

CITY OF NEWCASTLE PERSONNEL MANUAL



Revisions approved by Council – January 9, 2023

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APPENDIX A, B, C

Attached

INTRODUCTION

The purpose of this manual is to communicate policies to assist employees during their employment with the City of Newcastle. The manual will serve as a guide to benefits, administrative action concerning various personnel activities and transactions. These policies may be changed, modified, rescinded or suspended from time to time, with or without notice.

Please take time to read the Personnel Manual. If you have any questions regarding any aspect of the Manual, please ask a supervisor, the Human Resources Director, or the City Manager for assistance. You should complete the forms contained in your hiring package, sign the acknowledgement of receipt of this manual, and provide required documentation for the Federal Form I-9 for submission to the Human Resources Office upon arrival for your first day of work.

The International Association of Firefighters, Local No. 3910, and the Fraternal Order of Police Twin City Lodge, Lodge No. 135, are the exclusive bargaining agents for certain employees as described in the Fire and Police Arbitration Act. The City's Personnel Manual has additional provisions not encompassed within the Collective Bargaining Agreement for the applicable fiscal year will supersede a specific provision in this Manual as to the employees covered thereby.

We look forward to having you as part of our dedicated group of employees. Welcome to your new employment serving the City of Newcastle.

I. EMPLOYMENT

Section 100. At-Will Employment

Employment with the City is at-will for an indefinite period of time, unless terminated by either the City or the employee with or without cause. This means that either the City or the employee may end the relationship at any time with or without notice and with or without cause. No written or oral representations by City personnel and no employment practices are intended to create a contract of employment or a property right in continued employment. The City's employment policies are intended only as an explanation of its employment practices, policies, benefits, and a general guide to working for the City. They do not represent an employment contract between the City and any City employee.

Section 101. Equal Employment Opportunity Statement

It is the City's policy to provide for equal employment opportunities to all qualified persons, to prohibit discrimination based on race, color, religion, gender, age, national origin, political affiliation, veteran status or mental or physical disability, and to promote full realization of equal employment opportunity. This policy will be followed in recruiting, hiring, determinations of pay, promotions, training programs, transfers and other employment related decisions.

Section 102. Harassment Policy.

The City expects its employees to act in a courteous and respectful manner toward other staff members and the public. It will not tolerate conduct which creates an intimidating, hostile or offensive working environment.

This policy applies to all City employees and officials, all contract employees and temporary employees, all seasonal employees, all vendors and all visitors to City workplaces or property. The City will not tolerate any harassment based on legally protected characteristics, any harassment which interferes with City employees and officials effectively and efficiently accomplishing their work, or any discrimination based on legally protected characteristics.

The City maintains a strict policy prohibiting unlawful harassment, including sexual harassment. This policy applies to all agents and employees of the City. Harassment is prohibited in any form, including verbal, physical, and visual harassment. Sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, and all other verbal or physical conduct of a sexual or otherwise offensive nature, especially where:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of employment

2. Submission to or rejection of such conduct is used as the basis for decisions affecting an individual's employment, or
3. Such conduct has the purpose or effect of creating an intimidating, hostile or offensive working environment.

Examples of sexual harassment include, but are not limited to, sexually offensive comments, insults, innuendos or jokes about sex or gender specific traits, sexual propositions, threats, suggestive or insulting sounds, leering, whistling, touching and obscene gestures.

Section 103. Harassment/Discrimination Complaint Procedure

Any employee who believes that he/she has experienced job related harassment or who has witnessed such harassment in the workplace or who otherwise believes that he/she has been discriminated against due to race, religion, color, gender, national origin, age, disability, veteran status or other legally protected characteristic, or who has witnessed discrimination against another, is required to immediately report the incident (i.e. harassment or discrimination) to the City Manager or Human Resources Director, or any other manager with whom the employee is comfortable, using the complaint form attached to this Manual as Appendix A. In the event the employee believes the City Manager is involved in the harassment or discrimination, the employee is required to bring the complaint to the immediate attention of the City Council.

All complaints of harassment or discrimination will be investigated as promptly and as confidentially as reasonably possible. In determining whether alleged conduct constitutes harassment or discrimination, the totality of the circumstances, the nature of the harassment and the context in which the alleged incidents occurred will be investigated. Except as deemed necessary to investigate and remedy any violations, the complaint and the information revealed in the investigation will be kept as confidential as possible.

All individuals are strongly encouraged to use the complaint procedure set for the above if they believe they have been subjected to discrimination or harassment. However, an employee may report harassment or discrimination to the attention of City management or officials in any way they wish. The initiation of a complaint, in good faith, will not be grounds for adverse employment action. It is a violation of the City's policy for an individual to be disciplined or otherwise disadvantaged or retaliated against as a result of a good faith resort to this complaint procedure, for reporting harassment or discrimination, or providing truthful information in any investigation of harassment or discrimination. However, deliberately reporting false allegations may be considered as a form of harassment itself and appropriate action will be taken.

If a person is found to have violated this policy, the City will take appropriate action designed to prevent any further incidents of inappropriate behavior. If necessary, this could include disciplinary action up to and including termination. In addition, management and

supervisory employees may face disciplinary action if they fail to take corrective action after becoming aware of the existence of harassment or discrimination, regardless of whether a complaint was filed. This policy may be more stringent than certain state and federal laws. Consequently, an individual may be found to have violated this policy and, thus, subject to discipline, even though his/her conduct would not give rise to a violation of state or federal law.

Section 104. The Americans with Disabilities Act (ADA)

Discrimination against individuals with a disability in public services, employment and public accommodation will not be tolerated. Efforts will be made to insure that interview, hiring and employment practices do not conflict with the provisions of the ADA. Applicants for employment will be provided with a copy of the job description for the position in question which will identify the essential functions of the position, job requirements and working conditions/physical requirements. Information concerning a disclosed disability will be kept as confidential as possible under the totality of the circumstances. The City will provide reasonable accommodation to a person with a disclosed disability in terms of application, hiring and job retention so long as such accommodation does not result in an undue hardship. It is the responsibility of every employee to comply with the provisions of the ADA and to create a positive work environment.

Section 105. Release of Information; Personnel Information

Personnel records are maintained for each employee. Whenever there is a change in name, address, telephone number, marital status, dependents, beneficiaries, or any other change in status, it is the responsibility of the employee to report such change in writing to the Human Resources Director. As a public entity, the City is governed by the Oklahoma Open Records Act. Therefore, certain information concerning employees and former employees is open for public inspection including, but not limited to, name, date of original employment, current position title, current salary, date and amount of most recent change in status or position, department to which employee is currently assigned and final acts of discipline which result in loss of pay, suspension, demotion of position, or termination.

Employees are entitled to review their personnel files at City Hall during normal business hours. An employee desiring to view his/her file is to submit a request in writing to the Human Resources Director or the City Manager. The Human Resources Director or the applicable department head must be present at the time of the review. An employee may not alter, remove or destroy any item in his/her personnel file. Should an employee disagree with any item located in the file, the employee may submit a written rebuttal to the City Manager which may be placed in the file. All personnel files are solely the property of the City.

All inquiries for employment information or verification of employment regarding current or former City personnel are to be directed to the Human Resources Director or the City

Manager. No other persons are authorized to release information concerning current or former employees.

Section 106. Safety Policy/Work-Injury Leave

The City is committed to providing a safe and healthy workplace for all employees. The number one rule with regard to safety is to use common sense. Each employee has a personal responsibility to work safely. It is your responsibility to use only safe procedures in performing your work assignments. If you become aware of any unsafe conditions in the workplace, you are to notify your supervisor immediately. All employees should refer to the Safety Manual and perform their duties and functions in accordance with the standards contained therein.

If you are injured while on the job, no matter how slight, or exposed to body fluids or hazardous materials while on the job, you must report the injury or exposure immediately to your Department Head. An Occupational Injury or Illness report must be completed within twenty-four (24) hours and sent to the Human Resources Director. If the injury requires treatment, it will be given as soon as possible. Injury leave begins the next working day after the injury is sustained. The employee may receive up to three days with full pay if required to be absent due to a work-related injury. Thereafter, the employee may be eligible to receive workers compensation benefits in accordance with then applicable state law. An employee returning from injury leave must provide a full return to work release from the treating physician. An employee found working, with or without pay, in conditions inconsistent with prescribed limitations may be removed from injury leave status and may be subject to disciplinary action, up to and including termination. If any provision of this policy is determined to be inconsistent with state law, the state law will prevail.

Section 106.1 Temporary Light-Duty

I. PURPOSE

To establish a City-wide policy regarding the assignment of employees to Light Duty.

II. POLICY

Light Duty is intended for employees recovering from a medically documented physical illness or mental illness or injury sustained on or off the job who have work restrictions, and who are expected to return to unrestricted work.

Assignment of Light Duty is not a right of employment. As provided in this policy, temporary light duty may be allowed with the approval of the Department Head and Human Resources Director. The City Manager and/or Assistant City Manager shall have final approval of all temporary light-duty requests and assignments.

When assigning light duty, the Department Head and HR Director will take the employee's skills and abilities into consideration. The decision of the Department Head and HR Director regarding light duty assignment is not subject to grievance or appeal.

If there is light duty work available, preference will be given to the employee whose work restrictions are due to a work-related injury, and/or employees with permanent or substantially limiting work restrictions who have requested a reasonable accommodation under the Americans with Disabilities Act (ADA).

If the employee can perform his or her regular job duties within the limitations established by a physician, the employee will return to his or her regular duties, and the provisions of this policy do not apply.

III. DEFINITIONS

A. Light Duty – Temporary work that is physically and/or mentally less demanding than normal job duties. Employees are required to provide work restrictions documented by their physician(s) to support the need for Light Duty. An employee who has been accommodated into a permanent position under the ADA is no longer considered on light duty, and therefore, is not subject to this policy.

B. Reasonable Accommodation – Refers to the requirements of the Americans with Disabilities Act (ADA)

C. Workers Compensation – Statutory benefits, as established by Oklahoma State Statute, to cover an employee who is injured on the job.

IV. PROCEDURES

A. An employee must submit a request for light duty to the HR Director. Once the request has been submitted by the employee:

1. The HR Director shall review the request along with the physician's report including restrictions if applicable.
2. If the physician's report indicates the employee is released for light-duty, the HR Director will collaborate with the Department Head to review the employee's skills and abilities, and the physician's restrictions.
3. The HR Director and Department Head shall then determine if a light-duty assignment is available within the employee's primary department or other department, based on the employee's skills and abilities, and the physician's restrictions.

B. An employee requesting Light Duty must have a release from a physician, specifying the employee's work restrictions and expected duration of the restrictions.

C. An employee may be sent to the City physician or an appropriate physician selected by the City, for review of an employee's release or work restrictions, and/or a fitness for duty evaluation, when:

1. The release to light duty and/or regular duty is due to a work-related injury.
2. Clarification or confirmation of work restrictions is needed, whether the employee's illness or injury is work-related or non-work related.

D. Employees are required to notify their Department Head immediately upon receiving a physician's release to light-duty and/or regular duty. Department Heads must then notify the Human Resource Director of the change in the employee's work status.

V. DURATION

Light Duty, as defined in this policy, is strictly temporary, not indefinite. Light Duty is not intended to extend beyond ninety (90) days and may be terminated at less than ninety (90) days. Approved light-duty will be monitored in thirty (30) day increments by the Department Head.

Employees on light-duty assignments for ninety (90) days must be referred to the Human Resource Director to initiate a case review, evaluation, and possible Reasonable Accommodation process. A review will take place to assess the possibility of the employee returning to regular duty within a reasonable period of time. When there is a high expectation that the employee will be able to return to unrestricted job duties, light-duty may be extended beyond ninety (90) days as recommended by the Department Head, and approved by the City Manager and/or Assistant City Manager, as part of a reasonable accommodation. Continuation of light-duty beyond ninety (90) days is subject to the City's discretion based on review of the employee's physician or medical reports.

VI. GENERAL PROVISIONS

A. The City reserves the right to accept or reject an employee's request to return-to-work in a light-duty capacity based on, but not limited to the following criteria;

1. Physician's release to light duty;
2. Work restrictions indicated by the employee's physician;
3. The availability of work that satisfies the light-duty restrictions established by the employee's physician;
4. The employee's skills, abilities, and other qualifications to perform the work available, and

The City

1. has the sole authority to assign the employee to the department in which the light duty will be performed;
2. may require the employee to work a forty (40) hour work week;
3. shall require the employee to use accrued leave(s) for physician appointments, physical therapy, or other necessary appointments.

- B.** Department Heads are responsible for monitoring light-duty assignments of their employees and assuring the provisions of this policy are followed.
- C.** Performance appraisals will be completed for employees on light-duty, in compliance with their normal review schedule, and will address their performance while on light-duty.
- D.** Assignment to temporary light-duty shall not affect an employee's pay classification, pay increases, promotions, retirement benefits, or other employee benefits.
- E.** No specific position within a department shall be established for the use of a temporary light-duty assignment, nor shall any existing position be designated or utilized exclusively for personnel on temporary light-duty.
- F.** Light-duty is not intended to exceed a total ninety (90) day allotment in a one-year period, unless the City in its discretion permits an extension of light-duty. The one-year period begins on the first light-duty day and ends twelve (12) calendar months after the first light-duty day.
- G.** This policy in no way affects the privileges/rights of employees under provisions of the Family and Medical Leave Act, Fair Labor Standards Act, Americans with Disabilities Act, or other federal or state law.

TEMPORARY LIGHT DUTY - REQUEST/ASSIGNMENT FORM
_____ **DEPARTMENT**

Employee Name (print): _____

Job Title: _____ **Supervisor's Name:** _____

Part 1 – Commencement of Employee's Light Duty Work:

Section I – To be completed by employee's supervisor:

Based on the restrictions identified by your physician, you are being assigned to light-duty. This assignment is temporary and is not a permanent assignment. This assignment will be evaluated every 30 days and is not intended to exceed 90 days subject to review by the City. If you are not released to full/regular duty at ninety (90) days, you will be referred to the Human Resource Director for case review, evaluation and possible Reasonable Accommodation under the Americans with Disabilities Act (ADA).

- Physician's Release to Light Duty Date: _____
- Light Duty Assignment Start Date: _____
- Scheduled Days: _____
- Scheduled Start & End Times: _____
- Location (Department/Division): _____
- Assigned Duties/Responsibilities: _____
- Reporting to (Light Duty Supervisor): _____
- Next Review Date: _____

Section II – Employee's Acknowledgement:

I request and accept decline the terms and conditions of the assignment, as stated above.

Employee's Signature

Date

Section III – Human Resource/Management Approvals

Department Head

Date

Human Resource Director

Date

City Manager/Assistant City Manager

Date

| Next Scheduled Review Date (30 days) | Department Head Comments (Examples: Same Restrictions, Changed Restrictions, Follow-up Appointment Scheduled, etc.) | Department Head Initials | Review Completed Date |
|--------------------------------------|---|--------------------------|-----------------------|
| | | | |
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DEPARTMENT HEAD REVIEW LOG

Refer employee to the Human Resources Department at ninety (90) days for case review, evaluation, and possible Reasonable Accommodation under the ADA. The employee's department must continue to monitor the Light Duty assignment.

