

**TOWN OF EAGAR, ARIZONA**  
Personnel Rules



Effective February 8, 2017

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# **SECTION 1**

## **Scope and Administration of Rules**

### **1.1 Scope**

The Town Council authorizes the adoption of these Personnel Rules which may be modified or changed from time to time. These rules will follow the generally accepted principles of good personnel administration and apply to all employees in the service of the Town of Eagar, unless excluded. Elected officials, members of boards and commissions, volunteers, as well as contract positions (such as Town Manager, Town Attorney, Town Magistrate, Computer Technician) are not considered employees within the scope of the Personnel Rules except as specifically referred to.

Certain employees of the Town serve on an at-will basis and do not have access to rights of Appeal as set forth in Section 14 (see Section 16 for definition of at-will employee.) The following positions are filled with at-will employees:

- Town Manager
- Town Clerk
- Finance Administrator
- Public Works Director
- Chief of Police
- Fire Chief
- Community Development Director

The due process procedures relating to Disciplinary Actions in Section 12 of these rules are never applicable to employees who serve at will. All part-time employees (those employees normally scheduled to work less than 32 hours per week) and temporary employees (those employees hired seasonally for not more than 19 weeks in a calendar year) are at-will and exempt from the due process provisions of these rules. Employees who are in their orientation/probationary period with the Town of Eagar will be considered temporary employees and exempt from the due process provisions of these rules until such time as they have satisfactorily completed their orientation period.

### **1.2 Equal Employment Opportunity**

The Town is an Equal Opportunity Employer. These Personnel Rules will be administered in a manner consistent with federal and state laws, and rules and regulations concerning equal employment opportunity. No employee of the Town of Eagar will be appointed or promoted to, demoted or terminated from, any position or in any way discriminated against because of his or her sex, race, color, ancestry, genetics, national origin, religion, disability, pregnancy, age, sexual orientation, gender identity, or any other legally protected status.

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

### **1.3 Classification and Compensation**

A personnel classification plan with job descriptions shall be established and may be amended by the Town Manager and approved by the Town Council.

The classification plan shall consist of job descriptions of duties and responsibilities of all positions and insure that all positions substantially similar in duties, responsibilities, authority, and character of work are included

within the same class, and that the same schedules of compensation may be made to apply with equity under like working conditions. All members of a class shall be treated equally and consistently with length of service and other relevant factors.

In arriving at salary rates or classes, consideration shall be given to prevailing rates of pay and consideration of working conditions for comparable work in other public employment, to cost of living, to the town's financial conditions and other relevant factors.

Within the classification plan there shall be a schedule of pay rates, setting forth grades and steps within those grades consisting of a beginning pay rate, and additional increments expressed in dollar terms. Each employee (except the Town Manager) shall be assigned at all times to a specific grade and step within the classification and grade plan.

Employees in their first five years of employment and not already compensated past the five year step in their current grade may be eligible for a pay increase as outlined in the council approved step system, based on the employees' performance evaluation. All other employees will be eligible for a pay increase only if reassigned to a new classification and grade, and or a council approved cost of living allowance in line with their current classification grade and step.

Employees promoted to a new pay grade that overlaps their present pay grade shall be placed in the lowest step in the new grade that will result in an increase in pay within the step system and shall not be eligible for additional step increases unless they have less than five years of service with the Town.

The date for determining advancements in steps in the pay grade will be the date the employee is assigned, promoted to or hired into his current pay grade. Part-time employees must work an average of 15 hours a week to be eligible for advancement via the step system.

#### **1.4 Administration of These Rules**

The ongoing administration of these Personnel Rules is the responsibility of the Town Manager, who will perform the administrative duties under these rules unless federal or state laws or the rules provide otherwise. Powers and duties may be delegated to another officer or employee of the Town.

#### **1.5 Administrative Procedures**

The Town Manager may authorize adopt, amend, or rescind written administrative procedures or guidelines consistent with these rules to provide specific guidance and assist in practical application. These procedures or guidelines are effective on the dates issued and will be retained on record in the Town Clerk's office, together with these rules, open to public inspection during normal working hours.

## **SECTION 2**

### **Requirements for Recruitment and Original Employment**

#### **2.1 Americans with Disabilities Act**

The Town follows the requirements of the Americans with Disabilities Act. A qualified, disabled individual who, with or without reasonable accommodation, is capable of performing the essential functions for a particular job and meets the other job and performance requirements of the position will be given equal consideration in all aspects of employment, including hiring, promotion, and salary. The Town is committed to providing reasonable accommodations to allow disabled employees to perform their essential job

functions.

## **2.2 Recruitment**

The Town values its employees and strives to hire applicants of the highest caliber. To increase awareness of positions available, all openings are posted on the Town's website. Open positions may also be publicized or advertised in the local newspaper, association websites and newsletters, and through any appropriate media to attract the best qualified applicants.

## **2.3 Applications**

Applicants for employment will be required to file applications on forms provided by the Town which require information covering training, experience, certifications, and references.

