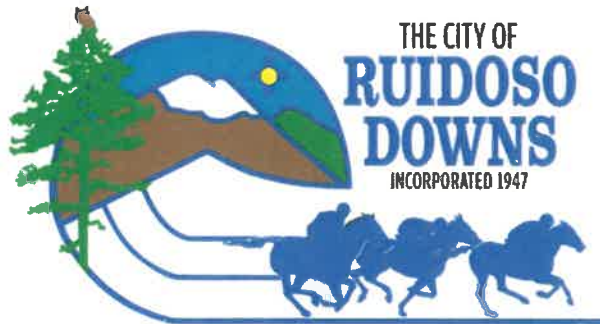


Employee # _____



PERSONNEL

POLICY MANUAL

CITY OF RUIDOSO DOWNS
PERSONNEL POLICY MANUAL

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CHAPTER 1

PERSONNEL PRACTICES

Rule 100

These rules shall govern all phases of Personnel Administration in the City of Ruidoso Downs and shall supersede any rules heretofore adopted. It is not the purpose of this manual to create an implied contract of employment beyond the specific provisions contained herein. Amendments to this manual shall be made in accordance with the provision contained within this policy manual as adopted by the Governing Body.

101

It is the policy of the City of Ruidoso Downs that equal opportunity shall govern all personnel policies and practices and shall include, but not be limited to:

- A) Recruitment, hiring and promotion of any qualified person without regard to race, color, ancestry, religion, veteran status, or national origin, age, sex, physical or mental disability, except where such is a bona fide occupational qualification as defined by applicable Federal, State, or City laws and regulations. The City further reaffirms its intent to provide reasonable accommodations to disabled employees or applicants in an effort to enhance accessibility to the work place.
- B) Employment and promotion of individuals who are best suited by training, ability, experience, demonstrated competence and interest in performing the responsibilities of each position.
- C) Personnel actions such as compensation, benefits, transfer, lay off, reinstatement, training and social and recreational programs administered in accordance with applicable Federal, State and City laws and regulations.

CHAPTER 2

AUTHORITY FOR ADMINISTRATION

Rule 200

Department Heads referred to in these rules are:

- A) City Clerk/Treasurer
- B) Director of Finance/Procurement
- C) Director of Public Works
- D) Director of Planning and Zoning
- E) Director of Museum
- F) Police Chief
- G) Fire Chief

201

Supplemental personnel regulations not in conflict with these rules may be drafted by Department Heads to meet specific needs of their areas of responsibility. Such supplemental regulations must be authorized in writing by the Mayor prior to implementation. Such departmental or divisional regulations shall have equal value to these rules in respect to approved categories.

201.1

Departmental or divisional rules or regulations shall have the same force and effect as those promulgated by these rules, provided, however, that should there be a conflict between departmental or divisional regulations and the supplemental rules, the City of Ruidoso Downs Personnel Policy Manual rules shall govern.

202

The provisions of the Personnel Policy Manual shall apply to all persons employed by the City of Ruidoso Downs, except as follows, or otherwise specified:

- A) Officials elected by popular vote or appointed to fill vacancies in elective office.
- B) Members of City boards and committees appointed by the Mayor and approved by City Council.

- C) Independent contractors.
- D) Volunteers, except as otherwise noted herein.
- E) Employees of the Municipal Court, unless otherwise determined by the Municipal Court.

CHAPTER 3

EMPLOYEE CATEGORIES

Rule 300 Designation of all positions within the City shall be Exempt Executive, Non-Exempt Executive: Department Heads, Non-Exempt Administrative or Classified, defined as follows:

Exempt Executive: Designated Appointed positions which include:

- A) Police Chief
- B) City Manager/City Administrator*
- C) City Attorney
- D) City Clerk/Treasurer

Non-Exempt Executive: Department Heads:

- A) Director of Finance/Procurement
- B) Director of Public Works
- C) Director of Planning and Zoning
- D) Director of Museum
- E) Fire Chief

Non-Exempt Administrative:

- A) Deputy Police Chief
- B) Public Works Foreman and Public Works Assistant Foreman
- C) Procurement Manager
- D) Museum Curators
- E) Museum Gift Shop Manager

Classified:

All full-time positions other than Executive and Administrative

*At the time this personnel manual was last modified, the City did not have a City Administrator/City Manager position. This category is left in should future administration determines a need for City Administrator/City Manager position.

Types of Positions

All personnel shall be categorized in one of the following employment designations:

- A) Full-time positions: positions established with the expectation of indefinite continuity with a work schedule of 37.5 to 40+ hours of work per week.
- B) Part-time positions: positions established with the expectation of indefinite continuity with a work schedule of less than 37.5 hours of work per week. For benefit eligibility, a part-time position must require at least 20 hours of work per week. Part time employees may not work more than a total of 1,664 hours in a given fiscal year. Human Resources shall notify the Department Head when any part time employee has reached 1,450 hours in any City fiscal year. The Department Head shall notify the supervisor, that the employee in question is about to exceed his/her annual 1,664-hour limit. The supervisor must then adjust the workload in the department. Any part time employee who has reached the 1,664-hour threshold in a fiscal year shall not be hired into any other status during the same fiscal year, except that of a full time classified position providing that the City has funds available within its budget and the position is approved by the Governing Body.
- C) Temporary positions: positions established for a definite period of time up to one (1) year. Employees in temporary positions are not eligible for employee benefits.
- D) As-needed positions: positions established with no guarantee of hours or specified period of employment. As-needed employees are not eligible for employee benefits.
- E) Term Positions: positions that are funded by a grant and created solely for the duration of the grant. If the grant ends and is not renewed, the position expires. A term employee must receive 14 days notice prior to termination. Term employees are eligible for insurance benefits, accrued vacation and sick leave, participate in the retirement program and may have an annual evaluation. Terms serve a one-year probationary period, after which they have the benefits and rights of permanent employees. After the probationary period, the employee is still a term, not a classified (permanent) employee. If a term employee takes a permanent position,

he/she shall commence a new 12-months probationary period, unless the requirement is waived by the Mayor.

302 Employee Status

- A) Regular employee: an employee who has completed the initial probationary period successfully.
- B) Probationary employee: an employee who has not completed the probationary period as established herein.
- C) Interim employee: an individual appointed to a vacant position for a designated or undesignated period pending the recruitment, selection and placement of a probationary employee or during the absence of the incumbent employee.

303 Job Descriptions

Each position shall be described by a Job Description, which shall include the title, significant duties and responsibilities, and qualifications applicable to the job duties. The job description as a whole shall be considered in determining the job title and pay.

304 Study of Individual Positions

Human Resources shall arrange for job position studies of individual positions as appropriate.

305 New Positions

Whenever a new position is established, the Department Head shall submit a written job description detailing the duties of the position. Human Resources shall investigate the actual or proposed duties and Human Resources and the Finance Director shall establish a position title and pay for the position which shall be presented to the Governing Body for approval.

306 Change in Job Duties

Department Heads shall notify Human Resources promptly, in writing, of each recommended, significant, permanent change of duties, responsibilities, or work assignments for positions under their supervision. Department Heads shall review all job descriptions within their area of responsibility for accuracy on a yearly basis.

307 Improper Title or Grade

Employees who consider their position improperly titled or paid shall submit a written request for a review to the Department Head and Human Resources who shall investigate and review such requests. Recommendations, if any, for re-titling or pay adjustment shall be made by the Department Head and Human Resources and presented to the Governing Body for final approval. If a change in title or pay is not justified and is denied, the employee(s) shall be informed promptly in writing of such decision through the chain of command.

308

Except as otherwise provided for in these rules, no employee shall receive compensation from the City in addition to the pay established for the employee's position for any services rendered by the employee either in the discharge of the employee's ordinary duties, which may be imposed upon the employee or which the employee may undertake or volunteer to perform. No reward, gift, or other form of remuneration in addition to regular compensation shall be received from any source other than the City by an individual employee for performance of the duties as a City employee.

CHAPTER 4

RECRUITMENT AND SELECTION

Rule 400

Vacancies

Whenever a vacancy is to be filled, the Department Head shall submit to Human Resources a personnel requisition form containing all pertinent information concerning the vacancy. Requisitions must be approved in writing by Human Resources and the Mayor prior to posting vacancy notices.

401

Posting of Vacancies

All vacancy notifications, except for executive positions, shall be posted on specified City bulletin boards for a minimum of seven (7) calendar days, during which time requests for transfer or promotion shall be accepted by Human Resources. During this time the vacancies may also be advertised to the public.

402

Recruitment

Human Resources may publicize job openings through such media as will bring notice of recruitment to as many qualified persons as possible, including the filing of openings with the New Mexico Department of Labor, posting of job announcements in public places, and the advertising of vacancies through printed and electronic media generally available to minorities and women, as well as the general public. Each such visual or oral announcement shall state the City of Ruidoso Downs is an Equal Opportunity Employer. Individuals shall be recruited from a geographic area as wide as necessary in order to find the candidate who best fulfills the needs of the position and in compliance with Federal and State statutes.

403

Employment Applications

Applications shall be submitted on the standard City of Ruidoso Downs form. The application form shall not solicit information prohibited by law, except for those positions where age, physical condition or absence of criminal convictions are bona fide occupational requirements or statutory requisites for public employment or where collection of such information is in accordance with statutory requirements. Applications for all positions shall be accepted in the Human Resources Office on days and times posted.

Active applications, as defined in Rule 409, for all positions for which the applicant qualifies and for which application is made shall be considered.

404 Competitive Examinations

All applicants, both employee and non-employee, for positions shall be subject to competitive examination. Examinations shall be confined to those matters that are job related and which fairly, validly and reliably test the capability and fitness of the applicant to successfully discharge the duties of the class for which the fitness examination is held. Examinations may be written, oral, physical, medical, performance tests, rating of training and experience, or any combination of these.

405 References

Human Resources shall perform a standard background check on all employees and extensive background checks on police officers and dispatcher applicants. Applicants shall be advised on the application form that they are subject to such reference checks and data verification. All such inquiries, whether made by personal, telephone or written contact, shall be documented and made a part of the applicant's file.

406 Certification

Certain positions require a certification by State or other governmental authorities including but not limited to, Water and Wastewater positions, Law Enforcement Officers and Emergency Medical Technicians. The City may require levels of certification applicable to specific positions, which will be outlined in the job description.

407 Driver's License

A valid New Mexico driver's license of appropriate category is a mandatory requirement of any City job, classification, or position that requires an employee to operate a motor vehicle at any time in connection with City business. Failure to hold such is cause for disciplinary action pursuant to Chapter 8 of this manual.

408 Applicant File

The Human Resources Office shall maintain a file of non-employee applicants. Applications, whether accepted or disqualified, will be

retained for a period of three (3) years. Applications are maintained as active only during the period of time which applications are accepted for each specific position.

409 Evaluation of Candidates

All candidates for a vacant position shall be evaluated against the same qualification requirements. Qualified applicants for a specific position will be referred by Human Resources to the applicable Department Head for review and selection for interview. Applicants selected for interview will be contacted by Human Resources to schedule interviews. The interview schedule will then be forwarded to the interview committee. An interview committee minimally consists of Human Resources, the relevant Department Head, and the Mayor. Interview ratings will be forwarded to Human Resources by the interview committee. Following interviews, reference checks shall be conducted on all prospective candidates. Department Heads and/or Human Resources may conduct reference checks.

410 Background Investigation

An investigation of a candidate's background, to include criminal records check and driving record, may be conducted depending upon the nature of the position and as directed by the Department Head and/or Human Resources Office.

411 Selection

Upon completion of interviews of the highest-ranking candidates, the Department Head shall notify Human Resources of the candidate(s) recommended to fill the position(s). Human Resources then makes a decision and forwards his/her final recommendation to the Mayor for approval and presentation to the City Council.

412 All qualifications being equal, City employees shall be given preference over non-employee candidates.

413 Offer of Employment

An offer of employment for a position with the City is made when the Governing Body gives approval to a recommendation for hire, subject to successful completion of the physical examination and pre-employment drug screen. The Governing Body must approve the appointment of all applicants prior to the start of employment with the City.

414 Physical Examinations/Drug Screening

All offers of employment shall be conditioned upon successfully passing a pre-employment physical examination and drug screening. The physical examination shall be performed by the City appointed physician or other qualified medical personnel at the expense of the City. The results of medical examinations and drug screenings shall be confidential, filed separately from other personnel records, and shall be made available only to those persons who are entitled to such information.

415 Interim Appointment

If there are no candidates available who have qualified for a vacant position, the Department Head may authorize the interim appointment of a current employee with approval from the Mayor. Such appointment shall be for an interim period, specified or non-specified, pending further recruitment and examinations. To be considered for regular appointment, the individual appointed must qualify on a competitive basis with all other applicants for the position.

416 Date of Hire and Anniversary Date

The date of hire shall be the first day the employee reports to work in full time capacity. In the event an employee is moving from a part time or temporary position to a full time position, the date of hire shall be the first day an employee reports to work in a full time capacity. The anniversary date shall be the same day and month in succeeding years.

417 Probationary Period

- a) Every classified employee shall work a minimum probationary period of twelve calendar months. An employee who receives a transfer to another department during the probationary period shall commence a new 12-month probationary period, unless the requirement is waived or extended by the employee's new Department Head.
- b) Administrative employees and law enforcement officers shall serve a one-year probationary period. It shall be the responsibility of the Police Chief to schedule uncertified police officers to start with the New Mexico Law Enforcement Academy at least twenty-two weeks prior to the end of the officer's probationary period.

- c) As executive employees serve at will to the Mayor and City Council, their position classification does not have a set probationary period.

418 Annual Leave benefits will accumulate during the probationary period, and the employee will be eligible to take annual leave after they have completed six months of employment. Employee benefits such as accrued sick leave, leave of absence, holidays and insurance may be utilized during the probationary period.

419 The Probationary Period allows the employee time to demonstrate fitness for the work position by the actual performance of all of the position's responsibilities.

420 Probationary employees may be dismissed at any time during the probationary period.

421 Probationary employees shall receive quarterly evaluations prior to the end of the probationary period. All department heads shall ensure the accurate and timely completion of these evaluations. If performance and employment conditions are satisfactory or above on the final evaluation, the employee shall attain regular employee status.

422 Extension of the employee's probationary period may occur at the recommendation of the Department Director with final approval by the Mayor. Those employees placed on extended probation shall be evaluated every six weeks for the duration of the extended probation.

423 Lay Off

Employees with regular status who have been laid off by the City for lack of work, lack of funds, or abolishment of position shall be offered the first vacancy in their former position which occurs within the six months following lay off provided:

- A) the individual has expressed in writing his/her desire to be considered for reinstatement; and
- B) a current address for the former employee is filed in the Personnel /Payroll Office; and
- C) the individual is qualified to perform the duties of the position.
- D) the Vacancy is approved in writing by the Mayor and the City Council has approved funding for the position.

CHAPTER 5

CONDITIONS OF EMPLOYMENT- EMPLOYEE CONDUCT AND RIGHTS

Rule 500 Code of Ethics - Public Employment as a Public Trust

In performing their duties and in their many contacts with citizens, City employees shall be continuously aware that the impression of the City which the public forms is based upon their manner, appearance, job performance, speech and conduct. Consequently, City government is dependent upon standards of reliability, integrity, industriousness, helpfulness, courtesy, efficiency, patience, grooming, dress and language that are appropriate to the work situation and acceptable to the majority of the community. A public employee away from the job shall exercise the same rights as any other private citizen insofar as they do not interfere with their performance on the job or undermine the public confidence in the City, the employee, or any other City employee.

500.1 The City expects all employees to conduct themselves in a professional manner during their employment. Employees shall adhere to their professional code of ethics as established by their department or profession.

The City is committed to conducting its business with integrity underlying all relationships, including those with citizens, customers, suppliers, communities, and employees. The highest standards of ethical business conduct are required of employees in performance of their responsibilities. Employees will not engage in conduct or activity that may raise questions as to the City's honesty, impartiality, or reputation or otherwise cause embarrassment to the City.

Every employee has the responsibility to ask questions, seek guidance, report suspected violations, and express concerns regarding compliance with this policy. Retaliation against employees who use these reporting mechanisms to raise genuine concerns will not be tolerated. Department Directors/Mayor are responsible for supporting implementation and monitoring compliance.

500.2 Code of Conduct

The City recognizes the importance of professional standards at all levels of the government and services provided to the community. The success of our services is dependent on the trust and confidence earned

from employees, citizens, and the Governing Body. We gain credibility by adhering to our commitments, displaying honesty and integrity, and reaching City goals solely through honorable conduct.

All employees deserve to work in an environment where we are treated with dignity and respect. The City is committed to creating such an environment because it brings out the full potential in each employee, which in turn, contributes directly to the City's success. Success for the City is dependent upon the standards of its employees regarding:

- Integrity and honesty
- Transparency and openness
- Impartiality, objectivity, non-discrimination
- Confidentiality
- Due diligence/duty of care
- Fidelity to professional responsibilities
- Avoiding potential or apparent conflict of interest
- Legality (respect for the rule of law)
- Efficiency
- Equality
- Justice
- Responsibility
- Accountability

The City is an equal employment affirmative action employer and is committed to providing a workplace that is free of discrimination of all types from abusive, offensive or harassing behavior.

At the City, everyone should feel comfortable to speak his or her mind, particularly with respect to ethics concerns. Directors have a responsibility to create an open and supportive environment. The City will benefit tremendously when employees exercise their power to prevent mistakes, wrongdoing and unethical behavior. Human Resources and the Director will investigate all reported or questionable unethical behavior. In every instance where improper behavior is found to have occurred, the Director will take appropriate action. The City will not tolerate retaliation against employees who raise genuine ethics concerns in good faith.

(A) Applicability

This policy in all its sections shall apply to all City employees, no matter their classification. Employees are to uphold State and Federal

laws and the rules, regulations, policies, laws, and ordinances of the City. Employees are not to use their positions or official capacity to obtain personal gain or to give unwarranted benefits or unwarranted treatment to any person. Any employee who engages in any such behavior will be subject to corrective action up to and including termination of employment. Because the City's strong disapproval of such inappropriate or offensive behavior, all employees must avoid any action, conduct, or behavior that could be viewed as a violation of this policy. Employees shall maintain public trust and the trust of the City Officials and Governing Body.

****Remember, perception is everything to our citizens.
What people perceive as truth, is to them, the truth****

(B) Code of Conduct All City Employees Shall:

- Maintain public trust during their tenure with the City.
- Remember that he/she represents the City at all times. Any action or behavior by an individual employee is a reflection of the City as an organization.
- Accept their position as a means of unselfish public service, not to benefit personally, professionally, or financially from his/her position.
- Treat all members of City employment and all community members with respect despite differences of opinion; keeping in mind that professional respect does not preclude honest differences of opinion but requires respect within those differences.
- Recognize that the primary function of local government at all times is to serve the best interests of all of the people.
- Honor confidential information, seek no favor and accept that personal aggrandizement or profit secured by holding these positions is dishonest.
- Conduct themselves to maintain public confidence in their local government and in their performance of the public trust.

- Conduct official business in such a manner as to give the clear impression that they cannot be improperly influenced in the performance of their official duties.
- Conduct the business of the public in a manner that promotes open and transparent government and maintain full compliance with the Open Meeting Law.
- Not solicit or accept gifts that benefit the employee's (or immediate family or household member's) personal or financial interest if it can be reasonably inferred that the gift is intended to influence the employee's actions or judgment.
- Use City resources for lawful municipal purposes only. Municipal resources include but are not limited to, municipal personnel and the City's money, vehicles, equipment, material, supplies or other property. No municipal official or employee may use or permit the use of municipal resources for personal or private purposes unless that purpose is in the best interest of the community or public safety and is authorized by the Mayor.

(C) Ethics Complaint Procedure

Any complaint regarding the conduct of an employee should be taken seriously and shall be directed to the Department Director.

- Individuals who file a complaint and those who are the subject of the complaint must not disclose to anyone outside of those involved in the complaint process their role in an ethics complaint. Disclosing this information may jeopardize the ethics process and violate the rules of fundamental fairness by which all parties are protected.
- If an investigation is deemed warranted, the Human Resources Office and Director shall initiate an investigation of the complaint and notify the individual involved of such. The results of the investigation shall be managed in accordance with procedures identified in the City's Personnel Policy.
- If it is determined that unethical conduct has occurred, the Department Director may impose sanctions, including reprimand, censure, suspension for three (3) days or longer or removal from the position of employment as provided for in Chapter 11 of this Personnel Policy.

