

# Personnel Rules and Regulations

November 2008

Approved by Mayor and Council

Ordinance O-08-21

Effective December 18, 2008

Amended June 5, 2009 by Ordinance O-09-14

Amended August 6, 2009 by Ordinance O-09-16

Amended March 4, 2010 by Ordinance O-10-04

# **TABLE OF CONTENTS**

## **PERSONNEL RULES AND REGULATIONS**

### **I. INTRODUCTION AND GENERAL POLICIES**

- Section 1 Introduction to the Personnel Rules and Regulations**
- Section 2 Equal Employment Opportunity**
- Section 3 Sexual Harassment Policy**
- Section 4 Violence in the Workplace Policy**

### **II. DEFINITIONS AND ADMINISTRATION**

- Section 1 Definitions**
- Section 2 Classified and Unclassified Employees**
- Section 3 Personnel Director**
- Section 4 Personnel Records**

### **III. RECRUITMENT AND HIRING PROCESS**

- Section 1 Basis for Appointment or Promotion**
- Section 2 Announcement of Vacant Positions**
- Section 3 Receipt and Use of Applications**
- Section 4 Evaluation of Applicants**
- Section 5 Appointment to a City Position**
- Section 6 Probationary Employee**
- Section 7 Temporary Appointment**
- Section 8 Temporary Assignment of Additional Duties**

### **IV. COMPENSATION AND BENEFITS**

- Section 1 Compensation and Work Periods**
- Section 2 Benefits**
- Section 3 Paid Time Off**
- Section 4 Extended Illness Bank**
- Section 5 Holidays**
- Section 6 Overtime Pay**
- Section 7 Bereavement Leave**
- Section 8 Family and Medical Leave**
- Section 9 Jury Duty and Court Procedures**
- Section 10 Military Leave**
- Section 11 Leave of Absence Without Pay**
- Section 12 Travel Reimbursement**
- Section 13 Longevity Pay**
- Section 14 Pay Adjustments**

## **V. JOB PERFORMANCE REQUIREMENTS AND RESTRICTIONS**

- Section 1 Employee Relations**
- Section 2 Acceptance of Gifts**
- Section 3 Political Activities**
- Section 4 Nepotism and Conflict of Interest**
- Section 5 Outside Employment**
- Section 6 Drug and Alcohol Policy**
- Section 7 Smoke-Free Workplace Policy**
- Section 8 Vehicle Use Policy**
- Section 9 Electronic Information and Communications Policy**
- Section 10 Performance Evaluation**
- Section 11 Efficient Use of Energy and Other Public Resources**

## **VI. DISCIPLINARY ACTIONS**

- Section 1 Types of Disciplinary Actions**
- Section 2 Pre-Action Hearing**
- Section 3 Initiation of Disciplinary Action**
- Section 4 Grounds for Disciplinary Actions**

## **VII. GRIEVANCE PROCEDURES**

- Section 1 Purpose of Grievance Procedures**
- Section 2 Right to File a Formal Grievance and Issues That Are Subject to Grievance**
- Section 3 Four-Stage Formal Grievance Process**
- Section 4 General Provisions Regarding a Grievance**
- Section 5 Review and Discussion of Other Issues**

## **VIII. SEPARATION FROM EMPLOYMENT**

- Section 1 Notice of Voluntary Termination**
- Section 2 Exit Interview**
- Section 3 Payment of Wages Following Termination**
- Section 4 Reduction in Force**

## **I. INTRODUCTION AND GENERAL POLICIES**

### **Section 1. Introduction to the Personnel Rules and Regulations**

**A.** The Personnel Rules and Regulations for the City of Bisbee are a statement of policies and procedures for both classified and unclassified employees. These Personnel Rules and Regulations are intended to define the responsibilities, obligations and opportunities for all City employees. The grievance and review rules, which are also included in this document, are intended to define the additional rights and responsibilities that are available to classified employees only.

**B.** Each employee shall be provided with a copy of the Personnel Rules and Regulations and any amendments that may be adopted. Each employee has the personal responsibility to be familiar with and to comply with these rules and regulations.

**C.** Certain state and federal laws, including those prohibiting discrimination and harassment, have been specifically addressed and summarized in these rules and regulations in an effort to help bring these obligations to the attention of all employees. Please note, however, that the provisions addressed in these personnel rules do not alter the minimum requirements of any such state or federal laws, as they may exist at this point, or may be amended in the future. Each employee has a legal obligation to comply with all applicable laws and regulations governing proper behavior in the workplace, whether or not those requirements have been identified or summarized in these regulations.

**D.** These Personnel Rules and Regulations are NOT intended to and DO NOT create a legal contract between the City of Bisbee and any employee. The City of Bisbee reserves the right, subject to any applicable provisions of the City Charter and the ultimate approval of the Mayor and Council, to alter, amend, rescind or revise any or all of the provisions of these Personnel Rules and Regulations as any such amendment may be appropriate from time to time.

## **I. INTRODUCTION AND GENERAL POLICIES**

### **Section 2. Equal Employment Opportunity Statement (O-10-04)**

**A.** The City of Bisbee hereby reaffirms its commitment to providing equal employment opportunities for all qualified persons without regard to race, color, national origin, religion, gender, sexual orientation, disability, age, genetic information or any other basis which is proscribed by law. This equal employment opportunity shall be provided to both candidates and employees at all applicable stages of the City's employment process, including recruitment, hiring, benefits, training, job assignments, promotion and compensation.

**B.** The City recognizes that the effective implementation of this equal employment policy requires more than just a statement of principles. The City Manager and the Personnel Director are hereby delegated with the responsibility for developing and implementing the specific plans and procedures that are necessary for this policy to be properly applied. All Department Heads and all other employees are required to cooperate and coordinate their actions with this policy and all applicable equal employment plans and procedures to insure that they are properly applied.

**C.** Any employee or candidate for employment with the City who believes that he or she has been improperly discriminated against in any manner in violation of this policy is encouraged to submit a report of any such action directly to the applicable Department Head and to the City Manager. The City Manager will provide a written response to any such complaint within ten (10) working days of receipt of any complaint. Any employee or candidate who is not satisfied with that response may submit a written request for further review by the Civil Service Commission. Any such complaint will be addressed by the Commission in the manner provided for the review of Grievances, as provided for in these rules. Nothing in this Section shall limit or infringe upon any other legal remedies that any employee or candidate for employment may have for the enforcement of any such rights.

## **I. INTRODUCTION AND GENERAL POLICIES**

### **Section 3. Sexual Harassment Policy**

**A.** It is the policy of the City of Bisbee that no employee or official of the City shall engage in sexual harassment. Sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, verbal or physical conduct of a sexual nature in the workplace, or the creation of a hostile workplace environment through other sexually related actions, including exposing others to sexually related materials. Examples of inappropriate sexual harassment include:

1. Unwanted sexual advances, such as repeated requests for dates or physical contact.
2. Demands for sexual favors in exchange for favorable treatment or continued employment.
3. Threats and demands to submit to sexual requests in order to obtain or retain any employment benefits.
4. Verbal conduct such as epithets, derogatory or obscene comments or slurs; sexual invitations; sexually related jokes or propositions; suggestive, insulting or obscene comments or gestures or verbal abuse of a sexual nature.
5. Flirtations, advances, leering, whistling, touching, pinching, assault, coerced sexual acts or physically blocking or impeding movements of others with any sexual intent.
6. Explicit verbal comments about an individual's body, sexual prowess or sexual deficiencies.
7. Maintaining sexually related materials in the workplace, including magazines, posters, photographs, calendars, cartoons or drawings that are sexually suggestive or pornographic.
8. Conduct or comments that consistently target or belittle one gender or a sexual orientation, even if the conduct or comments are not explicitly sexual.

**B.** Any employee or citizen who believes that he or she may have been subjected to or may have witnessed any sexual harassment should report any such circumstance to the City's Personnel Director at the earliest possible time. All such reports will be treated as confidential information. The City's Personnel Director will initiate an investigation promptly and will recommend an appropriate remedy and response to the City Manager. The City will use its best efforts to protect any reported victim from any additional sexual harassment and from any retaliation. The City may take appropriate disciplinary action, which may include re-assignment, demotion or termination, against any party that is responsible for engaging in any sexual harassment or any retaliatory action.

## **I. INTRODUCTION AND GENERAL POLICIES**

### **Section 4. Violence in the Workplace Policy**

**A.** In order for the City government to fulfill its responsibilities, City employees and citizens doing business with the City must be protected from violence. Obstructing governmental operations, defined as using or threatening to use violence or physical force to obstruct, hinder or impair the performance of a governmental function, is a crime and will not be tolerated. Any City employee who engages in any such actions against another City employee will be subject to both disciplinary action and potential criminal prosecution. Any citizen who engages in any such action against a City employee will be subject to potential criminal prosecution.

**B.** Similarly, it is also a crime to intentionally or knowingly cause any physical injury to another person or to intentionally place another person in reasonable apprehension of imminent physical injury. Any such actions by a City employee in the course of City employment will result in disciplinary action and potential criminal prosecution. A citizen who takes any such actions against a City employee may be subject to criminal prosecution.

**C.** Any City employee who is the subject of, or witness to, any action or threat of violence in the City workplace should immediately report any such action to the City Police and to his or her supervisor. All City employees should call 911 immediately whenever they encounter any act or threat of violence in the workplace to allow trained personnel to address any such matter at the earliest possible time.

**D.** Any City employee who is the subject of an Order of Protection or an Injunction Against Harassment should advise his or her supervisor of any restrictions that may be imposed by any such order that may be applicable in the City workplace. The City will make all reasonable efforts to accommodate any such orders.

## II. DEFINITIONS AND ADMINISTRATION

### Section 1. Definitions

A. The words used in these Personnel Rules and Regulations shall have their ordinary and common meanings unless they have been given a specific definition in this document. Certain words used in these Personnel Rules and Regulations have been given specific definitions in applicable federal or state law and these words will be interpreted, whenever possible, to be consistent with any legal requirements of those laws.

B. The terms stated below shall be defined as follows:

1. **Civil Service Commission**

The Commission is appointed by the Mayor and Council pursuant to the City Charter and consists of five qualified electors of the City. The Civil Service Commission has the authority to formulate recommendations regarding personnel policy, investigate and report significant violations of sound personnel administration and hear and mediate grievances and charges of discrimination submitted by employees and officers of the City.

2. **Exempt employee**

An employee who works in an executive, administrative or professional job classification and who is not eligible for overtime pay under the Fair Labor Standards Act.

3. **Full time employee**

An employee who is regularly scheduled for at least a forty hour work week during each seven day pay period. This term also includes those firefighters and any other public safety employees who are regularly scheduled for at least 212 hours of work during a 28 day work period.

4. **Moral turpitude**

An offensive action that is depraved and inherently base and which adversely reflects on one's honesty, integrity or personal values. Crimes involving moral turpitude are identified in relevant case law.

5. **Non-exempt employee**

An employee who does not work in an executive, administrative or professional job classification and who is eligible for overtime pay under the Fair Labor Standards Act.

6. **Part time employee**

An employee who does not meet the conditions necessary for full time employment. Part time employees are only eligible for those benefits that are mandated by state or federal law.

## **II. DEFINITIONS AND ADMINISTRATION**

### **Section 2. Classified and Unclassified Employees**

**A.** All employees of the City of Bisbee are either classified or unclassified employees.

**B.** The classified employees of the City of Bisbee include all employees of the City except for those individuals who hold the positions that are specifically excluded from this category. The employees, officials, officers and contractors in the following positions are not considered to be classified employees:

1. All elected officials and the appointed members of City's boards, commissions and committees.
2. All City officials who are appointed by the Mayor and Council, including but not limited to the City Manager, City Clerk, City Attorney, City Treasurer and City Magistrate.
3. All Heads of Departments, as appointed by the City Manager.
4. Volunteer personnel.
5. Persons or employees of other organizations performing work for the City under contract, as independent contractors or not otherwise hired and designated as employees of the City.

## **II. DEFINITIONS AND ADMINISTRATION**

### **Section 3. Personnel Director**

**A.** The Personnel Director is responsible for the administration of the City's Personnel Rules and Regulations and the development of the policies and procedures that are required for the proper implementation of this program.