## **2.4 Selection**

The Town maintains high standards for its employees and will make hiring selections based on merit. It is the responsibility of the Town Manager, or his/her designee, to select the best-qualified applicant for each position.

## **2.5 Operator's (Driver's) Licenses**

All operators of Town vehicles and equipment shall hold a current Arizona operator's and/or other appropriate driver's licenses at all times with records maintained in the employee's personnel file.

## **2.6 Conditional Offer of Employment**

The Town is a drug free workplace and requires applicants receiving a conditional offer of employment to pass pre-employment physical and drug screening examinations. Offers of employment are contingent on the test results. Refusal to submit to testing will result in disqualification from further employment consideration. (*See Section 11 Substance Abuse Policy.*) Required medical examinations will be paid for by the Town and will be performed by an approved designated physician or licensed medical facility.

Fingerprinting by the Eagar Police Department will be required if the applicant will have unsupervised contact with any minor. Fingerprints will be forwarded to the Arizona Department of Public Safety to obtain a state and federal criminal history records check.

## **2.7 Nepotism Prohibited**

The Town personnel system is based on merit. Nepotism in any form is prohibited. Specific restrictions are listed below. "Relative" as used in this section means a person related by blood, marriage, or adoption in the following manner:

- Spouse, or an individual in a cohabitant relationship;
- Parent, step-parent, adopted parent;
- Grandparent, grandchild; step-grandchildren; adopted grandchildren
- Sibling, step-sibling, or half sibling;
- Child, step-child, adopted child;
- Father or mother-in-law;
- Son, or daughter-in-law;
- Brother, or daughter-in-law.

Under no circumstances is an employee of the Town permitted to make a hiring decision, or attempt to influence anyone else making a hiring decision, about the employee's relatives.

No relative of an employee of the Town who is a full-time employee shall work in the same department or report to one another, either directly or indirectly. Relatives of department heads are also restricted from working within the organization without specific prior permission from the Town Manager. Temporary or seasonal employees may be employed by the Town within the same department with prior authorization, but in no circumstance will a relative supervise an immediate family member. Part-time employees may be employed by the Town provided that a relative does not work within the same department.

In the event two employees that are employed within the same department marry or enter into a cohabitant relationship, one of the employees shall be transferred to a position in another department. One of the employees may be laid off if a similar position is not available. Exceptions may be made at the discretion of the Town Manager. If the situation involves a relative of the Town Manager, exceptions require the approval of the Town Council.

If a spouse or individual in a cohabitant relationship with an employee of the Town chooses to run for an elected town 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 Town official.

## **2.8 Relationship Between Employees**

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

Personal relationships with other employees must not interfere with work. Town employees shall not pursue amorous relationships with co-workers to whom they give work direction, disciplinary actions, are in the chain of command, or are otherwise in a reporting relationship. Relationships between Town employees who report to each other, either directly or indirectly must be kept strictly and exclusively professional. This will help avoid the appearance of favoritism, protect morale, maintain employee productivity, and avoid claims of sexual harassment. In all cases the Town reserves the right to transfer one or both employees to another department, or if not feasible, to terminate the employment relationship of one or both employees.

## **2.9 Residency**

To ensure a timely response to assist citizens in emergency situations, certain positions subject to on-call and call-out, as well as the Town Manager and Department Administrators shall be required to reside within a certain distance that will allow the employees to respond within a specified time. Each department may have their own rules and procedures establishing response time requirements.

## **2.10 Probationary Period**

All Town employees will go through a six (6) month probationary period in each position to which he/she has been hired, promoted, demoted, or transferred with the exception of police officers who will go through a one (1) year initial probationary period. During this probationary period, all employees must meet performance requirements for the position. Employees undergoing the probationary period are "at-will" and may be released at any time.

# **SECTION 3**

## **Performance Evaluations**



### **3.1 Performance Evaluations**

The Town has high expectations for employee performance. To encourage and reward good performance, the Town will maintain an evaluation system to be used as both a goal-setting tool and review of each employee's progress. Evaluations of performance will be made at least annually by the employee's immediate supervisor and will become a part of his/ her personnel file. All evaluations will be discussed with the employee and signed by both the supervisor and employee. Signing the rating form does not necessarily mean the employee agrees with the evaluation, serving instead as acknowledgement that the evaluation was discussed. Performance evaluations are not appealable, but an employee may attach a written statement or response to the evaluation to be included as part of his/her personnel file. Failure or refusal to sign acknowledgement of the evaluation may result in disciplinary action.

### **3.2 Review During Probationary Period**

A written employee probation review will be completed on each employee at six (6) months of their initial employment period to foster communication and feedback between the employee and supervisor. Individual departments may adopt additional probationary evaluation requirements.

## **SECTION 4** **Conditions of Employment**

### **4.1 Working Hours**

Unless otherwise authorized, the normal workweek for full-time Eagar employees is 40 hours, exclusive of lunch breaks or similar interruptions of work. Full-time law enforcement officers and firefighters may count lunch breaks as duty time. Each department will determine the schedules of the various shifts of the Town, subject to approval. A Town supervisor may require changes in an individual's schedule from time to time as a working situation or assignment may require. All departments will keep attendance records of employees.

