

ORDINANCE NO. 1437

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, ADOPTING BY REFERENCE THAT CERTAIN DOCUMENT ENTITLED "CITY OF APACHE JUNCTION PERSONNEL RULES 2016"; REPEALING ANY CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

WHEREAS, since the last revision to the Apache Junction Personnel Rules in 2014, some provisions have become outdated and need modification, with the more substantive being as follows: 1) employee ethics; 2) hiring of relatives; 3) transitional probation periods; 4) reclassifications; 5) vacation leave accrual limits; 6) compensatory time; 7) definition of "reasonable suspicion" in a drug-free workplace; and 8) fraternization reporting; and

WHEREAS, Resolution No. 16-28 declares as public record the document entitled "City of Apache Junction Personnel Rules 2016"; and

WHEREAS, A.R.S. § 9-802 permits municipalities to enact the provisions of a code or public record theretofore in existence without setting forth such provisions in full text as long as the adopting ordinance is published in full text and at least one paper copy of the code changes or public record are filed in the office of the clerk of the municipality and one electronic copy is accessible on the city's website and made available for public inspection; and

WHEREAS, pursuant to A.R.S. §§ 9-801(1) and 9-802, public records which may be adopted by reference include those relating to personnel rules.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, AS FOLLOWS:

SECTION I IN GENERAL

That certain document known as "City of Apache Junction Personnel Rules 2016", one paper copy and one electronic copy which are accessible on the City's website and filed in the office of the city clerk, which document was made a public record by Resolution No. 16-28 of the City of Apache Junction, is hereby referred to, adopted and made a part hereof as if fully set out in this ordinance, pursuant to A.R.S. § 9-802.

SECTION II REPEALING ANY CONFLICTING PROVISIONS

All ordinances and parts of ordinances in conflict with the provisions of this ordinance or any part of the codes adopted herein by reference are hereby repealed.

SECTION III PROVIDING FOR SEVERABILITY

If any section, subsection, sentence, phrase, clause or portion of this ordinance or any part of the codes or regulations adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION IV DECLARING AN EMERGENCY

The immediate operation of the provisions of this ordinance is necessary for the immediate preservation of the public peace, health or safety, and that an emergency shall be in full force and effect from and after its passage, adoption and approval by the Mayor and City Council of the City of Apache Junction.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, THIS 18TH DAY OF OCTOBER, 2016.

SIGNED AND ATTESTED TO THIS 18TH DAY OF OCTOBER, 2016.


JOHN S. INSALACO
Mayor

ATTEST:


KATHLEEN CONNELLY
City Clerk

APPROVED AS TO FORM:


RICHARD J. STERN
City Attorney

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City of Apache Junction
Personnel Rules
2016

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Rule 1. General Purpose, Policy, and Objectives

Section 1. Purpose

To establish Personnel Rules for the City of Apache Junction.

Section 2. Policy

The Personnel Rules are enacted to meet the following goals:

1. To provide a uniform system of personnel administration;
2. To promote communication among department directors, supervisory staff, and employees;
3. To ensure, protect and clarify the rights and responsibilities of employees.

Section 3. Objectives

These Rules are enacted to ensure the following:

1. That recruitment and selection for classified service positions are competitive with final appointment predicated on job-related knowledge, ability, skills and qualifications;
2. That classifications reflect the responsibility and difficulty of the work;
3. That involuntary separation of career status employees be for cause;
4. That no unlawful discrimination be practiced.

Section 4. Applicability, Enforcement, and Interpretation of Personnel Rules

These Rules shall apply to all City of Apache Junction career status employees. Elected officials, city manager, city attorney, and magistrate judge are not career status employees.

The Human Resources Director is responsible for the interpretation and enforcement of the personnel rules.

In the event the Mayor declares a City emergency/disaster, parts or all of these Rules may be suspended and temporary operating procedures may be established in their place.

The City of Apache Junction may modify its practices as appropriate upon knowledge of an amendment or enactment of a law that may pertain to employment.

Rule 2. Definition of Terms

The following terms, whenever used in the rules, shall be defined as follows:

Section 1. Allocation

The assignment of a position to its proper class in accordance with the duties performed and the authority and responsibilities exercised. This is synonymous with the term classification.

Section 2. Anniversary Date

Annual reoccurrence of the date on which an employee was hired.

Section 3. Appointment

The act of filling a position.

Section 4. Career Status

Employees who serve a probationary period.

Section 5. Class

A position or group of positions sufficiently similar in duties and responsibilities that the same or similar requirements for education, experience, knowledge, ability, and other qualifications may be required so that the same compensation schedule can be applied.

Section 6. Classification Date

Annual reoccurrence of the date on which an employee was appointed to a title.

Section 7. Classification Plan

The arrangement of positions under separate and distinct classes.

Section 8. Classified Service

All positions in the City service except those positions in the non-classified service, examples of non-classified positions are: city manager, city attorney, and presiding magistrate.

Section 9. Compensatory Time

Those hours worked in excess of the established number of hours for the established work period and accrued, rather than compensated as overtime, in the employee's compensatory bank to be used for authorized time off.

Section 10. Creditable Time

That period of service during which sick leave and vacation time accrue.

Section 11. Demotion

The appointment of an employee from a position in one class to a position in another class assigned a lower salary group.

Section 12. Department Director

Those officers or employees who are appointed and/or employed as the principal employee of a department or stand-alone division for the discharge of duties provided by law or of a particular delegated function as indicated on the organizational chart.

Section 13. Dismissal/Termination

An employee's separation from employment for cause.

Section 14. Eligible List

A list of names of persons who have applied for employment in the classified service and who have qualified for consideration by demonstrating their fitness for such employment.

Section 15. Employee

A person who is paid a wage, salary, or stipend from public monies in accordance with official entries on the City payroll except for City Council members.

Section 16. Human Resources Director

The Human Resources Director administers the provisions of the Personnel Rules and City policies affecting employees not specifically reserved to the City Council, the City Manager, or the Hearing Officer.

The Human Resources Director is responsible for the administration of the merit system. This includes, but is not limited to, interpreting personnel rules and regulations, the authority to review the hiring, firing, transferring, promoting, demoting, suspending, resignation, separation, and reinstating of employees, management of the classification and compensation system, the performance evaluation system and maintenance of employee records.

Section 17. Job Description

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

Section 18. Lay-off

The separation of an employee occurring when a position in the classified service has been abolished, or when there is a reduction in force (RIF).

Section 19. Non-classified Positions

Non-classified means the job has no established minimum qualifications until time of recruitment. Generally this is due to the nature of appointment and/or responsibilities

The city manager, city attorney, and presiding magistrate positions are non-classified positions.

Section 20. Overtime Hours

Eligible hours in excess of the established number of hours for the established work period.

Section 21. Performance Report

The periodic evaluation of an employee's work.

Section 22. Personnel Ordinance

An ordinance that creates or amends a personnel system for the City of Apache Junction, Arizona.

Section 23. Position

An aggregation of tasks and responsibilities requiring the services of one person.

Section 24. Probation Period

A specific period of time following an initial, promotional, re-employment, transfer or demotion appointment which is a work-test period for the employee and during which the employee is appointed on a trial basis.

Section 25. Promotion

The appointment of a career status employee from a position in one class to a position in another class with a higher salary group assignment.

Section 26. Reclassification

The process of allocating positions to a more appropriate class whether new or existing in the classification plan as a result of material changes in the duties of the position.

Section 27. Rehire

The appointment of a former employee.

Section 28. Reinstatement

The appointment of a person from a layoff list.

Section 29. Separation

The termination of employment by reason of unsatisfactory completion of the probationary period, lay-off, resignation, retirement, dismissal, or death.

Section 30. Sick Leave

Time off with pay granted by the City to career status and probationary employees who regularly work in excess of 19 hours per week.

Section 31. Suspension

The temporary separation from employment of an employee with or without pay for disciplinary purposes.

Section 32. Transfer

The appointment of an employee to another department and from a position in one class to a position in the same class.

Section 33. Unpaid Absence

An absence other than one resulting from the use of accruals, paid emergency absences, or other paid leaves of absence.

Section 34. Vacation

Time off with pay granted by the city to career status and probationary employees who regularly work in excess of 19 hours per week; such time off is granted at the convenience of the City.

Section 35. Written Reprimand

Written disciplinary notice issued to an employee.

Section 36. Written Notice

A written communication delivered in person or by mail.

Section 37. Work Period

A fixed and regularly recurring period upon which overtime compensation may be calculated.

Rule 3. General Provisions

Section 1. Equal Employment Opportunity

The City of Apache Junction provides equal employment opportunities, in accordance with applicable local, state, and federal laws, to all employees and applicants for employment without regard to race, color, religion, sex, national origin, age, or disability.

Section 2. Loyalty Oaths

All employees are required to sign a loyalty oath (Oath of Office) upon employment with the City as required by ARS § 38-231.

Section 3. Residency Requirements and Use of City Vehicle

Residency

All employees are encouraged to reside within the corporate limits of the City of Apache Junction.

The City Manager, City Attorney, Director/Police Chief, Captains, Public Works Director and other persons the City Manager may specify are designated to be **key emergency** personnel and are required to live within a 15 minute response time to their work location.

Police officers, Corporals, Sergeants, and Lieutenants, are required to live within a 25 minute response time to the police department. On a case by case basis, upon written recommendation of the director/chief of police, the city manager can provide a written waiver of this requirement for Police Officers, Corporals, Sergeants, and Lieutenants. Such waiver will be placed in the officer's personnel file.

Use of City Vehicle

Key emergency personnel shall have the use of a City vehicle 24/7.

No employee, who resides outside the corporate limits of the City, unless designated by the City Manager in writing, shall have the use of a city vehicle for other than regular working hours.

Section 4. Compliance with the Immigration Reform and Control Act of 1986

All U.S. employers are responsible for completion and retention of Form I-9 for each individual they hire for employment in the United States. This includes citizens and noncitizens. Acceptable documents are listed on the back of the form. If the required documentation is not received from the employee within three (3) business days of the date of hire, the employee shall be terminated.

Section 5. Affirmative Action

In the City of Apache Junction, an affirmative action program means using a personnel system designed for inclusion of otherwise qualified workers in personnel actions, regardless of race, religion, age, sex, physical handicap, color, national origin, or political or religious opinion or affiliation.

The City utilizes both external and internal dissemination of EEO policies and job opportunities, targeted recruitment if necessary, non-preferential training programs and internal reviews and evaluation of operations.

Section 6. Ethics

The city values integrity, respect, honesty, and responsibility in its employees.

It is the employee's ethical obligation to refrain from using his/her position for any personal gain beyond salary and city provided employee benefits.

It is unethical for any employee to use public influence or "inside" confidential information for his/her personal advantage. City employees are required to comply with conflict of interest laws.

A public employee must never allow him or herself to be placed under any kind of personal obligation which could allow any person to expect official favors. All employee official acts must be free from the intent of favoritism, prejudice, personal ambition, or partisan demands.

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Section 7. Safety

The City of Apache Junction is committed to provide employees, a safe and healthy working environment. The City makes every effort to comply with relevant federal and state occupational health and safety laws and to develop operations, procedures, technologies, and programs conducive to a safe and healthy work environment.

The City's goal is to minimize health and safety risk exposures to employees, to the citizens, and to visitors to City facilities. All City employees are expected to work in a manner which maintains safe and healthy working conditions and adhere to operating practices and procedures designed to prevent injuries and illnesses.

Each employee has a responsibility to:

- Exercise maximum care and good judgment at all times.
- Report all injuries to supervisors and seek first aid regardless of how minor.
- Report unsafe conditions, equipment, or practices to his/her supervisor.
- At all times use safety equipment provided by the City.
- Conscientiously observe all safety rules and regulations
- Notify his/her supervisor, before beginning the work day, of any medication he/she is taking which may cause drowsiness or other side effects that could lead to injury to either him/herself or to his/her co-workers.

Section 8. Gratuities/Solicitations

It is inappropriate for employees to accept or solicit anything of economic value such as a gift, gratuity, favor, entertainment, or loan which might appear to influence official conduct. This does not mean that employees are prohibited from accepting food or refreshments of nominal value on occasions where the employee is representing the City. This also does not prohibit the acceptance of unsolicited advertising or promotional material such as pens, pencils, and calendars.

Section 9. Outside Employment

Outside employment shall not conflict with the position held in the City, this is to include but is not limited to work performance and scheduled hours.

Career status employees are to consider the City of Apache Junction as the primary employer.

Rule 4. Recruitment and Selection

Section 1. Policy Statement

Career status employees who apply for positions under recruitment and who meet the minimum qualifications of the position will be considered for appointment. Appointments are based upon fitness for the position.

Section 2. Application Forms

All applicants for positions must complete an application form prescribed by the City. Applications must be signed by the person submitting the application and become the property of the City.

Section 3. Recruitment and Selection Process

The City may recruit applicants for vacant positions from outside the classified service and from within the classified service simultaneously if it is in the best interests of the City. Probationary employees may apply for appointment to a vacant position with the approval of their department director.

