to take up to 12 workweeks off from work in any 12 months while retaining their job and health insurance coverage. The FMLA permits an employee to take unpaid leave to care for the employee's child after birth, or placement for adoption or foster care. The FMLA also permits unpaid leave to

care for an immediate family member, (spouse, son, daughter, or parent) with a serious health condition or for the employee's own serious health condition when he is unable to work. Upon returning to work from family and medical leave, the employee will generally be restored to the same or equivalent position as the one they occupied prior to taking leave. *06-10-05 E.H.*

- B. Eligibility. Employees of the City who have worked for the City at least one (1) year and have worked 1250 hours over the previous twelve (12) months are eligible for FMLA benefits.
- C. Spouses employed by the City are limited to one twelve-week period of leave for childbirth, adoption or to care for a sick parent.
- D. Accrued annual leave may be substituted for any FMLA qualifying purpose.
- E. Employees who are eligible for FMLA benefits shall apply for the benefits in order to receive them.
- F. Highly compensated or "key" employees may be excluded from coverage as per the FMLA. A "key employee" is a salaried eligible employee who is among the highest paid 10 percent of all the employees employed by the City. *06-10-05 E.H.*
- G. The provision of the FMLA will prevail in the case of conflict with the City of Gallup Personnel Rules and Regulations.

9.8 Early Retirement/Sick Leave

- A. Eligibility: Only employees continuously on the payroll on or before January 1, 1987, are able to convert unused sick leave into annual leave if they qualify and have initiated an application for any retirement plan under PERA or successor retirement organization. *01/15/2007;EH*
- B. Vested Rights. By successive legislation, the early retirement benefit has been phased out and finally now abolished. However, certain vested rights remain for certain employees.
- C. Eligible hours:
 - 1. Eligible employees hired on or before October 1, 1977, and continuously on the payroll may either convert up to 740 hours of unused sick leave into annual leave or be paid at a rate equal to fifty percent (50%) of their hourly rate for up to 1480 sick leave hours.

2. Eligible employees hired on or before December 1, 1983, and continuously on the payroll may either convert up to 680 hours of unused sick leave into annual leave or be paid at a rate equal to fifty percent (50%) of their hourly rate for up to 1360 sick leave hours.
 3. Eligible employees hired on or before January 1, 1987, and continuously on the payroll may either convert up to 360 hours or unused sick leave to annual leave or be paid at a rate equal to fifty percent (50%) of their hourly rate for up to 720 sick leave hours.
- D. Sick Leave Bank. Sick leave hours from the sick leave bank may not be used for early retirement.

9.9 Funeral Leave

- A. Funeral leave may be charged against sick leave or vacation leave. Funeral leave may be used if the funeral is of an employee's spouse, parent, parent-in-law, brother, sister, brother-in-law, sister-in-law, child, stepchild, grandparent, or grandchild. If the funeral is within 450 miles from the City of Gallup, three (3) consecutive calendar days of leave may be authorized. If the funeral is more than 450 miles from the City of Gallup, five (5) consecutive calendar days of leave may be authorized. The limit of three or five days does not apply if the request is for vacation time and such leave is approved by management.
- B. The City may require verification that funeral leave has been used properly.

9.10 Jury and Witness Leave

- A. An employee shall be granted jury leave with pay when required to perform jury duty in any municipal, county, tribal, state, or federal court.
- B. An employee shall be granted witness leave if subpoenaed to any court. If the witness is appearing in their official capacity as a City of Gallup employee, the leave will be with pay. If the witness is not appearing in their official capacity as a City of Gallup employee, then the leave is without pay unless annual leave is used.
- C. If the City pays the employee for jury or witness leave, any compensation, excluding travel reimbursement, received by the employee from the court or the parties who subpoenaed the employee, will be transferred to the City. The employee must return to work each day or portion of the day that the employee is not: selected for jury duty, the employee's jury service ends before the end of the work day, or their service as a subpoenaed witness ends.

