



**Sierra Vista City Council**  
Meeting Agenda  
October 28, 2021

**Call to Order**

5:00 p.m., City Hall Council Chambers, 1011 N. Coronado Drive, Sierra Vista, Arizona

**Roll Call**

**Invocation**

**Pledge of Allegiance**

**Item 1** Acceptance of the Agenda

**City Manager's Report:** Upcoming Meetings, Bid Openings and Bid Awards

**Item 2 Consent Agenda**

**Item 2.1** Discussion and Possible Action of the Regular City Council Meeting Minutes of October 14, 2021

**Item 2.2** Discussion and Possible Action of Resolution 2021-071, 117 N 5<sup>th</sup> Street Pre-Annexation Agreement

**New Business:**

**Item 3** Discussion and Possible Action of Resolution 2021-072, Amendment to Personnel Rules and Regulations

**Item 4** Discussion and Possible Action of Resolution 2021-073, Transfer of Funds from the General Fund to the Park, Police and Fire Development Impact Fee Funds

Call to the Public

Comments and Requests of Council

Adjournment

# **City Manager's Report regarding Procurements**

City Council Meeting

October 28, 2021

## **PUBLISHED / POSTED:**

**Roof Repair, Replacement and ReCoating- Fire Stations #1 & 2, Centennial Pavillion, and (City Hall as add alternate)** – Bid due date extended to November 14, 2021 pending new bid specifications.

## **IN REVIEW**

## **IN PROGRESS**

**Municipal Airport Redevelopment Project** – Pre-Construction meeting held October 19, 2021. KE&G to start work approximately November 8<sup>th</sup>.

**North Garden Ave/Fry Blvd Improvements Phase I Rebid**– KE&G began work on July 19, 2021, with estimated completion February 2022.

**New Lighted Airport Entrance sign**–High Desert Sign is 50% complete with fabricating the sign. City staff is scheduled to visit the signmaker on November 11<sup>th</sup> .

**Apron And Taxiway J Rehabilitation Project** –J. Banicki Construction Inc. began work on October 4, 2021; with estimated completion on November 17, 2021.

**EMS Substation Design-Build** –Core Construction has begun work on September 17, 2021; with estimated completion by the end of April 2022.

**Police Patrol Vehicles** – The vehicles included in the FY2022 budget were ordered on the first day that GM (General Motors) accepted orders. The backordered vehicles from FY2021 are trickling in to the outfitter in Phoenix and should receive within several weeks.

Sierra Vista City Council  
Meeting Minutes  
[October 14, 2021](#)

Mayor Mueller called the October 14, 2021, City Council Regular Meeting to order at 5:00 p.m., City Hall Council Chambers, 1011 N. Coronado Drive, Sierra Vista, Arizona.

Roll Call:

Mayor Rick Mueller – present  
Mayor Pro Tem Rachel Gray – present (telephonically)  
Council Member William Benning – present  
Council Member Gregory Johnson - present  
Council Member Angelica Landry – present  
Council Member Mark Rodriguez - present  
Council Member Carolyn Umphrey - present

Others Present:

Chuck Potucek, City Manager  
Victoria Yarbrough, Assistant City Manager  
Jon Kosmider, Deputy Police Chief  
Brad Dever, Deputy Fire Chief  
Laura Wilson, Parks, Recreation and Library Director  
Sharon Flissar, Public Works Director  
Tony Boone, Economic Development Manager  
Nathan J. Williams, City Attorney  
Jill Adams, City Clerk

Invocation – Father Del McCune, St. John the Divine Church, led everyone present in prayer.

Pledge of Allegiance - Council Member Rodriguez led the Pledge of Allegiance.

[Item 1](#) Acceptance of the Agenda

Council Member Landry moved that the agenda for the Regular City Council Meeting of October 14, 2021, be approved. Council Member Benning seconded the motion. The motion unanimously carried, 7/0. Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Johnson, Landry, Rodriguez, and Umphrey voting in favor.

Awards and Presentations

Ms. Hector and her team were recognized for their Silver Circle Award from 3CMA for the [Save the Santa's Campaign](#).

Mayor Mueller presented the Silver Circle Award to Ms. Hector for the most creative activity, with the least dollars spent, for the Save the Santa's Campaign. He explained that the City had several Santa Clauses in the park for a few years that got worn out because of the weather that lasted about 10-11 years. A campaign was established by Ms. Hector and her team along with the Parks Department to make sure that they could be refurbished. People adopted Santa Clauses, the community got motivated, and the City was able to reproduce all the Santa

Clauses, which has continued to grow. There is also a program where every year there are two Santa ornaments for sale.

Ms. Hector voiced her appreciation to the community for supporting the great program. She added that she is aware that the Santa's have meant so much to people over the years and she was so delighted and really humbled by the community's support to continue this tradition. She noted that her staff was not able to be present, and thanked Barry Midgorden, who did the graphic design, and Adam Curtis for his work with public relations to get the word out to the community. She also thanked the Parks Department who helps make sure that the Santa's are placed every year and they have something to hold them up and some lights too.

A [Proclamation](#) declaring October as National Domestic Violence Awareness Month was presented to Corporal Boltinghouse.

Corporal Jordan Boltinghouse stated that he serves as the Co-chair of the Cochise County Sierra Vista Regional Domestic Violence and is a member of the Cochise County Family and Community Coalition. He thanked Mayor Mueller, his staff as well as the Council for the proclamation declaring Domestic Violence Awareness Month for the City of Sierra Vista. He noted that domestic violence is a real thing that is seen all day, every day by law enforcement as well their advocates. He challenged everyone to start learning the signs of domestic violence, and to start figuring out what resources are readily available because as leaders of the community, he thinks that there is a responsibility in making sure that they are watching for those and helping victims become survivors. He further noted that the Coalition is trying to target offenders as well, because if they do not focus on the offenders and get them, sometimes the help that they need will not be provided and they are only going to continue to go out there and reoffend. Lastly, he stated that the Police Department is lit up in purple because purple is the color designated for domestic violence awareness. The Department has an informational display table in the lobby, and one is also put up at the Sierra Vista Mall.

Ms. Briana Schnaithman, Lead Advocate for Catholic Community Services/Forgeach House stated that she provides emergency shelter services at the Forgeach House in Sierra Vista as well as the House of Hope in Douglas. She noted that this year alone, Arizona has had 59 deaths related to domestic violence. Catholic Community Services has provided emergency shelter services to 142 men, women, and children, and they have a 24-hour hotline available to help even if they do not need emergency shelter services.

**City Manager's Report:** Mr. Potucek announced that the next City Council Work Session is scheduled for Tuesday, October 26, 2021, at 3:00 p.m. in Council Chambers, which will be the normal update work session along with a couple of other items. On Thursday, October 28, 2021, will be the next regularly scheduled Council Meeting. 5:00 p.m. in the Council Chambers. He reported that the pile of dirt at the airport, affectionately known to the City as Mount Dooley, is now being leveled; therefore, the City looks forward to getting that finished to help with future development efforts at the airport. The Airport Apron and Taxiway J Rehabilitation Project is underway and is scheduled to be completed on November 17, 2021. The EMS Substation design build is also underway with scheduled completion by the end of April 2022. Lastly, he reported that he attended on behalf of the City, the Joint Powers Authority SEACOM Board Meeting for dispatch. Two items of discussion, one is changes and clarifications that are being made to the intergovernmental agreement with the County regarding the JPA and SEACOM that will have to come to the Council for a vote. The other big concern and topic of discussion continues to be staffing at SEACOM that is reaching a critical stage. Therefore, a few things are being done, including maybe using National Guard Troops to help sit in while this is rectified and

hopefully get people attracted to be dispatchers in Sierra Vista. This is an ongoing issue as it is in other parts of the City as well, but more acutely at SEACOM.

## Item 2 Consent Agenda

[Item 2.1](#) Discussion and Possible Action of the Regular City Council Meeting Minutes of September 23, 2021

[Item 2.2](#) Resolution 2021-065, Discussion and Possible Action on the Acceptance of Public Improvements for Summit Heights Phase 2, Lots 97-187, Release of Third-Party Trust and Subdivider's Agreement

[Item 2.3](#) Resolution 2021-066, Discussion and Possible Action on the Acceptance of Public Improvements for Canada Vista, Phase 1, Lots 1-29, Release of Third-party Trust and Subdivider's Agreement

[Item 2.4](#) Resolution 2021-067, Discussion and Possible Action on the Reappointment of Wesley Hewitt and Berlynda Schaaf to the Parks and Recreation Commission, said terms to expire December 31, 2023

Council Member Johnson moved that the Consent Agenda consisting of the Regular City Council Meeting Minutes of September 23, 2021; Resolution 2021-065, acceptance of public improvements for Summit Heights Phase 2, lots 97-187, release of third-party trust and subdivider's agreement; Resolution 2021-066, acceptance of public improvements for Canada Vista, Phase 1, lots 1-29, release of third-party trust and subdivider's agreement; and Resolution 2021-067, reappointment of Wesley Hewitt and Berlynda Schaaf to the Parks and Recreation Commission, said terms to expire December 31, 2023, be approved. Council Member Benning seconded the motion. The motion unanimously carried, 7/0. Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Johnson, Landry, Rodriguez, and Umphrey voting in favor.

## New Business

[Item 3](#) Resolution 2021-068, Discussion and Possible Action on Approval of the proceedings of the Industrial Development Authority of the City of Sierra Vista regarding the issuance of its Economic Development Revenue Bonds, and declaring an emergency

Council Member Umphrey moved that Resolution 2021-068, proceedings of the Industrial Development Authority of the City of Sierra Vista regarding the issuance of its Economic Development Revenue Bonds, and declaring an emergency, be approved. Council Member Benning seconded the motion.

Mr. Potucek stated that this item was discussed at great length during the work session on Tuesday, October 12, 2021. He further stated that the Industrial Development Authority of Sierra Vista, represented by Mr. Frank Moro, is proposing to issue economic development bonds for a project in Seattle, Washington. He explained that Industrial Development Authorities can do that and once they are created by a city, in this case the City of Sierra Vista, which was probably about 40 years ago, it then exists as a separate entity from the city. However, because it issues tax-exempt bonds, it requires a council vote to approve their bonds when they move forward. The project itself is in detail laid out by Mr. Michael Slania who was present on Tuesday, October 12, 2021, and explained the terms of how the deal and the bonds are structured.

Mr. Moro stated that the project is in Georgetown, a couple blocks outside of Seattle. He noted that it is in a different direction than the block that was shut down, chop zone. Mr. Ben Rankin, a principle of the Development Authority, has explained to the Industrial Development Authority that it is a stable neighborhood. They currently have a 60,000-person waiting list for affordable housing and the project is an accumulation of land and homes that are developing warehouses and homes into a downtown revitalization project for artisans. Also attached to this are some employment opportunities for new companies to locate and an affordable component, not necessarily a portion of this bond project, but later the third floor of the project's affordable housing. The unique thing about this project in Georgetown is that there are two authorities in the State of Washington. One authority can issue bonds for commercial projects, but not housing. The local authority that is within proximity to this development can issue bonds for housing, but not commercial projects. Therefore, not one authority can issue these bonds. There is also a taxable leg to these bonds which facilitates the covering of the cost of administration in structuring the bond deal. The State does not allow taxable legs on these bond issues; therefore, they went out to look for an authority. They went to the State of Arizona, Phoenix, and Pima County IDA, but none of those authorities could move fast enough to get this project done. The Sierra Vista Industrial Authority has been beat out by them five or six times in the last five years alone on bond deals over fees. The Sierra Vista Industrial Authority has been in the game trying to do these bond projects because this is one of the resources for the IDA to generate funds as the IDA passed a resolution to create an Economic Development Fund, and it is an Economic Development Incentive Fund designed specifically for the creation of jobs, and this is how the IDA plans to fund this account. The capitalization from these bond issues gives the IDA about \$100,000 with half of this going into this fund, potentially all of it. The City of Phoenix did this a while back maybe starting ten years ago and amassed 20 or \$30 million and did quite a few projects with that money for economic development. The Sierra Vista Industrial Development Authority wants to get into the game and take advantage of this opportunity.

Council Member Umphrey stated that she knows that it is \$100,000 up front and asked if there is going an annual fee on top of that. Mr. Moro stated that typically the administration fees are structured to be five basis points annually over the life of the bond. They also could accelerate those and take a present value of that cash flow and accept one payment up front. It is possible that they probably could have made more money on this project, but there were other competitors at the table, and it is difficult to dial these in when competing. Normally they would not take it up front, but annually. However, in this case, it kind of gives them a good start on a project with these funds.

Council Member Umphrey stated that she is grateful for the IDA's decision that start to economic development, because Mr. Potucek stated on Tuesday, October 12, 2021, the IDA is going to be able to compliment the City's efforts in ways that the City cannot.

Council Member Johnson asked if the City has any ongoing liability if these bonds are defaulted on with respect to the project. Mr. Moro stated that the city has no liability, and the IDA has no liability for these obligations. The fees on something like this are about five to seven percent, a couple \$1,000,000. There is a team of attorneys that are doing due diligence on this project, and they are all taking their piece. The IDA is a very small piece of that cost of issuance, and Bond Counsel renders a legal opinion to make sure that these bonds are sound and that the organization can repay the bonds.

Council Member Landry thanked Mr. Moro for being present and explaining. She added that there was good discussion during the work session as the information provided was great and

noted that it is good to hear that this is going to benefit a lot of different people, all the parties that are involved, because affordable housing is currently a big issue.

Council Member Benning also thanked Mr. Moro for being present and clarifying some things for him. He agreed with Council Member Landry in that this is going to be a good thing for both parties involved, and he looks forward to this.

Mayor Mueller voiced his appreciation to Mr. Moro for all his work with the IDA.

The motion unanimously carried, 7/0. Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Johnson, Landry, Rodriguez, and Umphrey voting in favor.

[Item 4](#) Resolution 2021-069, Discussion and Possible Action to Authorize the Acceptance of the Arizona Governor's Office of Highway Safety Grant Funding, Contract #2022-AL-034

Council Member Benning moved that Resolution 2021-069, acceptance of the Arizona Governor's Office of Highway Safety Grant Funding, Contract #2022-AL-034, be approved. Council Member Umphrey seconded the motion.

Deputy Police Chief Kosmider stated the Police Department has been a member of the Southeastern Arizona DUI Task Force for over 20 years. The Task Force operates DUI and impaired driving enforcement deployments throughout the County. Most of those deployments occur in and around Sierra Vista and during the deployments, officers are committed to focusing on DUI impaired, and aggressive driving. They are not subject to handling regular calls while they are engaged in the DUI deployments because they are strictly working on DUI enforcement. The Police Department's ability to participate in these task forces is only made possible by virtue of the officers volunteering to work overtime to do that.

The Police Department applied for and was awarded a grant through the Arizona Governor's Office of Highway Safety to enhance the DUI impaired and aggressive driving enforcement throughout the City of Sierra Vista and surrounding areas. The grant funds will reimburse the City for the overtime costs associated with the deployments, which would be in the amount of \$21,549 as well as the employee related expenses in the amount of \$8,451. The grant funds will also reimburse the City for the purchase of four portable breath testers, which are used during a DUI investigation in the amount of \$2,400. The total amount of the award is \$32,400.

Council Member Landry stated that this is a really great thing, and it is important to be able to have people that can focus on this to keep everybody safe. She voiced her appreciation at the fact that the project measures the goals and objectives.

The motion unanimously carried, 7/0. Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Johnson, Landry, Rodriguez, and Umphrey voting in favor.

[Item 5](#) Resolution 2021-070, Discussion and Possible Action to Designate the City Attorney as the individual authorized to sign formal and binding documents related to the Arizona Opioid Settlement

Council Member Rodriguez moved that Resolution 2021-070, designating the City Attorney as the individual authorized to sign formal and binding documents related to the Arizona Opioid Settlement, be approved. Council Member Umphrey seconded the motion.

Mr. Williams stated that the State of Arizona has joined with several other governmental entities throughout the country in litigation against three opioid manufacturers and one distributor to recoup the costs incurred by cities and towns because of the opioid epidemic over the last couple of decades. The Arizona Attorney General's Office took the lead for cities and towns in this effort and a potential settlement has been reached. However, they are now at the point where cities and towns throughout the State must sign on to receive funds from that settlement.

The proposed resolution authorizes the City Attorney's Office to sign onto those settlement documents for and on behalf of the City. If the City signs on, then the City is set to receive a portion of the settlement proceeds. However, it is not yet known what those are, but those details will be coming as the settlements get finalized in the next few months. Approval of the proposed resolution would authorize the City Attorney to represent the City in finalizing these settlements for the City.

Council Member Rodriguez asked if cities that do not sign on eligible for the funding and what can they legally do. Mr. Williams stated that cities that do not sign on are still allowed to file their own suits against these companies, but that would cost money and time and it is a whole lot easier and more efficient for cities and towns to join with the State of Arizona in pursuing these settlements.

The motion unanimously carried, 7/0. Mayor Mueller, Mayor Pro Tem Gray, Council Members Benning, Johnson, Landry, Rodriguez, and Umphrey voting in favor.

#### Call to the Public

Ms. Silver Seagal White Mountain stated that her signature greeting usually is no time for pleasantries in Austin because citizens are only given three minutes to speak at Call to the Public. They must sign up weeks ahead to speak, and some do not always get to speak. She added that she is visiting Sierra Vista and noted that the City gives the illusion of being very newly developed, at least to an outsider with no pollution, no traffic, no littering. She thanked everyone for giving her a break from the big city and talked about the damage to a water pipe due to the windstorm on Monday, October 11, 2021. Lastly, she thanked the water crew for repairing the water line and played the song, "Hero" for Council.

#### Comments and Requests of Council

Council Member Rodriguez thanked Sulphur Springs Valley Electric Company for their hard work during the week due to the storm because a lot of power lines were down along with damage to people's houses. It was good thing that the Santa's were not up yet because they would have ended up in Benson. Unfortunately, people who had up their Halloween decorations are no longer there. He noted that on Friday, October 15, 2021, he will be wearing purple in support of domestic violence awareness. He also thanked Corporal Boltinghouse and Ms. Schnaithman for their presentation about not only bringing awareness to domestic violence but providing resources. He announced that there is a walk to fight suicide next weekend, Saturday, October 23, 2021, at Veterans Memorial Park put on by the American Foundation for Suicide Prevention. People have already started teams because they are doing fund raising, and they can be reached via the website, <https://supporting.afsp.org/sierravista>. There is also the Boys and Girls Club's Great Futures Dinner on Saturday, October 16, 2021, at 5:30 p.m. at the Knights of Columbus, where they will be giving awards to their volunteers. There will be bull riding back in town next weekend over at Wren Arena at the Sierra Vista Riding Arena with great local sponsors i.e., Bone Dry who will be supplying the beverages.

Council Member Landry voiced her excitement about the Save the Santa's Award because it is a great part of the tradition that Sierra Vista does and if anybody is not getting the ornaments, putting them on their tree, or even in their house, then this is the year to start and share with everybody. She also voiced her appreciation about the discussion on domestic violence awareness and the Police Department having the purple lights out. She added that this is very serious, and she also appreciate the statistics that were shared, one in four women and one in seven men, which means that somebody up here has experienced domestic violence in their life and that is something that should not be suffered in silence. There are so many different resources out there and going out and talking to somebody is not a sign of weakness. There are so many people out there that are willing to provide whatever help and support that they can. She thanked Ms. White Mountain for visiting Sierra Vista and for sharing, and lastly, stated that in speaking of heroes, the animal shelter could really use some heroes. Currently they are at capacity. There are so many animals out there that could be a best friend; however, if a commitment cannot be made to them, then do not adopt. There are a lot of other things that can be done to help, i.e., walking the dogs, sharing with people if they are looking to adopt a dog or cat. Lastly, she stated that the animal control center is raffling a wagon full of fun prizes - \$20 for a wingspan of tickets.

Council Member Johnson stated that this time of year it seems that there are many activities and announced Helldorado Days starting on Friday, October 15, 2021, in Tombstone. He shared that he once got lucky during Helldorado Days and won a rifle that was being raffled off by the Vigilantes. There is also bull riding at the Shootout Arena, off Third Street in Tombstone. Also, this weekend in Wilcox is the Wilcox Wine Festival that takes place at Railroad Park with entertainment. Following the weekend is the Ameren Fall Festival that takes place at the Ameren Society, off I-10 on Saturday, October 23, 2021, from 10:00 a.m. until 4:00 p.m. and it is \$10 per vehicle.

Council Member Umphrey announced the Bearcat Pull for the Special Olympics on Sunday, October 17, 2021, at 9:00 a.m. in Veterans' Memorial Park, where there are going to be teams competing. She also announced that October is National Pregnancy and Infant Loss Awareness Month and starting next year the walk to remember will take place on the 15<sup>th</sup>. There is going to be a National Infant Loss Remembrance Day on Fort Huachuca at the Chapel Courtyard at 9:00 a.m. on October 15, 2021.

Council Member Benning apologized for not being present during the work session on Tuesday, October 12, 2021, and noted that he watched the work session via video. He voiced his appreciation at discussions because it helped clarify issues for him. He also thanked Ms. White Mountain for doing the right thing when no one is looking – the best thing to do. He congratulated Berlydna and Wes for joining the Parks and Recreation Commission for another two years and stated that they are a blessing to the City, and he loves having them on the Commission. He thanked the Parks and Recreation Commission in general and Ms. Wilson because behind the scenes for all those events that happen in Veterans Memorial Park, etc., the City's staff are the ones that get them ready to make sure everything is there and ready to use. He announced that on October 16, 2021, at 9:00 a.m., the Parks and Recreation commissioners will meet at Summit Park off Avenida Cochise to paint cement, backboards and cleaning up at the park. He encouraged people to come out and have some fun. He added that once a month the commissioners want to start cleaning the parks around the community as they are trying to bring back the Adopt a Park Program. Lastly, he wished Christy a happy birthday.

Mayor Pro Tem Gray had nothing to report.

Mayor Mueller stated that he was surprised that nobody mentioned the Relay for Life for the American Cancer Society in the park on Saturday, October 16, 2021. There will be music and the event will start at 4:00 p.m., but the kickoff will be at 6:00 p.m., and instead of walking for 24 hours, they are only going to walk a few hours to restart their fund drive; however, they will do a full force event next year. He further stated that Council's meetings are normally on the 2nd and 4th Tuesday and Thursday, but this year the calendar in November works out so that Veterans' Day is on the night where Council would hold its first meeting and Thanksgiving would be on the second Council Meeting; therefore, Council is going to split the difference and have a work session on November 16, 2021, and the Council Meeting on November 18, 2021.

#### Adjournment

Mayor Mueller adjourned the October 14, 2021 meeting of the Sierra Vista City Council at 5:50 p.m.

\_\_\_\_\_  
Frederick W. Mueller, Mayor

Minutes prepared by:

Attest:

\_\_\_\_\_  
Maria G. Marsh, Deputy Clerk

\_\_\_\_\_  
Jill Adams, City Clerk

October 28, 2021

MEMORANDUM TO: Honorable Mayor and City Council

THROUGH: Charles P. Potucek, City Manager  
Victoria Yarbrough, Assistant City Manager  
Matt McLachlan, AICP, Community Development Director

FROM: Blake Fisher  
Planner I

SUBJECT: REQUEST FOR AGENDA ITEM PLACEMENT  
RESOLUTION 2021-071  
Pre-Annexation Agreement for 117 N 5<sup>th</sup> Street Property

#### BACKGROUND

Mr. Fix It Properties LLC DBA Properties Plus (henceforth referred to as "Mr Fix It") is seeking permission to connect their property located at 117 N 5<sup>th</sup> Street (APN # 106-70-098), to the City of Sierra Vista sewer system. The property, which is currently on septic, has a manufactured home as its principal structure. Mr. Fix It has expressed their desire to connect to the adjacent sewer mainline to the north, citing inadequacy of the existing septic system.

The City's Annexation Policy requires unincorporated properties desiring the use of the City's wastewater treatment system to annex. This ensures that all properties using the urban infrastructure are part of the urban area providing the service. (Resolution 2008-149)

The 117 N 5<sup>th</sup> Street property does not currently meet contiguity requirements for individual annexation, as the property is not adjacent to the City's incorporated limits (per A.R.S. § 9-471). Therefore, the pre-annexation agreement is a means for the applicant to proceed with the sewer connection while City staff continues to survey the enclave for potential interest in a future, multi-property annexation. The proposed pre-annexation agreement grants consent to annexation of the property into the City upon initiating a formal petition.

## FINANCIAL IMPACT

Mr. Fix It will be responsible for paying the cost of all necessary on and off-site improvements to extend and connect to public sewer service as well as ongoing sewer rate charges.

Attachment: Resolution 2021-2021-071: 117 N 5<sup>th</sup> Street Pre-Annexation Agreement  
Exhibit A – Pre-Annexation Agreement

RESOLUTION 2021-071

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; AUTHORIZING THE MAYOR TO EXECUTE A PRE-ANNEXATION AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SIERRA VISTA AND MR FIX IT PROPERTIES LLC DBA PROPERTIES PLUS CONCERNING PROPERTY LOCATED AT APN # 106-70-098, AND AUTHORIZING DIRECTION TO THE CITY MANAGER, CITY CLERK, CITY ATTORNEY, OR THEIR DULY AUTHORIZED OFFICERS AND AGENTS TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

WHEREAS, the City of Sierra Vista and Mr Fix It Properties LLC DBA Properties Plus, owner of the parcel numbered 106-70-098, have reached a Pre-Annexation Agreement attached as Exhibit "A" to this Resolution and incorporated by reference, for the property whose locations and boundaries are shown on the map attached as Exhibit "A" to the Pre-Annexation Agreement; and

WHEREAS, the execution of this Pre-Annexation Agreement is in the best interest of the City of Sierra Vista.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1

The Pre-Annexation Agreement between the City of Sierra Vista and Mr Fix it Properties LLC DBA Properties Plus attached as Exhibit A to this Resolution, is authorized and approved.

SECTION 2

The Mayor is authorized and directed to execute the Pre-Annexation Agreement for and on behalf of the City of Sierra Vista and the City Clerk is authorized and directed to attest the same.

SECTION 3

The City Manager, City Clerk, City Attorney, or their duly authorized officers and agents are hereby authorized and directed to take all steps necessary to carry out the purposes and intent of this Resolution.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA THIS 28TH DAY OF OCTOBER, 2021.

\_\_\_\_\_  
FREDERICK W. MUELLER  
Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
NATHAN WILLIAMS  
City Attorney

\_\_\_\_\_  
JILL ADAMS  
City Clerk

PREPARED BY:

Blake Fisher  
Planner I

**PRE-ANNEXATION AGREEMENT BETWEEN  
THE CITY OF SIERRA VISTA AND MR FIX IT PROPERTIES LLC DBA PROPERTIES PLUS**

This Pre-Annexation Agreement (hereinafter, the "Agreement") is made and entered into as of (date) 10/19/2021, by and between the City of Sierra Vista, Arizona, a municipal corporation organized under the laws of the State of Arizona (hereinafter, the "City") and MR FIX IT PROPERTIES LLC DBA PROPERTIES PLUS (hereinafter, the "Owner").

**RECITALS:**

A. Owner beneficially owns multiple, certain real properties, currently located in an unincorporated area of Cochise County and is contiguous to the exterior boundary of the City:

<b>APN#</b>	<b>SITE ADDRESS</b>	<b>COUNTY ZONING</b>	<b>COMPATIBLE CITY ZONE</b>	<b>LEGAL DESCRIPTION</b>
106-70-098	117 N 5TH ST	MH-72	MHR	FIRST ADD TO FRY LOT 9 BLK 7 AFFIXED/1992 - 1973 COUNTRY SQUIRE 12X64L SN 10121G

B. All properties are located in portions of Section 34, Township 21 South, Range 20 East, of the Gila River and Salt River Base and Meridian, and more particularly described in Exhibit A attached hereto and made part hereof (hereinafter, the "Properties").

C. City and Owner desire that the Properties be annexed into the corporate limits of the City and be developed as an integral part of the City and in accordance with VISTA 2030, the existing comprehensive plan for the City.

D. City and Owner have determined that entering into this Agreement will be in the best interest of the City, the public, and the Owner; will be proper and legal exercise of City power; will promote orderly development of the Properties and the surrounding area; will promote the health, safety and welfare and economy of the community in general; and meets the economic development goals of the City.

E. The City and the Owner are entering into this Agreement pursuant to the provisions of A.R.S. §9-500.05 in order to facilitate the annexation and development of the Properties by providing for, among other things:

1. Establishment of the terms for annexation of the Properties into the City.

**AGREEMENT**

In consideration of the foregoing premises, the mutual covenants and promises in this Agreement and the intent to legally bind City and Owner, the following is agreed:

1. **Annexation Consent.** Owner hereby consents to annexation of the Properties into the City of Sierra Vista pursuant to A.R.S. § 9-471. This consent to annex the Properties into the City shall operate as a covenant and shall run with the land and bind each of Owner's heirs, executors, administrators, successors and assigns to the Properties.
2. **Durable Special Power of Attorney.** To facilitate annexation of the Properties in a manner convenient to the City, Owner shall execute, simultaneously with the execution of this Agreement, a durable special power of attorney, attached and incorporated herein as Exhibit B, designating the City Clerk with the irrevocable power to sign and execute, on behalf of the Owner, any lawful annexation petition or other annexation document for the purpose of annexing the Properties into the City of Sierra Vista. Any successor(s) to Owner shall execute a similar annexation petition or documents necessary to accomplish the annexation.
3. **Applicable Zoning.** Pursuant to A.R.S. §9-471(L), upon annexation, the City shall adopt a City zoning classification for the Properties that permits densities and uses no greater than those permitted by the existing Cochise County zoning (the "Original City Zoning").
4. **City Wastewater Services.** The City agrees to provide wastewater services to Owner, should Owner so choose in the future, in the event that all required improvements are made as part of the sewer connection permitting process, as detailed by the City engineering department. If Owner, in his sole discretion, decides to connect to City sewer in the future, Owner shall bear all costs associated with said connection.
5. **Private Properties Rights Development Act.** By signing this Agreement, Owner agrees to waive claims for diminution in value under the Private Properties Rights Development Act in connection with annexation of the Properties as well as for any claim for diminution in value as a result of any subsequent rezoning of the Properties by the City.
6. **Entire Agreement.** This agreement sets forth the entire understanding between the parties concerning the subject matter of this agreement and incorporates all prior negotiations and understandings. There are no covenants, promises, agreements, conditions or understandings, either oral or written, between the parties relating to the subject matter of this agreement other than those set forth herein. No modification or amendment of this agreement shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto.
7. **Negotiated Effort.** The parties agree that this Agreement represents the negotiated joint efforts of the parties. In the event a court of competent jurisdiction finds ambiguity, this Agreement shall not be construed against either party in favor of a non-drafting party.
8. **Authority.** All persons executing this document for City and Owner have all necessary and legal authority to enter into this Agreement for their respective corporations and the individual(s) executing this Agreement on behalf of their respective parties are authorized and empowered to bind the party on whose behalf such individual is signing.
9. **Covenants Running with the Land.** This Agreement is made as part of a common scheme or plan for the development of the properties and a "Development Agreement" as defined in A.R.S. §9-500.05 and all rights and obligations hereunder subject to the provisions of Paragraph 3 contained herein shall be considered to run with the land and benefit and burden all owners of all or any portion of the Properties, including owners who

acquire title to any portion of the Properties subsequent to the execution and recording of this Agreement. Nothing in this Agreement shall be construed as creating a partnership between Owner and the City.

10. **Governing Venue.** The laws of the State of Arizona shall govern this agreement and, in the event of a dispute, venue shall be in Cochise County, Arizona.
11. **Attorneys' Fees.** Should litigation be necessary to enforce any term or provision of this Contract, or to collect any damages claimed or portion of the amount payable under this Agreement, then all litigation and collection expenses, witness fees, court costs, and attorneys' fees will be paid to the prevailing party.
12. **Mediation.** If a dispute arises out of or relates to the Agreement or this Amendment, or the breach thereof, and if the dispute cannot be settled through negotiation, the parties agree first to try to settle the dispute through mediation before resorting to arbitration, litigation or some other dispute resolution procedure. In the event that the parties cannot agree upon the selection of a mediator within seven (7) days, either party may request the presiding judge of the Superior Court of Cochise County to assign a mediator from a list of mediators maintained by the Arizona Municipal Risk Retention Pool.
13. **Notices.** Any notice required pursuant to the provisions of this Agreement shall be in writing and be sent by certified mail to the following addresses until notice of change of address is given and shall be deemed received on the fifth business day following deposit in the United States Mail.