The selection process may consist of, but is not limited to, evaluation of application material, interviews, written examinations, performance tests, assessment centers, physical ability tests, probation periods, or any other appropriate measure of fitness.

Section 4. Examination Results

Unless otherwise stated in the testing service agreement, candidates may inspect their own examination papers,

Each candidate in an examination shall be given notice of examination results.

Section 5. Eligible Lists

An eligible list shall remain active for six (6) months or until exhausted, whichever comes first, and may be extended prior to its expiration date by action of the Human Resources Director. In no event shall an eligible list remain active for more than 18 months.

The name of any person appearing on an eligible list shall be removed by the Human Resources Director if the person whose name on the list makes written request to have it removed, or if the eligible person fails to respond to a notice of eligibility mailed to the last known address of record.

Section 6. Hiring of Relatives

The City shall not permit any employees related by blood or marriage to the degree as follows: parent, spouse, child, grandparents, grandchildren, brother, sister (of the one-half as well as the whole), uncle, aunt, niece, nephew, first cousin, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in law, or sister-in-law to be employed in a position where one is in a supervisory chain of the other; this is construed to be direct or indirect line of supervision. This applies to any other relationship which may be construed to have similarities to either blood or marital relationships, i.e. adoption, guardianship, etc.

If one or more of the relationships outlined above are created by City employees working in the same department, Rule 14. Fraternization Policy applies.

No person related by blood or marriage as defined above, of an active city council member, city manager, city attorney, magistrate judge, or department head, shall be appointed to a position in the City of Apache Junction. Source: ARS 38-481.

Rule 5. Appointments, Status, and Probation

Section 1. Types of Positions

All positions in the City service shall be identified by duration and position characteristics.

A. Duration

1. Unlimited position.

A position which has no specified ending date.

2. Limited position

A position that has a specified ending date. Examples are positions created, on a temporary basis, to replace an employee on leave without pay or positions created to meet a seasonal need.

B. Position Characteristics

1. Full-time

A position in which an employee is generally scheduled to work forty (40) hours per week.

2. Part-time

A position in which an employee is generally scheduled to work less than forty (40) hours per week.

3. Seasonal

A position in which an employee is employed to meet regular recurring seasonal needs.

4. Intermittent, Temporary, or Per Diem

A position in which an employee works as needed.

5. Contractual

A position in which an individual receives compensation and other benefits per a contract.

Section 2. Employee Status

Every employee in the City service shall hold one of the following status identifications determined by position characteristics, probation requirements, or both:

- A. Initial probationary status
- B. Career status
- C. Transitional probationary status
- D. Non-career status

Section 3. Attainment of Status

- A. Initial probation
Every person when first appointed or re-employed to a full-time or part-time City position, other than a non-career status position, shall hold initial probationary status for the probation period, which is one (1) year; unless they are appointed to a title which requires AZ POST certification, refer to Rule 5, Section 5.

In the event of placement from a layoff list, the employee will not serve a probation period unless the employee is appointed from a layoff list and there was time remaining in his/her probation period in the title appointed, in which case the employee will complete the time remaining in his/her probationary period.

- B. Career Status
Employees attain career status through successful completion of the probation period, which may be evidenced by an end of probation notification.

An employee promoted, to a position in his/her job family, while on initial probation shall attain career status in the former position upon satisfactory completion of the number of months remaining in the probation period in the former position. In order to achieve career status in the position to which promoted, the employee shall serve the probation period required for that position in transitional probationary status.

Transitional probation

Every career status employee who is promoted, transferred, or voluntarily demoted shall hold transitional probation status for the full probationary period of the new position where a probation period is required. The transitional probation period is six (6) months. In the event of placement due to layoff action, the employee will not serve a probation period; however, if an employee is appointed from a layoff list and to a title in which there was time remaining in his/her probation period, the employee will complete the time remaining in his/her probation period.

D. Non-career Status

Employees who are appointed to limited, intermittent, seasonal, part time 19 or less hours, or contractual positions shall hold non-career status for the duration of the appointment and shall not serve a probation period. Non-career status employees include contract employees such as the city manager, city attorney, and presiding magistrate.

Section 4. Probation

Probation periods shall be regarded as integral parts of the recruitment and selection process and shall be utilized for close observation of the employee's work, performance of duties, job dedication and for securing the most effective adjustment of a new employee to the position and to separate or demote an employee whose performance does not meet required standards in accordance with the following:

A. Separation during initial probation

An employee in initial probationary status may be separated at any time without cause and without right of appeal.

After discussion with, and the recommendation of the Human Resources Director, the department director is responsible for notifying the probationer and the Human Resources Director of an employee's pending separation, probation extension, or attainment of career status. It is recommended that notification to the Human Resources Director be a minimum of two (2) weeks prior to the action and probation period end.

B. Separation during transitional probation

An employee in transitional probationary status may be separated if the employee does not perform satisfactorily during the transitional probation period. **An employee in transitional probationary status has no right to return to his/her former position.**

The Department director is responsible for notifying the probationer and the Human Resources Director, prior to the end of the probation period, of successful or unsuccessful completion of probation.

Section 5. Duration of Probation

A. Initial

The initial probation period shall be one (1) year of actual service from the date of appointment, except for police personnel in titles requiring AZ Post certification.

The initial probation period for titles requiring AZ POST certification shall be one (1) year, providing they hold AZ POST certification at time of appointment.

Those not holding AZ POST certification at time of appointment and where AZ POST Certification is required to continue in the title shall serve a fifteen (15) month probation period.

At the request of a department director, the Human Resources Director may approve an extension of the initial probation period, to a maximum of three (3) months actual service.

B. Transitional

The transitional probation period shall be six (6) months from applicable action and is required for transfers, promotions, and voluntary demotions unless requested to be waived by the Department director and approved by the Human Resources Director.

The transitional probation period of non-sworn and non-AZ POST certified employees to a title requiring AZ POST certification shall be ten (10) months.

At the request of a department director, the Human Resources Director may approve the extension of the transitional probation period for up to one (1) month actual service.

Actual service shall be measured in calendar days, regardless of whether the position has a full-time or part-time work schedule.

Section 6. Effect of Status on Employee Rights and Privileges

A. Employees in Initial Probationary Status

1. May be separated or demoted at any time for any reason without cause except for unlawful discrimination as defined in Rule 17, Grievance and Appeal Procedures;
2. May not grieve or appeal any decision relating to his or her employment, including dismissal, except for alleged unlawful discrimination as provided in Rule 17, Grievance and Appeal Procedures.

B. Employee in Career Status

1. Shall be disciplined or dismissed only for cause;
2. May file a grievance or appeal for the reasons specified in Rule 17, Grievance, and Appeal Procedures;
3. May receive reinstatement appointments without serving a new probation period.

C. Employees in Transitional Probationary Status

An employee in transitional probationary status and who has completed an initial probationary status has the rights and privileges of an employee in career status.

However, an employee in transitional probationary status has no right to return to his/her former position and may be discharged upon unsuccessful completion of his/her probationary period.

D. Employees in Non-career Status

1. May be separated at any time;
2. May not grieve or appeal any employment decision or action under these rules except on grounds of unlawful discrimination as defined in Rule 17, Grievance and Appeal Procedures.

Section 7. Types of Appointments

- A. Promotion Appointment
The appointment of a career status employee from a position in one class to a career position in another class assigned a higher salary group.
- B. Reinstatement Appointment
The appointment of a person who has been laid off from a classified position and which is made from a layoff list as a result of an approved vacancy.
- C. Rehire Appointment
The re-employment of a former employee.
- D. Transfer Appointment
The appointment of a career status employee from one department to another department and from a position to a position in the same class.

No employee shall be transferred to a position for which the employee does not possess the minimum qualifications.
- E. Demotion Appointment
The appointment of a career status employee from a position assigned a lower salary group. The employee must meet the minimum qualifications of the demoted position.

- 1. A department director may demote an employee whose ability to perform required duties falls below standard or for disciplinary purposes. Written notice of the demotion shall be in accordance with Rule 16, Discipline, Section 4, Pre-disciplinary Meeting.
- 2. An employee may voluntarily demote to a lower level position provided the employee meets the minimum qualifications for the position and the affected department directors consent to the demotion.

Section 8. Reassignments

A department director may assign or reassign an employee at any time to any position within the employee's classification and in the same department. The City Manager has the authority to reassign an employee within the employee's classification across departments to address the needs of the city.

Section 9. Exempt and Nonexempt Personnel

An employee is designated exempt or nonexempt in accordance with the Fair Labor Standards Act (FLSA).

A. Exempt Employees

Employees who meet the criteria established by the FLSA as amended, are exempt from overtime pay. Notwithstanding any other provision of these Personnel Rules or any other policy of the City of Apache Junction, FLSA classified exempt employees shall receive a salary that is not subject to deduction for absences of less than one (1) day unless those absences are covered by the Family and Medical Leave Act (FMLA) or the deduction is a penalty or disciplinary measure taken for infractions of safety rules of major significance. In addition, the FLSA allows deductions for one or more full days for infractions of workplace conduct rules. (FLSA ¶ 221 Disciplinary Deductions)

B. Nonexempt Employees

Nonexempt employees are FLSA covered employees who do not meet the criteria to be classified exempt. Non-exempt employees must be compensated at time and one-half their regular rate of pay for all hours worked in excess of 40 within the position's designated 7-day work period. Nonexempt employees shall be compensated for overtime in accordance with Rule 9, Overtime.

Rule 6. Classification

Section 1. Adoption, Amendment, and Revision of Plan

A classification plan adopted by the city council shall be maintained by the Human Resources Department and may be amended from time to time by resolution of the city council or through action of the city manager pursuant to these rules.

Requests for amendments and revisions to the classification plan requiring city council action are presented to the city council by the Human Resources Director or his/her designee through the city manager.

Section 2. Classification of Positions

The Human Resources Director is responsible for classifying every **position** in the classified service.

Section 3. Reclassification of Positions

A filled position may be reclassified from one class to another class on an individual basis by the Human Resources Director under the following circumstances:

- A. Significant changes have occurred in the level of duties and responsibilities of the position, rather than changes in the performance of the incumbent; and
- B. Such change has been gradual, rather than resulting from assignments to a specific employee in a short period of time; and
- C. Such changes in duties and responsibilities are of a permanent nature.
- D. The department director or an incumbent may request a classification review of the position. The request shall be in writing and to the Human Resources department.
- E. The determination by the Human Resources Director of the appropriate class shall be final and is not subject to the grievance or appeal procedure.

Reclassification shall not be used for the purpose of avoiding conditions for demotions and promotions.

Section 4. Creation, Abolishment and Reclassification of Positions

Creation, abolishment, and reclassification of positions in civilian salary group 30 and above and sworn salary group SL and above may be initiated by the Human Resources Director to the city council through the city manager. The city council may amend the classification plan as appropriate.

In response to city staffing needs, the City Manager has the authority to modify the classification plan for positions in civilian salary group 29 and below and below sworn salary group SL.

Rule 7. Employee Records

Section 1. Policy

The official employee personnel file is maintained by the Department of Human Resources

Employee records will be kept confidential except as required by State or Federal law.

Section 2. Accessibility

Employee records considered public records are available pursuant to Arizona Law.

Employee personnel records maintained by the city are accessible to the following:

- A. City Manager, Human Resources department staff, employee, department director, and supervisor.
- B. The employee for review of his/her own individual personnel file.
An employee may review his/her official personnel file by appointment.
Employees shall not remove any records from the personnel file but may obtain copies of records.
- C. City department director and supervisor considering appointment of a city employee, who has responded to a bona fide recruitment.
- D. Legal representatives of the employee and the city.
- E. Records that are subpoenaed.
- F. Any person or organization with a signed written release statement from the employee.

Section 3. Contents of Personnel File

No documents pertaining to discipline or other matters of a negative nature shall be placed in an employee's personnel file without the prior knowledge of the employee and the employee's department director.

Employees may place into their personnel file their written response to any evaluation, report, disciplinary action, or other documentation put into the file by the city. Such written response shall be submitted to the department director with a notation on the response that it is copied to the Human Resources department. Upon receipt in Human Resources the response shall be placed in the employee's file.

Section 4. Status Changes

The employee shall keep the Human Resources Department informed of his/her current address and telephone number as well as any change in marital status or number of dependents.

Rule 8. Attendance and Leaves

Section 1. Attendance

Employees shall be in attendance at their work in accordance with the rules regarding hours of work, holidays, and leaves. All departments shall keep daily attendance records of employees.

An employee shall be considered absent without leave when absent from work for three (3) or more consecutive working days without authorization. This absence is automatically considered resignation by job abandonment.

Tardiness and/or absenteeism or pattern of absences and/or tardiness may result in disciplinary action.

Section 2. Vacation Leave

Employees shall be entitled to annual vacation leave with pay except the following:

- A. Employees who have served less than six months in the service of the City.
- B. Employees who work less than 1,040 hours per year.