### **4.2 Rest Periods and Lunch Period**

Employee work schedules will generally provide fifteen (15) minute break periods for employees during each five (5) hour period of continuous work. These breaks are not a mandatory benefit of employment and unused break periods may not be accumulated. Full-time employees will be granted an unpaid lunch period of thirty (30) minutes during each work shift. The normal lunch period should be scheduled near the middle of each work day. Exceptions may be made by supervisors for the sake of operational efficiency.

### **4.3 Classification and Compensation**

The Town will maintain a personnel classification plan with job descriptions and the assigned grade classes for all Town positions. Job descriptions of position duties and responsibilities will be kept current. Positions substantially similar in duties, responsibilities, and character of work will be included within the same class or grade. Members of a class will be treated equally and consistently. Length of service, certifications, and other relevant factors may be taken into consideration. In arriving at salary rates or classes, consideration will be given to the prevailing market rates of pay and working conditions for comparable work in other similarly situated public and private employers. Changes to the personnel classification plan are subject to the availability of budgeted funds.

### **4.4 Reclassification**

Amendments or a reclassification will not be used to avoid or circumvent the personnel classification system. Requests for reclassification shall be made in writing to the employee's department director for

review/recommendation and forwarded to the Town Manager for final review and/or approval.

#### **4.5 Promotion Adjustment**

Employee development is important to the Town and encourages a strong workforce. If an employee is promoted and an overlap occurs between his/her old and new pay grade, the Town Manager may approve an adjustment in pay of up to five (5) percent.

#### **4.6 Transfers**

The Town personnel system is based on merit with minimum qualifications established through the personnel classification system. No employee will be transferred to a position for which he/she is not qualified or does not possess the minimum qualifications. An on-the-job training appointment may be made with prior approval from the department director and the Town Manager in isolated situations if the appointment is found to provide a demonstrated benefit to the Town.

#### **4.7 Overtime**

The Town follows the Fair Labor Standards Act (FLSA). Non-exempt employees are eligible to receive overtime for time worked over 40 hours in any work week. Overtime will be paid at one and one-half (1.5) times the employee's hourly rate. Prior to working overtime, the employee must obtain authorization from his/her supervisor.

#### **4.8 Exempt Employees Overtime Special Circumstances**

Many Town employees are in positions for which overtime compensation is not mandated by the FLSA, or "FLSA exempt." Arizona Revised Statutes (A.R.S.) § 23-391 provides the Town with the ability to provide FLSA exempt employees with additional compensation for excessive hours worked during declared state or federal emergencies or to fulfill the requirements of a qualifying grant, agreement or contract. With prior approval from the Town Manager, FLSA exempt employees may be paid additional compensation on a straight time basis at their regular hourly rates. Each Town department will keep records that include the names of employees and hours worked by each in connection with the declared emergency, grant, agreement or contract to submit to the Town Manager.

#### **4.9 Compensatory Time**

To provide greater flexibility to employees, non-exempt employees may be approved to accrue compensatory (comp) leave instead of overtime pay. Employees earn comp time at the rate of one and one-half (1.5) hours for each hour worked in excess of 40 hours in any work week. Employees may bank up to forty (40) hours of comp time. Under special circumstances, the Town Manager may grant FLSA exempt employees compensatory leave on a straight-time basis.

Employees may use their comp time when they wish with prior approval. Use of comp time will not be granted if the request unduly disrupts the operations of the department or the Town.

#### **4.10 On-call Time**

Regular, full or part-time, non-exempt employees required to be on-call will be paid special compensation for the hours they remain on-call after normal work hours, on weekends, and holidays. Employees required to be on-call shall respond to call-outs in a work-ready condition, within a response time set by their department's rules/policies, and shall be accessible by phone or any other communication device provided by the Town. On-call employees shall refrain from consuming alcohol beverages or using any intoxicant (including prescribed or over-the-counter substances) that may impair their ability to satisfactorily perform required job duties.

An employee scheduled for on-call duty will receive compensation for each hour on-call at the rate established during the annual budget preparation process. When employees are called out during scheduled on-call time, they will receive a minimum of one hour compensation for the call-out. If the call-out is over one hour, the employee will be paid for the actual length of the call. Time spent on-call does not count as hours worked for overtime purposes. On-call pay will not be earned in conjunction with any other type of compensation such as regular pay, overtime, long-term disability and/or worker's compensation.

Employees on paid or unpaid leave will not receive on-call duties except when a department authorizes an employee on holiday leave to receive on-call pay in order to meet the needs of the Town.

#### **4.11 Employee Training and Tuition Reimbursement**

The Town values a skilled and well-trained workforce. Employees should seek to maintain and improve their personal and professional development through participation in training and educational programs relevant to their duties and through any licensing or certifications required for their position. Successful completion of special training courses may be considered in advancements and promotions.