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Copies to: Temporary Department Head, Human Resource Director.

Section 107. Employee Training and Development

It is the City's policy to foster improved employee performance and organizational effectiveness through employee development programs, in-service training and continuing education. The goal is to broaden the knowledge and skills of employees in areas related to their present work assignments, to provide the skills necessary for career enhancement, and to ensure the best possible service to the public through human resource management and development.

As part of this program, employee performance evaluations will be performed annually on the employee's hire date or date of most recent promotion. All new employees will be evaluated after the first six (6) months of employment. In addition, an evaluation will be performed after six (6) months following a promotion. The purposes of the evaluations are to maintain or improve job satisfaction; advise the employee of his/her strengths and weaknesses and what is expected of the employee in performing assigned duties; serve as guides in promotions, demotions and transfers; identify plans for enhancing skills and knowledge, and help strengthen the working relationship.

Evaluations will be based on a variety of factors including past performance, dependability, attitude and on-the-job conduct. Each evaluation must be signed by the person preparing the evaluation, the Department Head, the employee and the City Manager. A copy of each evaluation will be kept in the employee's personnel file.

The City may, in its sole discretion, reimburse employees for certain job-related education expenses that meet the condition for exclusion from the employee's taxable income as a "working condition fringe benefit" under Section 132(d) of the Internal Revenue Code of 1986, as amended. Such education expenses must meet the following requirements: (i) the education must either maintain or improve skills required in the employee's employment or it must meet the express requirements of the individual's job status, or compensation; and (ii) the expenses cannot be required to meet the minimum educational requirements of the individual's current job or be part of a program that will qualify the individual for a new job. If the minimum educational requirements of the employee's job change after they have been met by the employee, education to satisfy those new requirements will not fail the second requirement. In order to receive reimbursement, the employee must verify completion of the course(s) taken, the reimbursement was actually used for the qualifying expenses, and the employee must return any part of the cash payment not used for the qualifying expenses.

Qualifying expenses shall be limited to:

- The cost of tuition for a maximum of two courses per semester
- A maximum of One-hundred dollars (\$100.00) for text books
- Graduate or undergraduate level courses

II. COMPENSATION POLICIES

Section 200. Fair Labor Standards Act

The City's regular office hours for non-police, non-fire personnel will be Monday through Friday from 8:00 a.m. to 5:00 p.m.; however, some departments may alter schedules to better serve the City. An unpaid one-hour lunch break will be provided. The work week for all employees commences at 12:01 a.m. on Wednesday and ends at midnight the following Tuesday. Each employee's position will be classified as either Non-Exempt or Exempt.

Section 201. Employee Classifications

- A. **Introductory Employees.** The introductory period for an employee, other than police officers and fire fighters, is six (6) months. Police officers and fire fighters serve a one (1) year introductory period. During this period, the employee has an opportunity to demonstrate proper conduct and an ability to perform the job for which that person was employed. During this introductory six (6) month period, an employee is not eligible for benefits except as specifically identified in Article III.
- B. **Regular/Full-Time Employees.** An employee whose work schedule is forty (40) hours per week on a continuing basis and who has successfully completed the introductory six (6) month period.
- C. **Part-Time Employees.** An employee who routinely works less than forty (40) hours per week is considered part time. Unless specifically stated in Article III, these employees are not eligible for fringe benefits.
- D. **Temporary/Seasonal Employees.** An employee who is hired for a specific purpose for a limited time. These employees are not eligible for any fringe benefits.
- E. **Non-Exempt Employees.** Employees who are not exempt from the minimum wage and overtime provisions of the Fair Labor Standards Act. These employees are paid by the hour and receive overtime pay or compensatory time off for hours actually worked over forty (40) hours per seven (7) day work week.
- F. **Exempt Employees.** Employees who are exempt from the minimum wage and overtime provisions of the Fair Labor Standards Act as amended. These employees are paid a salary and may be eligible for compensatory time at the City Manager's discretion.

Section 202. Overtime/Compensatory Time

All hourly employees (non-exempt) must receive prior written approval from the Department Head before working overtime. A non-exempt employee who, during a seven (7) day work cycle, actually works in excess of forty (40) hours is entitled to either overtime compensation at the rate of one and one-half times the employee's regular hourly rate or compensatory time off calculated at the rate of one and one-half hours off for each hour of overtime worked at the election of the City. A non-exempt employee may accumulate up to eighty (80) hours of compensatory time off in lieu of overtime pay. The City will designate at the end of each pay period whether the employee is to receive overtime pay or will be credited with compensatory time off. The City reserves the right to schedule the compensatory time off of any employee. The minimum use of comp time is one (1) hour.

Non-exempt employees who are called back to work at the request of the City after their normal hours of work may be compensated for a minimum of two (2) hours of overtime pay, regular pay, or compensatory time or the hours actually worked, whichever is greater. Only the hours actually worked in excess of forty (40) hours during a seven (7) day work cycle are subject to overtime or compensatory time provisions. The City will designate at the end of each pay period whether the employee is to receive overtime pay, regular pay, or will be credited with compensatory time off based on the hours actually worked.

Compensatory time off for FLSA-exempt employees shall be defined as time off with pay for irregular or occasional work that substantially exceeds an exempt employee's normal work schedule.

Compensatory time off may be approved by the City Manager in writing for irregular or occasional work (as defined in the preceding paragraph) for FLSA exempt employees who are covered by the definition of "exempt employee" in Section 201.

An FLSA-exempt employee must use all approved compensatory time off by the end of the calendar year during which it was earned.

An FLSA-exempt employee who fails to take approved compensatory time off within the calendar year during which it was earned or separates from service with the City before the expiration of the calendar year time limit will forfeit the unused compensatory time off unless an exception to this provision is granted in writing by the City Manager.

Time sheets must be maintained for all employees. The time sheets are to be filled out completely and accurately, signed by the Supervisor or Department Head and the employee. Each sheet will be forwarded to the Human Resources Director at the end of each pay period. The signing of erroneous or false time sheets may result in disciplinary action up to and including termination.

Section 203. Classification And Pay Policy

203.1 POSITION CLASSIFICATION PLAN:

The Position Classification Plan includes, but is not limited to, an outline of classes or positions, and class specifications in such form as prescribed by the Human Resources Director and approved by the City Manager. The classification specification gives accurate descriptions and titles of each position. Many positions are grouped together according to the nature of work, level of difficulty and responsibility, and comparable education and qualifications required at the time of recruitment.

203.2 CLASSIFIED and UNCLASSIFIED SERVICE:

All positions that are not specifically defined herein will be considered classified. Unclassified positions include the following:

- (1) Elected officials and Municipal Judge or Judges.
- (2) City Manager
- (3) Volunteers and persons appointed to serve without pay.
- (4) Individuals rendering contractual services.
- (5) Members and Secretary of each Board, Commission or other plural authority.

203.3 USES OF THE CLASSIFICATION PLAN:

The Classification Plan shall be used:

- (a) To provide the structural basis of a compensation plan to assure that equal pay is provided for equal work;
- (b) To establish education and work experience qualifications and standards for recruiting, testing, and other selection purposes;
- (c) To provide administrators and supervisors with a means of analyzing work distribution, areas of responsibility, lines of authority, and other relevant relationships between individual positions and groups of positions;
- (d) To assist authorities in determining personnel service costs and in projecting such cost for annual budget requirements;
- (e) To provide a basis for developing standards of work performance and relating them to goals or objectives; and
- (f) To establish lines of promotional and career opportunities and to indicate employee training needs and development potentials.

203.4 ADMINISTRATION OF THE CLASSIFICATION PLAN:

The Classification Plan is not static and is not intended to fix positions permanently into classes. The Plan shall be administered continually to adapt to changing conditions.

Four possible changes in the Plan itself are:

- (a) Creation. A new classification will be created for those positions that do not conform to any existing classification.
- (b) Abolition. A classification will be abolished whenever the City no longer needs that classification.
- (c) Reclassification. A classification will be revised to when there has been substantial and permanent changes to the duties performed.
- (d) Upgrade. Classifications may be upgraded if relevant market surveys indicate the position is significantly below market, if recruitment and retention is an issue, or for other reasons not related to a change in job duties.

203.5: MAINTENANCE OF THE CLASSIFICATION PLAN:

A process of continuing review and study of all positions and classes is recognized as an essential element of the Classification Plan. To maintain viability of the Classification Plan, the Human Resources Director shall have the authority to conduct classification reviews and studies of any or all positions and, with the approval of the City Manager, the Human Resources Director shall revise the Classification Plan according to the findings.

203.6 CLASS SPECIFICATIONS:

The Human Resources Director will develop and maintain a master set of all approved class specifications on all positions. Class specifications are descriptive and explanatory, and may be updated by the Human Resources Director as needed. Class specifications are intended to indicate the kinds of positions that are to be allocated to the respective classes, as determined by their duties and responsibilities.

Each class specification may contain all or part of the following information:

- (1) Class Title: This is a brief, descriptive designation of the type of work performed.
- (2) Definition: This is a brief, concise description and definition of the primary responsibilities assigned to positions in the class.
- (3) Distinguishing Characteristics: This describes the level of work in relation to higher or lower classes in the same series.
- (4) Supervision Received and Exercised: Describes the level of supervision received and exercised by the positions in the class.
- (5) Examples of Duties: Typical tasks, which are common to positions of the class. It serves to illustrate the more typical portions of the work performed. The statement performs related duties as assigned is included in all class specifications to provide legitimate flexibility to management in assigning duties.
- (6) Qualifications: Knowledge, skills and abilities that the duties of the class typically require. They are intended to serve as guidelines in the recruitment process.

(7) Licenses or Certificates: In certain classifications, legal or special provisions require possession of a specific license or certification issued by a Board of Licensure as a condition of employment.

203.7 REQUEST FOR RECLASSIFICATION:

When the duties of a current position substantially change, the department director shall submit a written recommendation to the Human Resources Director including justification for the reclassification, emphasizing changes in position responsibilities or requirements for qualifications (i.e. experience, education, certifications, years of service, etc.).

The Human Resources Director will review the request. If the request is justified, a job audit may be conducted. A job audit is an analysis of the critical elements of a position against a predetermined formula for measuring the relative worth of a position and placement in the City's classification/compensation schedule. If approved, the Human Resources Director will take the necessary steps to effect the reclassification. The City Manager shall be the final decision maker for all reclassification requests. If the City Manager does not concur with the request, the department director will be provided with reasons. The City Manager's decisions regarding classification designations and reclassifications shall be final and not subject to any grievance process.

Any employee who considers their position improperly classified shall first submit a request in writing for reclassification to their department director who shall review the request and transmit it with a written recommendation to the Human Resources Director. An employee may not submit a request for review of their position classification any time prior to the expiration of one (1) year from the date of completion of a prior job audit for that position.

203.1.1 THE COMPENSATION PLAN:

The Compensation Plan shall include a list of positions with an assigned salary range indicating the pay grade and steps of the salary range. The basic function of the pay plan is to provide a structure that will enable the City of Newcastle and Newcastle Public Works Authority to recruit and retain competent employees. The Compensation Plan is designed to accomplish these goals by:

- (a) Providing for equal compensation for work of equivalent responsibility;
- (b) Establishing a method of rewarding employees for continued satisfactory or outstanding service;
- (c) Facilitating adjustments to changing economic and employment conditions requiring changes in pay levels and interrelationships;
- (d) Establishing pay rates which compare favorably with those of public and private organizations competing for competitive skills similar to those utilized by the City.

It shall be the responsibility of the Human Resources Director to administer the pay and classification plan.

203.1.2 EXCLUSIONS:

Pay rates identified under the pay plan described in this section do not include reimbursement for travel expenses, mileage, or other authorized expenses incurred in connection with conducting official, City of Newcastle business. Contact the City Treasurer for more information regarding these reimbursements.

203.1.3 COMPENSATION PLAN STRUCTURE:

The City utilizes a traditional range and step salary structure. Each range consists of ten (10) two and one-half percent (2.5%) steps, five (5) two percent (2%) steps, and five (5) one and one-half percent (1.5%) steps. Salary progression through the range is step-wise; with a step increase

authorized annually, based on satisfactory employee performance and budgeted appropriations approved by the City Council/ Newcastle Public Works Authority Trustees.

No additional payments are authorized once the top step of the pay range is reached, except in the event of promotion or reclassification to a higher-level classification.

Pay ranges will be reviewed annually and may be adjusted based on the consumer price index (CPI) subject to appropriations approved by the City Council/ Newcastle Public Works Authority.

203.1.4 ADMINISTRATION/MAINTENANCE OF COMPENSATION PLAN:

It shall be the responsibility of the Human Resources Director to administer the Compensation Plan. In order to maintain pay rates that are current, uniform, equitable, and competitive with other comparable employers of the same class, the Human Resources Director shall recommend to the City Manager desirable additions to, or changes in, the Compensation Plan including revisions of pay rates within the various salary ranges and changes of salary ranges for individual positions or classes. As a basis for such recommendations, the Human Resources Department shall conduct periodic analyses and reviews of the Compensation Plan and conduct periodic wage and salary surveys of the respective recruiting areas for the various classes.

203.1.5 STANDARDS FOR DETERMINATION OF PAY RANGES:

Pay ranges shall be related directly to the Classification Plan, and shall be determined with due consideration to ranges of pay for other classes; the positions relative importance and contribution to the City using specific factors such as the knowledge required, complexity, supervisory responsibilities, work environment, and scope and effect as indicated by the class specification; the recruiting experience of the City; the availability of employees in particular occupational categories; prevailing rates of pay for similar employment in private industry and other jurisdictions in the various recruiting areas; employee turnover; cost-of-living factors; years of service, and the financial policies and economic considerations of the City. Pay rates within the various salary ranges shall reasonably reflect these factors. The Compensation Plan sets

forth the pay ranges in annual, bi-weekly, and hourly amounts. A copy of the compensation plan may be obtained from the Human Resources Department.

(1) Employment Rate:

The rate of pay for newly hired employees will be at the minimum step of the assigned range to ensure equity with current employees with greater tenure. Based on the City's needs and employees' qualifications, however, placement may be made above the minimum step. Hiring above the entry rate will be only with approval of the City Manager.

(2) Promotion:

Upon promotion to a classification in a higher salary range, employees will be placed in step 1, or the first step of the new range that constitutes a salary increase. Upon promotion, the employee shall be placed on probation for a period of six (6) months. The department director may determine to return the employee to their previous position at any time during the probationary period. Within the probationary period, the employee may request assignment to their former position, or they may be so reassigned by the City if they do not make satisfactory progress in the new position. Such an employee shall be returned to the position and department from which they were promoted without loss of seniority.