- Any employee who is involved in business or financial operations or situations which are or may be in violation of this policy, is required to immediately disclose the matter in writing to the employee's Department Director. The Department Director will provide a written determination as to whether a violation exists or will exist. If it is determined that a violation does exist, the Department Director, shall notify the Mayor who will make a determination as to what steps will be taken: including but not limited to, reassignment of duties to avoid violation, notification of all involved, and allowing the employee to continue in his/her official capacity.
- Other violations or not reporting business or financial interest or potential business or financial violations, shall be handled through disciplinary process as stated in the Personnel Manual of the City.

(D) Accountability

Each employee of the City is responsible for knowing and adhering to the values and standards set forth in this Code and for raising questions if they are uncertain about the City policy. If employees have questions or concerns about the standards being met or if they are aware of a violation of the Code, they should contact Human Resources or the Mayor.

(E) Conflict of Interest

The City prohibits employees from using their position for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

Employees in a position to deliver services to eligible individuals will avoid the real or perception of any conflict of interest when the eligible individual is a relative, close friend, or other person of interest. The Department Director/Mayor must be made aware of the relationship of the person receiving services through the City and will give guidance to the employee on how to handle any actions to be taken.

(F) Distribution and Education

Human Resources shall also provide a copy of this policy to all employees and to every Department Director promptly within ten days following the date on which the Personnel Manual takes effect.

500.3**Confidentiality**

Information regarding customers or employees should be held as confidential information except where specified by state law. No employee shall disclose at any time, either directly or indirectly, any information regarding the City employees, vendors, or customers. Further, this confidentiality requirement continues after the term of employment. Any breach of confidentiality shall be considered a serious allegation and will not be tolerated. Any breach of confidentiality by an employee will be subject to disciplinary action up to and including dismissal.

Employees shall not maintain any permanent record that contains confidential information in files for personal use.

501**Attendance**

Good business ethics also include practicing good attendance habits. All employees should regard coming to work on time, working their shift as scheduled, and leaving at the scheduled time as essential functions of their jobs. Good attendance habits form an integral part of every employee's job description. Among other things, "good attendance habits" mean the following:

- Being at your workstation ready for work by the start of the shift; remaining at your workstation unless the needs of the job require being elsewhere, except during authorized breaks (including restroom breaks).
- Taking only the time normally allowed for breaks.
- Remaining at work during your entire shift, unless excused by a Department Director.
- Not leaving work during your entire shift, unless excused by a Department Director.
- Leaving promptly at the end of your shift unless you have been given advance permission from your supervisor to work past that point.
- Personally notifying your Department Director or another member of management if you are unable to make contact with your Department Director, that you are going to be either

absent or tardy, unless a verifiable emergency makes it impossible for you to do so.

- It is not sufficient to call in and leave a message with a coworker or someone else that is not in a supervisory position.
- Failure to give proper notice of attendance problems in advance as explained in this policy will not be tolerated and can result in disciplinary action up to and including dismissal.

If an employee is absent without notice for three days in a row, they will be considered as having abandoned their job, and the City will process a Personnel Action Notice as voluntary resignation on the part of the employee.

An employee shall arrive promptly and be prepared to work at the scheduled time and place. In the event that illness or other conditions prevent arrival of punctuality, the employee, personally shall notify immediate supervisor as soon as possible prior to the scheduled reporting time giving the reason for failure to report and estimating, whenever possible, when he/she will be able to report for duty.

- 502** The approval by a Department Head of requests for leave with pay or leave without pay for the time involved in an absence shall be based upon the reasons involved, the availability of accumulated leave time, the employee's performance, and attendance history. The Department Head shall consider Departmental workload, employee service needs, and Departmental emergency situations when deciding on leave approval.
- 503** Failure to provide proper notification as required in paragraph 501 or failure to report to work on time shall constitute a tardiness and shall be cause for disciplinary action as outlined in Paragraph 807.1.
- 504** Excessive absenteeism is cause for disciplinary action. Absence exceeding four percent (4%) of an employee's scheduled regular work hours during a rolling calendar year is considered excessive absenteeism. An absence is defined as:
- A) any sick leave not authorized in writing by a physician.
 - B) any unpaid time, whether excused or unexcused, except FMLA leave when applicable and Workers' Compensation Disability Leave, when applicable.

505 A rolling calendar year is the **previous** 12-month period from the date of the last incident of absence. Excessive absenteeism shall be cause for disciplinary action as per Chapter 8 of this manual.

506 Rest Periods

Each employee may be allowed a rest period of no more than 15 minutes (including travel time) twice a day as authorized by the supervisor. Rest periods shall be taken only after having been on the job a minimum of two (2) hours, unless otherwise approved by the supervisor. Rest periods cannot be accumulated for other purposes such as vacation, adding to Meal Time or as a means of leaving the job early. Abuse of rest periods is grounds for disciplinary action under Chapter 8 of this Personnel Policy. Employees may be required to remain at the work site during their rest periods.

507 Meal Time

A City employee shall be entitled to time off to eat during each work shift. Such meal time, to be scheduled by the supervisor, shall be unpaid time, unless the employee is required to remain at the work site, or subject to call, in which case the Department Head may authorize a meal period as part of time worked.

508 Telephone

Every City employee shall provide the Department Head and Human Resources Office with a phone number where he/she can be contacted outside of work.

508.1 All employees are required to demonstrate professional and courteous conduct on all City telephones. Employees should always identify themselves and their department when receiving incoming calls. Every effort must be made to transfer misdirected calls to the proper person and department. Personal long-distance calls, including long distance faxes, shall not be charged to City telephones. Excessive use of phones for personal business or usage that interferes with the execution of City business will be grounds for disciplinary action under Chapter 8 of this Personnel Policy.

508.2 Employees shall not place or receive calls on cellular or mobile telephones while operating city vehicles or equipment unless using a hands-free device. If a hands-free device is not being used then, City vehicles or equipment shall be brought to a full stop and out of traffic

before use of cellular or mobile telephones. In an emergency, departments responding shall be exempt.

508.3

Cellular Phone Allowance

The City of Ruidoso Downs does not provide cell phones to individual employees. If it is determined that an individual requires a cell phone for effective performance of their duties, the employee may apply for a cell phone allowance as described below. To increase the efficiency and effectiveness of local government communications, the Mayor will determine who is required to acquire a personally owned cellular phone and make themselves available thereby at all reasonable times in accordance with this cellular phone policy. The Mayor authorizes Department Directors to determine which employees require the use of a cellular phone.

Cellular Phone Policy Stipend and Requirements

- A) The employees designated by the Mayor to acquire a personally owned cellular phone shall receive a monthly cellular phone stipend of \$50.00. This will be payable in one installment on the last paycheck of each month. Employees who are currently assigned a cellular phone by the Mayor shall continue the use of their current cellular phone number.
- B) Employees who are subsequently designated by the Mayor shall acquire a cellular phone of their choice and subscribe to a cellular phone plan of their choice in their own name and for which they shall be financially responsible.
- C) Each employee receiving a cellular phone stipend shall, prior to the receipt of such stipend, fill out a form for the cellular phone stipend stating the cellular phone number and cellular phone carrier. Cellular phone numbers must be a local call, meaning the area code needs to be (575) and the cellular number needs to be local. This is to avoid long distance charges when calling these numbers from a landline. Cellular numbers shall be published and distributed as necessary to management, administrative staff, and public. Attachment A, the Cellular Phone Allowance & Authorization Form must be completed and contain the employee's signature, and the Mayor's signature to be considered as fully executed.
- D) Exempt employees receiving cellular phone stipends shall make themselves available by cellular phone at all reasonable times,

including weekends, days off, holidays, and when cellular phone service is available during out-of-town vacations and business travel.

- E) Exempt employees receiving cellular phone stipends will be allowed to make and receive personal calls on the cellular telephone they use in the course of their work duties. Personal calls made or received during normal work hours will be kept to a minimum.
- F) Employees receiving cellular phone stipends will be expected to maintain continuous cellular phone service; significant lapses in cellular phone services may render an employee ineligible for cellular phone stipend and may result in additional sanctions.
- G) The allowance plan is not designed to cover the full cost of a cellular telephone, but rather to fund a portion of the allowance plan granted to an employee, since the telephone can be used for personal business. Additional compensation may be considered from time to time for extraordinary business-related circumstances.
- H) The City of Ruidoso Downs may cancel the stipend by written notification to the employee thirty (30) days prior to cancellation. Every year, a new Authorization Request Form for Cellular Phone Allowance will be filled out to coincide with the budget for the fiscal year. Therefore, each of the authorization Request Forms for Cellular Phone Allowance will end on June 30th of each year. The cellular phone allowance will not continue until a new request form is approved by the Mayor and/or City Clerk.
- I) Employees will be responsible for all phone equipment purchases including the cellular phone and any other accessories. Employees are solely responsible for their individual cellular phone contract regardless of their status as a City employee.
- J) Exceptions to this policy may be granted when, for security purposes, it is necessary for the City of Ruidoso Downs to purchase a cellular phone and cellular usage plan for an employee or department.
- K) Employees may at the discretion of the Mayor or their designee be requested to present the cell phone call log and/or text log provided by the phone carrier as it relates to City of Ruidoso Downs business.

- L) The City of Ruidoso Downs may provide cell phones to a department for use as needed by the department. These phones are normally assigned to a location or vehicle and not to an individual.

509

Outside Employment and Volunteer Activities

Employment with the City shall be considered the primary employment of all full-time employees. Such employees shall not engage in outside employment or volunteer activities that conflict in any manner with the employee's responsibilities to the City. This includes, but is not limited to, outside employment activities during work hours paid by the City, taking outside employment telephone or email correspondence on City-owned telephones, fax machines, or computers, and driving to outside employment locations during or after regular work hours in City-owned vehicles.

509.1

Other employment is subject to the written approval of the Department Director following final approval by the Mayor. An employee shall fill out the request for permission for outside employment found in Attachment E and submit it to the Department Director for approval. This form will need to be submitted and approved or disapproved on an annual basis (fiscal year) and when an employee gains and/or has changes in outside employment. The Department Director shall be responsible for determining if a conflict does or may exist with the City employment. A copy of the approval or denial shall be kept in the employee's personnel file in the Human Resources office. Permission to engage in outside employment may not be granted if:

1. The outside employment impairs the employee's on-the-job efficiency.
2. Unfavorable publicity to the City or poor public relations would result.
3. The duties to be performed or services to be rendered are such that the employee or the employee's subordinates will later check, inspect, or pass judgment on such activity while serving in an official capacity with the City.
4. The outside employment conflicts with the employee's official capacity with the City.
5. The employee receives below average rating from the supervisor on punctuality, safety, work performance, or attendance records.

6. The outside employment is unusually physically strenuous and/or hazardous. Permission may be withdrawn if, upon review by the employee's Department Director, it is determined the employee's work performance, attendance, or other conditions of employment are not meeting the City needs.

510 Political Participation

No City employee shall campaign, distribute literature, or solicit political contributions while on the job. No City employee shall prohibit the right of another employee to have and express a personal choice or commitment provided such expression of views does not interfere with anyone's work duties.

- 511** No person shall solicit contributions or assessments for any political party or candidate during working hours. No City employee shall ever be expected, required, or coerced to contribute to any campaign.

- 512** No City employee shall purport to represent the City at any political meeting, political activity, or in political publicity unless authorized in writing by the Mayor.

- 513** No one shall prohibit City employees from voting or from exercising his/her political rights as private citizens during non-working hours.

- 514** A City employee who chooses to run and campaign for political office shall not campaign during working hours. An employee elected to a post may retain City employment after election if the elective post is not in violation or conflict with City employment under statutory definition.

515 Solicitation and Distributions

The personal sale of goods or services or any conduct of a commercial business by an employee on City property is prohibited. Solicitation, posting or distribution of any material on City property by employees or non-employees is prohibited unless approved in advance by the Mayor.

516 Voluntary Contributions

No City employee shall be required to contribute funds to a community volunteer service or charity drive. Employees wishing to serve as volunteers to collect contributions from other employees must obtain approval from the Mayor prior to any solicitation activity.

517 Voting Time

A City employee who is registered to vote shall be granted up to two (2) hours time between the time of opening and the time of closing the polls to exercise this privilege when requested in advance. In accordance with state law, the supervisor shall specify the hours during this period in which the workers may be absent. The specified hours may include time before a scheduled shift and following the end of a shift. The provisions of this state law do not apply to any employee whose workday begins more than two (2) hours after the opening of the polls, or ends more than three (3) hours prior to the time of closing the polls. Supervisors may adjust work schedules to ensure adequate personnel coverage.

518 Hiring of Relatives

It is the policy of the City to avoid the practice or appearance of nepotism in employment.

519 Except as provided in Section 10-1-10, NMSA, 1978, as amended, no person related by consanguinity or affinity within the third degree to any elected or appointed City officer shall be employed unless approved for employment by a majority of the Governing Body.

520 Employees related by blood or marriage or domestic partners who are in a direct supervisor-subordinate working relationship may be removed from such working relationship, or otherwise disciplined, if it is determined that the subordinate has requested preferential treatment or conferred by the supervisor in any matter relating to City employment.

521 Except as provided in Rule 520, no applicant or employee who is a relative of another City employee shall be prohibited from seeking and holding a City position or from retention and advancement in City service provided such applicant or employee meets all applicable qualifications on a competitive basis.

522 Citizen Verification

The City will not discriminate on the basis of a person's national origin or citizenship status with regard to recruitment, hiring or discharge. In compliance with the Immigration Reform and Control Act of 1986, all employees hired after November 6, 1986, regardless of national origin, ancestry or citizenship, must provide suitable documentation. An INS Form I-9 must be completed in order to verify identity and

employment eligibility. Any applicant refusing to do so will not be considered for hire.

523 Bulletin Boards

Employees are expected to read notices of job vacancies, official notices and their items of interest posted on departmental bulletin boards.

524 Because of the public nature of the bulletin boards, distasteful, risqué, or potentially offensive material shall not be posted.

525 Dress and Appearance

All employees are expected to appear clean, neat and conservative in keeping with the professional image of the City. Grooming and hairstyles shall comply with any departmental regulations. Jewelry, accessories and shoes shall be functional and safe for the work performed. Body odor, bad breath, cigarette smoke and excessive use of perfume and cologne can be offensive. Appropriate precautions must be taken. The City reserves the right to ask any employee improperly dressed to leave the job site to change clothing or to improve his/her appearance with loss of pay for the time absent from the job. Specific dress regulations will be included in departmental orientation.

526 Uniformed Personnel

Uniforms, which are provided to many City employees (as listed below), shall be maintained by the employee. Each Public Works and Parks Department employee will be provided five (5) City-approved work shirts and five (5) pairs of pants at the beginning of their employment. Replacement shirts and pants are to be purchased by the employee as needed. A uniform allowance is provided to the employee by the City for this purpose. Uniforms must be complete and appropriate for the season. Each department will maintain specific regulations for wearing its uniforms and related accessories and equipment. Uniforms, or any part thereof, shall not be worn during off-duty hours, except as incidentally necessary prior to arriving or after leaving work and during lunch periods.

Each Police Officer and Fire Fighter will be provided five (5) City-approved work shirts and five (5) pairs of pants at the beginning of their employment. Replacement shirts and pants are to be purchased by the employee as needed. A uniform allowance is provided to the

employee by the City for this purpose. Uniforms must be complete and appropriate for the season. Each department will maintain specific regulations for wearing its uniforms and related accessories and equipment.

526.1 Employee Safety Shoe Allowance Policy

- A) A full-time employee, whose job requires them to wear safety shoes per the department's Job Hazard Analysis, may submit (Attachment B) the City of Ruidoso Downs Safety Shoe Request Form to their Department Director.
- B) Safety Shoe request form will be accepted on the employee's anniversary date for their current position, or the Department Directors designated annual shoe replacement date. Department Directors have the discretion to approve the request annually.
- C) The Department Director will submit the approved Safety Shoe Request Form to the Finance Director for proper billing and charging to the stated Budget Line Item. The Finance Director, or designee, will match the merchant invoice to the Safety Shoe Request Form to verify approval of payment.

527 City Vehicle Usage

The City of Ruidoso Downs provides City owned vehicles as required for the efficient operation of City business. The City understands that certain standards must be enforced and followed for safe and efficient fleet operation. In addition, to deliver quality municipal services, at times, it may be beneficial to require an employee to take home a City vehicle.

- 527.1** It shall be the policy of the City of Ruidoso Downs to maintain general procedures for all employees to follow when City vehicle usage is permitted. In addition, the City shall permit authorized employees to take home a City vehicle according to the following procedures. City vehicles shall not be for personal use. Any departmental policy cannot conflict with this policy.

527.2 Employees Eligible to Take Home a City Vehicle

- A) If justification supports, employees who live within the City of Ruidoso Downs or within a 15-mile radius of the City limits are eligible to take home a City vehicle with written approval of the Department Director and Mayor. Employees who reside outside

the 15-mile radius of the City of Ruidoso Downs are not eligible to take a City owned vehicle home except:

- B) Emergency vehicles – which are defined by Federal regulations (Police and Fire departments only) and as approved in writing by the Chief of the department and the Mayor.
- C) Other vehicles on a case-by-case situation as approved in writing by the Mayor.
- D) There may be circumstances where an employee may take a City vehicle home on non-recurring basis. This is only when it is beneficial to the City of Ruidoso Downs, the department or Mayor, such as on call personnel, snow removal, and during an emergency. Employees still need to fill out (Attachment C), the “Request to Take Home a City Vehicle” and approval is still needed by the Department Director and Mayor. Employees that take a City vehicle home on a non-recurring basis need to mark that box on the request and list the reasons and when they would be taking a City vehicle home.
- E) Each Department Director is responsible for having the employees fill out the vehicle take home agreement annually based on fiscal year. New agreements are due no later than June 30th, to the Mayor for approval for the fiscal year. Department Directors shall also submit any updates as they occur during the year. These updates are also subject to the approval of the Mayor.
 - 1. Employees shall also be required to sign (Attachment D) an Employee Take Home Vehicle Agreement.
 - 2. The Department Director or designee shall personally review this policy, the Employee Take Home Vehicle Agreement, and any departmental vehicle policy with the employee.
- F) Each operator of a City-owned vehicle must possess a valid and properly classed New Mexico driver’s license for the vehicle being operated.

G) Non-Insurable Employee

An employee deemed non-insurable under the New Mexico Self Insurer’s Fund (NMSIF) will not be allowed to drive a City vehicle. Based upon the position the employee holds, an employee may be subject to dismissal from employment.

H) Assigned Vehicles

Some employees who regularly use City vehicles may be assigned specific vehicles. However, during business hours when the vehicle is not in use, it shall be made available to other City employees who may require the use of it.

I) Emergencies

In a bona fide emergency, when transportation is not available, the Department Director may request that another City vehicle transport the called-out employee.

J) Vehicle Safety:

1. When operating a City-owned vehicle, an employee shall strictly adhere to the safety manual, posted speed limits, and other motor vehicle and traffic regulations. Vehicles shall be operated in a safe and responsible manner appropriate to road, traffic, and weather conditions, with special regard to driving courtesy. It is the responsibility of the Department Director to ensure that all drivers receive Coaching the Experienced Driver Training or Defensive Driving Course or a related equivalent every two years.
2. All employees operating City vehicles shall exercise due regard for the safety of all persons; protection of life is paramount. Employees shall drive defensively at all times. No job, task, call, or incident justifies disregard of public safety and traffic laws. Further, City drivers are expected to demonstrate exemplary driving behavior.
3. All employees operating City vehicles or equipment are not to use a cell phone while driving a City vehicle or equipment. You must have hands free device if talking on a cell phone in a vehicle. This doesn't pertain to Police Officers or Firefighters.

K) Maintenance of Vehicle

1. Maintenance, repair, upkeep and vehicle inspections of the assigned vehicle are the primary responsibility of the employee to whom the vehicle is assigned.
2. If the vehicle is not specifically assigned to any one employee, it is the Department Director's (or designee's) responsibility to

assure that the maintenance, repair, upkeep and inspections are performed.

3. Except for those exempt by the Mayor, all City vehicles are to be identified with approved City emblems. These emblems are to be placed on the driver and passenger side doors. The logos must be permanent and not removable (example, magnetic not allowed).

L) Abuse of Misuse of a City-Owned Vehicle

An employee who abuses or misuses a City vehicle may lose the privilege of assignment or operation of the City-owned vehicle and possible dismissal from City employment.

M) Passengers

1. Animals are not permitted to ride in the same compartment in which humans ride. The K-9 Police Officer is the only exemption from this policy.
2. Non-employees conducting City business may at times ride in a City-owned vehicle with the approval of the Department Director or Mayor.

N) Personal Use of a City-Owned Vehicle

A City-owned vehicle is not to be used for personal use. These vehicles are to be used to transport an employee to and from work and to conduct related business.

