

City of Show Low, AZ
Personnel Rules & Regulations



December, 2011

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SECTION I

Scope and Administration of Rules

1.1 Scope

Per City code section 3-2-3 The city manager shall adopt rules and regulations to give effect to this section, which may be modified or changed from time to time, but such rules and regulations shall follow the generally accepted principles of good personnel administration. These personnel rules and regulations apply to all employees (normally scheduled to work 40 hours or more per week) in the service of the City of Show Low, unless excluded from the policy as discussed herein. Elected officials, members of boards and commissions, as well as contract positions (such as the City Manager, City Attorney and City Magistrate) are not considered employees within the scope of the personnel rules and regulations except as specifically referred to (i.e. health and leave benefits).

In addition, certain employees (see next paragraph below) of the City serve on an at-will basis, at the discretion of either the City Council or the City Manager and, as such, are not subject to the grievance procedures set forth in Section XVI, nor do they have access to or rights of appeal to the Personnel Board as set forth in Section XVII. The discretionary procedures relating to disciplinary actions in Section 14.2 of these rules are never applicable to employees who serve at the discretion of either the City Council or the City Manager. They may be terminated at any time, without notice or cause, at the pleasure or will of the City Council or the City Manager, as the case may be, because their employment is on an at-will basis.

All part-time employees (those employees normally scheduled to work less than 40 hours per week) and temporary employees serve at the discretion of the City Manager, and are at-will and exempt from the due process provisions of these rules. Employees who are in their probationary period with the City of Show Low will be considered temporary employees and exempt from the due process provisions of these rules until such time as they have satisfactorily completed their probationary period.

1.2 Equal Employment Opportunity

The personnel rules and regulations of the City of Show Low shall be administered in a manner consistent with federal and state laws and rules and regulations concerning equal employment opportunity. No employee within the City of Show Low's service shall be appointed or promoted to, demoted or terminated from, any position, or in any way discriminated against with respect to employment because of his or her race, color, sex, age, religion, disability, national origin or any other legally protected status.

An eligible applicant or employee shall be considered solely on the basis of his or her qualifications as required by the position he or she seeks or holds.

1.3 Administration of These Rules

The ongoing administration of these personnel rules and regulations shall be the responsibility of the City Manager, who shall perform the administrative duties under these rules unless federal or state laws or the rules provide otherwise. The City Manager may delegate certain powers and duties conferred upon him/her to any other officer or employee of the City.

1.4 Administrative Procedures and Regulations

The City Manager, at any time he/she deems necessary or proper for the purpose of enforcement or implementation, may authorize (either him/herself or through a designee), adopt, amend or rescind written administrative procedures or regulations consistent with these rules. Such procedures or regulations shall be effective on the dates specified by the City Manager and shall be placed on record in the Human Resources Office, together with these rules, to be open to public inspection during normal working hours.

SECTION II

Requirements for Recruitment and Original Employment

2.1 Americans with Disabilities Act

Applicants for employment with the City of Show Low shall be able to perform the essential functions for the position they seek, with or without a reasonable accommodation to a qualified disability, consistent with the Americans with Disabilities Act. A qualified, disabled individual who, with or without reasonable accommodation, is capable of performing the essential functions for the particular job in question and meets the other requirements of the job and performance requirements, will be given equal consideration in all aspects of employment, including hiring, promotion, and salary.

The City is committed to providing reasonable accommodations to allow disabled employees to perform their essential job functions. If you have a disability and require an accommodation in order to perform your job's essential functions, please alert the human resources department.

2.2 Fingerprinting

Each applicant for City employment who has been given a conditional offer of employment shall provide a full set of fingerprints to the City of Show Low Police Department. Additionally, each community volunteer who has unsupervised contact with any minor shall be required to provide a full set of fingerprints to the Show Low Police Department. The Police Department shall forward those fingerprints, accompanied by the appropriate fees, to the Arizona Department of Public Safety for the purpose of obtaining a state and federal criminal history

records check. The Arizona Department of Public Safety is authorized to exchange this fingerprint data with the Federal Bureau of Investigation.

2.3 Recruitment

Vacancies for positions may be publicized by first posting announcements among existing employees of the City of Show Low. However, internal posting is not required, and the City may recruit directly from outside sources. As deemed necessary by the Human Resources Director, the vacancy may be publicized or advertised in the local newspaper and through such media as appropriate to attract any and all qualified applicants.

2.4 Applications

Applicants for employment with the City of Show Low may be required to file applications on forms provided by the City of Show Low.

2.5 Selection

It is the responsibility of the City Manager, or his/her designee, to select the best-qualified applicant for each position.

2.6 Loyalty Oath

Every officer and employee of the City of Show Low shall take and subscribe the oath of affirmation as prescribed by state law, including those listed as being otherwise exempt from these rules and regulations under Subsection 1.1.

2.7 Nepotism – City Code section 3-2-5

(a) *Relative* as used in this section means a spouse, individuals in a cohabitant relationship, step, one-half as well as whole blood of the foregoing, child, parent, sibling, grandparent, grandchild, mother- or father-in-law, son- or daughter-in-law, brother- or sister-in-law.

(b) No relative of an employee of the city who is a full-time classified employee shall work in the same department or report to one another, either directly or indirectly. Relatives of department head-level employees of the city are also forbidden from working within the organization.

(c) Seasonal/part-time (at-will) employees may be employed with the city within the same division provided one relative does not supervise an immediate family member. In the event two employees marry or are in a cohabitant relationship that are employed within the classified or management service of the same division, one of the employees shall be transferred to a position in another division or a similar classification. The city manager may lay off one of the employees if a similar position is not available. Exceptions may be made at the discretion of the city manager. If the situation involves a relative of the city manager, exceptions require the approval of the city council. Under no circumstance is an employee of the city permitted to make a hiring

decision, or attempt to influence anyone else making a hiring decision, about the employee's relatives.

(d) If a spouse, or individual in a cohabitant relationship with an employee of the city chooses to run for an elected city position and is successful in his/her election to office, the employee relative must resign or be removed from his/her position prior to the candidate taking his/her seat as an elected city official.

2.8 Relationship Between Supervisors and Subordinates

The operation of the City of Show Low depends on effective working relationships and good morale between workers. For that reason, the City requires all employees to observe the following guidelines on personal relationships with coworkers.

City employees may pursue amorous relationships as long as the person is not someone to whom the employee gives work directions, disciplinary actions, is in the chain of command or is otherwise in a reporting relationship. Relationships between City employees who report to each other, either directly or indirectly, must be kept strictly professional. This will help avoid the appearance of favoritism, protect morale, maintain employee productivity, and avoid claims of sexual harassment.

Personal relationships with other employees must not interfere with work. In all cases, the City reserves the right to transfer one or the other employee, or both, to another department, or if not feasible, to terminate the employment relationship of one or the other employee, or both.

2.9 Residency

The following positions are required to maintain their residence within the City limits of Show Low within six (6) months of employment: City Manager; City Attorney; Administrative Services Director; Police Chief; Public Works Director; City Engineer; Public Works Operations Manager; Community Development Director; Human Resources Director; Community Services Director City Clerk; Airport Manager; Recreation Services Director; Library Director; and any other positions which the City Manager deems necessary. The City Manager may grant an exception to this requirement in his or her discretion, on a case-by-case basis.

SECTION III

Probationary Period

3.1 Probation - General

Probationary employees (for coverage, see Section 1.1) shall work satisfactorily for a period of probation equal to twelve (12) continuous months of full-time

service in each position to which he or she has been hired, demoted, promoted or transferred in order to satisfy the requirements for regular employment in that position.

The probationary term may be adjusted at the discretion of the City Manager.

A probationary employee will be awarded regular status in the position at the end of the probationary period only upon written notification of satisfactory job performance by the supervisor and with approval of the City Manager.

PROBATIONARY EMPLOYEES ARE “AT-WILL” AND MAY OTHERWISE BE RELEASED AT ANY TIME IN THE PROBATIONARY PERIOD WITHOUT CAUSE, AND WITHOUT NOTICE.

3.2 Probation - Law Enforcement Officers

The probationary employment of law enforcement officers shall be the same as other probationary employees of the City of Show Low. Time spent attending and completing the prescribed course of training at a certified law enforcement training academy, and field training, shall not be treated as service in the probationary period.

SECTION IV

Performance Evaluations

4.1 Performance Evaluations

In addition to a written performance evaluation by the supervisor at the conclusion of the probationary period, a written employee orientation feedback summary should be completed on each employee at three and six month intervals of their initial employment period for each position in which they serve.

Forms should be used to foster communication and feedback with the employee part way through the probationary period, and be based upon the job duties, responsibilities and objectives of the employee's position.

At the conclusion of the twelve month probationary period, and at least annually thereafter, employees will receive a performance evaluation to summarize and document their performance and ascertain whether professional development goals have been met. Evaluations will be based upon the job duties, responsibilities and objectives of the employee's position. All evaluations must be discussed with the employee and the employee must sign the rating form to indicate the evaluation was discussed. The employee's signature does not necessarily mean the employee agrees with the evaluation. Failure or refusal to sign acknowledgement of the evaluation may result in disciplinary action.

Any employee who receives an overall rating that is unacceptable, or where remedial training is necessary, will generally be placed on a six month

probationary period, and enter into a performance plan, unless the employee's performance is such that termination is the appropriate course.

Evaluations that do not result in any disciplinary action are not grievable or appealable through the formal process of these rules and regulations. However, a written statement may be attached to the final document as part of the employee's personnel record.

SECTION V

Conditions of Employment

5.1 Working Hours

Unless otherwise authorized, the normal workweek for full-time Show Low employees is 40 hours, exclusive of lunch breaks or other similar interruptions of work. (Full-time law enforcement officers, at the rank of Sergeant and below, and dispatchers count lunch breaks as duty time.) The City Manager, or his/her designee, shall determine the schedules of the various shifts of the City. A City supervisor may require changes in an individual's schedule from time to time as a working situation or assignment may require.

The normal workweek for full-time police dispatchers is 32 hours, or more, per week.

