

**RESOLUTION NO. 27-2008**

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA, APPROVING AND ADOPTING THE HUMAN RESOURCES ADMINISTRATIVE POLICY ESTABLISHING POLICIES AND PROCEDURES FOR THE PERSONNEL OF THE CITY OF BENSON.

WHEREAS, the staff of the City of Benson (the "City") has prepared a set of policies and procedures (the "Human Resources Administrative Policy") for all personnel of the City, attached hereto as Exhibit "A" and incorporated herein by this reference; and

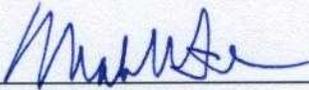
WHEREAS, the Human Resources Administrative Policy has been reviewed at all employee levels; and

WHEREAS, the Mayor and Council of the City of Benson have reviewed the Human Resources Administrative Policy and have determined that adopting it is in the best interests of the City, its employees, and its residents.

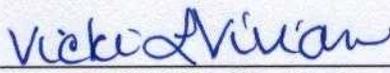
NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Benson that the Human Resources Administrative Policy attached hereto as Exhibit "A," is hereby adopted and established as the official policies and procedures for all personnel of the City, superseding all prior personnel policies, codes and procedures of the City.

BE IT FURTHER RESOLVED that the City Manager is hereby directed to take all actions necessary and proper to implement the Human Resources Administrative Policy.

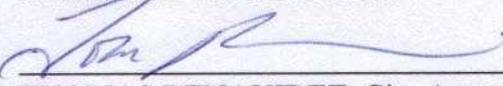
PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF BENSON, ARIZONA, this 12th day of May, 2008.

  
\_\_\_\_\_  
MARK M. FENN, Mayor

ATTEST:

  
\_\_\_\_\_  
VICKI VIVIAN, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
THOMAS BENAVIDEZ, City Attorney

**Exhibit "A"**  
**Human Resources Administrative Policy**

# CITY OF BENSON



## HUMAN RESOURCES ADMINISTRATIVE POLICY

**ADOPTED: 5/12/08**

**REVISED:**

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## **1. SEXUAL HARASSMENT POLICY**

### **1.1 PURPOSE:**

The purpose of this directive is to issue all employees the policy of the City of Benson prohibiting sexual harassment in the work place.

### **1.2 BACKGROUND:**

It has long been the City's policy that all employees have a right to work in an environment free from any type of discrimination, including freedom from sexual harassment. The U.S. Equal Employment Opportunity Commission (EEOC) has issued guidelines on "sex-related intimidation" in the workplace. The EEOC guidelines treat sexual harassment as illegal sex discrimination under the Civil Rights Act of 1964. The guidelines will be enforced by EEOC and will be given great weight by the courts. The City is in full agreement with the intent of these sex discrimination guidelines because effective working relationships between employees must be based on mutual respect. Therefore, actions which are counter to these guidelines are also counter to the City's position as an organization.

### **1.3 POLICY:**

Sexual harassment of the employees of the City of Benson will not be tolerated. This means that the following behaviors are grounds for disciplinary action: Abusing the dignity of an employee through insulting or degrading sexual remarks or conduct; Threats, demands, or suggestions that an employee's work status is contingent upon the employee's toleration of or acquiescence to sexual advances; or Retaliation against employees for complaining about the behaviors described above. Department Heads and supervisors shall discuss this Policy in detail with their employees, and assure them that they can work in security and dignity, and are not required to endure insulting, degrading, or exploitative sexual treatment. Department Heads and supervisors shall immediately report to the Human Resources Director any complaints received from their employees concerning sexual harassment before any investigation is implemented.

### **1.4 ACTION:**

Management. Each Manager has an affirmative duty to maintain his/her workplace free of sexual harassment and intimidation. In order to rebut any apparent liability, a Manager must show that he/she took immediate and appropriate corrective action.

Employees. The City of Benson wants all of its employees to be able to work in security and dignity. This means that you should be free from sexual harassment, including:

- Sexual relations or contact with a supervisor or co-worker that you do not want and to which you have not freely agreed;
  - Attention of a sexual nature (degrading comments, propositions, jokes or tricks, etc.) that you do not want; and
  - The threat or suggestion that your job, advancement, assignments, wages, etc., depend on whether or not you submit to sexual demands or tolerate harassment.
- IF YOU ENCOUNTER SUCH ABUSES FROM SUPERVISORS, FELLOW EMPLOYEES, OR CITIZENS, YOU SHOULD CONTACT YOUR SUPERVISOR OR THE HUMAN RESOURCES DIRECTOR.

Human Resources Director. The Human Resources Director shall receive and process all complaints of sexual harassment. The Human Resources Director shall assess each situation by conducting an investigation. The Human Resources Director shall report the findings to the City Manager and make recommendations concerning the disposition of each case. Complaints against the Human Resources Director should be made directly to the City Manager.

City Manager. After reviewing all of the evidence, the City Manager shall make a determination of whether or not reasonable grounds exist to believe that discrimination has occurred. If such grounds are found, the City Manager takes appropriate action within the EEOC guidelines. The City Manager may hire an outside investigator to investigate and make recommendations on a complaint. Complaints against the City Manager should be made to the City Attorney. The City Attorney shall follow-up on complaints against the City Manager as the City Attorney deems appropriate under the circumstances. The City Attorney will notify Mayor and Council of complaints made against the City Manager.

## **2. DRUG FREE WORKPLACE POLICY**

### **2.1 PURPOSE:**

The City of Benson recognizes that its employees are its most important resource. The purpose of this document is to outline the City's policy regarding substance abuse and to assist employees in identifying and combating substance abuse. This policy applies to all City of Benson employees.

### **2.2 POLICY:**

The City of Benson recognizes that alcohol and drug dependency is an illness and a major health problem. Drug and alcohol abuse can also cause potential safety and security problems in the workplace. It is the City's intent and obligation to provide a drug-free, healthful, safe and secure work environment.

Employees are expected and required to report to work on time and in an appropriate mental and physical condition for work. It is also the employee's responsibility to meet satisfactory job performance. Unsatisfactory job performance resulting from the use of alcohol or drugs or any other substance will be subject to normal disciplinary procedures.

The City of Benson recognizes that alcohol or drug abuse can be successfully treated, enabling employees to return to work. An employee who recognizes that he/she has a substance abuse problem can contact the City of Benson and obtain referral information about available community resources for assessment and treatment.

The use or unlawful manufacture, distribution, dispensing or possession of alcohol, drugs or controlled substances while on duty or on City property is prohibited and will not be tolerated by the City. Any employee who violates this provision of these guidelines will be subject to appropriate discipline up to and including dismissal.

Employees must, as a condition of employment, abide by the terms of the above policy and report any charges under a criminal drug or alcohol statute. The employee shall report such charges to a supervisor within five days after the employee receives notice of the charges.

### **2.3 USE OF PRESCRIPTION AND OVER-THE-COUNTER DRUGS:**

Employees taking prescription or over-the-counter non-prescribed drugs or medication which may interfere with the performance of his/her job duties shall report the usage of the drug or medication to his/her supervisor prior to going on duty. Employees taking such drugs or medication shall determine the possibility of side effects, which may interfere with his/her job performance based upon the prescribing physician's advice or the warning on the drug or medication label. Employees who determine that their performance may be interfered with by the use of such drug or drugs or who may be considered to be under the influence, should advise their supervisors that they are unable to report to duty.

### **2.4 REPORTING TO WORK UNDER THE INFLUENCE:**

Being on duty or reporting to work under the influence of alcohol, drugs or any other controlled substance which may negatively impact an employee's job performance is prohibited.

### **2.5 DEFINITIONS:**

When used in these guidelines, the following terms shall have the following meanings:

- **Controlled Substance:** Shall mean a "controlled substance" as defined in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. § 812), as further defined by Regulations 21 CFR §§ 1300.11 through 1300.15.
- **Drug:** Shall mean any "dangerous drug," "narcotic drug," "prescription-only drug," "peyote," "vapor releasing substance containing a toxic substance" or "marijuana" as defined in the Arizona Revised Statutes, Title 13.
- **On Duty:** Shall mean the total time between the time an employee first reports to work until the end of the employee's normally scheduled tour of duty; it shall specifically include breaks (coffee or rest), lunch or mealtime (whether paid or unpaid), overtime (including callouts) and paid/restricted standby time.