(3) Demotion:

Upon voluntary demotion to a classification in a lower salary range, employees may be placed in nearest step placement in the new range. In the event of disciplinary demotions, the employee demoted shall be paid within the lower range at a step that represents approximately a one-step decrease in salary, but not less than Step 1 of that range. The employee to be demoted must meet the qualifications of the position and an existing vacancy must exist unless otherwise approved by the City Manager. An employee may be demoted by a reduction in pay step within their pay range in the same manner. The employee's merit date will be one (1) year from the date of the demotion.

(4) Promotional Probation Demotion:

When an employee is demoted to their former position during the probationary period following a promotion, their pay shall be restored to the rate in effect prior to the promotion, as though a promotion had not been granted. In the event an employee is demoted during their probationary period, they shall be eligible for any increases they normally would have received had they not been demoted.

(5) Lateral Transfer:

Upon transfer to a position classified at the same level, the employee's range and salary level placement will not change. However, a new probationary period in the new class will be required.

(6) Reclassification:

Upon reclassification to a higher-level classification, salaries will be placed in the first step in the new range that constitutes a salary increase. Reclassification to a lower-level class will result in salary placement within the new range equal to the current rate of pay, not to exceed the maximum rate for the new range. Reclassification to classes at the same level will result in no pay change.

203.1.6 APPLICATION OF COMPENSATION PLAN STEPS:

All employees employed by the City of Newcastle/Newcastle Public Works Authority prior to July 1, 2022, may advance to his or her next step in the compensation plan on July 1 of each fiscal year.

Individuals employed by the City of Newcastle/Newcastle Public Works Authority after July 1, 2022, may advance to his or her next step in the compensation plan on his or her employment anniversary date.

The date upon which an employee promotes to a new classification and step shall become the employee's new anniversary date and subsequently step advancement date.

203.1.7 PERFORMANCE EVALUATION:

Annual performance reviews are a key component of employee development. The performance review is intended to be a fair and balanced assessment of an employee's performance. They act as an official record of performance and can establish the basis for continued employment, promotions or salary increases. The objective of the annual performance review is to provide all employees and their supervisors an opportunity to: discuss job performance; set goals for professional development; establish objectives for contributing to the department's mission; and discuss expectations and accomplishments.

203.1.7.1: Guidelines. All employees will be evaluated using the appropriate forms provided by the Human Resources Department.

(a) Performance evaluations should be conducted sixty (60) days prior to the employee's anniversary date. An employee who does not receive at least a satisfactory evaluation shall be denied their step increase (if applicable) and placed on probation for a period not to exceed ninety (90) days. During this time, the employee will be monitored by their supervisor. If performance improves satisfactorily, the employee will be eligible to receive the step increase at that time. If job performance has not satisfactorily improved, the employee will not be eligible to receive the step increase or be reevaluated until the following year at the time of the original anniversary date.

(b) Employees who are at the top step of their pay range shall also be evaluated on a yearly basis. Evaluations should include a conference between the employee and their supervisor.

(c) All performance evaluation forms will be forwarded to the Human Resources Department for placement in the employee's file.

(d) Performance evaluation results may be subject to the grievance procedure.

(e) It shall be the responsibility of each director/supervisor to evaluate their employees in a timely manner.

203.1.8 PAY PERIOD:

Normal paydays will be on a bi-weekly basis on Fridays. If a payday falls on a holiday, paychecks will be distributed on the last working day before the regular payday. Electronic time sheets must be completed by 9:00am on the Wednesday prior to the Friday payday. Non-union employees hired after 2008 shall be paid by direct deposit only to either a savings or checking account. The City will not release a paycheck to anyone other than the employee unless a pay authorization form has been executed in advance and the person picking up the paycheck presents a photo I.D.

Section 204. Reimbursement/Travel Policy

Employees will be reimbursed for employee expenses only, incurred while on authorized travel or while conducting authorized City business. Claims for reimbursement are to be made on the City's travel forms and individual receipts are required for each expenditure. Advance payment may be made for items such as advance meeting registration, airline tickets, pre-packaged conferences, workshop costs, etc. Any employee wishing to attend a seminar, conference or other meeting must submit a request, in writing, to the City Manager for approval along with an expense form itemizing the expected costs.

Recognizing that the cost of lodging, transportation and meals varies from one section of the country to another, reimbursement will be made on an actual cost basis. Reimbursement will be considered for reasonable expenditures only in the following areas:

1. Meals for trips requiring an overnight stay or meals in conjunction with an official business function not to exceed sixty-dollars (\$60.00) per day per employee. Between-meal snacks and drinks shall not be reimbursed. The City will not pay for any alcoholic beverages.
2. Lodging shall be obtained at the state rate whenever possible. If a restaurant is available at the lodge/hotel/motel, the cost of meals may be charged to the room for the cost of dine-in only. The costs of room service, in-room movies, or other personal costs will not be reimbursed.
3. Tips that are included on the receipt for lodging or by the restaurant for a meal will be reimbursed when they do not exceed 15% of the costs of the lodging or meal.
4. Charges for toll fares, parking, storage and other similar items will be reimbursed.
5. Reasonable taxi charges are allowed.
6. Sales tax associated with purchases made by the Employee shall not be reimbursed. Employees may obtain a tax exempt letter from the City Clerk's office for use in the purchase of meals during travel.

Upon return, the employee must submit a travel expense form showing actual expenses incurred accompanied by receipts. The employee may also be asked to submit an oral or written report for the benefit of co-workers.

Use of a personal vehicle for local work-related travel or errands including, but not limited to, trips to the post office, county courthouse and office supply store, are not reimbursable.

Section 205. Status Changes

Hiring. Initial employment with the City will be based on merit and fitness. Consideration will be given to each applicant's qualifications, skills, aptitude, previous experience and education as they relate to the essential functions of the particular position. Tests may be used to determine certain qualifications. A background check may be conducted on candidates being considered for employment. The applicant is required to fully cooperate in any background check. After a conditional job offer has been extended, applicants may be required to pass a physical examination and/or have a negative result on any substance abuse test. Any falsification by the employee in the hiring process will be grounds for withdrawal of any conditional offer of employment and/or termination of employment. *(Amended 6-11-09, Ordinance No. 646)*

Promotions. The City will attempt to promote from within its workforce when it is determined that it would be in the best interest of the City and the public to do so. However, it reserves the right to hire from outside sources for any particular position. In considering employees for promotion, the City will take into consideration past job performance, education, training, job knowledge, abilities and dedication to the goals and missions of the City. Tenure is not a basis for a promotion. If selected for the position, the employee will be required to serve a six (6) month introductory period in the new position and will be evaluated at the end of six (6) months. *(Amended 6-11-09, Ordinance No. 646)*

Demotions. When an employee is demoted to a position in a lower step or grade, the City Manager will determine the pay rate in the grade to which the employee has been demoted. If the salary received in the higher grade is more than the maximum rate for the grade to which the employee is demoted, pay shall be adjusted to any rate within the range of the lower grade. An employee facing possible demotion is entitled to request a hearing as outlined in Section 500 of this Manual.

Reclassifications. A job position may be reclassified in terms of step or grade. When the present classification and/or pay grade does not adequately reflect the responsibilities of the position in relation to other positions as evaluated from the standpoint of duties, responsibilities and requirements, the position will be re-classified accordingly. If a classification and/or pay grade does not exist which is reflective of the position in question, a new classification and/or pay grade shall be created.

Transfers. The basic pay rate for a transfer shall be the same as for the previous position or lower as deemed appropriate. Transfers shall be approved by the City Manager and shall be done when it is in the best interests of the City. An employee transferred to a new position will be required to serve a six (6) month introductory period in the position.

Layoffs. An employee may be subject to a non-disciplinary, involuntary layoff due to a shortage of funds, elimination of a position, lack of need for the duties/functions performed by an employee, changes in needed skills or other circumstances as determined by the City. The City will notify affected employees in advance. Employees facing layoffs do not have the ability to “bump” another employee. *(Amended 6-11-09, Ordinance No. 646)*

III. BENEFITS AND LEAVE POLICIES

Section 300. Benefits

The City provides health, dental, and life insurance benefits and retirement plans for eligible employees. The City reserves the right to amend or terminate any of these benefits, at its sole discretion. In addition, all policy statements contained herein that describe various insurance benefit and retirement plans are merely brief summaries of the plans. Details of each plan are contained in individual plan summary booklets or documents, which are provided to employees who participate in the plans. If any statement contained herein or in a plan summary booklet or document is in conflict with official plan documents, the official plan document will control.

Section 301. Health Insurance

A group health insurance policy will be carried by the City for the benefit of its full-time employees with the total health cost of the employee's health insurance coverage paid by the City. Members of a full-time employee's immediate family who qualify may be enrolled in the health plan at the employee's request, with the full cost of the premiums to be paid by the employee. Participation in the program shall begin on the first day of the first month following employment or the first possible date allowed by the present insurance carrier. Any dispute or disagreement over coverage will be solely between the employee and the insurance carrier and the employee may not grieve or take legal action against the City for a decision of the insurance carrier.

Section 302. Retirement Plan

Each full-time City employee is eligible to participate in a Retirement Program. Different plans may be applicable depending on the position held by the employee. Each employee will be provided with information concerning the plan applicable to that individual. Details of the pertinent plans are contained in the individual summary plan booklets or documents, which will be provided to the employee. An employee who has a question concerning a particular plan should seek the assistance of the Human Resources Director.

Section 303. Professional Association Dues

To promote professional advancement of employees and to encourage participation in professional associations, the City may pay an employee's membership dues in a professional organization when in the judgment of the City Manager and/or City Council the membership contributes to the employee's professional growth and serves a legitimate purpose of the City.

Section 304. Annual Leave

After six (6) months of employment, a full-time employee is eligible to take paid annual leave (vacation leave). Annual leave shall accrue to full-time employees as follows:

Years of Service Completed Accrued Hours/Week or Days/Year

| | |
|---|---|
| Beginning of first year to completion of fourth year of employment | 4.62 hours/pay period=15 working days (120 hrs) |
| Beginning of fifth year to completion of tenth year of employment | 6.16 hours/pay period=20 working days (160 hrs) |
| Beginning of eleventh year to completion of fifteenth year | 7.70 hours/pay period=25 working days (200 hrs) |
| Beginning of sixteenth year to Retirement or separation of full-time employment | 9.23 hours/pay period=30 working days (240 hrs) |

Employees will not accrue annual leave while on a leave of absence in excess of fifteen (15) days. If a paid holiday occurs during a leave period taken by an employee, the day will be considered holiday time and will not be deducted from the employee’s annual leave accrued.

Unless otherwise approved by the City Manager, a maximum of ten (10) days of leave accrued may be taken at any one time. A request for Annual Leave time must be submitted to and approved by the Department Head/Supervisor at least three (3) working days in advance to ensure that the operations of the City are not impaired. Employees may use only the amount of annual leave time accrued. Leave time cannot be advanced to employees. The minimum use of vacation time is one (1) hour. Annual leave hours accrued may be carried forward or accrued until a maximum of 280 hours is accumulated. No employee may accrue or carryover more than 280 hours. If an employee reaches 280 hours of annual leave, the employee may not accrue any additional leave until the employee takes annual leave and reduces the employee’s accrued annual leave total.

The City has no obligation to allow an employee to “cash out” accrued annual leave hours but may do so at its election.

Section 305. Holidays

The following holidays will be observed each year by the City as paid holidays:

| | |
|---------------------------------|-----------------------------|
| New Year's Day..... | January 1 |
| Martin Luther King Jr. Day..... | Third Monday in January |
| President's Day..... | Third Monday in February |
| Memorial Day..... | Fourth Monday in May |
| Independence Day..... | July 4 |
| Labor Day..... | First Monday in September |
| Veteran's Day..... | November 11 |
| Thanksgiving Day..... | Fourth Thursday in November |
| Friday after Thanksgiving..... | Fourth Friday in November |
| Christmas Eve..... | December 24 |
| Christmas Day..... | December 25 |
| Employee's Birthday..... | Day of Employee's Choice |

Holidays observed by the City occurring on a Saturday will be observed on the preceding Friday.

Holidays observed by the City occurring on a Sunday will be observed on the following Monday.

Thursday and Friday will be observed by the City when Christmas Eve and Christmas Day occur on a Friday and Saturday. The City will observe the preceding Friday and the following Monday when Christmas Eve and Christmas Day occur on a Saturday and Sunday. Monday and Tuesday will be observed by the City when Christmas Eve and Christmas Day occur on Sunday and Monday.

Due to Friday being a regularly scheduled day off, Street Department Employees will be allowed to take off City observed holidays in the following manner:

- on the Thursday preceding a holiday occurring on a Friday
- on the Wednesday and Thursday preceding holidays occurring on Thursday and Friday (Thanksgiving and Christmas)
- on the Thursday preceding and the Monday following holidays occurring on Saturday and Sunday (Thanksgiving and Christmas)

Employees required to work an eight hour day on an observed holiday (excluding Police and Fire non-exempt employees) shall be paid their regular salary plus eight hours at regular pay. Employees (excluding Police and Fire non-exempt employees) whose regularly scheduled day off occurs on an observed holiday shall be paid eight hours at regular pay for the holiday.

Section 306. Sick Leave

After six (6) months of employment, a full-time employee is eligible to take paid sick leave. Sick leave shall only be used for the Employee's personal illness/injury and for the care of an immediate family member as defined in this section. Sick leave shall accrue to full-time employees at the rate of two (2) hours per week beginning with the first full month of service, with the maximum number of allowable accrued sick days being 120 days/960 hours after six (6) months. When possible, a "Request for Leave" form is to be completed and approved prior to any scheduled sick leave. An employee unable to work his/her assigned hours or shift must call the Department Head at least two (2) hours in advance of the time set to begin work. The Employee shall submit a "Request for Sick Leave" to the Department Head/Supervisor immediately upon returning to work when it is not feasible prior to using sick leave.

In the event of an illness, surgery or injury requiring an absence from work of three (3) or more consecutive days, a release for full duty is required from the employee's physician. Excessive use of sick leave or continuous illness may be cause for the employee to be placed on "Physical Report Status". In such circumstances, an employee may be required to submit a physician's statement and release for full duty after each absence.

Employees may take only the amount of sick leave earned. The minimum use of sick leave is one (1) hour. Employees may use sick leave for the purpose of caring for an immediate family member or any relative residing within the employee's home. The definition of "an immediate family member" shall mean spouse, children and parents.

Employees who are absent from work for three (3) or more consecutive days to care for a family member or any relative residing within the employee's home, due to illness or injury, shall be required to provide documentation from the attending physician regarding the illness or injury and the care needed.

Employees terminating employment under any circumstances will not be paid for unused sick leave. However, an employee retiring from service under an approved retirement plan and who is sixty-two (62) years of age or older at the time of retirement will be reimbursed at his/her regular rate of pay at the time of retirement for one-half (1/2) of all unused sick leave. The false or fraudulent use of sick leave may be grounds for disciplinary action up to and including termination.