1. Use of a City vehicle other than for work related business is strictly prohibited unless otherwise approved in writing by the Mayor.
2. However, if needed and “within reason” an employee is permitted to stop at a store or cleaners, etc. on his/her way to or from the worksite. An example of ‘within reason’ would be: an employee leaves work and drives by the grocery store on his way home from work. It would be appropriate to stop at the store for groceries. It would not be appropriate to drive the City vehicle home, and then drive the City vehicle back to the grocery store. If an employee is not sure of what is “within reason” the employee is responsible for asking the Department Director for approval.

3. No open alcoholic containers are permitted in a City vehicle with the exception of evidence materials.
4. No unopened alcoholic containers are permitted unless approved by the Mayor for City sponsored activities.

O) Departmental Procedures

This policy is the general guideline. A department that uses vehicles and allows take home vehicles may develop departmental policies. A Departmental policy cannot conflict with this policy. The Departmental policy is subject to the approval of the Mayor and will be submitted to the Human Resources Office once approved.

P) Federal Benefit Tax

The Federal Government has determined that taking home a vehicle is considered a benefit to the employee. According to the Federal Government, it does not matter why an employee takes home a vehicle, it is still considered a benefit, and therefore this benefit tax applies. An employee who takes home a vehicle for any reason (except for police and fire vehicles), must pay tax on an amount equivalent to \$3.00 for each day the vehicle is taken home. However, it is noted that if the Federal Government changes the \$3.00 the City will use the new amount for taxing purposes. The number of days a vehicle is taken home is to be entered on the employee's timesheet (days off are not counted). The Federal Government has determined that Police and Fire Departments emergency vehicles are exempt from this law. In addition, it specifically says that just because a vehicle has lights on it, does not make it an exempt emergency vehicle. This means that only the Police vehicles and the Fire vehicles are considered exempt. All other take home vehicles fall under this taxable benefit.

Q) Use of Personal Vehicles for City Business Approvals

1. Expense reimbursement request forms, together with required documentation, must be submitted to the employee's immediate Director for review and signature approval. The Department Director must have final approval of expense reimbursement from the Finance Director.
2. The Director approving expense reports is responsible for ensuring that the expenses reported are proper and

reimbursable under this Policy, the expense report has been filled out accurately and has the required documentation, and the expenses are reasonable and necessary.

3. Daytime travel for meetings will be considered under regular work assignments unless it includes other expenses such as training costs or mileage for use of a personal vehicle. The direct supervisor assigns work assignments.
4. All overnight travel and travel associated with training must be approved by the supervisor or department head prior to the date of travel except in emergency instances.
5. All City employees required to drive their personal vehicles on behalf of City business will be paid reimbursement based on the amount allowable in the New Mexico State Statutes and are required to meet the following criteria:
 - Meet the current requirements of the City's auto insurance policy.
 - Possess and provide copies of a New Mexico Driver's License to the Human Resources Office.
 - Possess and provide copies of proof of personal liability auto insurance, with minimum limits as required by state law. Copies must be provided to Human Resources.

Employees who use their personal vehicle on official City business must have prior approval from their immediate supervisor. A travel request form will be maintained by the employee and reimbursement will be made according to the mileage driven. Actual odometer readings will be used to calculate reimbursement mileage. A recognized resource may also be used to establish mileage such as but not limited to State of New Mexico Map, MapQuest, etc.

Mileage reimbursement rates are set in accordance with 510-8-4, NMSA 1978 (Per Diem and Mileage Rates).

R) Use of City Gas Cards

A City gas card must not be used for personal vehicles no matter what the circumstance.

S) Texting and Talking on Hand-Held Cell Phones While Driving Policy

To establish a policy that supports a safe driving environment to protect the employee and the public from the dangers of distracted driving. The following establishes a policy concerning the use of City owned and private cell phones on the job while driving City vehicle, equipment, and a personal vehicle on City business.

1. The City of Ruidoso Downs will not tolerate texting or talking on a hand-held phone while operating a City vehicle or while using a City issued cell phone while operating a personal vehicle on City business. This includes but is not limited to answering, or making phone calls, engaging in phone conversations, reading, or responding to emails and text messages. Hands-free devices are permitted; however, conversations should be quick or pull over to carry on a long conversation. The main purpose of being in a vehicle or on equipment is to focus on your work at hand and the equipment you are using. Radio operations are not affected by this policy.
2. The City of Ruidoso Downs employees are required to:
 - Turn cell phones off or put on silent or vibrate before starting the car.
 - Pull over to a safe place if a call must be made or received while on the road.
 - Consider modifying voicemail greeting to indicate that you are unavailable to answer calls or return messages while driving.
 - Inform clients, associates, and business partners of this policy as an explanation of why calls may not be returned immediately.

528 Firefighter Vehicle Usage

Firefighters, who are assigned a take home unit, shall have a response time of no more than ten (10) minutes to their Fire Station.

529 Employees are prohibited from utilizing City-owned vehicles for purposes other than commuting and business reasons. All employees must drive a City-owned or authorized vehicle while on City business

unless specifically exempted, in writing, by authorization of the Mayor.

530 If an employee is authorized by the Mayor to use the employee's personal vehicle on official, out-of-town business, the employee shall be reimbursed at a rate per mile established by Resolution from time to time.

531 Personally-owned vehicle contracts, if authorized by the Governing Body, shall be utilized in the manner specified by such contract and in accordance with applicable sections of these regulations. All contracts providing for the use of personally owned vehicles on City business shall include a provision that requires the employee to certify that the vehicle has automobile liability insurance and collision coverage in an amount sufficient to comply with New Mexico law and provide for repair or replacement of the vehicle.

532 Most employees who use City vehicles regularly will be assigned specific vehicles. Employees who are not assigned specific vehicles will be assigned vehicles from the pool as directed by the Department Head.

533 Relief Breaks and Meal Periods While Using City Vehicles

Relief breaks and meal periods are not official business. Employees shall use their best judgment regarding vehicle use for these periods. During normal operations, the employee may stop for a meal or relief break. Supervisors shall be responsible for assuring that vehicle use is not abused.

534 Operation of Vehicles

Vehicles shall be operated in a safe, lawful and responsible manner. Seatbelts shall be worn as required by law.

535 Vehicle Use Eligibility

The regulations concerning the eligibility of employees' use of City vehicles shall be established and approved by the Mayor.

535.1 Motor vehicles records will be checked monthly on all employees. Disciplinary action will be warranted should the records check reveal an apparent lack of concern for safety. Successful completion of an approved defensive driving course shall be required of all employees who operate City vehicles.

536 Work Safety

It is the official policy of the City of Ruidoso Downs that no job is so important and no service so urgent that time cannot be taken to perform work safely. Human Resources shall appoint a Safety Advisory Committee to establish and enforce safety standards and rules for the operation of City business.

- 536.1** Negligence or failure to follow safety rules and regulations are grounds for disciplinary action under Chapter 8 of this Personnel Policy. General safety policies are contained in a general safety manual and departmental safety policies.

537 Investigations and Audits

The City reserves the right to conduct appropriate investigations or audits for the purpose of monitoring the adherence of all City employees to the policies and procedures set forth in this manual as well as all policies adopted by reference. Such investigations and audits, based upon reasonable suspicion, may include, but are not limited to, the search of City property - both real and intellectual, including computer, email, electronic facsimiles, lockers and desks, regardless of the ownership of a securing device.

538 Personnel Record and Record Changes

Each employee may examine his/her own permanent personnel record at any reasonable time with at least four hours advance notice to the Human Resources Office. The City is not obligated to provide a copy of an individual's personnel file either during the course of employment or following separation.

- 539** Employees will be provided a copy of all personnel actions that affect their employment status at the time of the action.

- 540** Employees are encouraged to update their personnel files with evidence of additional skills and training, which they have acquired since employment and to update dependent, beneficiary and similar benefit information changes as they occur. Record changes such as address and phone numbers also shall be made in the Human Resources Office.

- 541** Personnel records, though public, are not all subject to public inspection. However, such records may be inspected with the written permission of the employee. Supervisors within the employee's chain

of command may inspect the employee's record without the employee's permission.

542

Firefighter Residency Requirement

The City recognizes the importance of quick response to call-outs related to fire and medical emergencies. Thus it is necessary, in order to protect the lives and property of our citizens, to require residency within a restricted area.

Therefore, Firefighters shall live within a ten (10) minute normal drive time response to the Fire Station to which their primary duties are assigned.

Cellular Phone Allowance & Authorization Request Form
508.3 (C) - Attachment A

Employee's Name	Position	Date
-----------------	----------	------

Cell Phone Must Be The Local Area Code & Number	Cell Phone Provider
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Reason for \$50.00 Cellular Phone Allowance:

Emergency Response Staff Member

Elected Official

Employee is regularly scheduled On-Call/Out of Town City Business

Multiple hours of remote work

Other: _____

I have read the Cellular Phone Allowance Policy. I understand that my cell phone number may be published or given out and that the main intent of a cell phone is for business. I also understand that I am financially responsible for any and all charges for my cell phone plan and equipment. I also understand that I may be requested to present my phone/text call log upon the Mayor's or their designee's request.

Employee's Signature	Date
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Department Director/Head Signature of Approval	Date
--	------

Mayor's Signature of Approval	Date
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Safety Shoe Request Form
526.1 - Attachment B

The City of Ruidoso Downs safety shoe policy allows eligible employees an annual allowance of \$150.00 for safety shoes. Employees are required to obtain the permission of their department director before requesting safety shoes. The director grants approval by signing this form and forwarding it to the Finance Department. The Finance Department will review the requisition for approval for the safety shoes, and forward both to the Department Director after approved.

Safety shoes are required to be non-slip, skid resistant or have a protective toe, and be of substantial quality. Safety shoes must meet or exceed the requirements of American National Standards Institute, Z-41.1, in the most recent edition.

Employee Name	Employee #	Employee Start Date
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Budgeted Line Item to Charge To	Job Title/Position	Dept.
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Director's Signature

**Request to Take Home City Vehicle
527.2 (D) - Attachment C**

Department: _____

Type of Vehicle	Year of Vehicle	Vehicle Model
-----------------	-----------------	---------------

Driver's Name: _____

Driver's Physical Address: (where the vehicle is driven to after each shift)

Is this Physical Address in the City Limits? _____

If no, how far away is this address from the City Limits? _____

Why does this employee need to take home a City vehicle? _____

How often will this vehicle be taken home each week? _____

Department Director Approval

Mayor Approval

*All City Take Home Vehicles are subject to the approval of the City Mayor. *

Submitted to Human Resources for record on: _____

**Employee Take Home Vehicle Agreement
527.2 (E)(1) - Attachment D**

Employee Name: _____

I am requesting, or my Department Director has requested that I take home a City vehicle. I acknowledge that my Department Director and I have gone over the:

- ☐ City Vehicle Usage Policy
- ☐ Department Vehicle Take Home Policy

I acknowledge that I have read the policy (or policies) and that I understand, and I agree to follow the policy (or policies).

I do understand that if I fail to follow the policy (or policies), I am subject to disciplinary action, up to and including termination.

I understand that should my physical address change, I will notify my Department Director immediately.

I further understand that I am not guaranteed a take home vehicle and that the City has the right to discontinue my take home privilege at any time.

Employee Signature

Date

Department Director & Mayor

By signing this, you are acknowledging that you as the Department Director and the Mayor understand the Vehicle Usage policy (and any vehicle take home policy pertaining to your department). You have gone over the City Vehicle Take Home Policy (and your department's vehicle take home policy) with your employee and have given the employee the opportunity to ask questions of the policy (or policies), and that you have made the employee aware of the importance and seriousness of following the policy (policies). I also understand that final approval of a take home vehicle is subject to the Mayor's approval.

Department Director

Mayor

**** This agreement will replace any previously approved agreements. ****

Request for Permission for Outside Employment for the Year _____
509 – Attachment E

I _____ (please print), hereby apply for permission to engage in outside compensated employment/non-CORD legal work.

Description of Employment/non-CORD Legal Work:

(Please include name, address, and phone number of client and/or employer, work hours, and nature of duties).

I _____ (please print), hereby certify that my proposed circle (as applicable) outside employment/non-CORD legal work is described accurately above, that it will not present a conflict of interest or appearance of conflict of interest with my official duties as an employee of the City of Ruidoso Downs, that it is not prohibited by law and does not violate any professional ethics, or violate the City of Ruidoso Downs personnel policies.

Employee Signature

Date

APPROVED:

Department Director

Date

City Clerk/Treasurer

Date

Received by Human Resources Office

Date

CHAPTER 6

EMPLOYEE PAY

Rule 600

Payroll Periods

A payroll period consists of two calendar weeks from Sunday morning to Saturday at midnight. Paychecks shall be issued every other Friday, or as designated by the Human Resources Office.

600.1

Pay changes become effective on the first day of a pay period unless otherwise authorized by the Human Resources Office. Specific payroll periods may vary from one department to another depending upon the schedule of operations.

601

Work Week

The number of hours an employee is required to be on duty each day, week, or month shall be uniform, as far as is practicable, for all employees in the same class. The scheduled workweek of an individual employee normally shall be established consistent with the organizational unit, provided that the Department Head may approve deviations to meet the needs of the City.

602

The standard workweek for non-exempt positions shall be 40 hours. Certain jobs will require more hours, less hours, or irregular hours. Law Enforcement and Fire Department personnel shall receive overtime pay at a rate of one and one-half (1-1/2) times the regular rate of pay for each hour worked after working up to a maximum of eighty (80.0) hours in each pay period. The City reserves the right to exercise a Section 207k election pursuant to the FLSA for Law Enforcement and Fire Department personnel as allowed by law, (reference: Chapter 6, Rule 608).

603

Exempt Positions

In accordance with Fair Labor Standards Act (FLSA), certain positions may be designated as being "exempt" on the basis of administrative, executive, or professional duties performed. Exemption designations shall comply with the Fair Labor Standards Act and New Mexico Wage and Hour Law. Such positions are exempt from payment for overtime or call-back. Compensation for exempt positions shall be compensation for all hours worked, however many or few, in a

workweek. Henceforth, all executive positions shall be classified as “exempt”.

- 603.1** Extra hours worked under special law enforcement grant programs shall be paid as overtime hours worked when in excess of eighty (80) hours and such grant programs allow it.

604 Overtime Compensation Authorization

Overtime must be approved in advance by the Department Head and reported on a bi-weekly basis to Human Resources. Overtime is for the sole benefit of the City. Employees shall not perform overtime work unless such work is approved in advance. Department Heads shall only approve such overtime if the work is of an emergency nature affecting the safety of the public, immediate operation of City functions, or other such non-schedulable work.

605 Overtime

All employees are subject to the provisions of the Fair Labor Standards Act (FLSA), as amended. You can access the Act on the internet or request a copy from the Human Resources office. All timekeeping records for non-exempt employees are to reflect the actual hours worked. If an employee works overtime, the decision of whether to give the employee overtime pay or time off is at the discretion of the Department Head and funds for overtime are budgeted in each particular department. The employee must complete a request for overtime and state if pay or compensatory time is requested. All overtime or compensatory time must be approved by the Department Head.

All non-exempt employees who are required to work more than the regularly scheduled work week, may be compensated at one and one-half (1 ½) time their regular hourly rate of pay. Overtime shall be paid as provided under the Fair Labor Standards Act.

- A. Overtime for:
1. full-time non-exempt employees (except police officers and Fire) is time worked in excess of 40 hours in a seven -day period.
 2. non-exempt police officers is time worked in excess of 40 hours per seven-day work period.
 3. non-exempt fire employees is time worked in excess of 40 hours per seven-day period.

4. part-time employees is time worked in excess of 40 hours in a seven day period. A part time employee shall receive the regular hourly rate for all time worked up to 40 hours per seven-day work week.
- B. Absences including, but not limited to sick leave, vacation leave, standby, leave without pay, FMLA, military leave, jury duty, and voting time are not counted as time worked for the purposes of computing overtime pay or compensatory time off.
- C. Overtime worked shall be compensated either with pay computed at 1 ½ times the hourly rate of pay or with paid time off (Compensatory Time) at 1 ½ times the number of overtime hours worked. Overtime work shall be kept to a minimum and must be authorized by the Department Head, as authorized in the operating budget. The Mayor shall approve overtime during emergency circumstances, which call for immediate action or in special situations required by the nature of the operation.

Those City positions that are determined to be non-exempt as defined by FLSA are entitled to compensation for overtime worked but only those departments and positions that have approved budgeted funds will pay overtime. If funds are not budgeted, the employee will accrue compensatory time for hours worked. It is the responsibility of the Department Head to ensure that their employees do not work on an overtime basis unless funds are allocated and the Mayor approves the work and the Finance Director approves arrangements for payment.

- D. Overtime is for the benefit of the City. The employee, whether requesting pay or time off, must obtain verbal or written approval for overtime compensation, prior to the time the work is performed. Any unauthorized overtime shall be subject to disciplinary action, except in cases of an emergency.
- E. Compensatory Time Off
Compensatory time off shall be monitored and adhered to by the City of Ruidoso Downs as stated by the Fair Labor Standards Act.

Departments with budgeted overtime compensation, shall provide overtime pay for their employees. If a department does not have budgeted overtime compensation or has

exhausted all of its allotted overtime compensation, then compensatory time shall be provided for employees. The law authorizes state and local governments to receive time off in lieu of compensation, at a rate of not less than one and one-half hours for each overtime hour worked.

Compensatory time must be approved in the same manner as overtime compensation. Upon termination of employment, any unused balance of compensatory time owed shall be paid at a rate not less than the employee's final regular pay rate.

All employees may accrue up to 200 hours of compensatory time.

Department Heads shall monitor compensatory time accrued in the same manner as overtime compensation.

606 Overtime Rate

Authorized overtime shall be calculated at the rate of one and one-half (1-1/2) times the base hourly rated multiplied by the number of overtime hours worked.

607 FLSA Overtime

In certain police and fire situations, the City reserves the right to exercise a Section 207k election pursuant to the FLSA as allowed by law. Overtime compensation will be paid in such situations in a manner consistent with the law and the Section 207k election.

608 Call-Back Pay

Employees called back to work outside of their regularly scheduled shift hours to perform non-scheduled work shall be paid for a minimum of two hours regardless of the number of times that they are called back during their shift. This time includes reasonable travel time. This provision does not apply to assignments that immediately follow or are connected to the employee's regular scheduled work time. This doesn't apply if a Department Head or Supervisor changes an employee's work schedule due to weather, deadlines, or short staffing (i.e. scheduling people to work days off or changing time for snow removal.)

Employees who have call back hours listed on their time sheet and whose total hours for the work week exceed 40 hours shall be paid

time and a half for the call back time, but shall not be paid overtime for the same hours that paid for in accordance with the call back pay.

609 On Call Compensation

Employees required to be on call shall be compensated as follows:

- A) Week day on call: Employees shall be paid for one (1) hour for being on call and overtime for actual hours worked when called out. Repeat callouts on the same day shall be paid at overtime rate for hours worked.
- B) Weekend and Holidays: Employees shall be paid two (2) hours for being on call and overtime for actual hours worked when called out. Repeat callouts on the same day shall be paid at overtime rate for hours worked.

610 Pay for Holiday Work

When a non-exempt employee works on a regularly scheduled workday that is observed by the City as a holiday, the employee shall be compensated as follows:

- A) the regular rate for the regularly scheduled hours actually worked; and
- B) holiday pay in an amount equal to the regular rate for each regularly scheduled hour worked; and
- C) time and one-half (1-1/2) for any hours that constitute overtime.

611 Separation Pay

If an employee is discharged, the final pay shall be issued pursuant to Section 50-4-4, NMSA, 1978. If an employee resigns, dies, or retires, the final pay is due and payable the next regular pay day (if and only if all City property has been turned in to the City), unless otherwise approved by the Human Resources. All City property that has been issued to or is in the possession of the employee must be returned and accounted for by the supervisor. The Department Head will send notification to Human Resources advising that all City property is or is not turned in, and any amounts owed the City for City-owned property.

611.1

Employees are responsible for paying for any property of the City that is not returned. Appropriate deductions from the final paycheck will be made in accordance with the previously signed authorization of the employee if property or payment is not received.

CHAPTER 7

PROMOTIONS, TRANSFERS AND DEMOTIONS

Rule 700

Career Ladders

Human Resources shall analyze all positions within the City to determine similarities and differences in qualifications required and shall identify rational paths for lateral and vertical movement between positions. Whenever possible, employees in positions with lower pay grades shall be offered opportunity to train for promotion to positions with higher pay grades.