9.11 Military Leave

- A. Regular employees who undertake active military service shall be eligible for reinstatement rights if they apply within 90 calendar days of the date of honorable discharge from military service. Reinstatement rights entitle the employee to retain his seniority, unused sick leave, and other leave benefits.
- B. Any regular employee serving in the Military Reserve Training or Emergency National Guard shall be given no more than fifteen (15) working days military leave with pay per fiscal year when they are ordered to duty for training, except for weekend monthly duty. Copies of orders must be submitted with the leave request. Additional days may be charged to annual leave or, with proper permission, leave without pay.
- C. Employees must provide reasonable advance notice and documentation of any need for military leave.

9.12 Voting Leave Time

- A. An employee who is a registered voter and requests time to vote may be granted up to two (2) hours for the purpose of voting between the time of opening and the time of closing of the polls. The employee shall not be liable to any penalty for such absence. The City will specify the hours during the period in which the employee may be absent.
- B. The provisions of Subsection A., above, do not apply to any employee whose work day begins more than two (2) hours subsequent to the time the polls open, or ends more than three (3) hours prior to the time of closing of the polls.
- C. Such leave shall not be used for any other purpose.
- D. The City may require that the appropriate use of this leave be verified.

9.13 Leave Without Pay

Any regular full time employee may request leave without pay for a period not to exceed one year. Leave without pay may be approved at the discretion of the Department Head for a period of up to five working days. Leave without pay for more than five working days is subject to the recommendation of the Department Head and the approval of the City Manager.

9.14 Administrative Leave

- A. When, in the judgment of an Executive Director or a Director, the safety or welfare of a department, its facilities or 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 an issue may be placed on administrative leave with pay. The basis for such administrative leave shall be documented in writing and shall be submitted to the employee and to the Personnel Director either at the time of or within 24 hours of the administrative leave.

- B. Administrative leave under this section shall not constitute discipline. During the administrative leave, the employee shall not attend his regular work site or any other City facilities, except as designated in the notice of administrative leave, but shall remain available during normal work hours to meet with the department head or his/her designee, as requested.
- C. The employee may be placed on administrative leave with pay for five (5) consecutive work days. Administrative leave with pay beyond the original five (5) work days is subject to the approval of the City Manager.

9.15 Suspension of Paid Leave

In the event of an emergency declared by the City Manager or designee, the City Manager may postpone all paid leave for an employee, except authorized leave granted pursuant to the FMLA.

9.16 Unauthorized Leave

Any leave not authorized according to the provisions of these rules and regulations shall be deemed unauthorized absence without pay and may subject the employee to disciplinary action up to and including dismissal. Any employee who absents himself for three (3) consecutive work days without authorization shall be considered to have provided just cause for dismissal, subject to a predetermination hearing which shall be offered the employee for the sole purpose of determining if authorization existed for the leave or if an emergency, as determined by the City, justified the employee's failure to obtain authorization.

9.17 Insurance During Leave Periods

An employee wishing to continue to be eligible for group insurance during any leave without pay, shall make arrangements with the Risk Management Department to pay the entire insurance premium. *Amended 8-12-04 E.H.*

9.18 Reinstatement After Leave

Any regular employee timely returning to work after approved injury leave, Family and Medical Leave, or authorized leave without pay under Section 9.13, or military duty will be entitled to

retain their seniority, accrue unused sick leave, and all other benefits. For reinstatement after an approved leave of more than twenty working days the returning employee shall notify the Personnel Department at least five working days prior to the expiration of the approved leave. Failure to provide notice of intent to return or failure to return to work on the first workday following the expiration of the approved leave shall constitute just cause for termination of any further rights to employment with the City.

9.19 Longevity Pay *Amended 8-12-04 E.H.*

In recognition of employees' length of continuous full-time, regular service, a longevity increment will be paid. Longevity pay shall be paid each pay period and shall not be included in the calculation of regular pay. The employee shall receive longevity pay pursuant to the following schedule:

Years of Completed Service:

5-10 Years.....	\$10
10-15 Years.....	\$20
15-23 Years.....	\$40
23-26 Years....	\$100
Over 26 Years...	\$40 <i>06-10-05 E.H.</i>