On-the-job training will be provided by supervisors and department heads for employees. Additional mandatory or voluntary training generally applicable to all employees may be offered by the Town. Required certifications and training may be paid for by the Town. Certification and training courses mandatory for a particular job will be completed within departmental specified time limits. Employees who participate in approved training will be paid for any days in training sessions and, if the training is off-site, for travel time.

The Town encourages employees to continue their education and offers a tuition reimbursement program. Employees may qualify for up to \$3,000 per year as reimbursement to cover tuition expenses and books for pre-approved classes. To qualify for reimbursement, the employee may submit a request through their department head for prior approval by the Town Manager. Reimbursement may be available for students who successfully complete courses on their own time with a "C" grade or better.

#### **4.12 Uniform or Clothing Allowance**

Uniforms, clothing, or uniform allowances may be provided for certain groups of Town employees. Where provided, these uniforms, items, or clothing shall be worn while on the job in accordance with departmental policies, and shall not be worn while the employee is on personal business. Employees are strictly prohibited from wearing uniform items to social events unless the employee is attending in an official capacity and at no time shall an employee consume alcohol while in any Town uniform. Violations of this section will be cause for disciplinary action.

The uniform allowance amounts for departments will be set through the annual budget process. The departments may elect to purchase uniform items directly and issue them to employees. With prior approval in special circumstances, eligible employees may receive reimbursement for uniform items after submitting receipts.

The uniform or clothing allowance shall be paid back to the Town of Eagar by the employee in the event that the employee leaves employment for any reason before he/she has worked for the Town of Eagar for one year.

#### **4.13 Wireless Phone Use Reimbursement**

Designated employees may be required to maintain a mobile phone service with local access. Designation will be made by each department head based on the employee's position and approved by the Town Manager. When hired, the Town will obtain from these employees an acknowledgement and agreement that

they are required to carry a wireless phone for Town duties. These employees will receive a “basic service plan” monthly allowance, an amount to be set through the annual town budget process, for wireless phone usage. The employee shall make the wireless phone number available to the Town. The allowance for the wireless phone will go through payroll and the allowance is taxable.

#### **4.14 Employee/Town Official Travel**

It is the policy of the Town to pay expenses incurred by employees and other Town officials who are required to travel in the performance of their duties as representatives of the Town. Travel time is to be included as part of the work week and employees are to be compensated as long as they are traveling directly to and from the qualified destinations. The Town may advance funds or reimburse the employee or other Town official for out-of-pocket expenses under qualifying, pre-approved conditions.

Prior to departure, a travel authorization must be approved by the department head or Town Manager. When an overnight stay is required, employees and other Town officials shall be prudent in selecting moderately-priced lodging and receipts must be retained and submitted with a travel expense voucher. A per diem allowance may be authorized for required overnight stays. Per diem rates will be set during the annual budget process and will be comparable to the annual federal allowance. If the trip includes meals that are already paid for by the Town through a registration fee for a conference, those meals are not eligible for an allowance.

Every effort should be made to use Town vehicles for work-required travel. In the event a Town vehicle is unavailable or impractical to use, mileage may be reimbursed at a rate established through the annual budgeting process and comparable to the annual federal mileage allowance. Travel by aircraft will be reimbursed at actual costs for the airfare and the employee or Town official shall seek the most moderately-priced airfare. The Town will reimburse airfare for the employee or Town official only.

Incidental expenses such as parking fees, taxi fare, and car rental expenses can be paid by the Town if they are necessary to the performance of the work the employee or other Town official is required to do. Expenses should be itemized on a travel expense voucher with receipts attached and submitted to the Finance Department.

Unreasonable or unverifiable expenses will not be reimbursed. The employee will be required to repay expenses advanced and unverified or advanced and determined to be unreasonable.

#### **4.15 Outside Employment**

In qualifying circumstances, employees may engage in outside employment. Before starting any outside employment or business activity, an employee shall submit a written request to his/her supervisor and department head. Permission may be withheld or may be revoked if it is determined that the outside employment is likely to hamper the employee’s ability to do the job required by the Town, reflect unfavorably on the Town’s service or employees, or conflict with the employee’s duties as a Town employee. Town of Eagar uniforms or supplied clothing shall not be worn during outside employment. Other specific departmental policies may apply.

#### **4.16 Use of Town Property**

The Town is responsible to our citizens to use resources in a proper manner. Property, equipment, vehicles, and Town-owned materials are not to be used for private gain or convenience. This property is restricted for the use of employees in the performance of official Town duties connected with official Town functions. Use of Town property in violation of this rule may be grounds for disciplinary action or termination.

#### **4.17 Conflict of Interest**

Under A.R.S. § 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 Town.

#### **4.18 Employee Conduct and Appearance**

The Town's professional atmosphere is maintained, in part, by the image Town employees present to the public and fellow employees. All employees are expected to conduct themselves in a manner which reflects favorably upon the Town 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 to the Town, and not to their personal affairs, during working hours.