**B.** The duties and responsibilities of the Personnel Director shall include, but not be limited, to the following:

1. Establishing and maintaining comprehensive personnel records for each employee.
2. Developing and implementing the policies described in these Rules and Regulations to insure that employees are properly hired and promoted, fully compensated in the manner required and made aware of the conditions of City employment.
3. Implementing appropriate programs to improve the performance of City employees and to protect their health, safety and welfare.
4. Serving as the principal administrative officer in the event that any disciplinary or termination action may be required.
5. Providing consistent interpretations and clarifications on the meaning and application of the Personnel Rules and Regulations. Employees are encouraged to contact the Personnel Director directly with any questions that may arise about these policies.

## **II. DEFINITIONS AND ADMINISTRATION**

### **Section 4. Personnel Records**

**A.** The Personnel Director is responsible for maintaining the personnel records for each City employee. All such records are “public records,” as that term is defined by law. The information that is included in these records and that is required by law to be protected, such as social security numbers, medical information and certain personal information about law enforcement personnel, will not be released. Access will also be restricted to other information that is protected from disclosure in the interests of privacy, confidentiality or the best interests of the City. This restricted information may include personal information such as birth dates, personal addresses and phone numbers, and the results of certain investigations. Information such as date of hire, classification, grade, rate of pay and duties performed is public information and will be disclosed upon request.

**B.** Medical records and medical information will be maintained separately from personnel records to provide additional protection for these documents.

**C.** Employees have the right to review their own personnel records. For any such review, employees are requested to provide twenty-four hours’ advance notice to the Personnel Department. Any such inspection of the Personnel Records must be conducted in the presence of the Personnel Department staff.

**D.** If the Personnel Director receives any request by a third party for the review of an employee’s personnel records which is not accompanied by a written release, signed by the employee and authorizing this review, the Personnel Director shall first advise the employee of the request. The employee shall have an opportunity to raise any objections to the release of any such information that may be lawfully withheld. In the event of any differences of opinion as to what may be properly subject to release, the City reserves the right to make its own, independent determination, and may require the employee to represent his or her own interests, at his or her own expense, in the event that any legal proceeding is necessary.

### **III. RECRUITMENT AND HIRING PROCESS**

#### **Section 1. Basis for Appointment or Promotion**

**A.** As required by the City Charter, all appointments and promotions to classified positions in the City of Bisbee shall be made solely on the basis of merit and fitness, as demonstrated by written or oral examination and other evidence of competence.

**B.** It is the intent of the City of Bisbee to obtain the most suitable employees for the positions that are available. No appointment or promotion shall be made before the employment opportunity has been subject to public notice in the manner described in these personnel rules.

### **III. RECRUITMENT AND HIRING PROCESS**

#### **Section 2. Announcements for Vacant Positions**

**A.** Each vacant permanent position shall be publicly noticed prior to the appointment or promotion of any person to this position. This public notice shall include the job title, salary range, a description of the duties and responsibilities, and an explanation of the required knowledge, skills and qualifications. If there is a closing date for applications, this shall also be included in the notice.

**B.** Each public notice of a vacant position shall be posted on the bulletin boards of each principal City office, including that of the subject department and shall also be posted on the City's website. The Personnel Director may use such other means of publication, including local newspapers, other websites and publications directed to a particular profession, as he or she may determine to be appropriate and reasonable for that position.

**C.** Each vacant, regular status position shall be subject to not less than fifteen (15) calendar day's notice prior to the appointment or promotion of any person to this position.

### **III. RECRUITMENT AND HIRING PROCESS**

#### **Section 3. Receipt and Use of Applications**

**A.** Each application for employment with the City of Bisbee must be submitted in writing, on the form or forms that have been provided for this purpose. No application will be accepted unless all relevant information is provided.

**B.** Applications will only be accepted for vacant positions that the City is actively seeking to fill. An applicant that is not selected for a vacant position may request that his or her application be retained and be considered for any similar positions that may become vacant. Upon the request by the applicant, an application will be retained on file and considered for similar vacant positions for a period of six (6) months.

### **III. RECRUITMENT AND HIRING PROCESS**

#### **Section 4. Evaluation of Applicants**

**A.** The Personnel Director shall make the first evaluation of the applications for each classified position and shall remove those applications which do not indicate that the candidate possesses the required skills, knowledge and qualifications for the position.

**B.** The Personnel Director shall forward the qualifying applications to the Department Head responsible for that position for further evaluation. Prior to conducting any interviews or personal examination of the applicants, the Department Head shall prepare an outline of the manner in which the qualifying applicants will be examined and reviewed for a demonstration of merit and fitness for the position. This shall include an explanation of the skills which will have to be demonstrated, the nature of any oral or written examinations that will be required, and the nature and type of questions that will be asked of each applicant. No interviews or examinations will be scheduled until the Personnel Director has approved the proposed plan. Each qualified candidate will be provided with substantially the same opportunity to demonstrate his or her skills and qualifications in an appropriate and relevant matter. The City will not generally provide reimbursement for costs to attend any interview, so the applicant may need to make his or her own arrangements in order to be physically present.

**C.** In the event that any applicant has any need for any special accommodations in this process, the Department Head, in consultation with the Personnel Director, will provide such reasonable accommodations as may be necessary to insure that no otherwise qualified applicant is denied an equal opportunity for consideration due to any disability.

**D.** Upon the selection of the most qualified applicant, the Department Head shall forward a recommendation, with proposed salary, to the City Manager for the appointment of the applicant. No applicant shall be offered a position with the City without the prior approval of the City Manager, unless the City Manager has specifically delegated such authority to the Department Head.

### **III. RECRUITMENT AND HIRING PROCESS**

#### **Section 5. Appointment to a City Position**

**A.** Every offer of appointment to a City position shall be made in writing and shall include the proposed starting salary, job title and the dates of any initial probationary period.

**B.** Upon the offer and acceptance of an appointment to a City position, the selected candidate shall provide the Personnel Director with all additional information that may be required to complete the appointment.

**C.** No candidate for City employment shall be designated as a City employee until all necessary screening for eligibility for employment has been completed and all additional information required by the City, state and federal government has been provided. The Personnel Director is authorized to conduct a background check of the prospective employee, including criminal justice information. The Personnel Director shall conduct or obtain a criminal justice background check of those prospective employees who will be employed with the Police Department, will be responsible for the receipt or management of public funds, will have access to confidential information as part of their regular duties, or will be in any situation in which they will be in the presence of children without direct supervision. The Personnel Director is authorized by this rule to use the Arizona criminal justice record system maintained by the State of Arizona for purposes of conducting the background checks for those designated positions for which a criminal record check is required.

**D.** Upon the satisfactory completion of all of these requirements for an appointment to City employment, the candidate shall be designated as a City employee by the City Manager or his or her designee. All classified employees shall be probationary employees at this time.

### **III. RECRUITMENT AND HIRING PROCESS**

#### **Section 6. Probationary Employee**

**A.** All newly hired classified employees are probationary employees. This probationary period is an integral part of the selection process. This period provides the Department Head and Supervisor with an opportunity to observe the newly hired employee's work and to confirm that his or her skills meet the requirements of the position. This trial period also provides the new employee with an opportunity to determine if the position meets his or her expectations and is appropriate for the employee.

**B.** The probationary period shall extend for six (6) months, exclusive of any required training, certification or educational programs that are conducted away from the work site. The Department Head may extend this probationary period for an additional period of up to six (6) more months, based upon a written statement, provided to both the Personnel Director and the probationary employee, indicating the reasons for any additional probationary period.

**C.** At any time during this probation period, the new employee may be dismissed from the position upon the recommendation of the Department Head and with the approval of the City Manager on the basis of unsatisfactory job performance.

**D.** An employee who is dismissed during a probationary period for unsatisfactory job performance does not have a right to file an appeal or grievance regarding this issue. The employee does not have a reasonable expectation of continued employment until the probationary period has been satisfactorily completed.

**E.** At the end of the probationary period, the employee shall be given a written evaluation of his or her job performance to that date prepared by the Supervisor or Department Head. This written evaluation is intended to provide the probationary employee with an appraisal of his or her job performance and to identify those areas in which this performance may need to improve.

**F.** Upon the successful completion of the probationary period, the employee shall be a regular City employee. In the absence of any notice of dismissal or any extension of the period of probation, the employee shall be deemed to have successfully completed the probationary period at the end of six (6) months.

### **III. RECRUITMENT AND HIRING PROCESS**

#### **Section 7. Temporary Appointment**

- A.** The City Manager is authorized to appoint any person to a temporary employment position provided that the Mayor and Council have previously approved the position or provided sufficient funds for it.
  
- B.** To the extent that is reasonably possible, the appointment to a temporary employment position shall be made in the same manner as required for a regular hire. The City Manager is authorized to expedite this process for a temporary hire and to waive certain requirements as may be required in the best interests of the City if the temporary appointment must be made more promptly than the ordinary process will allow.
  
- C.** A temporary appointment shall not be made for a period longer than six (6) months.

### **III. RECRUITMENT AND HIRING PROCESS**

#### **Section 8. Temporary Assignment of Additional Duties.**

**A.** A classified employee may be assigned on a temporary basis to perform the duties of another employee who is absent from work, unable to perform regular duties or whose employment has been terminated. Any such assignment for an extended period of time, of more than twenty-four work hours, to a supervisory position or one with a higher salary range, shall require the approval of both the assigned employee and the City Manager. Upon acceptance of any such assignment to a supervisory position or one with a higher salary range, for an extended period of time of more than twenty-four work hours, the employee shall be entitled to a pay increase of not less than five percent (5%) over and above his or her present salary for the period of any such assignment. This pay increase may be increased by more than five percent (5%) to reflect the additional work required, upon the approval of the City Manager and subject to the availability of sufficient funds for this purpose.

**B.** The City Manager may assign an unclassified employee who reports directly to the City Manager to perform additional duties in the absence of any other employee. Any additional compensation for this additional work shall be at the discretion of the City Manager and subject to the availability of funds.

**C.** A temporary assignment as well as any pay increase associated with this assignment shall terminate upon the return of the absent employee to regular duty or upon the hiring of a new employee for that position. Any employee who accepts a temporary assignment of additional duties and satisfactorily performs this work shall be eligible to apply for a regular appointment to that position in the event of any opening in that position.

## **IV. COMPENSATION AND BENEFITS**

### **Section 1. Compensation and Work Periods**

**A.** All employees shall be paid every two weeks. Each employee shall be paid on the Friday that follows the end of the preceding two-week pay period.

**B.** For all employees other than public safety employees, each regular weekly work period shall begin at 12:00:01 A. M. on Sunday and end at 12:00 midnight on the following Saturday night. Different work periods may be established for public safety personnel, as allowed by applicable law, provided that they are also paid every two weeks.

## **IV. COMPENSATION AND BENEFITS**

### **Section 2. Benefits**

**A.** The City of Bisbee will provide each of its employees with all of the benefits which the City is required to provide under applicable State and Federal law. These benefit programs are fully defined in the respective statutes and regulations. At the present time, these mandatory benefits include the following:

1. Social Security benefits for all employees except firefighters who are not participants in this system.
2. Worker's Compensation insurance for all employees.
3. Arizona State Retirement System (ASRS) benefits for all eligible employees.
4. Arizona Public Safety Personnel Retirement System (PSPRS) benefits for eligible law enforcement and fire personnel.
5. Continued health coverage upon termination of employment, as required by federal law ("COBRA").
6. A Long Term Disability Plan for Arizona State Retirement System eligible employees, funded by contributions from both the employee and the City of Bisbee. Members of the Public Safety Retirement System have a Long Term Disability Plan provided by the City of Bisbee.

**B.** The City also provides certain additional benefits to employees, subject to the availability of appropriate plans and the approval by the Mayor and Council of specific contracts with the providers. The specific nature and scope of each of these benefits is defined in the respective contracts or plan documents. At the present time, these additional benefits include the following:

1. Health insurance for full time employees, paid by the City, and optional coverage for spouses and eligible dependents, at the expense of the employee.
2. Dental insurance for full time employees and their eligible dependents.
3. Basic Life Insurance for full time employees, currently in the amount of \$50,000 paid by the City. Optional coverage for spouses and eligible dependents is available at the expense of the employee.

