

RESOLUTION 71-2009

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA, APPROVING AND ADOPTING THE HUMAN RESOURCES ADMINISTRATIVE POLICY, DATED OCTOBER, 2009, 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 is the product of extensive review and discussions of an ad-hoc committee within the Administrative Department; 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.

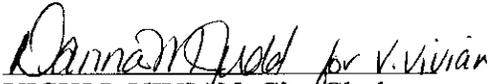
NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Benson that the Human Resources Administrative Policy dated October 2009 and attached hereto as Exhibit "A," is hereby adopted and established as the official policies and procedures for all personnel of the City, superseding all 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.

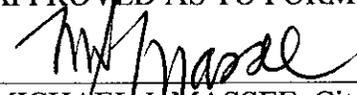
PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF BENSON, ARIZONA, on the 26th day of October, 2009,



MARK M. FENN, Mayor

ATTEST:


VICKI L. VIVIAN, City Clerk

APPROVED AS TO FORM:


MICHAEL J. MASSEE, City Attorney

EXHIBIT "A"
HUMAN RESOURCES ADMINISTRATIVE POLICY



CITY OF BENSON HUMAN RESOURCES ADMINISTRATIVE POLICY

**ADOPTED:
REVISED:**

Message from City Manager

Glenn Nichols

This handbook has been reviewed by the City Attorney and approved by the Council. This handbook has been divided into sections and the sections may be revised from time to time as the laws, rules, codes and best practices change. As a change is made it will be provided to you and you are expected to replace the outdated section in your copy of the Handbook. It is your responsibility to keep your Handbook current. This Handbook is provided to you to give clear understanding of what is expected of you as an employee, what rights you have as an employee and what privileges the City provides to you at the City Council's direction.

Any questions or issues that you may have regarding the scope of this Handbook should be directed to the Human Resources Department. Any questions regarding whether your department is complying with the terms of this Handbook can be addressed informally to your department head or human resources.

I consider all of you as important members of the City's **TEAM**. Your dedication and integrity continue to show the community the professionalism of the organization.

Thanks to all of you for everything you do.

Glenn H. Nichols
City Manager

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1. EMPLOYMENT

1.1 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.

1.2 LOYALTY OATH OF OFFICE A.R.S. § 38-231:

All employees will be given the Loyalty Oath on their first day of employment.

1.3 IMMIGRATION LAW COMPLIANCE:

The City of Benson complies with all federal and state laws by employing only those who are authorized to work in the United States. All offers of employment are contingent on verification of your right to work in the United States. All employees are asked on their first day of employment to provide original documents verifying law (INS Form I-9).

1.4 RECRUITMENT:

Applications will be accepted only when a position is open and/or advertised. Applications may be obtained from the Human Resources Department. The Human Resources Department will accept applications and assist applicants in their questions about the position advertised. 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 may 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 an in-house application 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 website for a length of time determined by the Human Resources Director.

1.5 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 an in-house opportunity.

1.6 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.

1.7 LOSS OF JOB REQUIREMENT:

In general, 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.

1.8 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 three (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: appointment from in-house opportunity, appointment from open competitive process, six-month provisional appointment, involuntary transfer and involuntary demotion. Human Resources will check references and offer the position to the applicant selected by the requesting department in accordance with these Human Resources Administrative Policies and upon approval of the City Manager.

1.9 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. At the discretion of the Department Head, the probationary period may be adjusted to exclude any time off the employee has taken without pay. In addition, at the request of the Department Head, the City Manager may approve an initial probationary period extension up to six months for good cause.

At the conclusion of the probationary period, the employee is vested with all appeal rights contained in this Handbook. There is no automatic wage increase associated with completion of an initial probationary period.

In addition to the initial probationary period, all employees who are promoted in-house shall serve a one (1) year promotional probationary period upon promotion to a new position. During this promotional probationary period, the employee maintains all appeal rights he or she had prior to the promotion, with the exception that the Department Head, with the concurrence of the City Manager, may revoke the promotion and reassign the employee to his/her previous assignment and wage classification without being subject to an appeal.

1.10 TRANSFERS DURING PROBATIONARY PERIOD:

Employees transferred during any probationary period shall be required to complete a one (1) year probationary period in the new position. In addition, the Department Head, with the concurrence of the City Manager, may require up to an additional six (6) month probationary period based on his/her own analysis of the employee's situation.

1.11 DISMISSAL DURING PROBATIONARY PERIOD:

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

1.12 APPEAL RIGHTS OF PROBATIONARY EMPLOYEES:

Initial probationary employees may not appeal any disciplinary action, including dismissal. Promotional probationary employees may not appeal a decision to revoke their promotion.

1.13 APPOINTMENT:

Full-time Appointment: Appointments shall be made to 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 Human Resources Administrative Policies.

Temporary Employee Request: The Department Head 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.

1.14 EMPLOYMENT OF A FAMILY MEMBER:

Full-time and part-time employees may be employed within the same department as an immediate family member, provided one family member does not supervise another immediate family member.

In the event two employees marry who are employed in the classified or management service of the same department, the City Manager may take any appropriate action, including transfer or layoff to avoid one family member supervising the other.

No member of the immediate family of any elected official of the City of Benson shall be appointed to the classified or management service.

1.15 ATTENDANCE/WORK SCHEDULES:

City of Benson employees are expected to be reliable and punctual. You should report for work on time and as scheduled.

Unplanned absences can disrupt work, inconvenience other employees, and affect productivity. If you have a poor attendance record or demonstrate excessive tardiness, you may be subject to disciplinary action, up to and including termination of employment.

Two (2) consecutive days of absence without calling in to your supervisor will be considered as voluntary resignation.

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 talk to their immediate Supervisor or alternate Supervisor in their department prior to the first normal duty hour, or within 30 minutes following the scheduled time to report to work. An employee shall also contact the Human Resource Office to report their absence. Failure on the part of an employee to comply with this regulation shall be cause for disciplinary action.

1.16 OUTSIDE EMPLOYMENT:

Employees shall request approval from their Department Head to work another job, (outside normal working hours) including self-employment. Department Heads and employees in the Administrative Office shall 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 Head, which will then be submitted to the City Manager prior to accepting outside employment.

Memos submitted for outside work 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.

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

Permission for outside employment may be revoked at any time the approving authority determines the outside employment has become incompatible with City employment.

1.17 PERFORMANCE APPRAISAL SYSTEM:

The City Manager is responsible for developing and maintaining a performance appraisal process. Thirty (30) days prior to an employee's anniversary date the Department Head or Supervisor will begin the employee review process.

The employee shall be provided a written copy of his/her evaluation prior to its placement as a permanent record in the employee's personnel file. All employees shall be entitled to make a written response to their evaluations, which shall also be a permanent record in the employee's personnel file.

All Department Heads are required to evaluate new hires prior to completion of the initial probationary period.

Satisfactory evaluations are no guarantee of either promotion or raise in pay.

1.18 INDEPENDENT MEDICAL EXAMINATIONS (IME), FITNESS FOR DUTY AND LIMITED DUTY ASSIGNMENTS

The City of Benson may require an employee to submit to an independent medical examination (IME) with a specialist or practitioner selected by the City to assist in determining fitness for duty, the ability to perform essential functions of a job or for other job-related reasons. The City will bear the costs associated with obtaining an IME and the employee shall be compensated for the time required, including travel time and expenses.