Upon completion of six (6) months of actual service, each eligible employee shall be credited with up to forty-eight (48) hours of vacation and shall accrue vacation thereafter at the rate specified in this rule.

All vacation leaves are to be taken at the convenience of the department and shall be approved in writing, or through automation, by the department director or his/her designee.

Vacation credits shall not be allowed to accumulate in excess of 320 hours at the first of January of any calendar year. Any vacation credits in excess of 320 hours at the first of any calendar year become void.

It is the responsibility of the employee to schedule his/her vacation time in compliance with departmental workloads and needs.

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The annual vacation leave is as follows for employees working 2,080 annually:

1 year	-	4 years	96 hours
5 years	-	9 years	120 hours
10 years	-	14 years	144 hours
15 years or more			192 hours

Vacation leave credits are pro-rated for employees who work between 1,040 and 2,080 hours annually. Vacation leave accrual is based on continuous active employment and will not accrue during a pay period when on unpaid status for the full pay period.

Section 3. Sick Leave

In accordance with the provisions set forth in this section, employees who become ill or are injured may use available sick leave credits. Use of sick leave credits shall not be considered a right but rather a privilege and shall be allowed only under the conditions outlined in this Section.

A. Accrual

1. All career status and probationary employees who work 20 hours or more a week earn sick leave credits. Employees who work 40 hours per week accrue eight (8) hours each month. Employees who work a minimum of 20 hours but less than 40 hours weekly accrue sick leave on a prorated basis.
2. The employee must have completed thirty (30) days of employment before sick leave credits are granted.
3. Accrual of sick leave credits is based on continuous active employment and will not accrue during a pay period when an employee is on unpaid status for the full pay period.
4. Employees eligible for sick leave may bank a maximum of 1,040 hours. Sick leave credit is neither earned nor posted when an employee is at the maximum.

B. Use of Sick Leave Credits

1. Sick leave credits may be used for absences due to illness or injury, dental, optical, or medical appointments, quarantine regulations, and serious illness of the employee, or when through exposure to a contagious disease a physician certifies that the employee's presence jeopardizes the health of others.
2. When absence is required under sick leave, the employee or his/her designee shall notify the employee's immediate supervisor of the reason prior to, or within one (1) hour, of the employee's scheduled starting time. Notification must be made each day of absence unless other arrangements have been made with the supervisor. Failure to do so will result in the employee being absent without leave and may result in disciplinary action.
 - Department directors may establish written sick leave reporting procedures which differ from this standard for their department or specific division/units within their department or for individual workloads.
3. Family Sick Leave
 - No more than 40 hours of sick leave credit each calendar year may be taken in cases in which an employee is absent for reasons of illness or injury, dental, optical or medical appointments for his/her immediate family or foster child.
 - Immediate family includes parents, spouse, children, brother, sister, grandparents, grandchildren or any relative who resides with the employee.
4. Upon approval by the department director, employees who have exhausted their sick leave credits may substitute their accumulated vacation leave credits during absence as set forth in this Section.
 - Should an employee require an unpaid leave to support their absence because all accruals have been exhausted and there are no leave donations, Rule 8. Section 6. Leave of Absence without Pay applies.
5. Sick leave credits shall not be granted in advance of accrual.
6. If the employee did not submit a Leave Request prior to the absence, the employee shall do so immediately upon his/her return to work or upon request.

C. Investigation of Sick Leave

1. Department directors may investigate the alleged illness of an employee absent on sick leave. False or fraudulent use of sick leave shall be cause for disciplinary action up to and including termination.
2. A department director may require submission of evidence from a licensed health-care practitioner substantiating the need for sick leave.

If the department director determines the evidence is inadequate, the absence shall be charged to another category of leave or considered an unauthorized absence.

D. Employer-initiated Exam

When a department director has reason to believe an employee should not work due to illness, injury, or performance issues that may relate to fitness for duty, or when the department director has reason to believe the employee should work, the department director may submit a written request to the Human Resources Director, requesting the employee be examined by a licensed health-care practitioner. The licensed health-care practitioner shall be designated by the Human Resources Director.

If the licensed health-care practitioner determines that the employee should not work due to illness or injury, the department director may place the employee on sick leave, or if the employee's sick leave is exhausted, on other leave as appropriate.

If the licensed health-care practitioner determines that the employee cannot perform the essential functions of his/her regular class, the department director and Human Resources Director will investigate possible reasonable accommodation for the employee. The department director may require the employee to obtain approval from the licensed health-care practitioner prior to the employee's return to his/her former class.

The City pays for all examinations required pursuant to an employer initiated exam. The employee shall not be charged any leave credits while participating in or traveling to or from any examination required pursuant to an employer initiated exam.

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E. Sick Leave Payout

The City offers a payout upon an employee death or when an employee resigns in good standing. Reference Rule 19 Section 2.

The payout shall be as follows:

Hours between	0 – 320 @ 0%
Hours between	321 – 639 @ 50%
Hours between	640 – 1040 @ 25%

F. Donation of Sick Leave Hours between Employees

Donation of sick or vacation leave hours are established by Administrative Procedure.

Section 4. Workers' Compensation

Workers' compensation and on the job illness or injury procedures are established by administrative procedure.

Employees who sustain a job related injury compensable under the Arizona Workers' Compensation law are covered by the provisions of that law.

Section 5. Military Leave

Military leave shall be granted in accordance with State and Federal law.

All employees entitled to military leave shall give their supervisors an opportunity, within the limits of military regulations, to determine when such leave shall be taken. The request process for this leave is established in the City's Administrative Procedures.

Section 6. Leave of Absence without Pay

A written request for a Leave of Absence without Pay must be submitted to the employee's department director. The employee's department director reviews the request, and, if supported, submits it to the Human Resources director for consideration.

Leave shall be granted only upon written approval of the Human Resources Director, and may be granted for up to three (3) months in a 12 month period. The Human Resources Director may extend the leave after review of the situation.

A leave of absence without pay may be granted for up to 12 months, if the absence is due to a workers' compensation covered event.

Benefits, Accruals, Holidays

- The employee's health and dental benefits will be cancelled
- The employee may, at his/her option continue health and dental coverage through COBRA
- The city's Human Resources Office will issue a COBRA letter and the employee may elect to continue his/her health and dental insurance and pay the full premium (employee and employer portion) plus 2%
- Credits do not accrue
- The employee is not entitled to compensation for city observed holidays.

Retirement Credit

- The employee is encouraged to consult with his/her retirement system for information regarding retirement service credit and his/her leave of absence without pay

Termination of Leave of Absence without Pay

- An employee on a Leave of Absence without Pay is not protected from changes at work and is not entitled to any greater restoration right than those of an employee not taking a Leave of Absence without Pay.
- Upon return from an approved leave of absence without pay, the employee shall be reinstated to the position held at the time leave was granted, only if the position is available.

- Failure on the part of an employee to report to duty upon expiration of the leave shall be cause for discharge. The effective date of discharge will be the first date of leave of absence without pay.

Section 7. Leave with Pay

Upon request by the department director to the Human Resources director and upon written approval by the Human Resources director, leave with pay for sufficient cause may be granted to career status employees for a total of 10 working days in any twelve-month period.

Extended periods of leave with pay may not be granted except by express approval of the department director, Human Resources director, and city manager.

Section 8. Jury Leave

Career status employees who are called to meet an obligation as a citizen by serving on juries, will be granted time off with pay for jury duty. Compensation received by the employee, except mileage fees, will be paid by the employee to the City of Apache Junction.

Section 9. Subpoena Leave

If the subpoena or other order of the court appearance is City related, the employee will be granted time off with pay to meet the requirement of the subpoena or other order.

If the subpoena or other order of the Court is not City related, employees who are regularly scheduled to work 20 hours or more in a week shall be excused from work and may use their vacation, personal leave, or compensatory time to cover the absence.

Section 10. Administrative Leave

With the approval of the Human Resources director, employees may be placed on paid administrative leave while conduct is being investigated and/or possible disciplinary action is being contemplated or the employee is undergoing fitness for duty exams and while the City is awaiting the results of such exams.

Employees on administrative leave are subject to the Personnel Rules and other City policies/procedures, and may be required to report to their supervisor on a regular basis.

Section 11. Bereavement Leave

Employees are permitted up to forty (40) hours bereavement leave, due to the death of his or her parent, child, sibling, spouse, or relative who is an actual member of the employee's household.

Employees are permitted up to three (3) days of bereavement leave due to the death of a grandchild, grandparent, parent-in-law, daughter-in-law, son-in-law, brother-in-law, sister-in-law, stepparent, stepchild, stepbrother, stepsister, half-brother, half-sister, or foster care child.

Section 12. Holidays

The City may observe the following holidays:

1. "New Year's Day"
2. Third Monday in January, "-Martin Luther King, Jr./Civil Rights Day"
3. Third Monday in February, "President's Day"
4. Last Monday in May, "Memorial Day"
5. "Independence Day"
6. First Monday in September, "Labor Day"
7. Second Monday in October, "Columbus Day"
8. "Veterans Day"
9. "Thanksgiving Day"
10. The Day After Thanksgiving Day
11. "Christmas Day"

To observe a holiday means to close City Hall and City administrative offices. The observed holiday may or may not be a paid holiday. When an observed holiday falls on Friday or Saturday, the preceding Thursday will be considered the holiday. When an observed holiday falls on a Sunday, the following Monday will be considered the holiday. Public Safety and other employees may be required to be on duty for City observed holidays.

Each year, on or before June 1st, the City Manager posts a list of observed holidays and indicates which holidays are eligible for holiday pay.

The City allocates 90 holiday hours annually to full time employees, and 55 annually to part time employees (20 hours or more per week); holiday hours in excess of those designated for paid City holidays will be converted to personal leave hours and will be deposited in the employee's personal leave bank.

The holiday hours deposited into the personal leave bank shall be approved for use at such time that is mutually agreeable to the employee and the employee's supervisor. Personal leave hours will not be available for use on an unplanned or call-in basis. Personal leave hours not used by June 30th of each year will be forfeited. In addition, all personal leave hours remaining, but not taken prior to the last day of employment with the City, shall be forfeited.

For those holidays eligible for holiday pay, the employee must be on pay status their scheduled day before and day after the holiday. This means if an employee is on leave without pay or in any other no pay status he/she will not be paid for the holiday.

Section 13. Birthday Leave

Employees with normal hours of 32 or more per week are given hours equivalent to one regularly scheduled work day to be used as birthday leave. Employees with normal hours between 40 and 32 must use birthday leave as a full day absence.

Part time employees with normal hours between 24 and 31 per week are given five (5) hours. Birthday leave hours are granted on July 1st.

Prior to taking birthday leave, an employee shall obtain approval from his/her supervisor. The leave may be taken at a time mutually agreed to between the employee and the supervisor.

Employees are encouraged to use their birthday leave hours within 30 days of their birthday, however if birthday leave hours are not used by the end of the fiscal year in which they were granted, they will be lost, birthday leave hours are not carried over.

Section 14. Rest Periods

Employees may be granted two separate rest periods of fifteen (15) minutes each during a work shift. Rest periods shall be counted as time worked.

Rest periods shall not be combined or used to provide an extended rest or lunch period or shorten the workday.

Compensatory time or overtime pay shall not be granted for rest periods not received or taken or for work performed during the rest period.

Section 15. Family and Medical Leave Policy

A. Basic Leave

The Family Medical Leave Act (FMLA) provides eligible employees with up to 12 workweeks of job protected leave without pay in a twelve-month period and requires group health benefits to be maintained during the leave as if the employee continued to work,

An employee may be eligible to have his/her leave designated as FMLA leave when attending to the birth, adoption, or foster care placement of a child or to attend to their own serious health condition or the serious health condition of the employee's parent, spouse, son, or daughter, or because of any qualifying exigency arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty or has been notified of an impending call to active duty status in support of a contingency operation.

B. Qualified Exigency Leave

An eligible employee can take up to 12 weeks of FMLA designated leave to address qualified exigencies related to the employee's spouse, son, daughter, or parent being on active duty or being called to active duty status in the National Guard or Military Reserves.

C. Military Caregiver Leave

The FMLA includes a leave designation that permits eligible employees to take up to a combined total of 26 weeks of leave (Basic and Military Caregiver Leave) to care for a covered service member (next of kin) who is recovering from a serious illness or injury sustained in the line of duty while on active duty.