## **IV. COMPENSATION AND BENEFITS**

### **Section 2. Benefits (continued)**

4. An Employee Assistance Program which provides full time employees and their family members with three face to face and unlimited telephonic clinical consultations per incident. Telephonic consultations are also available for childcare and eldercare assistance, financial, legal, identity theft recovery and daily living services. On site critical incident debriefings are an additional benefit provided with the Employee Assistance Program.
5. A Deferred Compensation Plan, through which employees may defer a designated portion of pre-tax income into an investment account, as authorized by Section 457 of the Internal Revenue Code.
6. A Cafeteria Plan for full time employees in the amount of \$67.62 monthly which the employees can elect to place in a Deferred Compensation Plan or apply towards dependent health insurance coverage through the City.
7. A Short Term Disability plan for full time employees to cover disability prior to the availability of any long-term disability.

C. These benefit plans may be altered, based upon changes in the applicable laws or based upon the determination of the Mayor and Council as to which plans and types of benefits are in the best interests of the City and its employees at any point in time. The City reserves the right to amend, modify or terminate, in whole or in part, this benefit package, at its sole and absolute discretion, based upon these criteria. The Personnel Director is authorized to revise this description of the available benefits, as included in this Section, from time to time, as may be necessary to accurately reflect the nature and scope of the benefits that are available at that time. Employees shall be notified in writing of any changes to these benefits.

## **IV. COMPENSATION AND BENEFITS**

### **Section 3. Paid Time Off (O-09-14, O-10-04)**

**A.** Paid Time Off (PTO) is granted by the City of Bisbee to full time regular employees to provide time off from work for vacation, short term illness, personal business or other family matters. It is an annual benefit that is provided to each eligible employee as of January 1 of each year, for use during the remainder of the calendar year. Eligible employees who are hired during any calendar year shall be entitled to a pro-rata portion of the respective full year amount, determined by the percentage of the calendar year which remains. PTO is not granted for the period in which an employee is on a leave of absence, including family medical leave, military leave, or a leave of absence without pay, for a period of more than thirty consecutive days. After the initial thirty days of such leave, PTO for that year shall be adjusted to include only the portion of the year prior to the end of that thirty day period. If and when the employee returns to regular duty, PTO for the remainder of the calendar year will be accrued in the same manner as for a new employee hired during the calendar year, at the designated rate for that employee.

**B.** Employees accrue PTO based upon the length of their respective service with the City. Classified certified fire department personnel accrue more PTO due to their longer work periods. The rates for the annual accrual of PTO are as follows:

Length of Service	7K Partial Exemption Fire Dept.	Non-exempt Employees	Exempt Employees
1 <sup>st</sup> thru 5th year	192 Hours	128 Hours	168 Hours
5th thru 10th year	252 Hours	168 Hours	208 Hours
10 + years	312 Hours	208 Hours	248 Hours

On the employee's fifth and tenth anniversary dates, the employee shall be allocated the net increase between the employee's current rate and the new rate. All other PTO allocations shall be made on January 1 of each year.

**C.** PTO is provided with the understanding that the employee's performance as a City employee will be enhanced by periodic breaks from service and if sufficient time is provided to address any necessary personal or family business. PTO is not intended to be carried forward as a retirement benefit.

**D.** It is the policy of the City of Bisbee that continuing employees may not carry forward to any subsequent year more than one year's amount of accrued PTO hours. Any amount of PTO remaining for any employee as of December 31 of each year that is in excess of the amount accrued for that year will be forfeited.

## **IV. COMPENSATION AND BENEFITS**

### **Section 3. Paid Time Off (continued) (O-09-14, O-10-04)**

**E.** An employee who has requested the use of a specific amount of PTO with reasonable advance notice and who has been denied the opportunity to use this PTO due to the particular circumstances of that department during that calendar year, will not forfeit that requested amount of excess PTO if the particular circumstances of that department prevented the employee from being able to use that PTO during the calendar year. The retention of any such PTO must be approved in writing by the City Manager and must be used within the next six months of the following year or it will be forfeited at that time.

**F.** Employees must request and receive advance written approval from their supervisor or department head for the use of PTO, except for purposes of sick leave or an emergency situation. Any such request may be denied if the employee fails to request the time off with reasonable advanced notice, as necessary to schedule any other employees that may be necessary to complete the work, or if the time off would seriously impair the ability of the remaining employees to complete any necessary tasks of that department at that time. All reasonable requests will be accommodated as circumstances permit, in order to assist the employee in using this PTO for the purposes intended. An employee shall advise his or her supervisor or department head of any leave for illness or an emergency at the earliest possible time and, if requested by a supervisor or department head, may be required to provide sufficient confirmation of the reasons for any such leave taken without prior notice.

**G.** If a paid, legal holiday occurs within a period in which an employee is taking PTO, the employee will receive the benefits of the paid, legal holiday and PTO will not be deducted for that day. If an employee is scheduled to work on a holiday and the employee uses approved PTO for that day, at the request of the employee, the employee may use PTO and receive compensation for both PTO and holiday pay.

**H.** PTO may not be used to extend the period of employment for an employee who has submitted a resignation. Absent specific approval from the City Manager in appropriate circumstances, PTO will not be available for use during the last two weeks of employment.

**I.** Upon termination, an employee will be entitled to compensation for his or her unused PTO at the employee's current hourly rate of pay. Compensation for the PTO accrued for the current year will be paid on a pro rated basis. The amount of PTO for the current year will be calculated based on the percentage of the calendar year that has passed as of the date of termination.

## **IV. COMPENSATION AND BENEFITS**

### **Section 3. Paid Time Off (continued) (O-09-14, O-10-04)**

**J.** If an employee has used more PTO during the year of his or her termination than the amount available from the carry over for prior years and the pro rated amount accrued for that year, as of the date of termination, the value of this excess use of PTO will be deducted from the employee's final pay check or checks.

**K.** An employee may use PTO and receive compensation for additional hours of PTO during a pay period in which the employee also receives other forms of disability related compensation such as workers compensation benefits or other disability compensation. For any employee who receives other forms of disability related compensation in any particular pay period, the amount of PTO used and the compensation for it shall be limited to such amount as will not cause the employee's total compensation and benefits from all sources to exceed the amount of the employee's regular compensation for City work during any pay period. This additional compensation may result in a reduction of the amount that is available from certain disability programs. The employee should consult with the Personnel Director and confirm the total amount of benefits that will be available from each source prior to electing to use PTO in any such situation.

## **IV. COMPENSATION AND BENEFITS**

### **Section 4. Extended Illness Bank (O-09-14)**

**A.** The Extended Illness Bank (EIB) provides additional compensation to a full time employee who is suffering from a more serious illness or disability, prior to the period in which short-term or long-term disability payments are received. The employee's accrued time in EIB may be used for an extended period of illness or disability after the twenty-fourth (24<sup>th</sup>) consecutive hour of work missed due to any such illness or disability for an employee subject to a seven day work period. For firefighters and any other employees whose work periods are longer than seven days, accrued time in EIB may be used for an extended period of illness or disability after the thirty-sixth (36<sup>th</sup>) consecutive hour of scheduled work missed due to any illness or disability.

**B.** EIB is accrued by regular, full time employees who are subject to a seven day work period at the rate of two (2) hours per pay period, until a maximum limit of one hundred twelve (112) hours are accrued. EIB is accrued for full time firefighters and any other full time employee whose work periods are longer than seven days at the rate of three (3) hours per pay period, until a maximum of three hundred thirty-six (336) hours are accrued. When an employee reaches the maximum limit, no additional EIB will be accrued unless or until the employee expends all or any portion of his or her EIB. Additional EIB is not accrued during the period in which an employee is on leave, including family medical leave, military leave or leave of absence without pay, for a period of more than thirty consecutive days.

**C.** Paid Time Off shall be used for the period of missed work prior to the beginning of the EIB period. EIB may be used thereafter, upon the request of the employee and with the approval of the Personnel Director and City Manager. In the absence of circumstances that clearly indicate the existence of an extended illness or disability, the employee may be required to provide confirmation of his or her physical condition to be eligible for EIB, including a doctor's statement. If the employee is not able to return to work prior to expending all of his or her available EIB, the employee may use any remaining PTO prior to receiving payments under either the available short-term or long-term disability coverage, as applicable.

**D.** If a paid City holiday occurs within a period in which an employee is eligible for the use of EIB, the employee shall be compensated for the holiday and EIB shall not be used for that day.

**E.** Any employee who had accrued more than the allowable maximum amount of EIB prior to August 1, 1996, and who still maintains more than this maximum amount, may continue to maintain such amount until it is used. Any such amount that is carried forward shall be used prior to the use of any additional EIB to which the employee is eligible. Any employee who was hired prior to November 1, 1978, shall be compensated

## **IV. COMPENSATION AND BENEFITS**

### **Section 4. Extended Illness Bank (continued) (O-09-14)**

for any unused EIB at his or her current rate of pay per hour upon termination of employment, up to a maximum of 1080 hours for firefighters and a maximum of 360 hours for all other employees. No other employees shall be entitled to any compensation for any unused EIB upon termination of employment.

**F.** An employee may receive EIB compensation during a pay period in which the employee also receives other forms of disability related compensation such as workers compensation benefits or other disability compensation. For any employee who receives multiple forms of such compensation in any particular pay period, the amount of EIB payments shall be limited to such amount as will not cause the employee's total compensation and benefits from all sources to exceed the amount of the employee's regular compensation for City work in any pay period. This additional EIB compensation may result in a reduction of the amount that is available from certain disability programs. The employee should consult with the Personnel Director and confirm the total amount of benefits that will be available from each source prior to electing to use EIB in any such situation.

## **IV. COMPENSATION AND BENEFITS**

### **Section 5. Holidays**

**A.** Full time employees shall be provided with time off with pay for the holidays that are formally recognized by the City. The holidays that are observed annually by the City are as follows:

New Year's Day	Labor Day
Martin Luther King Day	Columbus Day
President's Day	Veterans' Day
Memorial Day	Thanksgiving and the following Friday
Independence Day	Christmas Day

If a designated holiday falls on a Saturday or Sunday, the holiday shall be observed on the same day that the holiday is observed by the state and federal government.

**B.** Full time nonexempt employees who are required to be on duty during any designated holiday shall receive pay for the holiday, at the rate of a full day's pay, in addition to compensation for the hours actually worked during any such holiday. Full time exempt employees who are required to be on duty during any designated holiday shall receive pay for the holiday, at the rate of a full day's pay, and additional PTO time in the amount of the time actually worked during any such holiday.

## **IV. COMPENSATION AND BENEFITS**

### **Section 6. Overtime Pay**

**A.** Each non-exempt employee shall be entitled to compensation at the rate of one and one half (1 1/2) times his or her regular pay for any overtime hours that the employee works during each designated work period. For those employees who are not public safety employees, overtime pay will be paid for hours in excess of forty (40) hours worked each week. Differing work periods and overtime periods may be established for certain designated police or firefighter employees.

**B.** Each non-exempt employee shall obtain specific authorization from his or her supervisor prior to working outside of his or her regularly scheduled work hours. An employee may be granted time off during the same work period in order to limit the amount of overtime pay that may be required during that work period. For non-emergency situations, the supervisor shall make a reasonable effort to provide the employee with not less than twenty-four hours of advance notice prior to scheduling any required overtime work.

## **IV. COMPENSATION AND BENEFITS**

### **Section 7. Bereavement Leave**

**A.** An employee who suffers a death in his or her family shall be entitled to a period of leave with pay for purposes of participating in any funeral or other events with the surviving family members and assisting in the resolution of the affairs of the deceased family member. For purposes of this provision, a death in the family shall mean the loss of a relative to the second degree, by either blood or marriage, including a husband or wife, or grandparent, parent, brother, sister, child or grandchild of the employee or of his or her spouse.

**B.** The bereavement leave period shall be three (3) work days. If the employee will be required to undertake extended travel outside of this immediate area or if there are other particular circumstances that require a longer period to accomplish the purposes of this leave, an employee may be authorized to take up to two (2) additional days of such leave with the approval of the Department Head.