5.2 Rest Periods and Lunch Periods

Employee work schedules will generally provide fifteen (15) minute break periods for the personal relaxation of each employee during each four (4) hour period of continuous work, although such breaks are not a mandatory benefit of employment. Unused break periods may not be accumulated. Full-time employees will be granted an unpaid lunch period of one (1) hour during each work shift. The normal lunch period should be scheduled near the middle of each work shift and be one of an appropriate length of time for meal consumption. Exceptions to this provision may be made by the City Manager for the sake of efficiency of operations.

5.3 Overtime

The City will pay overtime to all non-exempt employees who work more than 40 hours in any workweek, consistent with the Fair Labor Standards Act. However, no employee is authorized to work overtime without prior authorization from his or her manager, as authorized by the City Manager.

Overtime may be authorized only by the City Manager, or his/her designee(s), and only when necessary for the protection of property or human life, or when it is clearly in the best interest of the City.

- a) Overtime compensation shall be computed on base pay and in accordance with the Fair Labor Standards Act (1.5 times the employee's hourly rate for any hours worked in excess of 40 hours per work week).

If overtime is to be paid, it must be recorded and paid on the payroll immediately following the conclusion of the pay period in which the overtime was worked. If overtime is to be applied to compensatory time, it must be recorded at time and one half.

- b) The decision to pay overtime or record it as compensatory time shall be at the discretion of the City Manager or his/her designee.
- c) For this purpose employees excluded from overtime compensation include all exempt employees as defined in the Fair Labor Standards Act. Working schedules of all exempt employees shall be reviewed by the City Manager. Exempt employees are expected to know and understand their schedule and work the required hours to accomplish their job duties. They shall be responsible for planning and accomplishing work assigned to them regardless of the time required.
- d) In the event of a disaster, which requires the total evacuation of the City, all essential personnel required to remain in the City to defend, protect, and support the City shall be paid for all hours worked (during the evacuation) at double time on a day for day basis
- e) In the event of a Federal, State or Local disaster being implemented which requires essential personnel to remain in the City or to assist other agencies per a mutual aid agreement all essential and participating personnel will be paid in accordance with the FLSA at time and one-half for all hours worked over 40 hours per week. For purposes of a qualifying disaster, city manager approved essential exempt classified employees will be temporarily classified, and treated, as if they were non-exempt and shall report all hours worked and be eligible for over-time at time and one-half their normal hourly rate of pay. All disaster time is to be reported on an hourly basis on the time sheet for each day which it is worked.

5.4 Compensatory Time

- a. At the discretion of the department head, compensatory time may be accrued beyond forty hours (40) maximum in any calendar year.
- b. For this purpose employees excluded from compensatory benefits include all exempt employees (as defined by the Fair Labor Standards Act who are paid on a salaried basis for all hours worked). Working schedules of all exempt employees shall be reviewed by the City Manager. Exempt employees are expected to know and understand their schedule and work the required hours to accomplish their job duties. They shall be responsible for planning and accomplishing work assigned to them, regardless of the time required.

- c. The time in which an employee will take compensatory time off shall be determined and scheduled at the sole discretion of the employee's supervisor or the City Manager, with due regard for the wishes of the employee and the needs of the City.

5.5 Outside Employment

Outside employment of any employee shall not be permitted except with written permission of the City Manager. Such permission will not be given, and may be revoked at any time if it is determined that such outside employment is likely to:

- a. Hamper the employee's ability to do the job required by the City of Show Low.
- b. Reflects unfavorably on the City's service or the employees; or
- c. Could conflict with the employee's duties as a City employee.

5.6 Use of City Property

Property, equipment, vehicles, and City owned materials are not to be used for private gain, use, or convenience. Such property is restricted for the use of employees in the performance of official City duties connected with official City functions. The City Manager or his/her designee must approve special circumstances. Use of City property in violation of this rule may be grounds for disciplinary action or termination.

5.7 Conflict of Interest

Under Arizona Revised Statute Section 38-503, public officers or employees are precluded from participating in any manner as an officer or employee with respect to matters that constitute a conflict of interest with the interest of the City.

5.8 Conduct and Appearance

The City's professional atmosphere is maintained, in part, by the image City employees present to the public and fellow employees. All employees are therefore expected to conduct themselves in a manner which reflects favorably upon the City and which demonstrates tact courtesy and good judgment. Dress and personal grooming should be appropriate for the position held and employees are expected to devote their energies to the service of the City, and not to their personal affairs, during working hours.

5.9 Political Activity – City Code Section 3-2-4

- (a) No officer, official or employee of the city shall use any influence or pressure upon any employee to obtain any assessment or contribution of money or time, either direct or indirect, for any political campaign or personal gain.

- (b) All employees shall remain free from any political activity in a Show Low municipal election:
 - (1) No employee may solicit or attempt to solicit support for a candidate or political party involved in a Show Low municipal election from any employee or appointed official.
 - (2) No employee may take any part in the campaign of a candidate participating in a Show Low municipal election.
 - (3) Employees may exercise their rights as citizens to vote, privately express personal opinions, and sign nominating petitions, initiative, referendum or recall petitions.
- (c) No paid employee shall seek election to public office with the city while still employed by the city.
- (d) No paid employee shall use his position or city resources to sell, solicit or distribute any campaign material or information for any election during working hours and/or in uniform used by or identified with the city government.
- (e) No paid employee shall use his position to introduce, guide or recommend any candidate for any public office on city property.
- (f) Employee as used in this section means all regular city employees, classified and unclassified, and part-time and temporary city employees.

SECTION VI

Harassment and Discrimination

6.1 Equal Employment Opportunity

The City provides equal employment opportunities to all employees and applicants for employment without regard to race, color, religion, sex, national origin, age, disability, or any other legally protected status in accordance with applicable federal, state, and local laws. This policy applies to all terms and conditions of employment, including but not limited to hiring, placement, promotion, termination, layoff, recall, transfer, leaves of absence, compensation and training.

If an employee believes that he or she has been discriminated against in violation of this policy, the employee should immediately report the complaint pursuant to the Complaint Procedure outlined below.

6.2 Anti-Harassment Policy

The City strictly prohibits any form of unlawful employee harassment based on race, color, religion, sex, national origin, age, disability, or status in any group

protected by federal, state, or local law. Improper interference with the ability of our employees to perform their expected job duties will not be tolerated.

With respect to sexual harassment, the City specifically prohibits the following, but does not limit prohibited behaviors to the following list:

- a. Unwelcome sexual advances, requests for sexual favors and all other verbal or physical conduct of a sexual or other offensive nature, especially, but not only, where:
 - submission to such conduct is made either explicitly or implicitly a term or condition of employment;
 - submission to or rejection of such conduct is used as the basis for decisions affecting an individual's employment; or
 - such conduct has the purpose or effect of creating an intimidating, hostile, or offensive work environment.

- b. Offensive comments, jokes, innuendoes, and other sexually-oriented statements. Examples of the types of conduct expressly prohibited by this policy include, but are not limited to, the following:
 - touching, such as rubbing or massaging someone's neck or shoulders, stroking someone's hair or brushing against another's body;
 - sexually suggestive touching;
 - grabbing, groping, kissing, fondling;
 - violating someone's "personal space";
 - lewd, off-color, or sexually-oriented comments or jokes;
 - foul or obscene language;
 - leering, staring, or stalking;
 - suggestive or sexually-explicit posters, calendars, photographs, graffiti, or cartoons;
 - sexually-oriented or explicit remarks, including comments about someone's dress or body;
 - questions about one's sex life or experience;
 - repeated requests for dates.

Other harassing conduct may also be unlawful and will not be tolerated by the City. Such conduct includes actions, words, jokes, or comments based on race, color, religion, sex, national origin, age, disability, or other legally protected characteristics.

6.3 Complaint Procedure

All employees are responsible for creating an atmosphere free of discrimination and harassment, sexual or otherwise. Further, all employees are responsible for respecting the rights of their co-workers.

If you believe you have experienced any job-related discrimination or harassment based on your race, color, religion, sex, national origin, age, or disability, or any other protected factor, or otherwise believe that you have been treated in an unlawful, discriminatory manner, promptly report the incident to the Human Resources Director or your Department Head. Your complaint will be kept confidential to the maximum extent practically possible or legally permissible.

Complaints of discrimination or harassment will be investigated promptly and in as impartial and confidential a manner as possible. Employees are required to participate in any investigation. We will strive to reach a timely resolution of each complaint.

If the City determines that an employee has discriminated against or harassed another individual in violation of this policy, appropriate disciplinary action will be taken against the offending employee, up to and including termination of employment.

We prohibit any form of retaliation against any employee for filing a complaint under this policy or for assisting in a complaint investigation. If an employee believes that he or she has been retaliated against for filing a complaint or assisting in an investigation, the employee should immediately report the situation pursuant to the above procedure. Retaliation complaints will be investigated pursuant to this procedure. If the City determines that an employee has retaliated against another individual in violation of this policy, appropriate disciplinary action will be taken against the offending employee, up to and including termination of employment.

SECTION VII

Health Benefits

7.1 Full-time Employees

All insurance benefits are effective the first of the month 90 days after the date of hire.

- a) Health insurance premiums are provided at the rate of 100% of the employee coverage and 80% of the dependent coverage.

- b) The City provides 100% of the employee life insurance coverage at the rate of two (2) times the base annual salary, with a minimum amount of coverage of \$50,000.
- c) Dental insurance premiums are provided at the rate of 100% of the employee coverage and 80% of the dependent coverage.
- d) Vision insurance premiums are provided at the rate of 100% of the employee coverage, and 0% of the dependent coverage. The city will make available an optional election for dependents.

e) Waiver of Coverage.

- i. Waiver Generally. Employees may elect to waive coverage under the health, dental, and vision plans.
- ii. Waiver of Coverage in Health Care Plan. Employees covered under another group health care plan may waive coverage under the City's plan within ninety days of initial employment or during any subsequent open enrollment period. Employees electing to waive coverage must provide proof of alternative coverage and complete the appropriate forms. If the employee's other coverage is terminated, the employee may enroll in the City's plan within 31 days of loss of coverage or during any subsequent open enrollment period.
- iii. In-Lieu Payment. Employees who waive coverage under the City's health care plan shall receive a cash payment of \$100 per calendar month for each month they remain a full-time employee and do not participate in the City's plan. Employees covered by the City's health care plan as a dependent of another City employee are not eligible for this payment.
 - 1. Employees participating in the in-lieu program on November 1, 2011 may be eligible for a higher cash payment as determined by the City.