D. The City of Apache Junction under the FMLA

- Uses a rolling 12 months, measured backward from the date an employee uses any leave designated as family medical leave
- **Requires the use of accrued leave time as allowed in the Personnel Rules to run concurrent with the designation of family medical leave**

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E. Definitions

For the purpose of designation of leave as family and medical leave the following definitions apply:

1. Immediate Family: A parent, spouse, son, or daughter is defined as follows:
 - a) Parent: The biological parent of an employee, an individual who stood in place of the parent to that employee, or an employee who has day-to-day responsibilities of caring for a child.
 - b) Daughter or Son: a biological, adopted, or foster child; a stepchild; a legal ward; or child of a person standing in the place of a parent who is under 18 years of age or 18 years of age or older and incapable of self-care because of mental or physical disability.
 - c) Spouse: a husband or wife as defined or recognized under State law for purposes of marriage, including common law marriage in States where it is recognized. A spouse does not include unmarried domestic partners.
2. Next of Kin (Military Caregiver Leave): the nearest blood relative other than the covered service member's spouse, parent, son or daughter, in the following order of priority: Blood relatives who have been granted legal custody of the covered service member by court of decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA.
3. Serious Health Condition: an illness, injury, impairment, or physical or mental condition that involves in-patient care in a hospital, hospice, or residential medical care facility or any subsequent treatment in connection with such in-patient care or continuing treatment by a health care provider.

Per the FMLA, examples of situations that do not normally meet the definition of a serious health condition are; conditions for which cosmetic treatments are administered, the common cold, the flu, earaches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, etc.

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F. Eligibility for Family and Medical Leave

1. Who is eligible for leave designation under the Family and Medical Leave Act: Eligible employees are those who have been employed by the City for at least 12 months and have worked (including paid absences) for a period of not less than 1250 hours during the preceding 12 months.
2. When Family and Medical Leave may be Designated: Leave may be designated as Family and Medical leave for the following reasons:
 - a. The birth, adoption, or foster care placement of a son or daughter if the leave is taken within 12 months of the birth, adoption, or placement.
 - b. The serious health condition of a parent, spouse, son, or daughter;
 - c. The employee's own serious health condition, which prevents the performance of the essential functions of the job.
 - d. Eligible employees with a spouse, son, daughter, or parent on active duty or called to active duty status in the National Guard, or Military reserves in support of a contingency operation may use 12-weeks FMLA to address certain qualifying exigencies; examples are attend certain military events, arrange for alternative childcare, address certain financial and legal matters, attend certain counseling sessions, and attend post-deployment reintegration briefings (Qualified Exigency Leave). 29 CFR 825.126
 - e. To care for a current member of the Armed Forces who has serious injury or illness incurred in the line of duty on active duty, and who is the spouse, son, daughter, parent, or next of kin of the employee. Eligible employees may use a combined total of 26 weeks (FMLA and Military Caregiver Leave). 29 CFR 825.127

G. Duration of Family and Medical Leave

Eligible employees are allowed to be granted up to 12 weeks of leave for basic FMLA and Exigency Leave and up to a combined total of 26 weeks for leave under the military caregiver provision of the FMLA in a 12-month period. The 12-month period is computed as a rolling 12-month period measured backward from the date leave is used.

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H. Designation of leave under the FMLA

The following are the terms and conditions for the designation of leave under the FMLA:

1. In the case of the employee's own serious health condition, the employee shall use all accrued sick leave before using accrued vacation leave.
2. All accrued vacation leave shall be used before unpaid leave may be used.
3. The amount of unpaid leave available shall be the time remaining after having deducted the eligible accrued paid leave time from the 12 weeks, or 26 weeks if applicable, of designated leave allowed under the FMLA. In the event that unpaid time is to be designated under the FMLA; this time will be applied to the employee as Leave of Absence without pay.
4. In the case where both husband and wife are employees of the City, twelve (12) weeks of leave designated as family and medical leave may be used by each employee in any 12-month period for any event qualifying under the basic or exigency FMLA, or 26 weeks if Military Caregiver leave is used.

I. Reduced or Intermittent Leave

1. Intermittent or reduced leave shall be granted for the employee's own serious health condition or the serious health condition of the employee's spouse, parent, son, or daughter, or due to qualifying events as described in the military family leave provision.
2. Intermittent or reduced leave for the birth, adoption, or foster placement of a child will be allowed only with the consent of the department director and the Human Resources Director and the use of intermittent or reduced leave shall be limited to a period of twelve (12) consecutive weeks.
3. The department director may temporarily transfer the employee to a position that better accommodates the leave, provided the transfer does not deprive the employee of hours that he or she is otherwise available to work.

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J. Notice Requirements

1. Thirty-day-notice Requirement: An employee who has a preplanned FMLA qualifying event under the FMLA must give his or her department director thirty (30) days advance notice where practical. The notice may be verbal and the department director shall document the request for leave and provide a copy to Human Resources. If it is necessary that the leave begin in less than thirty (30) days, the employee must provide such notice as is practical.
2. Sanctions for Failure to Provide Notice: If the employee could have provided thirty (30) days advance notice to the department director but did not, the City may deny designation of leave for thirty (30) days after the employee provides notice.
3. Designation of Leave as Family and Medical Leave: It is the responsibility of the City to designate leave, paid or unpaid, as qualifying under the FMLA. The City may inquire further if the employee does not provide sufficient information to enable the City to designate the leave under the Act.

K. Medical Certification and Reporting Requirements

1. The City may require that designated leave related to a serious health condition be supported by a certification issued by the employee's health care provider, or the health care provider of the employee's spouse, daughter, son, or parent, as appropriate. A copy of this certification shall be provided to Human Resources within fifteen (15) calendar days of the request for certification.
2. The certification must include the following:
 - a. The date on which the serious health condition commenced;
 - b. The anticipated duration of the condition;
 - c. The appropriate medical facts within the knowledge of the health care provider regarding the condition;
 - d. A statement that the employee is needed to care for the daughter, son, spouse, or parent as appropriate.
 - e. An estimate of the amount of time that the employee is needed to care for the daughter, son, spouse, or parent as appropriate.
3. Failure to provide certification within fifteen (15) calendar days may result in denial of leave designated under the FMLA until a certification is provided.
4. If the Human Resources Director questions the validity of the certification, the Human Resources Director may require the

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employee, at the City's expense, to obtain a second certification. If the second opinion conflicts with the original opinion, the City may require, at its expense, the employee obtain the opinion of a third health care provider selected jointly by the City and the employee. The third opinion shall be final and binding on both parties.

5. The Human Resources Director may require the employee obtain subsequent recertification. This includes the need for intermittent leave.
 6. All records or documents provided by a health care provider in response to a request to verify the necessity of leave designated under the FMLA shall be maintained in separate files and treated as confidential medical records.
- L. Effect of an unpaid Family and Medical Leave Designation on Accruals, Service, and Benefits
1. Accruals:
 - a. While on unpaid leave an employee will not lose any credits accrued and unused before the date on which his/her leave is designated
 - b. The employee will not accrue vacation or sick leave credits
 - c. If the employee is not compensated in a month, retirement service credit will not accrue
 - d. The employee is not entitled to holiday pay
 2. City Service:
 - a. The unpaid absence will not constitute a break in City service for seniority purposes
 3. Health/Dental Coverage:
 - a. The employee is entitled to have his/her health and dental benefits maintained while on leave as if the employee had continued to work
 - b. It shall be the responsibility of an employee on unpaid leave which has been designated as family and medical leave to provide his/her portion of the premium payment necessary to maintain health and dental insurance coverage
 - c. If an employee decides not to return to work, the City is entitled to recover from the employee the cost of the health insurance premiums paid while the employee was on leave designated as

FMLA. However, no such repayment is required if the employee is unable to return, as certified by a health care provider, due to circumstances beyond his/her control (i.e., continuation, recurrence or onset of a serious health condition).

M. Return from leave designated as Family and Medical Leave

1. An employee who has taken leave for his/her serious health condition shall present to the department director, on or before returning to work, a certification from the employee's health care provider that the employee is able to resume work. This certification should include any limitations on performance of duties the employee might have.
2. Upon return from leave designated as family and medical leave an employee shall be returned to the same or equivalent position.
3. An employee need not be reinstated if the employee would not otherwise have been employed at the time reinstatement is requested.
4. When an employee returning from leave designated as family and medical leave is not qualified or able to perform the essential functions of the position to which the employee was returned, the employee shall be given a reasonable opportunity in which to become qualified or seek accommodation.
5. When an employee returning from leave designated as family and medical leave is not able to perform the essential functions of the position to which the employee is returned, the employee may be disqualified for the position.

N. Investigation of Family and Medical Leave Use

The Human Resources Director may investigate the use of family and medical leave designation. Misuse of family and medical leave designation shall be cause for disciplinary action up to and including dismissal.

Rule 9. Overtime

Section 1. Policy

It is the City's policy to avoid the necessity for overtime work.

It shall be the responsibility and an important measure of job performance, for supervisors, division managers, and department directors to adequately plan and schedule work and staffing to minimize the need for overtime.

In the event of hours worked beyond the normal work day, all efforts shall be made to allow the employee to take off an equivalent number of hours within the designated work period (flexing the schedule).

No employee, except in a situation involving public health or safety, shall be permitted or allowed to work overtime unless authorized by the supervisor. Any verbal authorization given by the supervisor is to be followed up with written authorization.

Section 2. Exempt and Non-covered Employees

Not all employees of the City of Apache Junction are covered by the Fair Labor Standards Act (FLSA).

Non-covered employees include city manager, city magistrate, city attorney, and independent contractors.

Some employees, while covered by the FLSA, are exempt by specific provisions of the Act.

All employees classified FLSA Exempt are excluded from payment of overtime hours, on-call pay, or call out pay.

Section 3. Work Period

All employees assigned a nonexempt status shall be paid an amount equal to one and one-half times their regular hourly rate for time worked in excess of forty (40) hours per week or the equivalent in compensatory hours, or as provided in these Rules (see Section 6. Calculation of Overtime). A work period is defined as seven consecutive days.

Section 4. Overtime Accrual

In situations where an employee begins work prior to, or after, his/her scheduled starting time or ends work prior to, or after, his/her scheduled ending time, credit shall not be given for increments of time that are seven (7) minutes or less. Increments of time greater than seven minutes shall be paid or compensated to the nearest quarter hour.

Section 5. Hours Worked

Employment, under the FLSA, is defined to include all hours that an employee is "suffered or permitted to work" for the employer. Hours worked also include time during which an employee is "necessarily required to be on the employer's premises, on duty or at the prescribed work place." The following are examples of typical situations qualifying as compensable hours worked as provided by the FLSA:

Call-Out Time

Any employee may be contacted and asked to respond to a situation during hours they are not scheduled for work. Call-out occurs when a non-exempt employee who is not assigned to an on-call status is asked to respond to a work situation. Employees responding to a call-out will receive a minimum of two (2) hours compensation.

Meal Time

Meal periods are not compensated when the following three conditions are met.

- (1) the meal period must be at least 30 minutes; and
- (2) the employee must be completely relieved of all duties; and
- (3) the employee must be free to leave the duty post (there is no requirement that the employee be allowed to leave the premises or work site).

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On-call Time

If a non-exempt employee assigned on-call status is able to use the off-duty time for his/her purposes, the hours will not be considered hours worked.

If the employee is required to perform any work-related duties during on-call time, the time will be calculated as hours worked.

The employee who is merely required to leave word where he/she can be reached during on-call periods or is required to respond to a page and/or other contact will not accrue hours worked for those time periods.

Employees who are assigned on-call status will receive compensation for each hour served in an on-call status.

On-call compensation:

- \$2.00 per hour
- The city manager has the authority to adjust the compensation rate.

On-call compensation does not apply when the employee is required to perform work-related duties during on-call time since that time is considered hours worked.

If an employee is unable to use off duty time for his/her purposes as outlined in the FLSA, those hours shall be considered hours worked and not qualify for on-call status.

Voluntary Work

Employees who continue to work after their shift is over are engaged in compensable working time.

The reason for the work is immaterial; as long as the supervisor "suffers or permits" employees to work on the City's behalf, proper compensation must be paid. Once an employer allows the employee to work, or knows that the employee is working, the employee must be compensated.

It is the supervisor's responsibility to make certain that unauthorized overtime work is not performed. According to the FLSA, the mere existence of a rule is not sufficient to avoid compensation for additional hours worked.

Supervisors who permit employees to work overtime without compensation may be subject to discipline. Employees who work unauthorized overtime may also be subject to discipline.

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Waiting Time

If a non-exempt employee has been assigned to wait for something to occur his/her waiting time will be counted as hours worked; if the employee arrives early, does not perform any work before his/her shift starts, and merely waits to begin working, his/her waiting time will not constitute hours worked.

Non-exempt employees, who are required to stand by ready for duty, whether during the lunch period, during machinery breakdowns, or during other temporary work shutdowns, must be paid for this time.

Examples of compensable hours worked

- Caring for tools that are a part of principal activities, such as guns and vehicles (unless also allowed for personal use) by police officers, tools, and equipment for parks and streets workers.
- Charitable work requested or controlled by the employer.
- Emergency work/travel time.
- Fire drills and other disaster drills, whether voluntary or involuntary, either during or after regular working hours.
- Training in regular duties to increase efficiency.
- Training programs required by the employer.
- Rest periods of 20 minutes or less.
- Medical attention during working hours at the employer's direction.
- On-call time where the employee must remain at the employer's premises or which is so restricted that the employee is unable to use the time for his/her own purposes.
- Travel time from the employer's premises to the work site.
- Travel time between work sites during the normal work day.