### **3. EQUAL EMPLOYMENT OPPORTUNITY (EEO)**

It is the policy of the City of Benson, Arizona to provide Equal Employment Opportunity to all employees and applicants for employment. That policy is one of nondiscrimination on the basis of race, sex, national origin, religion, color, age, handicap, disabled veteran or Vietnam-Era veteran status. This policy is to be followed in respect to all conditions of employment, including but not limited to, recruitment, selection, promotion, placement, training, transfers, discipline, compensation, employee benefits, layoffs and terminations.

Every city employee and job applicant should know that our policy of nondiscrimination on the basis of race, sex, national origin, color, religion, age, handicap, and disabled veteran or Vietnam-Era veteran status extends to all conditions and that policy is strong. Furthermore, all Department Heads and supervisors have responsibilities under this Program. Their participation and support are crucial if this Program is to be an everyday practice, which reaches all employees and applicants.

The Human Resources Analyst is designated as the City Equal Employment Opportunity Officer. The Human Resources Analyst will be available to all employees and applicants to handle any matters regarding EEO.

### **4. FAMILY AND MEDICAL LEAVE ACT (FMLA)**

#### **4.1 PURPOSE:**

The Family and Medical Leave Act of 1993 allows eligible employees to take paid or unpaid leave for up to a total of 12 workweeks in the preceding 12 month period.

#### **4.2 ELIGIBILITY:**

An employee must be on the City's payroll for 12 months, and employed for at least 1,250 hours of service during the 12-month period immediately preceding the commencement of leave.

#### **4.3 REASONS FOR LEAVE PURSUANT TO FMLA:**

Reasons for Leave pursuant for FMLA are as follows:

- Birth of a child, and to care for the newborn child.
- Placement of a child for adoption or foster care.
- Care for the employee's spouse, dependent child, or parent with a serious health condition.
- A serious health condition that makes the employee unable to perform the functions of the employee's job.

#### **4.4 DEFINITIONS:**

For FMLA purposes, a "serious health condition" shall mean a "serious health condition" as defined by 29 CFR § 825.114.

#### **4.5 NOTICE:**

If an employee uses any City-approved leave as a result of the employee or a qualifying family member having a serious health condition, the employee must notify Human Resources of the fact so that Human Resources may account for the leave for FMLA purposes.

An employee must provide a request for FMLA leave to the Human Resources Department at least 30 days in advance, if the leave is foreseeable. If the leave is unforeseeable, the employee must request the leave as soon as practicable.

It is the employee's responsibility to return the Physician's Certification to the Human Resources Department within 15 calendar days of receiving the FMLA paperwork. If Human Resources does not receive the Certification, the leave may be denied.

The employee may request to take a qualifying leave retroactive back to the initial date, if leave is requested within 3 days of returning from an eligible FMLA event. The request must be made in writing to the Human Resources Department.

If a serious injury or illness was unforeseeable or if the Human Resources Department was not properly notified, the City may take the qualifying FMLA leave retroactive back to the initial date. Human Resources will notify the employee in writing of the leave dates.

The employee will be notified by Human Resources if the FMLA leave is approved or denied.

#### **4.6 REQUIREMENTS DURING LEAVE:**

Paid leave will substitute for unpaid leave, until the employee has exhausted any and all available accrued leave. Paid leave will run concurrent with the FMLA leave. The following paid leave will be substituted, if available: Sick leave, Family Sick leave, Personal leave, Compensatory Time and Vacation leave.

Worker's Comp Leave shall run concurrently with FMLA leave, if the injury otherwise meets the "serious health condition" requirement. The City may require periodic updates, clarification or re-certifications from an employee while on FMLA leave. During FMLA leave, the City will maintain Medical, Dental, Vision and Life Insurance, and the employee will be responsible for their portion of the premiums. If in a paid status, premiums will be deducted from paychecks. If an employee is in a no pay status, the employee must contact Human Resources/Payroll to make payment arrangements. The City may opt to obtain a second opinion from a physician of the City's choice to substantiate that FMLA leave is required.

#### **4.7 INTERMITTANT LEAVE:**

Leave may be taken on an intermittent basis, if noted by a physician. Intermittent leave will be deducted from annual FMLA leave in accordance with Personnel Administrative Regulations. Intermittent leave may require re-certification no less than every 30 days. If the Physician's Certification is not clear or specific, FMLA leave may be delayed until clarified.

#### **4.8 RECORDING FMLA USE:**

A holiday that falls within an FMLA absence is considered FMLA leave. In accordance with FMLA regulations, the City may elect to put an employee on FMLA if the absence qualifies as defined in this Regulation. FMLA leave will not be included in the total amount of absences used by an employee for evaluation or discipline purposes. If spouses are both employed by the City, they are allowed 12 weeks of FMLA between them for the birth of a child, adoption of a child, or to care for a parent.

#### **4.9 RETURNING FROM FMLA LEAVE:**

Key employees may not be reinstated if their position needs to be filled during the leave because a position vacancy will cause substantial and grievous economic injury to the City. If an employee fails to return to work for a minimum of 30 days after an FMLA leave, the City is entitled to recover from the employee, the full health benefit premiums paid by the employer for insurance coverage during the leave period. An employee who returns to work for at least 30 calendar days is considered to have returned to work. Reinstatement to a position may be denied if an employee does not return to work at the end of the 12-week FMLA period. Employees on approved FMLA leave are not protected from disciplinary action provided such action is not taken because the employee is on FMLA. Reductions in force, termination, or other actions may be administered to an employee on FMLA provided such action would have been taken against the employee regardless of their request or use of FMLA leave.

## **5. EMPLOYMENT**

### **5.1 PURPOSE:**

The success of services to the public is a direct result of the selection and placement of personnel. In order to assure placement of the best candidates, primary consideration will be given to the ability of candidates to successfully perform the tasks and duties of the position with a high degree of proficiency.

### **5.2 APPLICATION FORMS:**

Applications will be accepted only when a position is open and/or advertised. This form may be obtained from the Human Resources Department. Vacancies are announced on official bulletin boards throughout City departments. Other methods of recruitment are used as deemed appropriate by Human Resources.

Recruitment and advertisement for classified positions with the City shall be under the direction of Human Resources. News releases to all media shall be released through the City Manager's office. Positions in classifications above entry level shall be filled by competitive examination whenever there are employees who have the qualifying experience, training, education, and past performance.

To the extent permitted by all applicable laws, openings may be filled initially by means of competitive in-house promotion. City employees must complete a City of Benson Employee Application form available through Human Resources. Non in-house or open competitive positions may be advertised through local newspapers, and/or regional or national publications, and/or on the City of Benson internet for a length of time determined by the Human Resources Director. The Human Resources Division will accept applications and assist applicants in their questions about the position advertised.

### **5.3 PROMOTIONAL ELIGIBILITY:**

To recognize government service as a career opportunity, the city encourages the use of in-house opportunity for promotion. All employees who have completed the initial probation may apply for positions posted as in-house opportunity.

### **5.4 EXAMINATION:**

Selection techniques used by the City are impartial, practical, and job-related. The examinations used may include, but are not limited to, oral, written, performance, physical/mental fitness, and training/experience evaluations. In addition, evaluation of past work performance, work samples, personal interviews, and background investigations may be used in the selection process.

Anyone participating in a selection examination must wait at least 90 days from the date of the completion of the examination before re-testing for the same position and cannot test more than three times within 12 months for the same position. A new application must be submitted before each examination. Anyone withdrawing from the examination process before completion may reapply for the same position but must repeat the entire examination process and must wait 90 days from the date of the examination.

### **5.5 DISABILITY:**

The definition of "disability" with respect to an individual is: 1) a physical or mental impairment that substantially limits one or more of the major life activities of such individuals; 2) a record of such impairment; or, 3) being regarded as having an impairment. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, and emotional illness. "Qualified individual with a disability" means a person with a disability who with or without reasonable accommodation can perform the essential functions of the employment position that the individual holds or desires.

## **5.6 SELECTION:**

The two types of employment lists are in-house and open competitive. Qualified candidates will be listed by rank high to low, on all employment lists, and selection will be made from the top 3 on the list. Employment lists from public recruitments may incorporate City employees based on their ranking received in the testing process. Final selection shall be made by department supervisor or Department Head subject to the approval of the City Manager.