Section 307. Leave Sharing

A City employee may donate accrued annual leave or accrued compensatory time to another City employee to be used for sick leave purposes pursuant to the following conditions:

1. The receiving employee has exhausted, or will exhaust, all annual leave, sick leave, and any other accrued leave, due to illness, injury, impairment, or physical or mental condition;
2. The receiving employee's condition has caused, or is likely to cause, the necessity of leave without pay or termination of employment;

3. The City Manager approves the leave to be shared with an eligible employee.

Section 308. Family and Medical Leave Act

The City of Newcastle recognizes the occasional need for time away from work due to an employee's serious illness, to care for a family member during a serious illness, as well as other family related matters such as childbirth, adoption, or placement of a foster child, etc. This policy is designed to assist employees and the organization in making sure the needs of the employee and the organization are met in a manner, which is appropriate to all concerned. The City will comply with the federal Family and Medical Leave Act of 1994, as amended in 2008 (the "FMLA"). In the event that any provision of this policy is inconsistent with the FMLA, the provisions of the FMLA and its implementing regulations will control.

To be eligible for FMLA benefits an employee must have worked for the City of Newcastle for at least twelve (12) months and must have worked at least 1,250 hours during the twelve-month period immediately preceding the commencement of leave. The City provides up to a total of 12 weeks of leave in any "rolling" 12-month period. Additionally, eligible employees have the right to take up to 26 weeks of unpaid leave in a single 12-month period (less any FMLA leave taken during the period for other purposes under this Policy) to care for a family service member in connection with a serious military illness or injury. A copy of this policy is attached as Addendum "B".

Employees should complete and submit for supervisory approval a written request for FMLA leave. Employees must complete the approved forms for such purpose to the Human Resources Director. Forms are available in the Human Resources office.

Section 309. Civil Leave

Jury Duty. It is the City's policy to enable employees to fulfill their civic obligations. If an employee is summoned for jury duty, he/she must immediately notify his/her supervisor so appropriate arrangements can be made for the leave required and must provide the Human Resources Director with a copy of the jury summons. Employees will be paid their regular wages for the first five (5) days of their absence for jury duty, up to eight (8) hours per day.

During this period of time, all compensation received from the court, other than travel monies, must be turned in to the City Clerk during this five (5) day period. Thereafter, employees may use accrued vacation during jury duty or may take a leave of absence without pay to complete jury service and may retain any compensation received from the Court. An employee on jury duty who is released from service on any given day before 2:00 p.m. is required to return to work for the remainder of the work day.

Witness Duty. An employee required by law to appear in court to testify as a witness must immediately notify his/her supervisor so appropriate arrangements can be made for the

leave required. Full-time employees shall receive regular pay for the hours absent for such purpose if required to appear and testify on behalf of the City in a City related matter or on behalf of the State of Oklahoma in a county matter. An employee choosing to serve as a witness in a non-City or non/State related action must use accrued annual leave for the hours absent for such purpose. The employee may retain any fee paid for serving as a witness in a proceeding not related to City business. A signed statement from the Court Clerk reflecting actual dates of attendance at court may be required by the City Manager.

Voting. It is the City's policy to encourage all eligible employees to vote in all city, county, state, or federal elections. Any employee, regardless of employment status, shall be granted a reasonable amount of leave time in order to vote, should the employee be unable to vote at any time other than working hours. The employee must request time off to vote at least one day prior to the election.

Section 310. Bereavement Leave

In the event of death in an employee's immediate family, the employee may be granted emergency leave of up to three (3) calendar days (excluding weekends and holidays). This emergency leave will be with pay. Immediate family shall be defined as the employee's spouse, mother, father, brother, sister, son-in-law, daughter-in-law, child, grandchildren, grandparents, mother-in-law, father-in-law, brother-in-law, sister-in-law, or other member of the employee's family residing in the employee's home, or other members of the employee's family primarily dependent upon the employee. One working day without loss of pay may be taken in the event of a death of an aunt, uncle, niece, nephew, cousin to the first degree, or grandparent-in-law.

Section 311. Military Leave

Employees are entitled to such leaves of absence and reinstatement upon return from leaves of absence for military service (including Reserve and National Guard duty) as may be required by applicable state and federal law. A copy of the employee's orders must accompany any request for time off.

Section 312. Leave of Absence Without Pay

In appropriate circumstances, the City Manager may grant a leave of absence without pay, not to exceed thirty (30) days, to an employee who has completed six (6) months of service. Leaves of absence without pay will be granted only when it is in the best interests of the City to do so. The following provisions govern leaves of absence without pay:

1. All requests for leave must be presented to the City Manager, in writing, including the dates requested and sufficient justification for the request.

2. The City Manager has discretion to approve or disapprove a request for leave of absence without pay.
3. At the expiration of a leave of absence without pay, the employee will be reinstated in the position he/she vacated, or in any other vacant position of the same class for which the employee is qualified, subject to the requirement of FMLA.
4. Vacation and sick leave shall not accrue during a leave of absence without pay. Any holiday falling during the leave will not be compensated.
5. An employee failing to return to work after the expiration of an approved leave period will be considered as voluntarily resigning from employment.
6. An approved leave of absence without pay shall not constitute a break in service.
7. Except as provided by the City's Family and Medical Leave Act Policy, an employee may retain health insurance and other benefits while on leave of absence without pay only by assuming the entire cost of these benefits.
8. Any employee who accepts other employment while on a leave of absence shall be considered as having voluntarily resigned without notice as of the first day of the leave.

IV. EMPLOYEE CONDUCT

Section 400. Outside Employment

Outside employment shall not:

1. Interfere with the satisfactory performance or efficiency of the City's service, nor require any time during the employee's designated work day for the City;
2. Adversely affect, conflict with, or be perceived by the Department Head and/or City Manager as conflicting with the interests of the City or reflect negatively on the City;
3. Involve work requiring the review or approval of the City Council or other boards of the City; and
4. Require use of any City materials, equipment or vehicles to carry out the obligations of such outside employment.

Employees unsure if potential or existing outside employment conflicts with this policy or the intent of this policy should discuss such outside employment with their Department Head and/or the City Manager. Failure to abide by the above requirements could be grounds for termination. Employees who sustain an injury/illness in the course of secondary employment will not be covered by the City's workers compensation insurance.

Section 401. Conflict of Interest

Employees are expected to maintain high standards of honesty, integrity, impartiality and conduct to ensure the trust and confidence of the citizens they serve.

A conflict of interest could arise from a situation in which the financial or personal interests of an employee or an employee's family could be impacted by an action or lack of action by the employee in the performance of his/her duties. Employees must be independent of any conflicts of interest and must be recognized as being free from the existence of circumstances which a reasonable member of the public could construe as a conflict of interest. No employee may have a financial interest in any contract, service or other work performed by or for the City or any related entity. The receiving or soliciting of any gift, gratuity, promise of benefit or preferred service, loan, entertainment or other consideration by any City employee based upon his/her position with the City is prohibited. Employee may receive plaques, trophies, certificates and the like in recognition of service to the community.

In the event an employee feels that he/she may be involved in a conflict of interest, the employee should immediately make a written report on the matter to the Department Head, making full disclosure of all pertinent circumstances and shall decline participation in such events. A copy of the written report shall be given to the City Manager for review. Employees

may be required to submit periodic written reports and assurances regarding any circumstance, situation or activity which could involve a conflict of interest.

Section 402. Political Activities

City employees are expected to maintain the reality of, as well as the perception of, the integrity and objectivity of the City and its work. The following principles shall apply:

1. Employees are encouraged to vote in all elections, and may express their opinions on all political subjects and candidates;
2. Active participation in any political campaign, as well as individual conduct which may be construed as visible endorsement or campaigning, may only occur while off-duty and while not wearing the uniform or insignia of the City;
3. Employees may not be a candidate for nomination or election to partisan offices if such violates the provisions of Oklahoma law. Employees may request the City Manager's approval to serve in appointed positions, such as member of school committees or non-partisan public and civic committees;
4. Persons in the employ of the City shall not solicit political contributions while on duty. Any employee who threatens, attempts to threaten, intimidate, or coerce another employee in the exercise of the employee's vote shall be subject to removal from his/her position;
5. A paid employee wishing to seek a municipal elected office must resign at the time of filing for office.

V. DISCIPLINARY ACTIONS, GRIEVANCES

Section 500. Disciplinary Actions

Employees are expected to accept certain responsibilities, adhere to acceptable business principles in matters of conduct and exhibit a high degree of personal integrity.

The following rules of conduct are not designed to restrict employee rights, but rather to define them and thus protect the rights of all while ensuring that City employees maintain a professional attitude through businesslike conduct. Disciplinary action will be administered as necessary. An employee may be reprimanded, demoted, suspended without pay, or dismissed for inappropriate actions. The examples set forth below do not constitute a complete list and the City reserves the right to investigate, make judgments and take appropriate disciplinary action for any individual incident. The level of severity of any infraction and the discipline to be imposed as a result thereof are solely at the discretion of the City Manager. Inappropriate actions include, but are not limited to:

1. Insubordination, i.e. refusal to comply with the proper order or instruction of an authorized supervisor/department head or City Manager.
2. Theft of City property, destruction to City property, whether willful, intentional, or with gross carelessness, or misuse of City property and monies.
3. Conviction of a misdemeanor involving moral turpitude or conviction of any felony.
4. Violation of, failure to follow, or refusal to comply with pertinent City rules and regulations.
5. Discourtesy/disrespect or other unprofessional behavior to the public, co-workers or others.
6. Habitual tardiness, unauthorized or excessive absence or abuse of leave policy.
7. Acceptance of a gift, fee or other valuable consideration given with the intent of influencing the employee in the performance of official duties; use of official position or authority for personal profit or advantage.
8. Falsification or misrepresentation of records, including falsification of application papers or resume.
9. Condoning and/or participating in acts of discrimination or harassment.
10. Neglect of duty.
11. Gambling on duty or on City property.
12. Reporting to work under the influence of alcohol or illegal substances.
13. Possession, use or distribution of alcohol or illegal substances while at work, on City property or in a City vehicle.

14. Failure to meet acceptable standards of personal appearance, clothing and/or hygiene.
15. Sleeping on duty unless otherwise authorized.
16. Fighting on duty.
17. Misuse or abuse of powers or position.
18. Inability to perform assigned duties in an acceptable manner.
19. Any other behavior or expressed behavior which may interrupt, impede, contradict, or jeopardize the effective functioning of the City.
20. Failure to meet prescribed standards of work, morality and ethics to an extent that makes an employee unsuitable.
21. Abuse of or actions toward other employees or the public, either on or off the job, which tend to disrupt the good order and efficiency of the operation of any City department, impair the morale of its employees or impair the respect of the public for the department.

Any potential employee misconduct will be investigated upon its discovery by a supervisor or appropriate management personnel. When it is determined that an employee has committed an offense warranting disciplinary action, the supervisor may begin disciplinary action in any one of the steps listed below, depending upon the seriousness of the offense committed. When an employee's conduct is deemed to have been willful, malicious or inherently dangerous, the employee may be immediately suspended with pay pending a final determination of appropriate discipline.

The City reserves the right to select any form of discipline upon one or more infractions, depending upon the nature of the infraction, and taking into consideration all of the circumstances, including past performance. The types of discipline that may be considered include the following:

1. **Oral Warning:** For minor offenses, the employee may be given an oral reprimand. A notation of the oral warning will be placed in the employee's personnel file. If the warning does not correct the situation within a reasonable length of time, or if additional infractions occur, the supervisor may then go to another step.
2. **Written Reprimand:** This reprimand is prepared by the supervisor, acknowledged by the employee, and approved by the City Manager and placed in the employee's personnel file.
3. **Suspension Without Pay:** If a second offense occurs within one (1) year from the date of a written warning, or for any single serious offense, a supervisor may recommend that the employee be suspended without pay, the length of the suspension depending upon the seriousness of the offense.

4. **Termination:** If additional offenses occur, or for any single serious offense, a recommendation may be made that the employee be discharged.

The above list is a mere guideline and the City Manager or his designee reserves the right to select any level of discipline for any one offense.

Before discipline is imposed on a full-time employee that results in a demotion, reduction in pay, suspension without pay or termination, the employee will be given an opportunity to present his/her side of the story and any reasons why the discipline should not be taken. If a Department Head believes that one or more infractions warrants a demotion, reduction in pay, suspension without pay or termination, he must prepare a Discipline Report listing the specific charges/offenses, the facts supporting the same, the policy or policies violated, any past offenses and the discipline recommended.

The original of the Report will be provided to the Human Resources Director with a copy to the employee. Any employee who is subject to discipline involving possible demotion, reduction in pay, suspension without pay or termination will be offered an opportunity for an administrative hearing before a Personnel Review Board composed of three (3) employees of supervisor rank or above selected by the Human Resources Director from departments other than the employee's department.

Upon receipt of the notice of a recommendation of discipline involving possible demotion, reduction in pay, suspension without pay or termination, the employee will have two (2) working days to request a hearing. The request must be in writing and provided to the Human Resources Director. If the employee requests a hearing, a Personnel Review Board hearing will be convened within five (5) business days. The employee will have the opportunity to present witnesses and evidence on his/her behalf and to cross-examine the witnesses presented by the City and review the City's evidence. The employee may be represented by counsel at his/her own expense. If the employee intends to be represented by counsel, he/she is to so notify the City at least three (3) working days prior to the hearing.

The Personnel Review Board will hear the facts and submit an advisory recommendation to the City Manager. The City Manager may accept, modify or reject the recommendation of the Board. An employee who avails himself/herself of the process shall have no other appeal/grievance procedures and the decision of the City Manager shall be final and binding.

Section 501. Grievance Procedure

The City's policy is to encourage employees to make grievances known in an appropriate manner without fear of reprisal. Employees are encouraged to discuss with the Department Head any problems or issues which could have the potential to create a negative or adverse atmosphere and/or impede an employee's performance. The intent of the City's grievance procedure is to fairly and expeditiously resolve problems through open, direct, honest, two-way communication and to ensure, to the extent possible, that such problems/issues do not continue.

An employee who feels aggrieved is to verbally discuss the situation with the Department Head in an effort to informally address potential problem areas. Should the grievance directly involve the Department Head, the employee may proceed to the City Manager.

The Department Head, with the assistance of the Human Resources Director, is to investigate the matter and take appropriate action to resolve the problem in a fair and timely fashion. If the grievant is not satisfied with the results obtained, the employee may submit a written account of the problem/issue and any action taken to the City Manager. Such statement must include:

1. A statement of the problem;
2. Names of the parties involved;
3. The employee's perception of the Department Head's response to the problem;
4. Identification of the areas satisfied by the Department Head's response and identification of the areas that remain unresolved.

The City Manager may then consult with the parties in an effort to bring about a fair, expedient, equitable solution, and may further investigate the situation if necessary. The decision of the City Manager shall be final.