**C.** For firefighters and other employees whose work period is longer than seven (7) days, the period of paid bereavement leave shall be those hours during which the employee is scheduled to work during a consecutive three (3) calendar day period necessary for this purpose, or the scheduled hours during a five (5) calendar day period, if the longer period is approved by the Department Head.

## **IV. COMPENSATION AND BENEFITS**

### **Section 8. Family and Medical Leave (O-09-14)**

A. All employees who are eligible under applicable federal law shall be entitled to take family and medical leave during each calendar year for any purpose or purposes authorized by the applicable law. Federal law requires that the following general notice about the nature and scope of Family Medical Leave Act be provided to all employees:

#### **Employee Rights and Responsibilities** Under the Family and Medical Leave Act

##### **Basic Leave Entitlement**

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

##### **Military Family Leave Entitlements**

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

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

##### **Benefits and Protections**

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

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

## **IV. COMPENSATION AND BENEFITS**

### **Section 8. Family and Medical Leave (continued) (O-09-14)**

#### **Eligibility Requirements**

Employees are eligible if they have worked for a covered employer for at least one year, for 1,250 hours over the previous 12 months, and if at least 50 employees are employed by the employer within 75 miles.

#### **Definition of Serious Health Condition**

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

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

#### **Use of Leave**

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

#### **Substitution of Paid Leave for Unpaid Leave**

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

#### **Employee Responsibilities**

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

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for

## **IV. COMPENSATION AND BENEFITS**

### **Section 8. Family and Medical Leave (continued) (O-09-14)**

military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

#### **Employer Responsibilities**

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

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

#### **Unlawful Acts by Employers**

FMLA makes it unlawful for any employer to:

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

#### **Enforcement**

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

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

**B.** Any employee taking Family and Medical Leave will be required to use any available Paid Time Off (PTO) during this leave period. If this leave is due to a serious health condition of the employee, the employee shall also be required to use available Extended Illness Bank (EIB) time during this leave period. If paid leave is used during any such period, it shall count against the total available Family and Medical Leave time. If the employee has no remaining paid leave, the Family and Medical Leave shall be without pay.

**C.** Eligibility for all Family and Medical Leave shall be determined on a calendar year basis. The Personnel Director shall provide each City employee with an eligibility notice, in the manner required by law, within five (5) business days, absent extenuating circumstances, after the employee requests Family and Medical Leave or after the City acquires knowledge that the employee's leave may be for an FMLA-qualifying reason.

#### **IV. COMPENSATION AND BENEFITS**

##### **Section 8. Family and Medical Leave (continued) (O-09-14)**

**D.** The City reserves the right, to the full extent allowed by federal law, to request medical certification and re-certification from a health care provider that includes all of the information about the basis for FMLA leave which can be lawfully requested.

Each employee who takes Family and Medical Leave due to his or her own serious health condition shall obtain and present a certification from the employee's health care provider that states that the employee is fit to return to work prior to returning to work. This certification shall be a condition for the return to City employment.

**E** This Section shall be applied in a manner that is consistent with all applicable federal and state laws, as they may be amended from time to time. Nothing stated herein shall authorize any violation of any such law.

This page has been intentionally left blank.

## **IV. COMPENSATION AND BENEFITS**

### **Section 9. Jury Duty and Court Procedures**

**A.** The City of Bisbee encourages all of its employees to accept the obligation and the privilege of serving on a jury when called for jury duty. An employee who is called for jury duty at the time that he or she is scheduled for work will be excused with pay. The amount of compensation to be provided to the employee during jury duty will be the difference between the employee's full salary for regularly scheduled work and the amount of the jury fee, excluding travel expenses, received by the employee.

**B.** An employee who is called to jury duty shall advise his or her supervisor of the scheduled date or dates as soon as the employee is certain when he or she will be required to report. An employee who serves on jury duty shall provide the Finance Department with a copy of the payment records received by the employee for jury duty upon his or her return to work as a condition for any payment from the City.

**C.** An employee who is required or requested to provide testimony in connection with any work related incident, in a deposition, trial or other hearing, shall be compensated in the same manner as for other City work during the time required for any such event. An employee who may be required to participate in any private litigation or deposition that does not involve the City or that does not involve information that the employee observed or obtained in connection with the performance of his or her work for the City will be required to take Paid Time Off or leave without pay to participate in any such procedure.

## **IV. COMPENSATION AND BENEFITS**

### **Section 10. Military Leave**

**A.** Leave for active duty military service and for military training obligations shall be granted to all City employees in the manner required by applicable state and federal law. Members of the National Guard or of any branch, reserve or auxiliary of the armed forces of the United States shall be granted leave with pay for all days in which they are called for training duty or to attend camps, maneuvers or drills for a period not to exceed a total of thirty (30) days in any two consecutive calendar years. City employees who are called to active duty shall be granted leave without pay for the period of any such service.

**B.** The City shall make both the employer and the member contributions for any City employee who was an active member of the Public Safety Retirement System on the day before he or she began active military duty. To qualify, the employee must be honorably discharged and return to City employment following separation from active military duty, as required by applicable state law (A.R.S. § 38-858). For any employee who is called to active duty, the City shall continue to provide, at the employee's request and expense, dependent health insurance coverage in the same manner that this coverage is provided for other employees during the period of any such active duty.

**C.** Any employee who is called for active duty military service or for training shall have a right to return to his or her prior position, or a higher open position commensurate with his or her ability and experience, upon the completion of any such military service or training.

## **IV. COMPENSATION AND BENEFITS**

### **Section 11. Leave of Absence Without Pay**

**A.** A leave of absence without pay, for time off in excess of the employee's current amount of Paid Time Off and other authorized leave, is inconsistent with the general needs and requirements of the City and will only be granted in those situations which are clearly within the overall best interests of the City.

**B.** A request for a leave of absence without pay must be approved, in writing, by the Department Head, with the written consent of the City Manager. All available PTO shall be used prior to incurring any leave without pay. Permission to take leave without pay may be denied at the discretion of the Department Head or the City Manager and the denial of any such request shall not be subject to grievance or any other additional review.

**C.** A full time employee who is granted a leave of absence without pay shall continue to be treated as a full time employee for purposes of eligibility of health insurance. The City Manager may authorize continued health insurance to any such employee on the same basis as it was provided prior to the leave, for the period of the authorized leave. The employee shall be required to pay the City directly for the full costs of any additional insurance coverage for a spouse or dependents in order to retain any such coverage during this period. An employee who is granted leave without pay shall not be entitled to accrue paid time off, extended illness bank time, longevity time, life insurance or any additional benefits to which a full time employee may be entitled during the period of any such approved leave.

## **IV. COMPENSATION AND BENEFITS**

### **Section 12. Travel Reimbursement**

**A.** The City of Bisbee will reimburse each employee for authorized business travel taken on behalf of the City as provided for in this Section. Vehicle use shall be subject to the Vehicle Use Policy of these regulations. An employee shall obtain prior approval from his or her Department Head prior to undertaking any overnight travel.

**B.** The City will reimburse employees for meal expenses incurred in connection with overnight travel away from the City for business purposes. The City will also reimburse employees for meal expenses incurred in those other situations which, under the applicable rules of the Internal Revenue Service, reimbursement would not constitute wages for tax purposes. This may include compensation for meals while attending business meetings or conventions of certain exempt organizations, such as governmental or professional organizations, where the meals are provided at the site of the meeting or convention, as part of that event.

**C.** For eligible meals, the City will provide reimbursement for the expenses incurred, up to a maximum of thirty two dollars (\$32.00) per day, upon submission of receipts for the actual expenses incurred. For a claim for an entire day, the employee may allocate the daily per diem amount for breakfast, lunch or dinner as he or she may choose, provided that reimbursement will not exceed the maximum total per day. For partial days, the City will provide reimbursement, upon submission of receipts for meal expenses, up to the following amounts for each meal

Breakfast	5 AM to 10 AM	\$8.00
Lunch	10 AM to 2 PM	\$10.00
Dinner	5 PM to 10 PM	\$14.00

Expenses incurred for alcoholic beverages shall not be reimbursed.

**D.** The City will provide reimbursement for overnight lodging for business related travel. The employee shall seek the most reasonable available accommodations, considering the purpose of the trip, convenience and availability. Receipts will be required for reimbursement. If the Finance Department provides a listing of eligible and recommended accommodations for certain areas, such as Tucson or Phoenix, the employee must make a reasonable effort to stay in a designated or similarly priced accommodation, unless this would be inconsistent with the purposes of the trip.

**E.** For travel by airline or other public carrier, the employee shall use the lowest price available class of service and shall attempt to reserve the ticket as early as reasonably possible to get the best available fare. The employee must present a receipt for reimbursement.

**F.** An employee may be reimbursed for other reasonable and necessary incidental travel related expenses such as parking, a rental car, public transportation or similar expenses. A receipt will be required for any reimbursement.

## **IV. COMPENSATION AND BENEFITS**

### **Section 13. Longevity Pay**

**A.** The City of Bisbee recognizes that an experienced and trained work force provides additional benefits to the City and its citizens and seeks to reward longstanding employees for their dedication to this service to the City.

**B.** Each full-time, employee shall receive additional compensation, applied as an increase to his or her regular rate of pay, based upon the years of full-time service of that employee. Longevity compensation adjustment shall be computed as follows:

1. Upon the completion of five (5) years of continuous employment, an increase of two percent (2%) will be added to the employee's hourly rate of pay.
2. Upon the completion of ten (10) years of continuous employment, an increase of an additional three percent (3%) will be added to the employee's existing hourly rate of pay.
3. Upon the completion of fifteen (15) years of continuous employment, an increase of an additional four percent (4%) will be added to the employee's existing hourly rate of pay.
4. Upon the completion of twenty (20) years of continuous employment, an increase of an additional five percent (5%) will be added to the employee's existing hourly rate of pay.
5. Upon the completion of twenty-five (25) years of continuous employment, an increase of an additional six percent (6%) will be added to the employee's existing hourly rate of pay.

## **IV. COMPENSATION AND BENEFITS**

### **Section 14. Pay Adjustments**

**A.** Upon the approval of a new salary range for a position, each employee in that position shall receive an increase in pay in the amount, if any, that is required to raise the employee's rate of pay to the new salary range. Any such increase shall be effective upon the effective date of the new salary range.

**B.** An employee who is promoted to a new position shall receive any increase in pay in the amount, if any, that is required to raise the employee's rate of pay to the new salary range for that position. This increase shall be effective upon the date of promotion.

**C.** An employee who is demoted to a position with a different salary range shall receive a reduction in pay in the amount, if any, necessary to include that employee's rate of pay within the salary range for the new position. An employee who is demoted as the result of a disciplinary action may also receive an additional salary reduction as a result of that disciplinary action.

**D.** An employee may receive an increase in pay based upon the exemplary performance of his or her job. A recommendation for any such increase shall be submitted by the Department Head to the City Manager for final approval. The approval of such a request is at the discretion of the City Manager and is contingent upon the availability of funds.

**E.** An employee may receive an increase in pay of up to five percent (5%) for obtaining a certification that enhances the ability of the employee to perform his or her work. A qualifying certification must be issued by a state or federal agency or by a recognized professional organization and must be one that is not a prerequisite for the position. To be considered for any such increase, the employee must have demonstrated an ability to perform his or her work at a higher level of proficiency. A recommendation for any such increase shall be submitted by the Department Head to the City Manager for final approval. The approval of such a request is at the discretion of the City Manager and is contingent upon the availability of funds.

## **V. JOB PERFORMANCE REQUIREMENTS AND RESTRICTIONS**

### **Section 1. Employee Relations**

- A.** Each employee has a responsibility to attempt to maintain a good working relationship with all other City staff members. Every City employee, including supervisors and management personnel, shall treat other employees with courtesy and respect. All City business shall be conducted in a polite and courteous manner.

## **V. JOB PERFORMANCE REQUIREMENTS AND RESTRICTIONS**

### **Section 2. Acceptance of Gifts**

**A.** A City employee shall not accept, in the course of his or her work, any fee, gift, meal, goods, services or other benefit of more than nominal value that is provided for the personal use of the employee. A City employee may, however, accept, in the course of his or her work, a fee, gift, goods, services or other benefits of more than nominal value from any person or company who is now or may be in the future doing business with the City if the gift is provided for the benefit and use of the City itself. For purposes of this regulation, “nominal value” shall mean a cost or fair market value of five dollars (\$5.00) or less.