7.2 Part-time Employees

The City does not provide health insurance for part-time, seasonal, or contract employees.

7.3 Retired Employees

Health insurance elections for eligible retired employees are provided on the following basis:

Full-time employees who retire from the City of Show Low with ten (10) or more years of service are eligible to continue their health insurance through the City of Show Low's health plan at their own cost. The cost for health insurance will be based on the monthly cost the City pays for individual and family coverage. These costs are subject to change each year as the City renews its insurance coverage. It will be the responsibility of the retired employee to participate in the coverage renewal each year to continue their health insurance. Once the retired

employee has canceled the health insurance, they are no longer eligible for City insurance.

7.4 COBRA (Consolidated Omnibus Budget Reconciliation Act)

The City of Show Low provides COBRA benefits as prescribed by Federal Law, which allows qualified employees and qualified beneficiaries the opportunity to continue to participate in the City's group health insurance plan after coverage would otherwise end. The City will provide COBRA notification to eligible employees if required by law. To the extent consistent with COBRA, it is the employee and/or the qualified beneficiaries responsibility to contact the employer/plan administrator upon termination of coverage, to determine eligibility.

7.5 Long-term Disability

City of Show Low employees receive long-term disability coverage in accordance with their respective plan through the Arizona State Retirement or Public Safety Retirement.

7.6 Short-term Disability

The City of Show Low provides a short-term disability plan, at 100% of the premium, for their employees. Eligibility is determined on a year to year basis through the health insurance plan documents.

SECTION VIII

Retirement Benefits

8.1 ASRS (Arizona State Retirement System)

The City is a member employer of the Arizona State Retirement System and provides matching benefits in accordance with the same. For further information and eligibility requirements refer to the ASRS web-site at www.asrs.state.az.us, as this program is legislated by the State Legislature and is subject to change.

8.2 PSRS (Public Safety Retirement System)

The City is a member employer of the Public Safety Retirement System and provides matching benefits in accordance with the same. For further information and eligibility requirements refer to the PSRS web-site at www.psprs.com, as this program is legislated by the State Legislature and is subject to change.

8.3 Longevity Incentive Plan

In an effort to encourage and reward employees for their continued service to the City, a longevity incentive plan has been established as follows:

Employees who qualify for retirement benefits with the City of Show Low will be eligible for the City to pay the employee portion of the Social Security retirement withholding (7.65% of the taxable income) on a graduated scale as follows:

Years of Longevity	Service Benefit
10	50%
11	60%
12	70%
13	80%
14	90%
15	100%

SECTION IX

Leave Benefits

9.1 Paid Holidays

- a. All regular and probationary full-time employees in an active pay status receive these days off with pay except for employees who must work to provide critical services to the community.

New Year's Day
Martin Luther King's Birthday
Presidents' Day (third Monday in February)
Memorial Day
Independence Day
Labor Day
Veterans' Day
Thanksgiving Day
Day after Thanksgiving (in exchange for Columbus Day)
Christmas Day

- b. Holidays falling on a Saturday will be observed on the preceding Friday. Holidays falling on a Sunday will be observed on the following Monday.
- c. Employees on paid leave when a holiday occurs receive no additional pay and will not be charged with PTO leave time. An employee who is on unpaid leave at the time of a holiday does not receive holiday pay.
- d. Employees whose first day of work follows a holiday do not receive pay for the holiday.

- e. Terminating employees whose last day worked is the day before a holiday will not receive pay for the holiday.
- f. Employees retiring from the City do not need to work the day following a holiday in order to receive pay for that holiday.
- g. Employees required to physically work more than 32 hours during a holiday week will receive overtime or compensation pay at the rate of time and one-half for each hour worked over 32 hours.

9.2 Paid Time Off (PTO)

1. **Generally.** All regular, full-time employees are eligible to accrue/earn Paid Time Off (PTO) beginning on the employee’s first day of employment with the City. Eligible employees are eligible to utilize accrued/earned PTO immediately. Employees are expected to use accrued PTO responsibly to assure necessary rest and relaxation away from work. Employees are also expected to maintain an appropriate balance of PTO for use in unexpected emergencies or in cases of serious illnesses or injuries.
2. **Accrual.** An eligible employee shall accrue PTO during every completed pay period the employee is in active pay status at the accrual rates shown below based on the employee’s City service

Completed Years of Service	Annual Paid Time Off Accrual	Annual Accrual Rate per Pay Period
<1 year	152	5.846
1	157	6.038
2	162	6.231
3	167	6.423
4	172	6.615
5	182	7.000
6	187	7.192
7	192	7.385
8	197	7.577
9	202	7.769
10	212	8.154
11	217	8.346
12	222	8.538
13	227	8.731

14	232	8.923
15+	240	9.231

3. **Eligibility.** Full-time employees who are regularly scheduled to work 40 hours per week shall accrue PTO each completed pay period.
4. Persons hired at the level of Department Director, Deputy City Manager and Manager may receive PTO in addition to the initial allocation described herein on their hire date as approved by the City Manager.
5. **Maximum PTO Accrual.** The maximum amount of PTO which may be accrued by employees is 640 hours. Upon reaching the applicable maximum, an employee shall cease accruing PTO until the employee's hour's drop below the maximum.
6. **Use of PTO Generally.** PTO is accrued in sufficient amounts to allow employees to take time away from work. The amount of an employee's accrued and unused PTO is reported on the bi-weekly pay stub. Employees are responsible for knowing the amount of PTO available for their use. PTO to the employee's credit may be requested by the employee for time off due to planned or unplanned time away from work. Such use must be requested and approved in advance as described herein. Granting of requests is subject to the approval of the supervisor and operational demands.
 - a. PTO may be used in conjunction with worker's compensation and short term disability to bring an employees pay up to their normal weekly take home pay.

7. Use of PTO for Unplanned Absence

- a. Unplanned Absence Defined. Employees may request the use of PTO for unplanned absences in the following circumstances:
 - i. For absence of an employee due to temporary disability caused by illness, injury, pregnancy, or medical examinations, or for exposure to a contagious or communicable disease which may be transmitted to fellow employees (including examinations related to workplace injuries). Any such absence shall begin when the temporary disability or exposure shall be so severe as to prohibit an employee from attendance at work and shall cease when an employee is able to return to work. If deemed necessary by the department director, a physician advising the City shall determine the facts and duration of any unplanned absence usage.
 - ii. For illness, injury, or for the medical examination of an employee's spouse or dependent residing in the employee's household.
 - iii. For unforeseen circumstances requiring the employee's absence from work.

- b. **Employee Obligations.** To be eligible to use PTO for unplanned absences as defined herein, an employee must:
 - i. Notify their immediate supervisor of the unplanned absence as far in advance as possible. Notification must be at least 30 minutes prior to the employee's scheduled starting time (or earlier if required by the employees department) or a reasonable time thereafter if timely notification is prevented due to circumstances beyond the employee's control.
 - ii. To the extent possible employees are expected to schedule medical appointments during non-work hours.
 - iii. Submit a physician's certificate verifying the need for absence and outlining any restrictions on return to full duty when the employee's unplanned absence extends for three or more consecutive work days.
 - iv. Indicate the use of PTO for the time absent on the timecard covering the pay period containing the PTO use.
- c. **While on Leave.** Employees absent from work for unplanned absences and receiving PTO may not work, perform services, receive, or earn compensation for or from any other entity, including the employee's own business, from the beginning of such absence until the employee returns to work, unless authorized in advance by the City Manager.
- d. **Medical Examination.** The City may require an employee to submit to an examination conducted by a licensed physician chosen by the City to determine the employee's ability to perform the essential functions of the employee's employment position. The cost of the examination shall be paid by the employee's insurance or the employee.

8. Use of PTO for Planned Absences

- a. **Request.** Employees may request the use of PTO for-planned-absences. To be eligible, an employee must request and receive approval for the use of PTO as far in advance as possible, and generally no later than the end of the workday before the day(s) desired off (or earlier if required by the employees department).

9. Payment.

- a. Non-exempt employees absent on approved PTO for planned or unplanned absences shall be paid from their available PTO balance at their applicable hourly rate (including applicable premium pay) for the time absent, rounded up to the nearest quarter hour. Use of PTO must be reflected on the time card covering the pay period in which the PTO was used.

- b. Exempt employees shall use PTO for planned or unplanned absences in accordance with FLSA standards (generally for absences exceeding two hours in length).
 - c. The City reserves the right to investigate all usage of PTO for unplanned absences, and withhold payment until said investigation is completed. Should the City determine that an employee has not used PTO in accordance with these rules and regulations, payment may be denied, or retracted and withheld from the employee's next paycheck, and may result in corrective action.
10. **Annual PTO payout.** As stated in section (A) (1), employees are expected to use PTO in part to assure necessary rest and relaxation away from work. An employee may request payment for up to a total of eighty (80) hours of PTO each fiscal year. Such request shall be in writing on approved forms, an employee may request payment of PTO no more than once per quarter. Requests may be granted for this within available fiscal constraints at the discretion of the City Manager on approval of the department director and Human Resources Director.
- a. Employees must maintain a PTO balance of at least 160 hours after deduction of the hours for the payout.
11. **Sick Leave Banks.** During the conversion to PTO employees were given a one time option to convert their sick leave hours to PTO hours. Retained sick leave banks may be utilized after all PTO and Comp time has been exhausted.
- a. Authorized Use – Sick leave is only to be taken when the employee is too ill or injured to be able to work safely; for examinations by a licensed physician or dentist; for medical treatments prescribed by a licensed physician or dentist, when it is not possible to arrange an appointment with a licensed physician or dentist on off-duty hours; or for any emergency occurring due to illness of a member in the employee's immediate family (i.e. parents, in-law and step; spouse; child, in-law and step), with the duration of emergency leave limited to the emergency situation and not exceeding five (5) working days, except with the express permission of the City Manager and in accordance with the Family Medical Leave Act (FMLA) Section 10.2.
 - i. All pregnancy or childbirth-related examinations, hospitalizations, surgeries, illnesses, and recovery. It should be noted that an employee will be expected to work before delivery until she cannot adequately perform the duties of her job, or it is no longer safe for her to do so, as certified by her attending physician.
 - ii. Enforced quarantine of the employee or an immediate family member in accordance with community health regulations.
 - iii. Sick Leave has no monetary value and under no circumstances shall it be paid out or converted to PTO.