VI. EMPLOYMENT SEPARATION

Section 600. Employment Separation

Separation from employment with the City will be designated as one of the following:

1. Resignation;
2. Layoff;
3. Retirement;
4. Termination;
5. Death.

An employee leaving employment with the City must return all City property including keys, pagers, telephones, company vehicles and any other property before or at the time of the exit interview.

Upon termination of the employment relationship, the Human Resources Director will conduct an exit interview. The separating employee must be physically present for this final interview. This provides the employee an opportunity to receive and complete any appropriate benefit forms, to have any questions answered, and to provide information relating to reasons for leaving City employment.

Section 601. Resignation

An employee planning to resign employment with the City must notify his/her immediate supervisor as far in advance as possible. An employee wishing to leave employment in good standing must submit a written resignation to the Department Head with a copy to the Human Resources Director at least two (2) weeks prior to the effective date of resignation, and must be physically present to participate in an exit interview. The letter of resignation must clearly state all reasons for resignation.

Employees who are absent from work for three (3) consecutive days without giving notice to their immediate supervisor will be considered as having voluntarily resigned their position. Separations of this type will not be considered leaving employment in good standing.

VII. WORKPLACE POLICIES

Section 700. Drug-Free Workplace Policy

The City requires a commitment from all employees to keep an alcohol and drug-free workplace.

As a condition of employment, employees must abide by the terms of this policy. The unlawful manufacture, distribution, possession or use of an illegal substance, abuse of prescription or over-the-counter medication, or the use or possession of alcohol is prohibited anywhere in the workplace or on City property, including City vehicles.

Use of a controlled substance is not prohibited when prescribed by an authorized medical practitioner for treatment and when used as directed. In these circumstances, employees are urged to inform their supervisors that they are taking medicines which may result in side-effects.

As a condition of employment, an employee must notify the City Manager of any arrest or conviction of a drug statute or ordinance not later than five (5) days after such arrest or conviction. Criminal drug statute or ordinance means a criminal statute or ordinance involving manufacture, distribution, dispensation, sale, transfer, use or possession of a controlled substance. The City will take appropriate disciplinary action against the employee, up to and including termination, and/or requiring the employee to satisfactorily participate in an abuse rehabilitation program.

In addition, the City has established an alcohol and drug testing policy consistent with applicable state and federal laws. A copy of the policy is posted on bulletin boards and is attached as Addendum "C" to this Manual.

Section 701. Smoking Policy

The City is committed to providing a healthy and safe working environment for employees. In keeping with this commitment, smoking is permitted only in areas designated for that purpose.

Section 702. Use of City Property

All employees are expected to exercise care in the use of City property. Personal use of City property or equipment is prohibited. Negligence in the care and use of City property, personal use of such property, or unauthorized removal of City property, may result in discipline.

City equipment and property may not be removed from City offices or work location without prior authorization from the City Manager. Employees are prohibited from working on personal projects or outside businesses or activities during regular work hours. Employees violating these policies will be subject to discipline up to and including termination.

All employees are expected to exercise proper care in the use of all City property, tools and equipment. Any employee who takes City property or equipment, who loses City property or equipment, or who negligently damages the same, shall be responsible for the reasonable cost in replacing the items.

No employee is authorized to modify any City property or equipment items without the prior written permission of the employee's supervisor. This includes, without limitation, a prohibition against loading floppy disks, software programs, CD-ROM or DVDs onto the City's computers without prior permission of the employee's Department Head. Employees are prohibited from removing City computers and software for use elsewhere. Employees are prohibited from copying software on City computers or placing any software on City computers, or in any way violating software licenses. Computer games are prohibited on City equipment. No employee is authorized to change the lock on or use a personal lock on City-owned equipment without specific written permission from the Department Head. An employee may only install and use a password or pass code on a City computer only with the consent of the City Manager. All passwords or pass codes must be provided to the City Manager.

The City strives to maintain a workplace free of harassment and is sensitive to the diversity of its employees. Therefore, the City prohibits the use of computers, e-mail systems, voice mail and all other communications and information systems in any manner which is disruptive, offensive, disrespectful or harmful to the morale of the employees. Fraudulent, harassing, obscene or unlawful messages and/or materials are not to be sent, printed or stored on City equipment.

All City provided property and equipment is to be used only in the furtherance of legitimate City business. The City's information system is not to be used to solicit or proselytize for personal, political, commercial or religious causes, outside organizations or other non-job related personal matters. This policy does not prevent brief personal communications between employees or between employees and family members so long as it does not become time consuming and does not detract from day-to-day operations.

All data in the City computer and communication systems (including documents, other electronic files, e-mail and recorded voice mail messages) are the property of the City of Newcastle. The City may inspect and monitor such data at any time. No individual should have any expectation of privacy for messages or other data recorded in the systems. This includes documents or messages marked "private," which may be inaccessible to most users but remain available to the City. Likewise, the deletion of a document or message may not prevent access to the item or completely eliminate the item from the system.

The City may provide security procedures in the form of unique user sign-on identification and passwords to control access to the host computer system, networks and voice mail system. In addition, security facilities may be provided to restrict access to certain documents and files for the purpose of safeguarding information. The following activities, which present security risks, should be avoided:

1. Attempting to bypass, or render ineffective, security facilities provided by the City.
2. Passwords should not be shared between users. If written down, passwords should be kept in a locked drawer or other inaccessible location.
3. Individual users should never make changes or modifications to the hardware configuration of computer equipment.
4. Additions to or modifications of any standard software configuration provided on City PCs should never be attempted by individual users (e.g., autoexec.bat and config.sys files).
5. Programs should never be downloaded from bulletin board systems or copied from other computers outside the City onto City computers. Downloading or copying such programs also risks the introduction of a computer virus. If there is a need for such programs, a request for assistance should be directed to the department head or the City Manager. Downloading or copying documents from outside the City must be performed so as not to present a security risk.
6. The computer facilities of the City should not be used to attempt unauthorized access to or use of other organizations' computer systems and data.
7. Unlicensed software should not be loaded or executed on the PCs.
8. City software (whether developed internally or licensed) should not be copied onto floppy diskettes or other media other than for the purpose of backing up an employee's hard drive. Software documentation for programs developed and/or licensed by the City may not be removed from the City's offices.

The City recognizes that the use of the Internet has many benefits for the City and its employees. The Internet makes communication more efficient and effective. Therefore, employees are encouraged to use the Internet appropriately. No use of the Internet should conflict with the primary purpose of the City and its operations, or with applicable laws and regulations. Each user is personally responsible to ensure that these guidelines are followed. If the conduct prohibited by these guidelines are not followed, serious repercussions, including termination, may result. The City may monitor usage of the Internet by employees, including reviewing a list of sites accessed by an individual. No individual should have any expectation of privacy in terms of his or her usage of the Internet. In addition, the City may restrict access to certain sites that it deems are not necessary for business purposes. The connection to the Internet may not be used for any of the following activities:

1. The Internet (including utilization of instant messaging) must not be used to access, create, transmit, print or download material that is derogatory, defamatory, obscene, or offensive, such as slurs, epithets, or anything that may be construed as harassment or disparagement based on race, color, national origin, sex, sexual orientation, age, disability, medical condition, marital status, or religious or political beliefs. Harassment of any kind is prohibited.
2. The Internet must not be used to access, send, receive or solicit sexually oriented messages or images.
3. Downloading or disseminating of copyrighted material that is available on the Internet is an infringement of copyright law. Permission to copy the material must be obtained from the publisher.
4. Downloading programs for non-business use is prohibited. Downloaded programs for business use may contain computer viruses that can extensively damage our computers. Be sure to virus-check downloaded files immediately.
5. Employees are responsible for the content of all text, audio or images that he/she places or sends over the City's Internet or e-mail system, or over any City provided call phone or PDA. No e-mail or other electronic communications may be sent which hides the identity of the sender or represents the sender as someone else. Employees represent the City when conducting City business over the Internet and via email so use discretion when formulating messages.
6. Employees should guard against the disclosure of confidential information, including personnel information concerning City employees, through the use of Internet e-mail, news groups, or remote access in public places.
7. The Internet should not be used to send or participate in chain letters, blogging, pyramid schemes or other illegal schemes.
8. The Internet should not be used to solicit or proselytize others for business purposes, causes, outside organizations, chain messages or other non-job related purposes, unless such usage is required by law and not in conflict with other sections of this handbook.
9. The City's Internet connection and email system should not be used to endorse political candidates or campaigns.

Section 703. Vehicle Operation, Maintenance and Safety Policy

INTRODUCTION

Many municipal functions require the operation of vehicles. How drivers handle vehicles and the municipality maintains them, can directly affect worker safety.

PURPOSE

The purpose of this policy and procedure is to assure that each employee who operates a vehicle for municipal business maintains acceptable standards of proficiency and safety.

POLICY AND PROCEDURES

- A. The City of Newcastle desires to eliminate any conditions that adversely affect the well being of employees and threaten financial stability through accidental losses.
- B. Certain positions require the use of a City vehicle. Certain positions also require that a City vehicle be assigned to an employee on a long term basis. Any personal use of the vehicle must be approved in writing by the City Manager. Further, any approved personal use of a City vehicle is a benefit to the employee and is a taxable item as outlined in the United States Internal Revenue Service Code. The cash value of this benefit will be shown on the employee's W-2 form issued by the City, and any state or federal taxes owed for this benefit are strictly the responsibility of the employee.
- C. Employees shall operate all vehicles that they use for municipal business safely and economically. To accomplish this, employees shall comply with the following practices:
 - 1. Only employees assigned to a vehicle by a Department Head are authorized to drive that vehicle.
 - 2. An employee assigned and/or using a City vehicle must maintain the vehicle in a clean and orderly condition.
 - 3. Employees assigned and/or using a City vehicle shall ensure that the vehicle is properly fueled at the end of each work period.
 - 4. If a vehicle becomes unsafe to drive for any reason, a written report must be prepared and submitted to the Department Head.
 - 5. Employees who are assigned and/or use City vehicles are responsible for reporting lost or stolen license plates to their Department Head.
 - 6. Employees who are assigned and/or use a City vehicle are responsible for ensuring service and repairs are performed on the vehicle as necessary or required.
 - 7. Major repairs to vehicles are to be done only with the approval of the City Manager.
 - 8. All employees utilizing a City vehicle must possess a current, valid Oklahoma state driver's license relative to their employment position and duties.
 - 9. Employees shall operate City vehicles in conformance with state and local laws at all times.
 - 10. Employees shall wear safety restraints at all times, whether operating or riding as a passenger in the vehicle.
 - 11. Traffic citations received by an employee while operating a City vehicle are the responsibility of the employee operating the vehicle.
 - 12. Vehicles shall have appropriate warning and safety devices where required.
 - 13. Smoking is not permitted in City vehicles.

- D. Employees shall operate vehicles only when they are in safe operating condition. Each employee assigned and/or operating a City vehicle for City business shall inspect the vehicle to assure the vehicle is in sound operating condition.
- E. Each driver's privilege to be assigned and/or operate a City vehicle for official business extends only as long as the driver operates the vehicle in a safe and efficient manner. A record of "preventable" accidents shall result in appropriate disciplinary action.
- F. Employees performing work that requires the operation of a City vehicle must notify their immediate supervisors if their license has expired, has been suspended, or has been revoked. Failure to notify the immediate supervisor shall be cause for disciplinary action.
- G. Each Department Head shall be responsible for coordinating City Vehicle Safety and Loss Control programs in cooperation with the Safety Director, Human Resources Director, and the Fleet Maintenance Department Head.
- H. No employee shall drive a City vehicle unless the employee's supervisor has certified him or her to do so.
- I. The Human Resource Director shall maintain a driving record on each employee.
- J. All vehicular accidents and incidents must be reported immediately to the appropriate police department, the Department Head, and the City Manager regardless of the amount of damage.
- K. City employees may be transported in City vehicles while on duty or while engaged in City business. In addition, elected City officials, members of City boards and commissions, City volunteers, persons in police custody and persons designated by the City Manager may ride in City vehicles. All other persons may only be transported in a City vehicle in the case of an emergency or with permission of the City Manager.

DRIVER SELECTION, TRAINING, PERFORMANCE EVALUATION & MONITORING

A. Driver Selection

Although driving may be incidental to the employee's primary job responsibilities, the considerations given to driver selection are often the most important factor that will affect City vehicle accidents. Therefore, the City of Newcastle expects managers and supervisors to comply with the following when hiring individuals who will be driving City vehicles:

1. Evaluate driver qualifications through the following:
 - a. Previous Employer's Reference: Check to verify employment and to help determine the driving qualifications and history of the applicant.
 - b. Driving Records: Require applicants to submit a copy of their current driving record with their application.

- c. Personnel File: If a current employee, review to consider driver training received, record of preventable accidents, driving history, driving certifications, driving record, etc.
2. Managers and supervisors may consider drivers of City vehicles as qualified to drive when they meet the following criteria:
 - a. Possess a valid driver's license of the proper class and a driving record that meets all performance and other standards specified in this administrative policy.
 - b. Capable of passing a physical examination when a question of fitness to drive arises because of illness or injury.
 - c. Capable of passing written tests on driving regulations when required.
 - d. Capable of passing driving tests.
 - e. Have demonstrated proficiency with the particular type of vehicle or equipment they will routinely operate.
 3. Managers and supervisors should examine applicants driving records carefully and consistently as a routine part of the screening, background investigation, and hiring process. The following is a partial list of conditions, violations, or convictions that shall be cause for rejection of an applicant who is applying for a position which requires the operation of a City vehicle:
 - Two at fault accidents within the past three years, or
 - Two minor traffic convictions within the past three years, or
 - A combination of one at fault accident and one minor traffic conviction within the Past three years, or
 - Driving with a suspended or revoked driver's license within the past five years, or
 - Operating a vehicle while under the influence of alcohol or drugs within the past five years, or
 - Failure to stop or report an accident within the past five years, or
 - Negligent homicide, manslaughter, assaults involving the operation of a motor Vehicle within the past ten years.

B. Driver Training

To evaluate and assist drivers in maintaining an acceptable level of performance, the City of Newcastle shall periodically administer or arrange for attendance at a defensive driving course.

The City of Newcastle shall make assignments for the course as follows:

1. Mandatory attendance for employees who have been involved in a "preventable accident."
2. Mandatory attendance for employees whose immediate supervisors determine that they have substandard driving capabilities or habits.
3. Voluntary attendance for employees who have not attended a defensive driving course within

the past three years.

C. Performance Evaluation and Monitoring

Careless and poor driving can lead to worker injuries and to decreased public confidence in the City of Newcastle. Managers and supervisors are required to monitor and evaluate employees who operate City vehicles. Managers and/or supervisors shall:

1. Check all employees' driving records at least annually.
2. Assign a specific individual to oversee the license review and screening process. This individual should also manage the entity's compliance with Commercial Driver's License, federal random drug testing and other legal requirements where required.
3. Take appropriate corrective action for current employees with unacceptable driving records. Corrective actions may range from reassignment to non-driving related positions up to discharge. Falsification of information about driving records by employees shall be cause for immediate termination.
4. Establish corrective actions necessary to restore employee to driving position and period for completion. Document actions taken.
5. Forward all documentation of the annual review and actions taken by the manager or supervisor to the Human Resource Director.