#### **4.19 Political Activity** (Town Code Section 2.52.040)

The Town workplace is a professional work environment and no political activity is allowed. All employees shall remain free from any political activity in any Town municipal election and no employee may solicit or attempt to solicit support for a candidate, political party, or ballot item of any kind, related to a Town municipal election. Employees may exercise their rights as citizens to vote, privately express personal opinions away from work, and sign nominating petitions, initiative, referendum, or recall petitions. Employees are prohibited from seeking election to public office within the Town while still employed by the Town.

For all elections, including federal, statewide, countywide, special district, school district, or municipal, no officer, official, active volunteer, or employee of the Town may use any influence or pressure on employees to solicit contributions of money or time, either direct or indirect, for any political campaign or personal gain and no employee or active volunteer shall use his/her position or Town resources to sell, solicit, or distribute any campaign material during working hours. No employee or active volunteer may use his/her position to introduce, guide, recommend, or collect petition signatures for any candidate, political party, or election ballot item on Town premises.

## **SECTION 5**

### **Discrimination and Harassment**

#### **5.1 Equal Employment Opportunity**

The Town provides equal employment opportunities to all applicants for employment and employees without regard to sex, race, color, ancestry, genetics, national origin, religion, disability, pregnancy, age, sexual orientation or gender identity, 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, leave of absence, compensation, and training.

If an employee believes that they have been discriminated against in violation of this policy, the employee should immediately report the complaint using the reporting procedure outlined below.

#### **5.2 Non-Discrimination**

The Town complies with applicable state and federal laws governing non-discrimination in employment. This policy applies to all terms and conditions of employment, including but not limited to, hiring, placement, promotion, termination, layoff, recall, transfers, leave of absence, compensation, and training.

The Town also provides equal treatment for disabled employees who are able to perform, with reasonable accommodation, the essential tasks of the position. The Town is not required to make such accommodation

if it would impose an “undue hardship” on the business of the Town.

State and federal discrimination laws also protect employees against retaliation by other employees for complaining about discrimination, participating in an investigation relating to discrimination laws, or proceeding under such discrimination laws including the filing of a discrimination charge or lawsuit. Improper interference with the ability of the Town’s employees to perform their expected job duties will not be tolerated. Employees are responsible for respecting the rights of their co-workers. Additionally, each member of management is responsible for creating an atmosphere free of discrimination and harassment.

Violations of this policy may be cause for the full range of disciplinary action up to and including termination.

### **5.3 Anti-Harassment**

The Town strictly prohibits any form of unlawful employee harassment based on sex, race, color, ancestry, genetics, national origin, religion, disability, pregnancy, age, sexual orientation or gender identity, or any other legally protected status in accordance with applicable federal, state, and local laws. Harassment is unwelcome conduct that is based on the above listed protected groups and includes but is not limited to:

- Verbal conduct, such as epithets, derogatory comments, slurs, or unwanted sexual advances, invitation, or comments.
- Visual conduct, such as derogatory posters, cartoons, photographs, drawings, or gestures.
- Physical conduct/contact, such as unwanted touching, blocking normal movement, or interfering with work directed at you because of your sex/gender or any other protected factor.
- Threats or demands to submit to sexual requests in order to keep your job or avoid some other loss and/or offers of job benefits in return for sexual favors.
- Threats, retaliation or retribution for opposing, reporting or threatening to report harassment, or for participating in an investigation, proceeding or hearing conducted by an investigating person, firm or agency.

Sexual harassment may be defined as including:

- Unwelcome or unwanted sexual advances, including patting, pinching, brushing up against, hugging, cornering, kissing, fondling, or any physical contact considered unacceptable by another person.
- Requests or demands for sexual favors, including subtle or blatant expectations, pressures, or requests for any type of sexual favor.
- Verbal abuse or kidding which is sexually-oriented and is considered unacceptable by another individual, including innuendoes, jokes, sexually-oriented comments, or any other action that another person finds offensive.
- Unwelcome sexual advances, requests for sexual favors, and/or verbal abuse proposed as a condition of employment or as a basis for making employment decisions that affect the individual.
- Engaging in any type of sexually-oriented conduct which would reasonably interfere with another person’s work performance, productivity, or safety.
- Creating a work environment that is intimidating, hostile, or offensive because of unwelcome or unwanted sexually-oriented conversations, suggestions, demands, request, physical contacts, or attentions.

Harassment in any form is unlawful, is prohibited, and will not be tolerated.

### **5.4 Reporting Discrimination or Harassment Incidents**

The Town encourages all employees to immediately report any incidents they believe have subjected them to an act of discrimination or harassment forbidden by this policy. Every effort shall be made to resolve the issue at the lowest level practical and the complaint will be kept confidential to the maximum extent possible. Complaints should be reported, preferably in writing, to the employee's supervisor, department head, the Town Manager, elected official, or to any other manager as soon as possible after the incident occurs. The complaint should include:

- Details of the incident(s) (including dates);
- Names of any individual(s) involved; and
- Names of any witness(es).