12. **Payment of or Deduction for PTO at Separation.** Employees shall be paid for accrued but unused PTO at separation from service except as provided for in Section 15 – Method of Separation.

13. **Donated PTO.**

- a. Eligibility. Any full-time regular City employee may apply to the Human Resources Department for approval to receive donated PTO. To qualify, the employee requesting donated PTO must:
 - i. Have a non-work related serious illness or injury, as verified in writing by a health care provider, which meets the definition of a serious health condition under the Family and Medical Leave Act (FMLA) and an estimated date of return to full duty from the health care provider; or
 - ii. Have a spouse or dependent with a serious illness or injury, as verified in writing by a health care provider, which meets the definition of a serious health condition under the Family and Medical Leave Act (FMLA);
 - iii. Have an insufficient amount of accrued and unused PTO to cover the estimated period of absence;
 - iv. Not be eligible for paid medical leave; and
 - v. Not have been offered non-work related RTW Modified Duty.
- b. Approval. Upon approval of an employee's request for donated PTO, the Human Resources Department shall:
 - i. Notify City employees of the requesting employee's need for donated PTO, while respecting the employee's right of privacy; and
 - ii. Approve payment of any such donated PTO to the requesting employee on a pay period by pay period basis up to the amount of donated leave, or the hours necessary to provide the employee with their regular, straight-time pay for such pay period, whichever is less.
- c. Donating PTO. An employee may donate accrued and unused PTO to their credit to any City employee who has been approved to receive donated PTO so long as the donating employee retains a PTO balance of at least 160 hours after deduction of the hours offered for donation.
- d. Terms and Conditions. The following additional terms and conditions shall apply to PTO donation hereunder:
 - i. All donations of PTO shall be in one hour increments.
 - ii. An employee receiving donated PTO shall be paid at their regular, hourly rate (including applicable premium pay); regardless of the rate of pay of the employee donating such leave.

- iii. PTO shall be deducted from donating employees in the order donated and shall be credited to the receiving employee's account on pay day up to the amount necessary for the employee to be paid their regular two weeks' pay. No donated PTO shall accumulate in the account of a receiving employee or be converted to cash. Any PTO donated by an employee that is not used shall remain in the account of the donating employee.
- iv. An employee using donated PTO shall be in active pay status and shall accrue PTO, and be entitled to any other benefits they would normally receive. All PTO or other paid leave provided to or accrued by an employee while using donated PTO shall be used in the following pay period first before donated PTO is used.
- v. An employee approved to receive donated PTO shall be eligible to receive such leave until the employee:
 - 1. Returns to full duty; or
 - 2. Exhausts all donated leave; or
 - 3. Has been on donated PTO for a total of six months.
- vi. Employees absent from work and receiving donated PTO may not work, perform services, receive, or earn compensation for or from any other entity, including the employee's own business, from the beginning of such absence until the employee returns to work, unless authorized in advance by the Human Resources Director.

FAILURE OF AN EMPLOYEE TO PROVIDE NOTICE OF RESIGNATION AS SET FORTH IN SECTION 15 WILL RESULT IN FORFEITURE OF ANY ACCRUED UNUSED PTO LEAVE.

SECTION X

Family and Medical Leave

10.1 Family Medical Leave Act (FMLA)

Under the FMLA, the City allows eligible employees to take up to twelve workweeks of leave per year for certain family and medical reasons. The leave may be taken intermittently if medically necessary. The FMLA does not require the leave to be paid, but we require employees to use earned and accrued paid leave, such as PTO, to the extent permissible under the FMLA, as part of the twelve workweeks of leave.

During FMLA leave, employees may remain on payroll status as long as they have accumulated PTO to use. We will also maintain employees' group health insurance during leave, but employees must continue to pay their applicable

premium contribution to maintain coverage. In some cases, we may recover premiums paid for maintaining an employee's health coverage if an employee fails to return to work.

Upon returning from leave, unless a job elimination has occurred which would have terminated an employee's job or placed him or her into a different job, an employee will be restored to his or her original position or to an equivalent one in terms of pay, benefits, and other terms and conditions of employment.

The City uses the rolling twelve-month method to measure the yearly period for leave entitlement. This means that, in determining how much FMLA leave an otherwise eligible employee may take at any given time, we will look to the previous twelve months to determine whether that employee has already used some of his or her twelve workweeks of FMLA leave.

Eligible Employees

Eligible employees are those who have worked for the City for a total of one year (which does not need to be continuous employment), for 1250 hours over the previous twelve months, and at a worksite with at least fifty employees or within seventy-five miles of fifty or more employees. Leave will be granted to eligible employees for the following reasons:

For a serious health condition that makes the employee unable to perform his or her job;

To care for the employee's spouse, son or daughter, or parent who has a serious health condition;

To care for the employee's child after birth, or placement for adoption or foster care.

A "serious health condition" is an illness, injury, impairment, or physical or mental condition that involves:

Any period of incapacity or treatment connected with inpatient care in a hospital, hospice, or residential medical-care facility; or

Any period of incapacity requiring absence of more than three consecutive calendar days from work, school, or other regular daily activities that also involves continuing treatment by, or under the supervision of, a health care provider; or

Continuing treatment by, or under the supervision of, a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days, and for prenatal care.

"Health care provider" means:

Doctors of medicine or osteopathy authorized to practice medicine or surgery by the state in which the doctor practices; or

Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice, and performing within the scope of their practice, under state law; or

Nurse practitioners and nurse mid-wives authorized to practice, and performing within the scope of their practice, as defined by state law; or

Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts.

Medical Certifications

The City may require medical certification to verify a serious health condition. The City, at its own expense, may also obtain an additional medical opinion. Should a conflict develop, a third medical opinion may be sought.

When leave is taken for an employee's own serious health condition, upon returning to work the employee may be required to provide a written statement from a physician or similarly qualified medical practitioner indicating that the employee is able to resume work.

Notice Requirements

An employee needing leave must provide the City with notice of the need for the leave. The employee should provide as much advance notice as possible so we can make appropriate arrangements to cover any work that needs to be performed during the absence. Failure to provide timely notice may result in a delay in the leave and/or cause the absence to be considered as unexcused. The minimum required notice under the FMLA is as follows:

When the need for leave is foreseeable, the employee must provide thirty days' advance notice;

If thirty days' notice is not practicable, notice must be given as soon as practicable, usually within one or two business days of when the need for leave becomes known to the employee;

If the approximate timing for leave is not foreseeable, an employee still should give notice of the need for leave as soon as practicable.

In addition, employees on FMLA leave must provide periodic reports to Human Resources regarding their status and intent to return to work.

Employees should contact Human Resources for appropriate forms and further information about FMLA leave.

10.2 Americans with Disabilities Act (ADA)

The City is committed to providing reasonable accommodations to allow disabled employees to perform their essential job functions. If you have a disability and require an accommodation in order to perform your job, please alert the Human Resources department. Consistent with the ADA, the City will engage in an interactive process to determine whether you have a qualified disability, and whether a reasonable accommodation would allow you to perform your essential job functions. Reasonable accommodations are evaluated on a case-by-case basis, but can include modifications to the work environment, unpaid leave, or a variety of other accommodations.

SECTION XI

Other Leave

11.1 Worker's Compensation in Relation to PTO

All employees of the City of Show Low, including exempt employees, are covered by the City under the Arizona State Compensation Act for injuries occurring in the course of City employment. The law provides for payment of medical expenses and, under certain circumstances, compensation for loss of income. To establish entitlement, it is mandatory that every job-related injury or illness, regardless of severity, be immediately reported to the supervisor and a written report prepared and submitted to the City Manager.

During those periods when Workers' Compensation is not provided by the State, any income, must be charged to the employee's accrued compensatory time off, and/or PTO until such credits are exhausted. Thereafter, an employee may be granted additional leave in accordance with the provisions relating to special leave without pay (Section XI, 11.5) and the Family Medical Leave Act (Section X, 10.1). Normal deductions will be made from this equivalent gross pay. It should be noted that any Workers' Compensation injury that requires an absence may constitute a FMLA absence also.

11.2 Military Leave

Military leave shall be granted in accordance with the provisions of state and federal law. Employees shall notify their supervisor or the City Manager in writing immediately upon receiving orders for military duty.

11.3 Court Leave

Unless approved otherwise by the City Manager, employees of the City will be paid the difference between their regular pay and jury or witness fees while

serving on court ordered jury duty or while appearing as a witness on behalf of the City in court proceedings for a maximum of five (5) working days. All jury and witness fees will either be returned to the City, or the amount of time away will be deducted from the employee's PTO bank.

Generally, any personal civil or criminal case must be taken care of on the employee's personal time, or through the usage of his/her PTO and/or compensatory time bank.

However, the City will grant employees time off for court proceedings pursuant to the Arizona Victim Leave Act. Pursuant to this law, the City will allow an employee who has been the victim of a crime (including an offense committed by a juvenile), or an employee who is the immediate family member of a crime victim who is killed or incapacitated, to take time off to attend proceedings related to the prosecution of the criminal. Employees with accrued PTO for the absence, otherwise for hourly non-exempt employees the time is unpaid. To request such leave, the employee should provide a copy of the form they receive from the applicable law enforcement agency, pursuant to A.R.S. § 8-386. The employee also should provide a copy of the notice for each scheduled proceeding that he or she attends. The City will keep records related to such leave in a separate, confidential file.

11.4 Funeral Leave

For death occurring among the members of the regular status employee's immediate family (spouse, child, parent, grandparent, grandchild, brother, sister, one-half as well as whole blood and step of the foregoing, uncle, aunt, niece, nephew, mother or father-in-law, son or daughter-in-law, brother or sister-in-law) up to five (5) days paid funeral leave may be granted. On a case-by-case basis, additional administrative leave (with pay) may be granted at the discretion of the City Manager or Human Resources Director.