SECTION 10: DISCIPLINARY ACTION

- 10.1** The City and its citizens expect reasonable conduct and good work habits from every City employee. Where it is appropriate, as determined by the City, the City will use progressive discipline. Disciplinary action will be based on the severity and/or the frequency of reoccurrence of the infraction. For some offenses, dismissal, demotion, or any other action may result from a single instance and may not be preceded by lesser forms of discipline for the same or other offenses. The City reserves the right to determine in its sole discretion the appropriate disciplinary measures to be imposed in any given case.
- 10.2** Eligible employees. Probationary employees and temporary appointment employees are at-will employees and do not have grievance/appeal rights. All other employees have grievance/appeal rights, as set out below.
- 10.3** Designated fire and police personnel will be subject to any Departmental Standard Operating Procedures for actions involving discipline including, but not limited to, written reprimands, suspensions, demotions, or dismissals. Said Standard Operating Procedures are subject to the recommendation of the Personnel Director and the approval of the City Manager.
- 10.4** Types of Discipline. Consistent with the severity and/or frequency of the infraction, the types of discipline available include written reprimand, suspension, demotion, or dismissal. The types of discipline are defined as follows:
- A. Written Reprimand: The formal written censure of an employee by a supervisor.
 - B. Suspension: An involuntary leave of absence without pay imposed by supervisors for disciplinary reasons for a period not to exceed thirty (30) work days.
 - C. Demotion: The change of an employee from a position of one classification to a position of a lower classification with a lower pay rate.
 - D. Dismissal: The involuntary separation of an employee from the City.
- 10.5** Employees may be disciplined for many reasons and it is not possible, nor does this policy intend, to list every reason for discipline. Cause for discipline includes, but is not limited to:
- Failure to meet work standards.

- Negligence or neglect in the performance of duty, including negligence or neglect in the operation of City vehicles or equipment and/or failure or refusal to adhere to safety rules and procedures.
- Violation of personnel or departmental rules, regulations or orders; violation of any professional code of ethics applicable to the employee's profession.
- Unauthorized use or misuse of City money, equipment or property.
- Incompetence or inefficiency; failure to perform adequately the duties, responsibilities or functions of the job.
- Misconduct or language towards anyone that discredits the public service.
- Insubordination; failure to respond to supervision.
- Lack of cooperation with fellow employees, or other conduct that interferes with the performance of his or another employee's work.
- Unauthorized absence from work or habitual tardiness.
- Abuse of sick leave.
- Failure to adhere to established work schedule; failure to obtain authorization for overtime being worked.
- Failure to meet and/or maintain established job qualifications/certifications as set forth in the class specification.
- Failure to maintain physical and/or mental competence to perform the essential functions of the job.
- Falsification of City employment application, or any other documents used in the employment process.
- Failure to comply with any provision of any City drug testing policy or failure to pass a drug or alcohol test or screening.
- Gifts or Gratuities. No City employee will use their position for personal gain or give unwarranted benefits or treatment to any person. City employees may not solicit or accept gifts of any value that benefit the employee's personal or financial interest if there is an implication that the gift is intended to influence the employee's actions or judgment. Any gift with a value greater than \$50.00 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.
- Conviction of a felony or misdemeanor where disciplinary action is in accordance with the provisions of the Criminal Offender Employment Act. (NMSA 28-2-1 et. seq. (1991, Repl. Pamph.)).
- Violation of any federal, state, or city law pertaining to employment; failure to comply with any provision of the City Sexual Harassment Policy.
- Violation of the City's anti-distribution and anti-solicitation policy.
- Disclosure of confidential information from City records or documents to any unauthorized recipient. Falsification, destruction, or unauthorized use of City records, reports, or other data belonging to the City.
- Any act or omissions that adversely affect the welfare of any member of the public, other employees, or the effective operation of the City.

- 10.6** Prior to initiating any disciplinary action, the initiating supervisor must obtain the concurrence of his Executive Director or Director and consult with the Personnel Director.
- 10.7** Predetermination Conference. The initiating supervisor will meet with the employee and discuss any proposed discipline. The purpose of the meeting is not to provide an evidentiary hearing, but to provide an opportunity for the employee to present his or her side of the story. After the meeting, the supervisor will notify the employee of his decision and, if disciplinary action is to be imposed, what the discipline is to be. If the supervisor's decision is to discipline the employee, that decision is effective immediately, unless stated otherwise.