The City has the right to direct that an employee injured on the job submit to a medical examination from a doctor of the City's choice to determine the nature and extent of injury.

Limited duty assignments: The City may provide limited duty assignments for full-time and part-time employees on a case-by-case basis based on the best interest of the City, normally limited to a position within the same department. 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. 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.

If an employee is no longer able to perform the essential functions of his/her 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, as amended.

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

When released to full or light duty, any prescribed follow-up care during regular scheduled hours will be deducted from sick leave accruals. Any hours spent outside of the employee's normal shift for required doctors' appointments or treatment of the on-the-job injury will not be counted as hours worked.

1.19 LUNCH AND REST PERIODS:

Employees will generally be allowed two (2) paid non-work periods of 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, normally for an hour each day but in no case less than thirty continuous minutes, in conformance with the work schedule established within each department. Employees are required to document their time off for lunch breaks.

1.20 ANNIVERSARY DATE/REVIEW DATE:

An employee's Anniversary/Review Date is the anniversary of the date of hire or the date of last promotion.

1.21 EMPLOYEE APPEARANCE:

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 Heads are encouraged to allow employees to dress less formally 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 standard regulation uniforms and replacement uniforms consistent with the specific job classification.

1.22 REDUCTION IN FORCE:

At any time that in the sole discretion of the City Council a Reduction in Force is necessary or advisable, the Council shall adopt by resolution the work center(s) where a permanent reduction in staffing shall occur and shall also adopt the policy and/or criteria to be applied in selecting those staff members for separation from employment with the City.

2. PERSONNEL RECORDS

2.1 MAINTENANCE OF PERSONNEL RECORDS:

Human Resources shall be responsible for maintaining all official personnel records.

2.2 REVIEW OF PERSONNEL RECORDS:

Upon request and by appointment, employees shall be permitted to examine their personnel files in the presence of the Human Resources Director or designee. Supervisors or Department Heads have access to personnel files. Hearing Officials, 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. Any requests for personnel records other than by an employee or Department Head shall be reviewed by the City Manager prior to the release of the personnel records.

2.3 REPORTING CHANGES IN NAME, ADDRESS AND DEPENDENTS:

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.

3. ETHICS AND CODE OF CONDUCT

3.1 GENERAL:

The City prides itself on the high standards of excellence embodied by our core values and professional culture. We expect our employees to personify these ideals in their dealings with persons both inside and outside the City. Employees shall treat one another and all persons having business with the City with respect. The sole purpose of a City government is to provide its residents and visitors with necessary services and we, the City employees, are tasked with delivering these services. All City employees are expected to conduct themselves consistent with all laws, directives and professional or industry standards to provide excellent service to the taxpaying public.

Whether on or off duty, all employees of the City of Benson must conduct themselves in a manner that will not bring discredit or embarrassment to the City.

3.2 CITY FUNDS AND ASSETS:

Employees who have access to the City's funds and assets should follow the prescribed procedures for recording, handling, and protecting money as detailed in the City's Accounting, Financial, and Investment Policies, accounting procedures and practice, and internal controls.

The City does not tolerate any form of fraudulent or dishonest acts from its employees. Strict standards to prevent fraud and dishonesty are imposed by the City. Any employee who becomes aware of any evidence of fraud and dishonesty should immediately contact the City Manager, or designee.

An employee responsible for spending the City's funds or incurring any reimbursable personal expenses should use good judgment on the City's behalf to ensure that good value is received for every expense incurred.

The City's funds and assets are to be used for its purpose only and not for any personal benefit. This requirement precludes the personal use of the City's assets such as computers and equipment, to mention a few examples.

3.3 THE CITY'S RECORDS AND COMMUNICATIONS:

Accurate and reliable records are required for the City to meet its legal and financial obligations and to manage its business affairs. The City's books and records should reflect all of its business transactions in an accurate and timely manner.

The employees responsible for accounting and recordkeeping must fully disclose and record all assets and liabilities and must exercise diligence in enforcing these requirements.

Employees must not produce or engage in any false record or communication of any kind, whether internal or external, including, but not limited to:

- False expense, attendance, financial, or similar reports and statements:
- False advertising, deceptive marketing practices or any other misleading representations.

The City should always be free from even the perception that favorable treatment was sought, received, or given in exchange for the furnishing or receipt of business courtesies. Purchase of supplies, materials, and services from suppliers and subcontractors must be accomplished in a

manner that preserves the integrity of a procurement process based on fair price, quality and performance. The City will neither give nor accept business courtesies that constitute or could be reasonably perceived as constituting unfair business inducements or that could violate laws or regulations or could cause embarrassment to or reflect negatively on the City's reputation.

3.4 ACCEPTANCE OF BUSINESS COURTESIES BY EMPLOYEES:

Although an employee may not use his or her position to foster obtaining business courtesies, it is permissible for an employee to accept such courtesies on an infrequent and nominal basis. Employees are generally not permitted to accept any gratuities, gifts, or favors and cash may never be accepted. Employees are not permitted to accept expense-paid travel or accommodations from present or potential suppliers or other business relations.

3.5 CONFLICT OF INTEREST:

Conflicts of interest are inconsistent with the Core Values of the City and acting when there is a conflict of interest is prohibited under state law. Generally, a conflict of interest exists when the City employee tasked with making a decision, such as the selection of a vendor, stands to personally gain, or a close relative may gain, from the decision and therefore may not be exercising truly independent judgment. Employees must avoid involvement in outside interests that conflict with their City duties.

Potential conflicts of interest include, but are not limited to:

- The employee accepting an offer of employment or services for money or other personal gain from any supplier or vendor to the City;
- The employee's immediate family member performing services for money or other personal gain for any supplier or vendor to the City;
- The employee having ownership interests (such as stock) in a supplier or vendor to the City;
- The employee owing money (such as a loan) to a supplier or vendor to the City;
- The employee's performance of City duties is influenced by an offer of future employment; or
- The employee reviewing or inspecting the work of a regulated entity or person when the employee has a personal business relationship with the entity or person.

All employees are to be aware of potential conflicts of interest. All employees are expected to disclose any conflicts of interest to their supervisor. Whenever an employee has a question about a conflict of interest, it is expected that the employee will raise this issue immediately with his/her supervisor. All employees are expected to graciously decline gifts and tickets to events that are not of a nominal value.

Employees who deliberately engage in conflicts of interest may be disciplined up to and including termination of employment.

3.6 CONFIDENTIALITY:

Except as properly authorized by the City, it is the responsibility of all employees to maintain the confidentiality of:

- Confidential information of the City;

- Information entrusted to the City or Members that is otherwise not readily available to the public.

Employees should refrain from discussing confidential City business with outsiders and with anyone else who does not have a legitimate need to know the information. It is cause for discipline for an employee to be discussing a sensitive matter with an outside person who does not have a need to know when the interests of the City are thereby compromised.

Employees should refer outside inquiries regarding the City to persons authorized to respond to the particular inquiry.