All other employees, including supervisors, managers, or directors, who become aware of possible discrimination or harassment of an employee, either as a result of having received a complaint directly from the employee, from any other reliable source of information, or from his/her personal observations, shall report the situation to the department head or the Town Manager. A supervisor's failure to immediately report such activity, complaints, or allegations will result in disciplinary action toward that supervisor up to and including termination.

### **5.5 Investigation**

The Town is committed to investigating any complaint promptly and thoroughly. If the Town determines that an employee has harassed another individual, appropriate disciplinary action will be taken against the offending employee, up to and including termination of employment.

### **5.6 No Reprisals**

No reprisals in any form shall be taken against an employee because that employee has asserted a complaint or because that individual has reported, witnessed, or has assisted in any way in the investigation of a discrimination or harassment complaint.

### **5.7 Option to Report to Outside Agency(s)**

The employee may also contact the State of Arizona Department of Law Civil Rights Division, 1275 West Washington, Phoenix, Arizona 85007 or the Federal Equal Employment Opportunity Commission, 3300 North Central Avenue, Suite 690, Phoenix Arizona 85012 for assistance.

## **SECTION 6**

### **Health Benefits**

### **6.1 Full-Time Employees**

The Town provides health benefits to full-time permanent employees. All insurance benefits are effective on the first of the month 30 days after the date of hire. The Town contributes 90% of the health, dental, and vision insurance premiums for employees and 70% of the dependent coverage. The Town also contributes 100% of the premium for employee and dependent life insurance coverage up to \$10,000 for employee and spouse, and \$5,000 for each dependent, and 100% of the premium for the Employee Assistance Program.

Employees covered under another group health care plan may waive coverage under the Town's plan within thirty (30) days of hire or during any subsequent open enrollment period. Employees electing to waive coverage must provide proof of alternative coverage to the Town. If the employee's coverage is terminated,

the employee may enroll in the Town's plan within thirty (30) days of loss of coverage or during any subsequent open enrollment period.

Employees who waive coverage under the Town's health care plan may receive an insurance in-lieu benefit that includes a Flexible Spending Account up to the federal flexible spending account limit. (See Flexible Spending Accounts Guidelines for more information on this benefit). Employees covered by the Town's health care plan as a dependent of another Town employee are not eligible for this benefit.

## **6.2 Part-time Employees**

The Town does not provide insurance benefits for part-time, temporary, seasonal, or contract employees. The only exception is that part-time employees will receive the benefits of the Employee Assistance Program.

## **6.3 COBRA (Consolidated Omnibus Budget Reconciliation Act)**

The Town provides COBRA benefits as prescribed by federal law, allowing qualified employees and qualified beneficiaries the opportunity to continue to participate in the Town's group health insurance plan after coverage would otherwise end. The Town 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 beneficiary's responsibility to contact the Town upon termination of coverage, to determine eligibility.

## **6.4 Long-term Disability**

Town employees receive long-term disability coverage in accordance with their respective plan through the Arizona State Retirement System or Public Safety Personnel Retirement System.

## **6.5 Optional Benefits**

Town employees have the voluntary option to participate with other independent vendor's products contracted with the Town. Premiums for these optional benefits shall be paid 100% by the employee for employee and dependent coverages. Enrollment for these optional coverages must be applied for within the first 30 days after the date of hire or at any subsequent open enrollment period, and include:

- Additional Voluntary Life insurance;
- AFLAC or equivalent – (Short-term Disability, Accident, Cancer); and
- Flexible Spending Account – (See Flexible Spending Accounts Guidelines for more information on this option).

# **SECTION 7**

## **Retirement Benefits**

### **7.1 Arizona State Retirement System (ASRS)**

Town employees may qualify for retirement benefits. The Town is a member employer of the Arizona State Retirement System and provides matching contributions pursuant to state law. For further information and eligibility requirements, refer to the ASRS website at [www.azasrs.gov](http://www.azasrs.gov). This program is regulated by the State of Arizona and may be subject to change.

### **7.2 Public Safety Personnel Retirement System (PSPRS)**

Sworn law enforcement personnel may qualify for retirement benefits. The Town is a member employer of the Public Safety Personnel Retirement System and provides contributions for qualifying employees as determined by Arizona Revised Statutes. For further information and eligibility requirements refer to the



PSPRS website at [www.psprs.com](http://www.psprs.com). This program is regulated by the State of Arizona and may be subject to change.

### **7.3 Optional 457 Retirement Plan**

All Town employees also have the option of participating in a 457 deferred compensation retirement plan offered by the Town. A number of investment options are provided and participating employees are responsible for the full contribution.

## **SECTION 8** **Leave Benefits**

### **8.1 Paid Holidays**

All full-time, part-time and probationary employees on active pay status receive the following days off with pay for the number of hours normally scheduled, except for employees who must work to provide critical services to the community:

- New Year's Day
- President's Day
- Martin Luther King/Civil Rights Day
- Memorial Day
- Independence Day
- Labor Day
- Veteran's Day
- Thanksgiving Day
- Christmas Eve Day
- Christmas Day

When any of the holidays falls on a Sunday, the following Monday shall be observed as a holiday. When any of the holidays falls on a Friday or Saturday, the prior Thursday shall be observed as a holiday.