## **V. JOB PERFORMANCE REQUIREMENTS AND RESTRICTIONS**

### **Section 3. Political Activities**

**A.** All City employees are prohibited from using City funds, vehicles, equipment, supplies, buildings or other resources of any type to provide either direct or indirect support for or opposition to any candidate at the local, state or federal level or to support or to oppose any ballot measure in any election. Every City employee is also prohibited from engaging in any political activity during the time period in which he or she is being compensated for the performance of City work. No City employee shall participate in any political activity while in a City uniform. Nor shall any City employee engage in any political activity on City property, other than at a public park, public way or other such area that is made available to the general public for political speech or political activities.

**B.** For purposes of this Section, the types of “political activities” which are prohibited for City employees during working hours or in connection with any use of City resources or uniforms include, but are not limited to, signing or distributing petition forms, soliciting funds for campaign purposes, making telephone calls or sending e-mails in connection with any particular campaign or political party, requesting support for a particular candidate or proposition, distributing campaign literature or information of any type or wearing or displaying campaign buttons, ribbons or other political paraphernalia while performing City work. This section shall not prevent any City employee from exercising his or her right to vote in any election during working hours or while in a City uniform.

**C.** City employees are allowed to participate fully in political activities as private citizens, while off duty. In connection with any such private participation, each City employee is required to maintain a clear separation between his or her public responsibilities and his or her private political activities. A City employee may identify him or herself as a City employee in connection with a political activity when required, such as for identification purposes in connection with private campaign contributions. No such participation shall be done in any manner as to imply any official support for or opposition to any particular candidate or ballot proposition.

**D.** No City employee shall use, or attempt to use, his or her City employment to influence or coerce any other employee to support or to oppose any particular candidate or ballot proposition. In particular, supervising employees shall refrain from soliciting campaign contributions or other political support from subordinates in any manner that may be construed to impose any undue influence upon any other employee. This does not prevent any employee from engaging in any off-duty political activity that may include solicitations for funds or support that are part of a general campaign that is aimed at the general public or a significant larger portion of the public than just other City employees.

**E.** The political views or practices of a City employee or an applicant for City employment shall not be considered in connection with any decision regarding promotion, transfer, compensation or employment.

## **V. JOB PERFORMANCE REQUIREMENTS AND RESTRICTIONS**

### **Section 3. Political Activities (continued)**

**F.** In the event that any additional restrictions on political activity are imposed on any particular employees as the result of conditions for any grants or other funding sources that may support any such employment, those restricted employees shall also comply with all such lawful restrictions.

## **V. JOB PERFORMANCE REQUIREMENTS AND RESTRICTIONS**

### **Section 4. Nepotism and Conflict of Interest**

**A.** No City employee with the authority to appoint or to hire any other person may appoint, hire or vote for the appointment or hiring of any other person who is related by either blood or marriage within three degrees (number of steps to a common ancestor) of that City employee. This will prevent a City employee from participating in the hiring or appointing of a spouse, child, child's child, great grandchild, parent, grandparent, great grandparent, brother or sister, uncle or aunt of the whole or half blood, their spouses and these same relatives of a spouse.

**B.** Any City employee who has, or whose relative has, a substantial interest in any decision of the City shall make known such interest in the official records of City and shall refrain from participating in any manner as an officer or employee in any such decision. (A.R.S. § 38-503.B)

**C.** No City employee who has, or whose relative has, any substantial interest in any contract, sale, purchase or service to the City shall participate in any manner in the negotiation, approval, implementation or enforcement of any such contract, sale or purchase. In the event of any such conflict, the employee shall make this conflict known in the public records of the City.

**D.** For purposes of this section, a "relative" means the spouse, child, child's child, parent, grandparent, brother or sister of the whole or half blood and their spouses and the parent, brother, sister or child of a spouse. A "substantial interest" means a pecuniary or proprietary interest other and one specifically defined as a remote interest under applicable state law. (A.R.S. § 38-502).

## **V. JOB PERFORMANCE REQUIREMENTS AND RESTRICTIONS**

### **Section 5. Outside Employment**

**A.** City employment must be the primary employment for all full time employees. No City employee shall engage in any outside employment with any other employer without first obtaining specific written approval from his or her Department Head or Supervisor to engage in any such additional employment. An applicant for employment must disclose any continuing outside employment in connection with his or her application.

**B.** Approval for additional employment will be granted unless the outside employment conflicts with the interests of the City. Outside employment will not be allowed in those situations in which the additional employment may interfere with the prompt and effective performance of all official duties, including on-call or scheduled overtime work; the employee's association with the other employer may give rise to any conflict of interest; or the additional employment is not clearly distinguishable from the City employment and may give rise to any confusion as to which employer the employee is representing at any point in time.

## **V. JOB PERFORMANCE REQUIREMENTS AND RESTRICTIONS**

### **Section 6. Drug and Alcohol Policy**

**A. Introduction** The safe and efficient performance of City business requires a drug and alcohol free workplace. No employee shall report for or conduct City work under the influence of alcohol or drugs, or any substance which impairs an employee's mental or physical capacity. The use of illegal drugs or the misuse of legal drugs or alcohol by any employee, or the presence in any employee's system of a prohibited drug or drug metabolite, in the workplace is prohibited. The possession, sale or distribution of illegal drugs, alcohol, or any controlled substance by an employee during working hours while on City business or while on City property at any time is prohibited except as expressly authorized for law enforcement personnel.

**B. Pre-Employment Testing for Initial Employment** All applicants being considered for initial paid employment with the City in any safety sensitive position for which pre-employment testing is allowed by law shall be required to submit to, and successfully pass, a drug screen urinalysis after a conditional offer of employment is made by the City. The offer of employment shall be contingent upon a negative drug screening. The employee, at his or her own expense, may request that a second laboratory test of the sample be conducted, if he or she believes that the initial screen was inaccurate. If an applicant fails to pass the pre-employment drug screening, the applicant will be disqualified from consideration for employment and shall not be eligible to apply for employment with the City for a period of six months from the date at the initial, positive drug test result. An applicant's failure to submit to the required pre-employment drug test shall be considered as a request for withdrawal from consideration for the position for which he or she applied.

**C. Reasonable Suspicion Testing** If the City has reason to suspect that an employee is violating this policy or when there is reasonable cause to believe an employee is under the influence or is impaired by alcohol or drugs, the City may require the employee to submit immediately to medical tests administered for drug or alcohol testing which include the chemical analyses of breath, urine or blood. A written record of the observations and facts leading to the reasonable suspicion shall be made by the supervisor or department head within 24 hours of the observation. The employee shall not engage in safety sensitive work or the operation of vehicles or machinery for eight hours after the observation, unless the employee tests negative for drugs and alcohol during that time. If the test is not administered within two hours following the observation, the supervisor shall document the reasons for the delay. If an alcohol test cannot be administered within eight hours, it will not be given. If a drug test cannot be given within 32 hours, it will not be given.

For purposes of this rule, "reasonable suspicion" shall mean that there is some specific basis to believe that a particular person may possess or be under the influence of drugs or alcohol as a result of one or more of the following types of evidence:

## V. JOB PERFORMANCE REQUIREMENTS AND RESTRICTIONS

### Section 6. Drug and Alcohol Policy (continued)

1. Observable phenomena, such as direct observation of drug or alcohol use and/or the physical symptoms or manifestations of being under the influence;
2. Abnormal conduct, erratic behavior, excessive absenteeism
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 on the job or immediately preceding work, if provided by a reliable and credible source that witnessed the use, and if independently corroborated;
7. Evidence that an individual has tampered with a drug or alcohol test during his or her employment with the City; or
8. Objective evidence or a reliable report of use, possession, sale, solicitation, or transfer of drugs or alcohol while working or while on City property.

**D. Testing Following an Incident** Any employee whose use of a vehicle or equipment in the course of City employment results in any of the following situations shall be required to submit to drug and alcohol testing as soon as possible following any such event:

1. an accident in which a third party is fatally or seriously injured;
2. an accident that requires medical assistance for the employee or any other person or that results in significant property damage requiring one or more vehicles or pieces of equipment to be towed from the site; or
3. any accident in which there is also a reasonable suspicion of any violation of this drug and alcohol policy.

**E. Commercial Driver's License Holders** All employees who are required as condition of their City employment to have a valid Commercial Driver's License (CDL) shall comply with the United States Department of Transportation (USDOT) and Federal Highway Administration (FHWA) rules for drug and alcohol testing of commercial motor vehicle drivers and drivers with a CDL. The federal rules, which are set out in 49 CFR parts 40 and 382, as they may be amended from time to time, are hereby adopted by reference as part of this policy, with respect to employees required to maintain CDL's.

The federal rules require pre-employment, post-accident, reasonable suspicion, random testing and follow up testing for alcohol and drugs through the use of breathalyzers and urine samples. The procedures required by these federal rules will be applied.

#### **F. Policy Violations**

1. **Alcohol** An employee who tests positive for alcohol while in the course of City employment shall be in violation of this policy. An alcohol test is considered positive if the alcohol level is .04 or above.

## **V. JOB PERFORMANCE REQUIREMENTS AND RESTRICTIONS**

### **Section 6. Drug and Alcohol Policy (continued)**

2. **Drugs** An employee who tests positive for a controlled substance or illegal drug use, to any degree, shall be in violation of this policy.

**G. Effect of Failure to Comply with Policy** An employee who fails to submit to a drug or alcohol test as required by this policy or who violates any aspect of this policy is subject to disciplinary action up to and including dismissal. Employees and applicants who are requested to submit to a drug test must agree in writing to allow the results of such test to be disclosed to and used by the City's authorized representatives who have a need to know. Failure to sign such a consent form shall be considered a refusal to submit to testing.

**H. Additional Employee Responsibilities** In addition to the requirements of this policy specified above, each City employee, as a condition for employment, is required:

1. To notify his or her supervisor or department head of any criminal drug arrest for any violation occurring in the workplace no later than five days after such arrest;
2. To notify his or her supervisor or department head of any criminal drug statute conviction no later than five days after such conviction;
3. To notify his or her supervisor or department head of any arrest involving driving under the influence of drugs or alcohol (DUI) no later than five days after such arrest;
4. To notify his or her supervisor or department head of any license suspension that results from any drug or alcohol related arrest or conviction as soon as possible and to refrain from driving any City vehicle until this license is restored; and
5. To immediately report to his or her supervisor or department head any unsafe working conditions or hazardous activities that may jeopardize the safety of employees arising from drug or alcohol use by any person. This includes the duty to immediately report any violations of the drug and alcohol policy that the employee observes. An employee who fails to report such a violation is subject to disciplinary action up to and including dismissal.

**I. Drug and Alcohol Testing Methodology** Every reasonable effort will be made to obtain the most accurate drug or alcohol test results. Testing procedures will include a two-tiered testing program to ensure maximum accuracy in the test results, observations 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/MC) or an equivalent scientifically accepted method, as conducted by a properly certified laboratory, which provides quantitative data about the detected drug or alcohol.

## **V. JOB PERFORMANCE REQUIREMENTS AND RESTRICTIONS**

### **Section 6. Drug and Alcohol Policy (continued)**

In addition to the samples required for the two-tiered testing, an additional sample shall be obtained for potential use by the employee. Following a positive screen on the initial test, the employee may request, at his or her own expense, that a sample be transferred directly to another independent certified testing laboratory and tested at the employee's expense. The employee must request and make satisfactory arrangements for any such independent testing within seventy-two (72) hours of receiving notice of the initial positive test or this opportunity for conducting a separate test will be deemed to have been waived by the employee. This second testing procedure shall not modify or amend any obligations or requirements that may be applicable for CDL testing under applicable federal law.