Employees should not respond to requests for information about other current or former employees, but should refer those requests to the City Manager or Human Resources Director.

3.7 ADMINISTRATION:

All employees who suspect violations of the letter or spirit of this Ethics policy have an obligation to report their concerns to their supervisor or any supervisor in a position of authority, or the City Manager.

All allegations of improper or illegal behavior will be investigated promptly and thoroughly regardless of whether reports are made in person, in writing, or submitted anonymously. The investigation shall remain as confidential as practicable.

No employee will be retaliated against for reporting a violation of this policy based upon an honest perception of the events, or for cooperating in any investigation. Acts of retaliation should be reported immediately and will be promptly investigated and addressed.

4. ANTI-HARASSMENT POLICY

The City is committed to a work environment that is free from discrimination and harassment. All employees (male or female) at all locations of the City are responsible for complying with this policy, and to take appropriate measures to ensure that any and all unlawful conduct is avoided. This policy covers conduct by all employees, citizens, contractors, vendors, or other third parties with whom the City has business dealings.

It is a violation of this policy to discriminate in the provision of employment opportunities, benefits or privileges, to create discriminatory work conditions, or to use discriminatory evaluative standards in employment if the basis of that discriminatory treatment is, in whole or in part, the person's race, color, sex, national origin, age, religion, disability, gender, citizenship, marital status, veteran status, or any other legally protected status. Harassment and discrimination are prohibited on City premises, at places where employees perform City business and at off-site City-sponsored or approved events.

4.1 HARASSMENT:

The definition of harassment is verbal or physical conduct designed to threaten, intimidate, or coerce; also, verbal taunting (including racial and ethnic slurs) which impairs an employee's ability to perform her/his job.

4.2 SEXUAL HARASSMENT:

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical harassment based on gender when:

- Submission of such conduct is made either explicitly or implicitly a term or condition of an individual's employment,
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
- Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

4.3 REPORTING PROCEDURE:

The City is unable to take corrective measures to remedy a situation if it has not been informed that a problem exists. Any employee of the City who believes that she or he has been the victim of, or a witness to, misconduct shall report the incident to his/her immediate supervisor, Department Head, Human Resources or the City Manager so that a complete, prompt, and thorough investigation of that complaint can be made. If the employee believes that his/her supervisor is engaged in misconduct under this policy, he/she may report the alleged misconduct to the City Manager. If the employee believes that the City Manager is engaged in misconduct under this policy, he/she may report the alleged misconduct to the Mayor.

4.4 INVESTIGATION:

Each complaint shall be promptly, completely and fully examined. Each complaint will be handled individually, thoroughly, and as confidentially as possible. However, the City may be legally obligated to take action once it is informed that discrimination, harassment or retaliation has occurred or may be occurring. Confidentiality cannot be guaranteed in such instances. Please be aware that the employee accused of misconduct will be notified of the nature of the alleged

misconduct during the investigation.

A copy of the investigative report and the final decision is included in the personnel file of the accused employee only if the investigation concludes that the individual engaged in prohibited conduct. All information pertaining to an investigation is maintained by the City in secure files.

4.5 PROMPT REMEDIAL ACTION

Any employee who has been found, after appropriate investigation, to have discriminated against, sexually harassed or retaliated against another employee will be disciplined, up to and including termination of employment. After the investigation, the City will inform the employee who generated the complaint about the City's decision concerning the complaint.

No employee will be retaliated against for filing a complaint or reporting a violation of this policy based upon an honest perception of the events, or for cooperating in the investigation of a complaint. Acts of retaliation should be reported immediately and will be promptly investigated and addressed.

False and malicious complaints of harassment, discrimination or retaliation, as opposed to complaints made in good faith, may be the subject of appropriate disciplinary action.

Harassment by or of any of the City's employees will not be tolerated.

5. DRUG FREE WORKPLACE POLICY

5.1 GENERAL:

The possession, sale or use of alcohol or drugs, other than the legal use of a drug prescribed by the appropriate medical professional, are detrimental to the health, safety and job performance of all City employees and present danger to the City, its citizens, employees, contractors and vendors. The City will not tolerate the use, possession, or distribution of alcoholic beverages or drugs, other than the legal use of properly prescribed medication, on City property by its employees. The City will not tolerate its employees reporting for work impaired by the use of alcohol or any type of drugs.

5.2 DRUG TESTING:

Testing may be required for alcohol, which includes ethanol, isopropanol or methanol; and drugs, which include any substance or its metabolite considered unlawful under the federal controlled substances laws. All City employees and applicants for City jobs are subject to testing for alcohol and drugs.

The City may require testing for alcohol and drugs for any job-related purpose consistent with business necessity, including, but not limited to:

- the investigation of possible employee impairment
- the investigation of workplace accidents
- the maintenance of safety for employees, members, guests, other contractors, vendors, and the public
- the maintenance of productivity, security of property and quality of service
- the reasonable suspicion that an employee may be affected by use of drugs and alcohol and that the use may adversely affect the job performance or work environment
- the screening of job applicants

The City will pay for any required drug or alcohol testing.

Should any employee or job applicant refuse to participate in testing, the City shall terminate that employee's employment or refuse to hire that job applicant.

The City will designate a properly certified laboratory (collection site) to conduct drug and alcohol testing with scientifically accepted analytical methods and under reasonable and sanitary conditions. Employees will be asked to provide proper identification and may be asked to provide urine, blood, breath, saliva or hair samples to the laboratory. The laboratory (collection site) will use proper documentation and sample collection and storage processes to prevent misidentification, adulteration or contamination. Employees and job applicants to be tested will be given the opportunity to provide any information they deem relevant, including information about prescription drug usage. The City will pay for the testing, reasonable transportation costs to the laboratory and the employee's time spent in the testing process. Testing may be performed during or immediately before or after a regular work period. All positive test results will be confirmed using a different chemical process than was used in the initial test. Employees have the right, upon request, to obtain their written test results. Employees have the right, upon request, to explain any positive test result in a confidential setting.

All test results will be held confidential with these exceptions:

- Disclosure in a lawsuit related to the Arizona Drug Testing of Employees Law
- Disclosure to the employee or job applicant or any person designated in writing by the employee or job applicant
- Disclosure to the individuals designated by the City to receive and evaluate the test results or hear the explanation of the employee
- Disclosure to a mediator, arbitrator, court or governmental agency as authorized by state or federal law.

A positive test result may result in disciplinary action in the City's sole discretion, including suspension, termination, or refusal to hire.

5.3 EMPLOYEE ASSISTANCE PROGRAM (EAP):

It is the goal of the City of Benson to provide an Employee Assistance Program (EAP). The City of Benson encourages any employees in need of professional assistance to use the program. This program applies to all employees and eligible dependents that are covered under any of the various health and welfare programs to which the City contributes. It is the policy of the City of Benson to establish, implement and support Employee Assistance Programs (EAP) that will assist employees and their eligible dependents to resolve problems, such as emotional distress, family problems, alcoholism, and drug abuse. These problems may adversely affect an employee's personal health, family and job performance. This policy will not exempt employees from job performance requirements.