SECTION 11: GRIEVANCE PROCEDURE

11.1 Grievance Policy 06-10-05 E.H.

This policy is driven by the fundamental philosophy of, “the best solutions are offered by those closest to the source of the problem,” to allow all employees a fair hearing for redress of grievances.

- A. Chain of Command. All employees have a right to meet with the Mayor or City Manager, accompanied by their respective supervisor; but only after following the chain of command as set forth below. This procedure will be strictly adhered to.
 - 1. Grievance procedure contained in union contract for unionized employees
 - 2. Departmental standard operating procedures
 - 3. Non-union employees shall follow procedures in Personnel Rules as set forth below under Class A, B, C, Grievance. If this fails, then and only then, may the meeting reach the City Manager and then only if the employee and affected supervisors are present.

11.2 Class A Grievance

- A. Classified regular full-time employees may file a Class A grievance regarding work related issues as they apply to interpretation or application of rules and regulations and written reprimands that do not result in a loss of pay.
- B. Procedure
 - 1. The grievance shall be in writing. The request for a grievance must include: the alleged violation, the name of the individual in management alleged to have misinterpreted the rules or regulations, the date of the alleged violation, and the relief requested. It shall not be sufficient on relief requested to use the language “that the employee be made whole,” or other such general statement. The request must be signed and dated by the grievant.
 - 2. Within seven (7) calendar days of the alleged commission or omission of the action that generated the grievance, the written grievance must be presented to the immediate supervisor with a copy to the Personnel Director.

3. Within seven (7) calendar days of timely submission of the written grievance, the employee must attempt to resolve the issue with the employee's supervisor. The Department Director may choose to participate together with the employee and the supervisor in an attempt to resolve the grievance.
4. If the issue is not resolved at the immediate supervisor's level, the employee may pursue the grievance by filing the written grievance with the City Manager within ten (10) calendar days of the submission of a timely original request for a grievance.
5. The City Manager or designee shall meet with the employee and appropriate department personnel and consider both sides of the grievance. The decision of the City Manager, or designee, is final and binding on the parties.

11.3 Class B Grievance

- A. Classified regular full-time employees may file a Class B grievance regarding an action by management that has resulted in the actual documented negative financial loss as opposed to an anticipated future financial loss to the employee or a disciplinary action other than a written reprimand.
- B. Disciplinary actions include demotions that result in an actual negative financial loss, suspensions without pay, and dismissal/involuntary termination of employment.
- C. Procedure
 1. The employee shall present a written grievance to the Personnel Director within seven (7) calendar days of the date of the action that generated the grievance.
 2. The written grievance shall include a concise description of the grievable action, the effective date of the grievable action, the name of the individual in management who implemented the grievable action, and the relief requested. It shall not be sufficient on relief requested to use the language "that the employee be made whole," or other such general statement. The request must be signed and dated by the grievant.
 3. The Personnel Director or designee will consider both sides of the issue and attempt to resolve the issue.

4. If the grievance is not resolved to the satisfaction of the employee at this level, the employee may file a written request for a grievance hearing with the Personnel Director within seven (7) calendar days of the date the initial timely written grievance was filed with the Personnel Director.
5. Failure to submit a written timely grievance at any level of this grievance process shall render the grievance null and void.
6. Upon timely filing of the request for a grievance hearing, the Personnel Director shall appoint a non-employee hearing officer to hear the grievance. The Hearing Officer shall schedule the grievance hearing with the parties.
7. The Grievant and the City may choose to have a representative of their choice present their case at the grievance hearing.
8. An employee's timely request for a grievance hearing, pending criminal charges, or any other action will not stay enforcement of the disciplinary action or proceeding with the grievance procedure.
9. The first issues to be decided by the Hearing Officer are the issues of grievance and any procedural issues raised by either party. These issues will be decided prior to hearing the merits of the case.
10. If the issue is determined to be grievable, the Hearing Officer shall allow the parties to present their opening statement, present witnesses, cross examine witnesses, and make a closing statement. The Hearing Officer may not add or subtract language from the policies or regulations in question. The Hearing Officer will render his decision based on the material presented at the hearing. The Hearing Officer shall render a decision in writing within fourteen (14) calendar days of the hearing. The time limit may be extended by mutual written agreement of the parties.
11. Either the affected employee or the City may appeal the Hearing Officer's decision to the City Manager within seven (7) calendar days of the date of the Hearing Officer's decision. The City Manager will review the record of the hearing and render a written decision.
12. The decision of the City Manager is final and binding on the parties.