Examples of time not considered hours worked for the purposes of overtime compensation include, but are not limited to:

- Jury Duty Leave
- Military leave
- Bereavement Leave
- Personal Leave
- Birthday Leave
- Sick leave
- Compensatory time
- On-call time
- Time spent before, after, or between regular working hours.
- Voting time if outside the regular-scheduled hours of work.

Section 6. Calculation of Overtime

When a nonexempt employee is on paid leave time, such time is not hours worked for the purposes of calculating overtime.

However, holiday and vacation leave hours are considered hours worked for the purposes of overtime calculations.

Section 7. Compensatory Time in Lieu of Paid Overtime

The FLSA permits the City of Apache Junction to provide compensatory time in lieu of monetary overtime compensation, at a rate of not less than one and one-half hour of compensatory time for each hour of overtime worked. The calculation used for compensatory time is the same as that generally used for calculating monetary overtime.

Nonexempt employees may receive compensatory time in lieu of overtime pay for hours worked beyond 40 hours in a seven-day work week. Employees may accrue a maximum of 160 hours of compensatory time (106.67 actual hours of overtime worked).

An employee who has accrued compensatory time and requests use of the time must be permitted to use the time within a reasonable period after making the request if the time off does not unduly disrupt the operations of the City. When the use of compensatory time is denied, the supervisor shall provide the affected employee the reasons for denial. A copy of the reasons for denial shall also be provided to the Human Resources Director.

Non-exempt FLSA classified employees who change from one salary group to another, either by promotion or demotion, shall, at their option receive a payout of their banked compensatory time, or retain the time at an amount equivalent to its value in the old salary.

Non-exempt FLSA classified employees who become exempt FLSA classified employees shall receive payment for any compensatory banked time. Payment will be at the rate of pay in the non-exempt status.

Section 8. Payment of Compensatory Time at Termination of Employment

In accordance with the FLSA, unused compensatory time must be paid at whichever is higher of the following:

1. The average regular rate received by the employee during the last three years of employment; or
2. The final regular rate received by the employee.

Section 9. Substitution of Work Hours between Employees

The FLSA provides that any individual employed in any capacity by a public agency may agree to substitute, during scheduled work hours, for another employee. Employees may work substitution schedules where the substitution is:

- 1) voluntarily undertaken and agreed to solely by the employees, and,
- 2) approved by the supervisor.

The traded time will not be considered by the city when calculating the hours for which the employee is entitled to overtime compensation. In effect, even though a substitution has taken place, each employee will be considered to have worked his or her normal schedule.

In addition, the supervisor of an employee who performs such substitute work is not required to keep a record of the hours of substituted work. It is important to be aware that the substitution provisions of the FLSA apply only when the employee's decision to substitute is made freely and without direct or implied coercion. It must be made exclusively for the employee's own convenience.

Section 10. Travel Time

Home-to-Work Travel

As a general rule, home-to-work travel is not compensable, even if an employee must travel from a town to an outlying site to get to the employer's premises. This is true whether an employee works at a fixed location or at different job sites. Generally, an employee is not at work until he or she reaches the work site. However, if an employee is required to report to a meeting place where he or she is to pick up materials, equipment, or other employees, or to receive instructions, before traveling to the work site, compensable time starts at the time of the meeting.

Travel during the Work Day

Traveling from an outlying job at the end of the scheduled workday to the employer's premises is time worked. Where an employee is required to report to a meeting place to receive instructions, perform other work, or pick up tools, and travel from the designated meeting place to the work site is considered working time.

Out-of-town Travel

Where employees travel out of town overnight on business they must be paid for time spent traveling during their normal work hours on their non-working days as well as on their regular working days. Travel time as a passenger outside regular working hours is not considered hours worked. If an employee drives a car without being offered public transportation, the travel time is considered working time.

Rule 10. Performance Report

Section 1. Purpose

The evaluation is designed to inform the employee of the manner in which he or she is meeting standards of performance established by the supervisor. The performance evaluation report is intended to cover overall performance during the rating period.

Section 2. Performance Reporting Requirement during Probation

Reporting on employee performance during probation is covered in Rule 5, Appointments, Status, and Probation.

Section 3. Performance Reporting Requirements Following End of Probation

Every career status employee shall have his or her performance formally evaluated at least once a year and a report on this performance shall be submitted to the Human Resources department and placed in the employee's personnel file. The report shall be submitted by the department director in accordance with the procedure and on the form or forms prescribed by the Human Resources Director. Department directors are encouraged to provide more frequent evaluations. Department directors are encouraged to bring unsatisfactory performance to the attention of the employee when the unsatisfactory performance occurs.

Each performance report shall be reviewed with the employee and filed with the Human Resources department not later than fourteen (14) calendar days after the City designated review period ends. Employees shall be allowed to submit a written response to their performance evaluation report; the employee's written response shall be attached to the report it addresses. The performance report and the employee response, if any, shall remain a part of the employee's personnel record as required under the Records Retention and Disposition Schedule adopted by the City and may be considered when determining transfers, promotions, demotions, and/or dismissals.

Employees shall be notified and provided with a copy of all documents placed in their personnel file. Copies will be provided under confidential cover or directly to the employee.

Section 4. Unsatisfactory Ratings

When an employee's overall evaluation report is unsatisfactory, follow up reports are required at the end of three (3) months and for each subsequent three (3) month period while the employee is in the position until the employee has achieved a satisfactory rating or employment is terminated.

It is the department director's responsibility, in conjunction with the immediate supervisor, to inform the unsatisfactory performing employee of the actions necessary to achieve a satisfactory rating. This may be accomplished with an improvement plan which lists specific measurable goals.

Section 5. Grievance and Appeals Relating to Performance Reports

An employee who has successfully passed his/her initial probation period may grieve or appeal an overall performance rating of unsatisfactory or its equivalent, in accordance with Rule 17, Grievance and Appeal Procedures.

Section 6. Procedure when Anticipated Rating will be Unsatisfactory

If the anticipated rating is unsatisfactory, the department director shall advise the employee of the anticipated rating and schedule a meeting to review the performance rating with the employee.

Section 7. Salary Increase

Employees, with the exception of temporary, seasonal, intermittent, **and** employees in their initial probationary period, are eligible for the city's annual salary adjustment.

Employees who successfully complete their initial probationary period in July, August, or September, will receive a salary adjustment the first full pay period after the completion of their initial probationary period. Departments are responsible to notify Human Resources of the completion of the probationary period.

Rule 11. Drug-Free Workplace Policy

Section 1. Purpose

To establish rules governing the maintenance of a drug-free workplace for the purpose of:

- 1) Ensuring the health and safety of city employees;
- 2) Continuation of high-quality services to the public; and,
- 3) Compliance with federal and state laws and regulations for a uniform city-wide, drug-free workplace effort.

Section 2. Policy Statement

Reporting for work under the influence of alcohol or drugs, or any substance that impairs an employee's mental or physical capacity, is not acceptable.

The use of illegal drugs or the misuse of legal drugs or alcohol by any employee is prohibited, as is the presence in any employee's system of a prohibited drug or drug metabolite.

The possession, sale, or distribution of drugs, alcohol, or any illegal substance by an employee during regular working hours while on city business or while on city property is prohibited except as excepted in police department policies and procedures.

Section 3. Definitions

The following definitions apply to the Drug-Free Workplace policy:

- A. Alcohol
Ethanol, isopropanol, or methanol

- B. Drugs/Controlled Substances

The terms "drugs" and "controlled substances" are interchangeable and have the same meaning. Unless otherwise provided, drugs and controlled substances include but are not limited to: barbiturates, cocaine, opiates, (heroin, codeine) propoxyphene, amphetamines (including methamphetamine), benzodiazepines (Valium, Librium), methadone, phencyclidine (PCP), methaqualone, and cannabinoids (THC).

C. Reasonable Suspicion/Cause

A belief based on specific, objective facts, and reasonable inferences drawn from those facts, that suggest an employee is using drugs or alcohol while on the job or is under the influence of drugs or alcohol while on the job.

D. Reasonable suspicion/cause generally includes but is not limited to:

1. Observable phenomena, such as direct observation of drug or alcohol use and/or the physical symptoms or manifestations of being under the influence of a drug or alcohol;
2. Abnormal conduct, erratic behavior, absenteeism, tardiness;
3. Physical symptoms (i.e. glassy eyes, slurred speech, unsteady gait, red eyes, running nose);
4. Smell of alcohol or marijuana;
5. Deterioration in work performance or physical appearance.
6. A report of drug or alcohol use provided by reliable and credible sources and which has been independently corroborated;
7. Evidence that an individual has tampered with a drug or alcohol test, during his/her employment with the current employer;
8. Involvement in or responsibility for, a work-related or industrial accident that caused, or could have caused serious injury to the employees, any other person, or serious damage to employer property or property belonging to others; if a city vehicle is involved, the vehicle must be in operational mode and in motion;
9. Evidence of use, possession, sale, solicitation, manufacture, or transfer of drugs or alcohol while working or while on employer premises.

Section 4. Over-the-counter or Prescribed Medications

Employees taking prescription or over-the-counter non-prescribed drugs or medication which might interfere with the performance of his/her job duties, shall report the usage of the drug or medication to his/her supervisor before going on duty. Employees taking such drugs or medication are responsible for knowing any side effects of the medication that might interfere with job performance based upon the prescribing physician's advice or the warning on the medication label.

Section 5. Applicants and Employees Subject to Testing

A. Pre-employment Testing

All applicants being considered for initial employment by the city to positions designated as safety sensitive shall be required to submit to, and successfully pass, a drug screen urinalysis, and/or breath alcohol test (BAT) within 31 hours after a conditional offer of employment is made by the city. The offer of employment shall be contingent upon a negative drug and alcohol screening.

If an applicant fails to pass the pre-employment drug/alcohol screening and/or BAT, the applicant will be disqualified from consideration for employment and shall not be eligible for employment with the city for a period of 12 months from the date of the initial positive drug/alcohol or BAT test result.

An applicant's failure to submit to the required pre-employment drug and/or BAT test shall be considered a request for withdrawal from consideration for the position for which he/she applied.

B. Public Safety Department Employees and Transfer

Upon transfer to or from a narcotic or drug-related assignment, **all** public safety department employees, shall submit to drug and alcohol screening.

A transfer to a narcotic or drug-related assignment shall be contingent upon a negative drug test result.

A positive test result of a public safety department employee transferring out of a narcotic or drug-related assignment is subject to the provisions of this rule for positive test results.

C. Reasonable Suspicion/Cause Testing

If the city has reason to suspect that an employee is violating this policy or when there is reasonable suspicion/cause that an employee is under the influence or is impaired by alcohol and/or drugs, the city may require the employee to submit immediately to medical tests administered for drug and/or alcohol testing which include the chemical analysis of breath, urine, and/or blood.

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D. Post-Triggering Incident

Employees involved in the following circumstances are required to submit to a drug and/or alcohol test:

1. Those whose use of city equipment or a city vehicle in operational mode and in motion results in an accident involving tow-away and/or medical assistance.
2. Those whose use of City equipment or vehicle results in an accident in which a person is fatally injured.
3. Those who are required as part of their job to carry a firearm and who, while on duty, discharge a firearm resulting in bodily injury, property damage or violation of departmental policy, or who are off duty and discharge a firearm in violation of departmental policy regarding off-duty use of firearms.

E. Re-employment or Reinstatement to Workforce

Any individual who is re-hired, reinstated, transferred, promoted, or demoted to a safety sensitive position, in accordance with Rule 5, Appointments, Status, and Probation, is required to submit to a drug and alcohol test prior to resuming work.

F. Follow-up Testing

If an employee is offered a rehabilitation option in lieu of discipline for a positive test result in accordance with Section 9 of this policy; the employee is subject to random drug testing for a minimum of one (1) year following the completion of the rehabilitation program.

Section 6. Policy Violation

- A. Alcohol: An employee who tests positive for alcohol while on city business during the employee's working hours or while on city property during the employee's working hours is in violation of this policy.
- B. Drugs: An employee who tests positive for drugs is in violation of this policy.
- C. An employee who is required as a part of his/her job to carry a firearm and who, while on duty, discharges a firearm resulting in bodily injury, property damage or violation of departmental policy or who is off-duty and discharges a firearm in violation of departmental policy regarding off-duty use of firearms is in violation of this policy.

Section 7. Effect of Failure to Comply with Policy

An employee who refuses to submit to a drug and/or alcohol test or who violates any aspect of this policy is subject to disciplinary action up to and including termination.

Section 8. Employee and Applicant Consent Form

Employees and applicants who are requested to submit to a drug and/or alcohol test must agree in writing to allow the results of such test to be disclosed to and used by the city's authorized representative(s). Failure to sign such a consent form shall be considered a refusal to submit to testing and may subject the employee to discipline up to and including termination.

