



PERSONNEL RULES

CHAPTER 66. PERSONNEL RULES

ARTICLE I. Title and Scope

- § 66-1. Title; applicability.
- § 66-2. Merit system.
- § 66-3. Construal of provisions.
- § 66-4. Amendments.
- § 66-5. Conflict with other provisions.
- § 66-6. Equal employment opportunity.

ARTICLE II. Terminology

- § 66-7. Definitions.

ARTICLE III. General Provisions

- § 66-8. Rules established and adopted.
- § 66-9. Applicability; authority.
- § 66-10. Exclusive rights of City Manager.
- § 66-11. Amendments to rules.
- § 66-12. Administrative regulations.

ARTICLE IV. Classification

- § 66-13. Class designation.
- § 66-14. New positions.
- § 66-15. Maintenance of classification plan.
- § 66-16. Reclassification.

ARTICLE V. Pay Plans and Pay Administration

- § 66-17. Establishment and review of pay plan.
- § 66-18. Salary rates assigned.
- § 66-19. Appointment rate.
- § 66-20. Performance pay increase.
- § 66-21. Pay upon interim appointment.
- § 66-22. Pay upon promotion.
- § 66-23. Pay upon demotion.
- § 66-24. Pay upon transfer.
- § 66-25. Pay upon reclassification.
- § 66-26. Certification.
- § 66-27. Pay at termination.
- § 66-28. Service increment pay.

ARTICLE VI. Hours of Work Week

- § 66-29. Standard work week.
- § 66-30. On call.
- § 66-31. Paid overtime.
- § 66-32. Work breaks.

ARTICLE VII. Recruitment, Selection, Appointment and Review

- § 66-33. Application.
- § 66-34. Job vacancies.
- § 66-35. Types of appointment.
- § 66-36. Appraisal/probation period.
- § 66-37. Types of examinations.

- § 66-38. Driving and operating City-owned vehicle and equipment.

- § 66-39. Nepotism.

- § 66-40. Employee performance review.

- § 66-41. Reinstatement.

ARTICLE VIII. Change In Employment Status

- § 66-42. Voluntary transfer.

- § 66-43. Involuntary transfer.

- § 66-44. Promotion.

- § 66-45. Demotion.

- § 66-46. Terminations.

ARTICLE IX. Disciplinary Action

- § 66-47. Causes of disciplinary action.

- § 66-48. Types of discipline.

ARTICLE X. Grievance and Appeal

- § 66-49. Grievance.

- § 66-50. Appeal of disciplinary action.

ARTICLE XI. Leave and Fringe Benefits

- § 66-51. Holiday leave.

- § 66-52. Vacation leave.

- § 66-53. Sick leave.

- § 66-54. Personal holiday.

- § 66-55. Injury leave.

- § 66-56. Family and Medical Leave Act.

- § 66-57. Temporary disability leave.

- § 66-58. Jury leave.

- § 66-59. Military leave.

- § 66-60. Unauthorized leave.

- § 66-61. Leave without pay and extended leave without pay.

- § 66-62. Administrative leave.

- § 66-63. Fringe benefits.

- § 66-64. Retirement.

ARTICLE XII. Employee Conduct and Miscellaneous Issues

- § 66-65. Political activity.

- § 66-66. Outside employment.

- § 66-67. Ethics.

- § 66-68. Dress code.

- § 66-69. Collective bargaining.

- § 66-70. Training.

- § 66-71. Americans With Disabilities Act.

- § 66-72. Modified return to work duty program.

- § 66-73. Sexual harassment.

City of Las Vegas, NM
Wednesday, August 8, 2012

Chapter 66. PERSONNEL RULES

[HISTORY: Adopted by the City Council of the City of Las Vegas 10-23-1997 by Ord. No. 86-8 (Ch. 2, Art. 6a, of the 1972 City Code). Amendments noted where applicable.]

GENERAL REFERENCES

Administration of government — See Ch. 14.
Boards and commissions — See Ch. 18.
Labor management relations — See Ch. 48.
Officers and employees — See Ch. 59.

Article I. Title and Scope

§ 66-1. Title; applicability.

Upon adoption by the City Council, this chapter hereafter shall constitute and be referred to as the official "Personnel Rules of the City of Las Vegas." The provisions thereof shall apply to all employees of the City, except Municipal Court employees, and except as to any provisions which may be inconsistent with personnel rules promulgated by the Police Department, specifically for certified law enforcement officers, and personnel rules promulgated by the Fire Department, specifically for certified firefighters. Municipal Court employees shall work under rules and regulations promulgated by the Municipal Judge.

§ 66-2. Merit system.

These rules and any pertinent administrative regulations constitute the merit system for the City of Las Vegas. All previous ordinances regarding the Personnel Board, personnel rules and merit system, contracts of employment between the municipality and an employee in a position covered by the merit system shall be subject to the provisions of this chapter.

§ 66-3. Construal of provisions.

This chapter establishes rules as to how all employees are to perform their responsibilities as City employees and in no way should the contents of this document be construed as a contract of employment.

§ 66-4. Amendments.

The City Council retains the right to change the content or intent of these policies for the purpose of improving overall operation of City government, and the changes must occur in concurrence with applicable laws regarding amendments to existing ordinances. The City's Human Resource Office shall inform all employees of the City covered by these provisions of amendments and their effective dates. The City's Human Resource Office shall provide all employees affected by these provisions with a copy of this chapter and employees shall acknowledge, in writing, receipt thereof.

§ 66-5. Conflict with other provisions.

This chapter applies to all employees, except, in cases where there is a conflict with Chapter 48, Labor Management Relations, of the Code of the City of Las Vegas and/or the collective bargaining

agreements. In such cases, Chapter 48, Labor Management Relations, and/or collective bargaining agreements shall control. (Refer to § 66-69 contained herein.)

§ 66-6. Equal employment opportunity.

- A. The City of Las Vegas prohibits discrimination on the basis of race, creed, color, ancestry, national origin, or political affiliation, except where it is a bona fide job qualification, on the basis of sex, age or physical or mental disability. The City of Las Vegas will not refuse to hire a disabled applicant who is capable of performing the essential requirements of the job with reasonable accommodation.
- B. Employment discrimination prohibited.
- (1) No qualified individual with a disability shall, on the basis of disability, be subjected to discrimination in employment under any service, program or activity conducted by the City of Las Vegas.
 - (2) For purposes of this section, the requirements of Title I of the Americans With Disabilities Act, as established by the regulations of the Equal Employment Opportunity Commission in 29 CFR Part 1630, apply to employment in any service, program, or activity conducted by the City of Las Vegas if that public entity is also subject to the jurisdiction of Title I.
 - (3) For the purposes of this section, the requirements of Section 504 of the Rehabilitation Act of 1973, as established by the regulations of the Department of Justice in 28 CFR Part 41, as those requirements pertain to employment, apply to employment in any service, program, or activity conducted by the City of Las Vegas if that public entity is not also subject to the jurisdiction of Title I.

Article II. Terminology

§ 66-7. Definitions.

The following definitions shall be used for descriptive purposes; in the event of any conflict between these definitions and the rules or regulations to which the definitions apply, the latter shall take precedence.

ADMINISTRATIVE LEAVE

A form of leave granted to compensate employees who hold exempt positions under the Fair Labor Standards Act *Editor's Note: See 29 U.S.C. § 201 et seq.* and who, therefore, are not entitled to overtime or compensatory time. It is not intended as an hour-for-hour compensation. Granting of administrative leave is a prerogative of the City Manager to act in accordance with the § 66-62 contained herein. It is controlled by the City Manager and is entirely discretionary.

APPEAL

A written, formal complaint by an employee based on an alleged impropriety in the administration of discipline.

APPOINTMENT (SELECTION)

Formal authorization of the hiring of an individual to fill a budgeted vacant position.

APPRAISAL PERIOD

Meaning "probationary period." A period of six months for regular status employees and one year for police officers and firemen, beginning on the date of appointment during which time the employee's performance is monitored and evaluated by the supervisor to determine the ability of the employee to perform the functions of the job satisfactorily.

CAUSE

Motive or reason for discipline of a regular employee determined by the standards of job performance and maintenance of the public interest.

CHAIN OF COMMAND

The employee's immediate supervisor, department director and City Manager.

CITY COUNCIL

The legislative body elected by the citizens of Las Vegas composed of eight Council members and one Mayor.

CITY MANAGER

Chief Administrative Officer of the City, appointed by the Mayor and City Council.

CLASS SPECIFICATION

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

CLASS TITLE

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

CLASSIFICATION (NOUN)

One or more positions so nearly alike in the essential character of their duties and responsibilities that the same pay grade, title and qualification requirements can be applied.

CLASSIFICATION (VERB)

Process of analysis based on comparative duties, responsibilities and qualifications by which appropriate classes are determined.

CLASSIFICATION PLAN

A schematic list of classes, supported by class specifications.

DEMOTION

The change of an employee from a position of one class to a position of another class with a lower pay rate.

DEPARTMENT DIRECTOR

A. Managerial, professional and/or supervisory personnel in charge of a department who reports directly to and is under the direct supervision of the City Manager.

B. Division personnel may, from time to time and except as otherwise provided by these rules, be designated to act on behalf of a department director. Such designation shall be in writing and concurred by the City Manager, if the assignment will exceed five working days. All department directors shall be appointed or dismissed by the Mayor and confirmed by the Council, upon recommendation by the City Manager, and are not covered within the City's Personnel Rules and Regulations in case of dismissal.

C. The department directors for the City of Las Vegas shall consist of:

- (1) City Clerk, City Clerk's office.
- (2) Community Development Director, Community Development Department.
- (3) Finance Director, Finance Department.
- (4) Fire Operation and Inspection Officer, Fire Department.
- (5) Gas Director, Gas Department.

- (6) Housing Director, Housing Authority Department.
- (7) Human Resource Director, Human Resource Department.
- (8) Library Director, Library.
- (9) Museum Director, Museum.
- (10) Police Chief, Las Vegas Police Department.
- (11) Project Coordinator, Project Coordination Department.
- (12) Public Facilities Director, Public Works Department.
- (13) Recreation Director, Recreation Department.
- (14) Solid Waste Director, Solid Waste Department.
- (15) Transportation Director, Transportation Department.
- (16) Utilities Administrative Director, Utilities Department.
- (17) Waste Water Director, Waste Water Department.
- (18) Water Director, Water Department.