Vacancies of full-time positions are filled by one of the following methods listed in order of priority; involuntary transfer, involuntary demotion, appointment from in-house opportunity, appointment from open competitive, and six-month provisional appointment. The Department Head or City Manager will check references and offer the position to the applicant selected by the requesting department in accordance with these Personnel Administrative Regulations and upon approval of the City Manager.

## **5.7 PROBATION:**

The purpose of an initial probationary period is to provide a reasonable time for the employee to perform the full range of duties of the position. This time also allows the City a reasonable amount of time to fully assess the employee in the performance of these duties. All positions in the City of Benson are subject to a 12 month initial employment probationary period. The probationary period may be adjusted to exclude the calendar days of suspension without pay, leave of absence without pay, or any unpaid absence in excess of 30 calendar days. At the request of the Department Head, the City Manager may approve an initial probationary period extension up to six months based on the analysis of the situation. All employees shall serve a one (1) year promotional probationary period upon promotion.

## **5.8 TRANSFER DURING PROBATIONARY PERIOD:**

Employees transferred during any probationary period shall be required to complete a one (1) year probationary period in the newest position. However, the City Manager may require up to an additional six (6) month probationary period based on his/her own analysis of the employee situation, at his/her discretion or at the request of the Department Head.

## **5.9 DISMISSAL DURING PROBATIONARY PERIOD:**

At any time during the initial probationary period, the City Manager or his designee may, with their sole discretion, dismiss an employee from employment with the City.

## **5.10 REDUCTION IN RANGE DURING PROMOTIONAL PROBATIONARY PERIOD:**

An employee serving a probationary period as a result of a promotion, who is currently a regular full-time employee (has previously completed an initial probationary period), may be reinstated to his/her previous range, step, and position or similar position if the reduction is for other than violations of these Personnel Administrative Regulations, Department Policies, City Code or any other City Regulation, and as long as such a position is available. Such a reason, for example, would include reduction in force due to budgetary considerations. Any employees found guilty of a violation of these Personnel Administrative Regulations, Department Regulations, City Code Provisions, or City Regulations shall not have any right to reinstatement into a position at a lower range or step. A regular full-time employee who is not performing in a satisfactory manner during the probationary period resulting from a promotion may, at the discretion of the City Manager or his designee, be reinstated to his or her previous range, step, and position or a similar position.

## **5.11 APPEAL RIGHTS OF PROBATIONARY EMPLOYEES:**

Probationary employees on initial probation may not appeal any disciplinary action.

## **5.12 APPOINTMENT:**

Full-time Appointment: Appointments shall be made to regular full-time positions in the classified, management and executive service.

Emergency Appointment: In the event of an emergency, the City Manager may select and appoint persons without regard to the rules governing appointments, but in no case shall such emergency appointments continue longer than 180 calendar days. A person appointed to an emergency appointment shall have no rights conferred by these Administrative Regulations.

Temporary Employee Request: The Department Director may request a temporary employee from an outside agency to fill the vacancy of a full time position due to an approved leave of absence, without pay, for a period of time not to exceed eight (8) weeks.

## **6. PERSONNEL RECORDS**

### **6.1 MAINTENANCE OF PERSONNEL RECORDS:**

Human Resources shall be responsible to maintain all official personnel records.

### **6.2 REVIEW OF PERSONNEL RECORDS:**

Upon request and by appointment, employees shall be permitted to examine their personnel files. Supervisors or Department Heads have access to personnel files. Hearing Official, when considering any employee appeal, may review an employee's personnel file. Personnel Board members, when considering an appeal before the Personnel Board, may review the appellant's personnel records. All requests for personnel records shall be reviewed by the City Attorney's Office prior to the release of the personnel records.

### **6.3 REPORTING CHANGES IN NAME, ADDRESS AND DEPENDANTS:**

Employees shall report to their Department Head and Human Resources any change of name, street, mailing address, telephone number or information which will have an impact on the personnel record of the employee.

## **7. EMPLOYEE ORIENTATION**

To assure that all employees are made aware of the primary policies and regulations affecting their employment, as well as receiving generalized information regarding City employment, the following program is outlined:

### **7.1 FIRST DAY OF EMPLOYMENT:**

Human Resources Division should insure the following are complete: Employment forms and/or procedures, Income Tax Forms, Loyalty Oath, State Retirement, Identification, Immigration & Naturalization Service and Other. Additionally, the following documents will be reviewed with the new employee:

- Review of Personnel Handbook, rules and regulations.
- Specific review of Sexual Harassment, Drug Free Work Place Policy.
- Review compensation procedure, salary/wage, payday, mandatory deductions, etc.
- Explanation of performance review practices.
- Supervisor meets employee.
- Supervisor will show employee the location of work and equipment.

## **8. RESIDENCY REQUIREMENT**

All regular, full-time employees are required to live within a 45 minute drive of the City Limits, unless waived by the City Manager.

**9. EMPLOYMENT OF A RELATIVE**

Full-time and part-time employees may be employed within the same division as an immediate family member, provided one relative does not supervise the immediate family member. In the event two employees marry who are employed in the classified or management service of the same division, one of the employees shall be transferred to a position in another Division, with a substantially similar classification. The City Manager may layoff one of the employees if there are no positions available. No member of the immediate family of any elected official of the City of Benson shall be appointed to the classified or management service.

**10. HOLIDAYS**

The following holidays shall be official holidays for employees of the City of Benson.

<u>DAY</u>	<u>WHEN OBSERVED</u>
New Year's Day	January 1
Martin Luther King's Birthday	3 <sup>rd</sup> Monday in January
President's Day	3 <sup>rd</sup> Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4 <sup>th</sup>
Labor Day	1 <sup>st</sup> Monday in September
Veteran's Day	November 11 <sup>th</sup>
Thanksgiving	4 <sup>th</sup> Thursday in November
Day after Thanksgiving	4 <sup>th</sup> Friday in November
Christmas Day	December 25 <sup>th</sup>

Whenever a holiday falls on a Saturday, it shall be observed on the preceding Friday. Whenever a holiday falls on a Sunday, it shall be observed the following Monday. Employees must be in an authorized pay status the day before and the day following the holiday to be eligible to receive holiday pay. All full-time employees of the City of Benson shall receive holiday pay in accordance with Holiday Pay Section for legal holidays observed by the City.

**11. VACATION LEAVE**

**PURPOSE:**

Vacations are provided for employees as a period of rest and relaxation. Employees are encouraged to schedule an annual vacation. All vacations shall be scheduled and taken in accordance with the best interests of the City and the employee. Vacation leave accrual is based on continuous, active employment status with the City. All full-time employees shall accrue vacation as follows:

**TABLE 11 Accrue Vacation**

Years of Employment	Pay Period Accrual	Vacation Hours Accrued per Year
1 - 3	4 hrs	104
3+ - 10	5 hrs	130
10+ - 15	6 hrs	156
15+	8 hrs	208

Regular part-time employees hired to work 30-39 hours per week shall accrue vacation at the 3 hours per pay period. Regular part-time employees hired to work 20-29 hours per week shall accrue vacation at the 2 hour per pay period. An employee shall be eligible to use accrued vacation leave after six months of consecutive employment. The City Manager or designee may waive this requirement for good cause.

Vacation leave shall be deducted as follows: Full-time and regular part-time employees subject to the provisions of the Fair Labor Standards Act shall have vacation leave deducted in quarter-hour increments. Use of vacation leave for a full day shall be based on the number of hours in the employee's regularly scheduled workday. Employees exempt from the provisions of the Fair Labor Standards Act shall have vacation leave deducted in increments of one day based on their regularly scheduled workday. Vacation leave accrual will be stopped or reversed when an employee is on leave without pay for 30 consecutive days.

Standards for taking vacation leave are as follows: Employees subject to the provisions of the Fair Labor Standards Act shall take vacation leave with the approval of the Department Director with preference based on department or division seniority and the needs of the department and City. Employees exempt from the provisions of the Fair Labor Standards Act shall take vacation leave with the approval of the Department Director or City Manager or designee as applicable based on the management needs of the department and City.

Employees, exempt and non-exempt from the Fair Labor Standards Act, will be allowed to accrue vacation leave up to one and one half times (1.5) their annual accrue rate per year. For example, if an employee annual accrue rate is 130 hours per year, the maximum accrue vacation leave is 195 hours. All vacation leave that would normally accrue above this limit shall be forfeited. There shall be no cash-out of vacation leave, except upon termination, or as provided in the following paragraph. Exceptions due to special circumstances must be recommended and approved by the City Manager or designee.