Section 9. Rehabilitation

The city may, at its option, suspend all or part of the disciplinary action for violation of this policy in return for the employee's enrollment into a drug or alcohol counseling or rehabilitation program for the purpose of enabling the employee to permanently cease the prohibited conduct. Disciplinary action may be suspended while the employee is participating in counseling and/or rehabilitation. The program must be approved by the Human Resources Director. Cost of rehabilitation or counseling is the responsibility of the employee. An employee who elects such participation shall enter into a written agreement with the city.

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The employee shall authorize release of information to City's Human Resources department from the drug or alcohol program which indicates the employee's compliance or non-compliance with the program. Should the employee not comply with the program the City shall impose the discipline.

An employee who declines to participate in or fails to complete drug or alcohol rehabilitation in lieu of disciplinary action is subject to the disciplinary action and may also be further disciplined up to and including termination.

Section 10. Searches

The City of Apache Junction reserves the right to search all areas and property it maintains or has complete or joint control over. An employee's locker, closet, work area, desk, desk files, computer files, city-owned vehicle, and similar areas are subject to inspection at any time on a random or any other non-discriminatory basis for purposes of this policy.

Section 11. Confidentiality

The results of drug or alcohol screening tests shall not be included in an applicant file or employee personnel file but shall be retained by the Human Resources Department in a separate medical file. Any conditions of employment that may be established as a result of the drug test (i.e. a written agreement for rehabilitation in lieu of discipline) become part of the employee's personnel file.

Except as required by the state or federal law, test results and ancillary information may be disclosed to management personnel only on a need-to-know basis or to any person upon the written consent of the employee or applicant. Information is normally limited to the employee's supervisor, City Manager, Assistant City Manager, Human Resources staff, and legal counsel. Failure to maintain confidentiality by any employee shall be grounds for discipline.

Section 12. Employee Responsibilities

A. Pursuant to the Federal Drug-Free Workplace Act of 1988, the City of Apache Junction prohibits the unlawful manufacture, use, possession, or distribution of controlled substances in the workplace. As a part of this Act, employees have the following responsibilities.

1. To abide by the terms of the city's drug-free workplace policy; and
2. To notify their supervisor or department director of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.

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- B. It is each employee's responsibility to immediately report to their supervisor, department director, or Human Resources department unsafe working conditions or hazardous activities that may jeopardize the safety of employees. This includes the responsibility to immediately report any violations of the drug and alcohol policy. An employee who fails to report such a violation is subject to disciplinary action up to and including termination.
- C. All employees are required, as a condition of employment, to sign a statement that the employee has:
 - 1. Received a copy of the city's Drug-Free Workplace Policy;
 - 2. Agreed to abide by the terms of the policy;
 - 3. Agreed to notify the supervisor, or appropriate representative of the city, immediately, or within five (5) days, of a criminal drug statute conviction for a violation occurring within the workplace.

Section 13. Management Responsibilities

- A. Management personnel shall be responsible for implementation and consistent enforcement of this policy, together with the Human Resources Director or his/her designee.

Management personnel who fail to enforce this policy in accordance with its terms are subject to disciplinary action up to and including termination.

- B. Supervisors will be trained in the detection of impairment by alcohol, drugs, and substance abuse.

Supervisors must document, in writing, the facts constituting reasonable suspicion/cause for drug and/or alcohol testing or for violation of this policy. This documentation shall be submitted to Human Resources as justification for the test.

- C. Management shall inform any employee required to submit to drug or alcohol testing of the requirements of this policy and the consequences of non-compliance.

Section 14. Drug and Alcohol Testing Methodology

Every reasonable effort will be made to obtain the most accurate drug or alcohol test results. Testing procedures for drug urinalysis will include the two-tiered testing program to ensure maximum accuracy in the test results, observation of specimen collection, and chain-of-custody documentation. A two-tiered procedure means that an initial positive test will be confirmed by the use of a gas chromatography test with mass spectrometry (GC/MS) or an equivalent scientifically accepted method, which provides quantitative data about the detected drug.

Following a positive screen from the initial test and a positive screen from GC/MS test, a portion of the specimen sufficient for testing from a positive sample may be transferred directly from the testing laboratory to a laboratory of the employee's choosing and tested at the employee's own expense. The employee is responsible for initiating the transfer within 48 hours of notification of the positive screen.

The laboratory chosen by the employee must be a laboratory approved or certified by the United States Department of Health and Human Services, the College of American Pathologists, or the Arizona Department of Health Services.

An employee, upon request, may obtain his/her written test results.

Section 15. Procedures

Procedures to be followed by management for the enforcement of this policy are available for review in the Human Resources department or in each department with the department director.

A description of the testing methods and collection procedures to be used is available for review in the Human Resources department.

Section 16. Commercial Driver's License Holders

All employees required, as a condition of their city employment, to have a valid Commercial Driver's License (CDL) shall comply with the United States Department of Transportation (USDOT) rules for drug and alcohol testing of mass transit employees and all drivers with CDLs.

The rules require pre-employment, post-accident, reasonable suspicion/cause, random, return to duty, and follow-up testing for alcohol and drugs through the use of breathalyzers and urine samples.

Procedures and rules for testing of CDL holders are available in the Human Resources department.

Rule 12. Policy against Discrimination

Section 1. Policy Statement

The city does not tolerate any form of discrimination based upon race, gender, national origin, religion, age, color, disability, genetic information; or sexual harassment.

A. Discrimination

- Unfair treatment because of **race, color, religion, sex** (including pregnancy), **national origin, age** (40 or older), **disability** or **genetic information**.
- Harassment by managers, co-workers, or others in the workplace, because of race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability, or genetic information.
- Denial of a reasonable workplace accommodation that the employee needs because of religious beliefs or disability.
- Retaliation because the employee complained about job discrimination or assisted with a job discrimination investigation or lawsuit.

B. Sexual Harassment

Sexual Harassment is defined by the Equal Employment Opportunity Commission (EEOC) as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual or otherwise offensive nature, especially where:

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

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C. Education

The Human Resources Director is responsible for coordinating training on the topic of discrimination and sexual harassment; attendance at this training is mandatory for all employees. In addition, all employees shall be notified of the existence of this policy.

D. Implementation

Both managers and employees are responsible for creating an atmosphere free of discrimination, and managers and supervisors are responsible for taking immediate and appropriate corrective action in response to any allegation of a violation of this policy, in addition to respecting the rights and sensitivities of their co-workers.

The Human Resources Director and department directors are responsible for taking immediate and appropriate corrective action in response to any confirmed violation of this policy and for assuring that no reprisals are taken against complainants, witnesses, or perpetrators.

The Human Resources department is responsible for monitoring the application of this policy, providing advice, and responding to any questions, which may arise from this policy.

Section 2. Initiating a Discrimination or Sexual Harassment Complaint

When an employee feels he/she has been discriminated against or sexually harassed, the following should occur:

Employee:

- Attempt to advise the alleged discriminator/harasser of their discomfort, **OR**;
- Report the problem to his/her immediate supervisor **if**:

The offended employee does not feel comfortable directly addressing the situation with the discriminator/harasser, and/ or the unwelcome or offensive behavior continues, **OR**;

- Report the problem to the Human Resources Director **if**:
 - o The employee's immediate supervisor, a division director, or department director is the source of the alleged harassment, **OR**;
 - o The employee is uncomfortable reporting the problem to his/her immediate supervisor, division director, or department director, **OR**;
 - o The source of the harassment is an individual appointed by the city council (including, but not limited to, the city attorney, city manager, or city magistrate).
- Report the problem to the city manager **if**:
 - o The Assistant City Manager or Human Resources Director is the source of the alleged discrimination/harassment.

When advised of the discrimination/harassment the following will:

Immediate Supervisor:

- Promptly notify his/her department director.

Department Director:

- Promptly notify the Human Resources Director.

Human Resources Director:

- Begin an assessment into the complaint and determine the course of action.
- If the discriminator/harasser is an individual appointed by the city council advise the mayor and city council that a discrimination/harassment complaint has been filed.

Section 3. Investigation Procedure

Human Resources staff coordinates the investigation process and advises the department director regarding his/her level of involvement in the process and of the progress of the investigation.

The department shall work with Human Resources staff to obtain and evaluate all relevant evidence with respect to what has occurred.

Human Resources staff makes a recommendation to the department director regarding the resolution of the complaint. Human Resources staff notifies the complainant and the alleged violator of the findings.

With the advice of the Human Resources Director, the department director implements specific remedial, and/or disciplinary actions.

Section 4. Discipline

The type of discipline and/or remedial action to which an employee is subject for discriminating against or harassing another employee is dependent on the circumstances of the situation. Career status employees subject to disciplinary and/or remedial action as a result of a finding of discrimination or sexual harassment shall be afforded due process rights through the grievance or appeal procedures, whichever is applicable to the level of discipline imposed. (See Rule 16. Discipline).

Section 5. Reprisals Prohibited

No reprisal/retaliation of any kind by any employee or manager shall be taken against an employee who asserted a complaint, the alleged perpetrator or against any witness.

Any such reprisal/retaliation taken by an employee will subject him/her to disciplinary action up to and including termination.

Rule 13. Policy against Violence in the Workplace

Section 1. Policy Statement

The City of Apache Junction does not tolerate threats, intimidation, and/or violence made by an employee against another person's life, health, well-being, family, or property.

Such acts or threats of violence, whether made directly or indirectly, explicitly or implicitly, by words, gestures, or symbols, infringe upon the city's right or obligation to provide a safe workplace for its employees.

Section 2. Prohibitions

Any threats or acts of violence made by an employee against another person's life, health, well-being, family, or property are cause for discipline up to and including termination.

Section 3. Applicability

This policy applies to any threats or acts of violence made on city property, at City sponsored events or under other circumstances that may negatively impact the City's ability to conduct its business.

Section 4. Initiating a Complaint Involving Violence in the Work Place

Any employee who believes that he or she has been the target of threats or acts of violence, or has witnessed or otherwise learned of threats or violent conduct by another employee or by a third party, should immediately contact their immediate supervisor, department director, Human Resources director or the city manager.

If an employee feels threatened with immediate harm, the Public Safety Department should be notified.

Rule 14. Fraternization Policy

Section 1. General Information

The City of Apache Junction's success depends on positive employee morale and good team working relationships. The City recognizes workplace romances or attractions can develop between people who work together. Unfortunately, attractions are not always mutual, and these situations can develop into sexual harassment complaints. In addition, relationships between supervisor and subordinate often cause morale problems or misperceptions about assignments and favoritism on the part of other employees in the work group.

The City endorses the following policy concerning close personal or romantic relationships between employees.

Section 2. Policy

Employees holding supervisory roles shall not pursue or be in a romantic relationship or have a close personal relationship with any employee who may report, either directly or indirectly, to them.

In addition, employees in a supervisory capacity are required to maintain a professional relationship with any employee for whom they supervise, give work direction or assignments, give discipline, review performance, or recommend promotions or raises.

Section 3. Reporting Requirements

In the event a workplace romance develops between employees in positions where one is in a supervisory chain of the other, either directly or indirectly, it is the responsibility of both parties to, either separately or together, bring the fact of the relationship to the attention of their supervisor and/or department director AND to the Human Resources director.

The Human Resources director, will determine the arrangements to further the best interests of both the city and the employees involved. However, if within six (6) months, one (1) of the employees has not *transferred or been appointed to a vacant position for which he/she meets the minimum qualifications of the position, the city will separate the least **senior employee from employment.

The position *transferred or appointed to must be outside the direct or indirect supervisory chain of employees involved and cannot result in a promotion.

** Seniority is determined by time in current title calculated from most recent appointment to the title.

Rule 15. Political Activities

Section 1. Purpose

To establish a policy governing the political activity of City employees.

Section 2. Policy Statement

City employees have the right to vote as they choose and to entertain and express personal opinions about political candidates. However, employees must refrain from political activity while on duty or at public expense.

Section 3. City Council Elections

To avoid undue influence of City employees on the outcome of City Council elections and to avoid undue influence of City Council members or candidates for City Council on City employees, the following apply:

A. Prohibitions and Restrictions

1. No employee of the City may be a candidate for nomination or election to the City Council.
2. While on City time, employees may not circulate petitions for City Council.
3. While on City time, employees may not contribute directly, or through an employee organization or association to a campaign or solicit or receive contributions for a City Council candidate.
4. No employee or organization or association, while on City time, may publicly endorse or actively support candidates for the City council or any political organization or association organized to support candidates for the City Council.
5. While on City time, employees may not wear City Council campaign buttons or distribute campaign literature at work or in a City uniform or in City offices, vehicles, or buildings.
6. No employee shall use any political endorsement in connection with any appointment to a position in City service.
7. No employee shall use or promise to use any official authority or influence for the purpose of influencing the vote or political action of any person for any consideration.