DISCIPLINE

Action taken by a department director or a supervisor with regard to an employee, including warning, reprimand, suspension, demotion or dismissal.

DISMISSAL

The involuntary termination of an employee's employment with the City of Las Vegas.

DIVISION HEAD

Administrative personnel reporting directly to a department director or person in charge of reporting directly to the City Manager.

DRESS CODE

Employee's dress requirements appropriate for the work place as determined by administrative regulation.

EMPLOYEE

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

EMPLOYMENT APPLICATION

A document prescribed by the City of Las Vegas which contains personal data, questions and requires particular information of an individual seeking employment with the City of Las Vegas.

EMPLOYMENT APPLICATION POOL

An ongoing file of employment applications maintained by the Human Resource Department for a period of six months.

FAMILY MEDICAL LEAVE ACT

Enacted by Congress effective August 5, 1993, and requires covered employers to provide eligible employees up to 12 weeks of unpaid leave in a twelve-month period to care for a newborn or newly placed adopted or foster child, to care for a seriously ill child, spouse or parent; or because of the employee's own illness.

FRINGE BENEFITS

An employment benefit (as a pension, a paid holiday, or health insurance) granted by the City that involves a money cost without affecting basic wage rates granted.

GRIEVANCE

A written, formal complaint by an employee alleging a violation of a City rule or regulation.

HEARING OFFICER

A person appointed by the City Manager to hear appeals by employees regarding disciplinary action.

INCUMBENT

The current occupant of a position in the municipal service.

JOB DESCRIPTION

Definition of responsibilities an employee is to perform in an appointed position. The description shall include the position title, classification, supervision, process and nature of position, description of task performed, description of tools, machines and work aides used, qualifications, physical requirements and statement of general working conditions.

JOB TASK ANALYSIS

The analysis performed by the Human Resource Department of tasks, duties, responsibilities of the physical ability requirements for an authorized position.

JOB VACANCY

A budgeted position which is not occupied.

LAYOFF

The separation from employment which occurs when a regular, authorized, budgeted position has been abolished because of material changes in duties, reorganization, shortage of work, shortage of funds or other reasons determined by the City Manager to be in the best interest of the City.

LEAVE WITH PAY

An authorized paid absence from regularly scheduled work hours for reasons specified in the personnel rules (holiday, vacation, sickness, injury, personal holiday, jury duty, military leave, administrative leave with pay, compensatory time, and may include family medical leave.

LEAVE WITHOUT PAY

An unpaid absence from regularly scheduled work hours for reasons which may include temporary disability, may include family medical leave, unauthorized leave, leave of absence or leave without pay.

NEPOTISM

A City employee, by blood or marriage, to another employee and who directly supervises, controls or influences the work or employment status of the relative or the affairs of the organizational unit in which the relative is employed. The term "relative" includes spouse, child, stepchild, mother, father, grandparents, mother-in-law, father-in-law, brother, sister, brother-in-law, sister-in-law.

OVERTIME

Will be paid in accordance with the Fair Labor Standard Act. *Editor's Note: See 29 U.S.C. § 201 et seq.*

PART-TIME

An appointment of an employee to a position that will be occupied on a limited hourly basis and without any benefits, grievance or appeal rights under this chapter.

PAY GRADE

Includes all of the steps within that given pay grade.

PAY OR COMPENSATION PLAN

The aggregate of pay rates (either single rates or ranges) assigned to each class of position in the classification plan.

PAY STEP (PAY RATE)

A single rate of pay within a pay grade.

PERSONNEL PERFORMANCE EVALUATION

A written evaluation of the job performance of an employee by a supervisor and/or director.

POSITION

The aggregate of duties and responsibilities performed by one person. A position may be regular, temporary, part-time, seasonal, interim, contract, or acting, and may be occupied or vacant.

POSITION TITLE

A job designation established to identify a specific employee's position.

PROBATION

Referred to as "appraisal period." A period of six months for regular status employees and one year for police officers and firefighters, beginning on the date of appointment during which time the employee performance is monitored and evaluated by supervisor to determine the ability of the employee to perform the functions of the job satisfactorily.

PROMOTION

The change of an employee from a position of one class to a position of another class with a higher maximum pay rate.

RECLASSIFICATION

Process of analysis by which an established position is reviewed to determine whether the duties and responsibilities of that position merit a change in class designation.

REGULAR APPOINTMENT

Appointment of an employee to a regular budgeted authorized position to continue for an indefinite period in accordance with the personnel rules.

REPRIMAND

The formal written or oral censure of an employee by a director or supervisor.

RESIGNATION

The voluntary termination of an employee from the municipal service.

RETIREMENT

The voluntary termination of an employee, due to the employee's eligibility for retirement under the City's retirement plan.

SEASONAL

An appointment of an employee who works in a position designated by the City as seasonal and created to last no more than nine consecutive months, and without any benefits, grievance or appeal rights under this chapter.

SELECTION TECHNIQUES

Methods by which the suitability of job applicants are compared in order to determine whether to appoint and, if so, which applicant or applicants to appoint.

SUPERVISOR

An employee who has the authority or is delegated the authority in the interest of the employer to recommend retention, promotion, suspension, discharge, layoff, assignment, reward or discipline of other employees. Is responsible for directing other employees, addressing their grievances, or effectively recommending such actions.

SUSPENSION

An absence without pay imposed on an employee for disciplinary reasons by a director or supervisor.

TEMPORARY APPOINTMENT

The recommendation by the City Manager and approval by City Council in a public meeting to a position without any benefits, grievance or appeal rights under this chapter. Temporary employees shall become a member of Public Employee's Retirement Association of New Mexico. Temporary employment shall not exceed more than 12 months unless authorized by the City Manager.

TERMINATION

The voluntary or involuntary separation of employment.

TRANSFER

The appointment or reassignment of an employee to another position either:

- A. Within the same classification;
- B. Within a different classification; or
- C. To another department still within the municipal service.

WORKERS' COMPENSATION

State insurance fund established to provide benefits to employees injured on the job.

Article III. General Provisions**§ 66-8. Rules established and adopted.**

The Personnel Ordinance adopted for the City is enumerated in the following sections.

§ 66-9. Applicability; authority.

This chapter shall be applicable to all regular status employees of the City. Responsibility and authority for the implementation and administration of this chapter is vested in the City Manager.

§ 66-10. Exclusive rights of City Manager.

Subject to applicable ordinances and resolutions for regulations and policies of the City Council, the City Manager has and retains all rights to administer the affairs of the City, including but not limited to the exclusive right to:

- A. Reprimand, suspend, terminate, or otherwise discipline employees.
- B. Hire, promote, demote, reclassify, transfer, retire, reassign, assign, lay off, and recall employees to work.
- C. Judge the employee's skill, ability, efficiency, and general performance.
- D. Determine the starting and quitting times and number of hours to be worked.
- E. Determine the assignment of work and the size and composition of the work force.
- F. Revise, eliminate, combine, or establish new jobs and classifications.
- G. Establish, close down or expand the operation of any facility, department or division, and reduce, increase, alter, combine, transfer, or cease any department's operation, equipment or service.
- H. Subcontract and determine the services to be rendered, bought, or sold.

- I. Introduce technological changes, new, improved or modified services, methods, techniques and equipment and otherwise generally manage the operation and direct the work force.
- J. The City Manager reserves the right to postpone all paid leave, except authorized sick leave, injury, and temporary disability leave, and to call back an employee in the event of an emergency.

§ 66-11. Amendments to rules.

Amendments to this chapter may be proposed by the City Manager to the City Council as deemed necessary. All amendments shall be adopted by ordinance and shall become effective upon adoption by the City Council or on such date as the City Council shall designate.

§ 66-12. Administrative regulations.

Editor's Note: Administrative regulations are available from the City offices. The City Manager, at any time deemed necessary for the purpose of enforcement or implementation may, by his authorization and through the Human Resource Director, adopt, amend or rescind written administrative regulations consistent with this chapter. Such administrative regulations shall be effective on the dates specified by the City Manager and shall be disseminated to department directors and supervisors, posted for general viewing by employees and be in the Human Resource Office, together with this chapter, to be open to the public for inspection during normal business hours.

Article IV. Classification

§ 66-13. Class designation.

Each position within the City shall be classified, shall be identified by a class specification and class title, and all positions within a classification shall be subject to the same pay range. The classification plan shall be approved by City Council.

§ 66-14. New positions.

No person shall be employed by the City to fill a position with any classification or pay range not included in the approved classification plan until such plan has been amended by the City Council to include such classification or pay range.

§ 66-15. Maintenance of classification plan.

The City Manager may periodically instruct the Human Resource Director to review the duties and responsibilities of various or all positions within the City. The City Manager may from time to time make recommendations to City Council for amendments to the classification plan.

§ 66-16. Reclassification.

- A. The Human Resource Director shall be responsible for the writing of all new class specifications and the conducting of reclassification studies. No class specification shall be used in the recruitment and/or selection of full-time regular positions without the approval of the Human Resource Director.
- B. Written authorization from the City Manager must be received by the Human Resource Director before a reclassification study will be undertaken. The Human Resource Director shall determine the scope and methodology of all authorized studies. All classification studies shall be implemented subject to the pay plan administration provisions of the personnel rules. These studies are advisory in nature and the ultimate reclassification decision shall be made by the City Manager.

Article V. Pay Plans and Pay Administration

§ 66-17. Establishment and review of pay plan.

The City Manager shall recommend pay plan adjustments to City Council for approval.

§ 66-18. Salary rates assigned.

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

§ 66-19. Appointment rate.

Upon original appointment within the step schedule, all persons shall be paid at the minimum rate for their classification. However, the City Manager may authorize original appointments at higher than minimum rate within the designated pay range if the person possesses exceptional experience and training. If hired at a higher than minimum rate, such person shall not be eligible for pay step increases in accordance with the approved pay plan. Individual appointments to the open range schedule are dependent on individual qualifications, budgetary constraints and the approval of the City Manager.

§ 66-20. Performance pay increase.

Authorization of a performance pay increase may be granted by the City Manager based on the employee's performance evaluation and the availability of funds. The performance review shall occur each calendar year on the employee's anniversary date.