## **V. JOB PERFORMANCE REQUIREMENTS AND RESTRICTIONS**

### **Section 7. Tobacco-free Workplace Policy (O-09-16)**

**A.** The use of tobacco, including smokeless tobacco, is prohibited in all City owned buildings and all other structures used by the City for conducting City business. Tobacco use is allowed outside of City buildings or structures at locations that are sufficiently removed from doorways, windows, ventilations systems and other access so that smoke does not enter City buildings. Any use of tobacco products, including smokeless products, shall be done in a manner that limits, to the greatest degree reasonably possible, the exposure of both other employees and members of the public to the tobacco product and to other related waste, including the spittle of the user. Containers used as “spittoons” shall not be left unattended in any public vehicle, office or other public space and shall be properly disposed of by the tobacco user. Ash trays may be allowed in public spaces outside of City buildings, provided that they are properly maintained by the users.

**B.** Tobacco use, including smokeless tobacco, is prohibited in all City vehicles and equipment.

## **V. JOB PERFORMANCE REQUIREMENTS AND RESTRICTIONS**

### **Section 8. Vehicle Use Policy**

**A.** All City vehicles shall be used only for purposes of conducting City business. No City vehicle shall be operated by any person other than an authorized City employee or City official. Any City vehicle which is required to be taken home for valid business reasons shall be used to commute to work and for other City business only.

**B.** Certified police officers are required to take home their assigned official vehicles, to be used for official purposes only. This allows the officers to be readily available when called out to on-duty status in an emergency situation, to deploy to multiple locations throughout the City when required, to assist in the deterrence of crime in residential areas where they reside, and to provide better accountability for maintenance and repairs. Firefighters and emergency medical personnel are also required to take home certain emergency response vehicles when they are on-call, as necessary to allow for a more expedient response to any emergency.

**C.** The City Manager is also authorized to designate other City employees, including Public Works employees and other public safety employees, who are required to take home certain designated City vehicles to allow them to respond more quickly to any emergency situations. These vehicles will be limited to clearly marked City trucks and other vehicles that are not appropriate for personal use, to the extent possible, to avoid taxable fringe benefits. The City Manager shall maintain a list of these employees and the vehicles which they are required to take home for this purpose.

**D.** When a City vehicle is available for purposes of City travel, it shall be used rather than a private vehicle. Prior to using a private vehicle for City travel, an employee shall obtain authorization from the City Manager.

**E.** If a private vehicle is used for authorized City travel, the vehicle owner shall be reimbursed at the then current rate, as established by the Internal Revenue Service (IRS), for business mileage. To obtain any such reimbursement, the vehicle owner shall submit a request to the Finance Department including an itemization of the mileage, the date and purpose of the trip, and such additional information as may be required by the Finance Department for accounting purposes. If the private vehicle was used for any private purposes in connection with the City business, the mileage associated with any such purposes shall be deducted prior to submitting any such request.

**F.** If a private vehicle is used for purposes of an authorized City business trip due to the fact that the employee also intends to include personal business in connection with any such trip, the employee's reimbursement may be limited to the actual estimated cost of the use of a City vehicle for the City portion of the trip, if that amount is less than the established Internal Revenue Service business mileage rate.

**G.** The commuting value of an assigned City vehicle that is required to be used for commuting from home to work and that is not exempt from classification as a fringe benefit under the applicable IRS rules and regulations shall be treated as taxable wages for any such employee.

## **V. JOB PERFORMANCE REQUIREMENTS AND RESTRICTIONS**

### **Section 9. Electronic Information and Communications Policy**

**A. Introduction** The City provides employees with access to the City's electronic mail system (e-mail), the Internet, computer systems and the City's telephone and telecommunications equipment, including land-based and cellular, as necessary for the conduct of official City business. All such equipment and systems are intended for the performance of the official business of the City. Any unauthorized use or abuse of the equipment and systems provided by the City may result in disciplinary action, including termination.

#### **B. Computer System Usage**

1. All of the computer systems and equipment provided by the City, and the data included therein, are public systems and subject to monitoring and review by the City and its designees. No employee should have any expectation of privacy regarding any use of these City systems and equipment.

2. Tampering with or altering City owned and City provided hardware or software without permission is prohibited. Only authorized personnel are allowed to make configuration changes to these computer and communication systems. Prior approval must be obtained from the Department Head for any changes to equipment, software or its configurations. The types of alterations that require specific prior approval include, but are not limited to, the installation, downloading, or removal of software; the addition or removal of hardware connected to these systems; changes to the operating systems; installation of screen savers, desktop images, toolbars, or emoticons; changes or modifications to the computer ID tags or Internet address (IP) assignments; or changes to anti-virus protection that has been provided. If the employee or Department Head has any doubt as to whether or not any such change may be appropriate, a request for review should be submitted to the City's Information Technology contractor or designated employee.

3. Each employee is responsible for maintaining the security of the computer systems assigned to that employee. At no time should the employee provide his or her password to any other person, other than designated IT personnel. Employees should prevent any unauthorized use of or access to these computer systems by logging off while away from the work station. Employees should also take reasonable steps to prevent access by computer viruses, worms and other disabling programs by not opening, forwarding or attaching questionable material or accessing questionable websites.

4. Employees may not use any City systems or equipment for engaging in any unauthorized attempt to gain access to any other system or equipment. Hacking or any other violation of the Federal Electronic Communications Privacy Act is prohibited.

## **V. JOB PERFORMANCE REQUIREMENTS AND RESTRICTIONS**

### **Section 9. Electronic Information and Communications Policy (continued)**

#### **C. Telephone and Communication System Usage**

1. The City telephones, both land based and cellular, pagers, PDA's, radios and other communication devices are provided to conduct City business. Any charges that may be incurred by the City for long distance, directory assistance, access charges, roaming, text messaging, local airtime charges, excess use or any other such fees for any use other than for the official business of the City shall be promptly reimbursed by the employee. The City will review, monitor and audit this usage. Employees shall assist in the identification of any such charges and any personal use upon request.

2. Employees shall use telecommunications equipment in a safe manner, which limits the threat of injury or death to the employee and others. Employees, other than public safety personnel, shall not drive while making or accepting calls or text messages, absent circumstances requiring immediate action. Employees are required to comply with all applicable traffic laws regarding the use of telecommunications equipment while driving. Employees who are charged with traffic violations resulting from the use of communications devices while driving shall be solely responsible for all consequences of any such action.

**D. Unauthorized Uses** No City owned or provided computers, telecommunications equipment or any other type of electronic devices shall be used for any of the following activities:

1. Intentionally accessing, creating or transmitting any websites, links, emails, pictures or any other type of information or materials that could reasonably be construed to be pornographic, sexually explicit, scandalous, discriminatory, harassing, libelous, or illegal. Any employee who may inadvertently access any such material or information in the course of conducting City business on City equipment shall report any such access to his or her supervisor immediately.

2. Using the City equipment for personal or private commercial purposes or financial gain, such as in connection with the operation of a private business or the sale of personal property.

3. Soliciting contributions for any purpose, including charitable contributions, except as authorized for a City sponsored event or for contributions to be made directly to the City.

## **V. JOB PERFORMANCE REQUIREMENTS AND RESTRICTIONS**

### **Section 9. Electronic Information and Communications Policy (continued)**

4. Initiating or forwarding chain mail or spam or initiating or forwarding any jokes, messages or materials that could reasonably be construed to be offensive, threatening or harassing.
5. Attempting to influence the outcome of any election or political campaign through the solicitation of funds, providing political support or otherwise engaging in any campaign related activity.
6. Engaging in any unlawful activities, including violations of federal copyright laws.
7. Using City equipment in a manner that will limit or interfere with the capacity of these systems to perform necessary City business, such as downloading or playing music or videos, or other materials which impose high demands on the computer systems, for private or personal use.

The City reserves the right to monitor and review the use of all City equipment and systems for compliance with these requirements.

#### **E. Limited Personal Usage**

1. The City's computer and telecommunications equipment and systems may be used for personal use on a limited basis only. Limited personal use includes such matters as scheduling personal appointments, making arrangements with family and friends, conducting research and preparing educational papers. Limited personal usage should be confined to authorized work breaks or before or after regular working hours and must be limited so that it will not interfere with the performance of City work.
2. Limited personal use does not include any activity for which the City will incur additional expense, such as long distance calls, access charges or additional cell phone use costs. Any such expenses that may be incurred must be promptly reimbursed to the City by the employee. For cell phones, limited personal use must also be less than ten percent of the total use of that phone for each billing period. If an employee's personal use of a cell phone is more than this limited use, the employee will be charged a pro-rata share of the costs for that cell phone.
3. The use of personal cell phones by employees during working hours must be limited in this same manner. Personal calls and text messaging should not interfere with the performance of City work and should be limited to work breaks, if possible.

## **V. JOB PERFORMANCE REQUIREMENTS AND RESTRICTIONS**

### **Section 9. Electronic Information and Communications Policy (continued)**

#### **F. Public Records**

1. All records and data stored, maintained or recorded on the City's computer and telecommunications equipment belong to the City and may be inspected, copied and disclosed by the City. If an employee has or creates any private or confidential information which would not be appropriate for public disclosure, that information should not be put on or into the City's computer or telecommunications systems unless it is necessary for the performance of City business.

2. Email and other electronic information that has been prepared or received in connection with the performance of work for the City is generally classified as a "public record" and must be retained and produced in the same manner as is required by law for all other public records of the City.

#### **G. Disciplinary Actions**

The failure to comply with the City's Electronic Information and Communications Policy, or any of the specific requirements thereof, may result in disciplinary action, including termination. If any employee has any question regarding the requirements of this policy, that question should be submitted to the employee's Department Head or to the Personnel Director.

## **V. JOB PERFORMANCE REQUIREMENTS AND RESTRICTIONS**

### **Section 10. Performance Evaluation**

- A. Objective** The purpose of the employee performance evaluation shall be to provide documented feedback on the employee's performance and establish clear goals for employee development.
- B. Frequency** All employees shall be evaluated at the end of the probationary period and annually thereafter.
- C. Evaluating Authority** The head of each department is designated as the official evaluating authority. The Department Head may delegate this function.
- D. Review with Employee** The evaluator shall discuss the performance evaluation with each employee. If an employee disagrees with any statement in an evaluation, the employee may submit, within ten (10) days following the conference with the evaluator, a written statement, which shall be attached to the evaluation form and forwarded to the Personnel Director. Upon request, the employee shall be furnished with an official copy of the employee performance evaluation.
- E. Public Record** A performance evaluation is a public record and is subject to the laws applicable to such records.

## **V. JOB PERFORMANCE REQUIREMENTS AND RESTRICTIONS**

### **Section 11. Efficient Use of Energy and Other Public Resources**

**A.** The City of Bisbee holds its financial and material resources in trust, for the benefit of the public, and must use them wisely for this purpose. To avoid any unnecessary waste of these public resources, it is necessary to use them in an efficient manner. It is also necessary to limit, to the extent reasonably possible, any potential adverse impacts upon the environment that may arise from the use and consumption of these public resources in the conduct of City business. To accomplish these objectives, each City employee must be conscious of the manner in which public resources are being used and attempt to reduce the amount of excess use or waste of these resources whenever possible.

**B.** Each City employee shall assist in the effort to conserve the City's financial and material resources by cooperating in the City's effort to accomplish the following goals:

1. Reduce the amount of energy consumed in City buildings. Turn lights, computers, heating and cooling systems, and electronic devices off when these are not needed for City business.
2. Reduce the amount of fuel consumed by the City. Avoid unnecessary trips in City vehicles and turn off the engine when the vehicle is stopped.
3. Reduce the amount of waste disposed of by the City. Reduce, reuse and recycle where possible.
4. Conserve water resources. Limit the amount of water used for City purposes and report any leaks or unnecessary usage.

**C.** The City Manager and the Department Heads may develop and implement specific directives and guidelines intended to foster the efficient use of City resources. Employees are encouraged to assist in this effort by offering suggestions as to how best to accomplish this. These directives and guidelines may be applicable to all employees or may be directed to the particular circumstances of a specific department. The failure to comply with these directives and guidelines, or the repeated deliberate waste of City resources, after reasonable notice of the standards that are expected for City employees, may result in disciplinary actions pursuant to these rules and regulations.