701

Promotions

Qualified, regular employees shall be considered for promotion to fill any vacant position in the City's service, and shall be considered over non-employee applicants, all qualifications being equal. Probationary employees shall not be considered for promotion until completion of the probationary period, except with approval of the Governing Body.

702

Development Encouraged

The City encourages employees to develop skills, attain greater knowledge of their work, and make known their qualifications for promotion to more responsible and difficult positions. Successful completion of in-service training by an employee shall be recorded by the Human Resources Office in the employee's file. Employees are urged to report completion of outside training or the attainment of new or improved skills to the Human Resources Office for inclusion in their personnel files.

703

Transfer

An employee may be transferred from one position to another provided the employee meets the qualifications for the new position and is determined to be the most qualified employee for the position.

704

Transfer Procedure

- A) An employee who wishes to be considered for a transfer to another open position, which has been posted, must submit a transfer request form to the Department Head. The transfer

request form will be forwarded to the interviewing Department Head. The interviewing Department Head will make arrangements with the employee for an interview and, subsequently, notify the employee's current supervisor of the interview.

- B) The transfer date of an employee who is selected for the position shall be agreed upon by the current Department Head and the new Department Head.
- C) In no case shall an employee be prohibited from expressing interest in transferring, not shall there be any reprisal for such interest.

705

Demotions

An employee may be demoted from a position to a position with lower pay, provided the employee meets the qualifications for the new position and the employee:

- A) Voluntarily requests such demotion or
- B) Would otherwise be laid off because of abolishment of the position, lack of work, or lack of funds or
- C) Is displaced by return of the former incumbent from authorized leave or
- D) Position has been reassigned to a lower pay grade or
- E) Has participated in a Pre-Determination Hearing, as specified in Chapter 11, for which a recommendation for demotion has been affirmed or
- F) Is subject to demotion pursuant to the provisions of official policy.

706

Demotions must be recommended by the Department Heads or Human Resources and approved by the Governing Body

CHAPTER 8

DISCIPLINE

Rule 800

Purpose of Discipline

The City of Ruidoso Downs is committed to conducting operations in a safe and efficient manner. To insure this goal is attained, employees are expected to conduct themselves in a professional and conscientious manner; dedicating themselves to constant safety awareness, efficiency in all operations and quality of workmanship.

800.1

In order to promote the efficiency of employee performance and the rendition of services to the public, and where an employee's performance, work habits, or personal conduct falls below a satisfactory level, direct supervisors or their supervisor(s) of the employee may informally inform the employee of such shortcomings. Direct supervisors or their supervisor(s) may do so verbally or in an informal memo that is not placed in the employee's personnel file. Such actions are not formal discipline, an investigation, or interrogation. Such actions are not a prerequisite to formal discipline.

800.2

A non-probationary employee shall be progressively disciplined for unsatisfactory work performance whenever practical. Each case of inadequate performance or act of misconduct shall be judged individually. The step of corrective action used will depend on the severity of the infraction and the employee's previous work record, which may include prior instances of prior formal or informal disciplinary action. Under certain circumstances, suspension without pay, demotion, or dismissal may be appropriate initial disciplinary action.

800.3

Any activity that may not be specifically enumerated in these rules and which interferes with the maintenance of an efficient, orderly, safe, and healthy workplace may also be considered as a violation of these basic rules of conduct and be treated accordingly.

801

Conduct Subject to Discipline

Employees may be subject to disciplinary action for failing to fulfill their responsibilities and duties as described in the employee's position description and as assigned by their supervisor.

801.1

The following constitutes examples of conduct that may subject an employee to disciplinary action:

- A) Misconduct on the job; conduct or language toward the public or toward employees that discredits the public service.
- B) Carelessness or negligence in the performance of duty, including the operation of City vehicles or equipment.
- C) Failure to meet prescribed standards of work.
- D) Failure to follow instructions or directives.
- E) Unauthorized absence from work (see Rule 1209, AWOL)
- F) Unlawful manufacture, distribution, dispensing, possession or use of a controlled substance or violation of the drug and alcohol policy.
- G) Acceptance of money, gifts, privileges, or other valuable consideration which was given with the expectations of influencing the employee in the performance of his/her duties.
- H) Use of official position for personal advantage.
- I) Willful misuse, theft, or destruction of City, employee, or visitor property.
- J) Unauthorized or fraudulent manipulation of time records or other City records.
- K) Conviction of any federal or state law or City ordinance.
- L) Violation or disregard of policy, regulation or rule contained in this manual or established by the department and approved by the Mayor.
- M) Violation of a professional code of ethics or professional responsibility.
- N) Tardiness and/or excessive absenteeism as set forth elsewhere in this Manual.

- O) Insubordination, failure to comply with the lawful orders of a supervisor, including disrespectful behavior toward a supervisor or superior.
- P) Disorderly, immoral, or indecent conduct.
- Q) Physical or emotional abuse, or threats to inflict physical abuse.
- R) Use of profane or abusive language.
- S) Failure to maintain proper licenses, certifications, etc. necessary for the performance of job duties.
- T) Unauthorized disclosure of confidential information from City records or documents, as set forth by applicable State of New Mexico laws; falsification, destruction or unauthorized use of City records, reports, or other data belonging to the city. [This includes HIPPA and GINA restrictions].
- U) Non-cooperation by an employee with fellow employees or other personal conduct that substantially interferes with the performance of his/her or another employee's work.
- V) Harassment or other violation of Federal or State laws pertaining to employment.
- W) Other acts or omissions that adversely affect the welfare of citizens, other employees or the effective operation of the City. [This includes HIPPA and GINA restrictions].
- X) Any act (not listed above) that would constitute "just cause" for discipline up to and including discharge.

There are instances of misconduct that are so serious, progressive discipline is not required and immediate termination of employment shall result. Examples of such misconduct are reflected in subparts (H), (I), (J), (K), (L), (P), and (Q). The foregoing is not an exhaustive list because other violations may be so serious as to require immediate termination with out progressive discipline.

801.2

Off-duty conduct may be cause for discipline if it diminishes the integrity of the City's service. This includes actions taken while in City uniform or conduct that is contrary to or interferes with or

prevents the employee's performance of his/her employment duties and responsibilities.

802 Forms of Disciplinary Action

802.1 Informal Discipline. Informal disciplinary action may be taken by a supervisor in the form of verbal counseling. Verbal counseling is used for minor infraction such as informing the employee that his/her actions, behavior or conduct needs to change in compliance with Rule 800.1. Informal discipline is not an investigation and does not result in administrative sanctions.

A) Written Warning.

Documented verbal warning/counseling for documenting the action. The documented verbal warning/counseling is a written document of the meeting, reason for counseling, and desired outcome. The original form must be signed and submitted to Human Resources to be placed in the employee's personnel file.

802.2 Formal Discipline. Consistent with the policy of progressive discipline set forth in Rule 800, the types of formal disciplinary action which may be used are limited to:

- A)** Written reprimand. The Department Director shall go over the action with the employee and have the employee sign and receive a copy of the written reprimand. A record of any written disciplinary action taken shall be sent to Human Resources stating the cause for discipline and cite the specific elements upon which it is based. A copy of the written notice shall be placed in the employee's personnel file.
- B)** Suspension without pay. The City may suspend an employee for cause for a period of three days or less (One shift day for fire). The cause for suspension shall be documented in writing and shall be submitted to the employee who shall acknowledge its receipt in writing. A copy of the signed document shall be submitted to Human Resources and placed in the employee's personnel file. Employees who appeal this suspension to the Mayor must do so in writing within two working days of the notice of suspension.
- C)** Payment for intentional or negligent damages to City property.

- D) Demotion (only if a budgeted, open position exists and it is in the best interest of the City, as determined by Governing Body).
- E) Discharge. The Mayor may immediately suspend and remove from the work environment any employee who poses a clear and present danger to himself or to others; who is committing or has committed a criminal act; or who otherwise is physically or mentally incapable of fulfilling the obligations of a job. In such cases, the employee may be asked to leave the worksite. A determination will be made at a later time as to whether or not the suspension time will be deemed paid or unpaid. The employee will be given notice of termination upon the Governing Body's approval.

803 Relief from Duty

Any Department Head may relieve an employee from duty and order the employee to leave the work site, but such order shall not constitute suspension or discharge. Proper discipline procedures must be followed for suspension or discharge.

804 Leave of Absence with Pay Pending Investigation

Pending an investigation of an employee for alleged violations, the Department Head may determine that it would be in the best interest of the City for that employee not to perform his/her regular duties. The employee may be placed on administrative leave of absence with pay and notified of such action. The extent of such leave shall be dependent upon the length of the investigation.

805 Notification of Disciplinary Action

805.1 Formal disciplinary action is commenced by a supervisor or Department Head of the employee when a Uniform Notice of Disciplinary Action form adopted by the City is completed and submitted to Human Resources. Human Resources may approve, reject or modify the proposed disciplinary action in accordance to the Personnel Policy. After review and approval, Human Resources shall present the Uniform Notice of Disciplinary Action to the employee. The employee shall sign and acknowledge receipt of the Uniform Notice of Disciplinary Action. The employee's signature does not constitute agreement, but merely receipt. If the employee refuses to sign or accept the copy, that fact shall be noted on the Uniform Notice of Disciplinary Action placed in the employee's personnel file.

805.2 Except for verbal counseling, a written record of all disciplinary action shall be maintained stating the cause for discipline and citing the specific elements upon which it is based. The copy of the Uniform Notice of Disciplinary Action signed by the employee shall be placed in the employee's personnel file. In the event that an employee refuses to sign the Uniform Notice of Disciplinary Action, the action will be noted and the form will be put in the employee's file. A copy of the action shall be given to the employee.

805.3 In instances where the formal disciplinary action is a written warning or written reprimand, the formal disciplinary procedure is complete when the written notice is delivered to the employee and a copy is placed in the employee's personnel file. The employee may submit a written response to the written notice within thirty (30) days from the date of receipt to the Human Resources Office who shall place it in the employee's personnel file and attach it to the Uniform Notice of Disciplinary Action. Additional procedures for other forms of formal discipline are provided in Rule 1100 and its subparts.

806 Absenteeism

The City expects employees to be at work on a regular basis and requires that all excused absences for accrued vacation or leave without pay/leave of absence will be requested and approved in writing, in advance. If it is not requested and approved within 24 hours in advance, time off will be considered time off without pay.

806.1 Except in the case of unexpected emergency or where the sickness leaves the employee unable to communicate, an employee who is unable to report to work at the beginning of the shift due to sickness must notify his/her supervisor prior to the beginning of the shift and request sick leave. In the event an employee does not have sufficient sick leave to cover the request, the employee may request the use of accrued annual leave to supplement the lack of sick leave. This must be requested by the employee at the same time he/she notifies the supervisor of his/her sickness: i.e., the request cannot be made after the fact. Any request for vacation leave to supplement sick leave must be approved by the Department Head.

807 Tardiness

The City expects employees to be at their assigned work location, ready to work, at the beginning of the scheduled shift, at the end of the scheduled breaks and at the end of scheduled lunch periods.

807.1 The following progressive discipline will be utilized for instances of tardiness.

1st tardiness in the previous 6 months - written warning;
2nd tardiness in the previous 6 months - written reprimand;
3rd tardiness in the previous 6 months - 1 day suspension without pay;
4th tardiness in the previous 6 months - 3 days suspension without pay;
5th tardiness in the previous 6 months - discharge.

808 Loss of Driver's License

808.1 Revocation or suspension of an employee's driver's license shall disqualify such employee from holding any City position which requires a driver's license.

808.2 An employee whose license has been suspended or revoked for any reason shall:

- A) not operate any motor vehicle in connection with City business; and
- B) notify his/her immediate supervisor as soon as possible, but in any event, prior to the start of his/her next workday.

Failure of a supervisor to comply with the provisions of the above paragraph shall be cause for disciplinary action.

808.3 Supervisors who learn that a subordinate employee's driver's license has been suspended or revoked shall:

- A) take immediate action to ensure that the employee does not operate a motor vehicle in connection with City business; and
- B) notify the Department Head of the department in which the employee works of the suspension or revocation as soon as possible.

Failure of a supervisor to comply with the provisions of the above paragraph shall be cause for disciplinary action.

808.4 An employee whose position requires a driver's license and whose license is suspended or revoked or accumulates 6 points toward their license within a 12 month period or more shall be immediately demoted to a position that does not require the operation of a City vehicle. Once

the employee obtains a valid license, the Department Head may return the employee to the previously held position.

If the employee accumulates 6 points or more towards their license within a 12 month period, the employee may be returned to the previous position if the employee is able to reduce the accumulated points to less than 6 points in a 12-month period.

An employee whose position requires a driver's license and whose license is suspended or revoked for over 180 days shall be immediately demoted to a position that does not require the operation of a City vehicle and shall be suspended without pay for three (3) days.

Any employee who operates a City vehicle who is convicted of a second or subsequent DUI offense within 5 years of the beginning of the current fiscal year shall be demoted to a position that does not require the operation of a City vehicle without the option of returning to the previously held position. Should there not be a demoted position available for the employee, the employee may be discharged.

808.5 Employees in laborer classification shall be demoted to a laborer position that does not require a driver's license at a minimum of a 10 percent reduction in pay for the duration of the demotion, provided however, the reduced pay level shall not fall below applicable federal and/or state minimum wage requirements.

808.6 Notwithstanding any provision to the contrary, an employee whose position requires a driver's license and whose license has been suspended or revoked for any length of time shall be discharged:

- A) if the employee has had a prior license suspension or revocation within the five-year (5-year) period preceding the most recent suspension or revocation; or
- B) if the loss of license resulted in whole or in part from:
 - 1. the operation of a City vehicle
 - 2. the operation of any vehicle in connection with City business; or
- C) if the loss of license results in the loss of certifications essential to the performance of the employee's job.

- 808.7** The effective date of the license suspension or revocation by the New Mexico Motor Vehicle Division shall be the date from which the previous five-year (5-year) period is calculated.
- 808.8** For purpose of this policy, a valid New Mexico limited license or permit of appropriate category issued by competent authority shall be satisfactory evidence of a valid license if acceptable to the City's auto and general liability insurance carrier.

CHAPTER 9

EMPLOYMENT SEPARATION

Rule 900 Types of Separation

An employee may terminate employment with the City for either voluntary or involuntary reasons. Resignation, job abandonment and retirement are voluntary separation. Death, disability retirement, lay off and discharge are involuntary separation.

901 Return of City Property

At the time of termination for any reason and prior to final payment, the employee shall return all records, uniforms, keys, I.D. badges, gasoline cards, or other items of City property in the employee's custody to the immediate supervisor. The departing employee shall execute a certificate that all such property known to be in the employee's custody has been returned. Where such property has been signed for by the employee, the cost of any shortage must be reimbursed to the City prior to receipt of the final paycheck.

902 Separation Pay

Employees who separate shall receive payment for all earned wages and for unused accrued annual leave. Final payment shall be not later than the next regularly scheduled payday, provided the employee or survivor is in compliance with Rule 901 above.

903 Exit Interview

Human Resources will be responsible for conducting exit interviews. The purpose of the exit interview is as follows:

- A) help correct misinformation or modify negative attitudes, which an employee may have developed about the City government or City employees.
- B) provide information with regard to the continuation of benefits and offer assistance in ways that might be helpful to a departing employee.

- C) provide insight into the effectiveness of City personnel and managerial practices, to determine where personnel policies and procedures are in need of review or revision and to determine where supervisory or managerial practices need modification or improvement.

904 Procedure

Supervisors must notify their Department Head as soon as they learn that any employee is leaving. The Department Head will inform Human Resources, who will schedule a time and place for the exit interview. The interview will be recorded on a prescribed form, which will become a part of the existing employee file. The results of the exit interview will be forwarded to the Department Head and a copy to the Mayor.

905 Resignation

An employee who desires to resign shall submit a written resignation as far in advance as possible, but no later than two weeks in advance. The written resignation shall contain the effective date, reason for resignation and signature. Failure to give written, advance notice will result in "no rehire" status. If an employee tenders an oral resignation, the employee's immediate supervisor shall immediately prepare a memorandum to the Department Head stating the employee's resignation, including the effective date and the reason for the resignation. A copy of the memorandum will be provided to the employee. Voluntary resignation is considered a complete break in employment and service continuity.

906 Abandonment

Employees who are absent from the job for three (3) consecutive working days or two (2) consecutive shifts without approved leave have abandoned their job. A Notice of Termination shall be sent by certified mail to the last known address of the employee. Any compensation for wages due through the last day's work will be withheld pending compliance with Rule 901 or restitution for the deficiencies therein.

907 Post-Approval of Absence

Employees who have abandoned their position may be reinstated only if it is demonstrated to the satisfaction of the Department Head that the circumstances of the abandonment made it impossible for the

employee to notify the proper persons and request official leave. If the Department Head determines that the employee is to be reinstated, such time missed will be charged as leave without pay. The determination of the Department Head with the Mayor's approval shall be final.

908 Retirement

An employee is considered eligible to retire from the City of Ruidoso Downs if he/she qualifies for retirement under the provisions of the Public Employees' Retirement Association (PERA). An employee who meets any of the above retirement criteria may do so by giving notice as in Rule 905.

909 Disability Retirement

If an employee suffers from a permanent physical or mental unfitness or incapacity for duty, that employee may, if eligible, apply for and receive a disability retirement under PERA. Application for disability retirement may be initiated by the employee, but must, in all cases, be supported by medical evidence acceptable to PERA.

910 Layoff

When one or more positions must be discontinued or abolished because of lack of funds, lack of work, reorganization or change of duties, the appropriate Department Head shall submit a written report, if applicable, to Human Resources, recommending the position(s) to be discontinued.

911 The Department Head shall recommend to Human Resources the order of lay off of employees based upon the relative suitability for the positions, which remain.

912 Regular employees who must be terminated due to lay off shall be notified in writing.

913 Employees who are laid off shall be added to the active file of candidates for employment upon submission of a new employment application and in accordance with Rule 423.

914 Death

Termination by death of the employee shall be effective as of the date of death. All benefits due shall be paid to the estate of the deceased,

except for those times, which by law, may be paid to a surviving spouse.

915 Discharge During Probationary Period

At any time during the probationary period, an employee may be suspended without pay pending discharge by recommendation of the Department Head and/or Human Resources, subject to final approval by the Governing Body. At all times, probationary employee's are "at will" employees and may be terminated with or without cause.

916 Employees discharged during their probationary period may not request a hearing under Rule 1101 or 1102.

CHAPTER 10

PROBLEM RESOLUTION AND GRIEVANCE PROCEDURE

Rule 1000

Problem Resolution

The City recognizes that differences of opinion regarding working conditions or other matters will arise from time to time. Employees are encouraged to discuss freely any problem or complaint with their supervisor.

1001

Although most misunderstandings can and should be resolved on an informal basis with the supervisor, more formal provisions have been made to resolve difficult problems. For all employees, the procedure for presenting a grievance is as follows:

Step 1 Concerns and problems should be discussed with the immediate supervisor in a private interview within seven (7) calendar days following the event upon which the grievance is based. Supervisors are required to investigate the complaint and provide a response as soon as possible; but in any event, not more than three (3) working days after the interview. If an agreement cannot be reached, an employee may, in writing, request an interview with the Department Head.

Step 2 The Department Head will conduct an investigation of the grievance and shall answer the grievance in writing within seven (7) calendar days.

Step 3 If a grievance is still unresolved, the employee may, within seven (7) calendar days from the receipt of the Department Head's written determination, present the grievance to Human Resources for review. The Mayor and Human Resources shall respond within fifteen (15) days and such response shall be the final response.

1002

The grievance procedure is designed to be fair and expedient to resolve any conflict, thus, legal representation is not permitted.

1003

The grievance procedure may be utilized for a variety of reasons including but not limited to:

A) disagreement with performance evaluation rating.

- B) disagreement with a disciplinary action not given as a result of a Pre-Determination hearing.
- C) allegations of discriminatory or unfair actions.
- D) allegations of harassment of any kind.

- 1004** The grievance procedure may not be utilized for resolution of adverse actions pursuant to Chapter 11.
- 1005** There may be times when for some reason employees feel they cannot take a complaint to their immediate supervisor. If this is the case, employees may go directly to the Department Head. However, these cases should be rare, since the supervisor usually is better qualified to handle questions and work-related problems.
- 1006** It is the responsibility of each supervisor to see that all complaints are handled as quickly as possible and without prejudice. There will be no discrimination or reprisal against any employee for his/her part in a presentation of a complaint.
- 1007** All grievances taken beyond the level of the employee's immediate supervisor shall be presented in writing by the employee on a form approved by the Human Resources Office.
- 1008** Discharge for cause shall not constitute a grievable action pursuant to this policy.