- A. The City Manager shall conduct annual performance reviews of all positions classified within the executive management occupational group. The City Manager may grant performance pay increases for those employees receiving exceptional performance ratings. The City Manager shall determine the amount of pay increase.
- B. The department director shall perform annual performance evaluation of positions in their respective departments, classified under the following; professional and supervisory occupational group; protective service occupational group; labor trades and crafts occupational groups; clerical technical occupational group.
 - (1) The department director may recommend to the City Manager a performance pay increase based on percentage for those employees that received an exceptional annual performance rating, based on the availability of funds. The City Manager shall have final review of all employee performance evaluations and act on the recommendations. The performance pay increase, if any, shall not exceed the maximum step for that salary range.
- C. A department director or designee thereof may, on the basis of exceptional performance by the employee, recommend more than one step pay increase at the time of the employee's annual review. Such requests are subject to the approval of the City Manager.
- D. The following shall not affect an employee's performance review date:
 - (1) Advancement within the pay plan;
 - (2) Transfer within class or range;
 - (3) A period of paid leave;
 - (4) Reclassification.

§ 66-21. Pay upon interim appointment.

The City Manager may appoint a regular status employee to a vacated position for the good of the service of the City. Said appointment shall entitle the employee to the salary associated with that particular job classification for the duration of the appointment, provided such salary is equal to or higher than the employee's pay rate. The City Manager shall not assign an employee to interim status for a period of less than one calendar month of duty nor more than six calendar months. The City Manager may extend the appointment on a month-to-month basis, as necessary.

§ 66-22. Pay upon promotion.

An employee shall, upon promotion, receive an increase in pay consistent with the approved pay plan.

§ 66-23. Pay upon demotion.

An employee shall, upon demotion, be paid at a pay step within the grade for the classification at a lower rate of pay.

§ 66-24. Pay upon transfer.

When an employee transfers within the same classification, the rate of pay and performance review shall remain unchanged. An employee transferring to a different supervisor shall be evaluated by the existing supervisor prior to transfer.

§ 66-25. Pay upon reclassification.

When position is reclassified, the incumbent shall be paid within the pay grade of the new classification and shall retain the same performance review date. If the position is down graded and the individual's pay is above the grade, the employee's pay will be red circled, which means that the employee will not receive an increase until the pay grade catches up with the individual pay.

§ 66-26. Certification.

- A. An employee may be entitled to a salary increase upon certification in a specialized field and reclassification to a new position. The City Manager may approve the salary increase only if the salary increase is authorized by the department's approved budget. Compensation shall only apply to certification achieved by the employee. Pay increase shall be paid at the pay step within the range of the new classification.
- B. If a position requires certification, it shall be the responsibility of the employee hired for the position to attain such certification within a time frame designated by the department director. In no such case shall the time frame extend beyond 18 months.
- C. Any fees associated with renewals of certification or licenses shall be addressed by the City.
- D. Any certification not required in the job description does not qualify the employee for a pay increase.
- E. Failure to obtain or maintain the required certification shall result in change of classification through demotion or termination.

§ 66-27. Pay at termination.

- A. An employee who resigns shall receive his/her final pay check on the following full pay period. An employee who is dismissed shall receive his/her final pay check within five days of termination.
- B. The employee's final paycheck shall be released after the Human Resource Director receives the appropriate separation report form completely filled out and signed by the director, the employee and the City Manager. Separation report forms must be forwarded to the Human

Resource Director by the department director within three working days from the date of the employee's separation from City employment.

§ 66-28. Service increment pay.

The City shall pay service increment pay to recognize longevity of service without regard to performance. All regular employees, shall receive \$5 per month for each full year of employment, commencing on the first regular status employment anniversary date, with adjustments occurring on each anniversary date thereafter. For the purpose of this section, "first employment anniversary date" shall mean the first date of the employee's most recent employment with the City.

Article VI. Hours of Work Week

§ 66-29. Standard work week.

- A. The standard work week shall be equal to 40 hours for all employees with the exception of shift personnel in the Fire and Police Departments.
- B. The standard work week for employees of the Fire Department is promulgated pursuant to § 66-29 of this chapter and Section 7(k) of the Fair Labor Standards Act (FLSA) *Editor's Note: See 29 U.S.C. § 207(k).* in order to adopt a standard work period for employee drivers of the Fire Department and a standard work week for all other Fire Department employees. This does not include any exempt employees under FLSA. The standard work period for all nonexempt employee (drivers) for the Fire Department shall be a period of 14 consecutive days. Under the FLSA, the overtime threshold for this work period shall be 106 hours.
- C. The standard work period for nonexempt certified officers of the Police Department is 42 hours in a seven-day period.

§ 66-30. On call.

Employees required to be on call will be paid six hours at the regular rate for every seven-day period on call. On-call employees are not restricted to a particular location but they must wear a beeper or be reachable by telephone and be able to respond when needed. Response time requirements shall be identified by departmental policy.

§ 66-31. Paid overtime.

- A. Any employee not classified as executive (E), administrative (A), managerial (M), supervisory (S) or professional (P) under the Fair Labor Standards Act (FLSA) guidelines, who works time in excess of the standard work week shall be given paid overtime.
- B. All City employees in the following classes shall be exempt from eligibility for paid overtime and compensatory time.
 - (1) The City Manager and Human Resource Director have determined the following positions to be classified accordingly based on FLSA regulations for classification as such.
 - (2) Accordingly, the FLSA category identifies exemptions as: executive (E), administration (A), professional (P) and/or supervisor (S) as listed after each classification below:
 - (a) Animal Control supervisor (S).
 - (b) City Attorney (E, A, P).
 - (c) City Clerk (E, A).
 - (d) City Manager (E, A).

- (e) Community Development Director (E, A).
 - (f) Economic Development Coordinator (S).
 - (g) Finance Director (E, A).
 - (h) Fire Operations and Inspections Officer (A).
 - (i) Gas Director (A).
 - (j) Housing Director (A).
 - (k) Human Resource Director (A).
 - (l) Library Director (A).
 - (m) Museum Director (A).
 - (n) Police Chief (A).
 - (o) Project Coordinator (A).
 - (p) Police Major (S).
 - (q) Public Facilities Director (A).
 - (r) Recreation Director (A).
 - (s) Recreation Director Assistant (S).
 - (t) Solid Waste Director (A).
 - (u) Transportation Director (A).
 - (v) Waste Water Director (A).
 - (w) Water Director (A).
- C. Eligibility. Overtime shall be paid or accumulated as compensatory time at the rate of time and 1/2 for time worked beyond the standard work week.
- D. Scheduling. Overtime work shall be authorized only by a department director or designee thereof. Overtime shall be assigned and required in the event of an emergency or as otherwise required by the City Manager.
- E. Compensation for overtime. The department director shall develop and maintain an overtime budget to compensate employee for overtime hours worked. In the event of overtime budget over expenditure, the employee may accrue up to a maximum of 80 hours of comp time.
- F. Reporting overtime and compensatory time. Overtime and compensatory time shall be recorded by the employee on the weekly timesheet. Said overtime and compensatory time shall be reported on a quarter-hour-increment basis. See the following scale:
- (1) One to 15 minutes: get 15 minutes.
 - (2) Sixteen to 30 minutes: get 30 minutes.
 - (3) Thirty-one to 45 minutes: get 45 minutes.
 - (4) Forty-six to 60 minutes: get 60 minutes.

- G. Accrual of compensatory time. Compensatory time shall be allowed and accrued up to a maximum of 80 hours at time and 1/2, in lieu of paid overtime. Employee must acquire written authorization from the department director, prior to accruing comp time.
- H. Utilization of compensatory time. Employees who have accrued compensatory time shall be scheduled to take such comp time within a twelve-month period. Comp time accrued shall be used by the end of each fiscal year, being June 30, and will not be carried over. Comp time shall be scheduled in advance, by mutual agreement of the employee and the director. However, the employee must acquire written authorization from the department director prior to utilization. Under no circumstances will comp time be accrued for compensation upon retirement or termination and should be utilized during regular full-time employment with the City. Employees who get promoted from a nonexempt classification to an exempt classification shall be compensated the total number of comp time hours accrued up to the date of reclassification. Compensation will be based upon the hourly rate in which comp time was earned, and will be granted in lump sum.
- I. Travel time as overtime.
- (1) Any travel required by the City, which may require additional travel time beyond the normal eight-hour work period, shall be compensable to the employee. Compensation shall be in the form of overtime pay, based on the hourly rate at time and 1/2 (DOL 29 CFR 785.37).
 - (2) The US Department of Labor does not consider the following as working time: overnight travel that occurs outside of the regular working hours, such as traveling on an airplane, train, boat or bus, or where the employee is free to relax. This is not considered compensable overtime beyond the normal eight-hour work period.
 - (3) Employee must make request for overtime compensation in advance, and overtime hours shall reflect as travel time on the employee's daily timesheet.

§ 66-32. Work breaks.

- A. All employees may be allowed a fifteen-minute break in the morning and a fifteen-minute break in the afternoon.
- B. Department directors may use their own discretion in scheduling such work breaks. No more than two fifteen-minute work breaks shall be allowed. Utilization of work breaks shall occur at the times designated herein by the department director, and there shall be no accumulation of time for work breaks not taken. Breaks shall be taken at the work site.

Article VII. Recruitment, Selection, Appointment and Review

§ 66-33. Application.

A person wishing to apply for employment with the City must fill out and submit a City employment application and a resume. All applications and/or resumes are to be submitted to the Human Resource Department by deadlines set forth in the job advertisement. A person may apply for any position although no vacancies exist. Such applications will be kept on file for a period of six months.

§ 66-34. Job vacancies.

- A. Job vacancies for all employment opportunities shall be posted by the Human Resource Department in-house and/or publicly as directed by the City Manager.
- B. Whenever a vacancy exists for any classified position, the department director of the pertinent department shall notify and consult with the City Manager regarding the vacancy, pursuant to

Administrative Regulation A-97-143 *Editor's Note: Administrative regulations are available from the City offices.* setting forth hiring procedures.

§ 66-35. Types of appointment.