City Clerk	Owner: <u>MR FIX IT PROPERTIES LLC DBA</u>
City of Sierra Vista	<u>PROPERTIES PLUS</u>
1011 N. Coronado Drive	<u>2721 E EAGLE ROCK DR</u>
Sierra Vista, AZ 85635	<u>SIERRA VISTA, AZ 85650</u>

14. **Non-Severability.** In the event any provision of this Agreement shall be held invalid or unenforceable by any court or competent jurisdiction, such holding shall not invalidate or render unenforceable all other provisions hereof.
15. **Amendments, Modifications and Waivers.** This Agreement may not be amended, none of its terms may be modified and none of the provisions or any of its terms may be waived without the written consent of the parties hereto.
16. **Applicable Law.** This Agreement shall be governed and construed in accordance with the laws of the State of Arizona.
17. **Captions.** The captions or headings in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any provisions or Section of this Agreement.
18. **Additional Documents and Acts.** The parties hereto shall execute, acknowledge, if applicable, and deliver such additional documents and do such other acts as may be reasonably required to fully implement the intent of this Agreement.

19. **Execution in Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.
20. **Term.** The term of this Agreement shall commence on the date of execution by both parties hereto.





Exhibit A (map)

EXHIBIT B

DURABLE SPECIAL POWER OF ATTORNEY

MR FIX IT PROPERTIES LLC DBA PROPERTIES PLUS is the owner of the following real properties:

APN#	SITE ADDRESS	COUNTY ZONING	COMPATIBLE CITY ZONE	LEGAL DESCRIPTION
106-70-098	117 N 5TH ST	MH-72	MHR	FIRST ADD TO FRY LOT 9 BLK 7 AFFIXED/1992 - 1973 COUNTRY SQUIRE 12X64L SN 10121G

I hereby appoint the CITY CLERK of the City of Sierra Vista, Arizona as its true and lawful Attorney for it and in its name, place, and stead, with full authority and full powers of substitution, to do and execute any or all of the following acts, deeds and things, relating to or in any way connected with the following described matter AND NO OTHER:

To execute all ANNEXATION documents, including, but not limited to, petitions, waivers, notices, grant all approvals or consents, and to do every act or perform everything necessary to authorize and achieve the ANNEXATION of the above described properties into the boundaries and limits of the City of Sierra Vista, County of Cochise, State of Arizona. It is the express intention and desire that said properties be annexed to the City of Sierra Vista.

I further certify that I have all necessary and legal authority to enter into this Durable Special Power of Attorney.

THIS SPECIAL POWER OF ATTORNEY SHALL NOT BE AFFECTED BY MY DISABILITY.

IN WITNESS WHEREOF, I have hereunto set my hand, this \_\_\_ day of \_\_\_, 20\_\_.

By: William D Goethe

Print Name: William D Goethe

STATE OF ARIZONA )  
 )ss  
COUNTY OF COCHISE )

On this 19th Oct, 2021, before me, Renee Gerhard, a Notary Public in and for the County of Cochise, State of AZ, on this day personally appeared City Hall Sierra Vista to be the person whose name is subscribed to within this instrument and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature]

NOTARY PUBLIC

My Commission Expires: May 16 2025



October 21, 2021

MEMORANDUM TO: Honorable Mayor and City Council

THRU: Charles P. Potucek, City Manager  
Victoria Yarbrough, Assistant City Manager

FROM: Barbara L. Fleming, CHRO

SUBJECT: REQUEST FOR AGENDA ITEM PLACEMENT  
RESOLUTION **2021- 072**  
AMENDMENT TO PERSONNEL RULES AND  
REGULATIONS

RECOMMENDATION:

The City Manager recommends approval  
The CHRO recommends approval

INITIATED BY:

Barbara Fleming, CHRO

BACKGROUND:

Updates to the Personnel Rules and Regulations are being presented for your approval. The approval of this resolution would make these Personnel Rules and Regulations effective **November 1, 2021**.

BUDGET APPROPRIATION:

None.

RESOLUTION 2021-072

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; ADOPTING THE **PERSONNEL RULES AND REGULATIONS** EFFECTIVE **NOVEMBER 1, 2021**. AND AUTHORIZING AND DIRECTING THE CITY MANAGER, CITY CLERK, CITY ATTORNEY, AND CHIEF HUMAN RESOURCES OFFICER OR THEIR DULY AUTHORIZED OFFICERS AND AGENTS TO TAKE ALL STEPS NECESSARY TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

WHEREAS, new Personnel Rules and Regulations are needed in order to stay current and compliant with current state and federal laws; and

WHEREAS, the City Council adopts the Personnel Rules and Regulations by resolution which may be modified or changed from time to time; and

WHEREAS, the immediate operation of the provisions of this Resolution is necessary for the preservation of the public peace, health and safety, and this resolution shall be in full force and effect from and after its passage.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, AS FOLLOWS:

SECTION 1

That the attached Personnel Rules and Regulations be, and hereby are affirmed effective November 1, 2021.

SECTION 2

That the "Personnel Rules and Regulations", as presented and on file in the office of the City Clerk, are hereby declared a public record.

SECTION 3

The City Manager, City Clerk, City Attorney, and Chief Human Resources Officer or their duly authorized officers and agents are hereby authorized and directed to take all steps necessary to carry out the purposes and intent of this resolution.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF  
THE CITY OF SIERRA VISTA, ARIZONA THIS 28TH DAY OF OCTOBER, 2021.

\_\_\_\_\_  
FREDERICK W. MUELLER  
Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
NATHAN J. WILLIAMS  
City Attorney

\_\_\_\_\_  
JILL ADAMS  
City Clerk

PREPARED BY:  
Shanna Melanson  
Human Resources Management Analyst

## **RULE 1: GENERAL PROVISIONS**

### SECTION 3: DEFINITIONS

The following are mentioned throughout the Personnel Rules and Regulations and are defined here for clarification. City service is divided into classified and unclassified positions. The Personnel Rules and Regulations pertain to all employees in City service except where indicated otherwise.

#### A. Classified Employee

An employee who works in a full-time position and who has completed the probationary period and whose employment may only be terminated for cause, reduction in force or elimination of position. A classified employee has certain rights defined throughout the Personnel Rules and Regulations.

#### B. Unclassified Employee

An employee who is at will and employed at the convenience of the City and may be demoted or terminated at any time, with or without cause and without the right to appeal to the Hearing Officer. This includes: all elected officials, any employees appointed by the Mayor and City Council, part-time employees, seasonal/temporary employees or those positions designated as unclassified.

#### C. Contracted Employee

An unclassified employee who signs an employment agreement (contract) outlining the terms and conditions of that employment. Only Executive staff and those hired under an Intergovernmental Agreement (IGA) may be hired under an employment agreement (contract). A contracted employee is expected to follow the Personnel Rules and Regulations however, benefits and other employment conditions will be determined by the employment agreement. A contracted employee is at will and employed at the convenience of the City. The City may elect to not renew or to terminate the contract based on the terms outlined in the contract. There is no right to appeal to the Hearing Officer.

#### D. Full-Time Employee

A probationary or non-probationary employee who is scheduled to work at least forty (40) hours a week.

#### E. Part-Time Employee

An employee who is scheduled to work less than forty (40) hours per week. Part-time employees are not eligible for benefits except those as required by law or as specifically stated in the Personnel Rules and Regulations.

#### F. Temporary/Seasonal Employee

An employee who works in a position designated as seasonal or temporary to last for a specified amount of time, not expected to exceed nineteen (19) weeks. A temporary/seasonal employee may be hired as an interim replacement, temporarily supplement the workforce or to assist in the completion of a specific project. Employment beyond the initial agreed upon period of assignment does not in any way imply a change in employment status. Temporary/seasonal employees are not eligible for any benefits unless required by law regardless of the hours worked.

#### G. Probationary Period Employee

A full-time at will employee who is in their initial probationary period with the City.

#### H. At Will Employment

The employment relationship may be ended 1) for any reason not prohibited by law or for no reason, 2) at any time, 3) by either the employee or the employer, and 4) with or without cause.

I. **Hard to Fill**

A position open for a significant amount of time without finding qualified applicants. Qualifications and skills are generally higher for a hard to fill position.

J. Management

All levels of leadership (supervisor, manager or department/division head).

K. Department Head

The individual responsible for a department or division regardless of a specific title and includes only the following positions: City Clerk, Economic Development Manager, Marketing and Public Affairs Manager/Public Information Officer, Chief Information Officer, Chief Procurement Officer, Chief Human Resources Officer, Chief Financial Officer, Director of Leisure and Library Services, Director of Public Works, Director of Community Development, Chief of Police and the Fire Chief.

L. All Applicable Laws

Refers to all federal, state and local laws.

M. Base wage rate

An employee's base wage rate is the initial rate of compensation that excludes any additional pay.

N. Regular wage rate

An employee's regular wage rate of pay is the base wage rate plus any add pays the employee may receive.

O. Fair Labor Standards Act (FLSA)

Federal law that establishes minimum wage, overtime pay, recordkeeping and youth employment standards.

P. Exempt

Positions classified as exempt are typically executive, professional and/or administrative which primarily perform work that is not subject to overtime provisions of the FLSA. Exempt employees are paid an agreed amount for the position, regardless of the amount of time or effort required to complete the work, and actual hours worked are not recorded on the time record. They receive a salary which is intended to compensate the exempt employee for all hours they may work for the City. Salary is a predetermined amount that will not be subject to deductions for variations in the quantity or quality of the work performed except as allowed by FLSA.

Q. Non-Exempt

Positions classified as non-exempt are where employees are primarily performing work that is subject to the overtime provision of FLSA and will be paid accordingly. Non-exempt employees are paid for all time worked, and record all hours worked on the time record.

R. Senior **Executive** Management

Positions that are in the ~~senior~~ executive management pay plan as outlined in the classification and compensation pay plan.

#### SECTION 4: RESPONSIBILITIES

##### A. The Human Resources Officer

The Human Resources Officer is the employee charged with the responsibility of managing the Human Resources Division and has the primary responsibility of administering and carrying into effect the Personnel Rules and Regulations as defined in this rule. The Human Resources Officer and the City Manager will not be combined into one position.

Administration of the Personnel Rules and Regulations will include:

1. Develop and administer a comprehensive system to recruit, select, develop and maintain an effective and responsive work force (other than those positions in departments covered by an Intergovernmental Agreement (IGA) and governed by a BOARD), determine appropriate steps and tools for the recruitment process, maintain personnel and payroll records, and communicate personnel policies and practices.
2. Administer all the provisions of the personnel rules not specifically reserved to the Mayor and City Council or the City Manager.
3. Prepare and recommend revisions and amendments to the Personnel Rules and Regulations.
4. Prepare and maintain a position classification plan.
5. Prepare a compensation plan, and revisions thereof, covering all classifications.
6. Perform other such duties as may be assigned by the City Manager not inconsistent with the Personnel Rules and Regulations.

##### B. Management

Department Heads, Managers and Supervisors are responsible for knowing and carrying into effect the Personnel Rules and Regulations and all Administrative Directives or procedures related to the personnel policies. Department Heads, Managers and Supervisors are responsible for the following to include but not limited to: monitoring and evaluating performance of employees, training, safety, recommending and carrying out disciplinary actions, reviewing timesheets for accuracy, informing employees of leaves of absence available to them when warranted situations occur, position control, management of budget and employee hours and ensuring that all personnel actions are equitable and unbiased and in accordance with the Personnel Rules and Regulations.

#### SECTION 5: SIERRA VISTA EMPLOYEE COUNCIL

##### A. General

The purpose of the Sierra Vista Employee Council (SVEC) is to secure better employer/employee relations, make recommendations on Administrative Directives and the Personnel Rules and Regulations as well as discuss issues and make recommendations concerning employee morale and productivity.

The elected representative must be fully informed as to the opinions, views and concerns of the employees in their department and are responsible to share these with the SVEC and keep their department informed of the SVEC activities.

## B. Membership

Representatives of the employee council must be elected annually at the beginning of the calendar year by a blind vote.

Representatives of the SVEC must be non-management classified employees as defined in section 3, Definitions; however, the Department Head may make an exception to allow an unclassified employee to be eligible for election procedures to represent the department on the employee council.

The SVEC will be comprised of eleven (11) department representatives as indicated below:

- Public Works – 2
- Police – 2-1
- SEACOM – 1
- Fire – 2
- Leisure & Library Services – 2
- Community Development – 1
- Administrative Services – 2 *(to include Finance, Information Technology, Procurement, Economic Development, Marketing/Public Affairs, City Manager and City Clerk departments)*

## C. Election Procedures, Terms and Alternates

The term of office of employee representatives will commence at the first regular meeting in January following their election and will be for a period of one (1) year, not to exceed two (2) consecutive years. Terms for alternates will correspond to that of the representative. The term of office for members of the executive committee will be one (1) year.

Incumbent representatives will conduct the annual election in their respective departments. After receiving nominations, employees will conduct a blind vote by submitting the name of their chosen representative on a paper ballot. The nominee receiving the highest number of votes will be the representative. Each department must also elect by a blind vote an alternate representative to act for the employee council representative when they are unable to attend meetings and will fill the vacancy of representatives if it should occur. The results will be reported to the Secretary of the SVEC.

## D. Executive Committee

The SVEC Executive Committee will be comprised of two (2) elected executive officers, the Chairman and Secretary. The Chairman and Secretary will be elected at the meeting in January by majority vote. No department will have more than one (1) member on the Executive Committee.

Chairman: Responsible to conduct meetings, control discussion, give advice and is familiar with parliamentary procedure.

Secretary: Assist the Chairman, preside in the absence of Chairman and act as Chairman in the event a vacancy occurs, until a Chairman is elected. Responsible to maintain records of all material pertaining to the SVEC, conduct correspondence, give notice of and take minutes of meetings.

## E. Removal from the Sierra Vista Employee Council

A representative may be removed from the SVEC for the following reasons: unexcused absence, improper representation, advancement to a management position or transfer to another department.

A representative may be removed from the SVEC if they have unexcused absences from regularly scheduled meetings. An unexcused absence is defined as the representative failing to notify the Secretary of their absence prior to the meeting. A representative may be removed by their constituency

for improper representation by a majority blind vote. The SVEC may, however, by a majority vote, order a vote of no confidence in any department on any representative. Documented reasons for causing such election will be presented to the employees in the affected department prior to such election. Advancement to a management position or transfer to another department is cause for automatic removal.

An elected member of the Sierra Vista Employee Council who desires to resign or who chooses not to serve must submit a written resignation to the Chairman.

#### F. Meetings

The SVEC will have four (4) regular quarterly meetings a year with the schedule determined at the first meeting of the year. These meetings will be attended by the eleven (11) employee representatives or their alternates. Representatives not able to attend a meeting must notify the Secretary of their absence and notify their alternate to attend on their behalf. Special meetings may be called by the Chairman not to exceed two (2) per year. If additional special meetings are desired, the Chairman must submit a written request inclusive of the reasoning for the additional meetings to the City Manager for approval. Seven (7) members will constitute a quorum to conduct the meeting and at least one (1) of the seven present must be an executive committee member. Meetings are not to exceed ninety (90) minutes and travel time will be allowed in addition, not to exceed thirty (30) minutes. The elected representative will be paid for time spent attending SVEC meetings and so will the alternate when they serve in place of the representative. If any vote results in a tie, the vote fails. Only a majority vote can pass; however, any vote that fails can be re-voted on in another meeting.

Meetings will be conducted according to accepted parliamentary procedures. Minutes of each meeting are to be kept. Following review by the SVEC and the Chairman, these minutes will be posted on the City's intranet site. The SVEC representatives are responsible to share information and meet with their departments to communicate what is being discussed at SVEC meetings.

An agenda of items to be discussed will be prepared and distributed by the Secretary one (1) week in advance of the meeting to all employee council representatives.

#### G. Policy Recommendations

~~Any new or proposed changes to the Personnel Rules and Regulations will be disseminated to management personnel and the SVEC Chairman. The Chairman has the responsibility to disseminate to all SVEC representatives and before any new Personnel Rules and Regulations go into effect, the SVEC will be given no less than thirty (30) days to review and submit comments or recommendations. Any recommendations submitted by the SVEC must have a majority vote. Recommended changes will be forwarded to the Human Resources Officer for review. The Human Resources Officer is responsible to review the recommendations, make any comments or recommendations of their own regarding the SVEC recommendations and forward all to the City Manager who will have the authority for a final determination.~~

## **RULE 2: CODE OF CONDUCT**

### SECTION 5: RELATIVES

Relatives are not allowed to work for the same immediate supervisor or directly supervise one another. If either of these situations occurs, one of the affected employees must submit a request to the Human Resources Officer for a transfer. Any exceptions for relatives to work for the same supervisor must be approved by the Department Head, the Human Resources Officer and the City Manager however, under no circumstances are relatives allowed to supervise one another. If a transfer cannot be completed within ninety (90) days, one of the affected employees must resign their position and will be placed on the RIF list. During the ninety (90) day period, employees may be required to take leave or may be temporarily reassigned. If a voluntary resignation is not received, the City will terminate one of the affected employees using the same criteria and process as described in Rule 15, Section 2, RIF.

Relatives are defined as follows (related by blood or marriage or as a legal dependent):

- Spouse
- Child
- Parent
- Sister
- Brother
- Grandparent
- Grandchild

### **RULE 3: RECRUITMENT, SELECTION AND HIRING OF EMPLOYEES**

#### SECTION 2: ELGIBILITY FOR EMPLOYMENT

##### E. Residency

Employees in the following positions: City Manager, Assistant City Manager and Department Heads are highly encouraged to reside within fifteen (15) miles of the corporate city limits in order to remain sensitive to the needs of the City but they must reside within thirty (30) miles of the corporate city limits within one (1) year of their hire date in the position. Employees who take home a city vehicle to meet departmental response requirements must reside within fifteen (15) miles of the corporate city limits.

~~Sworn police officers must reside within fifty (50) miles of the corporate city limits.~~ Sworn police officers who live beyond fifteen (15) miles of the corporate city limits will not be allowed to take home a city vehicle. Sworn police officers who reside within fifteen (15) miles of the corporate city limits will be required to take a city vehicle home to meet department response requirements, unless otherwise approved by the Chief of Police.

## **RULE 4: CLASSIFICATION AND COMPENSATION**

### SECTION 5: APPLICATION OF RATES

Employees will not be placed at a pay rate lower than the federal or state minimum wage. Full-time employees will not be placed at a pay rate below the minimum or above the maximum pay rate of their pay grade.

Full-time employees under the classified compensation plan will be paid in accordance with their position's pay grade. New full-time employees will start at the minimum pay rate in the appropriate grade unless it is determined that qualified applicants are not available at the minimum pay, that an applicant has qualifications or relevant experience that significantly exceeds the minimum qualifications that justify a higher starting pay or if the posted job has been vacant and unfillable for a substantial period of time and deemed hard to fill. All of the following must be met before consideration will be made to place an employee at a higher salary than entry but under no circumstances will an applicant be hired above mid-range of the grade:

1. Position must be designated as hard to fill based on a difficulty to fill and a shortage of qualified persons and,
2. Before hiring an individual above the minimum, there must be no other acceptable applicants that meet the minimum qualifications and,
3. For an individual to be considered highly qualified, the position they are being considered for must require a degree and must be specialized or require specific credentials or certifications.

The adjustment of pay from the minimum must not exceed the pay of those with similar experience, education or other factors that determine pay. The majority of positions are not eligible for adjustment above the minimum rate of the pay grade as designated by the classification and compensation plan. The Department Head may make a recommendation in writing with justification to the Human Resources Officer requesting a pay adjustment above the minimum subject to approval by the City Manager.

Part-time employees will be paid in accordance with the hourly rate on the part time compensation plan.

### SECTION 9: INTERIM POSITION PAY

Employees who are in non-management classified positions who are placed in an interim management position will receive a five percent (5%) increase to their base wage rate while serving in an interim position. The five percent (5%) is based on the base wage rate at the time the employee enters the interim position. If the five percent (5%) does not place the employee's pay to the minimum of the interim position's pay grade, they will be placed at the minimum pay. The employee must be assigned to the interim position for longer than two (2) consecutive pay periods in order to receive the additional compensation and will receive the additional compensation beginning with the first day of the interim position assignment.

Pay for serving in an interim position will not be increased above the original designation regardless of annual increases. The interim pay will be removed as of the date the employee is no longer serving in the interim position. Interim positions cannot exceed six (6) months and this must be documented on the interim pay Personnel Action Form (PAF). If the employee would have received a Citywide approved pay adjustment during the time in which they were serving in the interim position, they will be eligible to receive the adjustment effective upon returning to the previous position.

## SECTION 10: PAYROLL

Employees will be compensated on a bi-weekly schedule. The designated work week for all employees will be seven (7) consecutive days commencing at 12:00 a.m. on Monday and ending the following Sunday at 11:59 p.m.

It's the City's policy and practice to accurately compensate employees and to do so in compliance with all applicable laws. The City will deduct from each employee's paycheck those amounts required by law plus any authorized deductions. If an employee believes that an improper deduction has been made, they must immediately report it in writing to the Human Resources Department. Reports of improper deductions will be promptly investigated. If it is determined that an improper deduction has occurred, the employee will be reimbursed on the pay period following the determination.

In the unlikely event that there is an overpayment of pay, the employee should promptly bring it to the attention of Human Resources so that corrections can be made as quickly as possible. No employee is entitled to retain any pay in excess of the amount he or she has earned. If a wage overpayment occurs, the overpayment will be regarded as an advance of future wages payable and will be deducted in whole or in part from the next available paycheck(s) until the overpaid amount has been fully repaid.

The City will pay an employee all wages due that are not in dispute, but may withhold a disputed amount, including the amount of any counterclaim or any claim of debt, reimbursement and recoupment or set-off. Any money owed to the City upon separation of employment will be taken in full on the last paycheck. If the last paycheck is insufficient to cover the balanced owed, the employee must reimburse the balance to the City.

## SECTION 12: OVERTIME AND COMPENSATORY TIME

Positions are either classified as exempt or non-exempt in accordance with the FLSA; thus, employees are paid in accordance with the FLSA status of their position.

### A. Overtime

Only non-exempt employees are eligible for overtime. If an employee works more than forty (40) hours in a work week (excluding firefighters), they are entitled to overtime for each hour worked over the forty (40) hours. Only hours worked constitute the threshold to compute overtime.

Overtime is compensated at one and one-half (1 ½) times the regular wage rate. Overtime time will be earned in minimum units of one-quarter (1/4) hour. Fractions of time worked less than fifteen (15) minutes is not compensable.

Employees are not allowed to work overtime unless authorized to do so by their supervisor. Failure to receive prior authorization may result in disciplinary action up to and including termination of employment; however, employees will be paid overtime regardless of approval in accordance with FLSA.

Overtime must be allocated as evenly as possible among all employees qualified to perform the work and may be mandatory in certain circumstances. It is the responsibility of management personnel to ensure that overtime is utilized equitably and only when necessary. Overtime must be managed to reduce the overall cost to the City.

The City follows FLSA 207(K) in regards to firefighter overtime; the City has adopted the twenty seven (27) day, two hundred and four (204) hour schedule for firefighters. FLSA premium pay will be paid after the twenty seven (27) day work period at one-half (½) times the ~~overtime rate~~ regular wage rate. Premium pay will be paid with the pay period following the twenty seven (27) day work period. Hours

worked outside their regular schedule each week will be compensated at one and one-half (1 ½) times the regular wage rate.

## SECTION 13: STAND-BY AND CALL-OUT DUTY

The City has established a policy for stand-by and call-out duty for non-exempt employees who may be called back to work for emergency services during non-scheduled work hours.

### A. Stand-By Duty

#### 1. Definition and General

Stand-by duty is a specific period of time during non-scheduled work hours in which an employee remains available to respond to an emergency. Positions must be authorized to be paid stand-by duty. Changes to the list of authorized positions may be recommended by the Department Head in consultation with the Human Resources Officer and approval by the City Manager. Approval will be based on public safety or protection of property. The list of approved positions is defined by Administrative Directive. Non-exempt employees who reside more than fifteen (15) miles outside of the corporate city limits are not eligible to be on stand-by duty **unless the employee can respond to and correct the issue from their home via telework.**

Stand-by duty must be allocated fairly on a rotational basis. Length of stand-by is determined by the department, not to exceed a pay period. Employees assigned stand-by duty will respond to emergency callback situations in accordance with time parameters established by the department. During stand-by duty the assigned employee will not be restricted in movement or activity. The employee can use the time spent on stand-by duty primarily for their own benefit, provided the employee can respond within the established time parameters. Each department will establish their procedures for stand-by duty.

#### 2. Compensation

Stand-by duty compensation will be paid at the rate defined by Administrative Directive. If the employee fails to respond to a call while on stand-by duty, the employee will not be considered to have been on stand-by duty and those hours designated to stand-by will not be compensated. The time spent traveling between home and work if called in while on stand-by duty is considered time worked and compensable. Exempt positions are not eligible for stand-by compensation.

#### 3. Requirements for employees assigned to stand-by duty:

- a. Be available by telephone at all times.
- b. Provide a telephone number where they may be reached during stand-by duty.
- c. Respond to call-out location within time parameters established by the department.
- d. Remain fit to perform their job safely and comply with the drug and alcohol policy.

### B. Call-Out Duty

#### 1. Definition and General

Call-out duty refers to an employee called to work during non-scheduled work hours to perform emergency services. An employee does not have to be on stand-by duty to be called to work. An extension at the beginning or at the end of the work day is not a call-out. If an employee is requested to report for an emergency call-out, the employee must notify the requester if they are unfit to safely perform their job and must not respond to the call-out. Employees responding to call-outs must be in compliance with the drug and alcohol policy. Each department will establish their procedures for call-out duty.

## 2. Compensation

The minimum time employees will receive compensation for a call-out is two (2) hours, one (1) hour if called out and once there the call out is cancelled, and fifteen (15) minutes if completed remotely. The time spent traveling between home and work if called out is considered time worked and compensable. If the employee lives more than fifteen (15) miles outside the corporate city limits they will not be compensated until they arrive at the site. Call-out is compensated at one and one half (1 ½) times the regular wage rate. Exempt positions are not eligible for call-out compensation.

## **RULE 8: TIME AND ATTENDANCE**

### SECTION 6: MEAL PERIOD

Employees are generally scheduled unpaid meal periods. Non-exempt employees must reflect their unpaid meal period on the time record and must be relieved of all duties with the exception of those public safety personnel whose meal period is paid. Non-exempt, non public safety employees who work more than six (6) hours ~~are required~~ **should** take a meal period of at least thirty (30) minutes ~~and only on rare occasions~~. **The** meal period can be skipped with prior approval by their supervisor. If a non-exempt employee is not given a minimum of thirty (30) minutes of uninterrupted time for their meal period, they must be paid for the time.

### SECTION 7: BREAKS

The City recognizes the need for breaks during the work day; however, there may be times where breaks are not able to be given. Breaks are limited to fifteen (15) minutes and may be given for each four (4) hours of work time. Breaks are not allowed to be taken at the beginning or end of the shift, added to the meal period, accumulated for other purposes, or as a means of leaving the job early. Employees will be paid for breaks and breaks are not recorded on the time record. Break time may be determined by the supervisor and may not be allowed should the work deem it necessary to forgo a break.

#### A. Nursing Mother Breaks

In accordance with FLSA, for a maximum of one (1) year after the birth of a child, the City allows time for nursing mothers to take reasonable break times, whenever necessary, to express milk. The City will provide a space that is shielded from view and free from intrusion from coworkers and the public. All breaks taken for the purpose of expressing milk will be paid if they are limited to no more than fifteen (15) minutes per break. Breaks exceeding fifteen (15) minutes for non-exempt employees will not be paid.

## **RULE 9: TELEWORKING**

### SECTION 1: DEFINITION

Teleworking is an alternative work arrangement that the City offers to some employees when it would benefit the City, the citizens we serve, or in response to emergency situations.

Teleworking allows employees to work from home or at a site other than the central workplace. The City considers teleworking to be a viable, flexible work option when both the employee and the job are suited to such an arrangement. Teleworking is not an entitlement, it is not a universal employee benefit, and does not change the basic terms and conditions of employment with the City.

### SECTION 2: ELIGIBILITY

Teleworking may not be offered for all positions and must be approved through the employee's department head. Certain positions may be ineligible for participation due to business necessity or job duties. In order to be approved for telework, the employee must be able to perform their position's essential functions/duties and perform their daily functions. They must have access to the necessary equipment in order to perform telework (see Section 4 – Hardware/Software). It is explicitly recognized that some jobs are not suitable for teleworking. Only employee's whose job functions are compatible with remote work will be considered for approval. While not all inclusive, some reasons to allow teleworking are when the job duties are:

1. Independent in nature
2. Primarily knowledge based
3. Do not require frequent interaction at the regular work site with supervisors, colleagues, clients, or the public
4. Do not require the employee's immediate presence at the regular worksite to address unscheduled events unless alternative arrangements for coverage are possible
5. Are not essential to the management of on-site workflow
6. Are enough to provide adequate work while teleworking

The City has the right to refuse to make teleworking available to any employee or to terminate a teleworking arrangement at any time. While not all inclusive, some reasons to terminate teleworking are:

1. Not available to contact; not accessible during working hours
2. Not answering phone, emails or other contact venues
3. Not productive/distractions at telework site
4. Not meeting deadlines
5. Not available to come into the workplace when needed
6. Not complying with the City's Personnel Rules & Regulations or other policies
7. Not following IT policies in regards to equipment, software, and cyber security

### SECTION 3: REQUIREMENTS

Teleworking does not change the basic terms and conditions of employment with the City. Those who telework must remain in compliance with City of Sierra Vista Personnel Rules and Regulations and Administrative Directives. Violations of the City rules, policies, practices and directives while teleworking may result in the employee being removed from the teleworking arrangement and/or disciplinary action up to and including termination.

Teleworking will not be offered on a full time basis. The options for teleworking are as follows and must be approved by the employee's supervisor/department director:

- Alternating with a counterpart in the employee's department. For example, one employee teleworks two days a week and a co-worker teleworks the other three days of the week. This can be done in alternating weeks.

- On a part time basis. This can be any days of the week consecutively or concurrently.

Employees shall maintain their usual work schedule and be accessible during their regularly scheduled business hours. Any change in schedule must be approved by the supervisor. The employee will generally spend the workday at the same remote location. The employee must notify their supervisor if they are leaving the off-site location, to the same degree they would if leaving the traditional work location.

Employees are covered by worker's compensation laws when performing work duties at their designated alternate locations during work hours. The employee's off-site workspace will be considered an extension of the City's workspace therefore, this workspace must be maintained by the employee in a safe, hazard free productive manner. The City assumes no liability for injuries occurring in the off-site workspace outside the agreed upon work hours. The City is not liable for injuries to third parties and/or family members in the off-site workspace.

All City policies regarding attendance and reporting time worked apply to teleworking employees. Employees shall maintain their regular work schedule while teleworking. FLSA non-exempt employees are responsible for timely and accurately recording all teleworking work time using the current time-keeping system and/or reporting such work time to their direct supervisor. Alterations to work hours and/or work location must be approved in advance by the employee's supervisor.

FLSA non-exempt employees must be compensated for all time worked, just as non-teleworking employees. Non-exempt employees who telework are prohibited from working overtime without prior supervisor approval. This includes but is not limited to reading/responding to email, checking voicemail, and returning telephone calls. Failure to obtain prior supervisor approval for overtime may result in the immediate termination of the teleworking arrangement and/or disciplinary action up to and including termination.

Supervisors are responsible for monitoring work time of non-exempt employees and for ensuring that their non-exempt employees are not working unauthorized overtime. Supervisors are further responsible for ensuring that their non-exempt employees are accurately and timely recording all time worked. Supervisors are encouraged to refrain from sending emails, leaving voicemails, or engaging in other work activities with non-exempt employees during non-work hours.

The City does not assume any responsibility for loss, damage, or wear of employee owned equipment, furniture, etc. Office supplies will be provided by the City and should be obtained during the teleworker's in office work hours.

Teleworking is not designed to be a replacement for appropriate childcare. Teleworkers working from home are expected to manage dependent care and personal responsibilities the same as if the employee were working at their normal work site.

#### SECTION 4: HARDWARE/SOFTWARE

##### A. City Owned Equipment

If teleworking and using city owned equipment you must ensure compliance with City hardware and software standards. Software owned by the City of Sierra Vista may not be duplicated. Teleworkers shall take all precautions necessary to secure privileged information and prevent unauthorized access to any City system. This includes physically securing the premises, password protection, and protecting unauthorized access to the equipment software from the Internet when necessary. Additionally, IT may install security agents that can detect malicious behavior on a laptop/desktop and appropriate actions will be taken in order to maintain the security and integrity of the City's IT infrastructure.

## B. Personal Equipment

Personal computer equipment may not be used to access the City network via VPN due to security concerns. If a program is Web based, employees can access and use it on their personal computers and devices. This includes SharePoint, Email (via webmail), and ESS. It is up to the employee to maintain their PC and other devices free of any malware or nefarious activity.

## RULE 9 10: LEAVE OF ABSENCE

Any reference to fire or fire personnel indicates a fifty six (56) hour employee.

### SECTION 1: VACATION LEAVE

#### A. General

Vacation leave is provided for full-time and classified employees as a means to give them paid vacation time each year and is allowed to be used for other needs requiring absence during work hours. Each employee is encouraged to use their vacation leave for the purpose of work life balance. Vacation leave should be planned and requested as far in advance as reasonable in order to allow management to plan for the operation of the department.