11.5 Leave Without Pay

In certain cases and upon written request, a special leave of absence without pay may be granted to an employee. Typically, such leave will be granted for a period of up to six (6) months, but requests for leave will be evaluated on a case by case basis and more leave may be granted if required pursuant to federal or state law, such as the Americans with Disabilities Act. Such leave must be approved in advance by the City Manager and the employee's written request shall state the reasons why the request should be granted, the date upon which he/she desires the leave to begin and the date of his/her return.

Special leave without pay may be granted at the sole discretion of the City Manager generally for the following reasons:

- a. To enable a disabled employee to recover his/her health in order to perform the essential functions of his/her job;

- b. Other equally good reasons considered valid by the City Manager (i.e. a sabbatical for professional research, education, or personal endeavors).

Upon termination of special leave without pay, an employee will be returned to his/her former position. To the extent consistent with federal or state law, the employee may alternatively be transferred to another open position.

During a period of special leave without pay, an employee will not accrue seniority, or PTO, and the employee will be required to make appropriate arrangements for payment of his or her health insurance premiums in the interim (unless the leave is in accordance with another state or federal mandate).

11.6 Administrative Leave

Employees may be granted administrative leave with pay with the approval of the City Manager when the employee is participating in meetings or other activities related to his/her work. Administrative leave may also be granted for other matters as deemed appropriate by the City Manager.

11.7 Voting Leave

Any employee who is legally registered to vote at general elections held within Arizona may, on the day of the election, absent himself/herself for the purpose of voting for such length of time at the beginning or end of his/her work shift so that, when added to the time difference between work shift hours and poll opening or closing hours, a total of three (3) consecutive hours are available to vote. Coordination for such absence shall be made with the supervisor prior to the day of the election, and the City may specify the hours during which the employee may be absent for voting. Time off for voting will be paid if it would otherwise be work time.

SECTION XII

Workplace Threats and Violence

12.1 Threats and Violence in the Workplace

Nothing is more important to the City of Show Low than the safety and security of its employees. Threats, threatening behavior, or acts of violence against employees, visitors, guests, or other individuals by anyone on Show Low City property will not be tolerated. Violations of this policy will lead to disciplinary action, which may include termination, arrest, and prosecution.

Any person who makes substantial threats, exhibits threatening behavior, or engages in violent acts on Show Low City property shall be removed from the premises as quickly as safety permits, and shall remain off City property pending the outcome of an investigation. The City of Show Low will initiate an appropriate response. This response may include, but is not limited to, suspension and/or

termination of employment, and/or criminal prosecution of the person or persons involved. No existing Show Low policy, practice, or procedure should be interpreted to prohibit decisions designed to prevent a threat from being carried out, a violent act from occurring, or a life-threatening situation from developing.

All Show Low personnel are responsible for notifying the administration of any threats, which they have witnessed, received or have been told that another person has witnessed or received. Even without an actual threat, personnel should also report any behavior they have witnessed which they regard as threatening or violent, when that behavior is job related or might be carried out on a City controlled site, or is connected to City employment. Employees are responsible for making this report regardless of the relationship between the individual who initiated the threat or threatening behavior and the person or persons who were threatened or were the focus of the threatening behavior. If the employee's supervisor is not available, or if there is a conflict, personnel should report the threat to another member of the City's management team or the Human Resources Director.

All individuals who apply for or obtain a protective or restraining order which lists City locations as being protected areas must provide their Department Head or Human Resources Director a copy of the petition and declaration used to seek the order, a copy of any temporary protective or restraining order which is granted, and a copy of any protective or restraining order which is made permanent.

Due to the sensitivity of the information requested, information is to be kept confidential and the privacy of reporting employees is to be respected.

SECTION XIII

Substance Abuse Policy

This Policy [and acknowledgment] is not intended to and does not constitute a contract of employment with the City of Show Low. No supervisor or manager has any authority to make any statements or representations to you that change or conflict with any of the provisions of this Policy. This Policy supersedes and revokes all previous practices, procedures, policies, and other statements of the City of Show Low, whether written or oral, that modify, supplement, or conflict with the Policy. This Policy may be amended at any time.

13.1 Purpose of Policy

The City of Show Low believes that it is important to promote a drug-free community, to maintain safe, healthy, and efficient operations, and to protect the safety and security of the employees, facilities, and property of the City. Drugs or alcohol may pose serious risks to the user and all those who work with the user. In addition, the use, possession, sale, transfer, manufacture, distribution, and dispensation of alcohol or illegal drugs in the workplace pose unacceptable risks to the maintenance of a safe and healthy workplace and to the security of

City employees, facilities, and property. Substance abuse, while at work or otherwise, seriously endangers the safety of employees, as well as the general public, and creates a variety of workplace problems, including increased injuries on the job, increased absenteeism, increased health care and benefit costs, increased theft, decreased morale, decreased productivity, and a decline in the quality of products and services provided by the City. For all of those reasons, the City of Show Low has established this Substance Abuse Policy.

13.2 Scope of Policy

This Policy applies to all City employees, including management, administration, and temporary employees, and to all applicants who have received conditional offers of employment with the City. This Policy also applies to all employees of City contractors who are performing services on City property, or who are operating City equipment, machinery, or vehicles. Such employees of contractors are considered “employees” within the meaning of this Policy.

Depending upon their specific job duties, certain employees may be subject to additional requirements under client requirements or state or federal regulations, including additional restrictions on drug or alcohol use, and additional provisions for drug and/or alcohol testing.

13.3 Dissemination of Policy

- a. All employees will receive a copy of this Policy, and will be required to sign an appropriate acknowledgment and receipt.
- b. All applicants who have received conditional offers of employment with the City will be required to read this Policy before undergoing testing, and will be required to sign an appropriate acknowledgment and receipt.

13.4 Definitions

a. Illegal Drugs

“Illegal drugs” means any controlled substance listed in schedules I through V of the federal Controlled Substances Act (21 U.S.C. § 812), medication, or other chemical substance that (1) is not legally obtainable; or (2) is legally obtainable, but is not legally obtained, is not being used legally, or is not being used for the purpose(s) for which it was prescribed or intended by the manufacturer. Thus, “illegal drugs” may include even over-the-counter medications, if they are not being used for the purpose(s) for which they were intended by the manufacturer.

b. Legal Drugs

“Legal Drugs” means prescribed or over-the-counter drugs that are legally obtained by the employee and used for the purpose(s) for which they were intended by the manufacturer.

c. City Property

“City property” and “City equipment, machinery, and vehicles” means all property, equipment, machinery, and vehicles owned, leased, rented, or used by the City.

d. On Duty

“On duty” means all working hours, as well as meal periods and break periods, regardless of whether on City property, and all hours when an employee represents the City in any capacity.

13.5 Work Rules

a. Substance Abuse by Employees

i. Alcohol

Employees may not use, possess, sell, or transfer alcohol while working, while on City property, or while operating City equipment, machinery, or vehicles.

Employees may not work or report to work under the influence of alcohol at any level.

Employees who violate these rules will be subject to discipline, up to and including immediate termination.

ii. Illegal Drugs

Employees may not possess illegal drugs or engage in the illegal use of drugs while on duty, while working, while on City property, or while operating City equipment, machinery, or vehicles.

Employees may not work or report to work under the influence of illegal drugs or with detectable levels of illegal drugs or the metabolites of illegal drugs in their systems.

Employees may not manufacture, distribute, dispense, transfer, or sell illegal drugs.

Employees who violate any of these rules will be subject to discipline, up to and including immediate termination.

iii. Legal Drugs/Medication

Any employee who has reason to believe that the legal use of drugs, such as a prescribed medication, may pose a safety risk to any person or interfere with the employee's performance of his or her job must report such legal drug use to his or her supervisor. The City of Show Low shall then determine whether any work restriction or limitation is indicated. Failure to report the legal use of a drug that may pose a safety risk could result in disciplinary action.

b. Police Officers

- i. A Police Department member shall, when drugs are prescribed by a physician or other health practitioner, inquire of the prescribing person whether the drug prescribed has any side effect which may interfere with the performance of police duties. If the answer from the prescribing practitioner is yes, the member shall report to his supervisor prior to going on duty that they are using a prescribed drug and the side effects which may interfere with the performance of police duties.
- ii. The supervisor or member informed that a member is using prescribed drugs shall make further inquiry to determine whether the member can safely perform their duties, or if there is some reasonable accommodation possible that would allow the member to safely perform his or her duties. If not, and there is no other appropriate police duty available, the member shall be placed on PTO leave.
- iii. Any member using legal over-the-counter non-prescribed drugs and feels in any way impaired is responsible for bringing that fact to his/her supervisor's attention.
- iv. A member shall not possess or use any substance as defined in the Arizona Criminal Code as a controlled substance at any time, whether on or off duty, unless prescribed by a physician.
- v. A member shall not be under the influence of any drugs while on duty unless they have complied with Sections D-1 and 2.
- vi. Members failing to report use of prescribed drugs or over-the-counter drugs that may impair performance per this order are subject to disciplinary action.

13.6 Criminal Drug Convictions

Any employee who is convicted of violating any criminal drug statute while in the workplace may be subject to discipline up to and including immediate termination. Employees are required to report any criminal drug statute conviction occurring in the workplace to his/her immediate supervisor within five days.

13.7 Inspection of Property, Equipment, And Vehicles

All employees on City property or who are performing services on a City project, and all property, equipment, and vehicles on City property or being used in connection with the performance of work on a City project (including without limitation all vehicles, containers, desks, and file cabinets), are subject to unannounced inspection by the City of Show Low. You should not expect that any property or items that you bring to work with you or that you use at work are private. If you do not want any property or items inspected, do not bring them to work.

Employees who refuse to permit inspections under this Policy or who fail to cooperate with inspections under this Policy may be subject to discipline, up to and including immediate termination.