CHAPTER 11

ADVERSE ACTION AFFECTING EMPLOYMENT STATUS

Rule 1100 City Mayor Open Door

The Mayor is available to any employee seeking to discuss work-related problems or concerns in an open and informal manner. When an employee has made a good faith effort to resolve difficulties with their Department Director and feels that their concerns have not been adequately addressed, they have the right to meet with the Mayor without fear of reprisal or retaliation. The employee shall contact the City Clerk's office to schedule an appointment. Once the date and time have been agreed upon, the employee shall inform his/her immediate supervisor of the scheduled meeting.

1101 Human Resources

Human Resources shall have overall responsibility for establishing, maintaining, and coordinating personnel transactions and records management systems and procedures for all City employees consistent with state and federal laws.

Human Resources shall advise and assist supervision/management on all City personnel transactions and records management systems and procedures related to personnel.

1102 Department Director

Department Director shall:

- A) Initiate personnel transactions for their employees, using forms prescribed by Human Resources.
- B) Direct and supervise all operations, functions, and the work of the employees.
- C) Determine the place to report to work, to determine methods, processes, and manner of performing work.
- D) Establish and revise schedules of work.
- E) Assign shifts, workdays, hours of work and work locations.

- F) Designate, assign, or reassign all work duties.
- G) Evaluate and judge the skill, ability and efficiency, and general work performance of employees.
- H) Take actions, as necessary to carry out the mission of the employer in emergencies.

1103 Adverse Action and Procedure

Adverse action is defined as the following forms of formal disciplinary action:

- A) Suspension without pay.
- B) Demotion.
- C) Discharge.
- D) Payment for intentionally or negligently damaging City property.

In the event of a proposed Adverse Action, the procedures provided for in this Rule shall apply in addition to the procedures in Rule 800 and its subparts.

1104 Authority to Impose Adverse Action

1104.1 All Department Heads shall have the authority to recommend that adverse action be imposed upon an employee for failure of the employee to fulfill his/her responsibilities as an employee. However, no adverse action shall be imposed against an employee without the express written approval of the Mayor, and not until such time as the affected employee has been afforded the opportunity for a Pre-Determination hearing before the supervisor who recommended the action, and including the Human Resources Office. In the event of discharge, the employee shall be placed on administrative leave without pay immediately after the Pre-Determination Hearing, but it will not be final until after the Evidentiary Hearing, if requested, and a vote by the Governing Body in favor of discharge.

1104.2 Notwithstanding the provisions of the above paragraph, a Department Head may immediately suspend and remove from the work environment any employee who poses a clear and present danger to himself or to others; who is committing or has committed a criminal act; or who otherwise is incapable of fulfilling the obligations of a job. In such cases, the employee may be asked to leave the work site. A determination will be made at a later time as to whether or not the suspension time will be deemed paid or unpaid.

1105 Institution of Adverse Action

A supervisor of the employee or the employee's Department Head completing a Uniform Notice of Disciplinary Action form and submitting it to the Human Resources Office commences adverse action. Upon receipt of the completed Uniform Notice of Disciplinary Action form, the Human Resource Office shall initially review the proposed disciplinary action as set forth on the form and make an initial determination as to whether the conduct described in the form merits the proposed discipline. If the Human Resources Office determines the action merits the proposed discipline it shall be submitted to the Mayor for approval. If the Human Resources Office initially determines the conduct does not merit the discipline, the Mayor may deny the proposed discipline. If the Mayor determines the conduct described in the notice might merit the proposed discipline, the Human Resources Office shall set a date and time for a Pre-Determination Hearing. The notice of the hearing shall be delivered in writing to both the supervisor and Department Head and to the employee.

1106 Pre-Determination Hearing

1106.1 Prior to any adverse action occurring, as adverse action is defined in Rule 1103, a Pre-Determination Hearing shall be held. The purpose of the Pre-Determination Hearing is as follows:

- a) To provide the employee with an explanation as to the basis of the proposed adverse action.
- b) Allow the employee the opportunity to provide his/her explanation as to the proposed adverse action.
- c) To determine whether the proposed disciplinary action is warranted.

The Pre-Determination Hearing shall not be an evidentiary hearing. Nevertheless a tape recorded record of the hearing shall be made. The Pre-Determination Hearing shall be held with the employee's supervisor who recommended the action, the Human Resources Office and the employee. The Human Resources Office shall record the Pre-Determination Hearing. Neither the employee nor the City shall have or be represented by counsel at the Pre-Determination Hearing.

1106.2 The employee may waive his or her right to a Pre-Determination Hearing. In the event of waiver of right to a Pre-Determination

Hearing, the employee shall waive that right in writing. A waiver shall constitute consent by the employee to the imposition of the proposed adverse action.

1106.3 The Pre-Determination Hearing shall be scheduled and conducted as soon as possible but in no event no later than five (5) business days from the determination by the supervisor who recommended the action as to the initial propriety of the proposed adverse action. Failure to attend a Pre-Determination Hearing shall be deemed to be a waiver of the right to contest the disciplinary action.

1106.4 The supervisor who recommended the action with the Mayor's approval shall make a determination within two (2) business days of the Pre-Determination Hearing as to whether the proposed adverse action should be imposed. The decision shall be in writing and provided to employee by hand delivery and/or certified mail. The notice shall be effective upon hand delivery or posting, as the case may be.

1107 Evidentiary Hearing Procedures.

1107.1 Following the Pre-Determination hearing, and in the event that adverse action, as defined in Rule 1103, is proposed, then employee shall have a right to an Evidentiary Hearing before an impartial Hearing Examiner, as provided for in this section of the manual. The Hearing Examiner shall hear evidence and arguments, and make a determination as provided for and submit that determination to the Governing Body. The employee shall give notice, in writing, by hand delivery to the City Clerk no later than five (5) business days from hand delivery or posting, as the case may be, of the decision after the Pre-Determination Hearing, of his/her desire to have an Evidentiary Hearing. Failure to request a hearing shall constitute consent to the proposed adverse action.

A. Timing:

The Evidentiary Hearing shall be conducted no later than thirty (30) days after the Pre-Determination Hearing unless otherwise determined by the Hearing Examiner and agreed to by the employee and the City.

B. Appointment of Hearing Examiner:

The Hearing Examiner shall be selected by the Governing Body. The Hearing Examiner shall have experience in legal and/or personnel matters and shall have no involvement, either personally or through

kinship, in current or past employment with the City of Ruidoso Downs. The Hearing Examiner shall not be subject to prior approval by the employee.

C. Procedures Pre-Hearing:

- i. There shall be no discovery.
- ii. Employee shall be entitled to receive any documents that provide a basis for the adverse action. These documents shall be made available by City five (5) business days in advance of the hearing.
- iii. Two (2) business days in advance of the hearing, the City and the employee shall exchange by delivery calculated to place these items in each other's hands by that day, the following:
 - a. A witness list with addresses, telephone numbers and summary of anticipated testimony;
 - b. Copies of anticipated exhibits, excluding rebuttal exhibits, whose identity cannot be reasonably anticipated;
 - c. Affidavits which may be tendered by the employee; and
 - d. A Statement of Position, if desired.

These documents shall also be served on the Hearing Examiner on that same date. Copies shall also be provided to the City Clerk who shall maintain a formal record of the hearing and items submitted in connection with the hearing.

D. Hearing Procedure:

The Hearing Examiner shall control the conduct of the hearing. The provisions noted hereafter shall apply to all hearings:

- i. The Hearing Examiner may set a reasonable time limit on the hearing. The City and the employee shall be given equal time during the hearing. The time will be calculated for direct examination, cross-examination and oral presentations.
- ii. The Hearing Examiner may place reasonable limitations on the scope or duration of the examination, cross-examination and admission of exhibits as necessary to avoid confusion, undue

prejudice, repetition, intimidation, or by consideration of undue delay, waste of time, or needless presentation of cumulative evidence.

- iii. The Hearing Examiner may, in his or her discretion, exclude witnesses whose testimony is considered to be repetitive or irrelevant.
- iv. The City and the employee may each call witnesses and present exhibits. Employees of the City who are called as witnesses and who are on duty at that time, may be required, as part of their job responsibilities, to attend but cannot be compelled to provide testimony.
- v. All witnesses shall be sworn prior to their testimony and shall give testimony under oath.
- vi. The City and the employee may be represented by counsel or other representative.
- vii. The employee may submit sworn affidavits in lieu of witness testimony. The City may not submit affidavits.
- viii. The burden of persuasion to show that the adverse action is warranted shall be on the City.
- ix. The New Mexico Rules of Evidence shall not be strictly applied.
- x. The admission of evidence and extent of examination shall be within the sole discretion and control of the Hearing Examiner.
- xi. A transcript shall be maintained by audio recording device. It shall be the responsibility of the City, immediately upon the completion of the hearing, to arrange for a transcription of the hearing.
- xii. The hearing on adverse action shall be open. The hearing can be closed at the request of the employee.

E. Timing for Decision

The Hearing Examiner shall make his or her decision within fifteen (15) days of completion of the hearing. The decision shall include

findings and conclusions. The Hearing Examiner may affirm or nullify the proposed adverse action.

F. Effect of Decision

If the Hearing Examiner nullifies the proposed adverse action, the employee shall be restored to his or her position with no loss of position, or benefits. If the Hearing Examiner affirms, that decision shall be submitted to the Governing Body which shall make the final decision of the City.

1108 Additional Procedure for Discharge

1108.1 If the decision of the Hearing Examiner is that the employee shall be discharged or the employee has waived the right to an evidentiary hearing, then the matter shall be placed before the Governing Body of the City at its next scheduled meeting following delivery of the written decision, who shall make the final decision on discharge based on a review of the record and decision from the Hearing on Adverse Action or, in the event of a waiver of the evidentiary hearing the Uniform Notice of Disciplinary Action.

1108.2 The Human Resources Office shall provide to the Governing Body a record of the Hearing on Adverse Action or, in the event of a waiver of the evidentiary hearing of the Uniform Notice of Disciplinary Action. The record shall include the decision of the Hearing Examiner, the Uniform Notice of Disciplinary Action, the transcript or recording of the Hearing on Adverse Action, and all exhibits and affidavits admitted at the Hearing on Adverse Action.

1108.3 The employee shall, upon request, be given the opportunity to appear and appeal before the Governing Body in closed session prior to consideration of the decision of the Hearing Examiner. In order to exercise such right to appeal, the employee must deliver to the Human Resources Office a written notice of appeal at least five (5) days before the date that the matter is scheduled to be heard by the Governing Body. Any such appeal by the employee shall be limited to oral argument subject to reasonable time limitation determined by the Governing Body. The employee may be represented by counsel or by a representative. The Mayor and City Attorney may represent the City. No evidence or witnesses, other than the record or, in the event of a waiver of the evidentiary hearing the Uniform Notice of Disciplinary Action, shall be considered or presented. The City shall bear the burden of persuasion to show that the decision of the Hearing Examiner, or in the event of a waiver of the evidentiary hearing the

Disciplinary Board, should be adopted and the decision to discharge the employee affirmed and instituted. All actions taken by the Governing Body, however to affirm or reverse the decision of the Hearing Examiner must be made in open session.

1108.4 Appeal to the District Court

The discharge, if affirmed by the Governing Body, may be appealed to the District Court of the Twelfth Judicial District pursuant to the provision Rule 1-074 NMRA, or applicable Rule of Civil Procedure.

CHAPTER 12

EMPLOYEE BENEFITS

Rule 1200

Holidays

It is the policy of the City to ensure that all employees enjoy the same number of paid holidays per year. The following days shall be construed as eight (8) hour days and recognized and observed as paid holidays and they will be observed on the traditional holidays and not changed by Congressional action, except for Memorial Day:

New Year's Day
Martin Luther King Jr. Birthday
Presidents' Day
Good Friday
Memorial Day
Juneteenth
Independence Day
Labor Day
Columbus Day
Veterans Day
Thanksgiving Day
Friday after Thanksgiving
Christmas Eve
Christmas Day

Notes:

1. If December 25 falls on a Saturday, Christmas Eve will be observed on Thursday, December 23 and Christmas will be observed on Friday, December 24.
2. If December 25 falls on a Sunday, Christmas Eve will be observed on Friday, December 23 and Christmas will be observed on Monday, December 26.
3. If December 25 falls on a Monday, Christmas Eve will be observed on Monday, December 25 and Christmas will be observed on Tuesday, December 26.

1 Floating Personal Holiday that must be taken within the Calendar Year.

Additional holidays may be observed if approved by the Governing Body.

- 1200.1** For employees working a Monday through Friday work week, a holiday, except for the Christmas Holidays, which falls on a Saturday shall be observed on the preceding Friday; a holiday except for the Christmas Holidays, which falls on a Sunday shall be observed on the following Monday.
- 1200.2** For employees on a workweek other than Monday through Friday, the Department Head shall determine the workday, which shall be observed as the holiday and submit it to the Human Resources office.
- 1201** A holiday, which falls within an employee's annual leave, shall be paid as a holiday and shall not be deducted from accrued annual leave. A holiday, which falls within a period of sick leave, shall be paid as a holiday and shall not be deducted from accumulated sick leave. A holiday, which occurs during a period of unpaid leave, will not be paid.
- 1201.1** As holidays are only eight hours in nature, employees which are not exempt under the 207K FLSA requirements and/or work regularly scheduled days in excess of eight hours, shall only receive eight hours of holiday compensation per approved, scheduled holiday.
- 1202** **Floating Personal Holiday**
- Every employee shall receive a one-day personal Floating Holiday each calendar year. Employees shall be entitled to take their Floating Holiday after three months of employment with the City and shall take such Floating Holiday before January 1 of each following year. Floating Holidays shall not be carried over or accumulated.
- 1203** **Absences Which Affect Holiday Pay**
- An employee who is absent without approval on the workday preceding or following a holiday shall not be paid for the holiday.
- 1204** **Temporary Employees**
- A temporary or as-needed employee shall not be paid for a holiday unless the employee actually works on the holiday, in which case payment shall be made for the hours worked at the regular rate.
- 1205** **Work on a Holiday**
- An employee who must work on the day designated for observing the holiday shall, whenever possible, receive an alternate day off for the

holiday. If the employee and the supervisor cannot schedule such a compensatory holiday, the employee shall receive, in accordance with Rule 610, one additional hour of pay at the regular rate for each hour worked on the holiday up to a maximum of eight hours, over and in addition to the regular or overtime pay, as applicable for the time worked.

1206 Leave Defined

Leave is any authorized absence, with or without pay, during regularly scheduled work hours, which is approved by the Department Head.

1207 Types of Authorized Leave

Leave with pay is authorized in the following categories:

- A) Annual leave.
- B) Sick leave.
- C) Holiday leave.
- D) Military training leave as required by law.
- E) Jury duty leave.
- F) Catastrophe leave.
- G) Administrative leave.
- H) Family and Medical leave.

1208 Leave Approval

Leave shall be granted in consideration of the work requirements of the department and, whenever possible, the personal wishes of the employee. Requests for leave, which are anticipated, shall be requested sufficiently in advance to permit scheduling and work reassignment by the supervisor. Requests for leave shall be submitted in writing on a form provided for approval by the supervisor and submitted to the Department Head. If Department Head does not approve leave then time taken shall be leave without pay.

1209 Absence Without Leave - AWOL

An absence for which requested leave has been denied or an absence without requesting leave is an absence without leave (AWOL). Three (3) days of AWOL is considered voluntary resignation by abandonment pursuant to Rule 906.

1210 Annual Leave

Annual leave is intended primarily to provide each regular employee with a paid vacation each year, although it may be used for other employee needs requiring absence during working hours. Annual leave should be planned and requested as far in advance as practicable in order to allow the supervisor to plan for operation of the department and temporary coverage of duties.

- 1210.1** Previously earned vacation time may be used by an employee to extend his/her sick leave at his/her option provided the appropriate Department Head has been previously advised of such request.

1211 Accrual Rate for Annual Leave

Each regular full-time employee shall accrue annual leave based on length of service, in accordance with the following rate table:

1st through 3rd anniversary – 4 hours per pay period
4th through 5th anniversary - 5 hours per pay period
6th through 10th anniversary – 6.5 hours per pay period
11th through 13th anniversary – 7 hours per pay period
14th through 20th anniversary – 7.5 hours per pay period
20th anniversary or more – 8.5 hours per pay period

- 1211.1** Leave without pay in excess of one calendar month shall not be credited toward cumulative service for leave rate purposes, nor shall additional leave be accrued during such periods. Time on paid leave is creditable time for vacation leave accrual except as provided in Section 1218.3.

- 1211.2** On a case-by-case basis, any vacation time over the maximum balance can be paid out to the employee. This may occur at the discretion and recommendation of the Department Director with final approval by the Mayor.

1212 Probationary Employees

Probationary employees accrue annual leave during the probationary period.

1213 Part-Time Employees

Part-time employees shall accrue annual leave on a pro-rata basis based on hours worked and the rate as specified in Rule 1211.

- 1213.1** Employees who regularly are scheduled above 20 hours per week may be eligible for additional benefits accrual upon recommendation of the Department Head and with the approval of the Mayor.
- 1214** **Temporary Employees**
- Temporary employees shall not accrue annual leave time nor sick leave benefits.
- 1215** **Maximum Balance**
- Annual leave may be accrued to a maximum balance of 280 hours for classified employees and non-exempt administrative employees and 600 hours for exempt executive and non-exempt executive positions. Any amount of annual leave over the allowed maximum balance will be removed from the employee's annual leave bank on December 31 of each year. Notice will be sent by October 1 of each year to any employee that has an accumulated amount of annual leave above their allowed maximum balance.
- 1216** **Payment of Unused Leave**
- Employees shall be paid for any unused, accrued annual leave at their regular rate upon termination.
- 1217** **Sick Leave**
- Each full-time employee shall accrue sick leave at the rate of 4.00 hours per pay period, which roughly equates to one (1) day per month. There shall be no limitation on the amount of sick leave benefits accumulated. Sick leave may be authorized for personal injury or illness. Sick leave may not be authorized for reasons unrelated to illness or injury, except as is authorized under FMLA, Catastrophe and Disability leave. Upon separation from employment, no right shall accrue to the employee for unused sick leave benefits.
- 1217.1** Sick leave benefits shall be paid at the employee's regular hourly rate to the extent the employee has earned and accumulated such benefits. Sick leave benefits paid shall be deducted from an employee's total sick leave accumulation on the basis of hours used. Sick leave benefits, when paid, shall only be paid for days the employee was actually scheduled to work.
- 1217.2** Any employee desiring to utilize sick leave benefits for non-emergency scheduled medical or dental treatment or examinations

shall notify his supervisor at least 24 hours in advance of the date and time of such appointment. Employees will be released from work under such circumstances thirty (30) minutes prior to such appointment unless released earlier by their immediate supervisor.

1217.3 Employees shall furnish a doctor's release before returning to work after having utilized sick leave of 24 hours in any consecutive three-day (3-day) period.

1218 Employees receiving Workers' Compensation benefits provided by State law may not use sick leave or annual leave to supplement Workers' Compensation benefits with the following exception:

1218.1 Workers who have lost work time as a result of a work related injury or illness are allowed to use accrued sick leave or annual leave for the first seven days of the absence. After eight consecutive days of absence due to work related injury or illness, the employee becomes entitled to Workers' Compensation indemnity payments and is no longer allowed to use sick or annual leave.

1218.2 If the employee is on Workers' Compensation payments for four weeks or more, he/she is then entitled to Workers' Compensation payment for the first seven days also. Payment for those first seven days should be paid directly to the City from the Workers' Compensation carrier. In the event the employee received the benefit directly for the first seven days, the employee may pay that amount to the City and have his/her sick leave or annual leave re-credited for the hours used.

1218.3 Employees absent from work pursuant to a Workers' Compensation claim will not accrue sick leave or vacation leave during the absence.

1218.4 Employees receiving Workers' Compensation insurance payments will not be allowed to utilize accrued sick leave and annual leave benefits to supplement their income to the level of their normal base pay.