#### B. Accrual Schedule

Full-time and classified employees will earn vacation accruals according to the following monthly accrual schedule. An employee who has a break in service of five (5) years or less will be eligible to maintain their years of service for the purpose of vacation accruals **but must serve a new six (6) month waiting period to use the reinstated and the new accrued vacation.** An employee, who leaves full time service for part time service and is part time for five (5) years or less before going back to full time service, will be eligible to go back to the years of service they served as full time for the purpose of vacation accruals.

<u>Years of Service</u>	<u>40-Hour Employee</u>	<u>56-Hour Employee</u>
<del>0 to 5</del>	<del>8 hours</del>	<del>12 hours</del>
<b>0 to 3</b>	<b>8 hours</b>	<b>12 hours</b>
<b>3 to 5</b>	<b>9 hours</b>	<b>13.5 hours</b>
5 to 10	10 hours	15 hours
10 to 15	12 hours	18 hours
15 to 20	14 hours	21 hours
20+	16 hours	24 hours

<u>Years of Service</u>	<u>Senior-Executive Management</u>
0 to 5	12 hours
5+	16 hours

### SECTION 2: SICK LEAVE

#### A. General and Definitions

Sick leave is to be used in the circumstances stated in this policy or for circumstances enumerated by state law. Sick leave is provided to all employees as a means for paid time off when they are unable to work for qualifying reasons as stated in this policy or as provided in state law. Sick leave may be used for the following:

1. For employees to care for their own or to care for a family member's:
  - a. Mental or physical illness, injury or health condition.
  - b. Need for medical diagnosis, care or treatment of a mental or physical illness, injury or health condition.
  - c. Preventive medical care.
2. Closure of an employee's workplace or closure of their child's school or place of care due to a public health emergency or exposure of communicable disease when it is determined by public health officials or a health care provider that their presence in the community may jeopardize the health of

others.

3. Domestic or sexual violence or abuse or stalking including the need for medical attention, services from a victim services program, counseling, relocation or preparing for or attendance at legal hearings.
4. Bereavement. This would be inclusive of part-time employees who are not eligible for bereavement leave or would be inclusive of full-time employees whose family members don't qualify under bereavement leave or the need for additional time for a covered family member. Documentation of the death must be provided.

A family member is defined as:

1. Children of any age including biological, adopted or foster children, stepchildren or legal wards, children of a domestic partner or children for whom the employee stands in loco parentis (*in place of parents*) which refers to the legal responsibility of a person to take on some of the functions and responsibilities of a parent or an individual to whom the employee stood in loco parentis when the individual was a minor.
2. Parents including biological, foster, stepparents, adoptive parents or legal guardians of the employee or the employee's spouse or domestic partner, including persons who stood in loco parentis when the employee or employee's spouse or domestic partner was a minor child.
3. Spouses or domestic partners.
4. Grandparents, grandchildren or siblings including biological, foster, adoptive or step relationships of the employee or the employee's spouse or domestic partner.
5. Any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

## B. Accrual and Usage

The year is defined as twelve (12) consecutive months, January 1<sup>st</sup> - December 31<sup>st</sup>.

### 1. Full-Time Employees

Accrual: Full-time employees will earn sick accruals according to the following monthly accrual schedule:

40-hour employees	8 hours
56-hour employees	12 hours

A full-time employee will not accrue sick leave during a pay period in which the employee is not paid a minimum of thirty (30) hours.

Usage: There is no cap for usage of sick leave for a full-time employee to care for themselves as defined. If the employee qualifies for Family and Medical Leave Act (FMLA), any accrued sick leave may be used through the end of the FMLA period. Sick leave for bereavement is capped at forty (40) hours (60 for fire personnel) in a year. Any other reason for use of sick leave is capped at eighty (80) hours (120 for fire personnel) in a year.

### 2. Part-Time Employees

Accrual: Part-time employees will accrue one (1) hour of sick leave for every thirty (30) hours worked up to a maximum of forty (40) hours in a calendar year. ~~Part-time employees are not allowed to~~

~~accrue more than forty (40) hours in a year.~~

Usage: ~~Part-time employees are not allowed to use more than forty (40) hours in a year.~~ There is no cap for usage of sick leave for a part-time employee to care for themselves as defined. Any other reason for use of sick leave is capped at eighty (80) hours in a year. Sick leave can only be used for scheduled work hours.

### C. Accrual Requirements

1. Employees begin to accrue sick leave immediately upon hire, but are not eligible to use sick leave until they have completed thirty (30) days of City service.
2. Employees are allowed to carryover sick leave accrued from year to year.
3. For a full time employee on Short Term Disability (STD), sick leave will only continue to accrue if the employee has enough accrued leave to cover the amount not covered by STD; otherwise, the employee will not continue to accrue. For a full-time employee on Workers Compensation, sick leave will continue to accrue up to six (6) months maximum.
4. Sick leave is charged against the employee's sick accruals equal to the number of working hours they are absent to the nearest quarter (1/4) hour. Sick accruals are paid at the employee's base wage rate. If an employee holds two jobs at different rates of pay, the employee will be paid at the pay rate of the job in which they were scheduled and missed due to the sick leave.
5. Employees must make a good faith effort to give the City advance notice and schedule sick leave in a manner that does not unduly disrupt the City's operations; however, it is understood that sick leave can be unanticipated. Sick leave must be submitted on forms approved by the City and the employee must list the eligible category. A request for anticipated sick leave must include the expected duration.
6. For an extended absence, employees must keep the City abreast of their return to work status.
7. Sick leave of three (3) or more consecutive work days may require reasonable documentation from a health care professional or an applicable authority stating the employee has been out for an eligible reason and will be required at more than five (5) consecutive work days. If due to the employee's own illness, a fitness for duty may also be required as part of the reasonable documentation. An injury or illness that may affect an employee's job performance will require a fitness for duty from a healthcare professional.
8. Sick leave accruals are not transferable between employees.
9. When an employee moves from full time to part time status, up to forty (40) hours of their full time accrued sick leave will be transferred to their part time sick leave accruals.

### D. Payment of Sick Leave Upon Separation of Employment

Classified **full time** employees separating from City service in good standing will be compensated for their accumulated sick leave at the base wage rate according to the following schedule:

<u>Years of Continuous Service to City:</u>	<u>Accruals Paid Out:</u>
0 – 5 years	0
5 – 10 years	50% of first 480 hours (672 for fire) 25% in excess of 480 hours (672 for fire)

10 – 15 years	60% of first 480 hours (672 for fire) 25% in excess of 480 hours (672 for fire)
15 plus years	70% of first 480 hours (672 for fire) 25% in excess of 480 hours (672 for fire)

In the event of the death of any employee, all accumulated sick leave accruals will be paid to the beneficiary at the employee's base wage rate at the time of death.

Full-time employees who are rehired within nine (9) months will have any unused sick leave reinstated that was not paid out at the time of separation. Part-time employees who are rehired within nine (9) months will have any unused sick leave reinstated up to a maximum of forty (40) hours. All employees rehired within nine (9) months who receive a reinstatement of sick leave are entitled to use and accrue paid sick leave immediately at the re-commencement of employment.

### SECTION 3: PAID TIME OFF

#### A. General

Paid Time Off (PTO) is provided for unclassified full-time employees hired under an individual employment agreement or contract. It is a means to give them time off each year and is allowed to be used for other needs requiring absence during work hours. Each employee is encouraged to use their leave for the purpose of work life balance. PTO leave should be planned and requested as far in advance as reasonable in order to allow management to plan for the operation of the department.

#### B. Accrual Schedule

Employees with an individual employment agreement or contract will earn PTO according to the following monthly accrual schedule or as defined in the individual employment agreement or contract.

<u>Years of Service</u>	<u>Employee Accrual</u>
0 to 5	12 hours
5 to 10	14 hours
10 to 15	16 hours
15 to 20	18 hours
20+	20 hours

#### C. Maximum Accruals

The maximum number of PTO accruals an employee with an individual employment agreement or contract is permitted to carry over to the following year as of the second (2<sup>nd</sup>) pay period end date of the calendar year is 235 hours. Any balances exceeding the maximum allowed will be forfeited following the second (2<sup>nd</sup>) pay period end date of the calendar year. The Human Resources Department will reduce these balances to the maximum allowed.

For a justified business reason, an employee may be required to forego part or all previously approved PTO. In this situation, employees will not be required to forfeit PTO accruals and will be allowed to use them at a later date or may be paid for the foregone PTO upon approval by the City Manager. The request and approval must specify a date for the PTO accruals to be taken and under no circumstance will the accruals be allowed to roll to the next forfeiture date.

#### D. PTO Sell Back

Employees are permitted on a voluntary basis to exchange PTO for compensation at their base wage

rate under the following guidelines and schedule:

1. Eligibility: An employee must 1) have a minimum balance of one hundred twelve (112) hours of PTO and 2) have taken a minimum of twenty eight (28) hours of PTO before the twenty first (21<sup>st</sup>) pay period end date of the calendar year (*the 28 hours is the minimum threshold for all tiers listed below*).
2. Procedure: The Human Resources Department will notify employees of their eligibility. If the employee wishes to participate in the program, they will indicate the number of hours they wish to exchange for compensation and return the form to Human Resources. Compensation will be paid with the twenty third (23<sup>rd</sup>) payroll check of the calendar year.

## 2. Sell Back Tier Schedule

Balance: 112 hours	Sell Back Max: 28 hours
Balance: 168 hours	Sell Back Max: 42 hours
Balance: 224 hours	Sell Back Max: 56 hours

## SECTION 4: HOLIDAYS

Full-time employees are eligible for ~~twelve (12)~~ **thirteen (13)** paid holidays per year. One (1) of the holidays is a floating holiday that may be used at any time but must be used by December 31<sup>st</sup> of each year or the employee will lose it.

The holiday schedule will be disseminated to employees each year. Full-time employees are eligible to use the floating holiday after thirty (30) days of City service. An employee will not be paid for the holiday during the pay period in which they are not paid a minimum of forty (40) hours (56 for fire personnel). Holidays that fall on Saturday are observed on the preceding Friday, holidays that fall on Sunday are observed on the following Monday, except for seven (7) day operations which are observed on the calendar day in which the holiday falls.

The floating holiday must be taken only in the following increments:

40-hour employees	8 hours
56-hour employees	12 hours

Eligible employees will receive holiday compensation according to the following schedule:

40-hour employees	8 hours
56-hour employees	12 hours

Employees who would normally be scheduled to work on the holiday but are out on FMLA, Short Term Disability (STD), or Workers Compensation (WC) will not receive the holiday pay in addition to their regular pay. If the employee is eligible for the holiday (i.e. not paid by STD or WC), the holiday will be included in the employee's normal hours for the pay period.

If there is a City observed holiday, or the employee uses their floating holiday, and the employee then works additional hours in the week over their scheduled hours, the employee will be paid the additional hours worked as straight time. Overtime or comp time will not be claimed until the employee has more than 40 hours of actual work time in a work week (or more than their scheduled shift hours for fire personnel).

When an employee resigns from City employment, if the last day of employment is on a holiday, the employee will not be paid for the holiday. Employees must actually work at least one day or one shift after the holiday in order to get paid for the holiday.

## SECTION 5: REQUESTING AND USAGE OF LEAVE

When absent for any scheduled work hours, all employees must use all applicable leave. All requests for leaves of absence including the type and duration must be made to the employee's supervisor for approval. All requests, type and duration must be submitted in advance of the beginning date of the leave except requests for unanticipated sick leave which must be submitted for approval at the earliest possible time. Employees are required to contact Human Resources should their leave of absence fall under Family and Medical Leave Act (FMLA), Short Term Disability (STD), Workers Compensation or Military Leave. If management receives a leave request from an employee in their chain of command that may qualify under one of these protected leaves, the employee must be directed to Human Resources so that Human Resources can make reasonable inquiries regarding the requested leave and can provide the employee with direction regarding the leave.

Excluding 24/7 operations, any employee who takes any form of leave and then works additional hours in the week will have the leave usage reduced to bring the employee to forty (40) hours. Overtime or comp time will not be claimed until the employee has more than 40 hours of actual work time in a work week.

For 24/7 operations, any employee who takes any form of leave and then works additional hours in the week over their scheduled hours may choose to be paid the additional hours worked as straight time or have the leave usage reduced to bring the employee to forty (40) hours (or to their scheduled shift hours for fire personnel). Overtime or comp time will not be claimed until the employee has more than 40 hours of actual work time in a work week (or more than their scheduled shift hours for fire personnel).

## SECTION 7: SHORT TERM DISABILITY (STD)

Short Term Disability (STD) is applicable to all full-time employees and provides partial pay due to a non job related injury or illness that leaves an employee unable to perform their job. Employees are required to utilize all accrued leave during the waiting period and to supplement time not covered by STD. The employee must keep the City abreast of their return to work status. Employees returning to work after STD leave must adhere to the same requirements for return to work as outlined in the FMLA section.

## SECTION 11: TERMINAL LEAVE

Upon leaving City employment, classified employees who reach a "normal" retirement with either State sponsored retirement plan (Public Safety Personnel Retirement System or Arizona State Retirement System) may choose to use their remaining leave accruals prior to their termination/retirement date for a maximum of three (3) months. Accrual payouts will be paid at the employee's base wage rate. Accruals will be used in the same manner as what would have been normally paid out as provided for separation of employment and will be used in the following order; vacation, floating holiday, comp time, and finally sick accruals. Any accrual balances remaining after terminal leave is exhausted will be paid out with the employee's final paycheck at the base wage rate. Leave, including the floating holiday, will not continue to accrue and holidays will not be paid while employees are on terminal leave. Prior to starting terminal leave, the employee must provide a two (2) week notice. Employees must actively work up to the start of their terminal leave and cannot withdraw their resignation once they have entered terminal leave.

## SECTION 12: LEAVE WITHOUT PAY

In extraordinary circumstances, a full-time employee may be granted an unpaid leave of absence. An unpaid leave of absence can only be requested if all accruals have been exhausted. Requests for leave without pay must be submitted in writing, in advance of the leave and the reason for the request to the Department Head. Requests for unanticipated leave without pay must be submitted for approval at the earliest possible time. The unpaid leave will be reviewed by the Department Head and the Human Resources Officer who will make recommendations, subject to approval by the City Manager.

## SECTION 15: VOTING LEAVE

In accordance with state law, the City will provide time off to vote on the day of the election for employees who are eligible to vote; however, time off will be permitted only if there are less than three (3) consecutive hours between the opening of the polls and the beginning of the employee's regular working hours, or between the end of their regular working hours and the closing of the polls. In the event there is not a sufficient voting window of three (3) hours, full-time employees will be allowed up to two (2) hours of paid time during their scheduled workday. Time off for voting may be requested by the employee prior to the day of election and the supervisor will determine when their employee may leave to vote.

## **RULE 14 15: EMPLOYMENT RECORDS**

### SECTION 1: PERSONNEL FILE

The Human Resources Department has custodial responsibilities for personnel and payroll records and will maintain a personnel file on each employee that will represent a record of an individual's employment with the City. The only official personnel files are those kept by Human Resources or the police department as required by AZPOST. Personnel records include the original application of the employee, job descriptions, performance evaluations, documentation of pay changes, status changes, disciplinary actions, training records and other relevant personnel information. Personnel records containing information of a personal or sensitive nature including but not limited to medical information, leave of absence, drug and alcohol test results, background investigations and I-9 documentation will be kept in a separate file apart from the personnel file. Any documentation of a sensitive nature will only be maintained in Human Resources; departments are required to forward any such documentation to Human Resources. Employment records will be retained in accordance with all applicable laws or City policy, whichever is longer. **The City will only maintain three (3) years of paycheck images and four (4) years of W-2 images.** Employees must keep their relevant personal and employment information current by notifying Human Resources of changes.

## **RULE 15 16: SEPARATION FROM EMPLOYMENT**

### SECTION 1: RESIGNATION

Employees resigning from the City must submit a written notification to their supervisor at least ten (10) working days prior to separation. The written notice should include the effective date of the resignation and reason for leaving. The written notification along with a completed personnel action form must be forwarded to Human Resources immediately. An employee's failure to adhere to the required resignation period or if they are involuntarily terminated **or allowed to resign in lieu of termination**, will be deemed as not having left in good standing and not eligible for rehire. **In certain circumstances, a department head may allow the employee to forgo part or all of the two-week obligation and still remain in good standing with the City.**

**An employee who submits a two-week notice should not take leave while serving the two-week period. The last physical day worked will be considered the exiting employee's final date of employment with the City except as outlined in Rule 9, Section 11, Terminal Leave.**

Employees may request in writing to withdraw their resignation prior to the effective date subject to recommendation by the Department Head and the Human Resources Officer and approval by the City Manager.

Employees are required to turn in all City property on their last day of employment. Human Resources will schedule a meeting with full-time employees on their last day to out-process from City employment; this will include the opportunity to complete an exit interview. The exit interview gives the employee an opportunity to provide reasons for separation as well as opinions and recommendations for improvements. The documentation completed during the exit interview will be retained in the Human Resources Department.

If an employee leaves City service and subsequently returns to City service, the employee will be treated like a new hire in all aspects of employment and benefits except as specifically defined in Section 2 of this rule or as required by law.

**PERSONNEL**  
**RULES AND REGULATIONS**



**CITY OF SIERRA VISTA**

**EFFECTIVE 11/1/2021**

# **PERSONNEL RULES AND REGULATIONS**

## **CITY COUNCIL**

FREDERICK W. MUELLER, MAYOR

WILLIAM A. BENNING

RACHEL D. GRAY

GREGORY L. JOHNSON

ANGELICA R. LANDRY

MARK A. RODRIGUEZ

CAROLYN UMPHREY

## **CITY MANAGER**

CHARLES P. POTUCEK

## **ASSISTANT CITY MANAGER**

VICTORIA YARBROUGH

## **CHIEF HUMAN RESOURCES OFFICER**

BARBARA FLEMING

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## **RULE 1: GENERAL PROVISIONS**

*Disclaimer: Any rule or portion of a rule based on federal or state law will be followed based on the most current regulation even if the Personnel Rules and Regulations have not been updated.*

### **SECTION 1: ADOPTION OF PERSONNEL RULES & REGULATIONS**

The Human Resources Department is responsible for administration and development of the Personnel Rules and Regulations, legislative compliance, fair and impartial employment services, employee relations, training and development, management of the classification and compensation plan, payroll and benefits administration. The primary goal is to protect the integrity of the personnel infrastructure which is key to ensuring that the City's goals can be accomplished and therefore, the following Personnel Rules and Regulations is hereby adopted. Recommended changes to the Personnel Rules and Regulations will be made by the Human Resources Officer to the City Manager. After City Manager review and approval, all changes will be presented to the Mayor and City Council for their consideration and approval.

The contents of the Personnel Rules and Regulations do not constitute the terms of a contract of employment and nothing contained in it should be construed as a guarantee of continued employment. Only the City Manager and City Council has the authority to enter into any agreement for employment, for any specified period of time, or to make any agreement contrary to the above.

Should any article, paragraph, sentence, clause, or phrase of these Personnel Rules and Regulations or the application of the same to a particular set of persons or circumstances be declared unconstitutional or invalid for any reason, the remainder of such Personnel Rules and Regulations will not be affected.

### **SECTION 2: PERSONNEL RULES AND REGULATIONS & ADMINISTRATIVE DIRECTIVES**

A current version of and any changes to the Personnel Rules and Regulations and all applicable Administrative Directives will be posted on the City's website. Employees are required to read and comply with the Personnel Rules and Regulations including any revisions, seek clarification of any policies or procedures and understand that the City may revise, rescind or modify them at any time. New hires will be required to sign an acknowledgement of receipt.

Administrative Directives are established to provide employees with clear and standardized procedures and/or specific information regarding City operations and policies and how they are to be performed. Administrative Directives are not designed to be personnel policies but to articulate specific details of those policies, procedural details, forms and/or necessary steps to carry out policies. Administrative Directives should not conflict with any policy in the Personnel Rules and Regulations. If any Administrative Directive happens to conflict with the Personnel Rules and Regulations, the Personnel Rules and Regulations take precedence over the Administrative Directive. All Human Resources Administrative Directives will be included as attachments to the Personnel Rules and Regulations but are not considered a part of the actual Personnel Rules and Regulations. Changes to Administrative Directives may be initiated at any time by Department Heads, subject to approval by the City Manager following the required review and approval process for an Administrative Directive to become enacted.

### **SECTION 3: DEFINITIONS**

The following are mentioned throughout the Personnel Rules and Regulations and are defined here for clarification. City service is divided into classified and unclassified positions. The Personnel Rules and Regulations pertain to all employees in City service except where indicated otherwise.

#### **A. Classified Employee**

An employee who works in a full-time position and who has completed the probationary period and whose employment may only be terminated for cause, reduction in force or elimination of position. A classified employee has certain rights defined throughout the Personnel Rules and Regulations.

B. Unclassified Employee

An employee who is at will and employed at the convenience of the City and may be demoted or terminated at any time, with or without cause and without the right to appeal to the Hearing Officer. This includes: all elected officials, any employees appointed by the Mayor and City Council, part-time employees, seasonal/temporary employees or those positions designated as unclassified.

C. Contracted Employee

An unclassified employee who signs an employment agreement (contract) outlining the terms and conditions of that employment. Only Executive staff and those hired under an Intergovernmental Agreement (IGA) may be hired under an employment agreement (contract). A contracted employee is expected to follow the Personnel Rules and Regulations however, benefits and other employment conditions will be determined by the employment agreement. A contracted employee is at will and employed at the convenience of the City. The City may elect to not renew or to terminate the contract based on the terms outlined in the contract. There is no right to appeal to the Hearing Officer.

D. Full-Time Employee

A probationary or non-probationary employee who is scheduled to work at least forty (40) hours a week.

E. Part-Time Employee

An employee who is scheduled to work less than forty (40) hours per week. Part-time employees are not eligible for benefits except those as required by law or as specifically stated in the Personnel Rules and Regulations.

F. Temporary/Seasonal Employee

An employee who works in a position designated as seasonal or temporary to last for a specified amount of time, not expected to exceed nineteen (19) weeks. A temporary/seasonal employee may be hired as an interim replacement, temporarily supplement the workforce or to assist in the completion of a specific project. Employment beyond the initial agreed upon period of assignment does not in any way imply a change in employment status. Temporary/seasonal employees are not eligible for any benefits unless required by law regardless of the hours worked.

G. Probationary Period Employee

A full-time at will employee who is in their initial probationary period with the City.

H. At Will Employment

The employment relationship may be ended 1) for any reason not prohibited by law or for no reason, 2) at any time, 3) by either the employee or the employer, and 4) with or without cause.

I. Hard to Fill

A position open for a significant amount of time without finding qualified applicants. Qualifications and skills are generally higher for a hard to fill position.

J. Management

All levels of leadership (supervisor, manager or department/division head).

K. Department Head

The individual responsible for a department or division regardless of a specific title and includes only

the following positions: City Clerk, Economic Development Manager, Marketing and Public Affairs Manager/Public Information Officer, Chief Information Officer, Chief Procurement Officer, Chief Human Resources Officer, Chief Financial Officer, Director of Parks, Recreation and Library, Director of Public Works, Director of Community Development, Chief of Police and the Fire Chief.

L. All Applicable Laws

Refers to all federal, state and local laws.

M. Base wage rate

An employee's base wage rate is the initial rate of compensation that excludes any additional pay.

N. Regular wage rate

An employee's regular wage rate of pay is the base wage rate plus any add pays the employee may receive.

O. Fair Labor Standards Act (FLSA)

Federal law that establishes minimum wage, overtime pay, recordkeeping and youth employment standards.

P. Exempt

Positions classified as exempt are typically executive, professional and/or administrative which primarily perform work that is not subject to overtime provisions of the FLSA. Exempt employees are paid an agreed amount for the position, regardless of the amount of time or effort required to complete the work, and actual hours worked are not recorded on the time record. They receive a salary which is intended to compensate the exempt employee for all hours they may work for the City. Salary is a predetermined amount that will not be subject to deductions for variations in the quantity or quality of the work performed except as allowed by FLSA.

Q. Non-Exempt

Positions classified as non-exempt are where employees are primarily performing work that is subject to the overtime provision of FLSA and will be paid accordingly. Non-exempt employees are paid for all time worked, and record all hours worked on the time record.

R. Executive Management

Positions that are in the executive management pay plan as outlined in the classification and compensation pay plan.

#### SECTION 4: RESPONSIBILITIES

A. The Human Resources Officer

The Human Resources Officer is the employee charged with the responsibility of managing the Human Resources Division and has the primary responsibility of administering and carrying into effect the Personnel Rules and Regulations as defined in this rule. The Human Resources Officer and the City Manager will not be combined into one position.

Administration of the Personnel Rules and Regulations will include:

1. Develop and administer a comprehensive system to recruit, select, develop and maintain an effective and responsive work force (other than those positions in departments covered by an

Intergovernmental Agreement (IGA) and governed by a BOARD), determine appropriate steps and tools for the recruitment process, maintain personnel and payroll records, and communicate personnel policies and practices.

2. Administer all the provisions of the personnel rules not specifically reserved to the Mayor and City Council or the City Manager.
3. Prepare and recommend revisions and amendments to the Personnel Rules and Regulations.
4. Prepare and maintain a position classification plan.
5. Prepare a compensation plan, and revisions thereof, covering all classifications.
6. Perform other such duties as may be assigned by the City Manager not inconsistent with the Personnel Rules and Regulations.

#### B. Management

Department Heads, Managers and Supervisors are responsible for knowing and carrying into effect the Personnel Rules and Regulations and all Administrative Directives or procedures related to the personnel policies. Department Heads, Managers and Supervisors are responsible for the following to include but not limited to: monitoring and evaluating performance of employees, training, safety, recommending and carrying out disciplinary actions, reviewing timesheets for accuracy, informing employees of leaves of absence available to them when warranted situations occur, position control, management of budget and employee hours and ensuring that all personnel actions are equitable and unbiased and in accordance with the Personnel Rules and Regulations.

### SECTION 5: SIERRA VISTA EMPLOYEE COUNCIL

#### A. General

The purpose of the Sierra Vista Employee Council (SVEC) is to secure better employer/employee relations, make recommendations on Administrative Directives and the Personnel Rules and Regulations as well as discuss issues and make recommendations concerning employee morale and productivity.

The elected representative must be fully informed as to the opinions, views and concerns of the employees in their department and are responsible to share these with the SVEC and keep their department informed of the SVEC activities.

#### B. Membership

Representatives of the employee council must be elected annually at the beginning of the calendar year by a blind vote.

Representatives of the SVEC must be non-management classified employees as defined in section 3, Definitions; however, the Department Head may make an exception to allow an unclassified employee to be eligible for election procedures to represent the department on the employee council.

The SVEC will be comprised of eleven (11) department representatives as indicated below:

- Public Works – 2
- Police – 1
- SEACOM – 1
- Fire – 2

- Parks, Recreation & Library – 2
- Community Development – 1
- Administrative Services – 2 (to include Finance, Information Technology, Procurement, Economic Development, Marketing/Public Affairs, City Manager and City Clerk departments)

C. Election Procedures, Terms and Alternates

The term of office of employee representatives will commence at the first regular meeting in January following their election and will be for a period of one (1) year, not to exceed two (2) consecutive years. Terms for alternates will correspond to that of the representative. The term of office for members of the executive committee will be one (1) year.

Incumbent representatives will conduct the annual election in their respective departments. After receiving nominations, employees will conduct a blind vote by submitting the name of their chosen representative on a paper ballot. The nominee receiving the highest number of votes will be the representative. Each department must also elect by a blind vote an alternate representative to act for the employee council representative when they are unable to attend meetings and will fill the vacancy of representatives if it should occur. The results will be reported to the Secretary of the SVEC.

D. Executive Committee

The SVEC Executive Committee will be comprised of two (2) elected executive officers, the Chairman and Secretary. The Chairman and Secretary will be elected at the meeting in January by majority vote. No department will have more than one (1) member on the Executive Committee.

Chairman: Responsible to conduct meetings, control discussion, give advice and is familiar with parliamentary procedure.

Secretary: Assist the Chairman, preside in the absence of Chairman and act as Chairman in the event a vacancy occurs, until a Chairman is elected. Responsible to maintain records of all material pertaining to the SVEC, conduct correspondence, give notice of and take minutes of meetings.

E. Removal from the Sierra Vista Employee Council

A representative may be removed from the SVEC for the following reasons: unexcused absence, improper representation, advancement to a management position or transfer to another department.

A representative may be removed from the SVEC if they have unexcused absences from regularly scheduled meetings. An unexcused absence is defined as the representative failing to notify the Secretary of their absence prior to the meeting. A representative may be removed by their constituency for improper representation by a majority blind vote. The SVEC may, however, by a majority vote, order a vote of no confidence in any department on any representative. Documented reasons for causing such election will be presented to the employees in the affected department prior to such election. Advancement to a management position or transfer to another department is cause for automatic removal.

An elected member of the Sierra Vista Employee Council who desires to resign or who chooses not to serve must submit a written resignation to the Chairman.

F. Meetings

The SVEC will have four (4) regular quarterly meetings a year with the schedule determined at the first meeting of the year. These meetings will be attended by the eleven (11) employee representatives or their alternates. Representatives not able to attend a meeting must notify the Secretary of their absence and notify their alternate to attend on their behalf. Special meetings may be called by the Chairman

not to exceed two (2) per year. If additional special meetings are desired, the Chairman must submit a written request inclusive of the reasoning for the additional meetings to the City Manager for approval. Seven (7) members will constitute a quorum to conduct the meeting and at least one (1) of the seven present must be an executive committee member. Meetings are not to exceed ninety (90) minutes and travel time will be allowed in addition, not to exceed thirty (30) minutes. The elected representative will be paid for time spent attending SVEC meetings and so will the alternate when they serve in place of the representative. If any vote results in a tie, the vote fails. Only a majority vote can pass; however, any vote that fails can be re-voted on in another meeting.

Meetings will be conducted according to accepted parliamentary procedures. Minutes of each meeting are to be kept. Following review by the SVEC and the Chairman, these minutes will be posted on the City's intranet site. The SVEC representatives are responsible to share information and meet with their departments to communicate what is being discussed at SVEC meetings.

An agenda of items to be discussed will be prepared and distributed by the Secretary one (1) week in advance of the meeting to all employee council representatives.

## **RULE 2: CODE OF CONDUCT**

### SECTION 1: GENERAL

#### A. Standards

The City recognizes the importance of professional standards within the organization as well as the services it provides to the community. The success of the services provided to the public, customers and to employees is dependent upon the important qualities of adhering to commitments and displaying honesty and integrity in the performance of City jobs. All employees are required to treat co-workers, management, subordinates, customers and the public with respect and dignity despite differences of opinion. Efficiency and productivity of City operations rely on employees maintaining proper standards of conduct at all times.

The highest standards of ethical business conduct are required of employees in performance of their responsibilities. Employees will not engage in conduct or activity that may raise questions as to the City's honesty, impartiality, or reputation or otherwise cause embarrassment to the City. Adherence to the code of conduct is crucial to maintain public confidence and trust in the City. Employees are expected to conduct business in such a manner to give the clear impression that they cannot be improperly influenced in the performance of their duties. Employees are to perform their job for the purpose to serve and benefit the public and are bound to uphold and carry out all applicable laws and City policies impartially.

Every employee has the responsibility and right to ask questions, seek guidance, report suspected violations, and express concerns regarding compliance with the code of conduct. Management has a responsibility to create an open and supportive environment in line with the code of conduct.

#### B. Values

1. Integrity and honesty
2. Respect
3. High level of customer service
4. Efficiency
5. Positive attitude
6. Teamwork

#### C. Confidentiality

Certain City records and information relating to the City and of its customers are confidential and employees must treat all matters accordingly and must not disclose or remove information except where required to do so for business purposes. Employees unsure about whether information is confidential must ask management for clarification.

#### D. Code of Ethics

All employees are required to subscribe and adhere to the City's Code of Ethics as found in the City's Code of Ordinances, Chapter 40 Personnel Policies, 40.03.

#### E. Loyalty Oath

All employees are required to subscribe to the loyalty oath (Oath of Office) upon employment with the City as required by state law.

### SECTION 2: COMMITMENT TO EQUAL EMPLOYMENT OPPORTUNITY (EEO)

#### A. General

The City provides equal employment opportunity and complies with the principles of affirmative action regarding employment practices of protected classes. EEO is consistent with the basic merit system principle that all persons be afforded equal opportunity solely on the basis of job-related criteria, and all employment decisions will be made on the basis of merit, in conformity with EEO principles. The City considers a violation of this policy to constitute misconduct that undermines the integrity of the employment relationship.

The City will provide equal opportunity in employment for all persons without regard to race, color, sex (to include lesbian, gay, bi-sexual, or transgendered (LGBT) and pregnancy), age, religion, national origin, disability, marital status, veteran status or genetic information except where one of these is a bona fide occupational qualification (BFOQ). A BFOQ is narrowly defined and is a qualification that relates to an essential job duty and is considered necessary for operation of the business and is necessary to perform the job safely and efficiently or the essence of the business would be undermined by hiring members of a given class. The Human Resources Officer is the only person that is authorized to approve a BFOQ. The City will carry out all activity in compliance with its EEO policy and all laws governing nondiscrimination. These employment activities include but are not limited to: recruiting, hiring, promotion, disciplinary action, termination, layoff, recall, transfer, leaves of absence, compensation and training.