Employees are required to submit a request for vacation leave, utilizing a request for absence form as follows: Full-time and regular part-time employees subject to the provisions of the Fair Labor Standards Act shall submit a Request for Absence form not less than ten working days prior to the first day of the requested vacation leave. Department Directors may waive the ten days advance notice at their discretion. Employees exempt from the provisions of the Fair Labor Standards Act shall submit a Request for Absence form as required by their department, City Manager or the City Manager's designee.

## **12. SICK LEAVE**

### **12.1 ACCRUE SICK LEAVE:**

All full-time and regular part-time benefited employees shall accrue paid sick leave as outlined in this section. Eligibility to use sick leave benefits shall commence after completion of one full pay period of active, continuous employment.

All full-time and regular part-time classified employees who are subject to the provisions of the Federal Fair Labor Standards Act shall accrue sick leave as provided below. Full-time employees subject to the provisions of the Federal Fair Labor Standards Act shall accrue four (4) hours of sick leave per pay period. Full-time employees exempt from the provisions of the Federal Fair Labor Standards Act shall accrue four (4) hours of sick leave per pay period. Regular part-time employees hired to work 30-39 hours per week shall accrue three (3) hours of sick leave per pay period. Regular part-time employees hired to work 20-29 hours per week shall accrue two (2) hours of sick leave per pay period.

City employees shall accrue unused sick leave to a total of nine hundred and sixty (960) hours. Any accrual above 960 hours at the end of April will be paid at 25% during the month of May.

Sick leave accrual is based on continuous, active employment. Sick leave shall be deducted as follows: Full-time and regular part-time employees subject to the provisions of the Federal Fair Labor Standards Act shall have sick leave deducted in quarter-hour increments. Use of sick leave for a full day shall be based on the number of hours in the employee's regularly scheduled workday. Employees exempt from the provisions of the Federal Fair Labor Standards Act shall have sick leave deducted in increments of one (1) day based on the employee's regularly scheduled workday. If sick leave is taken, the amount shall be rounded off to zero if the leave is less than one-half of the employee's regularly scheduled workday or rounded to one (1) day if it is greater than half of the employee's regular scheduled work day.

Sick leave accrual will be stopped or reversed when an employee is on leave without pay for 30 consecutive days. Sick leave will not be charged if, at the end of the work week, an employee has 40 hours of time accounted for in hours worked, holiday pay, vacation pay, or other leave.

## **12.2 ALLOWABLE SICK LEAVE:**

Sick leave shall be allowed for personal illness or injury including disability relating to pregnancy or miscarriage as well as pre- and post-natal examinations; personal routine preventative medical, dental, optical, and psychiatric examinations; tests and surgeries. Sick leave may be utilized for travel time to and from the appointment location.

The Department Director or supervisor may require a physician's statement if sick leave is taken. All medical treatment slips which are required shall be attached to the Request for Absence form. An employee may be granted special use of sick leave chargeable to his/her sick leave to care for an ill or injured immediate family member. Additional time may be granted and charged to vacation leave for this purpose.

## **12.3 SICK LEAVE CONVERSION:**

Sick Leave Conversion at Retirement: Full-time employees with ten years of continuous service who have accumulated unused sick leave at the time of retirement through the applicable retirement systems will be eligible for payment of compensation equal to twenty five percent (25%) of the employee's hourly rate.

Sick Leave Conversion to Personal Leave: Employees may use one (1) day of accrued sick leave for personal leave each calendar year. This will be charged to sick leave accrual. This personal leave will be deducted in one (1) day increments based on the employee's regularly scheduled workday.

All employees are required to submit a Request for Absence form not less than ten (10) days prior to the requested leave. Department Directors may waive the ten days' advance notice at their discretion.

## **12.4 SICK LEAVE; EMERGENCY DONATIONS:**

Application: This regulation will be applicable to emergency donations of sick leave by any employee to any employee. This donation of sick leave will neither be used to bolster an employee's sick leave if that employee has any sick leave or other leave credited to his/her account, nor for on-the-job injuries covered by workers compensation.

Donations will be in increments of eight (8) hours. If a donating full-time employee has four hundred (400) or more hours of accumulated sick leave at the time of donation, the employee may donate up to forty (40) hours of sick leave per incident. If a donating full-time employee has less than 400 hours of accumulated sick leave at the time of the donation, the employees may donate up to eight (8) hours of sick leave per incident. If a donating regular part-time employee has 200 or more hours of accumulated sick leave at the time of donation, the employee may donate up to twenty-four (24) hours of sick leave per incident. If a donating regular part-time employee has less than 200 hours of accumulated sick leave at the time of the donation, the employee may donate eight (8) hours of sick leave per incident. If an employee scheduled to work a fifty-six (56) hour work week has 400 or more hours of accumulated sick leave at the time of donation, the may donate up to fifty-six (56) hours of sick leave per incident. Fifty-six (56) hour employees with less than 400 hours of accumulated sick leave at the time of donation may donate up to sixteen (16) hours of sick leave per incident.

Donations must be submitted on the City approved form. Unused donation forms will be returned to the donating employee's timekeeper when the emergency condition has concluded, indicating on the form how many of the donating employee's sick leave hours were donated. If requested by the donating employee, the name of the donating employee will not be provided to the employee receiving the donation, to the extent allowed by law.

## **12.5 INDEPENDENT MEDICAL EXAM (IME) AND SECOND OPINIONS:**

The City of Benson may require an employee to submit to an IME or second opinion to determine fitness for return to duty and the ability to perform essential functions of a job when conflicting results are received from medical personnel.

### **13. HEALTH/DENTAL/VISION/LIFE INSURANCE**

#### **13.1 GENERAL:**

Regular full-time and regular part-time employees are covered under the City's group insurance program. The plan may provide health, dental, vision and/or life insurance coverage. If such coverage is available under the plan, regular full-time employees may elect to cover their dependents at the cost which has been determined by the City. The City may elect to pay a portion of the dependent's coverage. An employee shall be responsible for notifying the Human Resources Department of any changes in dependent eligibility.

#### **13.2 INSURANCE COVERAGE WHILE ON LEAVE:**

During any authorized leave with pay, health, dental, vision and life insurance coverage will be continued consistent with City and provider policies. During any authorized leave of absence without pay, in excess of 30 calendar days, for any reason other than the Family Medical Leave Act, the employee will be required to pay all premium costs and fees beginning the first day of leave.

An employee who is granted an approved leave of absence under the Family Medical Leave Act will be required to submit, to the City of Benson Human Resources Department, full payment for dependent coverage normally withheld from the paycheck on or before the first of each month. In the event that the employee elects not to return to work, the City may recover from the employee the cost of any payments made to maintain the employee's coverage, unless the failure to return to work was for reasons beyond the employee's control.

### **14. LUNCH AND REST PERIODS**

Employees will generally be allowed two (2) paid non work periods fifteen (15) minutes during each work shift. In those unusual situations in which a supervisor or Department Head determines that providing a non work period would create operational difficulties, there will be no entitlement to a non work period. All employees will be allowed an unpaid lunch period in conformance with the work schedule established within each department.

### **15. INDUSTRIAL LEAVE/WORKER'S COMPENSATION INSURANCE**

Industrial leave is defined as leave necessitated by an injury or condition sustained through employment with the City, which requires leave for treatment and/or recuperation as determined by a licensed physician.

Worker's Compensation provides for medical and hospital expenses as well as partial payment in lieu of salary for workers injured on the job. All City employees are covered by this form of insurance at no cost to the employee. A determination by the City Manager will be made at the end of 90 calendar days of absence due to an industrial injury if continued employment, limited or full, will be offered to the employee.

Industrial leave is not accrued, but is available through the State Industrial Commission in conjunction with state law and City policy.

The City shall pay the difference between the employee's net base pay, as calculated by the City, and the statutory amount paid by the industrial insurance carrier up to a maximum of 30 calendar days for all full-time and regular part-time employees.

The first 40 hours of a full-time employee's absence will be charged to sick leave. The first 20 or 30 hours of a part-time employee's absence (depending on the scheduled work week) will be charged to sick leave.

All full day absences relating to the same industrial injury or condition, even though they occur over an extended period of time, will be considered in the computation of the first 40 hours for a full-time employee and, depending on the scheduled work week, 20 or 30 hours for a part-time employee.