DRIVER ROAD TESTING PROGRAM

Setting up the Course

Each department may use road testing as one means of determining how a driver applicant will perform once he or she is employed. A standardized road test should require applicants to handle the routine road hazards that they are likely to encounter daily as drivers within the respective department. Therefore, the manager or supervisor should first plan the course on a map. The course should include streets, alleys, highways, back roads, bridges, grades, overpasses, school zones, controlled intersections, left turns, right turns, backing and parking situations. An ideal test run will cover 10 to 20 miles.

Establishing Performance Standards

Measure the effectiveness of the road test by having several of the department's best drivers run the course. Use their average score to serve as a standard for qualification.

Administering the Road Test

Check the applicant's driver's license to determine that he or she has the license necessary for the class of vehicle he or she will operate. Provide the driver with a map of the course and give him or her instructions. Let the driver get the feel of the vehicle and become familiar with the controls by proceeding with the yard test of pre-tripping, backing and parking before pulling onto the road. Give directions for the route well in advance to avoid last minute maneuvers. Do not distract the driver with unnecessary conversation during the test.

Evaluating the Driver

The road test has three categories:

Qualified - Meets your organization's performance requirements.

Needs Improvement - Demonstrates marginal performance that training can improve.

Unqualified - Does not meet organization's standards.

Since most drivers will not have a perfect score, you should use the road test results as a basis for future remedial driver training to upgrade their performance.

Backing and parking vehicle.
 (Gets out and checks, sounds horn, avoids backing to blind side, backs slowly, uses guide if necessary, parks legally, secures unit properly, uses 4 way flashers.)

Operating the vehicle in traffic and while passing other vehicles.
 (Leaving curb, speed control, smoothness of operation, shifting gears, anticipates traffic problems, obeys traffic laws, signals properly, passes with sufficient space and smoothly, uses mirrors.)

Turning the vehicle. (Signals in advance, turns from proper lane, checks traffic before turning, turns at reasonable speed into proper lane, yields right-of-way.)

Braking and slowing the vehicle by means other than braking.
 (Uses engine to reduce speed by shifting to lower gear smoothly)

Defensive Driving. Has good attitude, yields right-of-way, maintains good space cushion, slows down at intersections, and checks cross traffic at intersections.

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This is to certify that _____, participated in a road test under my supervision on _____ consisting of approximately _____ miles of driving. It is my opinion that this driver:

possesses does not possess

sufficient driving skills and capabilities to safely operate the type of commercial vehicle(s) listed above.

Manager/Supervisor: _____

Department: _____

Date: _____

ACCIDENT REPORTING PROCEDURES

- A. All vehicular accidents and incidents shall be reported immediately to the appropriate police department, the Department Head, and the City Manager regardless of the amount of damage.
- B. An employee involved in a vehicle accident shall obtain appropriate medical treatment if necessary as outlined in the City's Personnel Policy Manual.
- C. The employee shall request that all parties and properties concerned remain at the scene of the accident, if possible, until a law enforcement representative has released them.
- D. Employees shall refrain from making statements regarding the accident to anyone other than the investigating police officer, City management, and representatives of the City's or employee's personal insurance provider. Employees shall limit statements to factual observations.
- E. The Assistant City Manager/Safety Director shall receive a copy of all police reports and any accompanying statements within 48 hours if possible. The Assistant City Manager/Safety Director shall review the reports and forward them to the City Clerk to be filed with the City's insurance carrier.
- F. If the vehicle accident involves an injury, the employee and his or her supervisor shall file the appropriate reports with the Human Resource Director.
- G. The employee shall complete a Vehicle Accident/Incident Report within 48 hours and submit it to his or her supervisor. The supervisor will send copies to the Assistant City Manager/Safety Director.
- H. The Assistant City Manager/Safety Director, after receiving all required reports, shall appoint an accident review board to review the accident/incident. The accident review board shall be comprised of five City employees chosen by the Assistant City Manager/Safety Director. One of the five employees chosen shall be from the Newcastle Police Department and have the rank of Lieutenant or above. The employee chosen from the Police Department shall serve as the chair of the accident review board.
- I. The employee involved in the accident/incident may be required to appear before the accident review board for questioning.
- J. The accident review board shall review all reports, statements, and documents related to the accident/incident. The accident review board may also review the employee's personnel file, solely regarding, his or her driving history while employed with the City of Newcastle.
- K. After reviewing all reports, statements, and documents related to the accident/incident, the accident review board shall submit a written report to the Assistant City Manager/Safety Director and Department Head delineating their inquiry as to whether or not the accident/incident was PREVENTABLE or NONPREVENTABLE.

- L. The Assistant City Manager/Safety Director shall review the written report submitted by the accident review board. After reviewing the report submitted by the accident review board, the Assistant City Manager/Safety Director and Department Head may interview the employee involved in the accident/incident.
- M. The Assistant City Manager/Safety Director may consult with the Department Head to determine a recommended disciplinary action regarding accidents/incidents found to be PREVENTABLE by the accident review board.
- N. The Assistant City Manager/Safety Director shall submit a report detailing the findings of the accident review board, interview with the employee involved in the accident/incident, discussions with the Department Head, and the recommended disciplinary action if warranted, to the City Manager.
- O. The City Manager shall have the final authority and determination of discipline to be imposed upon the employee.

Section 704. Personal Appearance

City employees will always be neat, appropriately dressed, and well groomed while on duty or while representing the City. The City Manager will resolve any questions relative to dress and grooming. Continuing excess in dress or grooming will be grounds for discipline. Employees assigned uniforms must wear the clean uniforms during work hours, unless granted an exception by the Department Head or City Manager.

Section 705. Media Contact

The City Manager will designate one or more persons to speak on behalf of the City regarding all City business. All official news releases regarding municipal functions will come from the office of the City Manager. Any employee may voice his/her personal opinion but may not do so while in uniform and may not state or imply that he/she is speaking on behalf of a particular department or the City.

Section 706. Nepotism

No elected or appointed official or other authority of the municipal government shall appoint or elect any person related by affinity or consanguinity within the third degree to any governing body member or to himself or, in the case of a plural authority, to any one of its member to any office or position of profit in the municipal government. The provisions of this section shall not prohibit an officer or employee already in the service of the municipality from continuing in such service or from promotion therein. A person may hold more than one office or position in a municipal government as the governing body may ordain. A member of the

governing body shall not receive compensation for service in any municipal office or position other than his elected office.

Section 707. Workplace Violence

The City observes a zero-tolerance policy regarding workplace violence. Fighting, threats of violence, or other activities which may endanger the well being of employees, or other, may result in termination. Actions that create an environment that is threatening, violent, intimidating, hostile, abusive or offensive will not be tolerated and must be reported to a supervisor immediately.

APPENDIX "A"
COMPLAINT FORM

Name of Complainant: _____

Position with the City: _____

Name and position of person allegedly violating City policies, including any claims of discrimination and/or harassment: _____

Date and Place of Occurrence: _____

Description of the event giving rise to the Complaint (Please use additional sheets as needed.)

Name, address or position of any potential witnesses to the events: _____

Date

Signature of Employee

Date

Human Resources Director

APPENDIX "B"

FAMILY AND MEDICAL LEAVE ACT (FMLA) POLICY

- A. Purpose: To define the City's intent to comply with the Family and Medical Leave Act of 1994, as amended in 2008. The City of Newcastle recognizes the occasional need for time away from work due to an employee's serious illness, to care for a family member during a serious illness, as well as other family related matters such as childbirth, adoption, or placement of a foster child, etc., and for certain reasons related to military service. This policy is designed to assist employees and the organization in making sure the needs of the employee and the organization are met in a manner, which is appropriate to all concerned. The City will comply with the federal Family and Medical Leave Act of 1994, as amended in 2008 (the "FMLA"). In the event that any provision of this policy is inconsistent with the FMLA, the provisions of the FMLA and its implementing regulations will control.
- B. Application: To be eligible for FMLA benefits an employee must have worked for the City of Newcastle for at least twelve (12) months over the past seven (7) years (not necessarily consecutive), and must have worked at least 1,250 hours during the twelve-month period immediately preceding the commencement of leave (note: the seven (7) year measurement is adjusted if the leave is due to certain military service). Employees must also work in or within 75 miles of a location at which the City employs 50 or more individuals to be eligible for the Family Medical Leave described in this Policy.
- C. Definitions: As used in this Policy and under the federal FMLA regulations, the following terms are defined as follows:
1. "Active Duty"
The term "active duty" means duty as a member of the U.S. Armed Services during war or national emergency declared by the President or Congress.
 2. "Child or Son or Daughter"
Child, son or daughter means a biological, adopted, or foster child, a stepchild, a legal ward or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and "incapable of self-care because of a mental or physical disability."
 3. "Contingency Operation"
A military operation that is designated by the Secretary of Defense or otherwise created by operation of law as an operation in which members of the Armed Forces are or may become involved in military actions, operations or hostilities against an enemy or opposing forces of the U.S.

4. “Continuing Treatment”

A serious health condition involving continuing treatment by a health care provider includes any one or more of the following: (i) A period of incapacity (i.e., inability to work, attend school, or perform other regular daily activities due to the serious health condition, treatment therefore, or recovery there from) of more than three consecutive full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that involves an in-person visit to a health care provider with the first in-person treatment visit coming within seven (7) days of the first day of incapacity, that also involves: (a) Treatment two or more times, within 30 days of the first day of incapacity, unless extenuating circumstances exist, by a health care provider, by a nurse or physician’s assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or (b) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider; (ii) Any period of incapacity due to pregnancy, or for prenatal care; (iii) Any period of incapacity or treatment for such incapacity due to chronic serious health conditions (requires at least two visits to a health care provider per year; continues for an extended period of time; and may cause episodic rather than continuing periods of incapacity); (iv) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective, but which requires the continued supervision of a health care provider (e.g. Alzheimer’s, severe stroke, etc.); (v) Any period of absence to receive multiple treatments (or to recover from same) conducted or ordered by a health care provider for a condition which, if untreated, would result in a serious health condition.

5. “Covered Service Member”

Any member of the regular Armed Forces, including a member of the National Guard or Reserves may be a covered service member. A covered service member includes a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness. A covered service member includes a veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness. A “covered veteran” means an individual who was a member of the Armed Forces (including a member of the National Guard or Reserves) and was discharged or released under conditions other than dishonorable at any time during the period of five years prior to the first date the eligible employee takes FMLA leave for the covered veteran. (§§ 825.102, 825.122, 825.127(b)(2))

6. “Equivalent Position”

An equivalent position must have the same pay, benefits, and working conditions, including privileges, perquisites, and status. It must involve the same or substantially similar duties and responsibilities, which must entail substantially equivalent skill, effort, responsibility, and authority.

7. “Health Care Provider”

A health care provider is: (i) a doctor of medicine or osteopathy who is authorized to

practice medicine or surgery by the State in which the doctor practices; or (ii) any other person determined by the Secretary of Labor to be capable of providing health care services. These include podiatrists, dentists, clinical psychologists, clinical social workers, optometrists, chiropractors, nurse practitioners and nurse-midwives who are authorized to practice by the State. Christian Science practitioners listed with the First Church of Christ Scientists in Boston, Massachusetts are also included.

8. “Key Employee”

A key employee is a salaried employee who is among the highest paid 10 percent of all the employees employed by the City within 75 miles of the employee’s worksite.

9. “Next of Kin”

The nearest blood relative of a covered service member, other than the covered service member’s spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered service member by court decree or statute, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of Military Caregiver Leave under the FMLA. When no such designation is made, and there are multiple family members with the same level of relationship to the covered service member, all such family members shall be considered the covered service member’s next of kin and may take FMLA leave to provide care to the covered service member consecutively or simultaneously.

10. “Qualifying Exigency”

Qualifying exigencies include the following--

a. Short-Notice Deployment:

An allotment of up to 7 days of leave to address any issue that arises from the fact that a covered military member has been notified of an impending call or order to active duty in support of a contingency operation seven or less calendar days prior to the date of deployment.

b. Military Events and Related Activities:

Leave to attend an official ceremony, program, or event sponsored by the military that is related to the active duty or call to active duty status of a covered military member or to attend family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to the active duty or call to active duty status of a covered military member.

c. Childcare and School Activities:

Leave to arrange for or provide for childcare or school-related activities when the active duty or call to active duty status of a covered military member necessitates a change in the existing childcare arrangement for a child, as defined in b. above.

- d. Financial and Legal Arrangements:
- Leave to make or update various financial and legal arrangements to address the covered military member's absence while on active duty or call to active duty status.
- e. Counseling:
- Leave to attend counseling provided by someone other than a health care provider for oneself, for the covered military member, or for the child of the covered military member, provided that the need for counseling arises from the active duty or call to active duty status of a covered military member.
- f. Rest and Recuperation:
- An allotment of up to fifteen (15) days for each instance of rest and recuperation leave to spend time with a covered military member who is on short-term, temporary, rest and recuperation leave during the period of deployment. (§§ 825.126)
- g. Post-Deployment Activities:
- Leave to attend arrival ceremonies, reintegration briefings and events, and any other official ceremony or program sponsored by the military for a period of 90 days following termination of the covered military member's active duty status and to address issues that arise from the death of a covered military member.
- h. Parental Care Leave:
- Leave to provide care or arrange alternative care for a military member's parent who is incapable of self-care when the service member's covered active duty necessitates a change in the existing care arrangement for the parent. (§§ 825.126(b)(8))
- i. Additional Activities:
- Leave to attend other activities arising out of a covered service member's active duty or call to active duty status provided that the City and employee both mutually agree: (i) that such leave should qualify as an exigency; and (ii) to the timing and duration of the leave.
- j. Parent"
- Parent means a biological parent or an individual who stands or stood in loco parentis to an employee when the employee was a child. The term does not include parents "in-law."

k. “Serious Health Condition”

A serious health condition is an illness, injury, impairment or physical or mental condition that involves: (1) inpatient care (an overnight stay in a hospital, hospice, or residential medical care facility) and any corresponding period of incapacity or subsequent treatment in connection with the inpatient care, or (2) “continuing treatment,” as defined above, by a health care provider. “Incapacity” means the inability to work, attend school, or perform other regular daily activities due to a serious health condition, treatment therefore, or recovery therefrom. “Treatment” includes examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical, eye, or dental examinations. Ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches or other migraine, routine dental or orthodontia problems, periodontal disease, etc., are examples of conditions that do *not* meet the definition of a serious health condition and do not qualify for FMLA leave.

l. “Serious Military Illness or Injury”

An illness or injury incurred by a service member in the line of duty while on active duty in the Armed Forces (including the National Guard or Reserves) that may render the service member medically unfit to perform the duties of his or her office, grade, rank or rating.

m. “Spouse”

Spouse means a husband or wife as defined or recognized under state law for purposes of marriage, including common law marriage in states where it is recognized.