B. The City will continue to make its EEO policy known by:

1. Including the policy in the City's Personnel Rules and Regulations.
2. EEO posters displayed in all buildings occupied by City employees.
3. Employee training programs.
4. Posting the policy on the City's internet site.

C. Compliance

Management is responsible to ensure that all actions including but not limited to recruiting, hiring, promotion, disciplinary action, termination, layoff, recall, transfer, leaves of absence, compensation and training are in compliance with the EEO policy.

Management personnel and Human Resources are responsible to know and enforce the City's EEO policy. The Human Resources Officer will ensure recommendations for improvements, corrective action or additional training is provided as necessary. The Human Resources Department is responsible for filing EEO reports as required by law. The City will investigate any complaint of non-compliance with the EEO policy and will not tolerate retaliation against a person who makes a complaint.

D. Uniformed Services Employment and Reemployment Rights Act (USERRA)

The City complies with all provisions under the federal regulation of USERRA which prohibits employment discrimination against a person on the basis of past military service, current military obligations, or intent to serve. The City will not deny initial employment, reemployment, retention in employment, promotion, or any benefit of employment to a person on the basis of a past, present, or future military service obligation.

E. Americans with Disability Act (ADA)

The City complies with the ADA which requires employers to reasonably accommodate qualified individuals with disabilities. The City also complies with the state statute regarding medical marijuana and accommodation. The City will carry out all employment activities in accordance with all applicable laws governing nondiscrimination of qualified individuals with a disability. These employment activities include but are not limited to: recruiting, hiring, promotion, disciplinary action, termination, layoff, recall, transfer, leaves of absence, compensation and training.

The definition of “disability” with respect to an individual is: 1) A physical or mental impairment that substantially limits one or more major life activities; 2) Has a record or history of a substantially limiting impairment; 3) Is regarded or perceived as having a substantially limiting impairment.

A “qualified individual with a disability” means a person who with or without reasonable accommodation can perform the essential functions of the position that the individual holds or desires. Reasonable accommodation for a qualified individual with a disability will be provided unless such accommodation would impose an undue hardship or cause a significant risk to workplace safety.

Employees may qualify for a leave of absence, be transferred into another position or terminated from City employment after any qualifying leave has been exhausted in accordance with Rule 9, Leave of Absence for reasons of disability when a mental or physical condition renders them incapable of satisfactorily performing the essential functions of their position, and when no reasonable accommodation can be made by the City without undue hardship or without causing a significant risk to workplace safety. Employees must request accommodations to their supervisor and/or Human Resources. Supervisors must confer with Human Resources regarding any accommodation request for final resolution.

### SECTION 3: DISCRIMINATION AND HARASSMENT

The City intends to provide an environment free of actions constituting harassment or discrimination and/or is otherwise prohibited by federal and state law; therefore, the City does not tolerate intentional or unintentional discrimination or harassment. All allegations of discrimination and harassment will be investigated promptly and thoroughly and to the extent possible.

#### A. Definition of Discrimination

Discrimination is defined as the differential treatment of a person or group of people on the basis of actual or perceived race, color, sex (to include LGBT and pregnancy), age, religion, national origin, disability, marital status, veteran status or genetic information. The City is committed to a workplace free from discrimination; and therefore, discrimination is prohibited in employment activities including but not limited to: recruiting, hiring, promotion, disciplinary action, termination, layoff, recall, transfer, leaves of absence, compensation and training.

1. Reasonable accommodations for religious observances and practices of employees or prospective employees will be provided unless such accommodation would impose an undue hardship or cause a significant risk to workplace safety. Employees must request the accommodation to their supervisor and/or Human Resources. Supervisors must confer with Human Resources regarding any accommodation request for final resolution. The extent of the City's obligation is determined by considering business necessity, financial costs and expenses, and resulting personnel issues.

#### B. Definition of Harassment

Harassment is defined as unwelcome conduct of a person or group of people on the basis of race, color, sex (to include LGBT and pregnancy), age, religion, national origin, disability, marital status, veteran status or genetic information. The City is committed to a workplace free from harassment; and therefore, harassment is prohibited in employment activities including but not limited to: recruiting, hiring, promotion, disciplinary action, termination, layoff, recall, transfer, leaves of absence, compensation and training.

Harassment is further defined as unwelcome conduct based on the aforementioned characteristics that interferes with an employee's work performance, enduring the offensive conduct becomes a condition of employment, or the conduct creates a work environment in which a reasonable person would consider intimidating, hostile or offensive. This could include behavior that demeans,

embarrasses, humiliates, annoys or alarms.

Sexual harassment is defined as unwelcome physical, verbal or visual sexual advances, requests for sexual favors, or other sexually oriented conduct that is offensive or objectionable to the recipient. This could include behavior that demeans, embarrasses, humiliates, annoys or alarms. This would include but is not limited to remarks of a sexual nature about a person's clothing or body or remarks about sexual activity or speculations about sexual experiences.

Harassment includes, but is not limited to, the following behaviors:

1. Verbal and/or Written Harassment

Nicknames, derogatory comments, explicit or implied threats, sexual propositions, slurs or otherwise offensive words or comments on the basis of the characteristics defined above, whether made in general, directed to an individual, or to a group of people regardless of whether the behavior was intended to harass. This includes inappropriate sexually oriented comments on appearance, including dress or physical features, or race or sex-oriented stories.

2. Physical Harassment

Assaulting, impeding or blocking movement, physical interference or movement when directed at an individual on the basis of the characteristics defined above. This includes touching, pinching, patting, grabbing, leering, kissing, hugging and promises in return for submission to physical acts.

3. Visual Forms of Harassment

Derogatory, prejudicial, stereotypical or otherwise offensive posters, photographs, cartoons, notes, bulletins, drawings or pictures on the basis of the characteristics defined above. This applies to both posted material and material maintained in or on City equipment or personal property in the workplace.

C. Complaint Reporting

Employees who have complaints of discrimination or harassment should report it immediately in writing with any of the following:

1. Immediate Supervisor
2. Department Head or Manager
3. Human Resources Officer or any human resources staff member
4. City Manager

D. Withdrawal of Complaint

The complainant may withdraw the complaint at any point during the investigation but must do so in writing. Withdrawal of a complaint does not limit the City's right to proceed with an investigation.

E. Confidentiality of Proceedings and Records

All complaints will be kept confidential to the extent possible, but confidentiality of the investigation and its records cannot be guaranteed. Except as otherwise prescribed by law, investigators and those designated as such are expected to preserve confidentiality to the extent possible.

All records involving discrimination or harassment upon disposition of a complaint will be transmitted to and maintained by the Human Resources Department as confidential records except to the extent disclosure is required by law.

## F. Complaint Process

When an employee alleges a complaint based on discrimination or harassment, the following procedure will apply:

1. Any person listed under Section 3, C, Complaint Reporting who receives a complaint regarding discrimination or harassment must notify Human Resources immediately.
2. Management personnel with direction from Human Resources may attempt to resolve the complaint informally but if they are unable to resolve the issue, the complaint will be referred to Human Resources.
3. Upon notification of a complaint, the Human Resources Officer or their designee will conduct a prompt and thorough investigation to determine if there is any merit to the complaint. Timing of the investigation, findings and communication of the resolution may differ based on various factors related to the individual case; however, the Human Resources Officer or their designee will keep appropriate people informed along the way as necessary or possible.
4. Upon conclusion of the investigation, the Human Resources Officer or their designee will communicate the findings and/or resolution to the complainant.

An employee, who is accused of discrimination or harassment, will be notified of the complaint made against them within a reasonable timeframe as determined by the Human Resources Officer. The extent of detail provided to the accused employee will depend on various circumstances in order to protect the integrity of the investigation and the confidentiality of the claimant where necessary or possible. The accused employee may be questioned as part of the investigation prior to disclosure of the details of the complaint. During the investigation, the accused employee will have the opportunity to respond to the allegations contained in the complaint and provide witnesses and/or other evidence in support of their response. The accused employee will receive communication from the Human Resources Officer or their designee regarding the findings and/or resolution of the complaint.

## G. Disciplinary Action

Any employee who engages in discriminatory or harassing behavior, who makes a discrimination or harassment complaint in bad faith or knowingly files a false claim or who retaliates against an employee for making a complaint of discrimination or harassment may be subject to disciplinary action up to and including termination of employment. The type of disciplinary action will vary and correspond to the severity of the offense and could lead to immediate termination of employment.

## SECTION 4: FRATERNIZATION

The City has adopted this policy in recognition of its responsibilities to provide guidelines on and caution employees of the potential problems posed by intimate relationships with other employees. These problems include conflict of interest, interference with productivity of co-workers, and potential charges of sexual harassment. These problems can be particularly serious in situations in which one person has a position of authority over the other, such as a supervisor-subordinate relationship. Management personnel are required to take the necessary steps to resolve any actual or potential conflict of interest or impropriety created by a relationship.

The City does not prohibit consensual relationships between employees, but does prohibit sexual or intimate relationships between a supervisor and subordinate. Supervisor is inclusive of any supervisor in the subordinate's chain of command. If a situation occurs where there is a sexual or intimate relationship between a supervisor and subordinate, the employees may be subject to discipline and one of the affected employees must submit a request to the Human Resources Officer for a transfer. If a transfer cannot be completed within ninety (90) days, one of the affected employees must resign their position and will be placed on the reduction in force (RIF) list. During the ninety (90) day period, employees may be required

to take leave or may be temporarily reassigned. If a voluntary resignation is not received, the City will terminate one of the affected employees using the same criteria and process as described in Rule 15, Section 2, RIF.

#### SECTION 5: RELATIVES

Relatives are not allowed to work for the same immediate supervisor or directly supervise one another. If either of these situations occurs, one of the affected employees must submit a request to the Human Resources Officer for a transfer. Any exceptions for relatives to work for the same supervisor must be approved by the Department Head, the Human Resources Officer and the City Manager however, under no circumstances are relatives allowed to supervise one another. If a transfer cannot be completed within ninety (90) days, one of the affected employees must resign their position and will be placed on the RIF list. During the ninety (90) day period, employees may be required to take leave or may be temporarily reassigned. If a voluntary resignation is not received, the City will terminate one of the affected employees using the same criteria and process as described in Rule 15, Section 2, RIF.

Relatives are defined as follows (related by blood or marriage or as a legal dependent):

- Spouse
- Child
- Parent
- Sister
- Brother
- Grandparent
- Grandchild

#### SECTION 6: WORKPLACE VIOLENCE

The City wants to ensure the work environment is safe and free from violence or threats of violence and therefore it is not tolerated. It is every employee's responsibility to immediately report workplace violence or threats of violence to Human Resources and management. Workplace violence is defined as an act of aggression, physical assault, threatening behavior or verbal abuse that causes physical or emotional harm or any statement that could be perceived as intent to cause harm.

Examples include but are not limited to:

- A. Physical assault – hitting, pushing, shoving, kicking, biting or use of a weapon
- B. Verbal or written threats – any expression or an intent to inflict physical or psychological harm
- C. Threatening behavior – shaking fists, pounding on a desk, punching/kicking objects, screaming or stalking
- D. Property damage, vandalism, theft, arson or sabotage

Workplace violence includes violence and threats of violence by employees, strangers, customers, suppliers and personal relationships. An employee who has restraining orders against individuals must report the restraining order to Human Resources and management as soon as it is obtained, so that appropriate actions can be taken to protect the safety of the employee and other individuals in the workplace. All threats of violence will be taken seriously and investigated accordingly by the Human Resources Officer or their designee. The level of risk will be immediately established to determine whether the threat is critical or life threatening and determine immediate steps, if any, to ensure that safety is maintained. Each case will be assessed individually and responded to accordingly. Management, the Human Resources Officer or the City Manager are empowered to immediately remove an employee from the work environment involving risk of harm. Management personnel who take such action must immediately notify the Human Resources Officer who will in consultation with them make the determination of the next steps.

Facts will be gathered to assess the seriousness and validity of the threat as well as the credibility of the employee making the report. Written statements may be required from the complainant and/or the alleged violator and the investigation may include interviewing employees and other witnesses who may have knowledge of the alleged threat. Upon completion of the investigation, the Human Resources Officer or their designee will notify and/or meet with the complainant and the alleged violator regarding the disposition of the investigation. Violence or threats of violence may be subject to discipline up to and including termination of employment and could result in immediate termination.

The City reserves the right to share investigation results with authorities as needed and appropriate actions for emergency situations may dictate immediate intervention of police or other outside authorities. Violence or threats of violence may violate various federal, state or local laws and may subject the violator to criminal or civil liability for such unlawful conduct.

## SECTION 7: WORKPLACE BULLYING

The City is committed to a workplace free from bullying. Workplace bullying refers to repeated, unreasonable actions of individual(s) directed towards employee(s), which are intended to intimidate, degrade, humiliate, undermine or which create a risk to the health or safety of an employee. Workplace bullying often involves an abuse or misuse of power. Bullying involves repeated attacks against the target which creates an on-going pattern of behavior. Workplace bullying can constitute harassment or discrimination if the target is a member of a protected class and the bullying rises to the actions described in those policies.

Bullying behavior is not always distinct, visible or blatant but may be covert, passive aggressive, trivial criticisms or isolating actions. Any employee who feels they are the target of bullying or anyone who witnesses bullying must immediately report it to management and/or Human Resources. Any management personnel who receive a complaint of bullying must attempt to resolve the issue promptly and must report it to Human Resources. An additional investigation may be conducted as necessary by the Human Resources Officer or their designee. The complainant and the accused employee may be brought together to resolve the issue and will receive communication regarding the findings and/or resolution to the complaint.

## SECTION 8: WEAPONS

In the performance of job duties, while on City property, in City buildings or a City vehicle, employees are not allowed to possess a deadly weapon either concealed or unconcealed. Deadly weapons include, but are not limited to, explosives, firearms, and prohibited weapons as those terms are defined by Arizona Revised Statutes §§ 13-3101A. (1), (3), (4), and (7), but do not include mace and pepper spray. This prohibition applies to all city employees, excluding employees engaged in law enforcement activities. Employees may possess or secure a weapon in a personal vehicle even if that vehicle is on City property. Employees may possess weapons as permitted by state law on City property while off duty.

## SECTION 9: WHISTLEBLOWER PROTECTION

A whistleblower is a person who reports or exposes information that they reasonably believe shows a violation of law, dishonesty, gross mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to public safety or health which can include acts in the past, ongoing or in planning stages. If an employee has knowledge of, or a concern of, behavior or activity as described, they are to immediately report it to the Human Resources Officer or the City Manager. Employees must exercise good and/or reasonable judgment to avoid baseless allegations. As much as reasonably possible, the confidentiality of the whistleblower will be maintained. However, the identity may have to be disclosed to conduct a thorough investigation, to comply with the law and to provide accused individuals their legal rights of defense. The City prohibits retaliation against a whistleblower. Whistleblower protection from retaliation does not include immunity for any personal wrongdoing that is alleged, investigated and founded and may result in disciplinary action for the whistleblower.

## SECTION 10: RETALIATION

Retaliation in any manner including making reprisals, threats of reprisal or implied threats of reprisal against a person for filing a complaint, testifying or participating in any way in an investigation, proceeding or lawsuit or opposing any employment practice not equivalent with the City's policies is not tolerated. Anyone who participates in retaliatory behavior may be subject to disciplinary action up to and including termination of employment. Examples of retaliation include the actual actions or the threatening of actions that include but are not limited to: denial or withholding support for a promotion, change of assignment or pay increase, refusal to hire, disciplinary action, termination, undeserved negative performance evaluation, undeserved negative references, increased observation and making negative comments.

The City will take reasonable steps to protect the victim and other potential victims from further inappropriate behaviors or retaliations as a result of communicating a complaint. Any complainant that feels they are being retaliated against must report the retaliation in writing to the Human Resources Officer and/or the Department Head within thirty (30) days of the adverse personnel action. If the Department Head receives a complaint of retaliation, they must immediately report it to the Human Resources Officer. The Human Resources Officer or their designee will investigate the complaint to determine its merit. If an adverse personnel action was imposed for legitimate reasons, it is not retaliation. The Human Resources Officer or their designee will communicate the result or resolution of the investigation to the affected parties. If retaliation is substantiated, any adverse personnel action will be reversed.

## SECTION 11: PARTICIPATION IN INVESTIGATIONS

The City Manager, Human Resources Officer or Department Head has the discretion to determine whether an investigation is appropriate or necessary and all employees are required to cooperate. Investigations may be recorded. Employees are required and expected to truthfully give all pertinent facts and information on any matter under investigation by the City. Employees have the responsibility to bring to the attention of the investigator any evidence, witness information or other pertinent information they believe is relevant. Failure to cooperate or impeding an investigation may subject an employee to disciplinary action up to and including termination of employment. In addition, employees are prohibited from harassing, intimidating, coercing or threatening an employee who has made a complaint or participated in an investigation; doing so, may subject that employee to disciplinary action up to and including termination of employment.

Whenever necessary, at the City's discretion, work areas may be subject to search with or without notice. Employees have no reasonable expectation of privacy with respect to City work areas or City equipment. Confidentiality in any investigation is vital to receiving un-influenced and independent information to maintain integrity and objectivity; therefore, those involved in an investigation should not communicate concerning the proceedings in any way that could be detrimental to the investigation. Participants in investigations should not share or discuss any information that was inquired about or discussed or any portion of the ongoing investigation if doing so would or could hinder the outcome or purpose of the investigation.

## SECTION 12: POLITICAL ACTIVITY (*In reference to Arizona Revised Statute §41-752*)

City employees are not permitted to:

- A. Use any political endorsement in connection with an appointment to a position in City service.
- B. Use or promise to use any official authority or influence for the purpose of influencing the vote or political action of any person or for any consideration.
- C. Be a member of any national, state or local committee of a political party, an officer or chairman of a committee of a partisan political club, or a candidate for nomination or election to any paid political office.
- D. Hold any paid elective public office.
- E. Take any part in the management or affairs of any political party or in the management of any partisan or non-partisan campaign or recall effort.

City employees are not permitted to engage in the following while on duty, while in uniform or at public expense:

- A. Attend meetings for the purpose of becoming informed concerning the candidates for public office and the political issues (except employees may attend city council meetings in uniform and while on duty with their supervisor's approval).
- B. Cast their vote and sign nomination and recall petitions (except employees may vote in uniform if voting at the beginning or end of their shift).
- C. Make contributions to candidates, political parties or campaign committees contributing to candidates or advocating the election or defeat of candidates.
- D. Circulate candidate nomination petitions or recall petitions.
- E. Engage in activities to advocate election or defeat of a candidate.
- F. Solicit or encourage contributions to be made directly to candidates or campaign committee contributing to candidates or advocating the election or defeat of candidates.

Nothing contained in this section should be construed as denying any employee of their civil or political liberties as guaranteed by the US or state constitutions.

### SECTION 13: CONFLICTS

#### A. Secondary Employment

Secondary employment will not be permitted if likely to prevent the employee from safely and fully performing the work they are employed with the City to perform. This includes physically or mentally hampering them in their ability to do the job required of them, if it is likely to reflect discredit on the City or the employee, or if it violates provisions of law or is in conflict with the FLSA. Employees may accept limited secondary employment or other business opportunities such as teaching and consulting with the understanding that such employment must not interfere with or be a conflict of interest to the employee's responsibilities with the City.

Full time employees must submit in writing their request for secondary employment prior to engaging in such employment to the Department Head for approval. Secondary employment that does not apply to this requirement are activities such as teaching, consulting or acting as an independent distributor. Part time employees do not have to submit a written request in advance for secondary employment unless their participation in such would affect the employee from safely and fully performing their job with the City. Should a part time employee's participation in another job have the likelihood of any of the above effects, they must submit in writing their request for secondary employment to the Department Head for approval. All approved requests for secondary employment by the Department Head must be sent to Human Resources to be maintained in the employees personnel file.

All employees may be required to work beyond their normally scheduled hours. Employees must perform this work when requested. In cases of conflict with any secondary job or activity, the full time employee's obligations to the City must be given priority. Full time employees are hired, and continue employment, with the understanding that the City is their primary employer.

Employees are not allowed to engage in activities related to a secondary employment that interferes with the employee's job responsibilities with the City or negatively affects workplace safety. Employees are not allowed to work secondary employment while out on a medical leave of absence with the City unless the medical restrictions do not apply to the secondary employment.

Part time employees are not allowed to work two part time jobs with the City unless requested by the Department Head and expressly approved by the Human Resources Officer and the City Manager to ensure compliance with the Personnel Rules and Regulations, FLSA and benefits.

## B. Conflict of Interest

A conflict of interest is a situation that has the potential to undermine the impartiality of a person because of the possibility of a clash between the person's self-interest and professional interest or public interest. Employees are expected to devote their best efforts to the interests of the City and any business dealings that create or appear to create a conflict between interests of the City and an employee are unacceptable. The City maintains compliance in accordance with Arizona Revised Statute §38-503 on Conflict of Interest.

If an employee plans to become involved in business dealings that would create or appear to create a conflict of interest, they must notify the Chief Procurement Officer and the Human Resources Officer in writing prior to engaging in those activities. A potential, actual or perception of a conflict of interest occurs whenever an employee is in a position to influence a decision that may result in a personal gain for the employee or a family member as a result of the City's business dealings. Any employee who has, or obtains any benefit from any city contract with a business in which the employee has a financial interest must report such benefit to the Chief Procurement Officer immediately. Additional information, policy and procedures related to conflict of interest are outlined in the City's Procurement Code.

## C. Acceptance of Gifts

Employees are not allowed to solicit gifts, lavish entertainment or other benefits from potential and actual customers, suppliers or competitors nor are employees allowed to accept gifts of significant value, lavish entertainment or other benefits from potential and actual customers, suppliers or competitors. A "gift" includes gratuity, favor, discount, entertainment, hospitality, loan, or any other item having monetary value. Special care must be taken to avoid even the impression of a conflict of interest. An employee may entertain potential or actual customers if such entertainment is consistent with accepted business practices, does not violate any law or generally accepted ethical standards and the public disclosure would not embarrass or harm the City.

## D. Volunteer Services

Non-exempt employees are not allowed to volunteer for the City when the volunteer hours involve the "same type of services" (as defined by FLSA) for which the individual is currently employed to perform.

## SECTION 14: CRIMINAL CONVICTIONS

All arrests must be reported to the City. All criminal convictions must be reported to the City (whether it's a misdemeanor or felony). Employees must report arrests or convictions to the Department Head and the Human Resources Officer within five (5) business days or at the first possible opportunity if the employee is incarcerated. For convictions, the employee must submit all supporting court documentation to the Human Resources Officer. Arrests or convictions of a criminal offense that occurs while on the job or while employed by the City that would affect the employee's suitability for continued employment or failure to notify may result in disciplinary action up to and including immediate termination of employment.

## SECTION 15: FRAUD AND ABUSE

This applies to fraud or suspected fraud involving any employee, as well as vendors, consultants, contractors, funding sources, and/or any other parties with a business relationship with the City. Fraud is defined as the intentional false representation or concealment of material fact(s) for the purpose of inducing another to act upon it to their injury.

Employees in management positions are responsible for the detection and prevention of fraud, misappropriations, and other irregularities and should be familiar with the types of improprieties that might occur within their area of responsibility. Every employee has the right and responsibility to report suspected

fraud, misappropriation or other irregularities. Employees can report suspected fraud and abuse to Human Resources, management personnel or the City Manager.

City resources are to be used for lawful municipal purposes and use of resources must not be abused. Employees must act responsibly in the care and use of City resources, must not negligently or intentionally abuse, damage, lose, misappropriate, misuse, steal or waste City resources. The City has the right with or without notice to enter and inspect all property and any employee work area including but not limited to desks, filing cabinets, telephones and computers.

#### SECTION 16: DRESS AND APPEARANCE

All employees are expected to appear in a manner that will reflect favorably upon themselves as well as the City. Employees are expected to be appropriately dressed and groomed to project an image of credibility and competence while at work or when representing the City in their position whether during regular work hours or off work hours. It is essential that each employee dress in a safe manner appropriate to their job duties and work environment. Departments may establish specific dress code standards for safety reasons, the work environment or other department needs. Some departments will require a specific uniform. The standard dress for employees not required to wear a uniform is business casual or business professional. For those not required to wear a uniform, casual attire is accepted on Friday unless business scheduled for the day warrants more professional wear. Although the attire or dress will vary based on position and/or department, all employees are expected to practice good hygiene and grooming habits that project neatness and cleanliness.

It is the responsibility of management personnel to ensure that employees are appropriately dressed and groomed. If a supervisor feels the attire and/or personal grooming of their employee is inappropriate, the employee may be asked to leave the workplace until properly dressed and/or groomed. Time away from work if sent home due to being improperly dressed or groomed is not paid time; vacation or compensatory time may be used.

#### SECTION 17: SOCIAL MEDIA

This policy provides guidance for employee use of social media, which should be broadly understood for purposes of this policy to include blogs, wikis, microblogs, message boards, chat rooms, electronic newsletters, online forums, social networking sites, and other sites and services that permit users to share information with others in a real-time manner.

Employees may not publish, post or release confidential, non-public, proprietary, protected health, legal, operational, financial or personal information about the City, its customers or employees on social media. Questions concerning prohibited release of information, employees should check with the Public Information Officer or the Human Resources Officer.

Employees should be aware of how their actions may reflect on their image, as well as the City's image and should adhere to the Code of Conduct and other City policies when using social media. Employees should use their best judgment in posting material and refrain from posting information that may be harmful or damaging to the reputation of the City, its employees, or customers. Employees should avoid the appearance that they are speaking on behalf of the City when posting on social media. Employees should be aware that the City may observe content and information made available by employees through social media.

Subject to applicable law, inappropriate conduct on social media, including work and non work hours that could be detrimental to the City may result in disciplinary action up to and including termination of employment. Examples of inappropriate conduct on social media includes but is not limited to posting commentary, content, or images that are defamatory, pornographic, proprietary, harassing, libelous, or that can create a hostile work environment.

## SECTION 18: ELECTRONIC DEVICES AT WORK

The City's computer and phone systems are to be used for business purposes. The use of City devices for non-City related activity must not interfere with the employee's responsibilities at the City or negatively affect the employee's job performance. The use of personal devices on work time must not interfere with the employee's responsibilities at the City or negatively affect the employee's job performance.

## SECTION 19: MOTOR VEHICLE USAGE

Employees may use City vehicles or personal vehicles to conduct authorized City business; however, the City provides vehicles for employees to use while conducting City business. The police and fire departments will follow department policy in regards to take home vehicles. Employees must have a valid driver's license when operating City vehicles or when operating a personal vehicle for City business.

When operating a City vehicle, employees must adhere to safe driving practices and abide by all traffic laws. Vehicles must be operated in a safe and responsible manner appropriate to road, traffic and weather conditions. Employees operating City vehicles or equipment are not to use a cell phone or other electronic device (inclusive of talking, texting, social media, email messaging, etc.) while driving a City vehicle unless it is a hands free device (exception: police and fire when using mobile data computers and radios). If an employee does not have a hands free device, they must pull over to a safe place to use electronic devices. Employees must report all accidents in a City vehicle to their supervisor immediately or as soon as practical. Procedures for accidents are defined in the Vehicle Accident Review Board (VARB) Administrative Directive and some accidents may require drug and alcohol testing as defined in Rule 7, Drug and Alcohol, Section 5, C.

The City has the right to search any City vehicle at any time with or without notice; employees have no reasonable expectation of privacy. A motor vehicle check will be conducted periodically on all employees. Departments may have their own guidelines and policies regarding motor vehicle use as long as they do not conflict with this policy.

An employee who is required to drive for the City on a regular, intermittent or occasional basis whose driver's license is restricted, suspended or revoked or receives notice of such, will not be allowed to drive City vehicles and must immediately notify their supervisor and Human Resources. The supervisor is responsible to remove the employee from any driving responsibility and immediately report it to the Human Resources Officer for consultation. Employees whose driver's license is suspended or revoked and are required to drive for the City, may be temporarily or permanently re-assigned and/or may be subject to disciplinary action up to and including termination of employment.

## SECTION 20: CONSTRUCTIVE DISCHARGE

Employees are encouraged to communicate to the City whenever they believe working conditions may become intolerable and may cause them to resign. Under state law, an employee may be required to notify the City in writing that a working condition exists that the employee believes is intolerable, that will compel the employee to resign or that constitutes a constructive discharge if the employee wants to preserve the right to bring a claim against the City alleging that the working condition forced the employee to resign.

Under the law, an employee may be required to wait for fifteen (15) calendar days after providing written notice while waiting for the City to respond before the employee may resign. An employee may be entitled to paid or unpaid leave of absence of up to fifteen (15) calendar days while waiting for the City to respond about the employee's working condition.

### **RULE 3: RECRUITMENT, SELECTION AND HIRING OF EMPLOYEES**

#### SECTION 1: PRINCIPLES AND DEFINITION

An “applicant” means any candidate who has applied for a City position whether they are an external candidate or a current employee.

Applicants will be reviewed, evaluated and hired based on their qualifications and capability to perform the job at the level of quality expected by the City. Applicants are hired, promoted or transferred under impartial procedures and all steps of the process are subject to the City’s Equal Employment Opportunity policy and hiring policies.

The City Manager is responsible for ensuring all departments are staffed at the level necessary to accomplish required tasks and services; therefore, the City Manager may create additional positions or delay filling existing positions based on the specific needs of the City.

#### SECTION 2: ELGIBILITY FOR EMPLOYMENT

The City holds specific requirements for eligibility of employment as determined necessary by the City or by applicable laws:

##### A. Legal Authorization to Work

All applicants for City employment must present evidence of United States citizenship or registration as a legal permanent resident in accordance with the Immigration Reform and Control Act of 1986. All law enforcement applicants must be United States citizens. Failure to supply documentation of legal authorization to work in the United States will result in termination of employment.

##### B. Age

Maximum age limits will not be established for City employment. The minimum age for City employment is sixteen (16) but may vary by position and in compliance with applicable laws. Some positions may require an applicant’s age to be older than the designated minimum age.

##### C. Oath

Every City employee will take the loyalty oath or affirmation as prescribed by state law. Subscribing to the oath of office is a condition of employment.

##### D. Disability

1. A “qualified individual with a disability” means a person with a disability who with or without reasonable accommodation can perform the essential functions of the position that the individual holds or desires. All applicants must be of sufficient mental and physical condition to be able to meet the essential functions of the position for which they have applied. Reasonable accommodations for a qualified individual with a disability will be provided unless such accommodation would impose an undue hardship or cause a significant risk to workplace safety. The physical and mental qualifications of persons entering City employment may be evaluated by physicians approved by the City.
2. Applicants must request accommodation and inform the Human Resources Department of the need for an adjustment to the application or examinations due to the disability as detailed in the examination procedures. It is also the responsibility of the applicant who has received a conditional offer of employment to notify the City of any reasonable accommodation necessary to perform the essential functions of the position.

## E. Residency

Employees in the following positions: City Manager, Assistant City Manager and Department Heads are highly encouraged to reside within fifteen (15) miles of the corporate city limits in order to remain sensitive to the needs of the City but they must reside within thirty (30) miles of the corporate city limits within one (1) year of their hire date in the position. Employees who take home a city vehicle to meet departmental response requirements must reside within fifteen (15) miles of the corporate city limits.

Sworn police officers who live beyond fifteen (15) miles of the corporate city limits will not be allowed to take home a city vehicle. Sworn police officers who reside within fifteen (15) miles of the corporate city limits will be required to take a city vehicle home to meet department response requirements, unless otherwise approved by the Chief of Police.

## SECTION 3: BACKGROUND INVESTIGATIONS

### A. General

In an attempt to avoid workplace theft, violence, fraud, and other criminal or moral infractions and to promote public safety, it is in the best interest of the City, its employees, and the general public that all applicants are subjected to a background investigation. The City reserves the right to conduct background investigations determined to be appropriate by the Human Resources Officer in accordance with all applicable laws. The extent or level of background investigation may vary depending on the type of position. Applicants selected for employment must cooperate in all background investigations that may include but are not limited to: criminal records including fingerprints, drug testing, financial/credit records, driving records, education, employment history, references, military service (DD214), drug and alcohol testing information from previous employer(s) as required by the Department of Transportation (49 CFR Part 40.25), or medical exams.

City employees may be subject to submit to a background investigation as a result of a transfer. All applicants who have been given a conditional offer of employment must consent to a background investigation. Failure to consent to all required portions of a background investigation will disqualify the applicant from further consideration. Applicants for positions within the police department will be required to submit to a background investigation as part of the application process and prior to a conditional offer for employment or transfer.

### B. Background Review

Information obtained during the background investigation is solely for the purpose of verifying the information provided by the applicant and determining whether the information obtained meets the City's standards for employment. The information gathered during a background investigation will not be shared or given to individuals who do not have a right or need to know such information. In certain positions and circumstances, the Human Resources Officer may allow the applicant to begin employment prior to completion of their background investigation.