The employee will remain in full pay status with the City supplementing the payments from the industrial insurance carrier for a maximum of 30 calendar days industrial leave.

After 30 calendar days of supplemental payments have been exhausted, sick leave will be deducted at the rate of one-third (1/3) of the employee's regularly scheduled workday. If sick leave has been exhausted, vacation leave or comp time will be deducted to the extent it is available.

After 30 calendar days of Industrial Leave, Sections 4.5 and 4.6 will apply.

When sick leave has been exhausted, vacation leave will automatically be used. No sick leave or vacation time will be accrued after an employee has been on industrial leave without pay for 30 calendar days.

All checks received by the employee from the State Compensation Fund will be endorsed and turned over to the City.

All job related personal injuries to employees must be reported to the Human Resources Department within twenty-four (24) hours of the time the accident occurred. The City has the right to request that an employee injured on the job seek medical assistance from a doctor of the City's choice.

Limited duty assignments: The City may provide limited duty assignments for full-time and regular part-time employees who are unable to perform their normal duty assignments due to temporary injuries, physical or mental, that have occurred on duty. This limited duty assignment will not exceed a period of 90 calendar days, unless to do so would be in the best interest of the City. Any extension of the 90 calendar days will be subject to the approval of the City Manager.

Following these 90 calendar days, a decision will be made, based upon a medical evaluation by a City-authorized physician.

If an employee is no longer able to perform the essential functions of their same job after a disability occurs, the employee will be considered for other job openings for which the employee is qualified and which the employee is able to perform, with or without reasonable accommodations, provided the disability is covered under the Americans with Disabilities Act.

If an employee is no longer able to perform the essential functions of their same job or any vacant job within the City, with or without reasonable accommodation, the employee may be separated from City employment through retirement or disability.

When released to full or light duty, any prescribed follow-up care during regular scheduled hours will be deducted from sick leave.

This regulation shall not be construed to require the City to take any actions beyond those which are deemed reasonable under the Americans with Disabilities Act to create a position for light duty or limited duty assignments.

The City of Benson may require an employee to submit to an Independent Medical Exam (IME) or Second Opinion to determine fitness for return to duty, ability to perform essential functions of a job when conflicting results are received from medical personnel, or when job related illness or injuries prevent an employee from performing his/her job.

## **16. AUTHORIZED LEAVE WITH/WITHOUT PAY**

### **16.1 LEAVE WITH PAY:**

Employees may be placed on leave with pay upon the recommendation of the Department Head and approval of the City Manager. Said leave will not exceed two weeks unless extenuating circumstances exist that warrant an extension as approved by the City Manager.

All employees placed on leave with pay shall continue to receive their regular rate of pay and benefits. Employees are required to be available for work during their regularly scheduled work hours. Use of vacation, sick leave or compensatory time during leave with pay must be approved by the Department Head.

Pursuant to principles of public accountability, employees on paid leave who are exempt from FLSA shall have vacation, sick leave and administrative leave deducted in hourly increments following approval by the Department Head.

## **16.2 LEAVE WITHOUT PAY:**

Leave without pay up to a maximum of one workday per pay period may be approved by the Department Director.

Leave without pay in excess of one workday will be considered a leave of absence and subject to the approval of the City Manager.

## **17. BEREAVEMENT LEAVE**

Upon learning of the death of an immediate family member, an employee may be granted bereavement leave. These hours shall not be chargeable to vacation or sick leave. Any additional hours beyond the limit may be charged to the employee's vacation leave or compensatory time upon Department Director approval.

Full-time and regular part-time employees will be entitled to bereavement leave in the following manner:

Three days – In-state

## **18. COMPENSATION**

### **18.1 PROMOTION:**

Promoted employees shall receive an increase in salary of a minimum of five percent (5%) and not to exceed ten percent (10%), but in no event to exceed the maximum of the new range. The salary increase may exceed ten percent (10%) only if necessary to bring the salary up to the minimum of the new range. Employees who have previously completed an initial probation in a classification and at a later date are promoted to the same classification shall not serve a second probationary period.

### **18.2 INVOLUNTARY DEMOTION:**

Employees who are involuntarily demoted as a disciplinary action, shall be placed in the new classification salary range and their salary reduced by a minimum of five percent (5%) from their present salary. However, their salary shall not exceed the maximum rate for the new lower salary range. The review date will remain unchanged. Reduction in pay as a result of an involuntary demotion will be effective on the date approved by the City Manager.

### **18.3 VOLUNTARY DEMOTION:**

Employees may be voluntarily demoted from one position to another. Employees may be required by the Department Director to satisfy selection requirements for the new position to which the employee is demoted. The City reserves the exclusive right to consent to or deny a request for voluntary demotion depending on available positions, qualifications, departmental workload, employee skill level and the City's need to hire and retain the most qualified applicants and positions of City employment.

Employees may request a demotion by completing a Personal Action Form (PAF) and an application for the desired position:

Employees receiving a voluntary demotion will have their salary reduced by a minimum of five percent (5%) from their present salary and their new salary shall not exceed the maximum for the new position. All sick and vacation leave accruals remain the same.

#### **18.4 STANDBY DUTY:**

When a non-exempt FLSA employee is assigned (Standby Form) by management to be available for emergency call back at times that the employee is not otherwise on duty, the employee shall be compensated as determined by the Department Director with approval of the City Manager.

#### **18.5 CALL BACK PAY:**

Anytime a non-exempt FLSA employee is called back to work (unscheduled) by management after leaving City facilities at a time other than his regularly assigned shift, the employee will receive a minimum of two (2) hours compensation except that an employee shall not be eligible for additional compensation during that two-hour time period.

#### **19. HOLIDAY PAY**

Full Time Employees:

If a holiday falls on a day off and the employee is not required to work that day, and the employee does not receive another day off, the employee will receive eight (8) hours holiday pay.

If a holiday falls on a regular scheduled work day, and the employee is allowed to take the day off employees will receive holiday pay at straight time for the number of hours the employee is regularly scheduled to work on that day.

If a full time non-exempt employee is assigned to work on a City recognized Holiday, the employee will receive eight (8) hours Holiday pay in addition to time and a half pay for all hours worked.

#### **19.1 EMPLOYEES EXEMPT FROM OVERTIME:**

If a holiday falls on a regular work day, the employee will receive one (1) day holiday pay. The day will be recorded as one day equaling eight (8) hours.

All 56-hour EXEMPT EMPLOYEES will receive 11.2 hours holiday pay IN ADDITION TO their base salary.

If a holiday falls on a day off for 56-hour EXEMPT EMPLOYEES AND THE EMPLOYEES DO NOT RECEIVE ANOTHER DAY OFF, employees will receive 11.2 hours holiday pay.

#### **20. JURY DUTY**

All employees should consider jury duty as a necessity required in our democratic society. When serving, the employee shall receive their regular pay during the time of actual jury duty, subject to the following:

Employees are released for jury duty when required to serve during regular scheduled work hours.

Upon notification from the Clerk of the Court, the employee shall notify their immediate supervisor or Department Head.

If dismissed from jury duty during normal working hours, the employee shall promptly return to work.

The employee shall submit the compensation received for jury duty and/or witness duty fees to the City Finance Director, except the amount received for travel expenses.

#### **21. WAGES IN ADVANCE**

No advances of wages or salaries shall be made.

## **22. TERMINATION PAY**

Payroll checks for employees who resign or retire shall be available on the next regularly scheduled pay day following the resignation date.

Payroll check for dismissed employees shall be available within three working days or the end of the next regular pay period, whichever comes first.

Upon receipt of their final payroll checks, employees shall return all City property, e.g., keys, identification cards, uniforms, etc., in acceptable condition and/or in satisfactory working order. Upon approval of the City Attorney, the City may deduct appropriate amounts from the final payroll check of an employee who retains City property.

## **23. MILITARY TRAINING LEAVE OF ABSENCE**

All full time and regular part time employees of the City shall be granted leaves of absence from their duties without loss of time, pay or seniority on all days during which they are employed on training duty or to attend camps, maneuvers, formations or drills under orders with any branch, reserve or auxiliary, of the Armed Forces of the United States for a period not to exceed thirty (30) calendar days in any two consecutive years. The above mentioned period of time spent in training under orders shall not be deducted from the vacation period with pay to which any officer or employee is otherwise entitled.