D. Reasons for Leave:

The City provides up to a total of 12 weeks of leave in any “rolling” 12-month period. Additionally, eligible employees have the right to take up to 26 weeks of unpaid leave in a single 12-month period (less any FMLA leave taken during the period for other purposes under this Policy) to care for a family service member in connection with a serious military illness or injury. See “Military Caregiver Leave” below.

Employees applying for and granted a family/medical leave of absence are required to meet notification and documentation requirements as outlined further in this policy. Failure to meet this requirement may result in the denial or revocation of leave.

Upon submission and approval of a leave of absence request, eligible employees are entitled to leaves of absence for the following purposes:

1. Birth/Adoption/Foster Care Leave. An employee may take leave in connection with the birth of the employee's natural child or the placement of a child with the employee for adoption or foster care. An employee's entitlement to leave for birth or placement of a child expires 12 months after the birth or placement.
2. Family Leave. An employee may take leave to care for his or her son or daughter, spouse or parent with a serious health condition.
3. Medical Leave. An employee may take leave in connection with his or her own serious health condition which renders the employee unable to perform his or her job duties.
4. Military Qualifying Exigency Leave. An employee with a spouse, son, daughter, or parent who is a military member on covered active duty, or has been notified of an impending call or order to covered active duty status, may use the employee's 12-week leave entitlement to address certain qualifying exigencies. (§825.112(5))
5. Military Caregiver Leave. An employee is also entitled to take up to 26 weeks of leave during a single 12-month period (less any FMLA leave taken during the period for other purposes under this Policy) to care for a covered service member with a serious injury or illness incurred in the line of duty on active duty for which he or she is undergoing medical treatment, recuperation, or therapy or that existed before the service member began active duty and was aggravated in the line of duty to the extent that it may render the service member medically unfit to perform duties of his office, rank or rating; or otherwise in outpatient status; or otherwise on the temporary disability retired list for a serious injury or illness, if the employee is the spouse, son, daughter, parent, or next of kin of the service member. An employee further is entitled to take up to 26 weeks of leave to care for a covered veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness. This leave is applied on a per-covered-service member, per-injury basis, provided that no more than 26 workweeks of leave may be taken during a single 12-month period. (§825.127(b) and (c)(1))

E. Employee Notice or City Election of FMLA Leave

Employees should complete and submit for supervisory approval a written request for FMLA leave. This request may be made on one of the approved forms for such purpose and are available in the office of the Human Resources Director.

When it is foreseeable for the birth or placement of a child or for planned medical treatment, an employee who wishes to take leave under this Policy must give reasonable, advance notice and must submit a written leave of absence request for approval prior to the commencement of the leave. In most circumstances, a "reasonable, advance notice" means 30 days. When planning medical treatment, the employee must consult with the Human Resources Department and make a reasonable effort to schedule the treatment so as not to unduly disrupt the City's operations, subject to the approval of the health care provider. Advance notice of the need to take Military Caregiver Leave is also required when such leave

is foreseeable. The employee has a responsibility to provide notice sufficient to make the City aware that the employee needs FMLA qualifying leave, and the anticipated timing and duration of the leave. Failure to provide notice sufficient to make the City aware that the employee needs FMLA qualifying leave could result in a denial of the employee's leave application.

When it is not possible to give advance notice—for example, in connection with an unforeseeable medical emergency or for Military Qualifying Exigency Leave—the employee must notify the Human Resources Department as soon as practicable, ordinarily within one (1) or two (2) business days of when the employee learns of the need for leave. Employees must follow the City's customary call-in procedures, unless unusual circumstances require a deviation from them.

When an employee requests FMLA leave, the Human Resources Department will notify the employee of the employee's eligibility for and obligations and expectations of taking FMLA leave within five (5) business days, absent extenuating circumstances. After the Human Resources Department has enough information to determine whether the leave is being taken for an FMLA-qualifying reason, the Human Resources Department will notify the employee of whether the leave will be designated and will be counted as FMLA leave within five (5) business days, absent extenuating circumstances. The City also has the right to designate an absence as Family and Medical Leave on its own volition, consistent with applicable laws and regulations, even if the employee does not request it.

If an employee has accrued unused sick leave (when applicable) and/or vacation leave, he or she must take advantage of those paid leaves in connection with any leave under this Policy. That means that the employee's paid leave will run concurrently with their FMLA leave. Accordingly, the period of unpaid leave is shortened by the period of paid leave so that the maximum leave taken is no more than 12 weeks. If such paid leaves do not apply or have been exhausted, leaves under this Policy will be without pay. An employee also may request to any accrued compensatory time.

EXAMPLE: An employee who requests family/medical leave is eligible for a maximum of 12 weeks. This employee has 3 weeks of vacation and 4 weeks of sick leave accrued for a total of 7 weeks. This leave must be used first, and will run concurrently with the first 7 weeks of unpaid family/medical leave.

If the employee is still required to be off work, he/she would be eligible for an additional 5 weeks of unpaid leave (3 weeks of vacation leave + 4 weeks of sick leave + 5 weeks of unpaid leave = 12 weeks total leave).

Employees who are absent and receiving benefits under worker's compensation insurance are not required to substitute credited vacation or sick leave. Nonetheless, worker's compensation or other disability absences qualifying as serious health conditions will be designated by the City as Family and Medical Leave and the leave would be counted as running concurrently for purposes of both worker's comp/long-term disability and FMLA.

F. Certification of FMLA Leave:

The City will require a health care provider's complete and sufficient certification of either the employee's or the family member's serious health condition, whichever is applicable, to be completed within 15 calendar days of the leave request. For Military Qualifying Exigency Leave, the City will require complete and sufficient certification for the first instance of a request for leave in accordance with 825.309 of the FMLA, to be completed within 15 calendar days of the leave request. For Military Caregiver Leave, the City will require confirmation of a covered family relationship to the covered service member pursuant to 825.122(j) of the FMLA. Also, for Military Caregiver Leave, the employee must provide complete and sufficient certification to the City in accordance with 825.310 of the FMLA, to be completed within 15 calendar days of the leave request. The City will notify the employee of the requirement to provide certification and the penalties for failing to do so upon the employee's notice of a request for FMLA leave; within five (5) business days thereafter; or within five (5) business days of the leave commencing in cases of unforeseen leave. Where the employee's need for leave due to the employee's own serious health condition, or the serious health condition of the employee's covered family member, lasts beyond a single year, the City will require the employee to provide a new medical certification in each subsequent leave year.

If the certification the employee provides is incomplete (blank entries) or insufficient (vague or non-responsive answers), the Human Resources Department will advise the employee of the deficiencies in writing and the employee will be allotted seven (7) additional calendar days (unless not practicable under the particular circumstances despite the employee's diligent good faith efforts) to cure the certification. Failure to provide complete and sufficient certification could result in a denial of the employee's FMLA leave request.

Furthermore, upon the employee's authorization pursuant to HIPAA, the Human Resources Department may contact the health care provider for purposes of clarification and authentication of any medical certification. The City will, under no circumstances, utilize the employee's direct supervisor when making such contact. Despite the City's ability to make such contact, it remains the employee's sole responsibility to provide the employer with a complete and sufficient certification, and a failure to do so could result in a denial of the employee's FMLA leave request.

The City may request recertification for leave taken because of the employee's own serious health condition or the serious health condition of a family member every thirty (30) days if the employee continues to be absent. If the medical certification indicates that the minimum duration of the condition is more than thirty (30) days, the City will wait until the minimum duration expires before requesting a recertification. In all cases the City can request recertification of a medical condition every six (6) months in connection with an absence of the employee. In all cases the City may request recertification in less than thirty (30) days if: (a) the employee requests an extension of leave; (b) circumstances described by the previous certification have changed significantly; (c) the City receives information that casts doubt upon the employee's stated reason for the absence or the continuing validity of the certification. All recertification requested shall be at the employee's expense.

As a condition for restoring an employee whose FMLA leave was occasioned by the employee's own serious health condition that made the employee unable to perform the employee's job, the City will require the employee to obtain and present certification from

the employee's health care provider that the employee is able to resume work. The employee has the same obligations to participate and cooperate in the fitness-for-duty certification process as in the initial certification process. The certification from the employee's health care provider must certify that the employee is able to resume work. Additionally, the certification must specifically address whether the employee is able to perform the essential functions of the employee's job. The City will supply the employee with a list of essential job functions with its designation notice described above. The cost of certification will be borne by the employee.

If any certification provided by the employee raises reason to doubt the validity of the certification, the City of Newcastle may require, at the organization's expense, that the employee obtain a second opinion. If the second opinion conflicts with the original opinion, the City may require, at its expense, that the employee obtain the opinion of a third physician designated or approved jointly by the employee's Department Head and the employee. This third opinion will be considered final and binding on both parties.

G. Husband and Wife Leave Under the FMLA:

When a husband and wife are both employed by the City, they are limited to a combined total of 12 workweeks during any rolling 12-month period if leave is taken for birth of a child, care for the child after the birth, placement of a child with the employee for adoption or foster care, or to care for the employee's parent with a serious health condition. The limitation does not apply, however, to leave taken by either spouse to care for the other who is seriously ill and unable to work, to care for a child with a serious health condition, or for his or her own serious illness.

Also, an aggregate of 26 workweeks during any single 12-month period may be taken by a husband and wife who are both employed by the City for Military Caregiver Leave. The number of workweeks of leave available to each will be reduced by the number of workweeks taken by that individual (but not his or her spouse) during the 12-month period for other purposes under this Policy.

H. Intermittent or Reduced Leave Schedule Under the FMLA:

An employee taking leave after the birth or because of placement for adoption or foster care of a healthy child is permitted to take leave intermittently or by working a reduced workweek only with the written approval of the City. However, intermittent or reduced work leave to care for a seriously ill family member, because of the employee's own serious health condition, or for Military Caregiver Leave, may be taken whenever medically necessary. Military Qualifying Exigency Leave may also be taken on an intermittent or reduced leave basis. The City may require a medical certification of the need for intermittent or reduced schedule leave and periodic recertification of the continued need for the leave consistent with the regulations issued by the Department of Labor.

The City of Newcastle may require an employee on intermittent leave to transfer temporarily to an available alternative position, which has equivalent pay and benefits, and

better accommodates recurring periods of leave than the employee's regular position. Actual time taken should be reported as Family and Medical Leave on the employee's time sheet. Employees on intermittent leave should contact their Human Resources representative with any questions concerning actual hours worked and overtime compensation.

When an employee takes FMLA leave on an intermittent or reduced leave schedule basis, the City will account for the leave using an increment no greater than the shortest period of time that the City uses to account for use of other forms of leave provided it is not greater than one hour and provided that the employee's FMLA leave entitlement will not be reduced by more than the amount of leave actually taken.

The City will require a certification of fitness to return to duty from intermittent or reduced leave schedule for each absence up to once every thirty (30) days if reasonable safety concerns exist regarding the employee's ability to perform his or her duties, based upon the serious health condition for which the employee took such leave.

I. Benefits During FMLA Leave:

Employees on Family or Medical Leave will continue to be covered under the City's benefits program. If the employee has coverage through the City's health plan, the employee must continue to pay the employee's share of the premiums to keep this coverage in effect, just as if he or she was working. If the employee does not return to work at the end of the leave, the City will charge the employee for the full premium cost of the health coverage during the leave. However, the employee will not be charged if he or she does not return due to:

1. The continuation, recurrence or onset of a serious health condition which would entitle the employee to Family and Medical Leave; or
2. Other circumstances beyond the employee's control.

J. Holidays While on FMLA Leave:

The fact that a holiday may occur within the week that an employee has taken as FMLA leave has no effect; the week *is* counted as a week of FMLA leave. However, if the employee is using FMLA leave in increments of less than one week, the holiday *will not* count against the employee's FMLA entitlement unless the employee was otherwise scheduled and expected to work during the holiday. Furthermore, if for some reason the City's business activity has temporarily ceased and employees are generally not expected to report for work one or more weeks, the days the employer's activities have ceased *do not* count against the employee's FMLA leave entitlement.

K. Return to Work Following FMLA Leave:

On return to work from Family and Medical Leave, an employee is entitled to be returned to the same position the employee held when leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. Ordinarily an employee will be restored to the same position the employee held prior to the leave, with the same pay and benefits, if the position remains available. However, an employee has no right to return to the same position. Any disputes as to what constitutes an "equivalent position" should be reviewed with the Human Resources Director.

If an employee would have been laid off had he/she not been on a family/medical leave of absence, any right to the reinstatement would be whatever it would have been had he/she not been on a leave of absence when the layoff occurred.

If an employee is certified as able to return to work in a light duty job, the employee has the option of declining to return and remaining on Family and Medical Leave until fully released or the 12-week entitlement period is exhausted, whichever occurs earlier. The decision not to accept light duty, however, may result in the loss of worker's compensation benefits, at which point the provision for substitution of paid leave (vacation and sick leave) would apply. Voluntary acceptance of light duty does not waive an employee's right to restoration to the same or an equivalent position. Although time spent on light duty does not count against the annual 12-week FMLA allotment, an employee's right to restoration will expire at the end of the 12-month FMLA leave period.

L. Key Employees Under FMLA:

The City retains the right to deny reinstatement to "Key Employees" upon its determination that substantial and grievous economic injury will result. The employee will be given notice that he or she is considered a "Key Employee" as soon as practicable after receipt of a request or designation by the City of an absence as Family and Medical Leave. If a determination is made of substantial and grievous economic injury, the employee will be notified in writing, with such notice being served in person or by certified mail. Leave cannot be denied, but reinstatement can.

M. Other Work Prohibited During FMLA Leave:

Employees may not engage in work for another employer during employee's normal business hours, whether full or part-time, while on Family and Medical Leave from the City. Any violation of this provision may jeopardize the employee's right to return to work. The City will also require both periodic reports during the course of the leave of an employee's status and his or her projected date of return to work and a written release from his or her physician to return to work.

N. Unlawful Acts Under FMLA:

It is unlawful for the City to: a) interfere with, restrain, or deny the exercise of any right provided for under FMLA; or b) discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

O. Enforcement of FMLA:

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against the City for any violation of FMLA.

APPENDIX "C"

ALCOHOL AND CONTROLLED SUBSTANCE TESTING POLICY AND PROCEDURES

Section 1. Policy Statement: The City of Newcastle recognizes the importance of having a drug and alcohol-free workplace and the fact that substance abuse is a treatable illness. The abuse of alcohol, drugs, or other chemical substances endangers the safety of the public, the employee, and co-workers. The City believes that it is in the best interest of its employees to prevent, treat and eliminate drug, alcohol, and chemical substance abuse in the work place. Any employee found using, possessing, selling, distributing or being under the influence of an illegal chemical substance and/or alcohol during working hours or on City property will be subject to discipline up to and including termination. Any employee who abuses prescription or over-the-counter medication during working hours or on City property also will be subject to discipline, up to and including termination. The phrase "on City property" includes operating or riding in City vehicles at any time. The policy shall apply to all employees and all applicants for employment other than those covered by the terms of a collective bargaining agreement.