## **VI. DISCIPLINARY ACTIONS**

### **Section 1. Types of Disciplinary Actions**

**A. Verbal Reprimand** A verbal reprimand is an oral notification to an employee by a supervisor that the employee's job performance has not met expectations or that the employee has engaged in misconduct. Any such reprimand should also include a clear explanation of what is required for proper job performance. The supervisor shall maintain a record of the date and the nature of any such verbal reprimand.

**B. Written Reprimand** A written reprimand is a documented notice to the employee from a supervisor or department head that the employee's job performance is not acceptable or that the employee has engaged in misconduct. The written reprimand should also include a clear explanation of what is required for proper job performance. The employee shall be given a copy of the written reprimand and the original shall be provided to the Personnel Director for inclusion in the employee's personnel file. The employee may prepare a written response which shall also be included in the employee's personnel file.

**C. Administrative Leave** Administrative leave is not a disciplinary action, but it may lead to such action. It allows the employee to be placed on leave with pay to permit further investigation into matters that may lead to a possible disciplinary action. During administrative leave, the employee is considered to be on full duty, eligible for all benefits, and must be available to participate and aid in any investigation. An employee may be placed on administrative leave if the department head, with the concurrence of the City Manager, determines that the employee's presence at the work site would hinder any investigation or that the employee's presence would be detrimental to the public interest or to the continued efficient operation of the City, prior to the final resolution of any potential disciplinary action.

**D. Disciplinary Suspension** Disciplinary suspension is the temporary suspension of an employee from City employment without compensation for a designated period. The period of disciplinary suspension cannot exceed thirty (30) days. Except for the loss of compensation, the employee shall continue to be designated as a City employee for purposes of employment benefits and insurance.

**E. Disciplinary Probation Period.** A disciplinary probation period is a serious form of disciplinary action that provides an employee with a last-chance opportunity to demonstrate that he or she is capable of performing the job in the manner required. Any failure to perform the job in a satisfactory manner during this period may result in termination. A period of disciplinary probation may not exceed ninety (90) days and may be imposed in conjunction with other disciplinary actions.

**F. Involuntary Demotion** Involuntary demotion is a change in the employee's job classification or rate of pay as a result of a disciplinary action or as a result of the employee's demonstrated inability to perform the prior job as required.

## **VI. DISCIPLINARY ACTIONS**

### **Section 1. Types of Disciplinary Actions (continued)**

**G. Involuntary Termination of Employment** An involuntary termination of employment ends the term of employment and all of the rights and benefits that are associated with City employment. This is the most severe disciplinary action, to be imposed for serious or repeated violations of the City's policies and standards.

## **VI. DISCIPLINARY ACTIONS**

### **Section 2. Pre-Action Hearing**

**A.** Prior to taking any disciplinary action against an employee that will result in any loss of regular pay or loss of employment, the employee shall be given a pre-action hearing, as necessary to protect the employee's rights to due process. This pre-action hearing shall be provided to the employee prior to any disciplinary suspension, involuntary demotion or involuntary termination.

**B.** The employee will be provided with a written notice of any action requiring a pre-action hearing. This notice will include a description of the charge or charges against that employee and an explanation and summary of the evidence that supports any such charges. The notice will also include a date and time to allow the employee an opportunity to respond and to present his or her version of the events prior to any formal action. The date and time for the employee's response shall be not less than three (3) working days after the delivery of the notice to the employee.

**C.** The pre-action hearing shall be an informal meeting between the employee and the Department Head that is intended to provide the employee with a full opportunity to explain his or her position and to rebut any allegations that may be unfounded. The employee may have a representative present at any such pre-action hearing, but the employee should be prepared to present and to explain his or her own position. The Department Head will have a third party witness present, which may be the Personnel Director, but will not include an attorney. The City will not make an audio recording or transcript of this meeting.

**D.** Following the pre-action hearing, the Department Head will consider any additional information that may have been presented, conduct any additional investigation that may be necessary and proceed with any disciplinary action against that employee that may be appropriate after the consideration of all of the available information.

## **VI. DISCIPLINARY ACTIONS**

### **Section 3. Initiation of Disciplinary Action**

**A.** All disciplinary actions except for verbal reprimands shall be initiated by providing the employee with a clear and specific written statement of the charge or charges against the employee and a summary of the evidence in support of any such charges. All of the evidence that is reasonably available in documented form shall be included with this written statement.

**B.** If additional review of the disciplinary action is permitted, the written statement of disciplinary action provided to the employee shall include a specific notice of the time period required for the submission of a "Notice of Grievance" and a copy of the administrative rules that are applicable to any additional review.

## **VI. DISCIPLINARY ACTIONS**

### **Section 4. Grounds for Disciplinary Actions**

**A.** Continued employment with the City of Bisbee is conditioned upon acceptable conduct and the satisfactory performance of all required duties. The City and its representatives will take disciplinary action, up to and including dismissal, against any employee who fails to fulfill these requirements.

**B.** The specific grounds for disciplinary action include, but are not limited to, the following:

1. The employee lacks sufficient competency or skills to perform the assigned duties and responsibilities, after having received a reasonable opportunity to gain any such skills that the employee acknowledged that he or she lacked at the time of hiring or appointment to the position.

2. The employee has used rude or abusive language or engaged in rude or abusive behavior directed at a fellow employee, public official or member of the public or has engaged in any behavior that has resulted in physical harm, injury or reasonable fear of injury to an employee, official or member of the public.

3. The employee has been insubordinate, willfully disobedient or has failed to follow reasonable direction from a supervisor.

4. The employee has possessed, used, distributed or been under the influence of alcohol, controlled substances or any unauthorized drug while in the performance of City duties, unless authorized to do so in connection with a legitimate law enforcement activity.

5. The employee has accepted for personal use any fee, gift, meal, goods, services or other benefit of more than nominal value in the course of his or her work from any person. For purposes of this regulation, "nominal value" shall mean a cost or fair market value of five dollars (\$5.00) or less. No such fee, gift, goods, services or other item of more than nominal value should be accepted from any person or company who is now or may be in the future doing business with the City unless the gift is provided for the benefit and use of the City itself.

6. The employee has used or attempted to use political influence for the purpose of securing employment benefits or advantages for the employee or for any other person.

7. The employee has been convicted of a criminal offense involving moral turpitude while employed by the City.

## **VI. DISCIPLINARY ACTIONS**

### **Section 4. Grounds for Disciplinary Actions (continued)**

8. The employee has made a false statement, either written or verbal, in connection with his or her application for employment with the City.

9. The employee, as a result of negligence or willful misconduct, has caused damage to or the loss of public or private property. A disciplinary action on these grounds may include a requirement that the employee reimburse the City for all or any portion of the damages sustained by the City.

10. The employee has been absent without sufficient justification when he or she was scheduled to be at work, has repeatedly failed to arrive at the work site by the scheduled time, or has left the work site without good cause. Taking leave from work, with or without compensation, without first obtaining approval for any such leave as required by these rules and regulations will be considered to be an "absence without sufficient justification".

11. The employee has taken or misappropriated City property or City funds for private use by the employee or by any other person. The employee has used City property or City funds for other than public purposes without specific authorization.

12. The employee has engaged in actions during his or her employment that are unsafe for the employee or for other persons. The employee has violated safety rules and procedures, after having been advised of these required standards.

13. The employee has made a false statement, either written or oral, which the employee knew to be untrue at the time and which was material to the performance of City employment.

14. The employee has failed to comply with any of the specific requirements of the City of Bisbee Personnel Rules and Regulations.

C. As a general practice, the City will engage in a process of progressive discipline, from the less severe to the more severe, in order to provide the employee with a reasonable opportunity to modify his or her behavior prior to dismissal. The City, however, reserves the right to terminate the employment of any employee or to take other severe action, for behavior that seriously disrupts the performance of City business, that is fundamentally inconsistent with the standards required for public service, or that is inconsistent with the best interests of the City.

## **VII. GRIEVANCE PROCEDURES**

### **Section 1. Purpose of Grievance Procedures**

**A.** Although the City of Bisbee will attempt to resolve disputes with its employees as expeditiously as possible, a Formal Grievance procedure is necessary for certain, more difficult situations. These Formal Grievance Procedures are intended to provide a means for additional review and consideration for certain disputes that cannot be otherwise resolved administratively. At the same time, however, this process is not intended to prevent the use of more informal administrative procedures to resolve disagreements and misunderstandings that may arise between City employees and City officials.

**B.** Regular status employees in classified service may pursue a Formal Grievance, as described in this Chapter, for the review of actions that involve the involuntary termination of employment, a suspension without pay, a demotion, or a reduction in pay. All employees may request a review and discussion of other questions arising from the interpretation and application of City rules and procedures that are outside of the scope of the Formal Grievance process, as also described in this Chapter.

## **VII. GRIEVANCE PROCEDURES**

### **Section 2. Right to File a Formal Grievance and Issues That Are Subject to Grievance**

**A. Right To File A Formal Grievance** Each regular status employee in the classified service shall have the right to file a Formal Grievance, as provided in this Section. Unclassified personnel shall not have a right to file a Formal Grievance pursuant to these procedures.

#### **B. Issues That Are Subject To Formal Grievances**

1. A Formal Grievance may be filed by an employee with grievance rights for the review of any of the following:
  - a. an involuntary termination of employment.
  - b. a disciplinary action that includes a suspension without pay.
  - c. a disciplinary action that includes a demotion or a reduction in pay.
  
2. A Formal Grievance **may not** be filed with regard to any of the following:
  - a. a verbal or written reprimand.
  - b. a dispute about the determination of a fundamental governmental policy such as the rate of pay for a particular job classification, the equipment or resources to be provided for the performance of that job, or the structure, staffing and organization of a particular department.
  - c. a dismissal from employment, or a reassignment to a previously held position, for the failure to complete a probationary period in a satisfactory manner.
  - d. an employee performance evaluation.
  - e. any other dispute for which such review is not specially authorized.

## **VII. GRIEVANCE PROCEDURES**

### **Section 3. Four-Stage Formal Grievance Process (O-10-04)**

#### **A. Presentation to the Department Head**

1. An employee may initiate a Formal Grievance by presenting a written “Notice of Formal Grievance” to the employee’s Department Head within five (5) working days of the date of the action that is subject to the Formal Grievance. This notice shall include a complete explanation of the basis of the Formal Grievance and as much documentary evidence as the employee is able to provide at that time. The notice shall also indicate the employee’s address and the location to which all additional responses and notices should be delivered.

2. The Department Head shall investigate the matter and shall within five (5) working days meet with the employee to review the matter. Within five (5) working days after that meeting, the Department Head shall provide the employee with a written statement of findings made by the Department Head. The Department Head shall also include any additional evidence or information upon which he or she has relied.

#### **B. Presentation to the City Manager**

1. If the employee is not satisfied with the Department Head’s response, the employee may submit a written request for additional review to the City Manager, together with a written explanation of the basis for any objection that the employee may have to the findings that were made by the Department Head. The employee shall also provide the City Manager with all of the additional information that he or she may wish to have considered by the City Manager. Any such request for additional review shall be submitted within five (5) working days of the date of receipt of the written statement made by the Department Head.

2. The City Manager shall investigate the matter and shall schedule meeting with the employee to discuss the issue within ten (10) working days of the date of the request for this review. The employee shall present all of the information, evidence and argument that he or she may have at this meeting with the City Manager. Within ten (10) working days of this meeting, the City Manager shall provide the employee with a written statement that explains the City Manager’s decision and the basis for it. This decision shall also identify all of the information, evidence and statements that have been provided to or gathered by the City Manager, including that provided by the employee. This documentation shall constitute the record for review.

## **VII. GRIEVANCE PROCEDURES**

### **Section 3. Four-Stage Formal Grievance Process (continued) (O-10-04)**

#### **C. Review by the Civil Service Commission**

1. If the employee is not satisfied with the City Manager's decision, the employee may submit a written Request for Review by the Civil Service Commission within ten (10) working days of the date of receipt of the City Manager's decision. This Request for Review shall include an explanation of why the employee disagrees with the City Manager's decision and shall be submitted to the City Manager for referral to the Civil Service Commission.

2. Within fifteen (15) working days of the receipt of any Request for Review, the City Manager shall arrange for a meeting of the Civil Service Commission to review this decision. The employee shall be provided with not less than ten (10) working day's prior notice of this meeting.