Definitions:

Active Duty: when the employee is part of a unit of the National Guard that has been federalized pursuant to orders of the United States Secretary of Defense for service for a defined period or as part of an Armed Forces Reserve unit that has been ordered to active service.

Training: the practical and theoretical training of troops for service. It does not include parades and ceremonies. Training does not include active duty.

Year(s): the fiscal year of the United States Government.

Requirements:

Employees are required to provide Human Resources with notice of their participation in the National Guard or Armed Forces Reserve and a copy of their orders in order to exercise the leave provided under this regulation.

## **24. GENERAL ELECTION DAY**

The biannual general election day, the First Tuesday after the first Monday in November on every even-numbered year, is not a legal holiday. However, every public officer or employee is entitled to up to two (2) consecutive hours time to vote from the opening of the polls or prior to closing of the polls.

Requests shall be made for such an absence prior to the day of the election and the supervisor may specify the hours during which the employee may be absent.

## **25. OVERTIME AND COMPENSATORY TIME FOR NON-EXEMPT EMPLOYEES**

Employees classified as non-exempt shall receive a maximum of one and one-half times the regular rate of pay for hours worked beyond 40 hours in a work week. Prior authorization to work overtime hours must be established each time overtime is to be worked and in accordance with departmental guidelines. Written requests may be required.

Compensatory time (time off in lieu of pay in excess of 40 hours in a work week) for non-exempt employees may accrue to a maximum of 40 hours of compensatory time. The use of compensatory time shall be scheduled in accordance with departmental vacation guidelines and procedures. The department may authorize compensatory time off if it does not unduly disrupt the operations and delivery of city services. Each department shall be responsible for the accounting of overtime and its compensation.

The Department Director may require overtime payment or compensatory time accrual, dependent on budget constraints and department needs. After an employee elects compensatory time in lieu of payment, the time cannot be converted to payment. Employees are required to submit a Request for Absence no less than 10 work days prior to the first day of requested compensatory time off. Department Directors may waive the ten days' advance notice at their discretion. Vacation and compensatory time shall be considered as time worked for purposes of overtime calculation.

## **26. PERFORMANCE APPRAISAL SYSTEM**

The City Manager is responsible for developing and maintaining a performance appraisal process.

## **27. AUTHORIZED DEDUCTIONS**

Payroll Deductions. The City shall make all deductions from pay of employees that are required by Federal, State or Local law.

The City Manager may authorize payroll deductions for other items as he determines to be in the best interest of the City.

## **28. PAYDAY**

Employees shall be paid on a biweekly basis. Payday shall be no later than every other Friday.

## **29. ANNIVERSARY DATE/REVIEW DATE**

Anniversary Date is defined as the full-time or regular part-time date of hire or the date of last promotion.

## **30. EMPLOYEE APPEARANCE/CONDUCT**

Department Heads are responsible to enforce the proper dress, personal appearance, hygiene and service provided by their department. All employees are required to maintain a clean, neat and well groomed appearance in conjunction with the position they hold. Department Head's are encouraged to allow employees to dress less formal on Fridays. Employees, who are required to wear and maintain uniforms pursuant to department rules and regulations, will either receive a uniform allowance as determined through the budget process or will be issued a standard regulation uniform consistent with the specific job classification.

Examples of Inappropriate Staff Attire:

- Shorts, skirts, skorts and dresses with hemlines higher than hand-width above the knee when in the standing position.
- Revealing attire such as halters, tight-fitted, low-cut, spaghetti-straps, crop tops or clothes made of see through material.
- Attire with slogans or pictures.
- Jogging suits, sweatshirts or sweatpants.
- Reporting to work in soiled, torn or tattered attire.
- Visible body tattoos which by size, color or content, would tend to unreasonably distract other employees or the public during performance of official duties.
- Visible body piercing (other than ears).

All employees shall treat people with respect. All employees are required to conduct themselves so they do not bring discredit to the City. Every citizen, or other resident or visitor to Benson, is entitled to prompt, courteous and efficient municipal service as it is possible to provide. The sole purpose of the existence of any city government is to perform necessary services for the people of the City and its visitors.

### **31. ATTENDANCE/ WORK SCHEDULES**

Employees shall be at the required area for their position each day in accordance with department schedule. If an employee is unable to report to work at the required time, they shall notify their immediate supervisor or alternate supervisor in the division or department prior to the first normal duty hour, or within 30 minutes following the scheduled time to report to work. Failure on the part of an employee to comply with this regulation shall be cause for disciplinary action.

### **32. USE OF CITY PROPERTY**

All employees are held responsible for City property in their possession, under their supervision or used by employees under their supervision.

Any employee responsible for damage to, or loss of, City property through negligence or abuse shall be subject to disciplinary action and may be required to reimburse the City for damage or loss. No City equipment, material, supplies, etc., shall be removed from its location without the approval of the department manager or City Manager.

Uniforms and protective clothing provided by the City to employees or clothing with City identification shall be worn only for official City duties.

All City facilities and equipment, including, but not limited to, work station areas, desks, storage areas, break rooms, lockers, City vehicles, and City computers, communications or other equipment are the exclusive property of the City and are subject to inspection by the employer without notice at any time. Employees have no reasonable expectation of privacy in any of these facilities or equipment.

No City property may be used to influence the outcome of an election.

### **33. USE OF CITY-OWNED VEHICLES**

City-owned vehicles shall not be used other than for official City business. All vehicles shall be insured, maintained and driven in conformance with traffic laws.

When, in the opinion of the City Manager, it would be in the City's best interest to have an employee have access to a City-owned vehicle at all times, the City Manager may permit the employee to use that vehicle, on a minimal basis, for matters unrelated to City business which occur during commuting or while the employee is on call.

### **34. OUTSIDE EMPLOYMENT**

Employees shall request approval from their Department Director to work another job, including self-employment. Department Directors and employees in the City Manager's Office would request approval from the City Manager. Employees of the Police Department performing law enforcement related activities shall be governed by operations orders and directives of the Police Department.

Employees shall submit an outside work memo to their Department Director, the City Manager or City Council through the appropriate chain of command prior to accepting outside employment. Upon approval, a copy of the outside work application will be forwarded to the employee and to Human Resources for inclusion in the employee's personnel file.

Approval must be granted prior to the first day of work for the outside employer.

Outside work permits will be renewed on an annual basis and must be submitted by the employee in accordance with this section, for review fourteen (14) calendar days prior to the renewal date on the application.

In any situation where an overtime expense would be incurred by the City to cover the position of the employee during the hours of outside employment, the employee will be required to report to work with the City. All employees are to consider the City of Benson as their primary employer.

The City accepts no responsibility or liability for employees who are injured in the course of outside employment.

The outside work permit may be revoked at any time the approving authority determines the outside employment has become incompatible with City employment.

No outside employment shall involve the use of the City's time, facilities, equipment, supplies, office equipment or postage.

Failure on the part of an employee to comply with this regulation shall be cause for disciplinary action in accordance with the Personnel Administrative Regulations.

### **35. REPORTING ACCIDENTS AND INJURIES**

Employees are required to report all accidents and injuries to their supervisors or department managers as soon as possible. Injuries requiring first aid may be treated at the job site. Within 24 hours of the incident, City employees or their supervisors are required to file an accident injury report with the City Manager's designee.

Employees who have an accident with a City vehicle shall first notify the law enforcement agency, then the supervisor or department manager and are required to complete all forms supplied by Risk Management for vehicle accidents.

### **36. CONFLICT OF INTEREST**

No employees shall engage in any activity or enterprise which conflicts with their duties as a City employee or with the duties, functions, and responsibilities of the department in which they are employed. All City employees shall comply with all State laws concerning conflicts of interest.

### **37. PROHIBITION OF POLITICAL & INTEREST GROUP ACTIVITY**

Employees shall not take part in any election held for the purpose of electing members of the City Council or other elective municipal office of the City of Benson except for the casting of his/her individual ballot. No employee shall be a candidate for the office of City Councilperson. Any employee desiring to hold such office shall resign from their position upon the filing of a completed nomination petition with the City Clerk for the office of Councilperson. Employment will be terminated upon the filing for the office of City Councilperson by an employee.

Political activity on the national, state or county level is unrestricted, except that any employee desiring to hold such office shall refrain from any campaign activity while on duty as an employee or while wearing the uniform or insignia of the City. The State level includes any governmental subdivision of the State except the City of Benson.