1219 Family and Medical Leave Act (FMLA) Policy and Procedure

Definitions:

A) "eligible employee" is an employee who:

1. has been employed by the City of Ruidoso Downs for at least 12 months, and

2. has been employed for at least 1,250 hours of service during the 12-month period immediately preceding the commencement of the leave.
- B) "Spouse" means a husband or wife as defined or recognized under federal law.
- C) "Parent" means a biological parent or an individual who stands or stood in loco parentis to an employee when the employee was a child. This term does not include parent "in law".
- D) "Son or daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and "incapable of self-care because of a mental or physical disability."
- E) "Incapable of self-care" means that the individual requires active assistance or supervision to provide daily self-care in several of the "activities of daily living." Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing, eating, cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc.
- F) "Physical or mental disability" means a physical or mental impairment that substantially limits one or more of the major life activities of an individual.
- G) "Persons who are in "loco parentis" include those with day-to-day responsibilities to care for and financially support a child or, in the case of an employee, who had such responsibility for the employee when the employee was a child.
- H) "Next of kin of a covered service member" means the nearest blood relative other than the covered service member's spouse, parent, son, or daughter, with priority given to blood relatives who have been granted legal custody by court decree or statutory provisions. In the event that there are multiple family members with the same level of relationship to the covered service member and no court decree, statutory provision or service member's designation of blood relative as military caregiver exist' "next of kin of a covered service member," is all such family members shall be considered the covered

service members next of kin and may take FMLA leave to provide care to the covered service member.

- I) "Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves "inpatient care" or "continuing treatment" by a health care provider.
- J) "Inpatient Care" means an overnight stay in a hospital, hospice or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care.
- K) "Incapacity" means the inability to work, attend school, or perform other regular daily activities due to serious health condition, treatment therefore, or recovery there from.
- L) A serious health condition involving "continuing treatment by a health care provider" includes any one or more of the following:
 - 1) A period of incapacity of more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves (a) Treatment two or more times, within 30 days of the first day of incapacity, unless extenuating circumstances exist, by a health care provider, by a nurse under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders or, or on referral by, a health care provider, or (b) Treatment by a health care provider on at least one occasion, which results in a regimen of continuing treatment under the supervision of the health care provider. Treatment by a health care provider means an in-person visit to a health care provider. The first (or only) in-person treatment visit must take place within seven days of the first day of incapacity unless extenuating circumstances exist.
 - 2) Any period of incapacity due to pregnancy, or prenatal care.
 - 3) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic, serious health condition is one which (a)

requires periodic visits for treatment by a health care provider, (b) continues over an extended period of time, and (c) may cause episodic rather than a continuing period of incapacity.

- 4) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by a health care provider.
- 5) Any period of absence to receive multiple treatments (including any period of recovery there from) by a health care provider for (a) restorative surgery after an accident or other injury; or (b) a condition that would likely result in a period of incapacity of more than three consecutive, full calendar days in the absence of medical intervention or treatment.

M) "Health care provider" means:

- 1) a doctor of medicine or osteopathy who is authorized by law to practice medicine or surgery; or
- 2) podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist) authorized by law to practice and who are performing within the scope of their practice as defined by law; or
- 3) nurse practitioners and nurse mid-wives, clinical social workers, and physician assistants who are authorized by law to practice and who are performing within the scope of their practice as defined by law; and
- 4) Christian Science practitioners as defined by and limited by the Family and Medical Leave Act and accompanying federal regulations.

N) "Covered service member" means;

- 1) a member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is

otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or

- 2) a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation or therapy.

1219.1 Leave Entitlement

In any "rolling" 12-month period measured backward from the date an employee uses any FMLA leave, an eligible employee is entitled to a total of 12 workweeks of leave for any one or more of the subpart A-E provided herein. For subparts F provided herein, FMLA leave entitlement is limited to a total of 26 workweeks of leave during a "single 12 month period," using a 12-month period measured forward from the date of an employee's first FMLA leave to care for the covered service member begins.

- A) The birth of a son or daughter, and to care for the newborn child;
- B) The placement with the employee of a son or daughter for adoption or foster care;
- C) To care for the employee's spouse, son, daughter, parent, or other person living in an immediate family relationship with a serious health condition; and
- D) Because of a serious health condition that makes the employee unable to perform the functions of his/her job.
- E) Because of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation (as defined by applicable federal law) as either a member of the Reserve or a retired member of the Regular Armed Forces or Reserve. "Qualifying exigencies" include short-notice deployment, military events and related activities and childcare and school activities, financial and

legal arrangements, counseling, reset and recuperation, and post-deployment activities, and agreed upon additional activities as those terms are used and defined in federal regulation.

- F) To care for a covered service member if the employee is the spouse, son, daughter, parent, or next of kin of the service member.

1219.2 Compensability of FMLA Leave

- A) FMLA leave shall be unpaid, except that an employee using FMLA leave for any permitted reason shall substitute his/her accrued sick leave, vacation and personal holiday leave to the extent such paid leave time is available. An employee's entitlement to unpaid FMLA leave is not affected by an employee's failure to meet conditions for paid leave.
- B) The designation of leave as "FMLA leave" and as paid or unpaid shall be made, absent extenuating circumstances, within five days of when the City has enough information to determine whether the leave is being taken for a FMLA-qualifying reason.

1219.3 Continuation of Health Benefits During FMLA Leave

- A) Benefits provided to employees through the City's group health plan will be maintained during periods of FMLA leave on the same conditions as such benefits would have been provided if the employee had been continuously employed during the entire leave period with the employee and City each continuing to pay their current share of the cost of benefits.
- B) If applicable, prior to the start of unpaid FMLA leave, a payment schedule will be agreed upon for payment by the employee of his/her share of group health coverage cost.
- C) If an employee on FMLA leave fails to make a required payment for his/her share of the group health coverage, coverage will be discontinued 31 days after the date the payment was due.
- D) Group health coverage that has been discontinued for non-payment by the employee of his/her share, if applicable, will be restored at the same terms and conditions upon return to work.

- E) If circumstances warrant, the City may elect to pay both the employee's and the City's share of health care premiums during periods of unpaid FMLA leave. However, the amount paid by the City for the employee's share shall be recovered from the employee upon his/her return to work. If the employee fails to return to work after the end of the FMLA leave period as established in the regulations, the City may recover from the employee the amounts paid on his/her behalf for health care coverage during the period of unpaid FMLA leave.

1219.4 Employee Rights Upon Return To Work

An eligible employee who takes FMLA leave will be restored to the same position he or she held when the leave started or to an equivalent position with equivalent benefits, pay and other terms and conditions of employment.

1219.5 Requesting FMLA Leave

- A) An employee must provide the City at least 30 days advance notice before FMLA leave is to begin if the need for the leave is foreseeable based on the expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or of a family member.
- B) If an employee fails to give 30 days notice for foreseeable leave with no reasonable excuse for the delay, the City may deny the taking of FMLA leave until at least 30 days after the date of the employee provides notice to the City of the need for such leave.
- C) In those instances where paid leave must be substituted for unpaid foreseeable FMLA leave, the City's customary notice requirements shall apply.
- D) When the need for FMLA leave, or its appropriate timing, is not foreseeable, an employee shall provide notice to the City as soon as practicable under the facts and circumstances of the particular case.
- E) In those instances where paid leave must be substituted for unpaid unforeseeable leave, the City's customary notice requirements shall apply.

- F) Employees shall direct requests for FMLA leave to the Human Resources Office.

1219.6

Medical Certification to Support FMLA Leave

- A) Medical certification may be required by the City of an employee requesting FMLA leave to care for the employee's seriously-ill spouse, son, daughter, or parent, or due the employee's own serious health condition that makes the employee unable to perform the functions of his/her position.
- B) Medical certification, if requested by the City, must be provided in writing within 15 calendar days after the request is made or as soon thereafter as is possible depending upon the circumstances of the particular case.
- C) Medical certifications shall be made on a form provided by the City. Forms are available from the Human Resources Office.
- D) If an employee fails to provide timely medical certification of an unforeseeable leave after requested to do so by the City, the taking of FMLA leave may be denied until the required certification is provided.
- E) If an employee fails to provide timely medical certification of an unforeseeable leave after requested to do so by the City, the City may deny the employee's continuation of leave.
- F) Under certain circumstances, the City may require subsequent medical re-certifications. If requested, such re-certifications will be requested at reasonable intervals, but no more than every 30 days.

1219.7

Return to Work

- A) The City shall require an employee on FMLA leave to report periodically on the employee's status and intent to return to work.
- B) Employees returning to work from leave occasioned by the employee's own serious health condition shall provide a doctor's release prior to returning to work.
- C) Where an employee furnished such a medical release and returns to work, after the employee's return to work, the City

may require a medical examination to be conducted at the City's expense.

1220 Workers' Compensation

The City provides Worker's Compensation benefits for all employees in accordance with state law.

1221 ADA Compliance

The City has the right to take all reasonable actions necessary to comply with the Americans with Disabilities Act, as amended (ADA) even if the actions taken by the City are inconsistent with any provisions of this Personnel Manual.

1222 Sick Leave Subpart

Employees may utilize sick leave benefits for absence from work due to the illness or injury of the employee's spouse, child, or parent where the FMLA does not apply. Employees desiring to use sick leave benefits under this subpart shall notify their supervisor as far in advance of the date and time of such leave as is reasonably possible. The Department Head must approve requests for leave under this subpart in excess of two days.

1223 Notification of Supervisors

An employee who is unable to come to work because of illness or injury shall notify the immediate supervisor prior to the beginning of the employee's scheduled shift. A formal application for sick leave shall be submitted for post approval upon return to work. Failure to notify as required shall constitute tardiness, but sick leave benefits shall not be denied.

1224 Abuse of Sick Leave

An employee who abuses sick leave by using it for purposes other than those authorized by this manual shall be subject to disciplinary action. It is also considered an abuse of sick leave for an employee to exceed 4% of their total work hours in a rolling 12-month period as per Rule 505 of this manual.

1225 Voluntary Sick Leave Transfer

There are times when employees may face medical conditions, which require an extended absence from duty and subsequently result in the exhaustion of their annual sick leave accrual. In such cases, other employees who have a minimum of 240 hours accumulated sick leave may voluntarily donate the transfer of a specified number of sick leave hours to a specific employee from their accrual bank, upon the approval of Human Resources. No employee may donate leave, pursuant to this provision, if that employee will have less than 180 hours of accumulated sick leave after the proposed donation. A leave benefit transfer may be approved only for extended absences due to the employee's personal medical condition. Transfers will not be approved for a leave to care for a family member or other individual. When a leave benefit transfer is granted, the leave recipient shall be considered to be on sick leave with pay in accordance with the donated hours.

1226 Request for Transfer of Leave

A donating employee may request the transfer of sick leave hours to a specific employee by submitting a written donation designation form to the Human Resources Office. Human Resources will require verification of the recipient's inability to work, the exhaustion of sick leave accrual and the donating employee's leave balances prior to the approval of the transfer. An employee may donate any number of hours which have been accrued and are banked currently at the time of the transfer request, but must have a minimum sick leave balance of 240 hours when requesting and not drop below a sick leave balance of 180 hours. Leave transfers from several employees can be processed for one individual. Appointed employees are not eligible to transfer or receive donated sick leave hours.

1227 Leave Hours Converted to Dollars

Sick leave transferred will be converted to a dollar value and then converted to hours based on the recipient's hourly rate. Example: the leave donor's salary is \$6.00 per hour and the recipient's salary is \$12.00 per hour; thus, a donor must transfer twice the amount of hours to achieve full conversions.

1228 Termination of Medical Situation

The medical situation affecting a leave recipient shall be considered to have terminated as of the date on which the Human Resources Office

determines that the medical situation no longer exists as substantiated by a doctor's certificate, or upon the termination of employment.

- 1228.1** Transferred leave remaining to the credit of a leave recipient when the medical situation is determined ended will be credited back to the donating employee(s).

1229 Catastrophe Leave

Any employee sustaining a death in his/her or his/her spouse's immediate family, or sustaining a catastrophe such as a loss of a home by fire, flood or storm, shall be allowed catastrophe leave with pay up to a maximum of three days for in county situations and up to five days for out of county situations. Upon approval from Human Resources, additional time may be allowed for unusual travel distances. The Department Head or Human Resources will fix such time after consultation with the employee, and the Department Head shall notify the employee of such fixed time. The immediate family shall be defined as spouse, children, mother, father, sister, brother, grandparents, grandchildren, and spouse's mother, father, sister, or brother, grandparents or anyone who is living with or has lived in an immediate family relationship. With prior approval from the Department Head, employees may be granted up to two (2) hours of administrative leave with pay to attend local funerals.

1230 Court Time

An employee, who is subpoenaed or directed by proper authority to appear in an official capacity as a witness for a Federal Government, State of New Mexico, or political subdivision thereto, shall be considered to be on City business.

1231 Jury Leave

A regular, full time employee who is called to jury duty in any municipal, county, state, or federal court will be placed on jury leave for the hours spent in service and shall be paid at the regular straight time rate. Such pay shall be based on the hours the employee normally is scheduled to work during such time of service. Employees whose court service exceeds their regular earnings will be allowed to retain any excess remuneration. All checks from the court shall be remitted to the Human Resources Office.

- 1231.1** This benefit is not available for matters in which the employee is a litigant such as a petitioner, respondent, plaintiff or defendant.

- 1231.2** Employees will be granted jury leave when required by subpoena to serve as a third party witness in any such court in an official capacity as an employee of the City.
- 1232** **Administrative Leave**
- Administrative leave with pay may be extended to employees only at the discretion of the Mayor for work related time away from the job.
- 1233** **Personal Leave**
- A leave of absence without pay for personal reasons unrelated to FMLA, sickness, health, or WC Disability leave may be granted to regular employees for a period up to four months, provided that the employee has exhausted all accumulated annual leave and personal floating holiday leave benefits.
- 1234** **Request for Personal Leave without Pay**
- Requests for personal leave of absence without pay must be in writing and approved by the Department Head. Personal Leave without pay in excess of three days must be approved by Human Resources. Except in cases of emergency, requests must be submitted one month in advance. All such requests must specify the date of return. Failure to return by specified date will be considered job abandonment. The employee is responsible for initiating any request for an extension of the approved leave period prior to the previously indicated return date.
- 1235** **Military Training Leave**
- In accordance with provisions of Section 20-4-7, NMSA, 1978, regular employees, including probationary employees, will be granted military training leave with pay not to exceed 15 calendar days annually upon receipt of active duty training orders. Temporary and on call employees are not eligible for military training leave.
- 1236** **Extended Military Leave**
- A regular, full time employee who is called for active military duty other than annual training as described in Rule 1235 may be granted military leave of absence without pay; such leave to extend no more than 90 days after release from active military duty.

1236.1 Employees with regular status who enter on extended military leave without pay shall be reinstated at their former position or the first vacant position in the same class provided:

- A) The separation from the armed service was other than dishonorable; and
- B) The person applies within 30 days of separation from the armed service; and
- C) The person applies within 4 years from the time leave began; and
- D) The person is physically and mentally capable of performing the duties of the position.

1237 Maternity/Paternity/Adoption Leave

Maternity leave shall be granted at the request of an employee pursuant to the provisions of the FMLA, when applicable as per Rule 1219 (A).

Maternity/paternity/adoption leave is a paid leave associated with the birth of any employee's own child or the placement of a child with the employee in connection with adoption or foster care. Maternity/paternity/adoption leave is not charged against the employee's other paid leave credits, and the number of paid days received is four weeks. The paid leave is compensated at the following levels:

- Less than one full year of service – 40 percent of salary.
- After one full year of service – 60 percent of salary.
- After five full years of service – 100 percent of salary.

If both parents are employees, only one may access the paid benefits of this policy. However, both continue to be entitled to Family and Medical Leave, if eligible. Temporary employees are not eligible for paid maternity/paternity/adoption leave under this policy.

A) Continuation of Benefits

Health insurance benefits will continue to be provided during the paid maternity/paternity/adoption leave, provided the employee has at least one full year of service and employee contributes their portion. Paid leave benefits will continue to accrue.

B) Requirements for Obtaining Paid Leave

The employee must provide to the Department Head 30 days' notice of the requested leave (or as much notice as practicable if the leave is not foreseeable) and complete the necessary forms and file them with the Human Resources Office. The Family Medical Leave Act (FMLA) allows employees up to 12 work weeks of unpaid leave annually. Paid leave under this policy will run concurrently with FMLA leave. Employees not eligible for FMLA leave should refer to Rule 1234 (Request for Personal Leave Without Pay) after the four weeks of paid maternity/paternity/adoption leave and any other paid leave have been exhausted. There will be no continuation of insurance coverage for employees on unpaid leave of absence.

1238 Employee Assistance Program

An employee Assistance Program is provided by the City of Ruidoso Downs for all employees at no cost to the employee. The program provides initial counseling for employees and covers a variety of personal problems that may affect the employee's ability to perform their job duties in an effective manner. This would include any work related stress as well as family and marital problems. Information on the Employee Assistance Program is available from the Human Resources Office.

1239 Group Insurance

All regular full-time employees are eligible to join the City's group insurance plan providing coverage for the employee and the employee's dependents. Participation in the group insurance plan is mandatory unless an employee is covered under a spouse's group plan, Medicaid, or VA Health Care. Any employee wanting to be exempt from the City's group insurance plan must provide Human Resource Office with proof of coverage during open enrollment in the month of June of each year. The City pays a portion of the cost of the plan. Specific details of the plan and the cost to the employee are available in the Human Resource Office. The City's participation in providing group insurance is subject to modification or termination at any time as are the benefits, terms and conditions of such group insurance.

1240 Continuance of Insurance

An insured employee who terminates employment may elect to continue his/her coverage under the current plan under federal law (COBRA) for up to 18 months, or until disqualified by nonpayment of

premium, or becoming eligible for other coverage. The employee is responsible for the total premium cost.

1241 Deferred Compensation Plan

Pursuant to Internal Revenue Code Section 457 and Section 10-7A-1, NMSA, 1978, as amended, the City of Ruidoso Downs offers its employees a Deferred Compensation Plan administered by a third-party Manager under contract to the State of New Mexico.

1241.1 The Deferred Compensation Plan allows an employee to defer a percentage of his/her annual salary. The plan reduces the employee's overall tax burden and the funds deferred and interest thereon are not subject to taxation until such time as the funds are returned to the employee, usually upon retirement or termination of employment.

1241.2 Participation in the Deferred Compensation Plan is voluntary. Information on the plan is available from the Plan Manager and the Human Resources Office.

1242 Retirement Benefits

Each regular City employee contributes a percentage of his/her gross salary toward retirement. The City contributes as required by the Public Employees' Retirement Association of New Mexico (PERA), or as otherwise approved by the Governing Body in a manner consistent with law and the PERA regulations.

1242.1 In order to receive PERA benefits, all provision as outlined by PERA must be met.

1242.2 Retirees may be eligible to remain on the City's group health and life insurance plans as noted in Rule 1240.

1242.3 Any part time employee working over 20 hours a week must contribute to PERA. The Human Resources Office shall notify the employee when over 20 hours a week has been met.

1243 Safety/Longevity Incentive Pay

All full-time employees shall be eligible to receive a cash incentive upon completion of 1 year of service, which will be awarded, at the employee's option, on the last pay period before Christmas, or the last pay period before his/her scheduled Christmas Holiday vacation. Employees hired within the calendar year will be pro-rated according

to the quarter in which they were hired. Quarters will begin on December 1 and will end on November 30. First quarter (Dec 1 - Feb 28) recipients will receive 75%, second quarter (Mar 1 - May 31) recipients - 50% third quarter (June 1 - Aug 31) recipients - 25% and fourth quarter (Sep 1 - Nov 30) -0-.

Safety will account for 50 percent of the pay amount and years of service will account for the other fifty percent. The Safety pay is based on 25% to those employees who maintain a preventable, accident-free record during this period, 25% attendance of required safety training.

A Safety Committee consisting on one member from every department shall be overseen by the Human Resources office. The Safety Committee shall meet once quarterly and review any accidents. The employee that was involved in the accident may attend the meeting and discuss the events of the accident. After review of the accident, the Safety Committee shall determine if the accident warrants the safety pay being removed from the Safety/Longevity Incentive pay at the end of the year. The decision of the Safety Committee shall be put in writing and delivered to the Mayor and the employee. The decision of the Safety Committee shall be final.

The longevity amount will be based upon the number of years of continuous employment with the City of Ruidoso Downs beginning on December 1st and ending on November 30th.