- A. Regular status appointment: any employee who is appointed to a regular position shall receive all leave and benefits and shall be entitled to rights of grievance and appeal, except during the probationary period. A regular status appointment shall be full-time employment, and shall be considered for hiring, pursuant to Administrative Regulation A-97-143. *Editor's Note: Administrative regulations are available from the City offices.*
- B. Temporary appointment: any employee who is appointed to a temporary status position shall not receive sick leave, vacation leave, holiday leave, temporary disability leave and any employee benefits offered by the City other than PERA as required by law. Temporary appointments are made through a recommendation of individuals to be considered for interviews for temporary positions and shall come from Mayor and Council, through the City Manager, pursuant to Administrative Regulation A-97-143 and Resolution No. 85-28.
- C. Assignment: a directive by a department director or a supervisor of a subordinate to perform duties of the department during the temporary absence of a departmental employee. The Director or supervisor may assign an employee for a period not less than one working day and not to exceed five working days.
- D. Acting appointment. For the good of the service of the City or in the event of a job vacancy, the City Manager may temporarily appoint a regular status employee to a different job classification. Appointment of acting status shall entitle the employee to the salary associated with that job classification for the duration of the appointment, provided such salary is equal to or higher than an employee's current pay rate. The City Manager may appoint an employee to acting status for a period not less than five working days and not to exceed one month. The City Manager may extend the appointment on a month-to-month basis, as necessary.
- E. Interim appointment. The City Manager may appoint a regular status employee to a vacated position for the good of the service of the City. Said appointment shall entitle the employee to the salary associated with that particular job classification for the duration of the appointment, provided such salary is equal to or higher than the employee's pay rate. The City Manager may assign an employee to interim status for a period not less than one calendar month of duty nor more than six calendar months. The City Manager may extend the appointment on a month-to-month basis, as necessary.
- F. Contract appointment: an employee appointed to a position by Mayor and Council whereby his/her job duties, salary and benefits are determined by contract and which employees are exempt from grievance procedures under these rules.
- G. Part-time appointment. An appointment of an employee to a position that will be occupied on a limited hourly basis. A part-time appointee shall not receive sick leave, vacation leave, holiday leave, administrative leave, military leave, injury leave, personal holiday leave, temporary disability leave and any other employee benefits offered by the City other than PERA when deemed applicable. A part-time appointee shall not be entitled to grievance or appeal rights under the personnel rules and regulations.
- H. Seasonal employee: an employee who works in a position created to last no more than nine months in any calendar year without any benefits, grievance or appeal rights under this chapter. A seasonal appointee shall not earn or accrue sick leave, vacation leave, holiday leave, administrative leave, military leave, injury leave, personal holiday leave, temporary disability leave and any employee benefits offered by the City other than PERA as required by law. A part-time appointee shall not be entitled to grievance or appeal rights under this chapter.

§ 66-36. Appraisal/probation period.

- A. Upon initial appointment of an employee to a position, all regular status employees shall be subject to a six-month appraisal period except police officers, police dispatchers and firefighters whose appraisal period shall be one year.
- B. The appraisal period is a period during which the department director or his designee shall determine whether that employee is fit to continue employment.
- C. If at any time during the employment the department director or his designee determines that the employee is not meeting job expectations, the department director or designee may recommend immediate termination of employment, to be approved by the City Manager, whose decision is final. The Human Resource Director shall review all documentation to assure compliance with procedures set.
- D. Any employee who has not successfully completed the appraisal period shall not be entitled to the rights of grievance or appeal of a disciplinary action as defined by these rules.
- E. If it is the judgement of the department director or designee thereof that an employee's probationary period should be extended for the good of the City, such department director or designee may authorize an extension of probation for a period of up to six months.
- F. An employee shall not be subject to a probationary period except upon original appointment, upon a voluntary transfer to a new position or upon a promotion. Original appointments shall include any job classifications.
- G. All employees on probationary status at the inception of these rules shall be subject to the probationary provisions they were hired under.

§ 66-37. Types of examinations.

- A. Medical examination after offer of employment. Any post-offer employment medical examinations shall be required after offer of employment is made, and shall be conducted in compliance with the Americans with Disabilities Act (ADA) of 1990. *Editor's Note: See 42 U.S.C. § 12101 et seq.*
 - (1) Physical examinations shall be conducted after offer of employment is made for the purpose of determining whether the individual meets the physical requirements of the job functions as outlined in the job task analysis for the position. Individuals in regular status safety sensitive classifications offered employment with the City of Las Vegas shall be required to undergo an employment physical examination and shall be conducted at the expense of the City and by a City-appointed, licensed medical physician. Examinations may be limited to classification of employees who perform outdoor labor trades.
 - (2) If it is determined by the results of the physical examination that the individual does not meet the physical requirements of the job, the individual shall not be considered for employment.
- B. Return to work employment physical examination.
 - (1) Return to work examination. An employee returning to work after an injury has been sustained may report to his original job assignment only after a release to return to work has been obtained from his/her physician. (See § 66-72, Modified return to work program.)
- C. Preemployment drug and alcohol testing. The City of Las Vegas tests its employees for drugs and alcohol and to that end has adopted drug and alcohol policies and the same are hereby incorporated herein, in their entirety, pursuant to the drug and alcohol policies.

D. Bloodborne pathogens exposure control testing.

- (1) The City of Las Vegas has identified and classified various high-risk positions within the organization in which employees occupying those positions have occupational exposure. The list of said job classifications can be found in the City Bloodborne Pathogen Exposure Control Plan. The City of Las Vegas shall offer the hepatitis B vaccine (HBV) to any and all employees in high-risk positions at no cost to the employee.
- (2) If an employee is classified in a position which has occupational hazard exposure to bloodborne pathogens and experiences an exposure incident, the City of Las Vegas will provide, with the consent of the employee, the necessary testing to determine if the employee has actually been exposed to HIV, HBV, or any other bloodborne pathogens at no cost to the employee.

§ 66-38. Driving and operating City-owned vehicle and equipment.

Any employee of the City of Las Vegas who drives or operates City-owned motor vehicles or motorized equipment shall have a valid New Mexico drivers's license required for the job classification and must possess a valid drivers license at all times. He/she shall strictly obey all traffic regulations as contained in Chapter 12 of the Municipal Code of Las Vegas and as contained in the State's Motor Vehicle Code. City employees shall at all times drive City-owned vehicles and motorized equipment in a safe and prudent manner, pursuant to administrative regulation.

A. Driving course. All employees of the City of Las Vegas are required to take part in, and successfully complete, the City's defensive driving course. The defensive driving course shall be taken within one year of employment and renewed when required by the Safety Office.

B. Insurability.

- (1) A City employee, whose job requires him/her to drive a City-owned vehicle, must be insurable by the City's insurance carrier.
- (2) All employees whose jobs require them to drive City-owned motor vehicles or motorized equipment shall immediately report all traffic citations received, including those received off-duty and while driving private vehicles, to the immediate supervisor and/or department director . The City shall monitor insurability.
- (3) Moving vehicle violations, on- or off-duty, resulting in the loss of the valid New Mexico driver's license of an employee which is required to have such a license as a condition of the employment shall be terminated on the grounds that the employee is no longer qualified to perform his duty pursuant to administrative regulation.

§ 66-39. Nepotism.

Nepotism, as defined in § 66-7 herein, is prohibited in the City of Las Vegas. No relative of a City employee, by blood or marriage, may be employed in any position with the City in which the employee may directly supervise, control or influence the work or employment status of the relative or the affairs of the organizational unit in which the relative is employed. The term "relative" includes spouse, child, stepchild, mother, father, grandparents, mother-in-law, father-in-law, brother, sister, brother-in-law and sister-in-law.

§ 66-40. Employee performance review.

- A. Employee performance review shall be conducted on the employee's employment anniversary date each year, or as necessary, by the supervisor and/or the department director . Department directors shall be evaluated by the City Manager. The evaluation shall occur each calendar year.

- B. Performance reviews are the responsibility of department directors and shall serve the purpose of informing the employees of their performance. The department director and/or the supervisor shall use this process to provide direction to the employee as it relates to the employee's responsibilities and departmental goals over the next year and obtain input from employee on departmental operations. A copy of the employee's performance review shall be maintained in the employee's personnel file in the Human Resource Office.

§ 66-41. Reinstatement.

- A. An employee who has voluntarily terminated his employment with the City for other than disciplinary reasons may be reinstated within 30 days of termination with continuation of full benefits, provided a vacancy exists, the application process is followed and the individual is offered the position.
- B. The employee's previous years of service with the City of Las Vegas may be carried over for the purpose of determining annual leave upon the following conditions:
- (1) Former employee must undergo the standard selection process for the position sought;
 - (2) Former employee, if selected for any position with the City, will undergo the probationary period as any other new employee.
- C. In order to have the employee's previous service years with the City carried over, the employee must make written application to the Human Resource Director. The employee will be credited for previous service years effective the date of the written application. The Human Resource Director shall determine whether an employee qualifies for this benefit.

Article VIII. Change In Employment Status

§ 66-42. Voluntary transfer.

- A. A City employee may request a transfer to another position. Such request shall be made in writing to the City Manager. If the request is approved and the employee is transferred to a different position, the employee shall undergo a new performance appraisal period. The City Manager may make such transfer only if a vacancy exists and the department's budget allows it.
- B. If the transferred employee does not perform satisfactorily during the appraisal period, the employee will be returned to his/her previous position if such position is vacant. If the previous position is not vacant, the employee will be considered for other vacancies that exist within the City for which the employee qualifies. If no vacancies exist, the employee shall be laid off.

§ 66-43. Involuntary transfer.

The City Manager may, in the best interest of the City, transfer an employee within the City. Employees affected by such transfer shall not be required to serve a new appraisal period.

§ 66-44. Promotion.

Only regular status and nonprobationary employees may be considered for promotion. A promotion is the change of an employee from a position of one class to a position of another class with a higher minimum pay rate. Factors that will be included in reviewing candidates for promotion will include such factors as qualifications, performance and attendance. All promotions are subject to approval of the City Manager.

§ 66-45. Demotion.

When an employee's performance is below acceptable standards, the department director may demote the employee to a position of less responsibility and lower pay if such a position exists within that department. Demotions are subject to the approval of the City Manager.

§ 66-46. Terminations.

- A. Resignations. Any employee wishing to terminate employment with the City of Las Vegas shall give written notice to his/her immediate supervisor at least two weeks prior to date of resignation. A copy of such letter of resignation shall be forwarded to the Human Resource Office of the City.
- B. Layoff. In the best interest of the City, the City Manager may determine in the best interest of the City when a reduction in work force and lay off of employees is necessary. Within each department, the order of lay off shall be determined on the basis of qualifications and seniority. The City Manager shall notify the employee, in writing, as to the date and term of a reduction in force. All employee benefits shall cease on the date of layoff except for COBRA (the Consolidated Omnibus Budget Reconciliation Act of 1985), which will be provided pursuant to law. The Human Resource Director shall maintain a list of employees laid off. Employees will be recalled and reinstated into service as positions become available. Such reinstatement shall be based on qualifications and seniority.