13.8 Drug and Alcohol Testing

The City of Show Low may require that employees and applicants provide urine, blood, breath, and/or other samples for drug and/or alcohol testing under any of the following circumstances:

a. Pre-Employment Testing

All applicants who have received conditional offers of employment with the City of Show Low will be required to undergo drug testing as a condition of employment. The City will revoke a job offer to any applicant who tests positive.

b. Reasonable Suspicion Testing

The City of Show Low may require any employee to undergo drug and alcohol testing if management has a reasonable suspicion that the employee:

- i. Has violated the City of Show Low's written work rules prohibiting the use, possession, sale, or transfer of alcohol and/or illegal drugs while on duty, while working, while on City property, or while operating City equipment, machinery, or vehicles;
- ii. Is under the influence of alcohol and/or illegal drugs while on duty, while working, while on City property, or while operating City equipment, machinery, or vehicles;
- iii. Is impaired by alcohol and/or illegal drugs;
- iv. May be affected by the use of alcohol and/or illegal drugs and that the use may adversely affect job performance or the work environment;

- v. Employee's behavior is out of character, or an employee exhibits some or all behaviors per profile of reasonable suspicion of being under the influence of alcohol or drugs;
- vi. An employee receives an injury;
- vii. An employee has been working with or around another worker who receives an injury;
- viii. An employee has been working in the vicinity of a non-injury/property accident;
- ix. An employee has been involved in a vehicular accident on City time in any vehicle regardless of ownership;
- x. An employee is arrested for DUI while on City time or while performing City business regardless of ownership of the vehicle used;
- xi. The City will test when a City official or supervisor reasonably suspects that a driver is using a controlled substance or alcohol, either while performing a safety sensitive function on a CMV, or immediately before or after performing a safety sensitive function on a CMV; or
- xii. The City also may require employees to undergo drug and alcohol testing when, in the judgment of management, such testing is appropriate for the maintenance of safety for employees, customers, clients, or the public at large, or for the maintenance of productivity, quality, or security of property or information.

c. Post-Accident Testing

The City will require any employee to undergo drug and alcohol testing as soon as practicable after a work-related accident.

The City will conduct tests after a motor vehicle accident in which the driver of a CMV received a traffic citation and there was (a) a loss of life, (b) injury requiring medical treatment away from the scene of the accident, or (c) damage to any motor vehicle. Any driver who performed a safety-sensitive function on the CMV involved in the accident will be tested.

After an accident, drivers who are subject to testing under this provision may not use alcohol for eight (8) hours after the accident or until they are tested, whichever comes first.

d. Post-Injury Testing

The City will require any employee who has sustained a work-related injury requiring medical attention to undergo drug and alcohol testing within 24 hours of the injury.

e. Random Testing

The City may test at random sworn police officers and police department employees responsible for responding to emergency calls.

f. Commercial Motor Vehicle Testing

State and Federal law requires employees who drive or work on a commercial motor vehicle (CMV) to submit to testing for alcohol and drugs under the following circumstances:

- i. Upon employment, or in the case of current employees, before performing tasks requiring a commercial driver's license for the first time. A CMV Operator will not be allowed to perform any safety-sensitive function until satisfactorily completing one or more of the above-mentioned tests.
- ii. After a motor vehicle accident in which the CMV driver received a moving traffic citation and there was loss of life, injury requiring medical treatment away from the scene of the accident, or disabling damage to a motor vehicle. Any employee who performed a safety-sensitive function on the vehicle involved in the incident may be tested. (After an accident a CMV driver may not use alcohol for eight hours after the accident or until being tested, whichever occurs first).
- iii. On a random basis for up to five (5) years after a CMV driver returns to duty after failing a drug or alcohol test or refuses to take a test.
- iv. When the City reasonably suspects the CMV driver is using a controlled substance or alcohol.
- v. From time to time, on a random basis, so that at least 50% of the City's CMV drivers are tested each calendar year for drugs, and at least 25% of the City's CMV drivers are tested each calendar year for alcohol.

g. Return to Duty Testing

After a driver tests positive for drug or alcohol abuse or refuses to take a test, the City will test that driver before he/she is allowed to perform any safety-sensitive function on a CMV. A blood alcohol concentration of less than 0.02 is required to return to work on a CMV.

h. Follow-Up Testing

The City will test a driver on a random basis for up to five (5) years if that driver's substance abuse counselor recommends random testing as part of a rehabilitation program.

i. Department of Transportation Testing

In addition to the general substance abuse policy described above, Federal law requires the City to test certain groups of employees for drugs and alcohol.

i. Applicability

This section applies to all employees who perform safety sensitive functions on a commercial motor vehicle for the City.

1. A “commercial motor vehicle” (CMV) includes any vehicle that requires a commercial driver’s license to operate.
2. A “safety-sensitive function” includes driving a CMV, waiting to drive a CMV, loading or unloading a CMV; inspecting, servicing, repairing or conditioning a CMV; attending a CMV that is being loaded, unloaded, inspected, serviced, repaired or conditioned; and all other time spent in or on a CMV.
3. A driver is performing a safety-sensitive function anytime he/she is actually performing, ready to perform, or immediately available to perform any safety-sensitive function.

The City will advise employees when they first become subject to the testing requirements of this section.

ii. Prohibitions

Federal law prohibits the following:

1. Possessing any alcohol products (including medicine and food) on a CMV that is not cargo or performing any safety-sensitive function on a CMV (a) within four (4) hours of consuming alcohol, or (b) with a blood alcohol concentration of 0.04 or greater.
2. Performing any safety-sensitive function on a CMV when the driver has used a controlled substance, except when such use is pursuant to the instructions of a physician and does not affect the driver’s ability to safely operate a CMV.
3. Refusing to submit to a drug or alcohol test required under this section.
4. Using alcohol within eight (8) hours after an accident or until undergoing a post-accident alcohol test (whichever occurs first) when required to submit to post-accident testing under this section.

Drivers who violate any of these provisions will not be allowed to perform any safety-sensitive function on a CMV and, furthermore, are subject to discipline, up to and including termination, even for a first offense.

13.9 Specimen Collection and Testing Procedures

a. Specimen Collection Procedures

i. Test Subject Privacy

Appropriate professional personnel will supervise the collection of urine and blood specimens for testing. In the absence of a reasonable suspicion that the test subject will alter or substitute a urine specimen, the collection personnel will not directly observe the collection of the urine specimen.

ii. Chain of Custody Procedures

The City will take steps to preserve the chain of custody of specimens, in order to ensure testing accuracy.

iii. Testing Procedures

Testing under this section will comply with the procedures set forth in 49 C.F.R. Parts 40 and 49. This includes having only certified laboratories conduct testing, requiring chain of custody procedures to safeguard the integrity of the testing process, and having a medical review officer review test results.

b. Specimen Testing Procedures

The City will determine the type and manner of drug or alcohol testing, including what constitutes a positive test result, at its sole discretion. The City is entitled to rely on the results of its drug or alcohol testing to determine if any employee has violated this policy and is subject to discipline.

Specimens will be tested only by laboratories that are properly approved to conduct drug and alcohol testing by the U.S. Department of Health and Human Services (SAMHSA, formerly NIDA), the College of American Pathologists, or the Arizona Department of Health Services.

Specimens will be tested only for the presence of alcohol, illegal drugs, and their metabolites.

Positive initial screening test results for employees will also be confirmed by gas chromatography/mass spectrometry or other appropriate methods of confirmatory analysis ("confirmatory test").

Drug and alcohol testing will be performed by a certified laboratory and will comply with scientifically accepted analytical procedures, including the following:

- i. Test samples will be collected in a reasonable and sanitary area and will be labeled and handled in a way reasonably designed to preclude sample contamination, adulteration or misidentification.

- ii. At the time of testing, a person will be given the chance to provide any information that may be relevant to the test, including whether the person is taking prescription medication or undergoing any medical treatment that may affect the result of the test. Additionally, individuals will be given the chance to explain a positive drug test result in a confidential setting.
- iii. Testing will typically occur during, or immediately before or after, the employee's regular work period, and the testing time for employees will be treated as time worked. If the testing is offsite, employees will not be permitted to drive but will be provided transportation or be reimbursed for their reasonable transportation costs.
- iv. Employees may request a written copy of their drug and/or alcohol test results. These results are confidential and will be released only to the tested employee, persons designated by the tested employee in writing, persons designated by the City to receive and evaluate test results or hear any explanation regarding a positive test result and other persons authorized by law.

c. Cost of Testing

The City will pay for any drug and alcohol test that it requests or requires.

d. Test Result Reports

The City will promptly communicate test results to test subjects. Any test subject may request a copy of his or her test result report.

13.10 Confidentiality of Test Results

The City will not disclose test results except as authorized by the test subject or as authorized, permitted, or required by applicable law.

13.11 Consequences of Refusal

Employees and applicants may refuse to undergo drug and alcohol testing. However, employees who refuse to undergo testing or who fail to cooperate with the testing procedures will be subject to discipline, up to and including immediate termination. Employees who refuse to undergo testing or who fail to cooperate with the testing procedures also may be disqualified from receiving unemployment compensation benefits and/or workers' compensation benefits. Applicants who refuse to undergo testing or who fail to cooperate with the testing procedures will not be hired.

The appropriate level of discipline will be determined on a case by case basis at the City's sole discretion, and may include a requirement that the employee participate in a treatment or rehabilitation program under terms acceptable to the City.

13.12 Right to Explain Test Results

Any test subject who tests positive on a confirmatory test on any drug and alcohol test required by the City may submit additional information to the City, in a confidential setting, to try to explain the confirmed positive test result.

13.13 Consequences of Confirmed Positive Test Results

a. Applicants

Any applicant who tests positive on a confirmatory test on any drug test required by the City and who does not timely and successfully explain the test results will not be hired.

b. Employees

Any employee who tests positive on a confirmatory test on any drug and alcohol test required by the City and does not timely and successfully explain the test results will be subject to appropriate disciplinary action, at the sole discretion of the City, up to and including immediate termination.