1243.1

The annual safety and longevity incentives shall be allocated to employees as follows:

<u>Years of Service</u>	<u>Maximum Amount</u>
1 through 2	\$400.00
3 through 5	\$500.00
6 through 10	\$600.00
11 through 14	\$700.00
15+ years	\$800.00

CHAPTER 13

EMPLOYEE DEVELOPMENT

- Rule 1300** It shall be the responsibility of Human Resources and Department Heads to foster and promote programs of training for the purpose of improving the quality of City service and aiding employees to qualify for advancement.
- 1301** Department Heads and supervisors shall, whenever possible, in keeping with the goals of efficient and economical service, provide opportunities for employees to learn the duties and skills of their fellow employees so that emergency requirements may be met and employee capabilities enlarged.
- 1301.1** When training opportunities arise, the Department Heads shall post a sign up sheet for all employees in a recognized central location. This official sign-up sheet shall come from the Human Resources Office and shall include a description of the training, a sign-up deadline and states the eligibility to participate, as determined by the trainer or instructor. Following the sign-up deadline, the Department Head shall remove the list, make recommendations on who and how many shall attend from the list and forward his/her recommendations to Human Resources.
- 1301.2** Human Resources shall examine the list, training, and department head recommendations and make a decision on attendance. Human Resources shall then schedule the training and complete any required procurement necessary to provide the training event. The Department Head shall provide Human Resources with all pertinent information regarding such training.
- 1302** Human Resources shall examine the relationship of the various jobs and determine logical paths of progression by which employees may qualify for transfer or promotion. In cooperation with Department Heads, Human Resources shall develop criteria for advancement and shall identify and, whenever possible, provide for such additional training as is necessary to allow employees to advance.
- 1303** Human Resources shall:
- A) Assist Department Heads in developing and coordination training to meet the specific needs of their departments and in

developing and utilizing other techniques for increasing employee skills and efficiency.

- B) Develop supervisory and management training and other types of training and employee development programs common to all departments.
- C) Assist Department Heads in establishing standards of performance and procedure for evaluating employee efficiency and potential.
- D) Provide to employees information and counseling concerning job requirements and training opportunities to enable them to increase their proficiency in their current positions and to qualify for promotion to higher paid positions in the City service.
- E) Establish forms of recognition for persons who satisfactorily complete approved training courses and programs.
- F) Maintain a central record of all approved training courses and programs and a central record of all employees who successfully complete them.
- G) Whenever practicable, establish trainee or apprentice positions for skilled positions in the City service.
- H) Maintain a Central Database on all employees holding a job-related certification and record continuing education hours or credits for each.

1304

Employees shall receive a copy of all personnel transactions that affect their employment or personal status. Each employee shall notify the Department Director and Human Resources of any changes which may affect his/her employment or benefit status. Examples of changes in personal status include, but are not limited to:

1. Marital status.
2. Dependent status.
3. Legal name change.
4. Physical limitation.
5. Additional education, training, or certification.
6. Revocation of license, permit certification, or other credentials required for the job.
7. Change of address or telephone number

CHAPTER 14

USE OF DRUGS AND ALCOHOL

Rule 1400

Preface

The City of Ruidoso Downs has a commitment to a drug-free work place as a leader in promoting a drug-free work force. To this end, job applicants for positions must pass a drug/alcohol screen. All employees will participate in a substance abuse awareness program, if required by the City.

1401

Definitions

- A) "Employee" means a person who performs services for the municipality in return for earned wages.
- B) "Job Applicant" means a person who applies to become an employee of the municipality.
- C) "Municipality" means the City of Ruidoso Downs.
- D) "Reasonable suspicion" means a belief based on specific objective facts and reasonable inferences drawn from those facts.
- E) "Under the influence" means having the presence of a drug or alcohol at or above the level of a positive test result and the physical or mental manifestation of the influence of such substance upon a person.
- F) "Safety Sensitive" means a position that is critical to the safety of the public and fellow employees. These positions include all police department positions, all individuals holding a state-issued Commercial Driver's License, all Full-time City Firefighters, all employees authorized to operate City vehicles, all employees with the authority to issue citations, and all employees authorized to handle city monies.

1402

Drugs for Which to be Tested

When drug and alcohol screening is required under the provisions of this policy, a urinalysis or, if applicable, breath analysis by use of a breath analyzer will be used to detect the presence of the following

drugs:

- A) Alcohol
- B) Amphetamines
- C) Barbiturates
- D) Benzodiazepines
- E) Cannabinoids
- F) Cocaine
- G) Methadone
- H) Methaqualone
- I) Opiates
- J) Phencyclidine
- K) Propoxyphene
- L) Drugs specified on the State of New Mexico Schedule of Controlled Substances.

1403

Current Employee Testing, General Standard

The municipality will require a current employee to undergo drug and alcohol testing if there is reasonable suspicion that the employee is under the influence of drugs or alcohol during work hours.

Circumstances, which constitute a basis for determining reasonable suspicion may include, but are not limited to:

- A) a pattern of abnormal or erratic behavior.
- B) information provided by a reliable and credible source.
- C) direct observation of drug or alcohol use.
- D) following any accident which results in injury, whether to the employee or not.

- E) following any incident or accident that results in property damage estimated over \$500.00 in value.
- F) the presence of the physical symptoms of drug or alcohol use; i.e., glassy or bloodshot eyes, alcohol odor on breath, slurred speech, poor coordination and/or reflexes, etc.

1403.1 Upon determination of the supervisor of reasonable suspicion, the supervisor will contact the Department Head, Safety Officer and Human Resources immediately as the decision to administer a drug/alcohol test can be made only by these individuals.

1403.2 Supervisors are required to detail in writing, as soon as possible, the specific facts, symptoms, or observations which formed the basis for their determination that reasonable suspicion existed to warrant the testing of an employee following the recommendation. This documentation will be forwarded to Human Resources. The facts underlying the determination of reasonable suspicion will be disclosed to the employee at the time the demand is made. Failure of a supervisor to immediately report and document any information coming to their attention indicating any violation by an employee of any provision of this chapter shall be grounds for disciplinary action.

1403.3 Drug and/or alcohol tests may be required of an employee immediately following any on-the-job accident or injury that may result in a workers' compensation claim.

1404 Prohibited Activities

The following policy shall apply to all employees:

- A) Employees shall not report to any scheduled work assignment while having 0.04% by weight or more alcohol in blood.
- B) Employees shall not report to scheduled or unscheduled work assignments under the influence of alcohol.
- C) Employees shall not consume alcoholic beverages within eight (8) hours of the start of his/her regularly scheduled work shift. This rule, however, shall not apply to unscheduled call outs provided that the affected employee is in compliance with paragraphs A and B above.

- D) Employees shall not report to any scheduled or unscheduled work assignment while using any drug, including alcohol that affects the employee's faculties in any way contrary to safety.
- E) Employees shall not consume any alcoholic beverages while on duty, nor shall an employee use any drug or medication while on duty if such drug or medication may affect the employee's faculties in any way contrary to safety.
- F) Employees shall not consume alcoholic beverages while off duty to the extent that such use could bring discredit to the department, the City, or the employee.
- G) Employees shall not use any drug or other substance contrary to law.
- H) Employees shall not use any controlled substances unless prescribed by a doctor and taken in accordance with the prescription.
- I) Employees shall not possess alcohol or any unauthorized or illegal drugs in City-owned vehicles or upon City property.
- J) Employees shall refrain from the use of any tobacco product while performing official duties in public view and while performing official duties out of public view when citizens are present unless the citizens present give the employee affirmative, verbal approval for such use. In no case, however, shall an employee use any tobacco product while performing official duties in the presence of a juvenile.
- K) Employees on duty shall refrain from using tobacco product in any way that is unsightly, unsanitary or offensive to co-workers.
- L) Employees on duty shall adhere to "No Smoking" restrictions where posted in public and private buildings and at any other locations where such restrictions exist or are posted.

1404.1 Department Heads may promulgate any additional written policies, with approval of the Mayor and Human Resources, necessary for their particular departmental operations.

1404.2 Violations of this policy will constitute cause for disciplinary action in accordance with departmental or contractual policies. Supervisory

personnel are responsible for the enforcement of this policy and shall utilize reasonable measures to determine the fitness for duty of any employee when probable cause exists to believe the employee is in violation of paragraphs A through H.

1404.3 Tardiness and sick leave notification policies are in no way affected by this policy.

1405 Supervisory Training

All supervisors will participate in a program of training to assist in the identification of drug and alcohol abuse among employees. Such training will be directed toward helping supervisors to recognize the conduct and behavior giving rise to a reasonable suspicion of drug or alcohol use and to be aware of those employees who pose an immediate safety threat.

1406 Consent

Before a drug and alcohol test is administered, employees and job applicants will be asked to sign a consent form authorizing the test and permitting release of test results to the employee's Department Head with a need to know. The consent form shall provide space for employees and applicants to acknowledge that they have been notified of the municipality's drug testing policy. Employees and applicants shall, at this time, provide a list of those medications that he/she has used recently. The list of medications, if provided, shall be held as confidential. In the event of a confirmed positive test result, the list of medications shall be disclosed only to the medical official at the test site who will determine whether the positive result was due to the lawful use of any of the listed medications.

1406.1 The consent form also shall set forth the following information:

- A) The procedure for confirming an initial, positive test result;
- B) The consequences of a confirmed positive test result;
- C) The right to explain a confirmed positive test result and the appeal procedure available; and
- D) The consequences of refusing to undergo a drug and alcohol test.

1407 Refusal to Consent: Applicants

A job applicant who refused to consent to a drug and alcohol test will be denied employment with the municipality.

1408 Refusal to Consent: Employees

An employee who refuses to consent to a drug and alcohol test when reasonable suspicion of drug and alcohol use has been identified, as in Rule 1403, is subject to disciplinary action up to and including termination. The reason(s) for the refusal shall be considered in determining the appropriate disciplinary action.

1409 Confirmation of Test Results

An employee or job applicant whose drug test yields a positive result will be given a second test using a gas chromatography/mass spectrometry (GC/MS) test. The second test will use a portion of the same test sample from the employee or applicant used in the first test.

1409.1 If the second test confirms the positive test result, the employee or applicant will be notified of the results in writing by Human Resources. The letter of notification shall identify the particular substance found and its concentration level.

1410 Consequences of a Confirmed Positive Test Result

Applicants:

Job applicants will be denied employment with the municipality if their initial, positive test results have been confirmed. Applicants will be informed in writing if they are rejected on the basis of a confirmed positive drug test result.

Employees:

If a regular employee's positive test result has been confirmed, the employee is subject to disciplinary action and mandatory participation in a drug and/or alcohol assessment program, conducted by a licensed, qualified health care counselor or provider, for a first offence. The disciplinary action issued will be based upon a review of the employee's personnel file and may result in a recommendation for discharge.

1410.1 A confirmed positive test result during the probationary period will result in a recommendation for discharge.

1411 Return to Work Agreement

Employees who participate in a treatment program and whose disciplinary action does not result in discharge will be required to enter into a Return to Work Agreement which provides:

- A) That they thereafter refrain from violating the municipality's policy on drug and alcohol abuse.
- B) That they submit to random drug and/or alcohol screens or testing, as directed by Human Resources, at the employee's personal expense, for a period not to exceed two years following their return to work.
- C) Such other counseling, treatment, or other rehabilitation requirements as recommended by their participation in a treatment program.

1411.1 A refusal to submit to a required, random screen or a violation of the Return to Work Agreement will constitute grounds for termination.

1412 Voluntary Participation in Rehabilitation

Voluntary participation in a treatment program is encouraged. A regular employee may request a leave of absence in accordance with the provisions of the leave of absence policy through his/her supervisor or Human Resources. Such request and resultant leave of absence will be held confidential.

1413 Confidentiality

All records and information pertaining to employees and the enforcement of this policy, as well as all files relating to laboratory reports or test results, except for documentation of disciplinary action and the Return to Work Agreement, will be placed in a special locked file maintained by the Human Resources Office. Such records will remain confidential with only authorized individuals who have a "need to know" having access to them.

1413.1 All information from an employee's or applicant's drug and alcohol test is confidential and only those with a need to know are to be informed of test results. Disclosure of test results to any other person,

agency or organization is prohibited unless written authorization is obtained from the employee or applicant, or required by law. The results of a positive drug test will not be released until the results are confirmed. The records of unconfirmed, positive test results and negative test results will be destroyed by the testing laboratory.

1414 Laboratory Testing Requirements

All drug and alcohol testing of employees and applicants will be conducted at medical facilities or laboratories selected by the municipality. To be considered as a testing site, a medical facility or lab must submit in writing a description of the procedures that will be used to maintain test samples. The municipality shall not select a test facility that does not employ:

- A) Testing procedures that ensure privacy to employees and applicants consistent with the prevention of tampering;
- B) Methods of analysis that ensure reliable test results, including the use of gas chromatography/mass spectrometry to confirm positive test results.
- C) Chain-of-custody procedures that ensure proper identification, labeling and handling of test samples; and
- D) Retention and storage procedures that ensure reliable results on confirmatory tests of original samples.

1415 Reserved

1416 CDL Testing Requirements

The Omnibus Transportation Employee Testing Act of 1991 requires alcohol and drug testing of safety-sensitive transportation employees, i.e., employees who are required to have a commercial driver's license (CDL). This law requires employers to conduct pre-employment, reasonable suspicion, random, and post-accident testing of holders of CDL's. These requirements shall be in addition to, and not in lieu of, requirements and policies applicable to all employees.

1417 Prohibition on Use of Alcohol

The requirements of Sections 1417 through 1421.1 apply to all safety-sensitive employees. Although alcohol is a legal substance, safety-sensitive employees may not:

- A) Perform safety-sensitive function while having an alcohol concentration of 0.04 or greater as indicated by an alcohol breath test;
- B) Perform safety-sensitive functions while using alcohol;
- C) Perform safety-sensitive functions within four hours after using alcohol;
- D) Use of alcohol within eight hours after an accident or until testing.

1418 Mandatory Alcohol Testing

The following alcohol tests will be administered to safety-sensitive employees:

- A) Pre-employment - conducted before applicants are hired or after an offer to hire, but before actually performing safety-sensitive functions for the first time; also required when employees transfer to a safety-sensitive position.
- B) Post-accident - conducted after accidents on employees whose performance could have contributed to the accident.
- C) Reasonable suspicion - conducted when a supervisor observes behavior or appearance that is characteristic of alcohol misuse during or just prior to the performance of safety-sensitive functions.
- D) Random - conducted on a random unannounced basis just before, during or just after performance of safety-sensitive functions. At least 50% of safety-sensitive employees will be randomly tested each year.
- E) Return-to-duty and Follow-up - conducted when an individual who has violated the prohibited alcohol conduct standards returns to performing safety-sensitive duties; follow-up tests are unannounced and at least 6 tests must be conducted in the first 12 months after an employee returns to duty; follow-up testing may be extended for up to 60 months following return to duty.

1419 Prohibitions on Use of Drugs

The unauthorized use of illegal drug (i.e., controlled substances)

by safety-sensitive employees on or off duty is prohibited. In addition, legally prescribed controlled substance may not be used by safety-sensitive employees while operating commercial vehicles. Safety-sensitive employees must report any medical use of controlled substances.

1420

The following provisions govern random drug testing:

- A) Pre-employment-conducted before applicants are hired or after offer to hire, but before performing safety-sensitive functions for the first time; also required when employees transfer to a safety-sensitive position.
- B) Post-accident-conducted after accidents on employees whose performance could have contributed to the accident.
- C) Reasonable suspicion-conducted when a supervisor observes behavior or appearance that is characteristic of drug misuse.
- D) Random-conducted on a random unannounced basis, just before, during or just after performance of safety-sensitive functions. At least 50% of safety-sensitive employees will be randomly tested each year. Some employees may be tested more than once each year and others not at all depending on the random selection. Because use of illegal drugs is prohibited both on and off duty, the random testing for drugs does not have to be conducted in close time proximity to the performance of safety-sensitive functions.

1421

Mandated Sanctions Based on Positive Test Results

If a safety-sensitive employee tests positive in either an alcohol or drug test, the following Rules apply:

- A) The employee shall be removed from safety-sensitive duty;
- B) The employee cannot be returned to safety-sensitive duties until he/she has been evaluated by a substance abuse professional, has complied with recommended rehabilitation, and has a negative result on a return-to-work duty drug or alcohol test;
- C) Follow-up testing to monitor the employee's compliance with the alcohol and drug policies.

1421.1

If a safety-sensitive employee refuses to submit to a required alcohol or drug test, the employer may not permit the employee to continue to perform safety-sensitive functions.

CHAPTER 15

RESERVATION OF RIGHTS

Rule 1500

The City of Ruidoso Downs by and through its Governing Body reserves the right to promulgate any lawful rule or regulation necessary for effective personnel administration, or to amend or rescind any such rule or regulation at any time in a manner consistent with law.

CHAPTER 16

TRAVEL

Rule 1600 Travel Expenses

As per Resolution adopted by the Governing Body, City employees required to travel on City business will be paid for mileage and per diem expenses as specified in the City's mileage and per diem resolution. Notice shall be provided on the "Travel Authorization" form and shall be forwarded to the Finance Director by the Department Head.

- 1600.1** Day to day business requiring travel to nearby cities are excluded from the requirement for prior notification; however, the Department Head must approve such travel.
- 1600.2** Out-of-State travel for any City employee on City business requires the prior, written authorization of the Mayor, which is accomplished by the Mayor signing an "Out-of-State Travel Request" form prior to the anticipated travel.
- 1600.3** Cash advances for travel can be paid only upon prior approval of the Finance Director pursuant to Annual Per Diem and Travel Resolution.
- 1600.4** It is the policy of the City that employees or contracted employees who are required to travel for City business be reimbursed for necessary and reasonable work-related travel expenses. Every effort will be made to treat all employees fairly and equally when granting travel expenditures. All travel will be by the most economical method. All travel and meal expenses shall be compensated at the current rates as identified in this policy.
- 1600.5** This document establishes policies governing the reimbursement of travel and other business expenses incurred during the conduct of City business. It is the City's policy to reimburse employees for ordinary, necessary, and reasonable expenses when directly related to the transaction of City business. Directly related expenses are those in which there is the expectation of driving some current or future benefit for the City, the employee is actively engaged in a business meeting or activity necessary to the performance of the employee's job duties or there is a clear business purpose. Employees are expected to exercise prudent business judgment regarding expenses covered by this Policy.

Reimbursement for expenses that are not in compliance with this policy requires the prior written approval of the Finance Director. City employees are responsible for complying with this policy.

1600.6 Mode of Travel

- A) Whenever possible, the most economical mode of transportation shall be utilized when traveling for business. If travel exceeds eight hours of drive time, the use of air travel should be considered.
- B) Employees may travel with other employees traveling to the same training or with individuals external to the organization, i.e., a spouse, contractor, or relative, within reasonable accommodations.

1600.7 Air Travel

- A) All employees are expected to travel coach class and are encouraged to search for the lowest available restricted but changeable fare, rather than the fully refundable fare.
- B) The cost of canceling and/or rebooking of flights is not reimbursable, unless it can be shown that it was necessary or required for legitimate business reasons (such as a changed meeting date). Employees must identify and pay for all personal flights, even if such flights are incorporated into a flight schedule that serves business purposes.

1600.8 Personal Vehicles

- A) Employees who utilize personal vehicles for business purposes are required to have a valid driver's license and at least the minimum insurance coverage required by law.
- B) In accordance with State law, mileage will be reimbursed at 80% of the currently allowable IRS rate which is provided as an appendix when employees use their personal vehicles for approved travel.
- C) Primary insurance for employees who use their personal vehicles for business purposes shall be through their own personal automobile insurance policy and will be responsible for any damage to the vehicle as well as for liability.

- D) The expenses related to gasoline consumed by personal vehicles are the responsibility of the employee. The owner/driver of the vehicle is responsible for all parking fines and moving violation tickets.
- E) The City prefers and encourages employees to use City-owned vehicles whenever available and/or practicable in accordance with applicable City policies for use of City vehicles.

1600.09 Lodging

- A) Prudent judgment should be used when selecting lodging. A single in a moderately priced business class hotel or motel is the City's standard.
- B) For all lodging expenditures, hotel receipts must be submitted; credit card charge slips do not represent adequate supporting documentation. The City prefers and encourages employees to have lodging expenses billed directly to the City.
- C) The City will not reimburse an employee for separate travel costs associated with his/her spouse or partner. However, the cost of shared lodging need not be allocated between an employee and his/her spouse or partner for purposes of this Policy.

1600.10 Documentation

- A) Requests for reimbursement of business expenses must be submitted on the appropriate expense reimbursement request form. Each expense shall be separately identified.
- B) Original receipts are required for all missing receipts and must have an explanation provided that is approved by Accounts Payable prior to reimbursement to the employee.
- C) The City complies with IRS regulations, which require that all business expenses be substantiated with adequate records. This substantiation must include information relating to:
 - 1. The amount of the expenditure.

2. The date, time, and place (name and address) of the expenditure.
 3. The business purpose of the expenditure.
 4. The names and the business relationships of individuals other than the employee for whom the expenditures were made.
- D) Requests for reimbursement lacking complete information will be returned to the requesting employee.
- E) Reimbursement requests shall be promptly submitted and, in no event, no more than thirty (30) days after the expense. Reimbursement requests more than thirty (30) days old may be rejected.