Employees shall not serve on any board or commission of the City of Benson except for commission requiring representation from city employees. Examples are police pension board and fire pension board. Any employee desiring to hold such a position shall resign from their position upon appointment.

No City property may be used to influence the outcome of an election.

### **38. LOSS OF JOB REQUIREMENT**

Generally there shall be no accommodation of any employee who loses a job requirement. This would include the loss of any license, certificate or other job-related qualification that would impair or otherwise interfere with the employee's ability to perform normal duties as assigned or significantly impact the productivity of the work unit. However, the City Manager may make an exception to this general rule when the City Manager determines that doing so is in the City's best interest.

### **39. DISCIPLINARY ACTION**

Any employee of the City of Benson may be removed, demoted, suspended without pay, transferred to another position, or reprimanded for any action which reflects discredit upon the municipal service of Benson or is a direct hindrance to the performance of the municipal government function; and such actions shall be considered good cause for disciplinary action against any officer or employee.

Some of the circumstances constituting cause for disciplinary action are listed below. The list of offenses which follows is not intended to be all-inclusive. The guidelines set forth below are designed to insure consistent treatment, they are not progressive in nature. Common sense governs what will be considered misconduct in the course of employment by the City. The City has not undertaken to catalog every "bad act" an employee might choose to commit. Each violation of the rules indicated below and each act recognized as misconduct will be considered by supervisors on a case-by-case basis.

NON-COMPLIANCE by a supervisor in enforcement of these policies.

INSUBORDINATION. Refusal to obey reasonable orders, insolence, etc.

FAILURE to observe any oral or written regulation or order prescribed by supervising authority or any City Code, Rule, Policy or ordinance.

FAILING to report an on-the-job injury or accident to supervisor within 24 hours.

FAILURE to report criminal charges or convictions and, when job related, civil traffic infractions.

DISCRIMINATION in any aspect of employment or sexual harassment.

UNAUTHORIZED possession or display of firearms or harmful weapons on City property at any time.

DISCHARGE of firearm or harmful weapon when not necessary in the course of duty.

PLEA of guilty or a finding of guilt on a criminal traffic violation, when job-related.

REFUSAL to testify for any reason (other than grounds of self-incrimination) in any City authorized investigation, hearing, or inquiry.

CONVICTION on any felony or misdemeanor involving moral turpitude or revocation, suspension or modification of driving privileges, whether or not a withheld judgment is given [aka "diversion"].

UNAVAILABILITY for work because of incarceration.

USE or attempt to use ones' authority or position to control or modify the political action of any employee.

ENGAGING in any form of political activity during working hours except normal conversation.

FAILURE to follow Standard Operating Procedure, Personnel Administrative Regulations or any City and/or department rule or regulation.

THREATENING, intimidating, coercing or interfering with fellow employees or supervisors at any time.

INITIATING a fight or a disturbance resulting in an adverse effect on morale, production, or maintenance of proper discipline.

DRINKING of any alcoholic beverage while on duty.

WORKING under the influence of alcohol, illegal drugs or narcotics.

ABUSIVE LANGUAGE or offensive conduct toward any employee, supervisor, or the public.

ARRIVING late or leaving work before the established quitting time; leaving early or arriving late from lunch or rest periods.

LEAVING work site during work hours without permission or notification.

GAMBLING on duty.

FAILURE to comply with previously set performance standards within specified time limits.

FAILURE to perform assigned job duties

ACCEPTANCE of gifts. No City employee will accept any gifts for services rendered, except those non-pecuniary items given to customers by vendors (i.e., lighters, pens, pencils, tape measures, etc.).

ABSENT without notice.

FAILURE to report for assigned or voluntary overtime.

ABUSE OF SICK LEAVE. Using sick leave for purposes other than legitimate illness or as described in these Administrative Regulations.

EXCESSIVE use of sick leave which creates a hardship on the department.

THEFT, bribery, or unauthorized use or possession of City or an employee's property.

SABOTAGE.

MISUSE, or destruction of or removal from the premises, without proper authorization of any records, or confidential information of any nature.

UNAUTHORIZED selling of City property, i.e., wearing apparel, refuse, scrap material.

VEHICLE ACCIDENT where employee contributed.

### 39.1 **DISCIPLINARY PROCEDURE:**

a. Due Process: Disciplinary action will be imposed only after an investigation by the appropriate supervisor, department head, City Manager or a representative of the City Manager's Office. All reasonable efforts will be made to insure due process to the employee. Employees shall have the opportunity to present their side to refute all allegations of misconduct.

b. Written Notice: In all cases a written notice of the action signed by the department head stating the reasons for the disciplinary action will be given to the employee. A copy will be placed in the employee's personnel file.

c. Disciplinary Actions: The following types of disciplinary actions are officially recognized by the City of Benson:

1. **VERBAL WARNING**. A verbal warning is an oral reprimand given by the employee's supervisor. A record of the warning shall be kept by the supervisor in the employee's file.

2. **REPRIMAND**. The City Manager, Department Head or immediate supervisor of an employee, so long as the immediate supervisor first obtains the concurrence of the Department Head, may reprimand any employee under his supervision for cause. Such reprimand shall be in writing and be addressed to the employee. A signed copy shall be delivered to the employee and the Human Resources Analysis included in the employee's personnel file. Reprimands may not be appealed to the Personnel Board. However, the employee may file a letter of response to the reprimand, which shall be attached to the reprimand in his/her file. A letter of reprimand which does not contain a notice of intent to suspend, demote, or terminate employment will be active in an employee's Personnel File for a minimum of one year. If the employee has not received any subsequent disciplinary actions, which are defined as reprimands, suspensions, or demotions, the employee may submit a written request through the appropriate chain of command to the City Manager who will make the final decisions regarding a change in status of the letter or notice. If the request to remove is granted, the letter of reprimand will be removed from the personnel file and will not be used for any subsequent disciplinary actions.

3. **SUSPENSION**. A suspension is the removal of an employee from a position without pay for a specified period of time. The length of suspension will reflect the severity of the employee's misconduct, but at no time will the suspension exceed thirty (30) days in one calendar year. Note: A department head with the approval of the City Manager, may institute a non-disciplinary suspension of an employee with pay, while the City investigates a charge of misconduct.

4. **SALARY REDUCTION**. A salary reduction is the lowering of an employee's rate of pay within the pay range to which the employee is assigned.

5. **DEMOTION**. A demotion is the placement of an employee into a class in a lower pay range.

6. **DISMISSAL**. A dismissal is the permanent removal of an employee from the City's service.

d. Changes in Pay or Status: Changes in pay or employment status as a result of a disciplinary action will become effective after the appropriate personnel forms are signed by the City Manager.

### 39.2 **"WHISTLE BLOWER":**

Employees will not be fired or otherwise be disciplined for reporting violations of law. City employees are encouraged to report all such **violations** to their department head or the City Manager. Allegations against the City Manager should be made to the City Attorney. The City Attorney will notify Mayor and Council of allegations against the City Manager. Knowingly or recklessly making false allegations shall be cause for discipline.

## **40. GRIEVANCE**

### **40.1 GRIEVANCE POLICY:**

a. Employee Rights: The City of Benson maintains a grievance policy and procedure which employees are encouraged to utilize before pursuing any other avenues. Employees have the right to present a grievance concerning the interpretation or application of these regulations, salary reduction, suspension, demotion, or dismissal. The presentation of a grievance will never subject the employee to restraint, interference, discrimination or reprisal.

### **40.2 GRIEVANCE PROCEDURE:**

a. Time for Filing: An employee must file a grievance no later than seven (7) calendar days after the occurrence of the action or incident. The employee's failure to adhere to the timelines in this Policy constitutes a waiver of the right to grieve or appeal a matter.

b. Steps: The following sequential steps are to be taken by the employee when filing a grievance.

STEP ONE: The aggrieved employee will orally present the grievance to the lowest level supervisor who has the authority to alter the action or change the conditions which caused the grievance. The supervisor will answer the grievance within seven (7) calendar days.

STEP TWO: If the oral discussion prescribed in Step One fails to satisfactorily resolve the grievance, the employee may present a written grievance to the department head within seven (7) calendar days after receiving an answer from the subordinate supervisor. The department head will meet with the employee to discuss the grievance. The employee will receive a written reply to the grievance within seven (7) calendar days from the date the grievance was personally received by the department head. Step Two may be by-passed if the discussion prescribed in Step One was with the department head.