If an employee has not made prior arrangement to be absent from work the working day before or after a holiday, they may be required to present a doctor's verification. Employees on paid or unpaid leave when a holiday occurs receive no additional pay. Employees whose first day of work follows a holiday do not receive pay for the holiday. Terminated employees whose last day worked is the day before a holiday will not receive pay for the holiday.

With the exception of sworn police officers, all non-exempt employees required to physically work on a holiday will receive overtime at the rate of time and one-half in addition to their holiday benefit. Sworn police officers will be compensated through a regular holiday paycheck to be issued monthly. Exempt employees performing work on a scheduled holiday may receive compensation time at their regular wage in addition to their holiday benefit.

### **8.2 Vacation Leave**

All full-time employees are eligible to earn vacation leave beginning on the employee's first day of employment with the Town. Eligible employees are expected to use accrued vacation leave responsibly to assure necessary rest and relaxation away from work. All employees must submit a Request for Vacation/Sick/Comp/Admin Leave form to their immediate supervisor at least twenty four (24) hours before

any leave is taken, and at least thirty (30) days before a leave of one week or more is expected. Length of service shall be used to resolve conflicts over vacation leave between employees of the same classification.

Eligible employees shall accrue vacation credits at the following rates:

Years of Employment	Accrual Hours per Pay Period	Accrual Hours per Year
<.99	1.54	40
1 – 4.99	3.08	80
5 – 9.99	4.62	120
10 – 14.99	6.15	160
15+	7.69	200

Employee anniversary dates will determine how much vacation leave time is available to an employee. Employees may accrue up to two hundred eighty (280) vacation leave hours. Upon reaching the applicable maximum, an employee shall cease accruing vacation leave until the employee's hours drop below the maximum. An employee shall be eligible to use accrued vacation leave after six months of consecutive employment. The Town Manager may waive this requirement for good cause.

Employees shall have vacation leave deducted in quarter-hour increments. Use of vacation leave for a full day shall be based on the number of hours in the employee's regularly scheduled workday. Vacation leave accrual is based on continuous, active employment status with the Town and will be stopped or reversed when an employee is on Leave With or Leave Without Pay. Employees on vacation leave when a holiday occurs shall not have their vacation leave time deducted for that holiday(s) nor shall the employee receive additional pay.

Employees shall be paid any unused vacation time up to 280 hours upon separation from Town employment if they have satisfactorily completed probation. Employees may not use vacation leave for their final days of employment.

Accrued vacation hours may be donated from one employee to another to alleviate a hardship for an employee who has been approved for Family Medical Leave Act status and has exhausted their leave.

### **8.3 Sick Leave**

All employees are eligible to accrue sick leave beginning on the employee's first day of employment with the Town. Employees may use earned paid sick leave as soon as it is accrued. Sick leave is provided to allow employees to get proper care during periods of personal or family illness and to attend medical appointments. Employees may use earned paid sick time for themselves or for family members (see Arizona Revised Statutes § 23-373 to see who qualifies as a family member) in the following circumstances:

- A. Medical care or mental or physical illness, injury, or health condition;
- B. A public health emergency; and
- C. Absence due to domestic violence, sexual violence, abuse, or stalking.

All employees must submit a Request for Vacation/Sick/Comp/Admin Leave form to their immediate supervisor before any extended sick leave is taken. If the illness is sudden, the employee is required to

complete the request form immediately upon return to work.

The employee shall notify his or her immediate supervisor prior to their workday to receive compensation while absent on sick leave. The employee may be required to file a health care professional note, law enforcement report, or a personal affidavit with the department head stating the cause of absence. Unnecessary use of sick leave may be cause for disciplinary action and a supervisor may request the submission of documentation listed above if the leave use is suspicious. Employees shall have sick leave deducted in quarter-hour increments. Use of sick leave for a full day shall be based on the number of hours in the employee's regularly scheduled workday. Employees on sick leave when a holiday occurs will not have their sick leave time deducted for that holiday(s) or receive additional pay; reasonable documentation for the absence may be required.

Before returning to work, the employee may be required to provide documentation from their health care provider of the employee's ability to satisfactorily perform his or her job duties without compromising the health or wellbeing of other employees or the public. Employees permitted to return to work in a restricted or light-duty status will be assigned in a manner most advantageous to the department and to the Town.

Full-time employees accrue 3.70 hours of earned paid sick time every pay period up to seven hundred twenty (720) sick leave hours. Upon reaching the applicable maximum, employees shall cease accruing sick leave until the employee's hours drop below the maximum.

Part-time and temporary employees accrue one hour of earned paid sick time for every 30 hours worked up to forty (40) sick leave hours per year. Upon reaching the applicable maximum, part-time and temporary employees shall cease accruing sick leave until the employee's hours drop below the maximum.

Sick leave accrual is based on continuous, active employment and will be stopped or reversed when an employee is on Leave With or Leave without Pay.