5.4 NO-SMOKING POLICY:

Arizona law prohibits smoking in working areas and enclosed areas.

Smoking is only permitted in designated smoking areas. Please be courteous and concerned about the needs of your fellow employees and others. Please do not smoke in restricted areas. Employees are not permitted to smoke in the presence of our customers, nor are they provided with additional break time for the purpose of smoking.

6. WORKPLACE VIOLENCE

The City of Benson is committed to preventing workplace violence and to maintaining a safe work environment. It has adopted the following guidelines to deal with intimidation, harassment, or other threats of (or actual) violence that might occur during business hours or on our premises.

All employees, including Supervisors and temporary employees, should be treated with courtesy and respect at all times. Employees are expected to refrain from fighting, "horseplay," or other conduct that may be dangerous to others. We prohibit firearms, weapons, and other dangerous or hazardous devices and substances from the premises of the City of Benson without proper authorization.

The City of Benson will not tolerate conduct that threatens, intimidates, or coerces another employee, a customer, or a member of the public at any time, including off-duty periods. This includes all acts of harassment, including harassment that is based on an individual's sex, race, age, or any characteristic protected by Federal, State, or City law. All incidents will be documented.

All threats of (or actual) violence, either direct or indirect, should be reported as soon as possible to your Supervisor or any other member of management. This includes threats by employees as well as threats by customers, vendors, solicitors, or anyone else. When reporting a threat of violence, you should be as specific and detailed as possible.

Be sure to report any suspicious person or activities as soon as possible to a Supervisor. Do not place yourself in peril. If you see or hear a commotion or disturbance near your work area, do not try to intercede or investigate.

The City will promptly and thoroughly investigate all reports of threats of (or actual) violence and of suspicious individuals or activities. The identity of the person who made the report will be protected to the extent practicable. To maintain workplace safety and the integrity of its investigation, the City may suspend an employee pending an investigation.

Any person who violates these guidelines will be subject to disciplinary action, up to and including termination of employment. Violations include making a threat of violence or actually committing a violent act.

If you are having a dispute or differences with another employee, you are encouraged to discuss it with your Supervisor, the Department Head, the City Manager or the Human Resources Office before the situation escalates into potential violence. The City of Benson is eager to assist in the resolution of employee disputes and will not discipline an employee for raising these types of concerns.

7. EQUAL EMPLOYMENT OPPORTUNITY (EEO)

It is the policy of the City of Benson 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 and/or disability. 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 and/or disability 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 City defines "disability" with respect to an individual the same as under the Americans with Disabilities Act, as amended. "A qualified individual" 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 has applied for. The City provides equal employment opportunities for disabled employees and job applicants who are qualified individuals.

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

8. FAMILY AND MEDICAL LEAVE ACT (FMLA)

8.1 BASIC LEAVE ENTITLEMENT:

- The Federal Family and Medical Leave Act (FMLA) requires the City as a covered employer to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons.
- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

8.2 MILITARY FAMILY LEAVE ENTITLEMENTS:

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying events. Qualifying events may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered service member during a single 12-month period. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

8.3 BENEFITS AND PROTECTIONS:

During FMLA leave, the City must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

8.4 ELIGIBILITY REQUIREMENTS:

Employees are eligible if they have worked for the City for at least one year, for 1,250 hours over the previous 12 months immediately preceding their request. The City basis this leave on a rolling 12-month calendar.

8.5 DEFINITION OF SERIOUS HEALTH CONDITION:

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a healthcare

provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

8.6 USE OF LEAVE:

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the City's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

8.7 SUBSTITUTION OF PAID LEAVE FOR UNPAID LEAVE:

The City requires the employee to use accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the City's paid leave policies.

8.8 EMPLOYEE RESPONSIBILITIES:

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable, when 30 days notice is not possible, the employee must provide notice as soon as practicable and must comply with the City's call-in procedures.

Employees must provide sufficient information for the City to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the City if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

8.9 EMPLOYER RESPONSIBILITIES:

The City must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice will specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the City will provide a reason for the ineligibility.

The City will inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the City determines that the leave is not FMLA protected, the City will notify the employee.

8.10 UNLAWFUL ACTS BY EMPLOYERS:

FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA;
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

8.11 ENFORCEMENT:

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

Please see the FMLA Employee Rights and Responsibilities poster on City premises.

8.12 RETURN TO WORK:

An employee returning to work from FMLA or other leave based on the employee's own health condition will be required to present to his Department Head a medical release showing that he or she is fit for duty. An employee unable to be cleared to return to work at the expiration of all FMLA or other leave will normally be separated from employment with the City.

9. HOLIDAYS AND HOLIDAY PAY

9.1 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 Jr. Birthday	3 rd Monday in January
Presidents Day	3 rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4 th
Labor Day	1 st Monday in September
Veterans Day	November 11 th
Thanksgiving	4 th Thursday in November
Day after Thanksgiving	4 th Friday in November
Christmas Day	December 25 th

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. Non-exempt employees must be in an authorized pay status the day before and the day following the holiday to be eligible to receive holiday pay.

9.2 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 at straight time.

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 at straight time.

9.3 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.

10. PAID TIME OFF

10.1 VACATION LEAVE:

PURPOSE

Vacations are a benefit 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 10 Vacation Accrual

Years of Employment	Pay Period	Accrual/Vacation Hours Accrued Per Year	Maximum hours in Bank
1-3	4 Hrs	104	156
3-10	5 Hrs	130	195
10+-15	6 Hrs	156	234
15+	8 Hrs	208	312

Part-time employees hired to work 20-39 hours per week shall accrue vacation at 2 hours 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 part-time, exempt and non-exempt employees 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.

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 shall take vacation leave with the approval of the Department Head, City Manager or designee based upon the 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 accrual rate per year. For example, if an employee annual accrual rate is 130 hours per year, the maximum accrued 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 with prior City Manager approval. Form may be obtained from Human Resource Department.

Employees may not utilize vacation time, holiday time or compensation time on the same day for the purpose of being paid for more than his/her normal duty shift.

Employees are required to submit a request for vacation leave, utilizing a request for absence form as follows: Full-time and 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. A Department Head may waive the ten days

advance notice at his/her discretion. Employees exempt from the provisions of the Fair Labor Standards Act shall submit a Request for Absence form as required by their Department Head, City Manager or the City Manager's designee.

10.2 SICK LEAVE:

10.2.1 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. At the discretion of the Department Head, an employee may be granted special use of sick leave chargeable to his/her sick leave accrual to care for an ill or injured immediate family member.

The Department Head 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.

It is a basis for discipline if an employee abuses the City's sick leave policy by taking sick leave for a reason other than as set forth above. As part of a written warning to an employee who has been found to have abused sick leave, a Department Head may require of the employee, for a period up to six months, to clear all use of sick leave with the Department Head personally and to obtain a physician's statement for all sick leave used. If the employee continues to abuse sick leave in violation of these conditions, additional and more severe forms of discipline may be imposed, up to and including dismissal.