13.14 Enforcement

a. Notice of Drug Conviction

Employees accused, arrested, or convicted of a drug-related offense, DUI or DWI, including pleas of no contest, must inform the Human Resources Director within five (5) days of such arrest, conviction or plea.

b. Discipline

An employee who tests positive, refuses to submit to drug or alcohol testing, refuses to sign all appropriate consent forms, or otherwise fails to comply with this policy to the City's complete satisfaction may be subject to discipline up to and including immediate termination. The appropriate level of discipline will be determined on a case-by-case basis at the City's discretion and may include treatment or rehabilitation under terms established by the City.

The City is entitled to rely on the results of its drug or alcohol test to determine whether the policy prohibiting drug or alcohol abuse has been violated by an employee.

c. Other Laws

This policy shall be construed in accordance with Federal, State, and local laws, including the Americans with Disabilities Act and the Family Medical Leave Act.

13.15 Training

a. Supervisors

Supervisors will receive training with respect to the detection of controlled substance and use and alcohol abuse.

b. Drug-Free Awareness Program

To educate employees about the dangers of substance abuse, the City has established a drug-free awareness program. The City will provide its employees with information concerning the dangers of drug and alcohol abuse, the availability of counseling, and the City's policy regarding substance abuse.

The City has also established a training program for all CMV operators and supervisory employees which includes information on the effects and consequences of controlled substances and training to detect controlled substance use.

13.16 Other Requirements

Persons covered by this section may also be tested and disciplined pursuant to the City's general substance abuse policy described in Section 13.1 above.

13.17 Employee Assistance Program/Substance Abuse Treatment

The City encourages employees with substance abuse problems to avail themselves of any available treatment or rehabilitative services available under the City's group health plan. Information regarding these services can be obtained from the Human Resources Director.

- a. The City regards its employees as its most valuable asset. Accordingly, the City maintains an Employee Assistance Program that provides help to employees who suffer from substance abuse and/or other mental health problems, through its group health plan.
- b. No employee will be subject to discipline for voluntarily seeking EAP assistance or substance abuse treatment. An employee may not, however, avoid discipline for violating the Substance Abuse Policy by seeking this assistance. In addition, an employee's participation in an EAP or referred substance abuse treatment program will not excuse the employee from being required to meet all of the same standards and qualifications for the job that apply to other employees, including performance, attendance, and other measures.
- c. The City will conduct drug-free awareness programs periodically. These programs will inform employees about the dangers of drug and alcohol abuse in the workplace, the City's policy of maintaining a drug and alcohol-free

workplace, available drug and alcohol counseling, rehabilitation, and employee assistance programs, and the sanctions that may be imposed for drug and alcohol abuse violations.

- d. Employees are encouraged to approach their supervisor at any time with any questions they have about the City's Substance Abuse Policy.

SECTION XIV

Disciplinary Actions

14.1 Grounds for Disciplinary Action

Continued employment of any employee subject to these Rules (as defined in Section 1.1) shall be based upon acceptable conduct and satisfactory job performance. Failure to meet the standards of conduct and work performance shall be considered sufficient grounds for disciplinary action, up to and including termination of employment.

For the reference and convenience of employee's supervisors, department heads and the City Manager, the following list of grounds for possible disciplinary action has been developed as a guideline. **This list is not intended to be a fully exhaustive list of all possible grounds for disciplinary action. Employees may be disciplined, up to and including termination of employment, for any reason deemed to constitute good cause by the City.**

- a. Failure to respond to oath (where applicable), violation of or failure to comply with the constitution or statutes, City ordinance, City or department rules and regulations, and these personnel rules and regulations;
- b. Failure or refusal to comply with a lawful order or to accept a reasonable and proper assignment from an authorized supervisor;
- c. Inefficiency, incompetence, inability, negligence, or brutality in the performance of duties;
- d. Testing positive for a controlled substance, unless the controlled substance is by specific medical authorization;
- e. Possession, use or testing positive for illegal drugs;
- f. Possession, use or testing positive for alcohol on the job or attempting to work under the influence of alcohol, even if consumed before working hours;
- g. Carelessness, negligence or improper use of City property, equipment, or funds;
- h. Use of influence to gain or attempt to gain promotion, leave, favorable assignment or other individual benefit or advantage;
- i. Failure to obtain and maintain a current motor vehicle driver's license or certificate as a condition of employment as required by law;

- j. Conduct unbecoming a City employee, such as, but not limited to arrests, where the proof is evident that the employee is guilty of the offense, for misdemeanors or felonies, or any off duty conduct that reflects poorly on the City or on the employee's ability to carry out his or her duties as a City employee;
- k. Chronic unexcused absenteeism or tardiness in reporting to work;
- l. Failure to report to work as scheduled without prior approval or failure to report after a leave of absence has expired;
- m. Harassment in violation of the City's policies, sexual or otherwise;
- n. Poor job performance;
- o. Abuse of unplanned leave;
- p. Theft or destruction of City property or another employee's property;
- q. Any unauthorized absence from work;
- r. Any other action or misconduct deemed grounds for disciplinary action or termination by the supervisor, department head, Human Resources Director or City Manager.

REMINDER: This is not an exclusive list. If you have any question as to whether your conduct might subject you to disciplinary action, consult with your supervisor, department head, Human Resources Director and/or the City Manager.

14.2 Types of Disciplinary Actions

a. Suspension with Pay

Suspensions with full pay and benefits are not considered disciplinary actions. Suspensions with pay are usually imposed when an investigation must take place or when accusations against the employee have been made which would make it difficult for the employee to continue working effectively. Suspensions with pay may be ordered on an emergency basis by any department head for up to a 48-hour period; the City Manager must approve any suspension with pay that is expected to last for a longer period of time. Suspensions with pay can neither be grieved nor appealed.

b. Suspension Without Pay

Suspensions without pay are considered disciplinary. Before a suspension without pay is imposed, the employee will be given a pre-disciplinary hearing, as set forth in section 14.3. An employee ordered to serve a suspension without pay is not permitted to use unpaid PTO, or any other pay continuation benefit during the suspension without pay. At the discretion of the City Manager, the City will continue the employee's health care benefits during the suspension. A suspension without pay will not ordinarily be longer than one (1) month in duration because any cause for discipline which would require a

longer suspension without pay may be appealed according to the Appeals procedure set forth in Section XVII.

c. Involuntary Demotion

Involuntary demotions may take place due to either a reorganization, reduction in force or due to performance or disciplinary problems with the employee. The decision to demote is made by the department head with the approval of the City Manager. Before any involuntary demotion is imposed, the employee will be given a pre-disciplinary hearing, as set forth in Section 14.3. Any employee who falls within the scope of these Rules (See Section 1.1) and is subject to involuntary demotion may appeal the demotion according to the Appeals procedure set forth in Section XVII.

d. Involuntary Termination

Involuntary terminations may take place due to reorganization, reduction in force or due to performance or disciplinary problems with the employee. Before an involuntary termination is imposed, the employee will be given a Pre-disciplinary hearing, as set forth in Section 14.3. An involuntary termination would include situations where the employee felt forced to resign (“forced resignation” or “constructive discharge”). Any employee who falls within the Scope of these Rules (See Section 1.1) and is subject to involuntary termination may appeal the termination according to the Appeals procedure set forth in section XVII.

e. Other Disciplinary Action

Any disciplinary action, which is less severe than a suspension without pay, involuntary demotion, or involuntary termination, may be imposed by the supervisor, department head, or City Manager without advance notice to the employee. In the event the employee disagrees with the imposition of any such lesser discipline, or believes the decision was wrongful or in error, the employee must use the Grievance Procedure described in Section XVI of these rules.

14.3 Due Process Procedures

a. Purpose of Discipline

Disciplinary action is generally taken in an attempt to correct or improve an employee’s job performance or to penalize an employee for violations of the City’s Rules and Regulations.

b. Pre-Disciplinary Action Hearings

An employee who is being considered for suspension without pay, involuntary demotion or involuntary termination will first be given written “Notice of Intent To Impose Disciplinary Action”, in which he or she will be informed of a time

and place to appear for a pre-disciplinary action hearing. At the hearing, or in the written Notice of Intent, the employee will be provided with the factual basis for the intended disciplinary action. At the hearing, the employee will be permitted to explain his or her side of the story or explain why the planned disciplinary action should not be imposed or should be of a lesser degree. The decision maker will then, based on the matters presented, make a decision as to whether the planned disciplinary action or some lesser form of disciplinary action shall be imposed. If applicable, the employee will then be notified in writing of the "Imposition of Disciplinary Action," which will include any relevant dates of suspension or the effective date of termination.

In the event that the employee disagrees with the decision to impose a suspension without pay, involuntary demotion or involuntary termination or believes the decision was in error or wrongful, the employee must use the Appeals procedures set for the in Section XVII of these Rules.

Note: This section does not apply to demotions, leaves without pay or terminations, which are caused solely by economic forces (i.e. position elimination, reduction in force or the closure of programs or department due solely to financial reasons). The City is not required to give pre-disciplinary hearing to employees who are subject to demotion, suspension without pay or termination for economic reasons. However, those employees may nevertheless use the Appeals procedure set forth in Section XVII of these Rules, and must do so if they believe their selection for suspension without pay, demotion or termination due to economic reasons was in error or wrongful.

Section XV

Method of Separation

15.1 Resignation

An employee who wishes to voluntarily resign from his/her position with the City is expected to provide a written resignation to his/her supervisor two (2) weeks, or ten (10) working days, in advance of the anticipated resignation date. Professional and supervisory staff may be required to provide twenty (20) working days notice. (Any unplanned leave taken thereafter may require a physician's statement for any time missed). The letter of resignation shall remain part of the employee's permanent personnel file. Failure by an employee to provide sufficient notice of resignation as set forth above will result in the forfeiture or payment of any accrued but unused PTO leave. The City reserves the right to immediately accept the employee's resignation.

15.2 Layoff

If it becomes necessary to lay off City employees due to lack of funds, lack of work, or reorganization, the City Manager shall render the final decision as to the selection of employees to be laid off. In administering a layoff action, the total length of service with the City and the performance of the employee is only one

factor among many taken into consideration. Other considerations will necessarily include:

- a. The needs of the City;
- b. Performance of the employee;
- c. Special abilities the employee may possess; and
- d. Total seniority time of affected employees.