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B. Permissible Activities

1. City employees may place City Council campaign signs in their yards and on the premises of their homes.
2. City employees may place City Council campaign bumper stickers on personal vehicles.
3. City employees may, on their time, work in campaign headquarters of City Council candidates.
4. Outside of City time, an association or organization of City employees may mail or otherwise distribute endorsements of City Council candidates to members of organizations or associations who are City employees.
5. City employees may express their opinion.
6. City employees may, on their time, attend informational meetings concerning candidates for public office.

Section 4. Other Candidate Elections

For candidate elections and political activity other than for the Apache Junction City Council, the following apply:

A. Prohibitions

An employee shall not:

1. Use any political endorsement in connection with any appointment to a position in the city service.
2. Use or promise to use any official authority or influence for the purpose of influencing the vote or political action of any person or for any consideration.
3. While on city time, participate in the management of any political party or in the management of any political campaign or recall effort.
4. While on city time, solicit or receive contributions for any candidate campaign.

B. Permissible Activities

Any employee may, on his or her own time:

1. Express his/her opinion regarding candidate elections and political activity.
2. Attend meetings for the purpose of becoming informed concerning the candidates for public office and the political issues.
3. Actively support a candidate while not in a city uniform or in an office or building of the City of Apache Junction.
4. Cast his/her vote and sign nomination or recall petitions.
5. Make contributions to candidates, political parties or campaign committees contributing to candidates or advocating the election or defeat of candidates.
6. Circulate candidate nomination petitions or recall petitions.

C. Candidacy for Elected Office

Unless subject to the Hatch Act (5 U.S.C. Section 7321-7326), any City of Apache Junction employee desiring to run for county, state, or federal elected office may request a leave without pay upon filing for such office.

The employee's department director, with the concurrence of the city manager, has the authority to grant or deny the requested leave based upon the needs of the organization. If the leave is not granted and the employee still desires to run for elected office, the employee shall resign from city service upon filing for such office.

If the leave is granted and the employee is elected, the employee shall resign from city service immediately upon being seated in the elective position. If the leave is granted and the employee is not elected, the employee will be returned to his/her former position on the same terms and conditions as any other employee who has taken a leave without pay.

Section 5. Retaliation Prohibited

- A. An employee shall not solicit any other employee to engage or not engage in activities permitted by this rule with the direct or indirect use of any threat, intimidation, or coercion including threats of discrimination, reprisal, force or any other adverse consequence including the loss of any benefit, reward, promotion, advancement, or compensation.
- B. An employee shall not subject any other employee engaging in activity permitted by this rule to any direct or indirect discrimination, reprisal, force, coercion or intimidation or any other adverse consequence including the loss of any benefit, reward, promotion, advancement, or compensation.
- C. An employee shall not subject any other employee who chooses not to engage in any activity permitted by this section to any direct or indirect discrimination, reprisal, force, coercion or intimidation or any other adverse consequence including the loss of any benefit, reward, promotion, advancement, or compensation.

Section 6. Other Permitted Activity

The provisions of this rule do not apply to school board elections or community college district governing board elections and an employee may serve as a member of the governing board of a high school district or as a member of a community college district governing board.

Section 7. Protection of Civil Liberties

Nothing contained in these policies shall be construed as denying any city employee their civil or political liberties as guaranteed by the United States and Arizona Constitutions.

Rule 16. Discipline

Section 1. Disciplinary Actions

Disciplinary actions may include informal and formal counseling (verbal or written warnings), written reprimands, suspensions, demotions and dismissals, or other action deemed appropriate by the Human Resources Director and the department director.

When discipline is contemplated the department shall consult with the Human Resources department regarding the discipline to be imposed.

The department director may delegate the authority to impose informal and formal counseling or written reprimands but may not delegate authority to suspend, demote, or impose any other action affecting pay and/or benefits.

Section 2. Grounds for Discipline

Grounds for discipline include, but are not limited to:

1. Falsification of records
2. Insubordination
3. Lying to supervisors or falsifying records with respect to official duties.
4. Absenteeism
5. Tardiness
6. Conviction of a crime, which impacts the employee's ability to perform the duties and responsibilities of the job.
7. Incompetence in the performance of assigned duties.
8. Prohibited political activities.
9. Discrimination on the part of an employee against any employee on the basis of race, color, sex, age, physical disability, place of national origin, political or religious affiliation.
10. Any action, on or off the job, tending to bring discredit to the City service.
11. Refusal or failure to comply with the orders of an authorized supervisor or refusing or failing to do assigned work.
12. Theft, destruction, or neglect in the use of City property while the employee is on or off duty, or of property or materials of any other person while the employee is on duty.
13. Threatening, fighting with, intimidating, coercing, or abusing other employees or officials of the City or provoking such actions by others.
14. Divulging confidential information from privileged official records to unauthorized persons.
15. Failure to observe departmental regulations.

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16. Unauthorized absence from duty.
17. Abuse of, or patterned use of, sick leave.
18. Failure to maintain satisfactory working relationships with other employees or the public.
19. Failure to observe safety regulations
20. Discourtesy and rudeness to the public.
21. Unauthorized performance of work by nonexempt employee outside of established work schedules.
22. Unauthorized operation or use of any vehicles, machines, or equipment of the City.
23. Carelessness in the performance of duties.
24. Intentionally or maliciously supplying false information or making false claims with intent to improperly affect official decisions or bring discredit to other employees.
25. Removal of City equipment, material, supplies, etc., without the approval of the department director or City Manager
26. Use of clothing provided by the City for other than official City duties.
27. Violation of any section of the Personnel Rules.

Section 3. Written Reprimands

A pre-disciplinary meeting is not required when issuing a written reprimand to the employee.

Written reprimands shall:

1. Identify the violations or failures to meet reasonable expectations for performance on the job with sufficient specificity and detail so as to enable the employee to respond to the charges against him or her
2. Indicate a copy is to be sent to the Human Resources department
3. Contain a notice that the employee may file a grievance on the written reprimand in accordance with Rule 17, Grievance and Appeal Procedures.

Section 4. Pre-Disciplinary Meeting

Pre-disciplinary meetings are not required for:

- Informal counseling (verbal warnings);
- Formal counseling (written warnings); or,
- Written reprimands

Pre-disciplinary meetings are required prior to:

- Suspension;
- Demotion; or,
- Other forms of discipline

The pre-disciplinary meeting shall include the employee and may include the Human Resources director or designee and/or legal counsel for the City.

The employee facing discipline shall be afforded a pre-disciplinary meeting; the notification of the pre-disciplinary meeting shall be in writing and consist of the following:

- a) That discipline is contemplated; up to and including termination or the type of discipline contemplated;
- b) The violation of one or more of the causes for discipline, general examples are set forth in Rule 16, Discipline;
- c) The specific conduct or omission committed by the employee which the department director believes is a violation;
- d) When and where the meeting is to be held;
- e) That the employee is entitled to have a representative of his or her own choosing present at the meeting; and
- f) The purpose of the meeting, which is:
 - 1) To allow the employee to correct any errors in the information or facts upon which disciplinary action is proposed;
 - 2) To allow the employee to present his/her account of the alleged events and to present any mitigating information as to why discipline should not be taken.

The time between the initial notice of proposed disciplinary action and the pre-disciplinary meeting shall be reasonable and shall give the employee adequate time to prepare a reply. Two (2) business days is considered reasonable and under no circumstances shall the pre-disciplinary meeting be less than two (2) business days from the time the employee receives the meeting notice.

If personal delivery of the initial notice is not possible, notice may be given by depositing the notice in the U.S. Postal Service mailbox, addressed to the last address of record for the employee, and with the first class postage affixed. If service of notice is by mail, six (6) calendar days shall be allowed between the date the notice is mailed and the date the meeting is scheduled.

The following procedure is required at the pre-disciplinary meeting:

- a) Presentation of the facts and information upon which the initial notice of proposed disciplinary action was based;
- b) Provide the employee an opportunity to respond to the presentation of facts and information; and
- c) If the employee submits a written response prior to or during the meeting, include the response in the official record.

At the meeting the employee may be accompanied by an individual of his or her choosing. The following are guidelines for conduct at the pre-disciplinary meeting:

- a) It is not mandated to provide justification to the employee or his or her representative for proposing disciplinary action;
- b) Testimony by or cross-examination of witnesses is not required;
- c) Testimony under oath is not required;
- d) Recording of the proceedings by a court reporter is not required, however the proceedings may be tape recorded by either side;
- e) The person accompanying the employee may only observe the meeting and advise the employee; he or she cannot interfere with the process by asking questions or demanding the procedures be changed. Such interference shall constitute forfeiture by the employee of the right to be accompanied by anyone and such person shall be asked to leave the proceeding immediately; subject to the disorderly conduct laws of the State.

Section 5. Notices of Suspension, Demotion, or Termination

The department director shall discuss with Human Resources staff the disciplinary action considered prior to taking action.

Notices of suspension, demotion, or termination shall contain the following:

- a) The discipline being imposed
- b) Identification of the violations or failures to meet reasonable expectations for performance on the job with sufficient specificity and detail. These charges shall be those listed in the initial notice of disciplinary action, except for charges that may have been added or deleted as a result of the pre-disciplinary meeting. Substantial amendment or additional charges may be made only by repeating the procedure detailed in Section 4, Pre-disciplinary Meeting.

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- c) A reference to the opportunity afforded the employee to tell his or her side of the story in accordance with Section 4, Pre-disciplinary meeting.
- d) An indication that the material presented has been considered by the city in reaching a final determination.
- e) Notice that the employee may request a copy of the written materials alleged to support the action taken.
- f) A notice that the employee may appeal the suspension, demotion or dismissal pursuant to rule 17, Grievance and Appeal Procedures.

Copies of notices of suspension, demotion, or dismissal shall be sent to the Human Resources department for inclusion in the employee's personnel file.

Section 6. Taking Disciplinary Action

The discipline notice shall be delivered to the employee within ten (10) calendar days after the Pre-disciplinary meeting. The disciplinary action shall be taken within sixty (60) calendar days after the Pre-disciplinary meeting.

Section 7. Effect of Technical Omissions

Failure of a supervisor or department director to comply with the provisions of Section 3, Written Reprimands, and Section 6, Notices of Suspension, Demotion, or Dismissal, as they pertain to content of written reprimands and notices of suspension, demotion, or termination, shall not constitute a basis for reversing a disciplinary action on appeal.

Rule 17. Grievance and Appeal Procedures

Section 1. Purpose of Grievance and Appeal Procedures

The purpose of the grievance and appeal procedures is to provide career status employees, aggrieved about a situation affecting the conditions of their employment, with a method for the resolution of the matter without discrimination, coercion, restraint, or reprisal against the employee during the process.

Any contention that the city has failed to comply with any obligation it has made to an employee through its ordinances, policies, or any other written commitment must be raised pursuant to these grievance and appeal procedures, and these procedures provide the exclusive remedy for any such claim.

Section 2. General

An employee may file a grievance or appeal for actions as identified in this rule and utilize the procedures defined in this rule.

If the complaint alleges a matter other than that identified by this rule, employees are encouraged to discuss the complaint on an informal basis with appropriate management personnel as the matter is not entitled to the grievance and/or appeal process.

Action	Grievance	Appeal to City Manager (CM)	Appeal to Hearing Officer
Written Reprimand	X		
Overall unsatisfactory Performance rating	X		
Suspension: 3 days or less	X		
Misinterpretation or misapplication of the Personnel Rules or administrative procedures	X	X (if grievance does not resolve the complaint)	X (if appeal to CM does not resolve the complaint)
Adverse action to the employee, based on unlawful discrimination because of race, color, creed, national origin, sex, age, political affiliation, or disability and other than suspension, demotion, or dismissal	X	X (if grievance does not resolve the complaint)	X (if appeal to CM does not resolve the complaint)
Suspension of more than three (3) days, demotion, or dismissal on any grounds, including alleged unlawful discrimination	X	X (if grievance does not resolve the complaint)	X (if appeal to CM does not resolve the complaint)
Disposition of a sexual harassment complaint did not result in stopping the prohibited behavior		X	X (if appeal to CM does not resolve the complaint)

Section 3. Prohibited Grievances and Appeals

The grievance and appeal procedures may not be used for matters involving:

- A. Compensation and Classification Plans
- B. Overall satisfactory performance evaluations
- C. Informal disciplinary actions such as informal or formal counseling (verbal or written warnings)
- D. Supervisory or management style

Section 4. Grievance Procedure

Grievances shall be presented according to the following procedure:

An employee may begin a grievance at the level in which the discipline was administered.

A copy of the grievance and the responses shall remain with the grievance at all steps in the process. At no time in the process should additional material be added to the grievance.

- A. Form: Grievance forms may be obtained from the Human Resources department or they may be found on the city's Intranet.

- B. Step 1: Filing with Supervisor

The employee shall present a grievance to the immediate supervisor within seven (7) calendar days after notification of or occurrence of the action which gives rise to the grievance.

The immediate supervisor should consider the grievance and provide the employee a dated, written response within seven (7) calendar days of the receipt of the grievance.