Article IX. Disciplinary Action

§ 66-47. Causes of disciplinary action.

Regular status employees may be disciplined for cause. Cause for disciplinary action shall include but is not limited to unsatisfactory work performance by an employee or undesirable conduct which would prejudice the public interest. Disciplinary action shall be taken for any of the following:

- A. Violation of personnel or departmental rules and regulations or orders.
- B. Insubordination.
 - (1) Failure to comply with the orders of a supervisor, including refusal to work overtime.
 - (2) Failure or inability to perform adequately the assigned duties of the job.
- C. Misconduct: conduct or language toward the public or toward City employees which discredits the public service.
- D. Abuse or misuse of sick leave: claims of illness under false or misleading pretenses.
- E. Theft, destruction, or negligent use of City money or property.
- F. Drug or alcohol abuse violating pertinent City drug/alcohol policies.
- G. Driving while intoxicated pursuant to administrative regulation.
- H. Gifts or gratuities: accepting gifts or gratuities in exchange for the influence of the employee in the performance of his or her official City duties and/or acceptance by the employee of a gift for preferred consideration.
- I. Use of official position or authority for personal profit or advantage.
- J. Disclosure of confidential information from City records or documents to any unauthorized source. Falsification, unauthorized destruction, or unauthorized use of City records, reports or other data belonging to the City.
- K. Conviction of a felony or of a crime involving moral turpitude.

- L. Distribution of literature, vending, soliciting or collecting contributions on City time and in public areas without prior authorization of the City Manager.
- M. Other acts or omissions that adversely affect the welfare of citizens, other employees, or the effective operation of the City.
- N. Negligence and/or noncompliance with established procurement rules and regulations.
- O. Sexual harassment as contained in § 66-73A herein.
- P. Any other cause inherent in/or related to the qualifications of the employee or any failure to properly perform some essential aspect of the employee's job function.

§ 66-48. Types of discipline.

Consistent with the type and severity of cause for disciplinary action, the disciplinary authorities herein designated may take the following disciplinary actions:

- A. Written warning. A supervisor shall provide an employee a written warning for cause. The employee shall acknowledge receipt of written warning. A copy of the written warning shall be kept in the employee's personnel file in the Human Resource Department.
- B. Reprimand. A supervisor may reprimand an employee. Such reprimand shall be in writing and shall be provided to the employee, and employee shall acknowledge receipt of such reprimand. A copy of the reprimand shall be kept in the employee's personnel file in the Human Resource Department.
- C. Suspension. An employee may be suspended from employment without pay. A supervisor may recommend and the department director or the City Manager may suspend an employee without pay for a period of up to 30 working days. The cause for such suspension shall be documented and shall be provided to the employee immediately and a copy submitted to the Human Resource Director within 24 hours of the suspension notice being given to the employee. The employee shall acknowledge receipt of suspension. A copy of the notice of suspension shall be kept in the employee's personnel file in the Human Resource Department. Issuance of a suspension shall require the employee to be removed from employment for said period of suspension.
- D. Demotion. A supervisor may recommend and the department director or City Manager may demote an employee to a lower classification. The cause for such demotion shall be documented in writing and shall be submitted to the employee and to the Human Resource Director prior to/or at the time of the demotion. The employee shall acknowledge receipt of written demotion by signing off on written notice. A copy of such notice of demotion shall be kept in the employee's personnel file in the Human Resource Department.
- E. Administrative leave without pay for DWI violation set forth pursuant to administrative regulation. When an employee's driver's license is revoked for driving while intoxicated, while on- or off-duty, the employee shall be placed on leave without pay on the grounds that he/she cannot perform the duties as required by job description until the driver's license is restored, provided that such restoration occur within one year from the effective date of the revocation or suspension of the driver's license.
- F. Dismissal. A supervisor may recommend and the department director or the City Manager may dismiss an employee. The cause for such a dismissal shall be documented in writing. The reason for dismissal must be comprehensive and shall be provided to the employee and submitted to the Human Resource Director within 24 hours of the date dismissal notice was provided to the employee. The employee shall acknowledge receipt of written demotion by signing off on written notice. A copy of the notice of dismissal shall be kept in the employee's personnel file in the Human Resource Department.

- G. Right to respond to charges. (Loudermill.) Prior to taking any action against an employee that will result in the loss of employment or loss of pay or benefits, the employee will be notified of the action that is contemplated and will be given an opportunity to respond to the charges before any action is taken.

Article X. Grievance and Appeal

§ 66-49. Grievance.

- A. Grounds for grievance. An eligible employee may file a grievance regarding any disciplinary action taken by management and in response to any misapplication or violation of any City rules or regulations.
- B. Procedures. Any employee who is aggrieved may present his or her grievance according to the following procedures:
- (1) The eligible employee shall present the grievance, in writing, to his or her immediate supervisor within seven calendar days of the action which gives rise to the grievance. The supervisor and the employee shall attempt to resolve the matter. The supervisor shall notify the employee, in writing, of his or her decision regarding the grievance within seven calendar days of receipt of the grievance.
 - (2) If the grievance is not settled to the satisfaction of the employee and the employee wishes to pursue the grievance, the employee shall present the grievance to the next level of supervision within seven calendar days of the notice of the decision of the immediate supervisor. The supervisor at this level and the employee shall attempt to resolve the matter. The supervisor shall notify the employee, in writing, of his or her decision within seven calendar days of receipt of the grievance.
 - (3) If the grievance is not settled at this level to the satisfaction of the employee, and the employee wishes to pursue the grievance, the employee shall continue, consistent with the procedures outlined above in § 66-49B, to present the grievance to successive levels of supervision, up to and including the City Manager. The decision of the City Manager shall be final in the grievance procedure and shall be provided within 10 working days.
 - (4) In the event that an employee's grievance does not involve his or her respective supervisors, the written grievance shall be submitted directly to the department director of the employee's department who shall notify the employee of his decision within seven calendar days of receipt of the grievance. However, such grievance, in order to be considered by the department director, shall be submitted to the department director within seven calendar days of occurrence of the aggrieved action. The decision of the department director may be appealed directly to the City Manager, whose decision shall be final.
 - (5) The Human Resource Director may be requested to be involved at any stage of the grievance procedure by either the employee or the department director.
- C. Conditions of grievance. If the employee fails to proceed to the successive level of supervision within the time period specified, the employee shall be conclusively deemed to have waived and abandoned the grievance. If any supervisor fails to render a decision within the time period specified, the employee may appeal to the next level of supervision within the time limits provided.
- D. Expiration. If any eligible employee terminates or is terminated from employment with the City for any reason, any grievance previously filed by the employee which is in process at the time of termination shall also be terminated with the exception of any pay or benefit related grievance.

§ 66-50. Appeal of disciplinary action.

A. Grounds for appeal. Any disciplinary action may be appealed by a regular status, nonprobationary employee consistent with the policies set forth for appeal within this chapter.

B. Procedure.

- (1) Time for appeal. The employee shall submit the appeal, in writing, to the Human Resource Director within seven calendar days of the effective date of the disciplinary action, the same being the date upon which the employee receives notification of the disciplinary action.
- (2) Information in written appeal. Appeals must be set forth in writing and shall include the following information:
 - (a) The disciplinary action which is being appealed.
 - (b) The date on which the matter occurred.
 - (c) The relief requested by the disciplined employee.
 - (d) The date of the appeal.
- (3) Employee's failure to follow rules. If the employee fails to abide by any part of the appeal process as outlined in § 66-50, then the employee shall be conclusively deemed to have waived and abandoned the grievance. Time limits may be extended by the written request of the employee with the written concurrence of the Human Resource Director.
- (4) Submission by Human Resource Director. Upon receipt of the written appeal and upon determination thereof, the Human Resource Director shall submit the written appeal within three working days to the City Attorney and to either the department director of the respective department or to the City Manager based upon the following considerations:
 - (a) Department directors. The written appeal may be submitted to the department director of the respective department if the department director has not been the disciplinary authority, and the department director has remained reasonably uninvolved and impartial in the disciplinary action which is being appealed.
 - (b) City Manager. If the disciplinary action was taken by the department director or the department director was involved in the disciplinary action taken, the appeal shall be referred to the City Manager.
- (5) Notification of employee. The Human Resource Director shall inform the aggrieved employee as to whether the appeal is first to be heard by the department director or the City Manager.
- (6) Initial hearing by department director. The department director can conduct an investigation and hear information as he/she sees fit. The department director reserves the right to alter a supervisor's decision if such course is deemed appropriate. The department director's decision shall be made within seven working days upon receiving the written appeal from the Human Resource Director. If the appeal is not settled at the department director level to the satisfaction of the employee, and the employee wishes to pursue the appeal, the employee may present a written appeal of the department director's decision within seven working days after the decision is received by the employee. The appeal will then be referred to the City Manager. The City Manager will then hear the appeal or appoint a hearing officer.

- (7) City Manager prerogatives. The City Manager may designate an impartial representative(s) or impartial representatives [hearing officer(s)] to review the appeal and hold a hearing on a date established by the City Manager.
- (a) Upon hearing and reviewing the appeal and holding a hearing, the hearing officer shall submit the findings of their review to the City Manager within seven calendar days, unless the time is extended by the City Manager in writing. However, this decision must be submitted within seven calendar days.
 - (b) The City Manager will analyze the findings of any review and may conduct another investigation or hear other information as he/she sees fit. The City Manager shall render a timely decision and reserves the right to alter the disciplinary action if such course is deemed appropriate. The decision of the City Manager shall be final and shall be submitted within 14 working days.
 - (c) Except as otherwise indicated, the City Manager may, at his/her discretion, elect not to appoint a hearing officer and proceed directly with the review and hearing of the appeal. The City Manager may hold an investigation or hear information as he/she sees fit. The City Manager shall render a timely decision and reserves the right to alter the disciplinary action if he/she deems such action appropriate. The decision of the City Manager shall be final.
 - (d) The City Manager must select a hearing officer in a termination appeal where the terminated employee is at the highest level in a department.
 - (e) The City Attorney shall, at all times, appear on behalf of the City.
- (8) Subpoenas of witness.
- (a) For attendance of witness. Every subpoena for a hearing in a appeal of a disciplinary action shall be issued by the Municipal Judge or Clerk of the Municipal Court, and shall state the name of the court and the title of the action and shall command each person to whom it is directed to attend and give testimony at a time and place therein specified.
 - (b) For production of documentary evidence. A subpoena may command the person to whom it is directed to produce the books, papers, documents or tangible things designated therein; but, the Court, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance therewith, may:
 - [1] Quash or modify the subpoena if it is unreasonable and oppressive; or
 - [2] Conditional denial of the motion upon the advancement by the party in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents or tangible things.
 - (c) Issuance. The Municipal Judge or Clerk may issue a subpoena, or a subpoena for the production of documentary evidence, signed and sealed but otherwise in blank, to a party requesting it, who shall fill it in before service.
 - (d) Service. A subpoena may be served by the Sheriff, a Deputy Sheriff, a Municipal police officer or any other person who is not a party and is not less than 18 years of age. Service of subpoena upon a person named therein shall be made by delivering a copy thereof to such person within San Miguel County.
 - (e) Contempt. Failure by any person without adequate excuse to obey a subpoena served upon him may be deemed in contempt of the Municipal Court from which the subpoena was issued.