11.4 Class C Grievance

- A. Classified regular full-time employees may file a class C grievance alleging discrimination on the basis of race, sex, age, national origin, color, or mental or physical disability.
- B. Procedure
 - 1. A Class C grievance is filed in writing with the Personnel Director and must include a brief and concise description of the alleged discrimination, the City employee involved in the alleged discriminatory action, the date of the alleged discrimination, and the relief requested. The request for a Class C grievance must be signed and dated by the employee.
 - 2. The Personnel Director or designee will investigate the alleged discrimination.
 - 3. The Personnel Director will meet with employee, conduct a prompt investigation, and attempt to resolve the issue.
 - 4. If the issue is not resolved to the employee's satisfaction, the employee may pursue the issue with the appropriate state or federal agency.

SECTION 12: EMPLOYEE CONDUCT

12.1 Code of Conduct *06-10-05 E.H.*

- A. Preamble. Employment of non-union, confidential, management, professional and supervisory personnel by the City of Gallup as defined by the Public Employee Bargaining Act of 2003-0-7e1 et. Seq. NMSA 1978 Comp., hereinafter “covered employees” is critical to the City of Gallup. As member of the management staff, such employees are expected to exhibit the highest standard of character and are subsequently held to a higher standard than other employees. As professionals such personnel have a direct and vital impact on the quality of life for all citizens in Gallup. Accordingly, the service provided by managers, requires professionalism, honesty, impartiality, fairness and equity and must be dedicated to the public service and the protection of public health, safety and welfare. These standards shall apply in addition to those applicable standards already promulgated by the Gallup Police and Fire Departments respectively. In case of conflict, the stricter standard shall apply.
- B. Fundamental Cannons. Covered employees in the fulfillment of their professional duties to the City of Gallup, shall:
1. Hold paramount the safety, health and welfare of the public;
 2. Issue public statements only in an objective, truthful manner, consistent with the goals of City administration;
 3. Act for the City of Gallup as a faithful agent or trustee; and
 4. Conduct themselves honorably, responsibly, ethically and lawfully so as to enhance the honor, reputation and credibility in the delivery of service by the City of Gallup, both on and off the job.
- C. Rules and Understanding. Covered employees for the City of Gallup are to be held to a higher standard and it is to be understood that this Code of Conduct is required as a strict condition of employment. Violation of this Code of Conduct constitutes, “Misconduct or language towards anyone that discredits the public service,” (10.5 of the City Personnel Policy) and will result in discipline to include termination for severe or repeat offenses. In general, penalties will be more severe than for non-covered employees. This Policy constitutes both notice and warning, that termination will not necessarily be preceded by progressive discipline, given the professional status of the affected positions.

D. Professional Obligation.

1. Covered Employees shall be guided in their appearance and relations by the highest standards of character and integrity.
2. Covered Employees shall at all times strive to serve the public interest.
3. Covered Employees must avoid conduct detrimental to the City of Gallup or its reputation.
4. Covered Employees shall not disclose, without written consent, confidential information concerning the business affairs of the City of Gallup.
5. Conflicting interests shall not influence managers in the fulfillment of their professional duties.
6. Covered Employees shall acknowledge the importance of the ordinances of the City of Gallup, its union contracts, state and federal laws and all other rules and regulations when performing their managerial duties.
7. Covered Employees must conduct themselves professionally both on and off duty to include refraining from inappropriate conduct such as fighting, drug abuse, public intoxication, domestic violence, criminal offenses and all such similar behavior.

12.2 Political Activity

- A. Campaigning. Employees may participate in any federal, state, county, or local political campaign, provided such participation is conducted away from any City office or City work site and is not conducted during working hours. Any employee whose position is funded by a federal program and/or monies shall be subject to the provisions of 5 United States Code, Section 1501, et seq., as amended, commonly known as the Hatch Act.
- B. Political Candidacy. No employee of the City shall hold political office or be an officer of a political organization during his employment, provided that being a member of the local school board, tribal government, or an election official shall not be construed to be holding political office. Any appointed officer or employee who becomes a candidate for public office shall, upon filing or accepting the nomination and during the campaign, take a leave of absence, which shall be granted.