A regular status employee who is to be laid off shall receive written notice at least ten (10) working days prior to the effective layoff date. Employees who are on layoff will be considered for recall for up to one (1) year after the effective day of their layoff.

15.3 Termination

Probationary employees may be terminated at any time with or without cause and with or without notice during their probationary period, because their employment is on an at-will basis. Other employees covered by these rules and regulations may be terminated in accordance with the termination procedures set forth in Section XIV. Part time and probationary employees may be terminated at the discretion of the City Manager.

Employees who are not at work and who have exhausted all of their leave benefits, including allowable leaves without pay, will also have their employment terminated and their files closed for job abandonment.

SECTION XVI

Grievance Procedure

16.1 Purpose and Scope of Grievance Procedure

The City of Show Low has developed the following Grievance Procedure to help maintain satisfactory working conditions for its employees. The procedure set forth below will provide the exclusive means to ensure fair handling of employee complaints and grievances that involve tangible employment actions that are not covered by the appeal procedure in Section XVII. Tangible employment actions covered by this grievance procedure include only performance reviews, pay issues, and disciplinary actions. For any dispute involving involuntary demotions, suspensions without pay and terminations, the employee must use the Appeals procedures set forth in Section XVII.

The Grievance procedure is only available for those employees who fall within the Scope of the Rules, as defined in Section 1.1 of these Personnel Rules and Regulations.

The Grievance Procedure is not intended to cover situations involving harassment or discrimination. For complaints involving harassment or

discrimination, employees should follow the reporting procedure outlined in Section VI.

The Grievance Procedure provides multiple levels of review to ensure fairness impartiality in the decision process. With respect to all issues, which are covered by the Grievance Procedure, the decision of the City Manager shall be final and binding, and therefore not appealable to any office or other body of the City, or to any other forum, administrative or judicial.

16.2 Grievance Procedure First Step (Informal/Verbal)

An employee who has a grievance should first attempt to resolve the matter by discussing the problem with his/her direct supervisor. This must be done within five (5) working days of the occurrence of (or knowledge of) the facts that give rise to the grievance.

16.3 Grievance Procedure Second Step (Written Grievance)

An employee who is not satisfied with the verbal resolution of his or her grievance, or who reasonably believes that any informal verbal attempt at resolution would be futile, may file a written grievance within ten (10) working days of the occurrence of (or knowledge of) the facts that give rise to the grievance. The written grievance shall be directed to the direct supervisor, the department head or the Human Resources Director, in that order. If the employee is not satisfied with the resolution of the written grievance proposed by either the supervisor or department head, the employee must file the same grievance with the Human Resources Director. An employee must use the "City of Show Low Grievance Form" to file the written grievance. The grievance must include the employee's requested corrective action or the grievance will be automatically denied.

If the written grievance is filed with the Human Resources Director, he/she will meet with the employee within ten (10) working days of receipt of the written grievance. The Human Resources Director may conduct any investigation that he/she deems necessary to resolve the grievance. The Human Resources Director will render a decision on the grievance in writing to the employee, generally within thirty (30) days of receipt of the grievance unless additional time is needed for further investigation.

16.4 Grievance Procedure Third Step (City Manager Review)

An employee who is not satisfied with the decision of the Human Resources Director may appeal the decision to the City Manager or his/her designee. The City Manager, or his/her designee, may review the record of the grievance and issue a decision, or may, within his/her discretion, conduct an investigation or a fact-finding hearing. The City Manager's, or his/her designee's decision on the grievance is final and binding for all purposes.

An employee must bring any grievance within the time limits set forth in the Grievance Procedure of any claim, or complaint will be deemed abandoned by

the employee. The City Manger, or his/her designee, may waive the time limits on a particular case for good cause shown.

SECTION XVII

Appeals Procedures

17.1 Scope of Appeals

Any employee who falls within the Scope of these Rules (as defined in Section 1.1 of these Rules and Regulations) may appeal a suspension without pay, involuntary demotion or involuntary termination (including a “forced resignation” or “constructive discharge”) in writing to the City Manager within ten (10) days of the notice of suspension, demotion or termination. Failure to request an appeal within the time limit specified will be considered the employee’s abandonment of the right to appeal. The City Manager, or his/her designee, may waive the time limits in a particular case for good cause shown.

17.2 Format of Appeals

An appeal must set forth the reason for the Appeal, including whether the employee was subjected to an involuntary termination, suspension without pay or involuntary demotion, and the reason(s) why the employee believes the employment decision was wrongful or in error.

17.3 City Manager’s Role

Within Fifteen (15) days of receipt of an appeal, the City Manager (or his/her designee) will arrange to personally conduct a hearing on the appeal.

17.4 Appeal Hearing Process

At the Appeal hearing, the employee will be permitted to be represented by counsel at his or her expense and may present and cross-examine witnesses upon any issues relevant to the employment decision, either through counsel or personally.

The employee may also be assisted by or represented by a non-lawyer at the hearing, contingent on the approval of the City Manager or his/her designee. The conduct of the hearing, including decisions of the admissibility of evidence, will be determined by the City Manager or his/her designee. The formal rules of evidence need not be followed. The City will also be permitted to present evidence and witnesses as appropriate and may cross-examine any witness, including the employee. The burden of proof will be on the employee to demonstrate that the employment decision was wrongful or in error.

17.5 Decision of the City Manager

The City Manager shall render a decision within ten (10) days of the conclusion of the Appeal hearing. The City Manager’s, or his/her designee’s, decision will be

based on the evidence presented at the hearing. The decision will be final and binding for all purposes, and therefore not appealable to any office or other body of the City or to any other forum, administrative or judicial. This Appeal procedure is the exclusive remedy for any employee claiming his or her suspension without pay, involuntary demotion or involuntary termination was wrongful or in error, including claims of discriminatory treatment, harassment or constructive discharge.

In the event the City Manager, or his/her designee, decides to reverse or lessen a decision imposing involuntary termination, suspension without pay or involuntary demotion, the remedies granted by the City Manager, or his/her designee, will be designed to make the employee "whole", but will not bestow a windfall on the employee. Such remedies may include, but are not limited to, reinstatement, back pay, transfer, and reimbursement of the employee's actual attorney fees.

Any decision as to which "make whole" remedies may be appropriate in a given case will be made by the City Manager after consultation with the City Attorney or other legal counsel. Any decision to award an employee monetary remedies other than full back pay will be subject to an allocation of funds and approved by the City Council. In no event may the employee be awarded punitive damages as a remedy.

The City Manager, or his/her designee shall sign the final action, which shall be binding on all parties.

Section XVIII

Personnel Records

18.1 Access to Personnel Files

Access to an employee's personnel file shall be limited to:

- a. The employee or any individual who has written authorization from the employee to review the personnel file;
- b. The Human Resources Director, or designee, and the City Manager, or designee;
- c. The employee's supervisor and department manager;
- d. Human resources staff members in the performance of their official duties, including responding to court orders or subpoenas; and
- e. Employees or agents of companies providing employee benefits, when necessary to determine eligibility or otherwise administer benefits to the employee.

In addition to the provisions of the above, the following information from an employee's personnel file will be provided to any person making a request for it as a public record, pursuant to the provisions of Title 39 of the Arizona Revised Statutes:

- i. Name of employee;
- ii. Present and previous job titles held with the city and the dates for each;
- iii. Starting employment date;
- iv. Salary range for the position held by the employee and present salary of unclassified employees, if requested;
- v. Name of the employee's supervisor;
- vi. Written information evidencing commendations or disciplinary actions, which may be the subject of an appeal to the City Manager.

18.2 Confidential Information

Access to the following information, if contained in an employee's personnel file, shall be considered private, confidential; or both, as applicable, and shall not be disclosed to a person making a public records request, pursuant to the provisions of Title 39 of the Arizona Revised Statutes, except as otherwise provided in this section:

- a. The residence address and phone number of the employee or any dependents or relatives of the employee;
- b. Any written reviews or evaluations relating to the employee's performance of their job;
- c. Any letters of counseling, memoranda or other writings, used in connection with the supervision, management or guidance of the employee, which do not constitute disciplinary actions within the meaning of this chapter;
- d. Any information relating to charges or allegations, which have been brought against the employee and which, after investigation, have been dismissed or determined to be unfounded;
- e. Any medical documents or reports relating to the employee;
- f. Any documents where the disclosure of which is specifically prohibited by federal or state law;
- g. Any documents relating to any benefits relating to the employee, or the employees dependents, provided through programs established by the City;
- h. Any documents designated to be "confidential".

Access to the materials described in the above section, shall be limited to the employee, the Human Resources director, any person to whom the City Manager delegates his or her authority, persons designated by any delegate, supervisors and managers, who directly supervise the employee and have an official need to know the information. Attorneys employed by the City may also have access to such documents when necessary to assess the City's legal position or to provide legal advice to the City Manager, Human Resources Director, City Attorney, or City Council.

In the event that a person making a public records request pursuant to Title 39 of the Arizona Revised Statutes is denied access to the material, the aggrieved person may request that the denial of access be reviewed by the Human Resources Director, or designee. The Human Resources Director, or designee with the assistance of the City Attorney, shall review the request and respond to it. The decision of the Human Resources Director, or designee, shall be based upon an assessment of the prevailing law, the nature of the public's right to access to the record or material and any potential harm to the employee, the public or the City in granting access.

ACKNOWLEDGEMENT AND RECEIPT

of The City of Show Low Personnel Rules and Regulations

I have received and read a copy of the City of Show Low's Personnel Policies, including the Substance Abuse Policy and the policies regarding Harassment and Discrimination.

I understand that the Substance Abuse Policy applies to me, and I agree to comply with all terms and conditions of the policy. I understand that if I fail to comply with any aspect of the Policy, I will be subject to discipline, up to and including immediate termination of my employment with the City of Show Low. I understand that the Substance Abuse Policy supersedes and revokes all previous practices, procedures, policies, and other statements of the City of Show Low, whether written or oral, that modify, supplement, or conflict with the Policy. I also understand that the Policy may be amended at any time.

I also understand the City's policy against harassment and discrimination, including the procedure for reporting complaints of violations of that policy.

EMPLOYEE SIGNATURE

DATE

EMPLOYEE NAME (PRINTED)

DATE