If after a conditional offer of employment is made a discrepancy in information is identified or the investigation reveals unfavorable information, the applicant will be notified of the adverse findings and given an opportunity to clarify, explain and/or provide documentation which contradicts the findings. The applicant must explain and/or turn in any documents within a reasonable timeframe as determined by the Human Resources Officer. Documents may be verified for authenticity.

#### 1. Criminal History

The Human Resources Officer or their designee, in accordance with all applicable laws will examine criminal history information. Not all criminal convictions or other unfavorable information obtained during the background investigation will disqualify an applicant from eligibility for employment. Factors that will be considered for those applicants with a criminal history includes but not limited to: the nature

and seriousness of the crime and its relationship to the position, the time elapsed since the conviction, the number of convictions, extent and effects of rehabilitation including conduct and accomplishments since conviction. The factors will be reviewed and determined by the Human Resources Officer or their designee to determine whether hiring, transferring, or promoting the applicant would pose an unreasonable risk to the City.

### C. Background Determination

The Human Resources Officer reserves the right to make the decision whether the external applicant will be denied employment or whether the employee will be disqualified from the position. For police department applicants with access to law enforcement sensitive information, this decision will be made between the Human Resources Officer and the Chief of Police. The applicant will be notified by Human Resources of their disposition. If the applicant started employment prior to completion of the background and discrepancies or unfavorable information is identified, the employee will be subject to termination of employment. If a response to the background determination is received from the applicant, the Human Resources Officer will review further and render a determination. If no response is received from the applicant, the Human Resources Department will notify the applicant of the decision to deny the applicant for the position. Any adverse action related to credit history will be in accordance with the requirements and rights under the Fair Credit Reporting Act (FCRA).

Should information found during the background investigation on a current employee disqualify them from the position to which they are applying, it may also result in disciplinary action up to and including termination of employment in their current position. The background information on a current employee will be reviewed by the Human Resources Officer and Department Head. In the case of disciplinary action, the Department Head will consult with the Human Resources Officer before disciplinary action is given to the employee. In the case of unpaid suspension or termination, a recommendation will be made to the City Manager for determination dependent upon the relationship to their current job, whether it would pose an unreasonable risk, or whether the employee reported the information to Human Resources as required.

## SECTION 4: HIRING REQUIREMENTS

### A. Applicants and Job Postings

All vacancies for positions in the classified and non-classified service will be announced on the City's website. The job posting will include the title, salary, the nature of the work to be performed, desired or required education and/or experience and other pertinent information. In order to be considered for a position, the applicant must meet the minimum qualifications of the job. If in the best interest of the City, some jobs may be posted for internal opportunity only.

All applications must be submitted online through the City's website and a competitive process ensues. The application must be completed in its entirety. The Human Resources Department will use the information provided on the supplemental questions to determine if they are eligible to take any potential examinations or to pass applicants through to subject matter expert (SME) review. The SME is responsible to confirm applicants meet minimum qualifications and determine whether applicants proceed to the next step in the process; the next step may vary depending upon the position.

For each job opening, applicants who have passed all requirements will remain on file for six (6) months from the day the position is filled and the recruitment may be used as a source for hiring the same position. Public Safety positions that require extensive backgrounds may have an eligibility list created, built of applicants who have passed all requirements for the position, that may be used for up to one (1) year from the day the position is filled. Under no circumstances is the City required to hire from the eligibility list nor do applicants placed on the list have to be hired in any order.

## B. Examinations

All applicants may be subject to competitive examination as required by the job. Examinations will be confined to subjects that test the candidate's ability for the position, are job related, practical and impartial. The examinations used may include, but are not limited to, written or oral evaluations, physical/mental fitness, and/or training/experience evaluations. In addition, evaluation of past work performance, work samples, interviews and polygraph examinations may be used in the selection process. Types of examinations, where and by whom they are conducted must be approved by the Human Resources Officer. An applicant may review their examination results by request to the Human Resources Department.

Alternate job-related examinations will be used where possible, where cost effective and appropriate to accommodate disabled applicants. Applicants with a disability may request reasonable accommodation that may include but are not limited to: written materials in accessible formats such as large print, braille or audiotape, readers or sign language interpreters, ensuring interviews, tests and other components of the application process are held in accessible locations, modifying equipment or devices or adjusting the application policies or procedures. Applicants who need accommodation must inform the Human Resources Department as soon as possible to allow the City to acquire or arrange an accommodation.

Veterans and veteran's spouses under certain conditions are afforded preference points on examinations and the City will provide these in accordance with all applicable laws.

## C. Requirements Specific to Internal Transfers

A competitive process must ensue for any position where multiple eligible employees have applied or requested to transfer which will include some form of examination(s). Should an employee not meet the minimum requirements of the job, the employee is considered ineligible for the position. In situations where only one employee applies and is the only one eligible, the employee may not have to go through a competitive process; the determination will be made by the Human Resources Officer in consultation with department management. Meeting minimum qualifications of the job does not automatically guarantee an employee will be selected to participate in the competitive process.

The City reserves the exclusive right to approve or deny a request for a voluntary transfer or demotion, depending on available positions, qualifications, department workload, employee skill level, and the City's need to hire and retain the most qualified applicants. The City reserves the right to open an opportunity for both internal and external recruitment regardless of internal requests for demotion or transfer.

An employee, who has received a disciplinary action within the past year, an unsatisfactory performance review on the last performance evaluation or is currently on a performance improvement plan, may not be eligible for transfer or promotion. The decision to consider an employee that falls under these provisions may be granted upon request by the Department Head in consultation with the Human Resources Officer and approval by the City Manager.

Upon notice to the Human Resources Officer, an employee may be transferred by the City Manager at any time from one position to another in the same or equivalent classification.

## D. Selection

### 1. Notification to Applicants and Offers

Any applicant not selected to continue in the process at any stage will be notified by the Human Resources Department or their designee. Final decisions regarding hiring of applicants are made by the City Manager. Applicants will be notified of employment or transfer offers by the Human Resources Department. Offers are subject and contingent upon a successful background

investigation. Pay rate for the offer is determined in accordance with the Personnel Rules and Regulations and the City's compensation plans.

## 2. Requirements

Applicants must provide documentation to Human Resources of all required education, licenses, certifications or other requirements as indicated in the job description prior to or upon hire or transfer. Failure to provide required documentation will result in disqualification or termination from the position.

All employees will be required to in-process through the Human Resources Department on their first day prior to reporting to the department for work. All employees will be required to complete the necessary tasks or requirements during this process. The City has probationary periods associated with new hires and with current employees who transfer into a different position. See Rule 5, Probation.

## SECTION 5: DISQUALIFICATION

Disqualification of applicants from a position includes but is not limited to the following:

- A. Does not meet the minimum qualifications for the position.
- B. Is under the legal minimum age for employment in the position applied for.
- C. Submitted an incomplete application.
- D. Failed to provide documentation of required education, certification or licensure as indicated on the job description.
- E. Has falsified, omitted, misrepresented or provided misleading information on an application or resume.
- F. Is unable to perform the essential functions of the position, with or without reasonable accommodations.
- G. Has been convicted of a crime that renders the applicant unqualified for the position to which they have applied.
- H. Fails a drug or alcohol test.
- I. Failed background investigation.
- J. Failed any job required examination.

Any applicant found to have falsified their application or failed a non-police background investigation will be deemed not eligible for future employment. If an applicant fails a police background, whether they will be eligible for other positions in the City or deemed not eligible for future employment will be dependent upon the specific failure within the background. If any employee is found to falsify their application or fail background investigation, they will be disqualified for the position and may be subject to disciplinary action up to and including termination of employment.

## SECTION 6: INTERIM POSITION

An interim position is defined as a vacancy that occurs where an employee is appointed to serve in a position temporarily to carry out the duties of the vacant position. When a need arises to place an employee in an interim position, the Department Head must consult with the Human Resources Officer and receive approval from the City Manager.

The end date of the interim position must not exceed six (6) months from the date the interim position goes into effect. A reasonable extension to the designated timeframe may be requested from the Department Head in consultation with the Human Resources Officer with written justification as to why the extension is needed and is subject to approval by the City Manager. The City Manager may remove an employee from an interim position at any time. The interim employee will return to their previously held regular position once the interim period is over unless through the hiring process is selected for the position.

## **RULE 4: CLASSIFICATION AND COMPENSATION**

### **SECTION 1: GENERAL**

The Human Resources Officer will be responsible for the preparation, maintenance and administration of the full time and part time compensation plans. This includes making recommendations to the City Manager regarding the basic philosophy and objectives to remain market competitive, ensure compliance with all relevant laws and regulations and as duties, responsibilities and employment conditions change. Each pay grade within the full time compensation plan will be assigned to a pay plan or structure that will have a pay range, including a minimum and maximum pay rate for an employee to progress through the range. The full time classification plan will be developed and maintained, so that all positions substantially similar with respect to duties, responsibilities, authority and character of work are included within the same pay grade. The part time compensation plan will encompass all part time jobs and their applicable hourly rate of pay. Human Resources is responsible to conduct salary surveys and/or review published salary survey data to recommend salary increases in budgets, structure adjustments and coordinating the implementation and review of both the full time and part time compensation plans.

The positions and pay structures for the compensation plans will be reviewed periodically and revised to reflect economic or market conditions, compensation objectives, the City's needs and financial condition and other relevant factors. The review will determine whether full time positions are properly classified and whether the part time hourly rates are properly determined; all will be subject to budgetary guidelines. Department Heads may submit a request in writing for the reclassification of a full time position or a pay rate change to a part time position to Human Resources to be evaluated during the next review.

The compensation philosophy is to establish and administer an equitable program that provides consistent treatment for all employees. Position responsibility and market information are key considerations in determining pay. The purpose of the City's compensation program is to attract, retain, develop, and motivate employees by offering pay opportunities appropriate with their position's internal and external value. The goal of the compensation program is to be understandable to employees, fiscally sound and cost effective as well as easily administered and maintained.

The plans must be flexible enough to ensure the City is able to recruit and retain highly qualified employees while providing the structure necessary to effectively manage and provide equitability in the workforce. The plans will be objective and non-discriminatory in theory, application and practice.

### **SECTION 2: JOB DESCRIPTIONS**

Each position will have a written job description. The Human Resources Department is responsible for maintaining all job descriptions. Management personnel are responsible to ensure that job descriptions in their respective areas of responsibility are accurate and current. Management must review job descriptions prior to opening a position for recruitment and should review them on a periodic basis.

The job description must include title, nature of position, essential functions, tasks and responsibilities, required knowledge, skills and abilities, required and/or desirable experience, training, licensure or certifications and any other pertinent information to the job. Positions will be identified as either exempt or non-exempt in accordance with the Fair Labor Standards Act (FLSA); thus, employees will be paid in accordance with the position's FLSA status.

The job description is intended to describe the major functions of a position and not intended to provide a complete listing of all possible tasks and responsibilities. It should provide a general picture of the essential characteristics of the job with sufficient description to properly identify the job to a pay plan and grade.

### SECTION 3: ESTABLISHMENT OF NEW POSITIONS

Whenever a new position is proposed, the Department Head will forward to the Human Resources Officer a job description and any applicable information on job evaluation tools for pay grade placement of a full-time position or an hourly rate determination of a part-time position. After a study of the job duties, responsibilities and qualification requirements, the Human Resources Officer will make recommendations to the City Manager.

### SECTION 4: ELIMINATION OF POSITIONS

Positions not established by state law, when necessary, may be eliminated from City service by recommendation of the City Manager and approval by Mayor and City Council. Elimination of positions will follow the procedure as outlined in Rule 15, Section 2, Reduction in Force (RIF).

### SECTION 5: APPLICATION OF RATES

Employees will not be placed at a pay rate lower than the federal or state minimum wage. Full-time employees will not be placed at a pay rate below the minimum or above the maximum pay rate of their pay grade.

Full-time employees under the classified compensation plan will be paid in accordance with their position's pay grade. New full-time employees will start at the minimum pay rate in the appropriate grade unless it is determined that qualified applicants are not available at the minimum pay, that an applicant has qualifications or relevant experience that significantly exceeds the minimum qualifications that justify a higher starting pay or if the posted job has been vacant and unfillable for a substantial period of time and deemed hard to fill. All of the following must be met before consideration will be made to place an employee at a higher salary than entry but under no circumstances will an applicant be hired above mid-range of the grade:

1. Position must be designated as hard to fill based on a difficulty to fill and a shortage of qualified persons and,
2. Before hiring an individual above the minimum, there must be no other acceptable applicants that meet the minimum qualifications and,
3. For an individual to be considered highly qualified, the position they are being considered for must require a degree and must be specialized or require specific credentials or certifications.

The adjustment of pay from the minimum must not exceed the pay of those with similar experience, education or other factors that determine pay. The majority of positions are not eligible for adjustment above the minimum rate of the pay grade as designated by the classification and compensation plan. The Department Head may make a recommendation in writing with justification to the Human Resources Officer requesting a pay adjustment above the minimum subject to approval by the City Manager.

Part-time employees will be paid in accordance with the hourly rate on the part time compensation plan.

### SECTION 6: ADJUSTMENTS TO PAY FOR FULL TIME EMPLOYEES

The amount allocated for full-time employee pay increases covering classified positions will be determined based on the City's fiscal constraints and will be determined during the budget process subject to City Council approval; therefore, annual pay increases may be withheld or postponed. The effective date of increases will be established by a City Council approved action. A portion of any approved pay increase may be subject to a satisfactory performance evaluation. Some full-time employees may not get an approved annual increase based on hire date or entry date into a different position.

#### A. Employees at the Maximum

If a full-time employees pay is at the maximum or exceeds the maximum of their grade, they will not receive any pay increases until such time as the maximum pay of the grade increases to include the employee's rate of pay. If the amount of increase approved by City Council will place the employee over the maximum of the grade, the employee will only receive an increase up to the maximum of the grade.

#### B. Promotion

A promotion occurs when a full-time employee moves to a position that is in a higher grade than their current position. A full-time employee will receive a pay rate at least six percent (6%) higher than they were receiving not to exceed the maximum pay for the new position. Should the increase not place the employee at the minimum of the new grade, they will be placed at the minimum pay of the new grade.

#### C. Reclassification

There are two types of reclassification:

1. The movement of a position from one pay grade to another. The position could be moved to a higher or lower grade dependent upon market value.
  - a. When a full-time employee's position stays the same but is moved to a higher grade within the same pay plan structure, their pay will be increased by the appropriate amount, so that their pay in the new grade is at the same level (or step) the employee falls in their current grade. (i.e. Streets Technician at grade 206 moves to grade 207)
  - b. When a full-time employee's position is reclassified to a different position but is moved to a higher grade, their pay will be placed at the minimum pay in the new grade or will stay the same, whichever is greater. (i.e. Recreation Coordinator is reclassified to a Recreation Supervisor)
  - c. When a full-time employee's position is reclassified to a lower grade, their pay will not be decreased even if their pay is at or above the maximum of the new grade. Full-time employees whose pay is at or above the maximum of the new grade will be frozen and the employee will not receive further pay increases until such time as the maximum pay of the grade increases to include the employee's rate of pay.
2. The movement of a full-time employee in the same position to a higher pay grade due to the position having another level with additional or higher qualifications. (i.e. Streets Technician I at grade 206 to Streets Technician II at grade 208)
  - a. When a full-time employee is reclassified in the same position to a higher grade, their pay will be increased by the appropriate amount, so that their pay in the new grade is at the same level (or step) the employee falls in their current grade.

#### D. Lateral Transfer

A lateral transfer occurs when a full-time employee moves to a position that is in the same grade as their current position. When the employee is transferred from one position to another within the same grade, their pay will remain the same.

#### E. Demotion

A demotion occurs when a full-time employee moves to a position that is in a lower grade than their current position. A demotion can be voluntary or involuntary. Voluntary is defined as the employee's choice or request to move from their current position to a lower one and involuntary is when the City assigns the employee to a lower position which may include disciplinary reasons. In the case of any

demotion, voluntary or involuntary, the full-time employees pay will be reduced by the percentage difference between the minimum pay of the two grades.

Should the decrease as defined above place the employee above the maximum or below the minimum of the new grade, they will be placed at the maximum or minimum rate of the new grade respectively.

A promoted full-time employee who is voluntarily or involuntarily demoted during the conditional probation period will be demoted to the rate of pay held at the time of the promotion. If the demoted employee would have received a City wide approved pay adjustment during the time in which they were serving in the promotional position, they will be eligible to receive the adjustment effective upon returning to the previous position.

#### F. Red Circling

Red circling is when a full-time employee's pay is frozen and not eligible for pay adjustments. Red circling occurs when the employee's pay for the position in their current grade is higher than the recommended pay based on their experience or time in position. Full-time employees who are red circled will not receive any pay increases until the maximum pay of the grade increases to include the employees rate of pay or their time in position catches up with their pay. The use of red circling will be evaluated on an annual basis based on the current status of the compensation plan and may be implemented with approval of the City Manager.

### SECTION 7: ADJUSTMENTS TO PAY FOR TRANSITIONS BETWEEN PART TIME AND FULL TIME

#### A. Part Time to Full Time

If a part-time employee is selected to move to a full time position, they will move from the part time compensation plan to the full time classification and compensation plan as follows:

1. A part-time employee who moves to full time in the same position (i.e. part-time Streets Worker to full-time Streets Worker), will receive the minimum pay of the grade of the full time position or retain their current pay, whichever is higher.
2. A part-time employee who moves to full time in a different position (i.e., part-time Custodian to full-time Streets Worker), will receive the minimum pay of the grade of the full time position.

#### B. Full Time to Part Time

If a full-time employee moves to a part time position, they will move from the full time classification and compensation plan to the part time compensation plan and will be placed at the pay rate that is designated for the part time position.

### SECTION 8: ADDITIONAL PAY (ADD PAY)

Only full-time employees are eligible to receive add pays. Add pays are pay and incentives in addition to an employee's base wage rate. Add pays will be a flat dollar amount to ensure equity amongst employees in positions that may receive them. Add pays do not change with pay adjustments. Authorized add pays, the amount associated with them and procedural details are determined by Administrative Directive. Add pays are subject to change which include the addition, removal, increase or decrease of the add pay amount at any time per recommendation by the Department Head in consultation with the Human Resources Officer and subsequent approval by the City Manager. Types of add pays may include but are not limited to certifications or hazard duty pays.

## SECTION 9: INTERIM POSITION PAY

Employees who are in non-management classified positions who are placed in an interim management position will receive a five percent (5%) increase to their base wage rate while serving in an interim position. The five percent (5%) is based on the base wage rate at the time the employee enters the interim position. If the five percent (5%) does not place the employee's pay to the minimum of the interim position's pay grade, they will be placed at the minimum pay. The employee must be assigned to the interim position for longer than two (2) consecutive pay periods in order to receive the additional compensation and will receive the additional compensation beginning with the first day of the interim position assignment.

Pay for serving in an interim position will not be increased above the original designation regardless of annual increases. The interim pay will be removed as of the date the employee is no longer serving in the interim position. Interim positions cannot exceed six (6) months and this must be documented on the interim pay Personnel Action Form (PAF). If the employee would have received a Citywide approved pay adjustment during the time in which they were serving in the interim position, they will be eligible to receive the adjustment effective upon returning to the previous position.

## SECTION 10: PAYROLL

Employees will be compensated on a bi-weekly schedule. The designated work week for all employees will be seven (7) consecutive days commencing at 12:00 a.m. on Monday and ending the following Sunday at 11:59 p.m.

It's the City's policy and practice to accurately compensate employees and to do so in compliance with all applicable laws. The City will deduct from each employee's paycheck those amounts required by law plus any authorized deductions. If an employee believes that an improper deduction has been made, they must immediately report it in writing to the Human Resources Department. Reports of improper deductions will be promptly investigated. If it is determined that an improper deduction has occurred, the employee will be reimbursed on the pay period following the determination.

In the unlikely event that there is an overpayment of pay, the employee should promptly bring it to the attention of Human Resources so that corrections can be made as quickly as possible. No employee is entitled to retain any pay in excess of the amount he or she has earned. If a wage overpayment occurs, the overpayment will be regarded as an advance of future wages payable and will be deducted in whole or in part from the next available paycheck(s) until the overpaid amount has been fully repaid.

The City will pay an employee all wages due that are not in dispute, but may withhold a disputed amount, including the amount of any counterclaim or any claim of debt, reimbursement and recoupment or set-off. Any money owed to the City upon separation of employment will be taken in full on the last paycheck. If the last paycheck is insufficient to cover the balanced owed, the employee must reimburse the balance to the City.

## SECTION 11: ADVANCE PAY

Under no circumstances will an employee be entitled to advance pay for hours not yet worked. An employee may request advance receipt of their paycheck for a pay period that includes hours already worked with approval from the Human Resources Officer.

## SECTION 12: OVERTIME AND COMPENSATORY TIME

Positions are either classified as exempt or non-exempt in accordance with the FLSA; thus, employees are paid in accordance with the FLSA status of their position.

### A. Overtime

Only non-exempt employees are eligible for overtime. If an employee works more than forty (40) hours in a work week (excluding firefighters), they are entitled to overtime for each hour worked over the forty (40) hours. Only hours worked constitute the threshold to compute overtime.

Overtime is compensated at one and one-half (1 ½) times the regular wage rate. Overtime time will be earned in minimum units of one-quarter (1/4) hour. Fractions of time worked less than fifteen (15) minutes is not compensable.

Employees are not allowed to work overtime unless authorized to do so by their supervisor. Failure to receive prior authorization may result in disciplinary action up to and including termination of employment; however, employees will be paid overtime regardless of approval in accordance with FLSA.

Overtime must be allocated as evenly as possible among all employees qualified to perform the work and may be mandatory in certain circumstances. It is the responsibility of management personnel to ensure that overtime is utilized equitably and only when necessary. Overtime must be managed to reduce the overall cost to the City.

The City follows FLSA 207(K) in regards to firefighter overtime; the City has adopted the twenty seven (27) day, two hundred and four (204) hour schedule for firefighters. FLSA premium pay will be paid after the twenty seven (27) day work period at one-half (½) times the regular wage rate. Premium pay will be paid with the pay period following the twenty seven (27) day work period. Hours worked outside their regular schedule each week will be compensated at one and one-half (1 ½) times the regular wage rate.

#### B. Compensatory Time

The law authorizes local governments to provide compensatory time to non-exempt employees in lieu of overtime compensation. As a condition of employment, non-exempt employees agree to accept compensatory time in lieu of monetary cash overtime.

If an employee works hours that are eligible for overtime pay, management has the discretion to determine whether the employee receives overtime pay or whether they will accrue compensatory time. If the determination of management is that the employee cannot be paid overtime, the employee will be entitled to compensatory time at the rate of one and one half (1 ½) times for each hour of overtime worked.

Compensatory time will be earned and taken in minimum units of one-quarter (1/4) hour. The maximum compensatory time an employee is allowed to bank is eighty (80) hours (120 for fire personnel). If an employee exceeds the maximum, they will be paid any excess hours.

An employee who has accrued and requested use of their compensatory time must be permitted to use the time off within a reasonable period after making the request, if such does not unduly disrupt the operations of the City. Unduly disruption as defined by the regulation is: imposing an unreasonable burden on the City's ability to provide services of acceptable quality and quantity for the public during the time requested without the use of the employee's services. Additionally, management can direct and require an employee to use their compensatory time.

If a full-time employee transfers to another full time position, they will carryover any unused compensatory time. Upon separation of employment or if an employee transfers from full time to a part time position, any unused compensatory time will be paid out to the employee.

#### SECTION 13: STAND-BY AND CALL-OUT DUTY

The City has established a policy for stand-by and call-out duty for non-exempt employees who may be called back to work for emergency services during non-scheduled work hours.

## A. Stand-By Duty

### 1. Definition and General

Stand-by duty is a specific period of time during non-scheduled work hours in which an employee remains available to respond to an emergency. Positions must be authorized to be paid stand-by duty. Changes to the list of authorized positions may be recommended by the Department Head in consultation with the Human Resources Officer and approval by the City Manager. Approval will be based on public safety or protection of property. The list of approved positions is defined by Administrative Directive. Non-exempt employees who reside more than fifteen (15) miles outside of the corporate city limits are not eligible to be on stand-by duty unless the employee can respond to and correct the issue from their home via telework.

Stand-by duty must be allocated fairly on a rotational basis. Length of stand-by is determined by the department, not to exceed a pay period. Employees assigned stand-by duty will respond to emergency callback situations in accordance with time parameters established by the department. During stand-by duty the assigned employee will not be restricted in movement or activity. The employee can use the time spent on stand-by duty primarily for their own benefit, provided the employee can respond within the established time parameters. Each department will establish their procedures for stand-by duty.

### 2. Compensation

Stand-by duty compensation will be paid at the rate defined by Administrative Directive. If the employee fails to respond to a call while on stand-by duty, the employee will not be considered to have been on stand-by duty and those hours designated to stand-by will not be compensated. The time spent traveling between home and work if called in while on stand-by duty is considered time worked and compensable. Exempt positions are not eligible for stand-by compensation.

### 3. Requirements for employees assigned to stand-by duty:

- a. Be available by telephone at all times.
- b. Provide a telephone number where they may be reached during stand-by duty.
- c. Respond to call-out location within time parameters established by the department.
- d. Remain fit to perform their job safely and comply with the drug and alcohol policy.

## B. Call-Out Duty

### 1. Definition and General

Call-out duty refers to an employee called to work during non-scheduled work hours to perform emergency services. An employee does not have to be on stand-by duty to be called to work. An extension at the beginning or at the end of the work day is not a call-out. If an employee is requested to report for an emergency call-out, the employee must notify the requester if they are unfit to safely perform their job and must not respond to the call-out. Employees responding to call-outs must be in compliance with the drug and alcohol policy. Each department will establish their procedures for call-out duty.

### 2. Compensation

The minimum time employees will receive compensation for a call-out is two (2) hours, one (1) hour if called out and once there the call out is cancelled, and fifteen (15) minutes if completed remotely. The time spent traveling between home and work if called out is considered time worked and compensable. If the employee lives more than fifteen (15) miles outside the corporate city limits they will not be compensated until they arrive at the site. Call-out is compensated at one and one half (1 ½) times the regular wage rate. Exempt positions are not eligible for call-out compensation.

## SECTION 14: FAIR LABOR STANDARDS ACT - SAFE HARBOR

The City, in good faith, complies with the salary basis requirements of the FLSA. The City pays its exempt employees on a salary basis and will not make any deductions from their salaries that are prohibited under the FLSA. Exempt employees are those employed in a bona fide executive, administrative or professional capacity and who are exempt from the FLSA's overtime pay requirements. Being paid on a "salary basis" refers to an employee who regularly receives a predetermined amount of compensation each pay period on a weekly or less frequent basis which cannot be reduced because of variations in the quality or quantity of work. An exempt employee must receive their full salary for any workweek in which the employee performs any work, regardless of the number of days or hours worked.

There are certain circumstances where deductions from the salaries of exempt employees are permissible. Such circumstances include:

- A. When an exempt employee is absent from work for one or more full days for personal reasons, including vacation other than sickness or disability;
- B. When an exempt employee is absent for one or more full days due to sickness or disability if the deduction is made in accordance with a bona fide plan, policy or practice of providing compensation for salary lost due to illness;
- C. To offset amounts received as witness or jury pay, or for military pay;
- D. For unpaid disciplinary suspensions of one or more full days imposed in good faith for significant workplace conduct or safety rule infractions.

The City is not required to pay the full salary in the initial or final week of employment in the event the employee works less than a full week; for weeks in which an exempt employee takes unpaid leave under the Family and Medical Leave Act or; for penalties imposed in good faith for infraction of safety rules of major significance. In these circumstances, either partial day or full day deductions may be made.

If an exempt employee believes that an improper deduction has been made to their salary, they must immediately report this information in writing to the Human Resources Department. Reports of improper deductions will be promptly investigated. If it is determined that an improper deduction has occurred, the employee will be promptly reimbursed.

## SECTION 15: TRAVEL TIME

The City follows the FLSA regarding compensable and non-compensable travel time which only applies to non-exempt employees.

### A. Home to Work Travel

Home to work travel is not compensable. This is true whether an employee works at a fixed location or at different job sites. An employee is not at work and is not compensated until they reach the work site; however, if an employee is required to report to a meeting place where they are required to pick up materials, equipment, or other employees, or to receive instructions, before traveling to the work site, compensable time starts at the time of the meeting. If an employee is called into work while on stand-by duty or is called back to work, per Section 13, Stand-by and Call-Out Duty, the time from home to work is compensable.

### B. Travel During the Work Day

Any travel that is all in one day (within or outside of the City) during regular work hours or outside of regular work hours, is work time and is compensable. Travel from an outlying job at the end of the scheduled workday to the City's premises, when an employee is required to report to a meeting place

to receive instructions, perform other work, or pick up tools, and travel from the designated meeting place to the work site are considered time worked.

#### C. Overnight Travel

Travel time for overnight travel is compensable for the time spent traveling during an employee's normal work day, outside of regular work hours and during corresponding hours on nonworking days. Travel time as a passenger outside of regular work hours is not compensable.

To eliminate unnecessary additional compensation, overtime and compensatory time, supervisors are expected to flex the employee's work schedule within the week when travel time is anticipated. In addition, it is expected that the most economical means of travel is chosen.

## **RULE 5: PROBATION**

This rule applies to full-time and classified employees. There are two types of probationary periods; the initial and the conditional probationary period. An initial or a conditional probationary period may be extended for reasons to include but are not limited to: excessive leave or significant amount of light duty during the probationary period, performance, behavior or has not fully completed initial training.

### **SECTION 1: INITIAL PROBATIONARY PERIOD**

New employees serving in a full-time position or current part-time employees who are newly serving in a full-time position must complete an initial probationary period of twelve (12) consecutive months. During this period, employees will be provided training, guidance, feedback and evaluation of their performance from their supervisor. Upon completion of six (6) months, the employee will receive an intermediate evaluation to provide the employee a status on their performance. One extension of the initial probationary period, not to exceed twelve (12) additional months, may be recommended.

During the initial probationary period, the full-time employee is at will and may be demoted, transferred, suspended or terminated. An employee serving the initial probationary period does not have a right to a pre-determination meeting with the City Manager or right to appeal to the Hearing Officer.

### **SECTION 2: CONDITIONAL PROBATIONARY PERIOD**

A full time employee who is promoted must serve a six (6) month conditional probationary period in the new position. During this period, the employee will be provided necessary training, guidance, feedback and evaluation of their performance from their supervisor. Upon completion of three (3) months, the employee will receive an intermediate evaluation to provide the employee a status on their performance. One extension of the conditional probationary period, not to exceed six (6) additional months, may be recommended.

Should a probationary employee in their initial twelve (12) month probation period be promoted, they will continue to complete the initial twelve (12) month probation period as well as serve the six (6) month conditional probationary period. The two (2) probationary periods may overlap and/or run concurrently.

#### **A. Classified Employee**

A classified employee, after having been promoted, who fails to complete the conditional probationary period because of unsatisfactory job performance will be entitled to return to the position and/or classification in which the employee successfully completed an initial probationary period. The classified employee has rights to the pre-determination meeting with the City Manager and right of appeal to the Hearing Officer as defined in Rule 10, Section 3, E, Involuntary Demotion.

#### **B. Full-Time At-Will Employee**

Unsatisfactory performance of a full-time at-will employee in a conditional probationary period may result in demotion, transfer, disciplinary action or termination of employment. The full-time at-will employee does not have a right to return to the position and/or classification they held previously and does not have a right to the pre-determination meeting with the City Manager or a right to appeal to the Hearing Officer.

### **SECTION 3: EVALUATION AND RECOMMENDATION FOLLOWING PROBATIONARY PERIOD**

Following an initial or conditional probationary period, the supervisor must submit a written performance evaluation through the Department Head. The Department Head and the Human Resources Officer will make a recommendation of completion, extension, suspension, demotion, transfer or termination of employment which requires approval by the City Manager. When an extension of the initial or conditional

probationary period is for performance issues, a performance improvement plan detailing the issues and expectations must be developed in addition to the performance evaluation. Justification in addition to the performance evaluation will be required for recommendations of suspension, demotion, transfer or termination of employment.

## **RULE 6: PERFORMANCE EVALUATION**

Performance evaluations are designed to provide a written review regarding feedback about an employee's performance and are an opportunity to re-evaluate job tasks or objectives as necessary. It is also an opportunity for two way feedback.

An annual or probationary performance evaluation must be completed using an approved performance evaluation form provided by the Human Resources Department. Performance evaluations must be completed on all classified employees annually and on all full-time and classified employees during any probationary period as outlined in Rule 5, Probation. Performance evaluations must be completed on full-time employees who voluntarily demote or voluntarily transfer after serving six (6) months in the position.

Performance evaluations are completed by the employee's supervisor. It is the responsibility of the employee's supervisor to ensure performance evaluations are effective and timely. Employees will have an opportunity to review their performance evaluation with their supervisor and sign the evaluation to indicate acknowledgement of receipt. Any changes made to the performance evaluation after it is signed by the employee must be acknowledged by the employee and the supervisor. Refusal of the employee to sign does not invalidate the evaluation.