12.3 Outside Employment

A full-time City employee shall consider the City as his/her primary employer and may work outside of City employment if that work is not in conflict with the proper discharge of the employee's duties and responsibilities, the employment does not occur during assigned working hours, and the performance and attendance of the employee is at least satisfactory as determined by management. Authorization for outside employment may be obtained by submitting a written request to the employee's Department Head with a copy to the Personnel Director. The request shall include the name of the employee's supervisor, the nature of the outside work that will be performed; the beginning, ending and total hours that will be worked per week; the name of the outside employer; the name of the outside employment supervisor; a statement that the employee recognizes the City of Gallup as the primary employer; the employee's signature; and the date of the request. This request requires the recommendation of the Department Head and the approval of the Personnel Director. If approved the authorization is for twelve (12) months from the date of approval, however, the authorization may be withdrawn if the employee's performance or attendance are negatively affected or if the employment conditions change.

12.4 Personal Appearance of Employees *01/15/2007;EH*

It is the policy of the City of Gallup that each employee's dress, grooming and personal hygiene be appropriate to the work situation. Employees are expected at all times to present a professional, business-like image to customers, visitors and the general public. Work attire should complement an environment that reflects an efficient, orderly and professionally operated organization. This policy is intended to define appropriate business attire during normal business operations and casual business attire on Fridays.

- A. Office workers and any employees who have regular contact with the public must comply with the following personal appearance standards and dress code guidelines. Management reserves the right to change these guidelines, if necessary.
 - 1. Employees are expected to dress in a manner that is normally acceptable in a similar business and professional work environment. Employees may not wear shorts, tank tops, halter tops, cargo pants or excessively baggy pants; athletic clothing such as sweats, T-shirts, etc., and suggestive attire such as see-through garments, exposed undergarments or similarly inappropriate clothing.
 - 2. Skirt/dress length not shorter than 6" above the knee is appropriate.
 - 3. Shoes must be clean and in good condition. Sneakers, slippers, athletic shoes and flip-flops are not allowed.

4. Consistent, clean personal grooming is required. Tattoos and body piercings, (other than earrings) should not be visible. Hair should be clean, combed and neatly trimmed or arranged. Exotic hair colors or styles are not permissible.
- B. The City of Gallup recognizes the popularity of casual business dress and the positive effects of this shift, to boost employee morale, encourage more open communication, increase productivity and creating a more comfortable work environment. Therefore, casual business attire will be permitted on Fridays of each week.
 1. Even though the dress code is casual, a professional appearance is always expected.
 2. Denim jeans are allowed on such days. Faded, torn and disheveled jeans are not allowed.
 - C. Employees who do not regularly meet the public and routinely work in the field should follow basic requirements of safety and comfort, but should still be as neat and business-like as working conditions permit.
 - D. Certain employees may be required to meet special dress, grooming and hygiene standards, such as wearing uniforms, depending on the nature of their job.
 - E. Employees who do not meet the standards of these dress code guidelines may be required to take corrective action, including leaving the premises to correct the problem. Any work missed because of failure to comply with the dress code will not be compensated. Violation of this policy may also result in disciplinary action, up to and including termination.
 - F. Department managers and supervisors are responsible for monitoring and enforcing this policy. Failure to administer this policy accordingly is grounds for suspension without pay and other penalties even upon first offense.

12.5 Training

- A. The City recognizes that when employees pursue additional job related training or higher education, it serves to improve the quality of services provided.
- B. If the training is a requirement as part of the conditions of employment, (qualifications) or as part of the maintenance of a required certification or license the cost will be borne by the employee. If the City determines that additional training, not identified as a qualification at the time of employment, is mandatory, such training shall be paid for by the City. In the event that an employee has been requested to execute an agreement as a condition of employment and/or training, that agreement will supersede this section.