STEP THREE: If after reviewing the department head's reply to the grievance, the employee is not satisfied with the decision, he or she may appeal the decision to the City Manager by filing a written appeal with the City Clerk. The appeal will be filed within seven (7) calendar days after receiving the department head's reply. The City Manager, or his designee, will convene an administrative hearing within seven (7) calendar days, or longer if required at the City Manager's discretion, after receipt of the appeal. At the hearing, all concerned parties will be given an opportunity to present their side of the issue together with evidence and witnesses germane to the grievance and to question the evidence and witnesses presented by the other parties. The City Manager may call for such additional evidence as he deems relevant to the matter. The City Manager will render a decision within seven (7) calendar days after the hearing. The decision will be issued in writing and will be supported by evidence.

### **40.3 GRIEVANCE PROCEDURE FOR DEPARTMENT HEADS:**

Department Heads shall use a modified grievance procedure different from the procedure in Section 41.2 above. Department heads shall present their grievances directly to the City Manager and the grievance will be heard and ruled on by the Manager within seven (7) calendar days, or longer if required at the City Manager's discretion, of receiving the grievance. The ruling shall be issued in writing with the original forwarded to the City Clerk and a copy provided to the employee. Department Heads may not appeal this ruling to the Appeal Hearing Officer, pursuant to Section 41.4 below.

### **40.4 APPEAL TO PERSONNEL HEARING OFFICER:**

Employees, other than Department Heads, may appeal the decision of the City Manager to the Personnel Hearing Officer, but only for matters of salary reduction, suspension without pay, demotion, or dismissal. This appeal shall be made in writing and shall be filed with the City Clerk by the affected employee within seven (7) calendar days after receipt of the written decision of the City Manager.

The decision of the Personnel Hearing Officer shall be final and binding, therefore not appealable to any office or body of the City or to any other forum, administrative or judicial.

Notes: The City will contract with the State Office of Administrative Appeals to have an appeal assigned to a Hearing Officer, or the City Attorney will assign the case to a qualified Hearing Officer.

## **GLOSSARY OF PERSONNEL ADMINISTRATIVE REGULATIONS TERMS**

**ACCIDENT** – An accident is an unplanned, undesired occurrence in a sequence of events that results in personal injury or illness or death and/or property damage.

**ACTIVE EMPLOYMENT** – Scheduled work days where employee is performing duties on a full-time or regular part-time basis.

**ACTIVE WORK STATUS** – Full-time employment working 40 hours per week or regular part-time employment hired to work less than 40 hours per week.

**ANNIVERSARY DATE** – The calendar date upon which initial regular full-time or regular part-time employment started.

**AUTHORIZED PAY STATUS** – Paid leave approved by appropriate level of management.

**CITY MANAGER** – For purposes of these Personnel Administrative Regulations, City Manager shall mean the City Manager or designee.

**CITY SENIORITY** – Length of full-time or regular part-time continuous, active employment beginning at the certified completion of the initial twelve (12) month period of probation. Upon successful completion of initial probation, City seniority shall revert to the initial date of employment.

**CLASSIFICATION SERIES** – A set of classifications within a job family; i.e., Secretarial and Clerical, Equipment Maintenance, etc., which are closely related in terms of work performed and distinguished primarily by the level of responsibility and scope of duties assumed.

**DEPARTMENT/DIVISION SENIORITY** – Length of full-time or part-time continuous, active employment within a department or division.

**DIVISION** – The organizational unit immediately below the department level in the City organizational structure. The unit is typically supervised by different Superintendents, Battalion Chiefs, or Division Manager, etc., i.e., Streets, Administration, Facility Maintenance and Field Operations, Budget and Materials Management.

**EFFECTIVE DATE** – The date a merit increase; promotion, demotion, etc. is effective.

**ELIGIBILITY LIST** – A list containing the names of one (1) or more persons qualified for employment in a specific class or position. Selections for classified positions must be made from approved eligibility lists.

**EXEMPT** – Positions determined through applying the FLSA Guidelines to be exempt from overtime compensation.

**FAIR LABOR STANDARDS ACT** – A Federal law which sets minimum wage, overtime pay, equal pay, record keeping, and child labor standards for employees who are covered by the Act.

**FAMILY MEDICAL LEAVE ACT (FMLA)** - FMLA allows eligible employees to take paid or unpaid leave for up to 12 weeks in a 12-month period.

**FULL-TIME EMPLOYEE** – An employee appointed to an appropriated position to work 40 hours per week, or 56 hours per week as a Fire Fighter. These positions receive full benefits as provided in the Personnel Administrative Regulations.

**HUMAN RESOURCE DIRECTOR** – For purposes of these Personnel Administrative Regulations, Human Resource Director shall be the City Manager or the City Manager's designee.

**IMMEDIATE FAMILY** – (for bereavement purposes) – Employee's spouse, son, daughter, mother, father, brother, sister, son-in-law, daughter-in-law, parent-in-law, brother-in-law, sister-in-law, grandparents, grandchild, step mother, step father, step brother, step sister, or other legal dependent.

**IMMEDIATE FAMILY – (for employment purposes) –** Employee’s spouse, son, daughter, mother, father, brother, sister, son-in-law, daughter-in-law, parent-in-law, brother-in-law, sister-in-law, grandparents, grandchild, step mother, step father, step brother, step sister, uncle, aunt, cousin, niece, nephew, or other legal dependent.

**IMMEDIATE FAMILY – (for sick leave purposes) –** Employee’s spouse, son, daughter, mother, father, brother, sister, grandparents, grandchild, or other legal dependent.

**INITIAL PROBATIONARY PERIOD –** First 12 month period held in a full-time or regular part-time classification.

**LIMITED DUTY –** Assignments for employees who are temporarily unable to fulfill the full range of duties of their classification.

**MANAGEMENT MARKET RATE –** A point in the salary range which has been determined through the application of labor market data and internal relationship guidelines. Merit payments above the mid-point are awarded at the discretion of the City Manager based on performance.

**MEMORANDUM OF UNDERSTANDING –** A written agreement arrived at by the representative of the Public Employer and the Authorized Representative of the Employee Organization.

**MERIT –** An increase from one step to the next higher step in the same pay grade of the schedule which is granted to an employee who is consistently proficient and exceeds the standards of performance expected of a competent employee over a period of time (usually one year or more).

**NET BASE PAY –** The employee’s normal gross pay without overtime for purposes of industrial leave calculations.

**NON-EXEMPT –** Positions determined through applying the FLSA Guidelines to be non-exempt from overtime compensation.

**PERFORMANCE RECORD –** A written record evaluating an employee’s performance of job duties and responsibilities.

**PROMOTION –** Obtaining, through competition, a position higher in range than currently held.

**PROMOTION PROBATION –** First 12 month period held in a full-time or regular part-time classification upon promotion.

**PROVISIONAL APPOINTMENT –** Appointments made by the City Manager to meet immediate needs.

**RE-CLASS –** Changing a position from one classification to another.

**RE-RANGE –** Changing a position to a different range.

**REGULAR PART-TIME –** An employee appointed to an appropriated position to work year round less than 40 hours per week. These positions receive benefits as provided in the Personnel Administrative Regulations.

**REVIEW DATE –** The last day of a 12-month performance appraisal review period in an active work status. A review date shall be adjusted to exclude the calendar days of suspension without pay, leave of absence without pay, or any unpaid absence.

**SEASONAL EMPLOYEE –** An employee hired to perform the duties of a position which requires staffing during certain times each year; i.e., summer recreation programs.

**TEMPORARY/CONTRACT EMPLOYEE –** An employee hired to work up to 40 hours a week for an undetermined time.

**TRANSFER –** The movement of an employee from one department, division, or unit of the City to another having the same classification or range.

In-range transfer: The movement of an employee from one (1) position in the City to another position in the City in the same pay range.

In-class transfer: The movement of an employee to another position within the same job classification in a different City position.

UNIT EMPLOYEE – An employee covered by a Memorandum of Understanding.

WORK UNIT – The organizational unit immediately below the division level in the departmental organizational hierarchy. This unit is typically supervised by Sergeants, Crew Leaders, etc.

WORK WEEK – A work week is a fixed and regularly recurring period of seven consecutive 24-hour periods (168 consecutive hours) and can vary from employee to employee.

Y-STEP – A step above the maximum of a range. No movement of the step shall occur until such time as the top step of the salary range exceeds the Y-step.