Employees out on a leave of absence during the annual performance evaluation period will be required to receive their evaluation upon their return from leave. Approved pay increases may be held until a performance evaluation is completed.

Completed performance evaluations are maintained in the employee's personnel file in Human Resources.

Should a classified employee receive an unsatisfactory annual performance evaluation, it must be signed off by the Department Head and Human Resources must be notified. The classified employee will be placed on a performance improvement plan. The performance improvement plan is developed to outline specific areas for improvement.

An unsatisfactory performance evaluation for a full-time at-will employee or a classified employee may result in an approved pay increase being denied or reduced. If a classified employee's performance evaluation is unsatisfactory and subsequently an approved pay increase is denied or reduced, the classified employee may file a grievance by following the procedures outlined in Rule 11, Grievance. Full-time at-will employees are not entitled to the Grievance rule.

## **RULE 7: DRUG AND ALCOHOL**

### SECTION 1: GENERAL

It is of the utmost importance and of vital interest to the City to maintain a drug and alcohol free environment in order to maintain safe, healthy, and efficient operations, and to protect the safety and security of the employees, facilities, City property and the community. Drugs or alcohol may pose serious risks to the user, their co-workers and the community who may interact with the user. In addition, the use, possession, sale, transfer, manufacture or distribution of alcohol or illegal drugs in the workplace pose unacceptable risks to the maintenance of a safe and healthy workplace and to the security of City employees, facilities, and property. Substance abuse, while at work or otherwise, seriously endangers the safety of employees, as well as the general public, and creates a variety of workplace problems, including increased injuries on the job, increased absenteeism, increased health care and benefit costs, increased theft, decreased morale, decreased productivity, and a decline in the quality of products and services provided by the City.

### SECTION 2: SCOPE OF POLICY

All City employees are subject to the provisions of the Drug-Free Workplace Act of 1988. The City's drug and alcohol testing policy will be in compliance with Department of Transportation (DOT), Federal Transit Administration (FTA) and all applicable federal and state laws. The City will follow the DOT regulations for drug and alcohol testing for all employees covered under DOT and has chosen to apply those standards for drug and alcohol testing to all employees except as otherwise set forth in this policy. Employees who hold a Commercial Drivers License (CDL) are subject to the Federal regulations disseminated by the FTA and DOT as amended. Outlined procedures on drug and alcohol testing for CDL employees can be found in Administrative Directive. For reference to all drug and alcohol testing information refer to DOT Rule 49 CFR Part 40.

This policy applies to all City employees and to all applicants who have received conditional offers of employment with the City. Depending upon specific job duties, there are some positions that are identified as safety sensitive and employees in those positions or employees who hold a CDL may be subject to additional requirements under federal or state regulations, including additional restrictions on drug or alcohol use, and additional provisions for drug and/or alcohol testing. Portions of this policy only apply to safety sensitive employees and will be indicated as such. The list of safety sensitive positions and additional procedural detail is outlined in Administrative Directive. Changes to the list of safety sensitive positions will be posted on the City's website.

All employees will receive a copy of this policy and will be required to sign an appropriate acknowledgment of receipt. The Human Resources Officer is the Designated Employer Representative (DER) for drug and alcohol testing.

### SECTION 3: DEFINITIONS

#### A. Illegal Drugs

1. Any controlled substance listed in schedules I through V of the Federal Controlled Substances Act (21 U.S.C. § 812). This includes marijuana, amphetamines, opiates, phencyclidine (PCP), cocaine, and their metabolites. Illegal drugs will not include controlled substances obtained by legal means and used for the purpose(s) for which intended such as medical marijuana or prescription drugs.
2. Medication, or other chemical substance that is not legally obtainable. This may include any drug not approved for medicinal use by the US Drug Enforcement Administration or the US Food and Drug Administration.

3. Medication, or other chemical substance that is legally obtainable, but is not legally obtained, is not being used legally, is not being used for the purpose(s) for which it was prescribed or intended by the manufacturer. "Illegal drugs" may include over-the-counter medications not used for the purpose(s) for which they were intended by the manufacturer.

B. Legal Drugs

Prescription and over-the-counter medications that are legally obtained by the employee and used for the purpose(s) for which intended by the manufacturer or prescribed by a physician.

C. Medical Marijuana

Any marijuana used or possessed in strict compliance with Arizona Revised Statute 36-2801 (The Arizona Medical Marijuana Act) and all associated regulations.

D. Alcohol

The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols, and includes any medication, food or other alcohol-containing products.

E. Drug Paraphernalia

Any equipment, product, accessory, or material of any kind which is intended, designed or modified for the making, using or concealing of illegal drugs. Also includes use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. Examples of drug paraphernalia include but are not limited to: glass hashish pipes, water pipes, punctured metal bowls, chamber pipes, smoking masks, bong, syringes and roach clips.

F. Medical Review Officer (MRO)

A licensed physician trained and certified to review and analyze drug test results.

G. City Property

All property, equipment, machinery, and vehicles owned, leased, rented, or used by the City.

H. On Duty

All working hours, as well as paid meal periods, break periods, and stand-by duty, regardless of whether on City property. Personal time while on City-authorized travel (not eligible for pay from the City) does not qualify as on duty.

I. Accident

An unplanned event involving a vehicle resulting in damage to a vehicle, a third party vehicle, property, or personal injury.

J. City Vehicle

Any vehicle or other motorized equipment owned or controlled by the City.

K. Safety Sensitive

Those positions in which being under the influence of drugs and/or alcohol may pose a threat to the

public or to the safety and well-being of employees, coworkers, or any other person. This includes employees who are in a position required to maintain a CDL, are subject to federal grant restrictions or other federal requirements or are designated as safety sensitive by the City. Examples of safety sensitive job functions used to determine whether a position is safety sensitive includes but is not limited to the following primary responsibilities or essential functions: requires the employee to carry a firearm, perform life saving procedures, work with controlled substances, work with children, work with vulnerable people such as the disabled, operate heavy equipment, machinery or power tools, routinely operate City vehicles, work with hazardous materials, performing duties in residential or commercial premises of a customer, supplier or vendor or any position in which a momentary lapse in attention could result in injury or death to the employee or another person.

#### SECTION 4: WORK RULES

Generally, employees should not be in uniform during off duty time; however, actions in this section that are prohibited are also not allowed while off duty in uniform as it may give the appearance that the employee is working.

##### A. Alcohol

Employees are prohibited to possess, sell, or transfer alcohol while on duty, while on City property, or while operating City equipment, machinery, or vehicles unless in the performance of their assigned job duties. Employees are however allowed to possess un-opened alcohol in a personal vehicle on City property.

For City sanctioned events and as approved by the City Manager, employees may be allowed to possess, sell or transfer alcohol in the performance of their assigned job duties. For City sanctioned events and as approved by the City Manager, employees may be allowed to consume alcohol at the event while not on duty.

Employees are prohibited to consume alcohol or be under the influence of alcohol where the detectable levels of alcohol in their system results in a Blood Alcohol Content (BAC) level of 0.02 or greater while on duty or while operating City equipment, machinery or vehicles.

##### B. Illegal Drugs

Employees are prohibited to:

1. Use, possess, or be under the influence of illegal drugs while on duty, while on City property, while operating City equipment, machinery, or vehicles or while representing the City in any capacity.
2. Manufacture, distribute, dispense, transfer, or sell illegal drugs.
3. Possess or use drug paraphernalia while on duty, on City property or in City equipment, machinery, or vehicles.

##### C. Legal Drugs: Prescription and Over-the-Counter Medications

Prescription and over-the-counter drugs are not prohibited when taken in standard dosage and/or according to a physician's prescription. Any employee taking prescribed or over-the-counter medications will be responsible for consulting the prescribing physician and/or pharmacist to ascertain whether the medication may interfere with the safe performance of their essential job duties. If the use of a medication could compromise the safety of the employee, other employees or the public, it is the employee's responsibility to use appropriate personnel procedures (i.e., call in sick, use accrued leave, request change of duty, notify supervisor) to avoid unsafe workplace practices.

Employees who are on duty or operating City equipment, machinery, or vehicles may not use or be under the influence of prescription or over the counter medications that cause the employee to pose

a safety risk to themselves, other employees, or the public or that interfere with the performance of their essential job duties. Employees may be placed on paid or unpaid leave during the duration of the legal use of drugs in accordance with the City's leave policy.

Safety sensitive employees taking prescription or over-the-counter medications that may interfere with their ability to perform essential job functions and pose a safety risk to themselves, other employees or the public must immediately report the use to their supervisor. The supervisor must remove the employee from performing safety sensitive duties and the employee will not be allowed to perform safety sensitive duties until the City determines (generally through information provided by a health care provider) that the use will not pose a safety risk to the employee, other employees or the public. The City will make every attempt to re-assign the safety sensitive employee to perform non-safety sensitive duties during the use of legal drugs.

#### D. Medical Marijuana

Employees are prohibited to be under the influence of medical marijuana while on duty or while operating City equipment, machinery, or vehicles. Employees are prohibited to use medical marijuana, on City property, in City vehicles, or at any other location while on duty. Employees may be placed on paid or unpaid leave during the duration of medical marijuana use in accordance with the City's leave policy.

Safety sensitive employees who are prescribed medical marijuana may be subject to review by a City designated MRO and they must immediately report the intent to use medical marijuana to their supervisor or Human Resources under the provisions of the Arizona Medical Marijuana Act. Safety sensitive employees will not be allowed to perform safety sensitive duties during the legal use of medical marijuana. The City will make every attempt to re-assign the safety sensitive employee to perform non-safety sensitive duties for the duration of the legal medical marijuana treatment.

#### E. Police Department Personnel

An employee of the Police Department may in the capacity of their position be exempt from this section for a specific job assignment. For example, the transportation of alcohol or illegal drugs as evidence.

#### F. Criminal Drug Convictions

Employees who are arrested and/or convicted of any federal, state or local crime involving controlled substances or violated any criminal drug statute must report it to the Department Head and the Human Resources Officer within five (5) days of arrest and/or conviction, or at the first possible opportunity if the employee is incarcerated. The employee must submit all supporting court documentation of a conviction to the Human Resources Officer.

#### G. Inspection of Property, Equipment, and Vehicles

All City property, equipment, and vehicles are subject to inspection by the City and employees must cooperate with any inspections.

### SECTION 5: DRUG AND ALCOHOL TESTING

The City may require that employees and applicants provide urine, blood, breath, and/or other samples for drug and alcohol testing under any of the following circumstances. The City will pay for any drug and/or alcohol test that it requests or requires.

#### A. Pre-Employment and Transfer Testing

Applicants who have received conditional offers of employment with the City will be required to undergo drug testing as a condition of employment. Employees to be transferred, promoted or demoted into a

safety sensitive position from a non-safety sensitive position will be required to complete a post-offer/pre-transfer drug test.

#### B. Reasonable Suspicion Testing

Employees will be subject to drug and/or alcohol testing when the City has reasonable suspicion to believe the employee is impaired while on duty or while operating any City equipment, machinery or vehicle. Employees may be required to undergo reasonable suspicion testing directly before, during or directly after working. It is the responsibility of all employees to report suspected impairment immediately to the supervisor, any management personnel or to Human Resources. Management personnel who receive a report of reasonable suspicion must immediately contact Human Resources.

Reasonable suspicion test determination must:

1. Be made by a supervisor or City official who has received appropriate reasonable suspicion training.
2. Be based on specific observation(s) concerning the employee's current appearance, behavior, speech or body odor that are usually associated with drug or alcohol use which will be described to the employee.
3. Be made immediately following the observation.
4. Be documented in writing as soon as possible after the reasonable suspicion determination.

Drug and alcohol testing must begin as soon as practical following the reasonable suspicion determination. If the determination is made that the employee will be tested for reasonable suspicion, the employee must comply with all instructions of the supervisor or City official. Any employee subject to testing for reasonable suspicion will be removed from duty immediately and will be transported by the supervisor or the Human Resources Officer or their designee, to the test facility. The employee will not be returned to work until the results of the drug and/or alcohol test are cleared.

#### C. Post-Accident Testing

The City requires employees to notify their supervisor or Human Resources immediately and undergo drug and alcohol testing after a vehicle accident while on duty or while off duty in a City vehicle in which:

1. An individual dies;
2. An individual suffers a bodily injury and immediately receives medical treatment away from the scene of an accident;
3. One or more vehicles incur disabling damage as a result of the occurrence and are transported from the scene by a tow truck or other vehicle. *Disabling damage* means damage that prevents departure of any vehicle from the scene in its usual manner after simple repairs. Disabling damage includes damage to vehicles that could have been operated, but would have been further damaged if so operated.

Drug and alcohol testing must begin as soon as practical following the accident. If post accident drug and alcohol testing applies as determined above, the employee must comply with all instructions of the supervisor or Human Resources.

Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

#### D. Random Testing

Employees in safety sensitive positions as defined in this policy are subject to periodic unannounced

drug and/or alcohol testing on a random selection basis. The selection of employees for random testing will be made by a scientifically valid method in which each employee will have an equal chance of being tested. Random testing will be conducted on any days or times in which safety sensitive functions are performed.

Safety sensitive employees may be randomly tested for drugs and/or alcohol directly before, during or directly after working. Employees must immediately report for testing when requested.

#### E. Treatment Program Testing

Any employee who is participating in a chemical dependency treatment program under an employee benefit plan may be required to undergo drug and alcohol testing without prior notice during the evaluation or treatment period and for up to two (2) years following the employee's return to work.

### SECTION 6: SPECIMEN COLLECTION AND TESTING FOR DRUGS

#### A. Specimen Collection and Testing

The City tests all employees in accordance with the DOT five (5) panel drug screen. In accordance with DOT, the following substances will be tested for:

1. Marijuana
2. Cocaine
3. Opiates – opium and codeine derivatives
4. Amphetamines and methamphetamines
5. Phencyclidine - PCP

The standard method the City uses for drug testing is by urine sample; however, the City may use any approved method by DOT for collection or testing. Specimen will be collected by credentialed personnel and appropriate chain of custody procedures will be utilized to ensure testing accuracy. The collector will not directly observe the collection of the specimen except as authorized or required by DOT. A split specimen will be tested by laboratories approved or certified to conduct drug and alcohol testing by the US Department of Health and Human Services.

The procedures for an inability to produce a specimen or a dilute specimen will be followed per the DOT regulations. The City reserves the right to require evaluation by a physician selected by the City for inability to produce a specimen or a negative dilute.

The inability to produce a specimen is a refusal to test unless the employee or applicant can provide medical documentation of a condition that would cause the inability to produce a specimen.

If an employee or applicant specimen is classified as a negative dilute, they will be required to undergo a second test. The second test may be required to be recollected under direct observation. Two consecutive negative dilute specimens will result in disciplinary action as listed in this policy unless the employee or applicant can provide medical documentation of a condition that would cause an inability to produce a valid specimen subject to all procedures as outlined by DOT.

#### B. Positive Test Results and Right to Explain

The MRO will communicate positive test results to the employee or applicant. Any employee or applicant who tests positive on a confirmatory test on any drug test required by the City may request a copy of their test result report, submit additional information to the MRO for explanation or request a confirmatory retest of the original sample at their own expense. Procedures related to this process will follow the DOT regulations.

Upon the City's receipt of a confirmed positive initial test result, the employee will be placed on unpaid

administrative leave to allow sufficient time to refute the test result by explanation or retesting of the original sample. If the employee successfully refutes the test result or requests a confirmatory retest and the result is negative, the employee will be reinstated immediately with full back pay.

## SECTION 7: SPECIMEN COLLECTION AND TESTING FOR ALCOHOL

Alcohol testing will be performed using an approved method to detect the presence of alcohol in a person's system. The standard method the City uses for alcohol testing is breath testing equipment by a credentialed Breath Alcohol Technician (BAT); however, the City, only when necessary, may require other forms of testing such as blood or saliva and only under reasonable suspicion or post-accident testing.

For any initial test 0.02% or greater, a confirmatory second test will be performed following a minimum fifteen (15) minute wait period, not to exceed thirty (30) minutes, using testing equipment operated by a credentialed Breath Alcohol Technician (BAT).

## SECTION 8: CONFIDENTIALITY

The City will not disclose test results except as authorized by the test subject or as authorized, permitted, or required by applicable law. Drug and alcohol test results are kept separate from an employee's personnel file.

## SECTION 9: DISCIPLINARY ACTION

### A. Subject to Immediate Termination of Employment

#### 1. Test Refusal

Employees may refuse to undergo drug or alcohol testing. However, if an employee fails to participate in any drug or alcohol testing procedures as outlined in the DOT regulations, it will be considered a "refusal to test". Failure to cooperate with the testing procedures includes, but is not limited to: failure to appear for any test, failure to immediately report when requested, failure to remain at the testing site until testing is complete, failure to cooperate with any part of the testing process and/or fail to provide a specimen. A full list of what constitutes a refusal can be found in the DOT regulations, Subpart I, 40.191.

Employees who refuse to test will be subject to immediate termination of employment with no right to the pre-determination meeting with the City Manager or the appeal to a Hearing Officer.

#### 2. Failed Drug Test or Positive Alcohol Test

Employees who test positive on a confirmatory alcohol test required by the City will be subject to immediate termination of employment with no right to the pre-determination meeting with the City Manager or the appeal to a Hearing Officer.

Employees who fail a confirmatory drug test required by the City and who does not successfully refute the results by explanation or retesting of the original sample will be subject to immediate termination of employment with no right to the pre-determination meeting with the City Manager or the appeal to a Hearing Officer.

#### 3. Dilute Specimen

Employees who have two (2) consecutive negative dilute urine samples will be subject to immediate termination of employment with no right to the pre-determination meeting with the City Manager or the appeal to a Hearing Officer.

#### 4. Work Rules

Employees in violation of the following work rules will be subject to immediate termination of employment with no right to the pre-determination meeting with the City Manager or the appeal to a Hearing Officer.

- a. Employees who consume alcohol or have detectable levels of alcohol in their system that would result in a Blood Alcohol Content (BAC) level of 0.02 or greater while on duty or while operating City equipment, machinery or vehicles.
- b. Employees who use, possess, or are under the influence of illegal drugs while on duty, while on City property, while operating City equipment, machinery, or vehicles or while representing the City in any capacity. Employees who manufacture, distribute, dispense, transfer, or sell illegal drugs. Employees who possess or use drug paraphernalia while on duty, on City property or in City equipment, machinery, or vehicles.
- c. Employees under the influence of medical marijuana while on duty or while operating City equipment, machinery, or vehicles. Employees who use medical marijuana, on City property, in City vehicles, or at any other location while on duty.

#### B. Subject to Disciplinary Action

All other violations of work rules will be subject to disciplinary action up to and including termination of employment. Other violations include:

1. Employees who use or are under the influence of prescription or over the counter medications while on duty or while operating City equipment, machinery, or vehicles that cause the employee to pose a safety risk to themselves, other employees or the public or that interfere with the performance of their essential job duties.
2. Safety sensitive employees who fail to report the use of legal drugs that may interfere with the performance of their essential job duties and pose a safety risk to themselves, other employees or the public.
3. Safety sensitive employees who fail to report the use of medical marijuana.
4. Employees who fail to cooperate with an inspection.
5. Employees who possess, sell, or transfer alcohol while on duty, while on City property, or while operating City equipment, machinery, or vehicles (except for any allowances for alcohol as provided in the work rule).
6. Employees convicted or arrested of a criminal offense involving controlled substances or for violating any criminal drug statute that occurs while on the job or while employed by the City that would affect the employee's suitability for continued employment or failure to notify the City of such.

#### SECTION 10: APPLICANTS

Applicants may refuse to undergo drug testing but if an applicant fails to participate in any drug testing procedures as outlined in the DOT regulations, it will be considered a "refusal to test". Applicants who refuse to test will not be hired and will not be reconsidered for future employment.

Applicants who fail a confirmatory drug test and who does not successfully refute the test results by explanation or retesting of the original sample or who has two consecutive negative dilute urine samples will not be hired and will not be considered for future employment.

## SECTION 11: SUBSTANCE ABUSE TREATMENT

The City regards its employees as its most valuable asset. Accordingly, the City provides help to employees who are enrolled in the City's health insurance plan who suffer from substance abuse.

No employee will be subject to discipline for voluntarily seeking substance abuse treatment. An employee may not, however, avoid discipline for violating the Drug and Alcohol policy by seeking this assistance after the employee is referred for testing pursuant to this policy. In addition, an employee's participation in a substance abuse treatment program will not excuse the employee from being required to meet all of the same standards and qualifications for the job that apply to other employees, including performance, attendance, and other measures. An employee who voluntarily enrolls in substance abuse treatment may be placed on paid or unpaid leave in accordance with the City's leave policy and will be required to comply with any applicable return to work drug or alcohol testing.

The City will conduct drug and alcohol training periodically. The training will inform employees about the following:

- A. The dangers of drug and alcohol abuse in the workplace.
- B. The City's policy of maintaining a drug and alcohol-free workplace.
- C. Available drug and alcohol counseling, rehabilitation, and employee assistance programs.
- D. The sanctions that may be imposed for drug and alcohol abuse violations.

Employees are encouraged to approach their supervisor or Human Resources at any time with any questions they have about the City's Drug and Alcohol policy.

## **RULE 8: TIME AND ATTENDANCE**

### SECTION 1: GENERAL

The designated work week is seven (7) consecutive days commencing at 12:00 a.m. Monday and ending the following Sunday at 11:59 p.m. Each workweek stands alone.

The City expects good attendance habits including dependability and punctuality. All employees should regard coming to work on time and working their shift as scheduled as an integral part of their job performance. Good attendance habits include the following:

- A. Arriving for work no later than the start of the shift.
- B. Remaining at the work station except during authorized breaks or a meal period or the needs of the job require the employee to be elsewhere.
- C. Taking only the time normally allowed for breaks.
- D. Following assigned work schedules unless prior arrangements with the employee's supervisor has been made.
- E. Remaining at work during the entire shift, unless excused or approved otherwise by the employee's supervisor.
- F. Proper notification to the supervisor if the employee will be absent or tardy, unless a verifiable emergency makes it impossible for them to do so.
- G. For non-exempt employees, arriving and leaving promptly for the shift to avoid unnecessary overtime unless otherwise approved by the supervisor.

### SECTION 2: ABSENCE

An employee who accumulates excessive absences that were not pre-approved may be subject to disciplinary action up to and including termination of employment. The amount of absences that is equivalent to excessive can be defined based on various factors including but not limited to the interference with the employee's job responsibilities and the interference or issues caused to normal work operations of the department.

An unreported absence for three (3) consecutive scheduled days or shifts is considered job abandonment. Job abandonment is a voluntary termination without notice and the employee will not be eligible for rehire.

### SECTION 3: TARDY

A tardy is defined as arriving after the start time of an assigned work schedule without prior permission or approval. An employee who is excessively tardy may be subject to disciplinary action up to and including termination of employment. The number of times an employee is tardy that determines excessive can be defined based on various factors including but not limited to the interference with the employee's job responsibilities and the interference or issues caused to normal work operations of the department.

### SECTION 4: NOTIFICATION

If an employee is going to be absent from work or is going to be tardy, they must notify their supervisor prior to the start of their shift. The employee themselves must notify the supervisor unless they are unable to make the notification due to being incapacitated. Employees are expected to notify their supervisor as soon as reasonably possible prior to the beginning of their shift and in accordance with department policy. The

employee must indicate why they are going to be absent, so the appropriate type of leave can be determined and applied.

## SECTION 5: RECORDING OF TIME

The employee's work schedule will be determined by their department management.

### A. Exempt Employees

Exempt employees do not record actual hours worked on time records. If leave is taken, exempt employees must record this time on their time record and on the leave form.

### B. Non-Exempt Employees

Non-exempt employees must record all hours worked accurately on their time record and all "ins and outs" to include arrival, departure, lunch and any other time away from work during the work day. If leave has been taken, the non-exempt employee must record this time on their time record and on the leave form. Rounding to the quarter (1/4) hour is permissible as long as it works both to the advantage and disadvantage of the employee in accordance with Fair Labor Standards Act (FLSA).

Non-exempt employees are not allowed to work any hours outside of their scheduled work day including remote working unless the supervisor has authorized it in advance.

Non-exempt employees are not allowed to work off the clock. "Off-the-clock" means work an employee performs but fails to report on the time record. Upon a report or discovering a non-exempt employee is due time that was worked off the clock, the employee will be paid time owed in accordance with FLSA but the employee may be subject to disciplinary action.

### C. All Employees

Employees must fully and accurately record their time. Employees must review and approve their time record to ensure all hours are reflected accurately and review their paychecks promptly in order to identify and report any errors. Every effort is made to ensure employees are paid correctly but occasionally mistakes happen. Any payroll mistake or correction to the time record must be reported to Human Resources immediately.

Management personnel must review and approve their employee's time record each pay period. If any correction needs to be made to the time record, it is expected that the employee make the correction; however, the supervisor may correct the time record and initial the correction but they must ensure the change accurately reflects the time actually worked. Employees should carefully and accurately record their time in order to minimize time record changes. Should a time record need correction after payroll has been processed, Human Resources must be notified immediately and it may not be adjusted until the following pay period.

### D. Compliance with Recording of Time

It is a serious violation of the City's policy for any employee to falsify a time record or to alter another employee's time record. It is also a serious violation of the City's policy for managers to instruct employees to incorrectly or falsely report hours worked. Any employee who is asked to commit these types of violations or has knowledge of such violations must report it to Human Resources immediately.

## SECTION 6: MEAL PERIOD

Employees are generally scheduled unpaid meal periods. Non-exempt employees must reflect their unpaid meal period on the time record and must be relieved of all duties with the exception of those public safety personnel whose meal period is paid. Non-exempt, non public safety employees who work more than six

(6) hours should take a meal period of at least thirty (30) minutes. The meal period can be skipped with prior approval by their supervisor. If a non-exempt employee is not given a minimum of thirty (30) minutes of uninterrupted time for their meal period, they must be paid for the time.

## SECTION 7: BREAKS

The City recognizes the need for breaks during the work day; however, there may be times where breaks are not able to be given. Breaks are limited to fifteen (15) minutes and may be given for each four (4) hours of work time. Breaks are not allowed to be taken at the beginning or end of the shift, added to the meal period, accumulated for other purposes, or as a means of leaving the job early. Employees will be paid for breaks and breaks are not recorded on the time record. Break time may be determined by the supervisor and may not be allowed should the work deem it necessary to forgo a break.

### A. Nursing Mother Breaks

In accordance with FLSA, for a maximum of one (1) year after the birth of a child, the City allows time for nursing mothers to take reasonable break times, whenever necessary, to express milk. The City will provide a space that is shielded from view and free from intrusion from coworkers and the public. All breaks taken for the purpose of expressing milk will be paid if they are limited to no more than fifteen (15) minutes per break. Breaks exceeding fifteen (15) minutes for non-exempt employees will not be paid.

## **RULE 9: TELEWORKING**

### SECTION 1: DEFINITION

Teleworking is an alternative work arrangement that the City offers to some employees when it would benefit the City, the citizens we serve, or in response to emergency situations.

Teleworking allows employees to work from home or at a site other than the central workplace. The City considers teleworking to be a viable, flexible work option when both the employee and the job are suited to such an arrangement. Teleworking is not an entitlement, it is not a universal employee benefit, and does not change the basic terms and conditions of employment with the City.

### SECTION 2: ELIGIBILITY

Teleworking may not be offered for all positions and must be approved through the employee's department head. Certain positions may be ineligible for participation due to business necessity or job duties. In order to be approved for telework, the employee must be able to perform their position's essential functions/duties and perform their daily functions. They must have access to the necessary equipment in order to perform telework (see Section 4 – Hardware/Software). It is explicitly recognized that some jobs are not suitable for teleworking. Only employee's whose job functions are compatible with remote work will be considered for approval. While not all inclusive, some reasons to allow teleworking are when the job duties are:

1. Independent in nature
2. Primarily knowledge based
3. Do not require frequent interaction at the regular work site with supervisors, colleagues, clients, or the public
4. Do not require the employee's immediate presence at the regular worksite to address unscheduled events unless alternative arrangements for coverage are possible
5. Are not essential to the management of on-site workflow
6. Are enough to provide adequate work while teleworking

The City has the right to refuse to make teleworking available to any employee or to terminate a teleworking arrangement at any time. While not all inclusive, some reasons to terminate teleworking are:

1. Not available to contact; not accessible during working hours
2. Not answering phone, emails or other contact venues
3. Not productive/distractions at telework site
4. Not meeting deadlines
5. Not available to come into the workplace when needed
6. Not complying with the City's Personnel Rules & Regulations or other policies
7. Not following IT policies in regards to equipment, software, and cyber security

### SECTION 3: REQUIREMENTS

Teleworking does not change the basic terms and conditions of employment with the City. Those who telework must remain in compliance with City of Sierra Vista Personnel Rules and Regulations and Administrative Directives. Violations of the City rules, policies, practices and directives while teleworking may result in the employee being removed from the teleworking arrangement and/or disciplinary action up to and including termination.

Teleworking will not be offered on a full time basis. The options for teleworking are as follows and must be approved by the employee's supervisor/department director:

- Alternating with a counterpart in the employee's department. For example, one employee teleworks two days a week and a co-worker teleworks the other three days of the week. This can be done in alternating weeks.

- On a part time basis. This can be any days of the week consecutively or concurrently.

Employees shall maintain their usual work schedule and be accessible during their regularly scheduled business hours. Any change in schedule must be approved by the supervisor. The employee will generally spend the workday at the same remote location. The employee must notify their supervisor if they are leaving the off-site location, to the same degree they would if leaving the traditional work location.

Employees are covered by worker's compensation laws when performing work duties at their designated alternate locations during work hours. The employee's off-site workspace will be considered an extension of the City's workspace therefore, this workspace must be maintained by the employee in a safe, hazard free productive manner. The City assumes no liability for injuries occurring in the off-site workspace outside the agreed upon work hours. The City is not liable for injuries to third parties and/or family members in the off-site workspace.

All City policies regarding attendance and reporting time worked apply to teleworking employees. Employees shall maintain their regular work schedule while teleworking. FLSA non-exempt employees are responsible for timely and accurately recording all teleworking work time using the current time-keeping system and/or reporting such work time to their direct supervisor. Alterations to work hours and/or work location must be approved in advance by the employee's supervisor.

FLSA non-exempt employees must be compensated for all time worked, just as non-teleworking employees. Non-exempt employees who telework are prohibited from working overtime without prior supervisor approval. This includes but is not limited to reading/responding to email, checking voicemail, and returning telephone calls. Failure to obtain prior supervisor approval for overtime may result in the immediate termination of the teleworking arrangement and/or disciplinary action up to and including termination.

Supervisors are responsible for monitoring work time of non-exempt employees and for ensuring that their non-exempt employees are not working unauthorized overtime. Supervisors are further responsible for ensuring that their non-exempt employees are accurately and timely recording all time worked. Supervisors are encouraged to refrain from sending emails, leaving voicemails, or engaging in other work activities with non-exempt employees during non-work hours.

The City does not assume any responsibility for loss, damage, or wear of employee owned equipment, furniture, etc. Office supplies will be provided by the City and should be obtained during the teleworker's in office work hours.

Teleworking is not designed to be a replacement for appropriate childcare. Teleworkers working from home are expected to manage dependent care and personal responsibilities the same as if the employee were working at their normal work site.

#### SECTION 4: HARDWARE/SOFTWARE

##### A. City Owned Equipment

If teleworking and using city owned equipment you must ensure compliance with City hardware and software standards. Software owned by the City of Sierra Vista may not be duplicated. Teleworkers shall take all precautions necessary to secure privileged information and prevent unauthorized access to any City system. This includes physically securing the premises, password protection, and protecting unauthorized access to the equipment software from the Internet when necessary. Additionally, IT may install security agents that can detect malicious behavior on a laptop/desktop and appropriate actions will be taken in order to maintain the security and integrity of the City's IT infrastructure.

## B. Personal Equipment

Personal computer equipment may not be used to access the City network via VPN due to security concerns. If a program is Web based, employees can access and use it on their personal computers and devices. This includes SharePoint, Email (via webmail), and ESS. It is up to the employee to maintain their PC and other devices free of any malware or nefarious activity.

## **RULE 10: LEAVE OF ABSENCE**

*Any reference to fire or fire personnel indicates a fifty six (56) hour employee.*

### SECTION 1: VACATION LEAVE

#### A. General

Vacation leave is provided for full-time and classified employees as a means to give them paid vacation time each year and is allowed to be used for other needs requiring absence during work hours. Each employee is encouraged to use their vacation leave for the purpose of work life balance. Vacation leave should be planned and requested as far in advance as reasonable in order to allow management to plan for the operation of the department.

#### B. Accrual Schedule

Full-time and classified employees will earn vacation accruals according to the following monthly accrual schedule. An employee who has a break in service of five (5) years or less will be eligible to maintain their years of service for the purpose of vacation accruals but must serve a new six (6) month waiting period to use the reinstated and the new accrued vacation. An employee, who leaves full time service for part time service and is part time for five (5) years or less before going back to full time service, will be eligible to go back to the years of service they served as full time for the purpose of vacation accruals.