- (f) Fees. A witness shall be entitled to fees and mileage provided for a witness in a court of record to be paid by the party requesting the witness to appear, unless the witness is a City employee giving testimony during regular working hours.
- (9) Hearing.
- (a) No provision of the procedure in § 66-50 should be read or interpreted as requiring a formal hearing as a part of these procedures.
- (b) Parties to review an appeal shall include the employee perfecting the appeal and the department director or the supervisor who proposes the disciplinary action and the City Attorney. Notice of the time of the hearing of an appeal shall be served personally on the parties or by first-class mail to the last address furnished to the Human Resource Director by the party to be notified. In the event that the employee has obtained legal representation and legal counsel has indicated as such to the City, then notification shall be sent to the Office of the Attorney of the employee. Setting the time and place of any hearing, the Human Resource Director will give due regard to the convenience of the parties and their representatives.
- (c) The department director or a supervisor causing the disciplinary action to be taken shall have the burden of proof, based upon the civil burden of preponderance of the evidence, and every party to the proceeding shall have the right to present his case or defense by oral and documentary evidence, to submit rebuttal evidence and to conduct such cross examination as may be required for a full and true disclosure of the facts. Subject to these rights and requirements, where a hearing will be expedited and the interests of the parties will not be substantially prejudiced thereby, the City Manager or other hearing officer may receive all or part of the evidence in written form, or in the form of tape recorded statements. The parties may offer such evidence as they desire and shall produce such additional evidence as the City Manager or other hearing officer may deem necessary to an understanding or determination of the appeal. The City Manager or other hearing officer shall be the judge of the relevancy and materiality of the evidence offered and conformity to the legal rules of evidence offered and conformity to the legal rules of evidence shall not be necessary. The City Manager or other hearing officer may receive and consider the evidence of witnesses by affidavit, and shall give such evidence only such weight as he/she deems proper after consideration of the objections made to its admission. Objections to evidentiary offers may be made and should be noted in the record. The City Manager or other hearing officer shall give effect to the rules of privilege recognized by law. Hearings, at which evidence is heard, shall not be public unless so requested by the employee against whom the disciplinary action has been taken.
- (d) It shall be the duty of the City Manager or other hearing officer to consider whether the disciplinary action taken by the department director or supervisor was reasonable based upon the context of the alleged violation of the provision of the personnel or other rules and written appeal being submitted by the grievant as provided by this chapter. The City Manager or other hearing officer shall have the power to sustain, modify, or reject the disciplinary action taken and shall enter written findings herein provided below.
- (e) The decision of the hearing officer shall include a statement of the findings and conclusions upon all material issues of fact or law presented by the record and the testimony of evidence contained therein. The decision of the City Manager or other Hearing Officer shall be based upon a preponderance of evidence presented at the hearing and shall be final.
- (10) Pretermination hearing. In any case where the disciplinary action contemplated is dismissal of a nonprobationary employee, the employee shall be afforded a pretermination hearing. This hearing shall be of an informal nature and shall be heard by the department

director if the employee who is proposed to be terminated is below the classification of department director. The employee shall be given written notice of the charges against him/her and an explanation of the evidence against him/her. The employee shall then be given an opportunity to present, either in person or in writing, his/her side of the story prior to the termination. Administrative regulations may be set forth by the City Manager regarding the conduct of such a hearing which are not inconsistent herewith.

- (11) Back wages upon reinstatement. If an employee is dismissed in accordance with these rules and any pertinent administrative regulations, and the employee, at any stage of the proceedings, wins his/her appeal of the disciplinary action and is reinstated, said employees shall be paid all back wages from the date of the dismissal at the rate of pay in effect on the date of the dismissal, unless such reinstatement is without back pay.

Article XI. Leave and Fringe Benefits

§ 66-51. Holiday leave.

- A. Paid holidays. The City Council shall schedule 92 hours of holiday leave per year to be designated annually by administrative regulation.
- B. Observance. All regular status employees shall be afforded holiday leave as listed in § 66-51A, with the exception of employees who work in departments where continuous operation is necessary to provide adequate service to the public in which case holiday leave policies as stated in § 66-31C will apply.
- C. Holiday falling during periods of vacation or sick leave. Holidays which occur during an employee's absence due to vacation or sickness shall not be counted as vacation or sick leave but, instead shall be considered as holiday leave.

§ 66-52. Vacation leave.

[Amended 4-20-2011 by Ord. No. 11-08]

- A. Vacation leave shall be granted to regular employees according to the following guidelines:
- (1) Regular full-time-status employees with one to 60 months of service (one to five years) shall accumulate eight hours' vacation leave per month.
 - (2) Regular full-time-status employees with 61 to 180 months of service (five to 15 years) shall accumulate 10 hours' vacation leave per month.
 - (3) Regular full-time-status employees with 181 months and over of service (15 years and over) shall accumulate 12 hours' vacation leave per month.
 - (4) Department directors shall accumulate 12 hours of vacation leave per month equal to 18 working days per year regardless of seniority. Department directors shall be allowed to accumulate up to 312 hours of vacation leave equal to 39 regular working days.
- B. Scheduling. Vacation leave shall be taken in increments but the employee may only take vacation leave if it has been accumulated. The Department Director or designee thereof shall schedule, at their discretion, vacation leave for all regular-status employees upon the request of the employee once each calendar year, if the employee has accumulated 40 hours or more of vacation leave. No employee shall be granted more than 20 days or 160 hours of vacation within a twelve-month period. Employees planning to utilize vacation leave shall give written notice of said leave, within a reasonable period of time, but no less than five working days prior to taking vacation.

- C. Pay for vacation on termination. Any vacation leave accumulated but not taken at the time of termination shall be paid in full, after the separation form has been signed by appropriate parties.
- D. Regular-status employees shall be allowed to accumulate up to 212 hours of vacation leave, equal to 26.5 regular working days.
- E. Vacation leave is not accumulated for periods during the time an employee does not work due to suspension without pay, administrative leave without pay, or any other such leave identified to be without pay.
- F. Donation of vacation leave time. Donation of vacation leave is prohibited.
- G. Vacation leave upon retirement. An employee who has accumulated vacation leave at the time of their retirement shall have their leave paid out in a lump sum by the City upon availability of funds. This section applies retroactively to employees retiring after July 1, 2010.

§ 66-53. Sick leave.

[Amended 3-21-2007 by Ord. No. 06-19]

- A. Purpose. Paid sick leave absence from work may be authorized for the following purposes and under the following conditions only:
 - (1) A regular full-time employee, and to include exempt employees, may request and the City may approve accrued sick leave for sickness, illness, injury, medical treatment, dental appointment, or hospitalization of the employee in situations not compensated for under a disability or workers' compensation program. Sick leave may also be approved for sickness, illness, injury, medical treatment, dental appointment, or hospitalization of a member of the employee's immediate family living in the same household. Sick leave for immediate family will be limited to a maximum of three days per occurrence. "Immediate family," for the purpose of this subsection, shall be defined as parents, grandparents, spouse, or children. Sick leave may also be approved for the death of an immediate family member. Death in the immediate family is addressed in the bereavement leave section of the administrative directives.
 - (2) Sick leave is subject to the review, approval, and investigation as deemed appropriate by the immediate supervisor and/or the director.
 - (3) If a pattern of sick leave usage, such as the usage of sick leave on the day before or the day after the employee's days off or a holiday, can be established, the supervisor and/or the director may deny pay for such leave. Such pattern of sick leave usage/abuse may be cause for disciplinary action.
- B. Procedure.
 - (1) An employee must notify his/her supervisor prior to the beginning of the work day if the employee is requesting the use of sick leave. If an employee is absent for three or more consecutive days on sick leave, the employee shall provide the department director a physician's statement and a return to work notice prior to the department director allowing the employee to return to work. A department director may require a physician's statement and a return to work notice when sick leave is utilized for a period of less than three consecutive days if the director suspects abuse. If the employee cannot provide the requested physician's statement, the employee shall not receive compensation for the absence and may be subject to disciplinary action.
 - (2) No other form of paid leave for the absence shall be approved if the employee cannot provide a physician's statement and a return to work notice. The absence in this situation shall be charged to unauthorized leave without pay.

C. Authorization. Paid sick leave absence shall be authorized only if the employee has accrued the requisite hours to cover the absence and the physician's statement has been provided by the employee, if required. If the employee has not accrued sufficient hours of sick leave and there is no question regarding the legitimacy of the request for sick leave, leave without pay may be approved and shall be considered a period of temporary disability leave.

D. Accrual.

- (1) Sick leave is not accrued for time that an employee does not work due to suspension without pay, administrative leave without pay, or any other such leave identified to be without pay.
- (2) Regular full-time employees and department directors accrue eight hours of sick leave per month.