- C. Step 2: Filing with the department director

If the response of the immediate supervisor does not resolve the grievance or the immediate supervisor did not respond to the grievance, and the employee wishes to pursue it further, the employee shall present it to the department director in writing within seven (7) calendar days after receiving the decision of the immediate supervisor or within seven (7) calendar days from the date the immediate supervisor's response was due.

The department director should consider the grievance and provide the employee a dated, written response within seven (7) calendar days of receipt of the grievance.

D. Step 3: Filing with the Assistant City Manager

If the response of the department director does not resolve the grievance and the employee desires to pursue it further, the employee shall present it in writing to the assistant city manager within seven (7) calendar days after receiving the decision of the department director, or within seven (7) calendar days from the date the department director's response was due.

The assistant city manager or his or her designee shall consider the grievance and shall provide the employee a dated, written response within seven (7) calendar days of receipt of the grievance.

The decision of the assistant city manager for grievances is final and is not appealable further unless formal appeal procedures are an available remedy under this rule.

Section 5. Time Computation

The computation of the calendar days shall be as follows for the date of notice of the action:

- A. If written action:
 - date of the delivery of a notice if handed to the grievant **or**
 - the date of mailing of the notice if sent by U.S. mail.
 - (If the notice is mailed, three (3) calendar days shall be added to the time in which a response is due).*
- B. If not a written action:
 - date of action shall be the date on which the aggrieved action occurred.
- C. The period of time for filing the grievance starts on the day following the date of notice **or** occurrence of the action.
- D. If the final date of the grievance period falls on a city observed holiday or weekend or on a day the city is closed, the final date for grievance shall be construed to be the next business day it is open.
- E. The grievance period ends at 5:00 p.m., on the final date for grievance. If this date is a City observed holiday, a weekend, or on a day the city office is closed, the grievance period ends at 5:00 PM the next business day.

Section 6. Appeal Procedure

Matters not specifically stated in this rule cannot be appealed. Appeals shall be presented according to the following:

- A. Time Computation: The computation of the calendar days shall be in accordance with Section 5 of this Rule.
- B. Form of Appeal: Every appeal shall be filed in writing and shall include the name and address of the employee appealing, the action which is the subject of the appeal, the reason for the appeal, a factual chronology of the action, the remedy sought, and a reference to the Personnel Rule which the action allegedly violates. The appeal shall have attached any written material pertaining to the matter appealed.
- C. Procedures for Filing an Appeal: Every appeal shall be filed within ten (10) calendar days from the date of notice of the action, which is the subject of the appeal. All appeals shall be addressed to the City Manager. The City Manager shall have ten (10) calendar days to respond to the appeal.

If the employee is not satisfied with the City Manager's decision, the employee has ten (10) calendar days from the date of response or the date a response was due, to file a Notice of Appeal for a hearing before a Hearing Officer. The Notice of appeal shall be in accordance with Section 6.B of this rule and shall be filed in the Human Resources department.

Section 7. Time Extension

Upon **mutual** consent of the parties a time extension for grievances and appeals may be authorized by the Human Resources director. Such agreement shall be in writing, state the duration of the extension, and be signed by both parties. This agreement shall accompany the grievance at all future steps.

Rule 18. Rules for Hearings before a Hearing Officer

Section 1. Hearing Officer

The employee wishing an appeal for a hearing before a Hearing Officer, shall file an appeal to a Hearing Officer with the Director of Human Resources.

The Human Resources Director, in consultation with the City Attorney, shall retain a Hearing Officer or Officers who shall not be an employee(s) of the City.

Section 2. Right of Appeal

Any employee shall have the right to appeal actions to the Hearing Officer pursuant to the City's Personnel Rules. The Hearing Officer shall determine if the appeal is allowed under the Personnel Rules and shall not consider appeals not covered by these rules. The Hearing Officer shall dismiss such appeals upon motion by a party to the appeal or by his or her own authority.

Section 3. Time of Hearing

Upon receipt of Notice of Appeal, the Human Resources Director shall contact the Hearing Officer who shall schedule a time for the hearing. The hearing shall be set for not less than sixty (60) calendar days from receipt of the Notice of Appeal by the Human Resources Director of the employee's appeal to the Hearing Officer. The Hearing Officer shall provide the parties to the appeal with written notification of the date, time, and place of hearing.

Section 4. Pre-Hearing Statements

Upon receipt of the appeal the Hearing Officer shall give each party a pre-hearing statement form to be completed. The pre-hearing statement shall include the following:

- a) The names, addresses, and phone numbers of all parties to the appeal.
- b) The names, addresses, and phone numbers of legal counsel or representatives for the parties.
- c) A list of witnesses, including addresses and phone numbers, and brief summaries of their testimony.
- d) A description of the exhibits to be used at hearing.

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The pre-hearing statement shall be filed directly with the Hearing Officer within twenty (20) calendar days of receipt by the parties of the pre-hearing statement.

Each party to the appeal shall provide the opposing party with a copy of the pre-hearing statement and copies of exhibits to be used within twenty (20) calendar days of the receipt of the pre-hearing statement. Each party is responsible for keeping the Hearing Officer and the opposing party updated on additional witnesses and exhibits through the use of an amended pre-hearing statement. The party amending the pre-hearing statement shall submit one copy to the Hearing Officer and shall provide the opposing party with a copy of the amended statement and a copy of additional exhibits, if any.

Under no circumstances shall witnesses or exhibits be added within twenty (20) calendar days of the hearing. No witness testimony or exhibits shall be admissible if not identified by the parties twenty (20) calendar days prior to hearing.

Section 5. Pre-Hearing Conference

After acceptance of an appeal and designation of representatives, the Hearing Officer may, at the request of the parties or on their own initiative, schedule a pre-hearing conference at a time convenient to all parties.

At the pre-hearing conference the Hearing Officer may request exhibits, define the issues, and accept stipulations of the parties. The Hearing Officer may rule on the admissibility of exhibits and witnesses and may reject irrelevant or cumulative exhibits and disapprove witnesses whose testimony is irrelevant or cumulative.

Section 6. Subpoenas

Pursuant to Title 12, Article 13, Chapter 2, A.R.S. 12-2212, the Hearing Officer may issue subpoenas, compel attendance of witnesses and production of evidence, administer oaths, and cause depositions to be taken. Any subpoena shall be issued in the same manner as provided for issuance of subpoenas in the Superior Court of Arizona.

Any party or witness, or a representative thereof may, within five (5) calendar days after service of the subpoena, file a motion to quash or modify the subpoena if it is unreasonable and oppressive; or move the Hearing Officer to condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible items.

Section 7. Continuances

The Hearing Officer may, in his or her sole discretion, grant continuances during the entire proceeding to each party for good and sufficient cause.

Section 8. Appeal Hearings

The appealing employee shall appear personally, unless physically unable to do so, before the Hearing Officer at the time and place of the hearing. The appealing employee may be represented by an attorney.

All hearings before the Hearing Officer shall be closed to the public.

The hearing need not be conducted in accordance with technical rules relating to evidence and witnesses, but hearings shall be conducted in a manner most conducive to determination of the truth.

Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rules, which might make improper the admission of such evidence over objection in civil actions.

Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible pursuant to the Arizona Rules of Evidence.

The rules of privileges shall be effective to the same extent that they are now or hereafter may be recognized in civil actions, and irrelevant and unduly repetitious evidence may be excluded.

Decisions made by the Hearing Officer shall not be invalidated by any informality in the proceedings, and the Hearing Officer shall not be bound by technical rules of evidence.

The Hearing Officer shall rule on the admission or exclusion of evidence.

The proceedings before the Hearing Officer may be recorded by a stenographer or by audio or videotape. The original tape or recording, or certified transcript shall be a part of the record of any appeal.

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Each party shall have these rights:

- to be represented by legal counsel or other person of choice;
- to call and examine witnesses;
- to introduce evidence;
- to cross-examine opposing witnesses on any matter relevant to the issues;
- to impeach any witness regardless of which party first called for testimony; and
- to rebut the evidence.

If the respondent does not testify on his/her behalf, he/she may be called and examined as if under cross-examination.

Oral evidence shall be taken only on oath or affirmation.

Hearings involving disciplinary actions shall proceed in the following order, unless the Hearing Officer directs otherwise:

1. The party imposing discipline shall be permitted to make an opening statement.
2. The appealing party shall be permitted to make an opening statement.
3. The party imposing disciplinary action shall produce the evidence on his/her part.
4. The party appealing from such disciplinary action may then open for defense and offer evidence in support thereof.
5. The parties may then, in order, respectively offer rebutting evidence only, unless the Hearing Officer for good reason permits them to offer evidence upon their original case.
6. Oral or written arguments shall be permitted at the discretion of the Hearing Officer.
7. Both parties may present closing arguments.

The Hearing Officer shall determine relevancy, weight, and reliability of testimony and evidence, and shall base findings on the preponderance of evidence.

During the examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing upon motion of either party.

No still photographs, moving pictures, or television pictures shall be taken in the hearing chamber during the hearing.

The standard of review for the Hearing Officer shall be whether the action appealed from was viewed objectively, arbitrary or was taken without reasonable cause.

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The role of the Hearing Officer is limited as a matter of law. The Hearing Officer may not substitute his or her independent judgment simply on the belief that a reduced level of discipline would be more appropriate to the offense. Based on this standard of review the Hearing Officer may sustain or reject the disciplinary action invoked against the employee. However, the Hearing Officer may not modify the disciplinary action. The standard of review is not "denovo".

The Hearing Officer shall render findings of fact, conclusions of law, and decision as soon after the conclusion of the hearing as possible, and in no event, later than thirty (30) working days after conducting the hearing unless otherwise stipulated by the parties. The Hearing Officer's decision shall set forth the findings as to each of the charges and the reasons therefore.

The Hearing Officer shall provide the decision to the Human Resources director and the employee and shall set forth all the findings of fact, conclusions of law, and the final determination.

The Human Resources Director shall provide a summary and/or copy of the decision to the department director, the City Attorney, the Assistant City Manager and the City Manager.

The decision of the Hearing Officer shall be final and binding upon both the employee and the City, and therefore, not appealable to any office or body of the City or to any other forum, administrative or judicial, unless otherwise allowed under Arizona law.

Rule 19. Separation other than Dismissal

Section 1. Layoff

When, in the judgment of the City Manager, it becomes necessary to reduce the number of employees in a specific job classification due to lack of work or funds, the City may lay off any employee holding such position by classification. The City Manager, in consultation with the Human Resources Director and the department director, shall determine the affected positions. The Human Resources Director shall oversee the layoff process and notification to the affected employees. An employee being laid off will receive a minimum notice of two (2) weeks.

There are two (2) layoff units covered by these Rules: Municipal Court and all other City departments.

In the event of a reduction in force (RIF), the layoff of employees shall follow the order below:

A. Layoff by Type of Status

- Non-career status employee before initial probationary status,
- Initial probationary status before transitional probationary status, and;
- Transitional probationary status before career status.

B. Layoff by Classification and Seniority

Career status employees serving in a classification requiring reduction in personnel shall be laid off in the reverse order of their appointment in that classification and within the layoff unit, the last one so appointed being the first to be laid off.

When no position of the same class exists within the layoff unit or all employees in the class have greater seniority than the employee, the employee may request in writing to be placed in a lower class in the same classification series and within the layoff unit. The employee may request to be placed in the lower class if the employee has previously held the position and; in no circumstance shall this request be used to effect a promotion.

The most recent classification plan accepted by the City Council and/or modified by the City Manager shall be used as a guide. Human Resources determines the classification series within the classification plan.

C. Layoff Lists

A layoff list shall be maintained by Human Resources for each affected classification. All career status employees who have been laid off shall have their names placed on the appropriate layoff list according to seniority. If the employee has not been appointed from the layoff list to his/her layoff title, the employee's name shall remain on the list for a period of two (2) years from date of layoff.

It shall be the responsibility of the employee on the layoff list to provide the Human Resources Department with their most current mailing address.

D. Reinstatement

As positions are reinstated within the layoff unit, individuals will be reinstated according to seniority from the appropriate layoff list; the most senior person laid off will be the first person hired back.

Employees resume their positions without loss of seniority. The employee will be placed at the pay rate that is the closest to the rate at layoff that does not disadvantage the employee. In addition the employees' unused sick leave accruals will be restored.

Upon time of reinstatement, the employee will be notified at the address on file with Human Resources and given ten (10) working days to respond. Failure to respond within that timeframe may result in the City's contacting the next person on the layoff list.

Section 2. Resignation

An employee wishing to resign in good standing shall submit a written resignation to their department director with a copy to Human Resources, at least two (2) weeks before leaving service. The resignation should state the effective date and reasons for resignation. This time limit may be waived by the Human Resources Director and department director.

Failure to give notice as required by this rule may be cause for a denial of future employment with the City.

An "exit interview" may be arranged with the Human Resources Director and/or his/her designee.