<u>Years of Service</u>	<u>40-Hour Employee</u>	<u>56-Hour Employee</u>
0 to 3	8 hours	12 hours
3 to 5	9 hours	13.5 hours
5 to 10	10 hours	15 hours
10 to 15	12 hours	18 hours
15 to 20	14 hours	21 hours
20+	16 hours	24 hours

<u>Years of Service</u>	<u>Executive Management</u>
0 to 5	12 hours
5+	16 hours

#### C. Accrual Requirements

1. Employees begin to accrue vacation immediately upon hire, but are not eligible to use or be compensated for vacation accruals until they have completed six (6) months of City service.
2. An employee will not accrue vacation during a pay period in which the employee is not paid a minimum of forty (40) hours (56 for fire personnel).
3. Vacation is charged against the employee's vacation accruals equal to the number of working hours they are absent to the nearest quarter (1/4) hour.
4. Vacation accruals are paid at the employee's base wage rate. Upon separation from City service, employees will be paid for vacation accruals at the base wage rate with the exception of employees who separate from City service for any reason prior to the completion of six (6) months of full time service.
5. Vacation accruals are not transferable between employees.

6. When an employee moves from full time to part time status, vacation accruals will be paid out to the employee at the base wage rate.
7. For an employee on Short Term Disability (STD), vacation will only continue to accrue if the employee has enough accrued leave to cover the amount not covered by STD; otherwise, the employee will not continue to accrue. For an employee on Workers Compensation, vacation will continue to accrue up to six (6) months maximum.
8. If an employee is out on leave without pay during the six (6) month waiting period, that employee must return to paid status and work the equivalent of the time they were out before they are eligible to use or be paid vacation accruals.

D. Maximum Accruals

The maximum number of vacation accruals an employee is permitted to carry over to the following year as of the second (2<sup>nd</sup>) pay period end date of the calendar year is 336 hours for a 40-hour employee and 504 hours for a 56-hour employee. Any balances exceeding the maximum allowed will be forfeited following the second (2<sup>nd</sup>) pay period end date of the calendar year. The Human Resources Department will reduce these balances to the maximum allowed.

For a justified business reason, a Department Head may require an employee to forego part or all of a previously approved vacation. In this situation, employees will not be required to forfeit vacation accruals and will be allowed to use them at a later date or may be paid for the foregone vacation upon recommendation of the Department Head and subsequent approval by the City Manager. The request and approval must specify a date for the vacation accruals to be taken and under no circumstance will the accruals be allowed to roll to the next forfeiture date.

E. Vacation Sell Back

Employees are permitted on a voluntary basis to exchange accrued vacation for compensation at their base wage rate under the following guidelines and schedule:

1. Eligibility: An employee must 1) have a minimum balance of one hundred sixty (160) hours of vacation leave (240 for fire personnel), and 2) have taken a minimum of forty (40) hours of vacation leave (56 for fire personnel) before the twenty first (21<sup>st</sup>) pay period end date of the calendar year (*the 40 hours (56 for fire personnel) is the minimum threshold for all tiers listed below*).
2. Procedure: The Human Resources Department will notify employees of their eligibility. If the employee wishes to participate in the program, they will indicate the number of hours they wish to exchange for compensation and return the form to Human Resources. Compensation will be paid with the twenty third (23<sup>rd</sup>) payroll check of the calendar year.

3. Sell Back Tier Schedule

40-Hour Employee:

Balance: 160 hours	Sell Back Max: 40 hours
Balance: 240 hours	Sell Back Max: 60 hours
Balance: 320 hours	Sell Back Max: 80 hours

56-Hour Employee:

Balance: 240 hours	Sell Back Max: 56 hours
Balance: 352 hours	Sell Back Max: 84 hours
Balance: 464 hours	Sell Back Max: 112 hours

## SECTION 2: SICK LEAVE

### A. General and Definitions

Sick leave is to be used in the circumstances stated in this policy or for circumstances enumerated by state law. Sick leave is provided to all employees as a means for paid time off when they are unable to work for qualifying reasons as stated in this policy or as provided in state law. Sick leave may be used for the following:

1. For employees to care for their own or to care for a family member's:
  - a. Mental or physical illness, injury or health condition.
  - b. Need for medical diagnosis, care or treatment of a mental or physical illness, injury or health condition.
  - c. Preventive medical care.
2. Closure of an employee's workplace or closure of their child's school or place of care due to a public health emergency or exposure of communicable disease when it is determined by public health officials or a health care provider that their presence in the community may jeopardize the health of others.
3. Domestic or sexual violence or abuse or stalking including the need for medical attention, services from a victim services program, counseling, relocation or preparing for or attendance at legal hearings.
4. Bereavement. This would be inclusive of part-time employees who are not eligible for bereavement leave or would be inclusive of full-time employees whose family members don't qualify under bereavement leave or the need for additional time for a covered family member. Documentation of the death must be provided.

A family member is defined as:

1. Children of any age including biological, adopted or foster children, stepchildren or legal wards, children of a domestic partner or children for whom the employee stands in loco parentis (*in place of parents*) which refers to the legal responsibility of a person to take on some of the functions and responsibilities of a parent or an individual to whom the employee stood in loco parentis when the individual was a minor.
2. Parents including biological, foster, stepparents, adoptive parents or legal guardians of the employee or the employee's spouse or domestic partner, including persons who stood in loco parentis when the employee or employee's spouse or domestic partner was a minor child.
3. Spouses or domestic partners.
4. Grandparents, grandchildren or siblings including biological, foster, adoptive or step relationships of the employee or the employee's spouse or domestic partner.
5. Any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

### B. Accrual and Usage

The year is defined as twelve (12) consecutive months, January 1<sup>st</sup> - December 31<sup>st</sup>.

1. Full-Time Employees

Accrual: Full-time employees will earn sick accruals according to the following monthly accrual schedule:

40-hour employees	8 hours
56-hour employees	12 hours

A full-time employee will not accrue sick leave during a pay period in which the employee is not paid a minimum of thirty (30) hours.

Usage: There is no cap for usage of sick leave for a full-time employee to care for themselves as defined. If the employee qualifies for Family and Medical Leave Act (FMLA), any accrued sick leave may be used through the end of the FMLA period. Sick leave for bereavement is capped at forty (40) hours (60 for fire personnel) in a year. Any other reason for use of sick leave is capped at eighty (80) hours (120 for fire personnel) in a year.

## 2. Part-Time Employees

Accrual: Part-time employees will accrue one (1) hour of sick leave for every thirty (30) hours worked in a calendar year.

Usage: There is no cap for usage of sick leave for a part-time employee to care for themselves as defined. Any other reason for use of sick leave is capped at eighty (80) hours in a year. Sick leave can only be used for scheduled work hours.

## C. Accrual Requirements

1. Employees begin to accrue sick leave immediately upon hire, but are not eligible to use sick leave until they have completed thirty (30) days of City service.
2. Employees are allowed to carryover sick leave accrued from year to year.
3. For a full time employee on Short Term Disability (STD), sick leave will only continue to accrue if the employee has enough accrued leave to cover the amount not covered by STD; otherwise, the employee will not continue to accrue. For a full-time employee on Workers Compensation, sick leave will continue to accrue up to six (6) months maximum.
4. Sick leave is charged against the employee's sick accruals equal to the number of working hours they are absent to the nearest quarter (1/4) hour. Sick accruals are paid at the employee's base wage rate. If an employee holds two jobs at different rates of pay, the employee will be paid at the pay rate of the job in which they were scheduled and missed due to the sick leave.
5. Employees must make a good faith effort to give the City advance notice and schedule sick leave in a manner that does not unduly disrupt the City's operations; however, it is understood that sick leave can be unanticipated. Sick leave must be submitted on forms approved by the City and the employee must list the eligible category. A request for anticipated sick leave must include the expected duration.
6. For an extended absence, employees must keep the City abreast of their return to work status.
7. Sick leave of three (3) or more consecutive work days may require reasonable documentation from a health care professional or an applicable authority stating the employee has been out for an eligible reason and will be required at more than five (5) consecutive work days. If due to the employee's own illness, a fitness for duty may also be required as part of the reasonable documentation. An injury or illness that may affect an employee's job performance will require a fitness for duty from a healthcare professional.

- 8. Sick leave accruals are not transferable between employees.
- 9. When an employee moves from full time to part time status, up to forty (40) hours of their full time accrued sick leave will be transferred to their part time sick leave accruals.

D. Payment of Sick Leave Upon Separation of Employment

Classified full time employees separating from City service in good standing will be compensated for their accumulated sick leave at the base wage rate according to the following schedule:

<u>Years of Continuous Service to City:</u>	<u>Accruals Paid Out:</u>
0 – 5 years	0
5 – 10 years	50% of first 480 hours (672 for fire) 25% in excess of 480 hours (672 for fire)
10 – 15 years	60% of first 480 hours (672 for fire) 25% in excess of 480 hours (672 for fire)
15 plus years	70% of first 480 hours (672 for fire) 25% in excess of 480 hours (672 for fire)

In the event of the death of any employee, all accumulated sick leave accruals will be paid to the beneficiary at the employee’s base wage rate at the time of death.

Full-time employees who are rehired within nine (9) months will have any unused sick leave reinstated that was not paid out at the time of separation. Part-time employees who are rehired within nine (9) months will have any unused sick leave reinstated up to a maximum of forty (40) hours. All employees rehired within nine (9) months who receive a reinstatement of sick leave are entitled to use and accrue paid sick leave immediately at the re-commencement of employment.

SECTION 3: PAID TIME OFF

A. General

Paid Time Off (PTO) is provided for unclassified full-time employees hired under an individual employment agreement or contract. It is a means to give them time off each year and is allowed to be used for other needs requiring absence during work hours. Each employee is encouraged to use their leave for the purpose of work life balance. PTO leave should be planned and requested as far in advance as reasonable in order to allow management to plan for the operation of the department.

B. Accrual Schedule

Employees with an individual employment agreement or contract will earn PTO according to the following monthly accrual schedule or as defined in the individual employment agreement or contract.

<u>Years of Service</u>	<u>Employee Accrual</u>
0 to 5	12 hours
5 to 10	14 hours
10 to 15	16 hours
15 to 20	18 hours
20+	20 hours

C. Maximum Accruals

The maximum number of PTO accruals an employee with an individual employment agreement or contract is permitted to carry over to the following year as of the second (2<sup>nd</sup>) pay period end date of the calendar year is 235 hours. Any balances exceeding the maximum allowed will be forfeited following the second (2<sup>nd</sup>) pay period end date of the calendar year. The Human Resources Department will reduce these balances to the maximum allowed.

For a justified business reason, an employee may be required to forego part or all previously approved PTO. In this situation, employees will not be required to forfeit PTO accruals and will be allowed to use them at a later date or may be paid for the foregone PTO upon approval by the City Manager. The request and approval must specify a date for the PTO accruals to be taken and under no circumstance will the accruals be allowed to roll to the next forfeiture date.

D. PTO Sell Back

Employees are permitted on a voluntary basis to exchange PTO for compensation at their base wage rate under the following guidelines and schedule:

1. Eligibility: An employee must 1) have a minimum balance of one hundred twelve (112) hours of PTO and 2) have taken a minimum of twenty eight (28) hours of PTO before the twenty first (21<sup>st</sup>) pay period end date of the calendar year (*the 28 hours is the minimum threshold for all tiers listed below*).
2. Procedure: The Human Resources Department will notify employees of their eligibility. If the employee wishes to participate in the program, they will indicate the number of hours they wish to exchange for compensation and return the form to Human Resources. Compensation will be paid with the twenty third (23<sup>rd</sup>) payroll check of the calendar year.
3. Sell Back Tier Schedule

Balance: 112 hours	Sell Back Max: 28 hours
Balance: 168 hours	Sell Back Max: 42 hours
Balance: 224 hours	Sell Back Max: 56 hours

SECTION 4: HOLIDAYS

Full-time employees are eligible for thirteen (13) paid holidays per year. One (1) of the holidays is a floating holiday that may be used at any time but must be used by December 31<sup>st</sup> of each year or the employee will lose it.

The holiday schedule will be disseminated to employees each year. Full-time employees are eligible to use the floating holiday after thirty (30) days of City service. An employee will not be paid for the holiday during the pay period in which they are not paid a minimum of forty (40) hours (56 for fire personnel). Holidays that fall on Saturday are observed on the preceding Friday, holidays that fall on Sunday are observed on the following Monday, except for seven (7) day operations which are observed on the calendar day in which the holiday falls.

The floating holiday must be taken only in the following increments:

40-hour employees	8 hours
56-hour employees	12 hours

Eligible employees will receive holiday compensation according to the following schedule:

40-hour employees	8 hours
56-hour employees	12 hours

Employees who would normally be scheduled to work on the holiday but are out on FMLA, Short Term Disability (STD), or Workers Compensation (WC) will not receive the holiday pay in addition to their regular pay. If the employee is eligible for the holiday (i.e. not paid by STD or WC), the holiday will be included in the employee's normal hours for the pay period.

If there is a City observed holiday, or the employee uses their floating holiday, and the employee then works additional hours in the week over their scheduled hours, the employee will be paid the additional hours worked as straight time. Overtime or comp time will not be claimed until the employee has more than 40 hours of actual work time in a work week (or more than their scheduled shift hours for fire personnel).

When an employee resigns from City employment, if the last day of employment is on a holiday, the employee will not be paid for the holiday. Employees must actually work at least one day or one shift after the holiday in order to get paid for the holiday.

## SECTION 5: REQUESTING AND USAGE OF LEAVE

When absent for any scheduled work hours, all employees must use all applicable leave. All requests for leaves of absence including the type and duration must be made to the employee's supervisor for approval. All requests, type and duration must be submitted in advance of the beginning date of the leave except requests for unanticipated sick leave which must be submitted for approval at the earliest possible time. Employees are required to contact Human Resources should their leave of absence fall under Family and Medical Leave Act (FMLA), Short Term Disability (STD), Workers Compensation or Military Leave. If management receives a leave request from an employee in their chain of command that may qualify under one of these protected leaves, the employee must be directed to Human Resources so that Human Resources can make reasonable inquiries regarding the requested leave and can provide the employee with direction regarding the leave.

Excluding 24/7 operations, any employee who takes any form of leave and then works additional hours in the week will have the leave usage reduced to bring the employee to forty (40) hours. Overtime or comp time will not be claimed until the employee has more than 40 hours of actual work time in a work week.

For 24/7 operations, any employee who takes any form of leave and then works additional hours in the week over their scheduled hours may choose to be paid the additional hours worked as straight time or have the leave usage reduced to bring the employee to forty (40) hours (or to their scheduled shift hours for fire personnel). Overtime or comp time will not be claimed until the employee has more than 40 hours of actual work time in a work week (or more than their scheduled shift hours for fire personnel).

## SECTION 6: FAMILY AND MEDICAL LEAVE ACT (FMLA)

### A. Purpose

The purpose is to articulate the rights and responsibilities of employees under the federal requirements of FMLA. FMLA entitles eligible employees to take up to twelve (12) weeks of unpaid, job protected leave for specified family and medical reasons. The leave may be paid, unpaid, or a combination thereof. When eligible for FMLA, the City requires employees to use all accrued leave.

### B. Employee Eligibility

To be eligible for FMLA leave, the employee must meet the following conditions:

1. The employee must have worked for the City for at least twelve (12) months (not necessarily consecutively); AND

2. The employee must have worked at least 1,250 hours during the twelve (12) month period immediately preceding the leave.

#### C. Qualifying Events for FMLA

Events eligible for a maximum of twelve (12) weeks in a twelve (12) month period:

1. For the employee's serious health condition that makes the employee unable to perform the essential functions of their job (including medical appointments for ongoing treatment of chronic conditions).
2. For the care of the employee's spouse, child, or parent with a serious health condition.
3. The birth of a child or the placement of a child for adoption or foster care and to care for the newborn or newly placed child. If both spouses are employed by the City, those employees are entitled to a maximum of twelve (12) weeks total.
4. For the employee to handle any qualifying exigency arising out of the fact that a spouse, child, parent or next of kin is a military member on covered active duty or has been notified of an impending call or order to covered active duty. Covered active duty is defined as deployment of the military member to a foreign country.
  - a. Qualifying exigencies include activities such as making arrangements for a short-notice deployment, military events, alternative childcare, making financial and legal arrangements in relation to the deployment, rest and recuperation, counseling, and post-deployment activities.

#### D. Military Caregiver Leave Qualifying Event

1. For the care of a Covered Service Member with a serious injury or illness, when the employee is the spouse, child, parent or next of kin of the service member. Eligible employees receive a maximum of twenty six (26) weeks in a twelve (12) month period.
2. Military caregiver leave is also extended to care for veterans undergoing treatment, recuperation or therapy for an injury, as long as the veteran was a member of the Armed Forces, National Guard, or Reserves within five (5) years of requiring care.
3. Leave is permitted to care for current members the Regular Armed Forces, National Guard, Reserves, and those on the temporary disability retired list. The service member or veteran must have a serious injury or illness incurred or a preexisting injury that was further aggravated while in the line of duty, as determined by the U.S. Department of Defense, that may render them medically unfit to perform the roles of their office, grade, rank, or rating and for which they are undergoing medical treatment, recuperation, therapy, or outpatient treatment.
4. Next of kin is defined as the covered service member's nearest blood relative other than the service member's spouse, son, daughter or parent in this order of priority:
  - a. Blood relative who has been designated in writing by the service member as the next of kin for FMLA purposes
  - b. Blood relatives who have been granted legal custody of the service member
  - c. Brothers and Sisters
  - d. Grandparents
  - e. Aunts and Uncles
  - f. First Cousins

#### E. Serious Health Condition

A “serious health condition” is defined as an illness, injury, impairment, or physical or mental condition that requires either:

1. Inpatient care (overnight) in a hospital, hospice, or residential treatment center
2. An absence of more than three (3) consecutive days with continuing treatment by a medical care provider
3. Incapacity relating to pregnancy or prenatal care
4. Chronic serious health conditions
5. Permanent or long term incapacity
6. Certain conditions requiring multiple treatments

#### F. Twelve (12) Month Period

The City uses a “rolling” twelve (12) month period measured backward from the date an employee uses any FMLA leave.

#### G. Employee Notice

If foreseeable, the employee must give thirty (30) days’ notice that FMLA leave is needed. When the need for leave is unforeseeable, employees must provide notice as soon as possible and practical under the circumstances. An employee’s adult relative, attorney or health care provider may also provide notice of the employee’s need for FMLA leave if the employee is unable.

FMLA is designed to protect both the employer and the employee. A complete and accurate record of absences that are FMLA eligible must be maintained. An employee does not have a choice to elect or not elect FMLA. In order to comply with this law, a leave form must be submitted to Human Resources for all FMLA leave. The leave request form may be completed by the employee or their supervisor on the employee’s behalf. The leave request form must indicate whether the leave meets FMLA criteria as defined.

#### H. FMLA Certification

An employee requesting FMLA leave is required to submit certification in support of the leave in order to confirm FMLA eligibility. The employee is responsible for providing a complete and sufficient certification within fifteen (15) days from receipt of the paperwork from Human Resources. The employee is also responsible for paying the cost of the certification and ensuring it’s turned into the Human Resources Department. If the certification is incomplete or insufficient, the City will give the employee a written notice stating what areas need clarification or completion.

If the certification is related to the serious medical condition of the employee, the City, at its expense, may require a second or third (2<sup>nd</sup> or 3<sup>rd</sup>) medical opinion. This decision will be at the discretion of the Human Resources Officer.

The employee may be required to provide recertification every thirty (30) days during the leave, and/or periodic reports regarding the employee’s status and intent to return to work. Employees on intermittent FMLA will be required to provide recertification every six (6) months.

#### I. Intermittent Leave or Leave on a Reduced Schedule

Under some circumstances, employees may be eligible or may take FMLA on an intermittent or reduced schedule basis. For a qualifying reason, an employee may take leave in separate blocks of time or by reducing the time they work each day. If an employee requests the use of leave on an intermittent or reduced work schedule, the employee must provide medical certification from a health care provider that such leave is necessary. When on approved intermittent leave and the employee is not able to

come to work or misses any scheduled hours for FMLA reasons, the employee is obligated to reference FMLA or the FMLA condition as the reason for accurate tracking of intermittent leave.

#### J. Continued Benefits Coverage for Full-Time Employees

Group health, dental and life insurance will be provided for the duration of the FMLA leave and at the same rate as if the employee had not taken leave. Dependent insurance premiums will continue to be deducted from the paycheck while an employee is on paid leave. Employees on unpaid leave must continue to pay the premium for dependent insurance to the Human Resources Department. Premium payments are due on the first day of the month that coverage is to be provided. Failure to pay dependent premiums may result in cancellation of coverage.

The City may recover premiums if an employee fails to return to work with the City following an FMLA leave or any other protected leave and fails to stay for at least thirty (30) calendar days for any reason other than the continuation, reoccurrence or onset of another serious health condition affecting the employee or immediate family member, or other circumstances beyond the employee's control.

#### K. Return to Work

For an extended absence, the employee must keep the City abreast of their return to work status. Upon return from FMLA leave, an employee will be restored to the same position held before the leave began or an alternative position with equivalent pay, benefits, and other terms and conditions of employment.

Prior to an employee being allowed to return to work following a medical leave for their own medical condition, they will be required to submit a fitness for duty statement to Human Resources from their health care provider certifying their ability to return work with or without restrictions. Any restrictions must be clearly defined. Return to work will be delayed until the fitness for duty certification is provided. Human Resources and the supervisor will review any restrictions listed to determine whether they impede the ability of the employee to perform the essential functions of the job and if so, whether reasonable accommodation or light duty exist. If reasonable accommodation or light duty is not available, the employee will be required to return to a leave of absence status up to the maximum allowed by the leave policy. In accordance with the ADA, the City may require an employee to take a medical exam at the City's expense after they have returned from FMLA Leave.

#### L. Exhaustion of FMLA

After exhaustion of FMLA, there is no guarantee of continued employment. If an employee no longer has any leave accruals after FMLA exhaustion and is unable to return to work, they may request additional time off following the procedure as outlined in Section 11, Leave Without Pay.

#### M. Interface with Short Term Disability (STD) and Worker's Compensation

STD or worker's compensation leave will run concurrently with the twelve (12) week FMLA entitlement if the employee's injury or illness meets the definition of serious health condition. An employee on STD or worker's compensation leave loses FMLA protection at the end of the twelve (12) week period, even if the employee remains on STD or worker's compensation leave.

#### N. Compliance

Failure to comply with the City's FMLA policy including but not limited to proper notification, submitting appropriate and complete certification or recertification within designated timeframes, may mean a loss of FMLA protection for the time away from work and therefore, those absences may be subject to disciplinary action up to and including termination of employment.

## SECTION 7: SHORT TERM DISABILITY (STD)

Short Term Disability (STD) is applicable to all full-time employees and provides partial pay due to a non job related injury or illness that leaves an employee unable to perform their job. Employees are required to utilize all accrued leave during the waiting period and to supplement time not covered by STD. The employee must keep the City abreast of their return to work status. Employees returning to work after STD leave must adhere to the same requirements for return to work as outlined in the FMLA section.

While on Short Term Disability, leave will only continue to accrue if the employee has enough accrued leave to cover the amount not covered by STD. After exhaustion of FMLA, continued benefits under the STD plan does not guarantee continued employment. If an employee no longer has any leave accruals after FMLA exhaustion and is unable to return to work, they may request additional time off following the procedure as outlined in Section 11, Leave Without Pay. Additional information regarding STD is listed in Administrative Directive.

## SECTION 8: WORKER'S COMPENSATION LEAVE

All employees are covered by the City in compliance with the Arizona State Worker's Compensation Act, against injuries and illnesses occurring in the course of City employment. The law provides for payment of medical expenses and under certain circumstances, compensation for loss of income. It is mandatory for employees to report every job related injury or illness, regardless of severity, to the supervisor and complete all reporting requirements.

Wages under Worker's Compensation will not be paid for the first seven (7) calendar days after injury or illness. If the disability extends beyond the seven (7) day period, Worker's Compensation will begin paying wages on the eighth (8<sup>th</sup>) day. If it continues beyond the thirteenth (13<sup>th</sup>) day, compensation will be computed and made retroactive to the date of injury or illness. State law establishes the amount of compensation and the elimination period.

Any time not covered by workers compensation, employees are required to utilize all accrued leave. The employee must keep the City abreast of their return to work status. Employees returning to work after workers compensation leave must adhere to the same requirements for return to work as outlined in the FMLA section.

While on Workers Compensation, leave will continue to accrue. After exhaustion of FMLA, continued benefits under workers compensation does not guarantee continued employment. If an employee no longer has any leave accruals after FMLA exhaustion and is unable to return to work, they may request additional time off following the procedure as outlined in Section 11, Leave Without Pay.

## SECTION 9: LIGHT DUTY

### A. Definition

Light Duty is intended for employees recovering from a medically documented mental or physical illness or injury sustained on or off the job who have work restrictions, and who are expected to return to unrestricted work. If the employee can perform their regular job duties within the limitations established by a health care provider, the employee will return to their regular duties, and the provisions of this policy do not apply.

### B. General

The City will attempt to offer light duty work to employees but it is not guaranteed. There may be times that the City does not have appropriate work available or does not have work that can be safely performed by the employee based upon the restrictions set out by the employee's health care provider.

Light duty will be assigned if there is meaningful work available that meets the outlined restrictions. The supervisor must confer with Human Resources before approving light duty. Management will take the employee's skills and abilities into consideration. Job descriptions may be created for light duty assignments. The City will attempt to place the employee within their current department; however, if no appropriate light duty work is available, the employee may be placed in another department where light duty work is available and can be performed by the employee, based upon employee's restrictions, skills, and training. If there are no light duty assignments available, the employee may be placed on or returned to a qualifying leave. Employees with medically related restrictions that would permanently prevent them from returning to their regular position will not be provided with a light duty assignment. An employee who has been accommodated into a position under the American's with Disabilities Act (ADA) is not considered on light duty; and therefore, is not subject to this policy.

#### C. Requirements

1. Prior to an employee being allowed to return to work on a light duty assignment, they will be required to submit a fitness for duty statement to Human Resources from their health care provider releasing them to return, specifying their work restrictions and expected duration of the restrictions. Return to work will be delayed until a fitness for duty certification is provided. Human Resources and the supervisor will review the restrictions listed to determine whether light duty work exists to meet the restrictions.
2. An employee will be required to get clarification or confirmation of work restrictions if the health care providers note is not clear.
3. An employee may be sent to a health care provider designated by the City for a second opinion at any time prior to approving light duty.
4. As a condition of assignment to light duty, the City may request that the employee submit work status updates at intervals deemed necessary by the City.
5. The supervisor is responsible for monitoring the performance of light duty assignments, ensuring the restrictions are being followed and ensuring the provisions of this policy are followed.
6. Previously approved secondary employment may be reviewed by the Human Resources Officer for possible conflict with the medical work restrictions.
7. In most circumstances, light duty work assignments will not be allowed to be conducted at the employee's home or in other unsupervised City work locations. In unusual circumstances where there is a business necessity, light duty work performed from home may be requested and must be approved by the Department Head and the Human Resources Officer.
8. Employees on a light duty work assignment may not be eligible for stand-by or call out duty.

#### D. Duration

If available, the maximum time that an employee may remain on a light duty assignment is six (6) months per injury or illness during any twenty four (24) month period. Should the employee be unfit to return to unrestricted or full duty, they may be permanently reassigned to another position that meets the restrictions, referred to Long Term Disability, referred for retirement if eligible or terminated from employment.

### SECTION 10: MILITARY LEAVE

Employees who are members of the National Guard or Reserve Corps of the US Armed Services will be entitled to military leave of absence without pay for attending military reserve duty or for any period of active military service in accordance with the Uniformed Services Employment and Re-employment Rights Act

(USERRA). The employee must submit proof of the military assignment and keep the City abreast of their return to work status.

#### SECTION 11: TERMINAL LEAVE

Upon leaving City employment, classified employees who reach a “normal” retirement with either State sponsored retirement plan (Public Safety Personnel Retirement System or Arizona State Retirement System) may choose to use their remaining leave accruals prior to their termination/retirement date for a maximum of three (3) months. Accrual payouts will be paid at the employee’s base wage rate. Accruals will be used in the same manner as what would have been normally paid out as provided for separation of employment and will be used in the following order; vacation, floating holiday, comp time, and finally sick accruals. Any accrual balances remaining after terminal leave is exhausted will be paid out with the employee’s final paycheck at the base wage rate. Leave, including the floating holiday, will not continue to accrue and holidays will not be paid while employees are on terminal leave. Prior to starting terminal leave, the employee must provide a two (2) week notice. Employees must actively work up to the start of their terminal leave and cannot withdraw their resignation once they have entered terminal leave.

#### SECTION 12: LEAVE WITHOUT PAY

In extraordinary circumstances, a full-time employee may be granted an unpaid leave of absence. An unpaid leave of absence can only be requested if all accruals have been exhausted. Requests for leave without pay must be submitted in writing, in advance of the leave and the reason for the request to the Department Head. Requests for unanticipated leave without pay must be submitted for approval at the earliest possible time. The unpaid leave will be reviewed by the Department Head and the Human Resources Officer who will make recommendations, subject to approval by the City Manager.

Full-time employees on approved leave without pay will maintain City paid benefits and/or any other benefits as required by law. Employees must continue to pay for all optional benefits. An employee granted leave without pay who returns to work after the authorized leave will return to the same or equivalent position and the same pay rate held at the start of the leave. For an extended absence, the employee must keep the City abreast of their return to work status. Prior to an employee being allowed to return to work following a leave for their own medical condition, they will be required to submit a fitness for duty statement to Human Resources from their health care provider certifying their ability to return to work with or without restrictions. Any restrictions must be clearly defined. Return to work will be delayed until the fitness for duty certification is provided. An employee who fails to return to work after the authorized leave without pay has been exhausted and continues to be absent from duty without proper authorization will be considered to have voluntarily resigned.

Requests for leave without pay related to an FMLA qualifying event will not exceed more than six (6) months in a twelve (12) month period. The six (6) month maximum time away from work will be inclusive of other approved leaves such as FMLA, STD, Workers Compensation, etc. Requests for leave without pay unrelated to an FMLA qualifying event and are for equally good reasons may be requested not to exceed eighty (80) hours (112 hours for fire personnel) in a twelve (12) month period.

If an employee is on FMLA or STD and has a limited amount of accruals that is not enough to cover the intended length of time away from work, the employee may request in advance to be paid forty (40) hours of leave each pay period in order to continue accruing leave.

Excessive unpaid leave without prior authorization may result in disciplinary action up to and including termination of employment.

#### SECTION 13: BEREAVEMENT LEAVE

The purpose of bereavement leave is to provide paid leave for full time employees after the death of a qualified family member. A qualified family member is defined as: parent, step parent, spouse, child, step

child or legal dependent, sibling, grandparent and in-laws of the same or a grandchild. Employees requesting bereavement leave will be required to provide documentation of the death.

Paid bereavement leave must not exceed twenty four (24) hours (36 for fire personnel). If travel in excess of three hundred (300) miles one way is required, paid bereavement leave must not exceed forty (40) hours (60 for fire personnel). With written approval by the Department Head, bereavement leave may be extended sixteen (16) hours (24 for fire personnel) for unusual circumstances.

#### SECTION 14: JURY AND WITNESS DUTY

All employees will be given time off in the event they are summoned for jury or witness duty. Employees must immediately notify their direct supervisor in advance and as soon as reasonably possible after notification. Employees must submit written documentation for verification of duty. If the jury duty falls at a time when the employee cannot be away from work due to business necessity, the City may require that the employee request a more convenient time to serve and the employee must cooperate with the request. For an extended absence, the employee must keep the City abreast of their return to work status.

Subject to verification of duty, the City will pay the full-time employee's regular wage rate while absent and the employee will be required to provide documentation of actual hours served as a juror or witness. If compensation is received by the full-time employee for serving as a juror or witness, they must turn over the compensation to the City. The City does not pay part-time employees while absent to serve as a juror or witness.

#### SECTION 15: VOTING LEAVE

In accordance with state law, the City will provide time off to vote on the day of the election for employees who are eligible to vote; however, time off will be permitted only if there are less than three (3) consecutive hours between the opening of the polls and the beginning of the employee's regular working hours, or between the end of their regular working hours and the closing of the polls. In the event there is not a sufficient voting window of three (3) hours, full-time employees will be allowed up to two (2) hours of paid time during their scheduled workday. Time off for voting may be requested by the employee prior to the day of election and the supervisor will determine when their employee may leave to vote.

#### SECTION 16: VICTIM LEAVE

The purpose of victim leave is to preserve the right of employees who have been victims of a crime to be present at related proceedings or to obtain an order of protection for themselves or their child in accordance with state statute. A request for victim leave must be made to the supervisor providing as much notice as practical. The employee must provide the City with a copy of the form that is provided to them by the law enforcement agency, court order or any other proper documentation. If there are multiple proceedings, the employee must provide a copy of each notice.