E. Conversion of sick leave.

- (1) Conversion of sick leave to vacation. This conversion requires the recommendation of the director and the approval of the City Manager. The employee may convert accrued sick leave over 200 hours to vacation at the rate of two hours of sick leave for one hour of vacation. Such converted vacation hours must be used within three weeks from the date the request for conversion is approved. A maximum of 80 hours of sick leave per calendar year may be converted to vacation leave. The converted sick leave to vacation leave may not be converted to cash.
- (2) Conversion of sick leave to pay. This conversion is subject to the approval of the City Manager. An employee with over 200 hours of sick leave accrued may, during the months of July and December of each year, sell back accrued sick leave over 200 hours at a rate of two hours of sick leave for one hour of pay. The amount that may be converted is subject to the available funds budgeted for this purpose for the year by the City Council and as provided for in administrative directive. No request for conversion will be honored after an employee has been terminated or has submitted a letter of resignation. Any amount of sick leave that is sold back by the employee, under this policy, within 12 months of separation of employment, other than at retirement, shall be reimbursed to the City.
- (3) Documentation of sick leave accrual as of April 4, 2007. On April 4, 2007 the City shall prepare a document memorializing the sick leave accrual of all regular full-time employees as of that day. A copy of the document shall be placed in each employee's personnel file and a copy will be provided to the employee. This document will serve as the basis for determining the level of sick leave conversion at the time of retirement from the City of Las Vegas for each regular full-time employee employed by the City on April 4, 2007. *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
- (4) Conversion of sick leave at time of retirement for employees with 600 hours of accrual or less as of April 4, 2007, and for employees hired after April 4, 2007. Employees with 600 hours or less of sick leave accrual on April 4, 2007, and employees hired after April 4, 2007, shall be eligible for conversion of up to 600 hours of accrued sick leave to early retirement leave. The conversion shall be at the rate of one hour of sick leave for one hour of early retirement leave. The official date of retirement shall be documented in writing and signed by the employee prior to the conversion. These employees may chose to sell back up to 600 hours of accrued sick leave at retirement, in lieu of conversion to early retirement leave. The conversion shall be at the rate of two hours of sick leave for one hour of pay. The choice is conversion to early retirement leave or sell back. *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*

- (5) Employees with over 600 hours of sick leave accrual on April 4, 2007, shall be eligible for conversion of sick leave to early retirement leave up to the amount of accrual documented on April 4, 2007. The conversion shall occur at the time of retirement and shall be at the rate of one hour of sick leave for one hour of early retirement leave. The official date of retirement from the City shall be documented in writing and signed by the employee prior to the conversion. These employees may chose to sell back accrued sick leave at retirement, in lieu of conversion to early retirement leave up to an amount equal to the eligibility for conversion to early retirement leave. The conversion shall be at the rate of two hours of sick leave for one hour of pay. The choice is conversion to early retirement leave or sell back. *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).*
 - (6) The sell-back and buy-back provisions of this policy are subject to the availability of funds as budgeted for the year by the City Council.
 - (7) Employees on early retirement leave are not eligible for any accrual of leave, any increase in pay, or any other form of compensation other than pay for the converted leave at the employee's regular hourly rate. This in no way effects the City's continued contribution to PERA or insurances during early retirement leave. The City will continue to contribute to the early retiree's PERA insurances until the leave is exhausted.
- F. Sick leave upon separation of employment other than retirement. Accrued sick leave shall be forfeited upon employee's separation of employment from the City of Las Vegas.
- G. Donation of sick leave. Donation of sick leave to another person is prohibited.
- H. The City shall establish a sick leave contingency fund to be appropriated and used for no other purpose than to pay for early retirement leave.

§ 66-54. Personal holiday.

Each employee shall be granted eight hours per year to be used as personal leave for any reason. The entire eight hours must be used at one time. Personal leave must be used before the last payroll ending in December of each year. If not used during the calendar year, said leave will not be carried into the next calendar year and will be forfeited. Personal leave applies only to regular status employees who have completed their appraisal period.

§ 66-55. Injury leave.

- A. Injury leave shall be granted to any regular status employee who sustains an injury as a result of or in the course of the performance of his or her job. Injury leave is intended to cover the initial waiting period of seven working days under the State's Workers' Compensation Act. *Editor's Note: See NMSA 1978, § 52-1-1 et seq.* Only one period of injury leave shall be paid for any occurrence resulting in injury to an employee.
- B. Reporting. Any employee injured on the job shall immediately report the injury to his or her supervisor, who shall then report the injury to the Human Resource Department. An employer's first report of injury or illness form, known as the "E-1-2 Form," shall be completed and submitted no later than 48 hours of the injury to the Risk Management Clerk within 48 hours of the injury.
- (1) If medical attention is required, the injured employee shall immediately report to the City's designated treatment facility for initial treatment. The injured employee will identify himself/herself as an employee of the City of Las Vegas and that the injury is work related and initial treatment of the injury will be provided.
 - (2) After initial treatment, the treatment facility will contact the City's Risk Management Clerk to report status of injury and whether the employee will be able to return to work.

Medical reports will be provided to the New Mexico Self Insurer's Fund and to the Human Resource Department as soon as practicable.

- (3) The designated attending physician will, if necessary, and only after approval by the New Mexico Self Insurer's Fund, refer the injured employee to a physician recommended or referred by the designated attending physician. [Physician(s) on the authorized referral list are physicians who specialize in a particular area of medicine which is required for treatment of the particular injury.]
 - (4) New Mexico Self Insurer's Fund will make the necessary arrangements for doctor appointments, travel and accommodations, if needed. At all times, the City Safety Office and the Human Resource Department will keep in constant communication with the Self Insurer's Fund, designated treatment facility, and the designated treating physician(s) on any and all matters pertaining to the injured worker.
- C. After the seventh consecutive calendar day of injury leave, the employee must determine whether he/she will:
- (1) Use his or her accrued leave, i.e., sick leave or vacation leave at 100% of his or her regular salary. In this case benefits, i.e., PERA, health insurance, and leave accruals, will continue as long as the employee is using accrued leave earned; or
 - (2) The employee wishing to take leave without pay and not use his or her accrued leave will be paid through workers' compensation at the rate of 66 2/3% of his or her regular salary. In this case benefits, i.e., PERA, health insurance, and leave accruals, will cease until such time as the employee returns to work.
- D. Each employee sustaining a reported on-the-job injury and who, as a result of said injury, is off the job in excess of seven consecutive calendar days, must complete form WC 88-1, and authorize the City to pay them under either Subsection C(1) or (2) herein.
- E. In no case will an employee injured on the job be allowed to return to work without a written release from his or her doctor. (Refer to Exhibit B. *Editor's Note: Exhibit B is included at the end of this chapter.*)

§ 66-56. Family and Medical Leave Act.

The City of Las Vegas is required to provide eligible employees up to 12 weeks of unpaid leave in a twelve-month period to care for a newborn or newly placed adopted or foster child; to care for a seriously ill child, spouse or parent; or because of the employee's own illness, pursuant to administrative regulation.

§ 66-57. Temporary disability leave.

- A. Definition. As used in this section, the following terms shall have the meanings indicated:

TEMPORARY DISABILITY LEAVE

Constitutes a period of leave without pay during which the employee shall retain his or her position and status as an employee of the City. The employee will not accumulate leave or be subsidized for or receive any benefits. However, if the employee wishes to continue his/her insurance coverage, he/she must contact the Human Resource Office to arrange to do so.

- B. Eligibility. Employees subject to the following conditions shall be eligible for temporary disability leave. Any eligible employee wishing to take temporary disability leave must provide the department director and the Human Resource Director with a doctor's statement of the medical reason for the temporary disability leave.

- (1) An employee who, for reasons of maternity or related medical conditions, elects to take a temporary leave of absence, is eligible for temporary disability leave. This leave will be administered in concurrence with the Family Medical Leave Act.
 - (2) An employee who has sustained a non-job-related injury or illness is eligible for temporary disability leave.
- C. Time granted. Any employee eligible to take temporary disability leave may be granted up to a maximum of 60 calendar days of temporary disability leave.
- D. Petition for extension. If at the end of the period of temporary disability leave the employee wishes to request an extension, the employee must petition the City Manager, who may order, at his discretion, a physical or mental examination to be performed at the City's expense by a City-designated physician to establish the fitness of the employee. The City Manager shall determine, after review of the physician's findings, whether the employee will or will not be granted an extended temporary disability leave for a period of up to 30 calendar days or be terminated from the City's employment. The City Manager shall render this decision on the basis of the medical findings and in the best interest of the City.

§ 66-58. Jury leave.

- A. Jury leave shall be granted to any employee of the City when ordered by the courts to serve on jury duty.
- B. Upon being summoned to jury duty, an employee shall immediately notify his/her supervisor of such by presenting the original, official summons or notice immediately. The summons or notice shall be attached to the employee's weekly timesheet as substantial documentation for the absence. The supervisor shall make necessary arrangements, including work schedule rearrangement, so that the employee may attend jury duty.
- C. If an employee is dismissed by the court for the day or for any reason, and if said dismissal occurs within the employee's regularly scheduled working hours, the employee shall report to his supervisor and assume his regular work duties.
- D. The court will compensate the City for jury leave performed by the City employee at the hourly rate established by the courts. The City shall compensate the employee his/her regular pay for regular work time served in the capacity of a juror. The City Finance Department shall receipt the court's compensation to the proper fund. (See Administrative Regulation A-91-69. *Editor's Note: Administrative regulations are available from the City offices.*)

§ 66-59. Military leave.

Municipal employees who are members of organized units of the Army or Air National Guard, Army, Air Force, Navy or Marine Reserves shall be given time off not to exceed 15 military calendar days of military leave with pay, annually. When they are ordered to active duty training with such organized units, such leave is to be in addition to other leave or vacation leave with pay to which such employee (s) is otherwise entitled to. The military calendar year begins October 1 and ends September 30.

§ 66-60. Unauthorized leave.

- A. Any leave not authorized according to the appropriate rules set forth herein shall be deemed to be an unauthorized absence without pay and may be subject to disciplinary action.
- B. Any employee who absents himself or herself for three consecutive days without authorization shall be considered terminated from employment immediately, and employee shall be notified in writing.

§ 66-61. Leave without pay and extended leave without pay.