10.2.2 ACCRUING SICK LEAVE:

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

All full-time and part-time, exempt and non-exempt employees shall accrue sick leave as provided below. Full-time employees shall accrue four(4) hours of sick leave per pay period. Part-time employees hired to work 20-39 hours per week shall accrue two (2) hours of sick leave per pay period.

City employees may 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 accrual will be stopped or reversed when an employee is on leave without pay for 30 consecutive days.

10.2.3 USE OF SICK LEAVE:

All employees are required to submit a Request for Absence form in advance of taking Sick Leave if possible or upon return to work.

Sick leave shall be deducted as follows: Full-time and part-time, exempt and non-exempt employees 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. If an employee calls in sick or otherwise obtains authorization to use sick leave, the employee will be paid for the hours as straight time and sick leave accruals will be deducted accordingly.

10.2.4 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.

Employees will not be allowed to take personal leave after submitting a notice of resignation.

10.2.5 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 bank 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.

Paid leave will be used in the following order:

- Sick leave
- Family sick leave
- Personal leave
- Compensatory time
- Vacation leave (40 hours must remain in Employee's bank if available)
- Donated sick leave

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 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 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, they 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.

10.3 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 wages/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.

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 first 40 hours of a full-time employee's absence will be charged to sick leave. For part-time employees, the first 20 or 39 hours of the 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 39 hours for a part-time employee. After 30 calendar days of Industrial Leave, Family Medical Leave Section 8 will apply, provided that the employee is eligible for such leave and the condition is a serious health condition.

Beginning on the sixth (6) day, an employee receiving temporary disability payments under the worker's compensation laws will be required to use accumulated sick leave and sign appropriate waiver(s) and promissory note(s) in order to continue to maintain their regular income. Employees must promise to turn over to the City their workers' compensation check and waive income tax penalties in order to continue to receive a regular paycheck with all deductions taken out. Thereafter, when the employee signs over to the City the workers' compensation check, the City shall reimburse the employee's sick leave accruals based on the hourly compensation of the employee.

When sick leave has been exhausted, vacation leave will automatically be used. After all paid leave accruals have been used, employees will only receive the worker's compensation check. The employee remains responsible for paying his/her deductions regardless of whether the employee is receiving a paycheck from the City.

No sick leave or vacation time will be accrued after an employee has been on industrial leave for 30 calendar days.

10.4 BEREAVEMENT LEAVE:

Upon learning of the death of an immediate family member, an employee may be granted three (3) work days (24 hours) of bereavement leave at the discretion of the Department Head and approval of the City Manager. These hours shall not be chargeable to vacation or sick leave. Additional time requested will be charged to vacation accrual or may be granted as unpaid leave if the employee has no vacation hours accrued.

If the employee does not qualify for bereavement leave because the deceased is not an immediate family member, then the employee must request vacation leave using the normal procedures if the employee desires to take time off.

10.5 ADMINISTRATIVE SUSPENSION/LEAVE WITH PAY:

Leave with pay may be imposed upon an employee by a Department Head, with concurrence of the City Manager, under circumstances where it is deemed to be in the best interest of the City.

A Department Head may **initially** place an employee on leave under this section for up to ten (10) working days. For an extension beyond ten (10) working days, the Department Head must

make a written finding of good cause that justifies the extension, with the concurrence of the City Manager.

An employee may be placed on Administrative suspension only upon written notice. Such written notice shall contain the facts or circumstances giving rise to the suspension, including the effective date and duration of the suspension.

The Department Head's decision to place an employee on administrative leave shall not be subject to the appeal process in Chapter 19.

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.

10.6 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 procedures:

- 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 his/her 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.

After two continuous weeks of jury duty, the employee shall be placed on unpaid leave status or may elect to use accrued vacation leave or compensatory time to maintain his/her normal pay. During this time, the employee is entitled to keep all compensation received from the court for jury duty.

11. UNPAID TIME OFF

11.1 FAMILY MEDICAL LEAVE ACT

Employees are entitled to take time off under the Family and Medical Leave Act, which may result in unpaid leave after the employee has exhausted accrued paid time off. For more information, see FMLA section above at Section 8.

11.2 DISCRETIONARY LEAVE WITHOUT PAY:

Leave without pay may be taken with the prior approval of the Department Head and City Manager. After 30 consecutive days of unpaid time off, the employee ceases to accrue vacation and sick time. The employee remains responsible for their payroll deductions.

11.3 MILITARY LEAVE:

Military leave shall be granted to all full time and part time City employees consistent with federal law.

12. COMPENSATION

12.1 PAYDAY:

Employees shall be paid on a bi-weekly basis. Payday shall be no later than every other Friday.

12.2 AUTHORIZED DEDUCTIONS:

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

Upon signed request by an employee, the City Manager may authorize payroll deductions for other items determined to be in the best interest of the City.

12.3 DEDUCTIONS FROM PAY AND ERRORS IN PAY:

The City makes every effort to ensure that employees are paid correctly. Non-exempt employees will be paid only for actual hours worked unless they have accrued unused paid time off pursuant to these policies.

Exempt employees are paid on a salary basis, and, in general, must be paid their full salary for any week in which they perform work. Exempt employees' pay may be reduced only in the following circumstances:

- (1). Employees who take leave under the Family Medical Leave Act and have exhausted their vacation, sick pay and other paid time off under these policies.
- (2). Employees who are absent for at least a full day because of sickness or disability and have exhausted their vacation, sick pay, donated sick pay or other paid time off under these policies.
- (3). Employees who are absent for at least a full day because of reasons other than sickness or disability and have exhausted their paid time off under these policies.
- (4). Employees who are absent for jury duty, attendance as a witness at a trial, or temporary military leave may have their pay reduced by the amount of payment they receive in the form of jury fees, witness fees or military pay. Their pay will not be reduced by the number of hours or days they are absent from work unless they perform no work in a given week.
- (5). If an employee violates a safety rule of major significance, his/her pay may be reduced in an amount to be determined by the City as a penalty for that violation.
- (6). Employees may be suspended without pay for other workplace misconduct as a penalty but only in full-day increments.
- (7). Employees who work less than 40 hours during their first or last week of employment may be paid a proportionate part of their full salary for the time actually worked.
- (8). Employees who are absent for one week or more may have their pay reduced if they do not have accrued vacation, sick pay or other paid time off under these policies.

The City will reimburse any exempt employee whose pay is reduced in violation of this policy.

If you believe your pay has been improperly reduced, please notify your supervisor and Payroll no

later than 30 days after the payday in which you believe there has been an error. The City will promptly investigate your complaint. After investigation, the City will adjust your pay or explain why your pay must remain the same in accord with this policy.

If you believe your pay has been improperly reduced, please notify your supervisor and Payroll no later than 30 days after the payday in which you believe there has been an error. The City will promptly investigate your complaint. After investigation, the City will adjust your pay or explain why your pay must remain the same in accord with this policy.

12.4 WAGES IN ADVANCE:

No advances of wages or salaries shall be made.

12.5 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 checks for dismissed employees shall be available within three (3) 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.

12.6 PROMOTION:

Promoted employees shall receive an increase in salary of five percent (5%) but in no event to exceed the maximum of the new range. The salary increase may exceed five percent (5%) only if necessary to bring the salary up to the minimum of the new range.