The employee will be required to use any leave accruals for the absences. The City reserves the right to limit victim leave provided under state law if the employee's absence creates an undue hardship to City business. The supervisor must contact the Human Resources Officer if they believe the absence may create an undue hardship. The Human Resources Officer in consultation with the supervisor will make that determination.

#### SECTION 17: EMERGENCY CLOSURE

The City Manager will determine whether the City closes its offices due to inclement weather, natural disasters or other emergency situations. There may be some departments and/or employees required to report to work in the event of a City closure as determined by the City Manager and/or the Department Head.

If City offices are open during inclement weather, natural disasters or other emergency situations, employees are expected to report to work as scheduled. Employees who are unable to report to work safely are required to notify their supervisor and must use all applicable leave. Full-time employees will be paid had they worked their normal schedule in the event of an emergency closure.

## **RULE 11: DISCIPLINARY ACTION**

### SECTION 1: GENERAL

All employees are expected to meet the City's standards of performance and conduct as well as follow all policies and procedures. If an employee does not meet performance or conduct standards or fails to follow policies and procedures, disciplinary action may be taken. The intent of disciplinary action is to correct or improve, provide re-direction, provide expectations of acceptable performance or conduct as well as provide a reasonable time for improvement. The City Manager or their designee has authority to take disciplinary action against any employee.

Disciplinary action can be taken for violations of any and all rules, policies or procedures. Management must take any disciplinary action within a reasonable timeframe after the occurrence or the discovery of the infraction, unless extenuating circumstances exist.

A process of progressive discipline is to be followed for classified employees to ensure they are afforded adequate opportunity to correct unacceptable performance or conduct. The type and/or amount of disciplinary action(s) taken against an employee will depend on the totality of the circumstances including, but not limited to, the employee's disciplinary history, recent or similar infraction(s), frequency of infraction(s) and the severity of the infraction(s). However, the seriousness of the infraction(s) may dictate overriding progressive discipline, and serious offenses may lead to immediate termination of employment.

The status of an employee is not allowed to be changed without the recommendation of the Department Head in consultation with the Human Resources Officer and approval by the City Manager.

### SECTION 2: REASONS FOR DISCIPLINARY ACTION

The following reasons constitute grounds for disciplinary action, but are **NOT** an exhaustive list of reasons that are subject to discipline up to and including termination of employment.

- A. Secured employment with the City through misrepresentation or fraud.
- B. Falsified any document, report or statement relating to their employment with the City.
- C. Inadequate or unsatisfactory job performance.
- D. Engaging in activities that interfere with the employee's responsibilities with the City or hinders normal work operations of the department.
- E. Failed to obtain or maintain a valid license, certification or anything required for the job per the job description, by the City or by law.
- F. Operated a city vehicle or a personal vehicle used to conduct City business without a valid driver's license.
- G. Failed to submit to a required physical or psychological examination or to participate in appropriate counseling, testing, or rehabilitative treatment as may be required by the City.
- H. Insubordinate, defiant of authority or failed to follow reasonable direction from management.
- I. Willful or negligent release of confidential information and/or negligent handling of confidential information.
- J. Display of dishonest behavior.

- K. Disrespectful, abusive in attitude, language, behavior, or conduct toward fellow employees, management, subordinate, customer or the public; or their action has resulted in partial treatment, physical harm, injury, or fear of harm to such persons.
- L. Engaged in conduct, on or off duty, that is of such nature that caused or could cause discredit to the City.
- M. Violation of any portion of the City's Code of Conduct, Rule 2. Includes but is not limited to: general standards, commitment to EEO, discrimination, harassment, fraternization, relatives, workplace violence, weapons, workplace bullying, whistleblower protection, retaliation, participation in investigations, political activity, conflicts, criminal convictions, fraud and abuse, dress and appearance, social media, electronic devices at work or motor vehicle usage.
- N. Violation of the City's Code of Ethics.
- O. Recorded others in the workplace without their knowledge (sworn police officers exempt during a work related investigation).
- P. Refuse to subscribe to any oath or affirmation required in connection with City employment or state law or violated the oath of office.
- Q. Violations of Rule 7, Drug and Alcohol. Violations as described in Section 9, A are subject to immediate termination of employment with no right to the pre-determination meeting with the City Manager or the appeal to the Hearing Officer. Violations as described in Section 9, B are subject to disciplinary action up to and including termination of employment.
- R. Arrested or convicted of a criminal offense that occurs while on the job or while employed by the City that would affect the employee's suitability for continued employment.
- S. Made a false or misleading statement, written or oral. Attempted to conceal any past or present criminal activity.
- T. Failed to participate or aid in an internal investigation, inclusive of failing to submit to a polygraph examination. Knowingly interferes with or impedes an internal investigation.
- U. Possessed a deadly weapon as described in Rule 2, Code of Conduct, Section 8.
- V. Solicited any member of the public for money, goods, or services for personal gain while acting in an official capacity of the City.
- W. Used, or attempted to use political influence for themselves or any other person in securing employment benefits or advantages.
- X. Unauthorized use and/or removal of City property.
- Y. Through negligence, caused damage to City and/or private property or waste of public supplies or resources while on the job. Through willful misconduct caused damage to City and/or private property or waste of public supplies or resources while employed by the City.
- Z. Stole City or private property, supplies or resources or was an accomplice in any of these practices while employed by the City.
- AA. Absent without an acceptable excuse to the City, excessive unapproved absences, patterns of absenteeism abuse, excessive tardiness, excessive unapproved leave without pay, has failed to

receive prior approval for any paid or unpaid absence, job abandonment, feigns sickness or injury, or otherwise deceives a supervisor as to their condition or ability to perform the duties of the position, or the employee has falsified a certificate justifying medical leave.

- BB. Refused to perform reasonable light duty that is assigned because of an illness, injury, or disability when authorized by physician statement.
- CC. Participates in or commits fraud, misappropriation of City funds or other irregularities that may cause discredit to the City.
- DD. Failure to follow department and City safety policies or procedures or any federal or state safety laws. Unsafe practices in the performance of duties and responsibilities that has the potential or does negatively impact the employee, other employees, the public or City property. Willful or unwillful violations of safety rules or practices.
- EE. Concealed information or failed to properly report an accident, injury, or incident as required by law or City policies.
- FF. Holds a City of Sierra Vista elected office prior to resigning from a City position or holds any other office incompatible with City employment.
- GG. Directly or indirectly received or paid an assessment, subscription, or contribution for the purpose of electing any candidate to the City of Sierra Vista public office.
- HH. Engaged in improper political activities.
- II. Excessive personal use of the internet or electronic messaging on City computers or devices or excessive use of personal devices on City time that interferes with the employee's responsibilities at the City or that negatively affects the employee's job performance.
- JJ. Unauthorized purchases or purchases incompatible with appropriate spending on a City purchase card. Willful use of City purchase card for non-work related purchases. Failure to immediately report and reimburse the City for personal charges.
- KK. Failure to record accurate records of time, falsification of hours or abuse of breaks. Working non-approved overtime or working off the clock.
- LL. Allowing or requiring employees to work off the clock or violations of wage and hour laws.
- MM. Negligence in the operation of a City vehicle or equipment.
- NN. Failed to report an accident in a City vehicle.
- OO. Failure to respond to stand-by or call out duty or failure to respond within the timeline designated.
- PP. Failure to supervise.
- QQ. Failed to attend mandatory training.
- RR. Engaged in any other conduct as determined by the City to be in violation of any written City policy or procedure or any conduct that adversely affects the welfare of the public, employees or the effective operations of the City.

## SECTION 3: TYPES OF DISCIPLINARY ACTIONS

### A. Verbal Reprimand

A verbal reprimand is a formal notification to an employee to address unacceptable conduct, issues or performance. The supervisor or manager must document the conduct, issues and/or performance, expectations, cite any policy violations and reference any dates as applicable. Human Resources should be contacted for consultation and guidance prior to issuance when possible.

### B. Written Reprimand

A written reprimand is a formal notification to an employee to address unacceptable conduct, issues or performance. The supervisor or manager must document the conduct, issues and/or performance, expectations, cite any policy violations and reference any dates as applicable. Human Resources should be contacted for consultation and guidance prior to issuance when possible. A written reprimand holds a higher level of disciplinary weight than a verbal reprimand.

### C. Administrative Leave

Administrative leave is the non-disciplinary suspension of a full-time employee to permit an investigation into matters concerning a possible disciplinary action. During this period, the employee is considered to be on full duty and available to participate and aid in the investigation.

In making the determination to place a full-time employee on administrative leave, the following factors are considered: 1) Whether or not the employee's presence on the job or at the work site would hinder the investigation, or 2) If the employee's presence is too disruptive, would be detrimental to the public interest, safety or the continued efficient operation of the City or department.

Administrative leave for full-time employees is paid except in the following specific circumstances which are unpaid: 1) criminal charges are pending 2) employee is incarcerated 3) period following a positive alcohol test 4) confirmatory/refute period following a positive drug test as described in Rule 7, Drug and Alcohol, Section 6, B. Full-time employees placed on an unpaid administrative leave will be allowed to use any leave accruals except sick and any hours spent as part of the investigation as required by the City will be paid.

For paid administrative leave, all benefits will remain the same and accruals will occur as normal. For unpaid administrative leave, insurances paid by the City will continue as normal and once all leave is exhausted, any elected deductions must be paid by the employee by the first of the month or coverage will be terminated.

### D. Disciplinary Suspension

Disciplinary suspension is the temporary separation of a full time employee from City service without any form of compensation. A suspended employee must receive a written notification listing the specific conduct, issues, performance or policy violations and the expectations, number of hours of suspension, and appeal rights, if any.

Before a suspension of more than twenty four (24) hours is rendered, the classified employee has the following rights in this order: 1) to have a pre-determination meeting with the City Manager, or their designee to express their views on the reasons for the suspension. The City Manager or their designee will schedule the pre-determination meeting with the affected employee to hear their views on the disciplinary suspension, 2) to appeal to the Hearing Officer as described in Rule 12, Appeal to Hearing Officer.

Classified employees who are suspended for twenty four (24) hours or less are not entitled to a pre-determination meeting with the City Manager or their designee or an appeal to the Hearing Officer;

however, they may grieve the suspension in accordance with Rule 11, Grievance.

An unclassified employee who is suspended has no right to a pre-determination meeting with the City Manager or an appeal to the Hearing Officer.

#### E. Involuntary Demotion

Involuntary demotion is the non-voluntary movement of a full-time employee to a position in a lower pay grade than their current position. The employee receives written notice listing the specific conduct, issues, performance or policy violations and the effective date and appeal rights, if any.

Before the involuntary demotion is rendered, the classified employee who has been involuntarily demoted and who has completed the initial twelve (12) month probation period in a former position has the following rights in this order: 1) to have a pre-determination meeting with the City Manager or their designee to express their views on the reasons for the demotion. The City Manager or their designee will schedule the pre-determination meeting with the affected employee to hear their views on the involuntary demotion, 2) to appeal to the Hearing Officer as described in Rule 12, Appeal to Hearing Officer.

An unclassified employee who is demoted has no right to a pre-determination meeting with the City Manager or an appeal to the Hearing Officer.

#### F. Termination of Employment – For Cause

Termination of employment for cause is the discharge of a classified employee from City service. The classified employee who is terminated for cause will receive a written notice listing the specific conduct, issues, performance or policy violations and the effective date and appeal rights, if any.

Before a final decision of termination for cause is rendered, the classified employee has the following rights in this order: 1) to have a pre-determination meeting with the City Manager, or their designee to express their views on the reasons for the termination. The City Manager or their designee will schedule the pre-determination meeting with the affected employee to hear their views on the recommendation for termination, 2) to appeal to the Hearing Officer as described in Rule 12, Appeal to Hearing Officer.

Classified employees in violation of Rule 7, Drug and Alcohol as described in Section 9, A have no right to a pre-determination meeting with the City Manager or appeal to the Hearing Officer.

An unclassified employee who is terminated has no right to a pre-determination meeting with the City Manager or an appeal to the Hearing Officer.

## **RULE 12: GRIEVANCE PROCEDURES**

### SECTION 1: PURPOSE

The purpose is to assure classified employees that their complaints or grievances will be considered fairly, timely and without retaliation, coercion or discrimination. Classified employees are expected to exhaust all reasonable efforts to resolve an issue before filing a formal grievance. Unclassified employees are not entitled to the provisions of this rule.

### SECTION 2: DEFINITION

A grievance is a circumstance in which a classified employee alleges one of the below created a negative effect. Matters subject to grievance:

- A. A disciplinary pay rate reduction or if an approved pay increase is denied or reduced based on an unsatisfactory performance evaluation
- B. Placed on administrative leave without pay
- C. Misapplication or violation of City Personnel Rules and Regulations that impacts the terms and conditions of employment
- D. Misapplication or violation of City Administrative Directives
- E. Written Reprimand
- F. Written performance assessments
- G. Suspension of twenty four (24) hours or less

Some matters subject to grievance are also subject to appeal to the Hearing Officer, see Rule 12, Appeal to Hearing Officer. Management personnel should comply with and be knowledgeable of personnel policies in order to manage and direct employees fairly to minimize or reduce misunderstandings, problems, complaints or grievances.

### SECTION 3: PROCEDURE FOR PRESENTATION OF A GRIEVANCE

Informal discussions will be considered a complaint, not a grievance. An employee should attempt to resolve a complaint through discussion with the employee's immediate supervisor. Every effort should be made to find an acceptable solution by informal means at the lowest level of supervision; however, at any time an employee may take a complaint directly to Human Resources or to anyone in their chain of command.

If an employee does not believe the problem has been satisfactorily resolved as an informal complaint, they may file a written grievance with their Department Head or the Human Resources Officer. If at any time the employee decides to formalize their complaint in writing, they will be considered as having filed a grievance. A Department Head who receives a grievance with legal implications must turn it over to Human Resources immediately.

Grievances must be filed as soon as possible after the incident occurs but no later than thirty (30) calendar days from the date of the incident. The time period may be reasonably extended by the Human Resources Officer. Any written grievance must be submitted to and responded by either the Department Head or the Human Resources Officer.

Any grievance will be considered resolved at the completion of any step if all parties are satisfied. Once a grievance has been investigated and gone through all steps as defined by this rule, repeated filing of grievances on the same issue will not be permitted unless the employee has new substantial information that has come to fruition since the original determination of the grievance. If the grievance involves a group of employees or if a number of employees file separate grievances on the same matter, the grievances may be handled as a single grievance.

- A. The written grievance must describe the nature of the grievance inclusive of citing the specific policy violated (if applicable), the date(s) of the violation(s) that is the basis for the grievance, any detailed information related and the relief requested.
- B. Preferably within fifteen (15) calendar days but no later than thirty (30) calendar days of receiving the grievance, the Department Head or the Human Resources Officer must render a written, dated response to the employee who submitted the grievance that indicates the basis of their findings. If a written response is not possible within the preferred fifteen (15) calendar days, the Department Head or the Human Resources Officer will inform the employee of the reasons for the delay. A copy of any written response by a Department Head must be sent to the Human Resources Officer.
- C. If, after receiving the formal response from the Department Head or the Human Resources Officer the employee does not feel the grievance is satisfactorily resolved, the employee may appeal in writing to the City Manager within seven (7) calendar days. The City Manager will respond to the appeal in writing preferably within fifteen (15) calendar days, but no later than thirty (30) calendar days of receiving the appeal. If the issue the employee is grieving directly involves the City Manager, the grievance will instead be appealed to the Hearing Officer.

Retaliation against an employee who brings forward a complaint or grievance will not be tolerated.

### **RULE 13: APPEAL TO HEARING OFFICER**

The Hearing Officer(s) is duly appointed by the City Council.

Unclassified employees are not entitled to the provisions of this rule. Classified employees who are subject to termination due to a reduction in force or who violate the portions of the Drug and Alcohol policy as described in Rule 7, Section 9, A are not entitled to appeal to the Hearing Officer.

The following are subject to appeal to the Hearing Officer:

- A. A written notice of a termination of employment for cause, involuntary demotion, or suspension of more than twenty four (24) hours
- B. A disciplinary pay rate reduction
- C. Placed on administrative leave without pay

Classified employees must exhaust all other available remedies prior to filing an appeal with the Hearing Officer in accordance with the Personnel Rules and Regulations (*For a written notice of a termination of employment for cause, involuntary demotion, or suspension of more than twenty four (24) hours, see Rule 9, Disciplinary Action, Section 3, D, E & F; for all others, see Rule 11, Grievance*). A written notice of appeal to the Hearing Officer must be filed with Human Resources within seven (7) calendar days from the date of receipt of any of the appealable actions.

The written notice of appeal to the Hearing Officer must include all of the following information:

- A. Name, job title and department of the aggrieved employee
- B. Grievance filing date
- C. The subject or issue being appealed along with all applicable detail
- D. Request for a hearing
- E. Whether the employee will be represented by legal counsel and/or any other representative
- F. Current contact information

The hearing date will be no earlier than fifteen (15) and no later than forty five (45) calendar days from the date on which the Hearing Officer receives the dated appeal. Hearings will be held in closed session unless the aggrieved employee requests, in writing, an open, public hearing.

Within ten (10) calendar days from the date of receipt of a written notice of appeal to the Hearing Officer, the Human Resources Officer will deliver the notice to the Hearing Officer. The Hearing Officer will notify the aggrieved employee, their representative(s), and the Human Resources Officer in writing of the date, time, and location of the hearing. The employee will have the right to be accompanied by legal counsel and other representatives of their choice and at their own expense. A listing of such legal counsel and representative(s) must be furnished to the Hearing Officer and the City a minimum of ten (10) calendar days prior to the hearing. If the employee chooses to have a representative or legal counsel present, the City will as well. Failure to provide advance notice will constitute a waiver of the employee's right to have a representative or legal counsel present.

At least ten (10) calendar days prior to the hearing, both the aggrieved employee and the City will disclose to each other and the Hearing Officer the witnesses each anticipates calling and any documents each anticipates presenting. No other witnesses or documents will be considered by the Hearing Officer unless the party can show that it was newly discovered, there was prompt disclosure, and the evidence is crucial. In addition, the Hearing Officer may, at their discretion, exclude certain witnesses or documents even if timely disclosed if they find such evidence to be irrelevant, cumulative, redundant, or overly prejudicial.

The Hearing Officer will have the power to examine witnesses under oath and compel their attendance or production of evidence by subpoena issued in the name of the City and attested by the City Clerk for a

hearing. It will be the duty of the Chief of Police to cause such subpoenas to be served. The Human Resources Officer or their designee acts as a facilitator during the proceedings.

The City's case will be presented to the Hearing Officer first. At the conclusion of the City's case, the aggrieved employee will then state their case in opposition. Each side may call disclosed witnesses that they believe are relevant. Cross-examination of witnesses is permitted.

Within ten (10) calendar days following the completion of the hearing, the Hearing Officer will furnish the City Manager with a summary of the hearing and their written recommendation. Within ten (10) calendar days following receipt of the Hearing Officer's summary, the City Manager will furnish the aggrieved employee with a written decision to uphold, modify or reject the Hearing Officers recommendation, which will be final and binding.

If the issue the employee is appealing directly involves the City Manager, the Hearing Officer will provide a summary of the hearing and their written recommendation to the Mayor and City Council for a final decision within the time frames previously outlined.

An employee's failure to request or attend a hearing before the Hearing Officer will constitute a waiver of the employee's rights to further administrative and/or legal proceedings.

## **RULE 14: SAFETY AND TRAINING**

### SECTION 1: SAFETY

The City uses the Occupational Safety and Health Act (OSHA) standards as a guide to provide employees a safe place to work. Failure to follow federal or state safety laws, City or departmental safety procedures or rules may result in disciplinary action up to and including termination of employment.

#### A. Employees

All employees are responsible for their safety and the safety of others in the performance of their job duties and are required to observe all safety policies and regulations.

Failure to procure equipment when required or to properly use and wear required safety equipment may result in disciplinary action up to and including termination of employment. Inability to wear required safety equipment for any reason, including medical, may be grounds for disqualification of employment of job applicants, grounds for transfer, reclassification, demotion or termination of employment of City employees.

In addition to guarding their own safety and City property, employees will do everything possible to safeguard co-workers and are responsible to hold each other accountable. Employees are also responsible for other people they may come into contact with in the performance of their job duties including customers, vendors and members of the public.

Employees will immediately report to their supervisor any accident, illness, or disease arising from their employment that affects the employee or anyone else. Employees will also report any unsafe condition to their supervisor.

#### B. Management

It is the responsibility of management to:

1. Detect and correct unsafe working conditions and practices.
2. Enforce the maintenance of safe working conditions.
3. Train employees in correct work procedures and City safety policies.
4. Ensure that each employee knows and follows safety rules.
5. Encourage safety suggestions and discussions.
6. Ensure that all accidents and injuries are reported promptly and properly.

#### C. Vehicle Accident Review Board (VARB)

The VARB is tasked by the City Manager to review, investigate, analyze and recommend corrective action to reduce accidents involving injury, property damage and claims filed against the City or City employees. This centralized process allows comprehensive analysis of accident data to identify areas to be addressed through City sponsored training. The composition of the VARB and its procedures are in Administrative Directive.

### SECTION 2: TRAINING

The City is committed to providing training and employee development opportunities for all employees. The Human Resources Officer is responsible for city-wide training and development programs. The Department Heads assume responsibility of job skill training programs for individual employees. Training opportunities include general education leading to a certificate or degree, employee development, job skill training and other programs. Employee development and an employee's training activities should be reviewed and discussed during performance discussions or evaluations. Skill, supervisory and other

types of job training must have a direct relationship between the type of work performed and the training requested. Documentation of training will be kept in the employees file. Employees may be required to successfully complete training courses that are job related as a condition of employment.

The City recognizes the value of advanced education and has adopted its Education Program applicable to classified employees. The Education Program is determined by Administrative Directive. Education assistance and any work to obtain education are not considered training or hours worked and must be accomplished outside of the normal work schedule.

Training may be paid at 100% by the City as funds allow. All training must be approved in advance by the supervisor, manager or department head prior to signing up or participating.

## **RULE 15: EMPLOYMENT RECORDS**

### **SECTION 1: PERSONNEL FILE**

The Human Resources Department has custodial responsibilities for personnel and payroll records and will maintain a personnel file on each employee that will represent a record of an individual's employment with the City. The only official personnel files are those kept by Human Resources or the police department as required by AZPOST. Personnel records include the original application of the employee, job descriptions, performance evaluations, documentation of pay changes, status changes, disciplinary actions, training records and other relevant personnel information. Personnel records containing information of a personal or sensitive nature including but not limited to medical information, leave of absence, drug and alcohol test results, background investigations and I-9 documentation will be kept in a separate file apart from the personnel file. Any documentation of a sensitive nature will only be maintained in Human Resources; departments are required to forward any such documentation to Human Resources. Employment records will be retained in accordance with all applicable laws or City policy, whichever is longer. The City will only maintain three (3) years of paycheck images and four (4) years of W-2 images. Employees must keep their relevant personal and employment information current by notifying Human Resources of changes.

### **SECTION 2: ACCESS AND RELEASE OF EMPLOYEE INFORMATION**

All personnel files are property of the City and will be treated as confidential and only shared on a need to know basis. Human Resources personnel will have access to personnel files for the purpose of carrying out necessary personnel transactions and management personnel will have access to personnel files for those employees in their chain of command. Employees are allowed to review the contents of their personnel file by making an appointment with Human Resources and may request copies of any of their personnel documents. Any management personnel can view certain records in an employee's personnel file with legitimate business necessity by making an appointment with Human Resources. All personnel file inspections take place in the Human Resources Department in the presence of a Human Resources representative. Employees are not allowed to remove any files from Human Resources. Other requests of personnel file records or copies of documents will be disclosed only as authorized by the employee, as required by law, subpoena, judicial order or public records request. Access and release of information of personnel files of sworn police officers may differ only as specifically required by AZPOST or by law.

### **SECTION 3: VERIFICATION OF EMPLOYMENT**

All inquiries regarding a current or former City employee must be referred immediately to the Human Resources Department. The only individuals authorized to release information regarding a current or former employee is the Human Resources Officer or their designee. The City prohibits any employee from responding to requests for professional or personal information or issuing a reference letter about any former or current employee without written authorization from the Human Resources Officer.

Human Resources will only disclose dates of employment, job title of last position held, salary verification and eligibility for rehire when responding to requests for employment verification on current and former employees. No other information will be provided without signed consent from the current or former employee authorizing the City to release additional information to the specifically named organization. To be acceptable, the consent form must indicate the specific type(s) of information that may be released, and release the City from all potential liability related to the authorized disclosure. The Human Resources Officer or their designee reviews and handles these requests on a case-by-case basis.

Exceptions to the above procedures include compliance with AZPOST rules, Arizona Revised Statutes and information requests received by the City from federal, state, or local authorities, including officials and authorized representatives of the courts, as well as law enforcement and other government agencies. The City shall honor all such requests and provide the information sought in the form requested by the agency or official.

#### SECTION 4: HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)

HIPAA protects all individually identifiable health information held or transmitted by the City or its employees in any form, whether electronic, paper or oral. Protected Health Information (PHI) is 1) information about an individual, including demographics that relate to the individual's past, present or future physical or mental health or condition, 2) related health care services to the individual, 3) the past, present or future payment for related health care to the individual and 4) identifies the individual or for which there is a reasonable basis to believe it can be used to identify the individual.

The City is required by law to maintain the privacy of PHI and to provide health plan enrollees with notice of the legal duties and privacy practices with respect to PHI. The City may use and disclose an employee's PHI to carryout treatment, payment or health care operations and for other purposes that are permitted or required by law.

An employee may complain or report a HIPAA violation to the City or to the US Department of Health and Human Services if they believe their privacy rights have been violated by the City. An employee may file a complaint with the City by notifying the Human Resources Officer in writing of the alleged violation. Retaliation for filing a complaint is prohibited.

## **RULE 16: SEPARATION FROM EMPLOYMENT**

### **SECTION 1: RESIGNATION**

Employees resigning from the City must submit a written notification to their supervisor at least ten (10) working days prior to separation. The written notice should include the effective date of the resignation and reason for leaving. The written notification along with a completed personnel action form must be forwarded to Human Resources immediately. An employee's failure to adhere to the required resignation period or if they are involuntarily terminated or allowed to resign in lieu of termination, will be deemed as not having left in good standing and not eligible for rehire. In certain circumstances, a department head may allow the employee to forgo part or all of the two-week obligation and still remain in good standing with the City.

An employee who submits a two-week notice should not take leave while serving the two-week period. The last physical day worked will be considered the exiting employee's final date of employment with the City except as outlined in Rule 9, Section 11, Terminal Leave.

Employees may request in writing to withdraw their resignation prior to the effective date subject to recommendation by the Department Head and the Human Resources Officer and approval by the City Manager.

Employees are required to turn in all City property on their last day of employment. Human Resources will schedule a meeting with full-time employees on their last day to out-process from City employment; this will include the opportunity to complete an exit interview. The exit interview gives the employee an opportunity to provide reasons for separation as well as opinions and recommendations for improvements. The documentation completed during the exit interview will be retained in the Human Resources Department.

If an employee leaves City service and subsequently returns to City service, the employee will be treated like a new hire in all aspects of employment and benefits except as specifically defined in Section 2 of this rule or as required by law.

Part-time employees who haven't worked for more than six (6) months will be considered to have voluntarily resigned and the affected supervisor must forward a completed personnel action form to Human Resources immediately. Such part-time employee will be subject to all regular hiring practices should they wish to be re-employed by the City.

### **SECTION 2: REDUCTION IN FORCE (RIF)**

A RIF may occur due to change in duties, reorganization, lack of work or funds, contractual or technological changes, or other reasons as determined by the City Manager after all other feasible alternatives have been exhausted. Such RIF's are to be made without interruption to essential services and in the best interest of the public health and welfare. If a need for RIF is recommended by the City Manager, a RIF plan will be developed by the affected Department Heads which will include the positions, number of positions, effective dates and all other applicable information to determine and carryout the plan. The RIF plan will be subject to review and recommendation of the Human Resources Officer and the City Attorney and approved by the City Manager. Whenever possible, an employee being laid-off will receive the notice in writing and thirty (30) calendar days notice.

In the event of a RIF, employees will be laid off in the following order:

1. Unclassified employees
2. Probationary period employees
3. Classified employees

The order of layoff of employees within the above categories will be determined on the basis of various factors including their qualifications and skills and relative suitability for the jobs that remain, performance evaluations, overall employment record including disciplinary actions and length of continuous service.

Employees who are being laid off due to a RIF, prior to the effective date of the removal of the position, will be given priority placement into any open positions if they meet the minimum qualifications of the job. Placement will be based on various factors including their qualifications, skills and relative suitability for the jobs that remain, performance evaluations, overall employment record including disciplinary actions and length of continuous service.

Any classified employee who is subject to RIF will be permitted to be placed in a position in a lower classification or in the same classification in which they meet the minimum qualifications of and can perform the essential functions of the job. They may also apply for any vacancy that may result in a promotion and will be subject to all regular hiring practices.

A RIF list will be maintained for each classification. An individual may remain on the RIF list for a maximum of two (2) years at which time the list will expire. As vacancies occur while the RIF list is active, individuals will be recalled from the list based on the factors as described above. Those recalled from the RIF list will be subject to a background investigation. If recalled, all benefits are re-instated to the employee's original service date. New employees are prohibited from being hired into a RIF position until qualified employees on the RIF list have had an opportunity to be recalled or the list is expired. After expiration, an individual from the list may apply to any posted vacancy for consideration and will be subject to all regular hiring practices. An employee remains on the RIF list for a period of two (2) years unless the employee fails to respond to a recall, or has obtained another position at the City. It will be the responsibility of the laid off employee to notify the Human Resources Department of any changes in their contact information.

October 18, 2021

MEMORANDUM TO: Honorable Mayor and City Council

THRU: Charles P. Potucek, City Manager

FROM: David J. Felix, CPA, Chief Financial Officer

SUBJECT: REQUEST FOR AGENDA ITEM PLACEMENT  
Resolution 2021-073, Transfer of Funds from the General Fund to the Park, Police and Fire Development Impact Fee Funds

BACKGROUND

We are still closing the books on Fiscal Year Ending June 30, 2021. Due mainly to the above budget City Transaction Privilege Tax Revenues, salary and operations & maintenance savings due to COVID, and AzCARES Act Money, the City's General Fund revenue over expenditure estimate is currently approximately \$5.796M.

Staff is recommending transferring \$3,100,000 of this from the General Fund to the Park Development Fee Fund, \$775,000 to the Police Development Impact Fee Fund and \$1,200,000 to the Fire Development Impact Fee Fund. for Fiscal Year 2021. These transfers will leave small negative fund balances in the three funds. The reason not to bring the funds completely whole is the current development fees were based on bring them whole over a ten-year period. If council approves this resolution, staff will be recommending an updated Development Impact Fee study be included in next year's (FY2023) budget to reflect the change in fee basis.

If you have any questions, please contact me.

RESOLUTION 2013-073

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, COCHISE COUNTY, ARIZONA; TRANSFERRING FUNDS FROM THE GENDERL FUND TO THE PARK, POLICE AND FIRE DEVELOPMENT IMPACT FEE FUNDS; AND AUTHORIZING AND DIRECTING THE CITY MANAGER, CITY CLERK, CITY ATTORNEY OR THEIR DULY AUTHORIZED OFFICERS AND AGENTS TO TAKE ALL STEPS NECESSARY TO CARRY OUT THE PURPOSES AND INTENT OF THIS RESOLUTION.

WHEREAS, the Park, Police and Fire Development Impact Fee Funds have fund balance deficits that will not be brought whole for 10 years at the current fee schedule; and

WHEREAS, the General Fund has current available resources from which to help reduce the three Impact Development Fee Funds' deficit fund balances; and

WHEREAS, it is in the best interest of the City to have the General Fund transfer some of these resources to the three Impact Development Fee Funds.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SIERRA VISTA, ARIZONA, AS FOLLOWS:

SECTION 1

The settled policy of approving budget deviations in excess of \$10,000 between funds is reaffirmed.

SECTION 2

The City Council hereby authorizes the transfer of \$3,100,000 from the General Fund to the Park Development Impact Fee Fund, \$775,000 from the General Fund to the Police Development Impact Fee fund and \$1,200,000 from the General Fund to the Fire Development Impact Fee Fund for Fiscal Year Ending June 30, 2020

SECTION 3

The City Manager, City Clerk, City Attorney, or their duly authorized officers and agents, are hereby authorized and directed to take all steps necessary to carry out the purposes and intent of this Resolution.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY  
OF SIERRA VISTA, ARIZONA, THIS 28<sup>th</sup> DAY OF OCTOBER, 2021.

\_\_\_\_\_  
FREDERICK W. MUELLER  
Mayor

ATTEST:

\_\_\_\_\_  
JILL ADAMS  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
NATHAN WILLIAMS  
City Attorney

PREPARED BY:  
DAVID J. FELIX, CPA  
Chief Financial Officer

RESOLUTION 2021-073  
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