- C. Contingent on the availability of funds, training or classes that are job related that have been requested by the employee, recommended by the Department Head, and approved by the City Manager in advance of the employee signing up for the training or classes, will be paid for by the City subject to the satisfactory completion of the training. Training or classes that are not job related may also be considered for reimbursement upon the recommendation of the Department Head and the approval of the City Manager. The cost of books and fees may also be paid for by the City.
- D. The City Manager may prospectively clarify requirements for City reimbursement of employee requested instruction from particular schools, institutions, and courses.
- E. Procedures for Requesting Payment for Higher Education. Employees requesting payment for higher education courses must request approval by completing an Agreement for Schooling Form. The request forms will be processed by the City Clerk's Office. The City Clerk will submit to the Personnel Department, a list of individuals who have requested payment for schooling and documentation of completion to be included in the employee's personnel file. The Agreement for Schooling Form provides the established guidelines for payment of higher education courses.
- F. Repayment of Training. The following is implemented to protect, promote and enhance the investment of City tax dollars in employee training costs. Where this specific topic is addressed in a bargaining unit contract, said contract shall prevail. Otherwise, the following shall apply:
 - 1. Upon Voluntary Separation of Service. All training and such associated travel costs exceeding \$1,000 during the previous twelve (12) months of service shall be deducted from the employee's final pay.
 - 2. Upon Retirement. All non-mandatory training and such associated travel costs exceeding \$1,000 during the previous twelve (12) months of service shall be deducted from the employee's final pay.

12.6 Disclosure of Information

Unless the information has already become public, no City employee may use or disclose any information gained from City employment if the information results in a financial or personal benefit to the employee or to a family or household member.

12.7 Solicitation and Distribution

Employees are prohibited from soliciting or distributing literature to other employees during their working time or during the working time of the person being solicited or receiving literature. Furthermore, employees are prohibited at all times from distributing literature in working areas. "Working time", as used in this policy, does not include break periods and meal times.

12.8 Appointed Officials

All appointed officials shall have all benefits and obligations of regular employees under the Personnel Rules which are not in conflict with the City Charter or any employment contract.

12.9 Computer and Internet Usage

An Internet Use Policy separate from these Rules and Regulations is in effect as of August 1, 2005. Internet users are subject to the standards and requirements of that Policy. *06-10-05 E.H.*

- A. All computers (lap tops, personal, and main frame) and any other computer hardware, accessories, software, and information are the sole property of the City of Gallup and may be used only for City business.
- B. All e-mail and any or all internet engines and or links utilized by the City of Gallup are the sole property of the City of Gallup and their use is only for City business.
- C. Any and all information generated or meshed on, with or through any or all City computers, accessories, computer programs, any or all links, the e-mail, the internet or any other means is the sole property of the City of Gallup.
- D. E-mail and internet correspondence must be job related and is available only for City business.
- E. The misuse of any or all of the above will result in disciplinary action up to and including dismissal.

12.10 Cellular Phone Usage *06-10-05 E.H.*

- A. Cellular, (cell) phones may be required for specified positions. As a condition of employment, employees who are issued City cellular phones or are given a cellular phone allowance are required to be accessible by such phones during working hours. Appropriate cellular phone use is as follows:

1. Personal phone calls and usage to conduct personal business on City provided cell phones is strictly prohibited.
 2. Employees should refrain from using cell phones when driving. If necessary, some type of hands-free device should be used.
 3. Employees may be liable financially for any damage due to negligence, misuse or loss of City cell phones.
 4. Improper use of City cell phones will result in disciplinary action up to and including termination. Improper use may include any misuse described in this policy or any use for the purpose of conducting illegal transactions, harassment, threats or intimidation of others.
- B. An allowance will be given to specified employees to compensate for the use of personal cellular phones for City business. The allowance is given for the purpose of maintaining contact for during working hours.
1. Allowance shall be payable at \$15 to \$25 per pay period to compensate for the use of a personal cell phone for City business.
 2. The personal cell phone will remain the property of the employee and the City will have no liability for any phone usage beyond the specified allowance, maintenance or replacement thereof.

SECTION 13: SEVERABILITY

If any part or application of the Personnel Rules and Regulations is held invalid, the remainder of its application to other situations or persons shall not be affected.