12.7 INVOLUNTARY DEMOTION:

Employees who are involuntarily demoted as a disciplinary action shall be placed in the new classification salary range and their *wage or 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.

12.8 VOLUNTARY DEMOTION:

Employees may be voluntarily demoted from one position to another. Employees may be required by the Department Head 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 Personnel 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.

12.9 STANDBY DUTY:

When a non-exempt FLSA employee is assigned standby duty 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 Head with approval of the City Manager.

12.10 CALL OUT PAY:

Anytime a non-exempt FLSA employee is called back to work (unscheduled) by management after leaving City facilities at a time other than their 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.

12.11 OVERTIME AND COMPENSATORY TIME FOR NON-EXEMPT EMPLOYEES:

It is the responsibility of each Department Head to appropriately administer the provisions of this policy within their department.

Employees classified as non-exempt shall receive 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. If an employee receives compensatory time in lieu of overtime payment, one and one-half hours of compensatory time will be awarded for each hour of overtime worked. Compensatory time must be earned before it is taken, and may be used at the discretion of the employee, subject to supervisory approval. For the purpose of computing overtime, compensatory time taken will not be counted as time worked.

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 shall authorize compensatory time off within a reasonable period of time after the request if the use of the compensatory time does not unduly disrupt the operations and delivery of City services. An employee's use of his/her compensatory time will not result in another employee receiving overtime to cover the time off. An employee must use his/her accrued compensatory time by the end of the fiscal year. The payroll division will keep track of compensatory time with the City software system.

After an employee elects compensatory time in lieu of payment, the time cannot be converted to payment. However, in the event an employee is terminated, any unused compensatory time will be converted to payment based on the employee's rate of compensation at the time of termination or the employee's average rate of compensation over the previous three years, whichever is greater. Employees are required to submit a Request for Absence no less than ten (10) work days prior to the first day of requested compensatory time off. Department Heads may waive the ten days advance notice at their discretion.

13. BENEFITS

13.1 GENERAL:

Full time employees are covered under the City's group health insurance program. The plan may provide health, dental, vision, and/or life insurance coverage. If such coverage is available under the plan, 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. The City's group health insurance complies with the requirements of the Health Insurance Portability and Accountability Act ("HIPAA") of 1996, as amended.

For those members that are either in the Arizona State Retirement System or the Public Safety Personnel Retirement System and employee contributions to either system are automatically deducted from employee's wages or salary.

13.2 INSURANCE COVERAGE WHILE ON LEAVE:

During any authorized leave with pay, all 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, 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.

13.3 BENEFITS CONTINUATION (COBRA):

Pursuant to the Consolidated Omnibus Budget Reconciliation Act (COBRA), eligible employees and their dependents may be entitled to applicable insurance coverage after employment with the City of Benson ends or for other COBRA qualifying events.

Information regarding benefits continuation is available from the Human Resources Department.

13.4 TUITION

With prior approval from the Department Head, the City of Benson will reimburse the employee for tuition when taking classes related to the job position. A "C" or better is required in order to be reimbursed for tuition.

The employee shall work a minimum of two (2) years for the City after completing any class paid for by the City. If the employee leaves the City of Benson within two years, the employee will have to pay the City the pro-rata amount of the City's prior tuition contribution. For example, if the employee elects to quit after eighteen months following successful completion of the class, the employee would have to repay the City twenty-five percent of the tuition reimbursement.

14. GENERAL ELECTION DAY

The bi-annual 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 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.

15. USE OF CITY PROPERTY

15.1 GENERAL:

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 Head 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.

15.2 PHONE CALLS AND MAIL:

It is the policy of the City that telephone and mail facilities shall be available during working hours for effective communication with the City's customers and business associates. Accordingly, the City's facilities shall not be used for personal telephone calls or personal mail except in strict cases of need.

- (1) Use of the City telephone lines shall be confined to business calls. Personal telephone calls shall be limited to those which are absolutely necessary and should be as brief as possible. This restriction on the use of telephones also applies to making personal calls to fellow employees within the City.
- (2) There shall be no personal long-distance phone calls.
- (3) In order to avoid adding to the increasing volume of mail, employees shall not use the City address in receiving personal mail.
- (4) City stationery shall not be used for personal correspondence. Personal correspondence shall not be postmarked in the City postage meter.
- (5) All computers and e-mail are property of the City. Employees should not expect privacy when using e-mail. Management can and will review e-mail. See below.
- (6) Excessive personal telephone calls during the workday, regardless of whether the telephone belongs to the City or to the employee, interfere with the City's mission of serving its customers and can be distracting to others. All personal calls during work time are to be limited to those which are absolutely necessary and are to be as brief as possible. Any other personal calls are to be made during non-work time. Employees are to ensure that family members and friends are aware of City policy in this regard. The City will not be liable for the loss of personal cell phones brought into the workplace.

15.3 E-MAIL, VOICEMAIL AND INTERNET POLICY:

The City provides certain technology for use in City transactions or communications, including e-mail, Internet access, voicemail and software. This technology is the City's private property and is a tool for use in conducting City business.

Employees shall not use this technology for personal, private or non-City matters or to communicate personal, private or non-City matters. Employees shall not communicate anything that is or may be considered to be harassment or offensive to others based on race, color, veteran status, sex, disability, age, religion, citizenship, gender, marital status or national origin.

Since excessive messages slow productivity and burden the technological systems, employees shall obtain permission from their supervisor before circulating an e-mail to all City employees.

E-mail is an extension of the City and all e-mail messages can be traced, even after deletion. The City will regularly review, audit and may download or store e-mail messages that employees send and receive. The City may monitor employees' Internet access. By using the City's e-mail, Internet, voicemail and software, employees agree to waive any privacy they may have or may expect in these communications. Employees shall use proper Netiquette and respect all intellectual property rights. If the City determines that an employee has created or sent abusive or inappropriate e-mail, violated copyright or trademark laws, or participated in non-work-related activities with the Internet (such as chat rooms or downloaded or looked at abusive or inappropriate websites or material from the Internet), that employee may be subject to corrective action up to and including termination.

If employees receive messages that are personal, non-work-related, inappropriate, violate intellectual property or violate the City's harassment policies, employees shall immediately advise the sender that they are not permitted to receive such information and tell the sender not to send it again.

Employees shall not use inflammatory, abusive or inappropriate language in e-mail and voicemail communications. Employees shall use all City technology consistent with the City's general mission. Employees shall not open documents from unknown sources and shall take all necessary security precautions when using the Internet and e-mail.

15.4 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.

Smoking is prohibited in all City vehicles.

16. REPORTING/INVESTIGATING ACCIDENTS AND INJURIES

Employees are required to report all accidents and injuries to their Supervisors or Department Head as soon as possible. Within 24 hours of the incident, City employees or their Supervisors are required to file an accident injury report with the City Manager's office.

Employees who have an accident while in a City vehicle shall first notify the law enforcement agency, then the Supervisor or Department Head and are required to complete all forms supplied by Risk Management for vehicle accidents.

Employees are required to be drug tested immediately following an accident in a City vehicle while on City business or at the discretion of the Department Head.