1600.11 Approvals

- A) A travel request form, together with required documentation, must be submitted to the employee's immediate director for review and signature approval. Thereafter, it must be submitted to the Finance Director for final approval.
- B) The Directors approving expense reports are responsible for ensuring that the expenses reported are proper and reimbursable under this policy, the expense report has been filled out accurately and has the required documentation, and the expenses are reasonable and necessary.
- C) Daytime travel for meetings will be considered under regular work assignments unless it includes other expenses such as training costs or mileage for use of a personal vehicle. The direct supervisor assigns work assignments.
- D) All overnight travel and travel associated with training must be approved by the supervisor or department head prior to the date of travel except in emergency instances.

1600.12 Travel Advances

- A) Cash or travel advances will be permitted for travel consisting of three or more consecutive, overnight stays.

- B) Requests for travel advances must be submitted at least two weeks prior to the Friday preceding the travel dates or may be denied.
- C) Advance amounts will be approved if they meet the criteria, at 80% of the daily per diem rate.
- D) Approved travel advance payments will be provided preceding the travel dates.
- E) Even when a travel advancement is approved an expense reimbursement request form must be filed following travel. Any funds still owed to the employee will be paid in accordance with this policy. Funds overpaid through a travel advance will be deducted from the employee's paycheck.

1600.13

Reimbursable Expenses

- A) City procurement cards may be used to make travel arrangements for purchases that meet the appropriate use under this policy.
- B) The following are examples of reimbursable expenses, as long as they are in compliance with the applicable provisions of this policy, and are for business purposes:
 - 1. Hotel or motel charges.
 - 2. Airfare, train fare, bus fare, taxicabs (including tips between 15 and 20%).
 - 3. Meals, including tips between 15 and 20%.
 - 4. Business telephone calls.
 - 5. Charges for internet connectivity at the hotel or motel.
 - 6. If the employee does not have a mobile phone, once daily calls home of a reasonable length while traveling on City business.
 - 7. Car rental expenses.

8. Personal mileage, if using personal vehicle.
9. Fuel expense if in the City vehicle.
10. Toll and parking charges.
11. Conference and convention fees.
12. Business center costs (i.e. copying, faxing, etc.).
13. Laundry and/or dry cleaning expenses during trips more than five days.
14. Other reasonable and necessary business expenses, not specifically excluded by this section.

1600.14 The following are examples of expenses that are not reimbursable:

1. Airline club dues.
2. First class airfare.
3. In-flight movies/refreshments.
4. Hotel room movies and other forms of personal entertainment.
5. Childcare costs.
6. Barbers/hairstylists.
7. Traffic fines.
8. Tips more than 20% and/or tips in addition to pre-applied gratuity.
9. Luggage or briefcases, except for the first bag
10. Alcohol
11. Meals including only City employees, unless traveling on City business or approved in advance by the City Manager or designee.
12. Parties and gifts for City employees.

13. Personal miles in excess of the cost of airfare to the same destination.

1600.15 No policy can anticipate every situation that might give rise to legitimate business expenses. Reasonable and necessary expenses, which are not listed above may be incurred. Each employee and supervisor must use his/her best professional judgment in determining if an unlisted expense is reimbursable under this policy.

1600.16 Per Diem Allowance

- A) The City provides a per diem rate for meals associated with approved travel for partial travel days that extend beyond eight (8) hours. These are days where overnight lodging is not required and includes days returning from travel.
- B) Meals included in registration fees will not be reimbursed.
- C) The City provides a per diem rate for meals and lodging, if purchased by the employee, associated with approved travel for days where overnight lodging is required will be reimbursed per day as follows: Annual Rates NM DFA.
- D) A per diem rate will not be paid for lodging if overnight stay will be utilized through a relative's home.
- E) In lieu of per diem rates, actual receipts may be submitted for reimbursement.

1600.17 Personal Expense Payback

- A) When traveling with other individuals, there may be economical options to purchase tickets or other items at the same time for all members traveling.
- B) When these purchases include items for non-City employees, i.e. a spouse, the employee is required to pay back the portion of the expense for the non-City employee within days of the purchase being made.
- C) As much as possible, employees should make travel arrangements for non-City employees separately and with their personal funds.

1600.18 Mileage Rate

In accordance the City of Ruidoso Downs Resolution, State of NM Per Diem and Mileage Act (NMSA 1978 §10-8-1 through §10-8-8), and 2.42, 2 NMAC. Every public officer or employee shall receive up to the Internal Revenue Service standard mileage rate set January 1 of the previous year for each mile traveled in a privately owned vehicle or eighty-eight cents (\$.88) a mile for each mile traveled in a privately owned airplane if the travel is necessary to the discharge of the officer's or employee's official duties and if the private conveyance is not a common carrier; provided, however, that only one person shall receive mileage for each mile traveled in a single privately owned vehicle or airplane, except in the case of common carriers, in which case the person shall receive the cost of the ticket in lieu of the mileage allowance.

CHAPTER 17

HARASSMENT AND SEXUAL MISCONDUCT POLICY

Rule 1700 It is the policy of the City of Ruidoso Downs to forbid discrimination against any employee or applicant for employment on the basis of sex. The City will not tolerate sexual harassment activity or sexual misconduct by any of its employees. This policy similarly applies to non-employee volunteers who work subject to the control of City authorities.

1701 Definitions

A) Conduct of a Sexual Nature is:

- 1) physical sexual advances including touching, pinching, patting, and brushing against;
- 2) verbal sexual advances including comments or descriptions regarding physical or personality characteristics of a sexual nature, sexually-oriented teasing, double entendre and sexually-oriented jokes;
- 3) any display of sexually-oriented photographs, drawings, or an other sexually-oriented visual media when such display has no valid job-related purpose.

B) Unwelcome Conduct of a Sexual Nature is conduct of a sexual nature directed toward an employee who has indicated by his/her conduct of verbal statement that such conduct is unwelcome.

C) Sexual Misconduct is any conduct constituting a criminal sexual offence under the laws of the State of New Mexico or the ordinances of the City of Ruidoso Downs.

D) Sexual Harassment is unwelcome conduct of a sexual nature when:

- 1) submission to such conduct is made either an implicit or explicit condition of employment, or
- 2) submission to or rejection of such conduct is used as a basis for any employment decision affecting the subject employee, or
- 3) such conduct interferes with an employee's work performance or created an intimidating, hostile, offensive work environment.

1702 Reporting

It is the express policy of the City of Ruidoso Downs to encourage employee victims of sexual harassment or sexual misconduct to come forward with such claims. Employees who feel that Department Heads or supervisors are conditioning promotions, increases in wages, continuation of employment, or other terms or conditions of employment upon sexual favors are encouraged to report these conditions to the appropriate supervisor.

1702.1 If the employee's direct supervisor is the offending person, the report may be made to the Department Head. Reports may also be made directly to the Mayor.

1702.2 Employees are also urged to report any unwelcome conduct of a sexual nature by supervisors or fellow employees if such conduct interferes with the individual's work performance or creates a hostile or offensive working environment.

1702.3 Confidentiality will be maintained and no reprisals and no retaliation will be allowed to occur as a result of the good faith reporting of charges or sexual harassment or sexual misconduct.

1703 Investigation

In determining whether alleged conduct constitutes sexual harassment or sexual misconduct, the totality of the circumstances, the nature of the conduct and the context in which the alleged conduct occurred will be investigated. Human Resources has the responsibility to investigate and resolve complaints of sexual of sexual harassment or sexual misconduct.

1704 Disciplinary Action

Any employee found to have engaged in sexual harassment or sexual misconduct shall be subject to disciplinary action Under Chapter 8 of this Personnel Policy.

1705 Dissemination of this Policy

Department Heads shall ensure that this policy is disseminated to all employees through SOP manuals or other appropriate means. Records shall be maintained indicating that each employee has been provided with a copy of this policy.

CHAPTER 18

VIOLENCE IN THE WORKPLACE

Rule 1800 City of Ruidoso Downs is committed to providing a safe work environment that is free of violence, threats of violence, and/or threatening acts. Any violence or threatening conduct of any kind on City property or involving City-related activities will not be tolerated whether it is directly against a co-worker, Department Head/supervisor, volunteer, or outside party. The City of Ruidoso Downs will act quickly and firmly to investigate all incidents of workplace violence and take appropriate disciplinary action against offending employees. If deemed necessary, the City will prosecute those employees or non-employees (volunteers) who threaten, endanger, or intimidate others.

1801 Definitions

Workplace Violence is:

- A) Act of violence - any assault, battery, or stalking with the intent or implied intent to harm a person or property.
- B) Threat of violence - a statement or course of conduct that could cause a reasonable person to believe that he or she is under a threat of death or bodily injury or that his/her property would be damaged.
- C) Intimidation or harassment towards others - to torment persistently to where an individual becomes timid or fearful.

1802 Examples of Prohibited Violent Conduct

Examples of workplace violence include, but are not limited to the following:

1. Threats – Violence in the workplace is not limited to physical acts. Verbal threats, whether or not such comments are accompanied by any physical component, undermine workplace safety and security.
2. Threatening, physically aggressive, or violent behavior – May include physically dominating or “bullying” someone, whether

actually touching them or not such as looming over them, blocking their path, etc.

3. Other behavior that suggests a tendency towards violence – May include belligerent speech, excessive arguing or swearing, destruction and/or defacement of City property or facilities, or a demonstrated pattern of refusal to follow City policies and procedures, or to maintain effective working relationships with City employees and others contacted in the course of work.
4. Carrying Weapons – With the exception of authorized police personnel, bringing weapons, firearms, or other potentially harmful devices of any kind on City property, in City parking lots, into City vehicles, while conducting City business or while involved in any City-related functions is prohibited.

A zero tolerance applies to any of the following which shall also be considered violent acts:

- a. Striking, punching, slapping, or assaulting another person.
- b. Fighting or challenging another person to fight.
- c. Grabbing, pinching, or touching another person in an unwanted way.
- d. Damaging/destruction of City property or property of others.
- e. Using different means of communication to express anger or irritation in a form that can be considered threatening or bullying (ex: letters, emails, phone calls/voicemails, text messages, blogs, or social media sites).

1803 Reporting Workplace Violence

Any potentially dangerous situation must be reported immediately to the Supervisor, Department Head, or the Human Resources office. All reported incidents will be investigated promptly. Reports or incidents warranting confidentiality will be handled appropriately, and information will be disclosed to others only on a need-to-know basis.

False Reports: Allegations and/or reports of workplace violence will be taken seriously. If you intentionally make false reports, you will be

subject to disciplinary action up to and including termination. The primary goal of investigating and reporting threats of violence in the workplace is to resolve such incidents without the occurrence of violence. Each case will be assessed individually and responded to accordingly.

1804 Retaliation

Employees must feel comfortable in reporting potential actual violence in the workplace in order for the City to resolve these situations. Any retaliation against an employee for reporting violent or potentially violent behavior, or participating in a subsequent investigation, will not be tolerated. Supervisory personnel or other employees found to have retaliated against employees who have brought a complaint to the attention of the Human Resources office are subject to appropriate discipline, up to and including termination.

1805 Responsibilities

1. Except as set forth below, the Mayor is responsible for enforcement of the Violence in the Workplace policy.
2. The Human Resources Office is responsible for ensuring that all complaints of violence are investigated thoroughly and promptly, including recommendations for any necessary action to the Mayor and Department Head.
3. Every Department Head is responsible for informing all employees of the Violence in the Workplace policy and for taking the steps necessary to set a positive example in the prevention of violence.
4. Every Supervisor is responsible for taking immediate and appropriate corrective action upon the observation of any incident of violence or upon receipt of an oral or written report of any occurrence of violence in the workplace.
5. Every City employee is responsible for reporting any act of violence to the immediate Supervisor, Department Head, and the Human Resources Office.

1806 Complaint Resolution Procedures

When a complaint of violence in the workplace is reported, the Human Resources Office will investigate and attempt resolution of the violence complaints in accordance with City's complaint procedure.

Depending on the circumstances there may be times that the Police Department will be involved in the procedures.

VIOLENCE IN THE WORKPLACE COMPLAINT FORM

1803 – Attachment F

Date Received: _____

EMPLOYEE NAME (Complainant) _____

Please Print or Type

List employee(s) alleged to have exhibited the violent behavior.

Describe incident(s) which support your complaint. Include location, dates, times, and witness to the incident(s). (Attach additional pages if necessary.)

In your own words describe why you feel these incidents represent violent act/threats as described in Violence in the Workplace, Chapter 18 of the Personnel Policy.

Complainant Signature

Date

CHAPTER 19

WORKPLACE BULLYING

Rule 1900 The purpose of this policy is to communicate to all employees, including supervisors, Department Heads, and elective officials, that the City of Ruidoso Downs will not *in any instance* tolerate bullying behavior. Employees found in violation of this policy will be disciplined, up to and including termination.

1901 Definition

The City of Ruidoso Downs defines bullying as repeated, health-harming mistreatment of one or more people by one or more perpetrators. It is abusive conduct that includes:

- Threatening, humiliating, or intimidating behaviors.
- Work interference/sabotage that prevents work from getting done.
- Verbal abuse.

1902 Examples of Bullying

The following types of behavior examples are considered bullying:

- Verbal bullying. Slandering, or ridiculing a person or his or her family; persistent name-calling that is hurtful, insulting or humiliating; using a person as the butt of jokes; abusive and offensive remarks.
- Physical bullying. Pushing, shoving, kicking, poking, tripping, assault or threat of physical assault, damage to a person's work area or property.
- Gesture bullying. Nonverbal gestures that can convey threatening messages.
- Exclusion. Socially or physically excluding or disregarding a person in work related activities.

In addition, the following examples may constitute or contribute to evidence of bullying in the workplace:

- Persistent singling out of one person.
- Shouting or raising one's voice at an individual in public or in private.
- Using obscene or intimidating gestures.
- Not allowing the person to speak or express himself or herself (i.e. ignoring or interrupting).
- Personal insults and use of offensive nicknames.
- Public humiliation in any form.
- Constant criticism on matters unrelated or minimally related to the person's job performance or description.
- Public reprimands.
- Repeatedly accusing someone of errors that cannot be documented.
- Deliberately interfering with mail and other communications.
- Spreading rumors and gossip regarding individuals.
- Encouraging others to disregard a supervisor's instructions.
- Manipulating the ability of someone to do his or her work (i.e., overloading, underloading, withholding information, setting deadlines that cannot be met, giving deliberately ambiguous instructions).
- Taking credit for another person's ideas.
- Refusing reasonable requests for leave in the absence of work-related reasons not to grant leave.
- Deliberately excluding an individual or isolating him or her from work related activities, such as meetings.

- Unwanted physical contact, physical abuse or threats of abuse to an individual or an individual's property (defacing or marking up property.)

1903

Reporting Workplace Bullying

Individuals who feel they have experienced bullying should report this to their supervisor, Department Head, or to Human Resources before the conduct becomes severe or pervasive. All employees are strongly encouraged to report any bullying conduct they experience or witness as soon as possible to allow the City of Ruidoso Downs to take appropriate action.

When a complaint of bullying is reported, the Human Resources Office will investigate and attempt resolution of the bullying complaint in accordance with the City's complaint procedure.

CHAPTER 20

TECHNOLOGY USE

Rule 2000

The City of Ruidoso Downs recognizes that use of the Internet and email is necessary in the workplace, and employees are encouraged to use the Internet and email systems responsibly, as unacceptable use can place The City of Ruidoso Downs and others at risk. This policy outlines the guidelines for acceptable use of The City of Ruidoso Downs' technology systems.

This policy must be followed in conjunction with other City of Ruidoso Downs' policies governing appropriate workplace conduct and behavior. Any employee who abuses the city's provided access to email, the Internet, or other electronic communications or networks, including social media, may be denied future access and, if appropriate, be subject to disciplinary action up to and including termination. The City of Ruidoso Downs complies with all applicable federal, state and local laws as they concern the employer/employee relationship, and nothing contained herein should be misconstrued to violate any of the rights or responsibilities contained in such laws.

Questions regarding the appropriate use of The City of Ruidoso Downs' electronic communications equipment or systems, including email and the Internet, should be directed to your Department Head or the City Clerk.

The City of Ruidoso Downs has established the following guidelines for employee use of the city's technology and communications networks, including the Internet and email, in an appropriate, ethical, and professional manner.

2001

Confidentiality and Monitoring

All technology provided by The City of Ruidoso Downs, including computer systems, communication networks, city-related work records and other information stored electronically, is the property of The City of Ruidoso Downs and not the employee. In general, use of the city's technology systems and electronic communications should be job-related and not for personal convenience. The City of Ruidoso Downs reserves the right to examine, monitor and regulate email and other electronic communications, directories, files and all other content, including Internet use, transmitted by or stored in its technology systems, whether onsite or offsite.

Internal and external email, voice mail, text messages and other electronic communications are considered business records and may be subject to discovery in the event of litigation. Employees must be aware of this possibility when communicating electronically within and outside the city.

2002

Appropriate Use

The City of Ruidoso Downs employees are expected to use technology responsibly and productively as necessary for their jobs. Internet access and email use is for job-related activities; however, minimal personal use is acceptable.

- A) Employees may not use The City of Ruidoso Downs' Internet, email or other electronic communications to transmit, retrieve or store any communications or other content of a defamatory, discriminatory, harassing or pornographic nature. No messages with derogatory or inflammatory remarks about an individual's race, age, disability, religion, national origin, physical attributes or sexual preference may be transmitted. Harassment of any kind is prohibited.
- B) Disparaging, abusive, profane or offensive language and any illegal activities—including piracy, cracking, extortion, blackmail, copyright infringement and unauthorized access to any computers on the Internet or email—are forbidden.
- C) Copyrighted materials belonging to entities other than The City of Ruidoso Downs may not be transmitted by employees on the city's network without permission of the copyright holder.
- D) Employees may not use the city's computer systems in a way that disrupts its use by others. This includes sending or receiving excessive numbers of large files and spamming (sending unsolicited email to thousands of users).
- E) Employees are prohibited from downloading software or other program files or online services from the Internet without prior approval from the City Clerk. All files or software should be passed through virus-protection programs prior to use. Failure to detect viruses could result in corruption or damage to files or unauthorized entry into the city's systems and networks.

- F) Every employee of the City of Ruidoso Downs is responsible for the content of all text, audio, video or image files that he or she places or sends over the city's Internet and email systems. No email or other electronic communications may be sent that hide the identity of the sender or represent the sender as someone else. The city's identity is attached to all outgoing email communications, which should reflect the city's values and appropriate workplace language and conduct.

2003

Discipline

Violation of this policy will subject the offender to discipline, pursuant to the procedures in the City of Ruidoso Downs Personnel Policy Manual, up to and including termination.

CHAPTER 21

CHILDREN IN THE WORKPLACE

- Rule 2100** The City values family and work/life balance and its employment policies and benefits are indicative of those beliefs. However, the City must consider issues of safety, confidentiality, disruption to operations, and to employees, as well as legal liability issues that are presented by the presence of children in the workplace; therefore, it is inappropriate for minor children and other minor relatives of employees to be in the workplace during working hours.
- 2101** For the purposes of this policy: a child is defined as a person under the age of 16 who is in the legal custody of an employee of the City. A parent is defined as a part-time or full-time employee serving as a mother, father, or legal guardian of a minor.
- 2102** The workplace may not be used as an alternative for regular childcare. When childcare arrangements breakdown, an employee should seek alternatives to bringing children to the workplace.
- 2103** In an unforeseen emergency, Department Directors may grant permission for a child to be in the workplace for no more than 15 minutes; however, no employee may have a child in the workplace without the Director's permission or use the workplace as an alternative to childcare. An incidental and brief visit no longer than 15 minutes by a child to a parent's workplace is acceptable. Children brought to the workplace are not covered by worker's compensation.
- 2104** When authorized, an employee who brings a child to the workplace is responsible for keeping the child within his or her "sight and sound" at all times. The employee may not ask any other employee to supervise the child.
- 2105** The City has the right to suspend or terminate the permission provided under this policy at any time if a parent's performance declines or if organizational needs are not being met.

NOTICE

The City of Ruidoso Downs is subject to all applicable federal and state laws affecting employment, wages and working conditions. If a provision on this Manual conflicts with applicable laws or regulations, the applicable law and regulations shall govern.

All employees must sign an Acknowledgement Form (attached) at the time of receipt of this manual.

ACKNOWLEDGEMENT

By my signature below, I certify that I have received a copy of the City of Ruidoso Downs Personnel Policy Manual. In addition, I agree to familiarize myself with the rules, regulations and contents contained therein.

Employee Name (Please Print)

Employee Signature

Date