3. At its meeting for this review, the Civil Service Commission shall consider the available record from the prior proceedings; all information, evidence and statements that have been previously provided by the employee and the City Manager; and the arguments or explanations presented by the employee and the City Manager, or their representatives. The Civil Service Commission shall not consider additional information, evidence, or issues that were not previously presented in the prior proceedings. Based upon the record and information that is before it, the Commission shall offer its opinion as whether the subject decision was arbitrary, capricious, an abuse of discretion or in violation of applicable law. The Commission shall also make a recommendation that the subject decision be affirmed; be reversed, in whole or in part; or be modified.

#### **D. Final Decision by the City Manager**

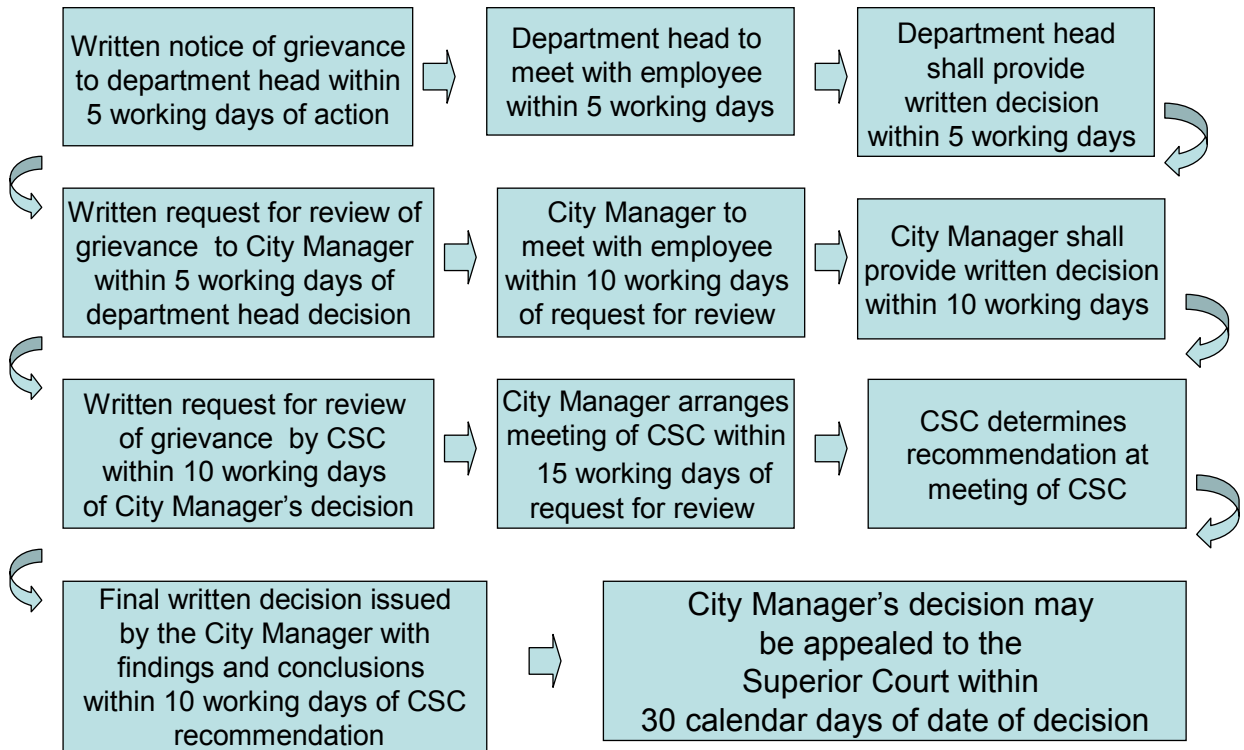
1. Upon the receipt of the recommended decision by the Civil Service Commission, the City Manager shall fully consider that recommendation and shall issue a final, written decision, with a specific findings and conclusions, within ten (10) working days of the date of the receipt of this recommendation.

2. The City Manager's decision shall be the final administrative determination. This decision may be appealed to the Superior Court for review within thirty (30) calendar days of the date of this decision.

## VII. GRIEVANCE PROCEDURES

### Section 3. Four-Stage Formal Grievance Process (continued) (O-10-04)

# Formal Grievance Procedure



## **VII. GRIEVANCE PROCEDURES**

### **Section 4. General Provisions Regarding a Formal Grievance**

**A.** All notices that are required to be given to the employee in this process shall be either personally delivered to the employee, with an acknowledgement of receipt; personally delivered to the employee's regular place of residence and given to the employee or other resident over the age of eighteen (18) at that location; or delivered by certified mail, return receipt requested.

**B.** The time limits specified in this process may be waived and continued by the mutual consent of the parties, provided that any such request is made prior to the expiration of any applicable time period. The failure of the employee to pursue any subsequent step within the time period required, absent an agreement to continue that time, shall constitute an abandonment of the Formal Grievance process for that issue. A Formal Grievance may be terminated by an employee at any time upon the employee's written request. Absent any such agreement for continuance, the failure of the City, or its representatives, to take any action within the time required in this section shall authorize the employee to pursue the next step in this process to request relief.

**C.** The employee shall have the right to representation at each stage in this process. The employee may be represented by an attorney or by any other person, including another employee of the City. If a representative is designated, all further notices and decisions shall be provided to that representative, at his or her designated address, and may be served by first class mail.

**D.** At each stage in this Formal Grievance process, the applicable procedures shall be informal and shall allow for a full presentation of all of the necessary and appropriate information in any orderly manner. Formal rules of evidence shall not be applied. Testimony and other evidence may be limited to that which is relevant, material, not unduly repetitious and which is commonly accepted as reliable by prudent persons in the conduct of their affairs.

## **VII. GRIEVANCE PROCEDURES**

### **Section 5. Review and Discussion of Other Issues (O-10-04)**

**A.** This process shall not preclude City employees from raising other issues, questions or problems directly with their supervisors and department heads in the regular course of business.

**B.** Any question regarding the interpretation or application of the City of Bisbee Personnel Rules, or other applicable rules and policies of the City of Bisbee, which is not within the scope of the Formal Grievance rules, may be presented by an employee in writing to the employee's Department Head. In this written request, the employee must explain specifically how this rule or policy is applicable to that particular employee at this time. The Department Head shall provide a written response to the employee within ten (10) working days of the date of receipt of any such request for review.

**C.** If the employee is not satisfied with the response from the Department Head, the employee may submit a request in writing to the City Manager requesting further review. The City Manager may meet with the employee, at his or her discretion, and shall respond in writing to the employee within ten (10) working days of receipt of the request for review. The decision of the City Manager shall be final.

## **VIII. SEPARATION FROM EMPLOYMENT**

### **Section 1. Notice of Voluntary Termination**

**A.** An employee who intends to voluntarily terminate employment with the City shall provide his or her Supervisor with written notice of intent to terminate employment.

**B.** This notice of intent to terminate employment shall be provided as soon as the employee can reasonably determine the date of termination of employment. This notice shall be provided not less than fourteen (14) calendar days prior to the scheduled date of termination.

**C.** Any failure to provide the minimum advance notice of termination shall be noted in the employee's personnel file. This information may be provided to future potential employers as an indication of the employee's failure to comply with the City's Personnel Rules.

**D.** Upon the submission of the employee's written notice of termination, all of the employee's rights and expectations to any continued employment with the City will be terminated, effective on the designated date of termination of employment. The employee may only rescind any such notice and retain his or her employment beyond the designated date of termination if both the Department Head and the City Manager, in the exercise of their discretion, agree in writing that allowing the employee to continue working for the City will be in the best interests of the City.

## **VIII. SEPARATION FROM EMPLOYMENT**

### **Section 2. Exit Interview**

**A.** Each employee who will be terminating his or her employment with the City shall schedule an exit interview with the Personnel Director on or before the last day of employment with the City.

**B.** During this exit interview, the Personnel Director will discuss with the employee the following, among other potential issues:

1. The reason why the employee is leaving City employment, if this is a voluntary termination.
2. The type and duration of any continuing benefits to which the employee may be eligible, through “COBRA” or other similar laws, and the conditions for receiving any such benefits.
3. Information on retirement benefits for which the employee may be eligible, either through the Arizona State Retirement System or the Public Safety Personnel Retirement System. (Note that there may be substantial delays in obtaining payment of retirement benefits and that this process should be started as soon as possible.)
4. Any additional compensation, in addition to wages, that the employee may be entitled to receive.
5. The arrangements that the employee has made, or will make, to insure that all City property, equipment and keys are returned to the City before the termination of employment.

## **VIII. SEPARATION FROM EMPLOYMENT**

### **Section 3. Payment of Wages Following Termination**

**A.** Any employee who is involuntarily discharged from employment with the City shall be paid all of the wages due to that employee within three working days of the date of termination or at the end of the next regular pay period, whichever is sooner. (A.R.S. § 23-353).

**B.** Any employee who voluntarily terminates employment with the City shall be paid in the usual manner all of the wages due to him or her no later than the regular payday for the pay period during which the termination occurred. Upon request by the employee, this payment shall be made by mail. (A.R.S. § 23-353).

**C.** The City may withhold from any such final paycheck the amount of any debt or reimbursement owed by the employee to the City. The City shall provide the employee with written documentation as necessary to confirm any such amount that may be withheld.

## **VIII. SEPARATION FROM EMPLOYMENT**

### **Section 4. Reduction in Force**

**A.** When the Mayor and Council may determine that the number of employees in any particular job classification or title is greater than what may be required by the City or is greater than what can be reasonably afforded by the City, based upon consideration of the overall best interests of the City, the Mayor and Council may direct the City Manager to conduct a reduction in force. Any such order by the Mayor and Council shall specifically designate the job titles or classifications at issue and the number of employees that will be retained.

**B.** Following any such requirement for a reduction in force, the City Manager shall determine, in his or her best judgment, which employees in the designated job classifications or titles shall be subject to the reduction in force action, unless all employees in any such job classification or title are to be terminated. The City Manager shall consider the particular training and experience of the employees at issue, their respective job performances and their respective time in City employment in making any decision among the designated employees.

**C.** A notice of intent to terminate due to a reduction in force shall be provided to the employee as soon as the City Manager has determined this action is to be taken. This notice shall be provided not less than fourteen (14) calendar days prior to the scheduled date of termination. The employee may be provided with two weeks with pay in lieu of such notice at the discretion of the City Manager.

**D.** In the event of any grievance regarding any such decision, the Civil Service Commission shall review all pertinent information regarding each of the employees in the designated classifications or titles, including the grievant, those who are to be terminated and those who are to be retained. The Civil Service Commission shall only adopt an alternative recommendation if the Commission specifically determines that the City Manager's decision was arbitrary, capricious or an abuse of discretion.

## **VIII. SEPARATION FROM EMPLOYMENT**

### **Section 5. Termination upon Failure to Return from Leave and (O-09-16) Reasonable Accommodation**

**A.** An employee who fails to return to work at the conclusion of a period of authorized leave, or who fails to contact his or her supervisor to explain the reason for any continued absence, shall be deemed to have voluntarily resigned after the third work day of any such absence. After the third work day of any such unexcused absence, the Personnel Director shall advise the employee in writing that his or her employment with the City of Bisbee has been terminated and shall take all other steps necessary to conclude this employment.

**B.** In the event that an employee is unable to return to work at the conclusion of a period of authorized leave due to the employee's continuing disability, the employee may request that the period of authorized leave be extended, if such an extension will provide a reasonable accommodation, as necessary to allow a disabled employee to return to work at some particular time. In considering any such request for a reasonable accommodation, the City will engage in an individualized, interactive assessment of the nature of the disability and the request for accommodation with the employee, as required by the Americans with Disabilities Act (ADA). In making any such request for additional leave, the employee must be prepared to demonstrate that the requested leave will more probably than not allow the employee to perform the essential functions of the job, with or without reasonable accommodation, upon the conclusion of the additional leave period. The City will provide such reasonable accommodation as can be provided without undue hardship to the City. This accommodation process will be interpreted and applied to be consistent with the requirements of the ADA and other applicable law, as these may be amended from time to time. The City Manager shall make the final decision regarding any such extended leave.