Department Heads are responsible for prompt investigation of all accidents and injuries occurring on the job, and this investigation shall be in addition to any concurrent investigation conducted by law enforcement personnel. All employees are required to cooperate fully in all such investigations, including submitting to polygraph examinations deemed useful or necessary for a complete investigation in the discretion of the Department Head.

17. POLITICAL & INTEREST GROUP ACTIVITY

17.1 PERMITTED ACTIVITIES

All City employees may:

- Express a private opinion
- Cast a vote in any election
- Join, give money to, and participate in, political parties and political party-sponsored clubs or groups
- Run for non-City, non-partisan office
- Run for non-City partisan office UNLESS federal law prohibits such candidacy because the employee's principal employment is funded in whole or in part with federal funds

In any election while off-duty and outside of City facilities, and not wearing a City uniform, badge, insignia or identifying item, all City employees may:

- Wear or display political buttons, signs, banners, stickers, badges, etc.
- Sign or circulate nomination or recall petitions
- Engage in activities advocating a candidate's election or defeat
- Solicit or canvass votes
- Act as a recorder, watcher, challenger or similar poll function
- Drive voters to the polls
- Endorse or oppose a candidate
- Address a caucus, rally or gathering.

In any election NOT for City office, all City employees may:

- Give money to support or oppose candidates or ballot measures
- Participate in fund-raising from persons who are not officers or employees in the City's classified service

17.2 PROHIBITED ACTIVITIES:

No City employee may:

- Take any active part in securing or contributing money toward the nomination or election of any candidate for City office
- Command, solicit or receive contributions from other employees in the classified service for any candidate, ballot measure or political party or organization
- Manage a partisan or nonpartisan campaign or recall effort
- Be a candidate for any City office
- Engage in political activity during working hours (except for voting under A.R.S. § 16-402 and Chapter 14 of this Handbook)
- Engage in any political activity while wearing any City identifying insignia or uniform (except voting)
- Use any City property or resource in support of political activity
- Solicit or coerce fellow employees to engage, or not to engage in political activity
- Retaliate against any fellow employee for engaging in or not engaging in political activity

- Seek or use political endorsement to get an appointment or promotion to a position in the classified service
- Use or attempt to use official authority or influence to secure an appointment or advantage in the classified service for any person to influence that person's vote or other political action
- Favor or discriminate against any person on political grounds with respect to appointment to or employment in the City's classified service

18. DISCIPLINE

18.1 GENERAL:

All Department Heads and supervisors may impose Oral Reprimands and Written Reprimands in accordance with this Chapter. With the consent of the City Manager, Department Heads may administer Suspension, Demotion and Dismissal. The City Manager is authorized to impose discipline on department heads in accordance with this Chapter.

With the exception of Dismissal, all discipline is designed to be corrective in nature and to notify City employees of improper conduct or performance so as to avoid repetition of such conduct or performance in the future. The degree of disciplinary action shall relate to the gravity of the improper performance or conduct and/or the past performance and conduct of the employee.

In general, disciplinary actions are cumulative and disciplinary measures should begin with less severe action and become increasingly more severe for additional offenses. However, performance or behavior problems of a serious nature may require immediate disciplinary action up to and including dismissal.

Whenever practical, informal supervisory actions to improve conduct and performance should be used before taking more severe, formal disciplinary action.

It is the policy of the City that discipline be imposed in a fair and consistent manner. All documents relating to imposition of discipline shall be provided to the employee and copies forwarded to Human Resources office for the employee's file.

Employees may be disciplined or dismissed **only** as provided in this Chapter.

18.2 BASIS FOR DISCIPLINE:

The following acts may constitute cause for disciplinary action up to and including dismissal:

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.

- Misrepresentation or fraud in securing employment
- Incompetency
- Failure to perform job duties or meet performance standards
- Failure to report an on-the-job injury to a Supervisor within 24 hours
- Failure to report being the subject of criminal charges or, when one's job duties include driving, being cited for a traffic infraction
- Insubordination
- Dishonesty
- Violation of any City or departmental written policies, rules, regulations or procedures.
- Violation of the City's drug and alcohol policy
- Violation of the City's anti-discrimination or anti-harassment policies
- Absence without leave
- Commission or conviction of a felony, or a misdemeanor involving moral turpitude, which adversely affects the employee's suitability or ability to continue to adequately perform the essential functions of the employee's position.
- Discharge of a firearm or dangerous weapon when not necessary in the course of duty
- Discourteous treatment of the public
- Engaging in prohibited political activity

- Misuse or abuse of City property
- Excessive tardiness and/or absenteeism
- Loss of required qualifications, license or certificate
- Abuse of sick leave privileges
- Mishandling of City funds
- Falsification or unauthorized use of City records
- Unsafe work habits or actions
- Giving false information in regard to one's own or a fellow employee's actions
- Refusal to answer questions in the course of an administrative investigation alleging misconduct and related to the performance of official duties
- Threatening, coercing, or intimidating a fellow employee
- Fighting
- Unauthorized possession of firearms or explosives on City property
- The refusal, when so directed, to be examined by a physician designated by the City
- The refusal to submit to a drug/alcohol test as required by City policy
- The use of foul or abusive language towards a fellow employee, supervisor, or the public
- Any other improper conduct or action undermining the proper and efficient operation of City functions which constitute cause for disciplinary action.

18.3 DETERMINATION OF APPROPRIATE DISCIPLINE:

In determining the appropriate disciplinary action, the following factors shall be considered:

- The nature and extent of the infraction;
- Employee's past record;
- Effect on the operation of the Department and/or City;
- Bringing discredit to the City, Department and Employee.

18.4 TYPES OF DISCIPLINARY ACTIONS

A. Oral Reprimand

An oral reprimand is considered the least significant disciplinary action and may be used to advise an employee of improper performance or conduct and the actions the employee should take to correct such performance or conduct. Any Department Head or Supervisor may issue oral reprimands to employees under their supervision.

The oral reprimand shall be documented, along with the events or actions leading to the reprimand, and should specify what actions the employee must take or behaviors the employee must correct.

B. Written Reprimand

A written reprimand is the next most serious level of discipline and is appropriate for repeat behaviors that have not been corrected by an oral reprimand, or conduct of a more serious nature. A written reprimand may be issued by a Department Head or a Supervisor for employees under their supervision.

The written reprimand shall contain the specifics of the improper performance or conduct, the dates of any prior disciplinary action, the rule, policy or procedure that was violated by the employee, and must clearly enumerate the actions the employee must take to correct the situation.

Any measures to be taken by the Supervisor and/or Department Head, such as providing the employee with additional training or counseling, should also be documented.

All written reprimands should include a schedule for review of the employee's performance deficiencies. Failure of the employee to correct the noted deficiencies within the review period could justify additional and more serious discipline being administered.

C. Suspension

In instances of more serious or repeated improper performance or conduct, a written suspension without pay may be issued by Department Heads to employees under their supervision. Suspensions may be for a period of 1 to 30 days.

The notice of suspension shall contain the specifics of the improper performance or conduct, the dates of any prior disciplinary action deemed relevant to the matter, the rule, policy or procedure that was violated by the employee, and must clearly enumerate the actions, if any, the employee must take to correct the situation.