Section 2. Effective Date: This policy will be effective thirty (30) days after official posting in a prominent place at City Hall and following distribution of the policy to all employees. In addition, a copy will be given to each applicant for employment upon receiving a conditional offer of employment.

Section 3. Authority: This policy will be in accordance with and administered pursuant to 40 O.S. Sec. 551 et. seq.: The Oklahoma Standards for Workplace Drug and Alcohol Test Act and, where applicable, the Omnibus Transportation Employee Testing Act, as amended from time to time.

Section 4. Application: This policy will apply to all employees as well as all applicants for employment once they have received a conditional offer of employment.

Section 5. Education: All employees will be informed of the City's drug and alcohol testing policy and procedures, including information concerning the impact of the use of drugs and alcohol upon job performance, how testing is to be conducted, and the consequences of the testing procedures. Supervisory employees will be trained in how to recognize an employee who appears unfit for duty due to substance abuse, how to determine reasonable

suspicion, how to effectively and appropriately intervene in such instances and on issues related to privacy and proper disciplinary measures.

Section 6. Pre-Employment Testing: All applicants for positions with the City will be required to undergo drug and/or alcohol testing following a conditional offer of employment but prior to final hiring and assignment. Refusal to undergo a test, or a confirmed positive test, shall be the basis for withdrawing a conditional offer of employment.

Section 7. Reasonable Suspicion Testing: Drug or alcohol testing may be conducted on any member when objective evidence exists establishing reasonable suspicion or substance abuse in the workplace. Reasonable suspicion may be based upon, among other things:

7.1 Observable and articulable phenomena, such as physical symptoms or manifestations of being under the influence of drugs or alcohol while at work or on duty (appearance, behavior, speech, body odor, etc.) or the direct observation of such use while at work or on duty;

7.2 Reports of drug or alcohol use from reliable and credible sources, which are independently corroborated;

7.3 Evidence that an individual has tampered with a drug or alcohol test during his/her employment, or;

7.4 Evidence that an employee is involved in the use, possession, sale, solicitation or transfer of drugs while on duty or while on the City's premises or operating a City vehicle, machinery, or equipment.

7.5 No testing under "Reasonable Suspicion" will be initiated unless the circumstances are properly reviewed and agreed upon by two management/supervisory representatives. However, only one management/supervisory representative is necessary to require an employee to submit to drug/alcohol testing if the supervisor observes the employee ingest, smoke, or use a controlled substance or alcohol. Management/supervisors are prohibited from demanding or encouraging drug or alcohol testing under this section without reasonable suspicion.

7.6 The supervisor will verbally inform the employee the reason for the suspicion. Additionally, a written record of the observations leading to a drug or alcohol test will be created and signed by the supervisor(s) who made such observations within 24 hours of the observed behavior. A copy of the report will be forwarded to the City Manager with a copy to the Human Resources Director.

7.7 The employee involved must stop work immediately and shall be transported as soon as possible to the designated testing facility by a management/supervisory employee. Prior to testing, the employee will be required to sign a drug/alcohol testing consent form. Failure or refusal to sign the form and to submit to testing will be cause for an adverse inference that the employee was under the influence, as well as a charge of insubordination, and appropriate disciplinary action, up to and including termination, will be initiated.

7.8 The employee will not be allowed back to work until the results of the test are known. A management/supervisory employee will make arrangements for the safe transportation of the employee to his/her home. If the results of the test prove negative, any time off will be deemed to be with pay.

Section 8. Post-Accident Testing: Post-accident drug or alcohol testing may be conducted on employees only where the employee or another person has sustained a work-related injury or the employer's property has been damaged, including damage to equipment, in an amount reasonably estimated at the time of the accident to exceed Five Hundred Dollars (\$500.00). The post-accident test will be administered while the employee is on duty or prior to going off duty, or as close to as possible.

If testing cannot be done within two (2) hours of an accident, the manager/supervisor will prepare and maintain a written record of the reasons. After eight (8) hours, such efforts to administer testing shall cease and a copy of the written record will be forwarded to the Human Resources Director. No employee required to take a post-accident alcohol or drug test shall use any alcohol or drugs, of any kind, following the accident until he/she undergoes the post-accident testing.

Section 9. Post-Rehabilitation Testing: The City may require an employee to undergo drug or alcohol tests without prior notice for a period of two (2) years after the employee's return to work following a confirmed positive test, and following participation in drug or alcohol dependency program under a company benefit plan or attended at the request of the City. Post-rehabilitation testing shall be conducted in addition to any other testing the employee is subject to under this policy.

Section 10. Random Testing: The City will require random drug and alcohol testing to the extent authorized or required by federal law of employees who perform safety sensitive functions in the following classifications and/or positions:

- A. Vehicle and equipment operators who are required to maintain a Commercial Driver's License ("CDL") and who operate vehicles and/or equipment in excess of 26,001 pounds.

- B. Mechanic employees; and
- C. Any other employees involved in the repair, operation or dispatching of vehicles and equipment as required by federal law.

The City will randomly select employees in these categories for testing at the level established for the calendar year by the Department of Transportation (DOT). It will use a valid method of random selection which is matched to employees' social security numbers. Any random testing will be unannounced and spread reasonably over the year. No employee shall report for safety sensitive duties or perform such duties while having a breath-alcohol concentration of 0.04 or greater. Further, no employee in this category shall perform any safety sensitive duties within four (4) hours of consuming alcohol. No employee in this category may report for work or perform safety sensitive work when the employee has used a controlled substance except when the use is pursuant to instructions of a physician who has advised the employee that the use of such substance will not adversely impact the performance of the safety sensitive functions.

For the purpose of this section, a safety sensitive function includes, but is not limited to, time waiting to be dispatched, time spent in inspection or servicing equipment, time spent driving commercial equipment, time spent loading and unloading such equipment, time spent performing requirements associated with an accident and time spent repairing, obtaining assistance or remaining in attendance on a disabled vehicle.

Section 11. Substance for Which Tests May be Given (including Metabolites):

Ethyl Alcohol or Ethanol (beer, liquor, etc.)

Cannabinoids or Marijuana (pot, weed, grass)

Cocaine (including crack)

Amphetamines (including speed)

Opiates (including morphine, codeine, dilaudid, percodan, heroin)

Phencyclidine (including angel dust, PCP)

Methadone

Threshold reporting levels shall be those established and maintained by the applicable federal or state law or regulation. Any positive levels below those established reporting levels shall not be reported to the Medical Review Officer by the testing laboratory.

Section 12. Methods and Documentation: Collection, storage, transportation, and testing procedures will be conducted in accordance with rules established by the Oklahoma State Board of Health. Testing facilities shall meet the qualifications and standards of and be licensed by the State Department of Health and the Substance Abuse and Mental Health Administration. Samples will be collected only by those persons “deemed qualified” by the State Board of Health and appropriate labeling of samples will occur so as to reasonably preclude the probability of erroneous identification of test results. Body component samples that are appropriate for drug and alcohol testing will be collected with due regard to the privacy of the individual being tested. In no case shall a City’s representative directly observe collection of a urine sample. A written record of the chain of custody of the sample will be maintained until the sample is no longer required. An applicant or employee will be given the opportunity to provide notification of any information which he/she considers relevant to the test, including currently or recently used drugs or other relevant information. In the event that an employee wishes to challenge the results of the company’s test, he/she may do so as provided in this policy. The employer must have had the sample collected within one hour of the company’s sample and such retest must be in accordance with the standards set forth by the State Department of Health and in this policy.

Section 13. Costs: The City is responsible for all costs associated with drug or alcohol testing. However, if an employee requests a retest to challenge the findings of a confirmed positive test, the employee is responsible for the cost of the test unless that test reverses the findings of the previous positive test, in which case the City is responsible for the cost. Any initial test of a current employee must be performed during or immediately after the employee’s scheduled work period and is deemed as compensable work time as applicable under the Fair Labor Standards Act.

Section 14. Refusing to Undergo Testing or Tampering with Sample: Employees refusing to undergo testing according to the terms of this policy will be subject to disciplinary action, up to and including termination. Such employee will be considered as having been terminated for misconduct for the purpose of unemployment compensation benefits. Employees found supplying or attempting to supply an altered sample or a substitute sample, not their own, by whatever means, shall be subject to disciplinary action up to and including termination.

Section 15. Medical Review Officer: The City will contract with a Medical Review Officer qualified by the State Board of Health. The Medical Review Officer will receive confirmed positive test results from the testing facility and evaluate those results in conjunction with the subject employee and/or applicant. Upon receiving a confirmed positive test result, the Medical Review Officer will contact the applicant or employee prior to notification of City officials. The applicant or employee will be given the opportunity to explain the test results.

Section 16. Confidentiality: The City will treat all test and all information related to such test, including interviews, memoranda, reports, and statements as confidential. All records relating to drug testing will be kept separated from personnel records. Such records may not be used in any criminal proceeding or civil or administrative action except in actions taken by the City or otherwise involving the subject employee and the City, unless there is a valid court order authorizing the release of such records or unless required by state or federal laws and regulations. Records are the property of the City and will be made available to the affected applicant or employee for inspection and copying upon request. Records may not be released to any person other than the applicant or employee without the applicant or employee's expressed written permission, or if otherwise required by law.

Employees in supervisory or management positions will be responsible for compliance with this policy. They will also take steps to ensure that employees seeking treatment or participating in rehabilitation processes are treated fairly and appropriately. Supervisors and managers will ensure that all reasonable efforts are made to allow for confidential handling of diagnosis and treatment of employees with substance abuse problems.

Section 17. Disciplinary Action: The City recognizes that substance abuse is treatable and that appropriate responses to these problems include education, treatment and rehabilitation. The City will not take disciplinary action against an employee who tests positive for drugs or alcohol unless the test is confirmed by a second test performed on the same sample using the methods prescribed by the Oklahoma Standards for Workplace Drug and Alcohol Testing Act. However, this shall not preclude the use of administrative leave in cases involving reasonable suspicion.

17.1 Voluntary Disclosure: In order to help and assist employees, the City will permit an employee who voluntarily comes forward admitting to a substance abuse problem at least two (2) hours prior to any testing provided for in this policy to initiate rehabilitation through its Employee's Assistance Program (EAP). The employee will not be considered to have suffered a violation of this policy or be subject to discipline under this section. However, those employees in safety sensitive positions may be assigned to non-safety sensitive positions, until a verified negative drug or alcohol test can be obtained from an appropriate testing facility. The affected member may only be assigned to that position for a maximum of 60 calendar days. At the end of the 60-day period, if the employee cannot be assigned back to their normal position, then the employee may be required to enter into a signed agreement for continued required drug or alcohol testing and E.A.P. compliance if a problem is determined to exist. (Available vacation, compensatory or sick leave accruals may be utilized by employees in such situations.)

17.2 Positive Test Results: In light of its recognition that substance abuse is a treatable condition, the City will evaluate the employment history of any employee who tests positive for drugs or alcohol after a positive test under reasonable suspicion criteria, post-accident scenario or random testing, where authorized. The appropriate course of action will be determined based on the employee's total work record including, but not limited to, any prior

documented drug or alcohol problems. Whenever reasonable under the totality of the circumstances, the employee will be offered the opportunity to enter into a rehabilitation program. Continued employment will be contingent upon the successful completion of a rehabilitation program and an agreement to undergo random or periodic drug and/or alcohol post-rehabilitation testing for two (2) years. However, the City reserves the right to initiate disciplinary action for a confirmed positive test result when reasonable and appropriate under the totality of the circumstances, including the degree of damage to property or injuries to persons. Any termination under this section will be considered as having been for misconduct for the purpose of unemployment compensation benefits.

17.3 Employees who have tested positive shall not be allowed to return to work until they can provide a verified negative “return to work” test from a City approved facility and which test meets the requirements of this policy. An employee may be allowed a maximum of 12 weeks to provide a verified negative “return to work” drug or alcohol test. If a negative test is not provided within 12 weeks, the employee may be suspended, demoted, or terminated. Until a negative “return to work” test is supplied, the employee will be on administrative leave without pay. However, the employee may use accumulated sick leave, vacation leave, and compensatory leave during this period of time. An employee may request a “return to work” test no sooner than two (2) weeks from a positive test result, and subsequently every other week thereafter, until a negative “return to work” test is obtained. Employees refusing to seek help or submit to testing in accordance with this policy shall be subject to disciplinary action per the provisions of Section 9 on post-rehabilitation testing.

17.4 Employees entering into the E.A.P. or other program, after testing positive for drugs and/or alcohol, shall be permitted to do so only once. Any future recurrence for abuse with the same or any other substance will result in disciplinary action.

Section 18. Testing Procedures: When a drug or alcohol test is deemed appropriate under this policy, the employee’s supervisor shall transport or arrange for an employee to be transported to the City-designated testing facility for testing.

18.1 Employees must present a picture ID (Oklahoma Driver’s License or City I.D., etc.) or be accompanied by a supervisor who can provide identification as the employer representative to the testing personnel prior to testing and as required by NIDA procedure.

18.2 The supervisor will make a reasonable effort to ensure that the employee is safely transported to their place of residence after any drug or alcohol testing is completed under criteria of reasonable suspicion or post-accident testing.

Section 19. Employee Assistance Program (E.A.P.): The City will maintain either an in-house or contractual “Employee Assistance Program”. The E.A.P. provided by the City will, at a minimum, provide drug and alcohol dependency evaluation and referral services for

substance abuse counseling, treatment or rehabilitation. Employees who voluntarily come forward admitting to alcohol or drug problems and who initiate E.A.P. rehabilitation through the City's program shall not be considered to have suffered a violation of this policy or be subject to discipline. However, those employees in safety sensitive positions may be assigned to non-safety sensitive positions until a verified negative drug or alcohol test can be obtained from an appropriate testing facility.

Section 20. Penalties and Remedies: Employees are hereby advised that there are certain criminal sanctions and civil remedies for violations of Oklahoma's Standards for Workplace Drug and Alcohol Testing Act contained in 40 O.S. Sec. 551 *et. seq.*

Section 21. Prohibitions: No employee shall report for duty within four (4) hours after using alcohol or remain on duty while having an alcohol concentration of 0.04 or greater, and no supervisor shall permit any employee to perform any work duties if the supervisor is aware the employee has an alcohol concentration of 0.04 or greater. No employee shall be on duty or operate a City vehicle or perform job duties while in possession of alcohol nor use alcohol during such duty time. Further, no employee shall report for duty, drive a City-owned vehicle or remain on duty when the employee uses any controlled substance, except when the use is pursuant to the instructions of a physician and/or when the physician has advised an employee the substance will not adversely affect an employee's ability to drive a vehicle. No supervisor having knowledge that an employee has used a controlled substance shall permit an employee to be on duty or drive/operate any City vehicle.