- A. The employee may request a leave of absence for a period of time not to exceed one year.
- (1) The employee may request from his/her immediate supervisor, in writing, leave without pay, identifying the length of time and reason for leave. The department director will then forward the request to the City Manager with a recommendation.
 - (2) The City Manager will make a determination whether the leave request should be granted based on the reason for leave and recommendation from the employee's supervisor. The City Manager's decision is final.
- B. Leave will not be granted to an employee for the purpose of accepting other employment. If, at any time, the employee is found to be employed elsewhere, this shall be cause for termination.
- C. The City Manager may grant the leave with the understanding that the employee may return to his/her current position if the position is vacant. If the position is not vacant, the employee may be offered a different position for which he/she is qualified for. The position will be offered at the entry level pay rate established for that classification. The employee shall be required to serve an new appraisal/probationary period.
- D. Utilization and/or payment of leave and fringe benefits during period of leave without pay or extended leave without pay.
- (1) In the best interest of the City, and as determined by the City Manager, the utilization of, or cash payment for, any form of accumulated leave, including but not limited to holiday leave, vacation leave, sick leave, personal holiday leave, injury leave, temporary disability leave, jury leave, military leave, overtime and administrative leave, is prohibited during the period when an employee is on leave of absence or leave without pay.
 - (2) Conversion and/or donation of accumulated, sick and vacation leave, at the time an employee is on leave of absence or leave without pay, is prohibited.
 - (3) Accrual of any form of leave shall cease nor shall the employee be entitled to other fringe benefits granted by the City during the time when an employee is on leave of absence or leave without pay. However, any leave on the employee's time and attendance record at the date the employee begins leave of absence or leave without pay shall remain on the record and shall be granted to the employee upon his/her return to work.
- E. If the employee on leave wishes to continue insurance coverage, the employee shall handle such requests through the Human Resource Office. The employee shall pay the employee's portion of the premium costs.
- F. The City Manager may grant leave without pay, for a period not to exceed five working days, to regular status employees who require time off but do not have accumulated leave. In this case, provisions of Subsections A through E herein shall apply.
- G. Extended leave without pay may be granted by the City Manager upon written request, to be considered on a case-by-case basis.

§ 66-62. Administrative leave.

- A. Purpose of administrative leave. Administrative leave is granted to department directors and supervisors who hold exempt positions who are not entitled to paid overtime. It is not intended as an hour-for-hour compensation. Granting of administrative leave is a prerogative of the City Manager to act in accordance with this policy, § 66-62.
- B. Procedure in application. Administrative leave is not accumulated and under no circumstances will administrative leave be recorded on the weekly timesheet on an hour-for-hour basis. If the City Manager feels that an exempt employee has worked an extraordinary amount of time and

the constraints of the job allow a short absence, the City Manager may approve administrative leave. Administrative leave will be limited to two consecutive days except in unusual circumstances for which the City Manager may approve additional time. When such leave is taken, a leave form indicating the hours taken shall be filled out, signed by the employee and approved by the City Manager, prior to taking leave.

- C. Procedure upon termination. Should an exempt employee terminate his/her employment with the City of Las Vegas, there shall be no basis for a claim for administrative leave; this is because employees in exempt positions are expected to work in excess of the standard work week to complete job duties.
- D. Prerogatives reserved. The City Manager may, on occasion, grant up to four hours of administrative leave to all employees, exempt and nonexempt. Such granting of administrative leave shall be with the approval of the Mayor. Such administrative leave shall be granted for only those employees who are scheduled to work on the day such leave is granted. For all employees, with the exception of police and fire personnel, who are not able to take the administrative leave because of their work schedule, these employees shall be allowed to take the time off within the following five-day work period. Police and fire personnel who are not able to take the administrative leave because of their work schedule, these employees shall be allowed to take the time off within the following fourteen-day work period. The time granted will not be carried over past the following five-day or fourteen-day work period. The department director will be responsible for keeping track of their employee's leave.

§ 66-63. Fringe benefits.

Upon recommendation by the City Manager and pursuant to annual policy and budgetary action by City Council, fringe benefits shall be afforded regular status employees. Such benefits shall annually be enumerated in administrative regulations and distributed to all regular status employees.

§ 66-64. Retirement.

The City of Las Vegas is a member of the Public Employees Retirement Association of New Mexico (PERA). It is mandatory that all employees participate in this plan with the exception of seasonal employees as defined in § 66-7 herein.

Article XII. Employee Conduct and Miscellaneous Issues

§ 66-65. Political activity.

- A. Campaigning. Employees may participate in any federal, state, county or local political campaign, provided such participation is conducted away from any City buildings, properties or City work site and is not conducted during working hours. Any employee whose position is funded by a federal program and/or monies shall be subject to the provisions of 5 U.S.C. § 1501 et seq., as amended, commonly known as the "Hatch Act."
- B. Election to municipal office. Any employee elected to municipal office in the City of Las Vegas shall resign from the employ of the City.
- C. On election day, a voter may absent himself from employment in which he is engaged for two hours for the purposes of voting between time of opening and closing the polls. The voter shall not be liable to any penalty for such absence. However, the employer may specify the hours during this period in which the voter may be absent. This does not apply to any employee whose workday begins more than two hours subsequent to the time of opening polls or ends more than three hours prior to the time of closing the polls.
- D. The department director shall specify the hours during which the employee may be allowed the required time off to vote.

- E. All departments shall schedule the time off to vote so that the departments remain in operation during the normal workday 8:00 a.m. to 5:00 p.m. or 7:30 a.m. to 4:30 p.m., whichever the case may be.
- F. All employees on temporary status shall be scheduled in accordance with the above provisions.

§ 66-66. Outside employment.

- A. Conditions. An employee is free to pursue outside employment, provided there is no conflict of interest, the employment does not occur during the assigned working hours of the employee, and the efficiency of the employee is maintained.
- B. Authorization. The employee may request authorization to pursue outside employment from their respective department director. Employee's attendance record will be reviewed prior to granting such authorization. Such request is subject to the approval of the City Manager. If at any time the department director, for any of the reasons cited in Subsection A, determines that an employee should not continue outside employment, the department director may rescind such approval.

§ 66-67. Ethics.

All employees must perform their responsibilities in accordance with the ethics policy set forth by Administrative Regulation Ethics Standards, set for the organization to protect the interest of all employees, the interest of the City and the interest of the general public. (Refer to Administrative Regulation A-96-135. *Editor's Note: Administrative regulations are available from the City offices.*)

§ 66-68. Dress code.

- A. The City of Las Vegas' employees are required to dress in a manner that is appropriate for the workplace. Employees shall always be well-groomed and dressed in a manner suitable for the public service environment and to reflect favorably the City's image. All clothing and accessories should be functional and safe for the type of work performed. Employees shall represent the City to the public in a courteous, efficient and helpful manner.
 - (1) Employees not required to wear uniforms should wear clothing which is neat, clean and suitable for the type of work the employee is required to do.
 - (2) Employees required to wear uniforms shall wear uniforms at all times while on duty that are clean, fresh and properly maintained. Administrative Regulation A-96-138 shall be adhered to regarding the work uniform for labor trade, City employees and department directors. Administrative Regulation A-94-112 for Police Department personnel and Resolution No. 82-43 for Fire Department personnel. *Editor's Note: Administrative regulations are available from the City offices.*

§ 66-69. Collective bargaining.

Chapter 48, Labor Management Relations, of the Code of the City of Las Vegas provides rights, responsibilities and procedures in the employment relationship between the employees and the employer.

- A. Chapter 48, Labor Management Relations, guarantees employees the right to organize and bargain collectively with their employer, protects the rights of the employer, attempts to promote harmonious and cooperative relationships between the employer and the employees, and acknowledges the rights of the citizens to the orderly and uninterrupted delivery of services.
- B. In the event of conflict with other City ordinances, the provisions of Chapter 48, Labor Management Relations, shall supersede other previously enacted ordinances. City-sanctioned rules and regulations, administrative directives, departmental rules and regulations, and work

place practices shall control unless there is a conflict with a collective bargaining agreement. Where a conflict exists, the collective bargaining agreement shall control. (Refer to Ordinance No. 82-26 available at the Human Resource Office. *Editor's Note: See also Ch. 48, Labor Management Relations.*)

§ 66-70. Training.

- A. Conditions for full City payment. Training directed and/or required by the City shall be paid by the City in full and in accordance with state and City training/travel policies as defined by administrative regulation. *Editor's Note: Administrative regulations are available from the City offices.*
- B. Conditions for the City contribution. An employee may request City reimbursement toward any training which is not required by the City but which is job related. The department director may authorize City reimbursement toward such training based on the job relatedness of the training and on the availability of funds, and if such training does not adversely interfere with the employee's job performance. Such request for reimbursement must be made prior to participation on the training. *Editor's Note: The application for training reimbursement is included at the end of this chapter.*
- C. Amount of City reimbursement. If authorization is granted by the department director, the City shall pay, upon adequate documentation of successful completion of training, up to 75% of the cost of any job-related training.
- D. Obligation of the employee. As a condition to receiving the City's reimbursement, the employee must:
 - (1) Provide adequate documentation to the department director that he or she completed the training with a passing grade of "C" or better.
 - (2) Sign an agreement with the City which states that in the event the employee terminates with the City for any reason within one year of the completion of training, the City's contribution toward training for the past year will be deducted from the employee's final paycheck.
- E. Obligation of law enforcement training.
 - (1) All employees hired within the Police Department and Fire Department who require certification status to perform the functions of their job shall be required to successfully complete the required training as a condition of continued employment.
 - (2) The employee must enter into an employment agreement with the City of Las Vegas whereby he/she shall remain as a City employee for a period not less than two years. In the event the employee terminates with the City for any reason within two years of the completion of training, the City's contribution toward the training will be deducted from the employee's final paycheck.

§ 66-71. Americans With Disabilities Act.

The Americans With Disabilities Act *Editor's Note: See 42 U.S.C. § 12101 et seq.* gives civil rights protection to individuals with disabilities that are like those provided to individuals on the basis of race, sex, national origin and religion. It guarantees equal opportunity for individuals with disabilities in employment, public accommodations, transportation, state and local government services and telecommunications.

§ 66-72. Modified return to work duty program.

This program provides temporary modified work duty for employees who are off from work under workers' compensation, who are unable temporarily to return to their regular job classifications. The

required modified duty may extend for a period of up to 90 working days, or until employee reaches maximum medical improvement as identified by the physician, whichever is less. This program is governed by Administrative Regulation No. A-95-117 *Editor's Note: Administrative regulations are available from the City offices.*

§ 66-73. Sexual harassment.

Procedure for reporting sexual harassment is pursuant to Administrative Regulation A-95-116. *Editor's Note: Administrative regulations are available from the City offices.*

- A. Sexual harassment of any form is prohibited within the City of Las Vegas and shall be reported immediately to the Human Resource Director for guidance.
- B. The Human Resource Director will provide guidance and/or initiate a prompt, discreet investigation upon being informed of sexual harassment incidents.
- C. Based on the information provided by the complainant, the Human Resource Director will then determine if an investigation is appropriate. When an investigation is appropriate, the Human Resource Director or his/her designee will first inform the accused person's supervisor, and the supervisor will then proceed with such disciplinary action pursuant to the City's personnel rules and regulations pursuant to administrative regulation.