Any repetition of the conduct or behaviors that merited a suspension within two to three years following the suspension would normally justify dismissal of the employee.

D. Demotion

Demotion is normally warranted in situations where the employee has notably failed in carrying out the responsibilities of the position assigned and another position with lesser responsibilities or required skill level is available within the department. A demotion may take the form of placing the employee in a lower pay range or lowering the employee's rate of pay within the assigned pay range.

The notice of demotion shall contain the specifics of the improper performance or conduct, the dates of any prior disciplinary action deemed relevant to the matter, the rule, policy or procedure that has been violated by the employee, the necessary skills or certification the employee has been observed to lack or the responsibilities that the employee has failed to perform. The notice of demotion should clearly state the expectations for the employee's performance in the new assignment, its responsibilities and rate of pay.

E. Dismissal

Dismissal is normally warranted in situations where the employee has been unable or unwilling to correct deficiencies that have been documented through prior imposition of discipline, or where the employee misconduct involves a willful and serious disregard for acceptable standards of conduct.

The notice of intent to dismiss shall contain the specifics of the improper performance or conduct, the dates of any prior disciplinary action, and the rule, policy or procedure that was violated by the employee. The notice of intent to dismiss and any subsequent dismissal notice shall be given to the employee, and a copy shall be forwarded to the Human Resources Director for placement in the employee's file.

18.5 PRE-DISCIPLINARY MEETING:

Before an employee may be disciplined through a suspension, demotion or dismissal, a pre-disciplinary meeting between the Department Head and the employee must be held. At least five working days before the meeting, the employee shall be provided with a written notice containing the following information:

- A description of the alleged violations of City policy and proposed disciplinary action;
- A description of the evidence relating to the violations;
- Date and time of the pre-disciplinary meeting; and
- Notice that the purpose of the meeting is to give the employee the opportunity to respond to the allegations prior to imposition of discipline.

Failure of the employee to attend the meeting will result in the employee's waiver of the opportunity to be heard prior to imposition of discipline.

18.6 IMPOSITION OF DISCIPLINE:

Unless extended by the City Manager for good cause, within five working days following the pre-disciplinary meeting, the Department Head shall provide the employee with a written notice either of no discipline or that discipline will be imposed. If the latter, the notice must set forth the following information: the Department Head's findings regarding employee misconduct or failure to perform, the discipline imposed, and a notice to the employee of appeal rights pursuant to Chapter 19 of this Manual. The effective date of the discipline shall be the date set forth in the notice of discipline, without regard to the employee's right to appeal. The notice of discipline shall either be provided to the employee in person or sent via regular and certified mail.

Whenever it is the intention of a Department Head to suspend, demote or dismiss an employee, the City Manager must concur in the decision.

18.7 ADMINISTRATIVE SUSPENSION:

Although not a form of discipline itself, leave with pay may be imposed upon an employee by a Department Head, with concurrence of the City Manager, under circumstances where it is deemed to be in the best interest of the City.

A Department Head may **initially** place an employee on leave under this section for up to ten (10) working days. For an extension beyond ten (10) working days, the Department Head must make a written finding of good cause that justifies the extension with the concurrence of the City Manager.

An employee may be placed on Administrative suspension only upon written notice. Such written notice shall contain the facts or circumstances giving rise to the suspension, including the effective date and duration of the suspension.

The Department Head's decision to place an employee on administrative leave shall not be subject to the appeal process in Chapter 19.

19. EMPLOYEE APPEALS

19.1 An employee may appeal the following forms of discipline pursuant to this Chapter: Suspension, Demotion or Dismissal. No other appeals shall be allowed.

19.2 A Notice of Appeal shall be filed in writing with the City Clerk within ten working days of receipt by the employee of the Notice of Discipline. A Notice of Discipline that is served via regular and certified mail and which is not signed as received by the employee shall be deemed received three business days after the mailing.

19.3 All appeals shall be heard by an Appeals Commission, which shall consist of three non-employee residents of Benson appointed by the City Council. Appointments shall be for two years. The City Council shall designate one of the appointees to be chairman. In the discretion of the City Council, an alternate member may be appointed. For each appeal, two temporary members shall also be appointed. These members shall be City employees, one selected by the Department Head whose decision is being appealed and one selected by the appealing employee. The employee members of the Appeals Commission shall not be employed within the same department as the department head whose decision is being appealed. No Commission member may consider the appeal of an immediate family member and shall communicate his/her recusal to the City Manager at the earliest opportunity.

19.4 The appeals commission shall meet when called by the City Manager and its meetings shall be conducted consistent with the state open meetings law. A quorum is necessary to transact business. The City Clerk or his/her designee shall post notice of the meetings, keep minutes of the meetings and prepare verbatim recordings of all appeals.

19.5 Within thirty days of an employee filing a notice of appeal with the City Clerk, or longer for good cause, the City Manager shall call a meeting of the Appeals Commission to hear the appeal. The employee shall receive at least five days' notice of the meeting and shall have the option of electing that consideration of the appeal be conducted in an executive session. The employment record of the appealing employee shall be provided to each member of the Appeals Commission at least one day in advance of the hearing.

19.6 The employee may be represented by counsel at the hearing, and the rules of evidence need not apply so long as the proffered evidence appears to be reliable to the satisfaction of the Commission. All documents to be relied upon by the City at the hearing as part of its case-in-chief shall be provided to the employee at least three business days in advance of the meeting. All motions shall be ruled upon by the chairman and may be overruled by a majority of the Commission. The employee shall have the right to call witnesses and cross-examine the City's witnesses. The City shall have the burden of proving by the preponderance of the evidence that the discipline appealed from was properly imposed. The Appeals Commission shall review *de novo* the facts pertaining to the violation(s) of City policy supporting the imposition of discipline and shall review the level of discipline imposed for an abuse of discretion.

19.7 The Appeals Commission shall meet on successive days until the matter is fully heard, or as may be agreed upon by the Commission and appealing employee. At the conclusion of the evidence, the Commission shall entertain discussion of the case among its members, and may ask questions of the employee or the Department Head and may grant a motion from either party to re-open the hearing for further evidence. At the conclusion of the discussion, a motion shall be made to affirm, reject or affirm in part the discipline appealed from. The Commission shall decide the matter by majority vote of the members.

19.8 Appeals from the Appeals Commission shall be by way of special action to the Superior Court of Cochise County, which shall review the matter solely to determine whether the Commission's decision was arbitrary, capricious or involved an abuse of discretion. If the record is insufficient to support a review on the record, the matter shall be remanded to the Appeals Commission for a new hearing.

20. GRIEVANCE POLICY:

Under normal working conditions, employees who have a job-related problem, question or complaint should first discuss it with their immediate supervisor. At this level, employees usually reach the simplest, quickest, and most satisfactory solution. If the employee and supervisor do not resolve the problem, the employee should contact the next level of management up to the City Manager. Department Heads should prepare a file of all relevant documents and forward to the City Manager if they are unable to resolve the matter with the employee and the employee has indicated that he/she desires a meeting with the City Manager. The decision of the City Manager will be final concerning employee grievances.