If a full-time employee has not used up to forty (40) hours of annual sick leave in their anniversary year, up to forty hours of that unused annual sick leave may be sold back to the Town at full pay within 45 days after the employee's employment anniversary. In the alternative, a full-time employee may exchange up to the first 40 hours of his/her unused annual sick leave, hour for hour, for accrued vacation leave. Upon separation of service from Town employment all employee sick leave time is forfeited. However, the employee's annual sick leave may not be sold back to the Town if it will leave less than a years' worth of earned sick paid time hours at the end of their 12 months – 96.2 accrued in a year for a full-time employee.

If an employee is separated from employment from the Town of Eagar and is rehired within nine (9) months of the separation, any previously-accrued earned paid sick time that was not used shall be reinstated and the employee is entitled to use and accrue earned paid sick time immediately at the re-commencement of employment.

#### **8.4 Bereavement Leave**

Employees are entitled to three (3) days of Bereavement Leave with pay following the death of a relative as defined in Section 2.7 to make arrangements and attend memorial services. The employee may use other accrued leave if a leave longer than three days is needed.

## **8.5 Workman's Compensation**

Employees are covered by Workman's Compensation Insurance under A.R.S. §23-901 for injuries occurring in the course of Town employment. The law provides for payment of medical expenses, and under special circumstances, compensation for loss of income. Any Workers' Compensation injury that requires an absence may also qualify as a Family Medical Leave Act (FMLA) absence. Full-time, regular employees are entitled up to twelve (12) weeks of time off to recover from their injury or illness, as allowed by the FMLA. Employees who suffer workplace illnesses or injuries and who are determined by a physician to be temporarily totally disabled are eligible for benefits as provided by state law subject to the following conditions: the employee reports the injury in a timely fashion and the employee otherwise complies with mandatory workplace injury reporting. It is mandatory that every job-related injury or illness, regardless of severity, be immediately reported to a supervisor and a Supervisor's Report of Industrial Injury form be submitted.

All employees are eligible to receive 66 2/3 percent of their average monthly rate of pay for loss-time injuries or illness after missing more than seven (7) days of work. If the total temporary disability extends beyond seven (7) days, the employee will begin receiving benefits on the eighth (8<sup>th</sup>) day after the injury. If a temporary total disability extends beyond the fourteenth (14<sup>th</sup>) day, the employee will receive benefits retroactive to the date of injury, including the first seven (7) days. Employees may use sick leave to cover 1/3 of their average monthly rate of pay to provide 100% of the employee's income during their twelve (12) week Worker's Compensation/FMLA leave. If sick leave has been exhausted, any available vacation leave or compensation time may be used.

During Worker's Compensation/FMLA leave, employees will continue to accrue credited service and receive holiday pay. Sick leave and vacation will not accrue during the leave period. The Town's contributions and employees' deductions for retirement and health insurance/in-lieu premiums will remain unchanged for all employees except PSPRS members. For full-time, regular public safety employees participating in PSPRS, the Town will pay both the employee and employer's share of PSPRS contributions as required by A.R.S. §38-961 during the leave period (*this exception expires 10/1/2017*).

Any employee suffering a recurring disability resulting from a job-related accident or illness may be required to undergo an examination by an Independent Medical Examiner of the Town's choice.

Benefits shall terminate upon any of the following events:

- Release to return to work from the employee's physician or Town's Independent Medical Examiner;
- Failure to return to work on a *Return to Work Release* consistent with the employee's medical restrictions; or
- Employee is determined to be totally disabled by the Worker's Compensation provider and/or the Town's Independent Medical Examiner.

Employees returning to work in a restricted or light duty status will be assigned in a manner most advantageous to the department and to the Town.

## **8.6 Jury Leave and Personal Court Cases**

The Town supports our employees participating as jury members. Every employee of the Town who serves as a trial juror will be excused from their work duties for up to five (5) days. Employees will be paid their regular compensation during this absence after submitting a copy of the official notice, summons or subpoena. Employees serving on jury duty over five (5) days will be paid the difference between their normal pay and jury duty pay, minus any stipend provided for travel expenses, after submitting a copy of the

statement detailing the amount paid by the court.

Generally, any personal civil or criminal case must be taken care of on the employee's personal time or by using accrued vacation and/or comp time. Qualifying employees under the Arizona Victim Leave Act may use accrued vacation and/or comp time or unpaid leave to attend court proceedings. Under this law, an employee who has been the victim of a crime, or an employee who is the immediate family member of a crime victim who was killed or incapacitated, is allowed to take time off to attend proceedings related to the prosecution of the criminal. The employee may request leave by providing a copy of documents provided by the court. The notice should be turned in for each proceeding attended. The Town will keep records related to this leave in a separate confidential file.

### **8.7 Voting Leave**

Employees are allowed to vote at the beginning or end of their work shift and time off for voting will be paid up to two (2) hours. The employee will coordinate this absence with their supervisor in advance and the Town may designate the times when the employee may be absent for voting to ensure coverage.

### **8.8 Military Leave**

To support employees serving in the military, leave will be granted in accordance with state and federal law. To coordinate leave, an employee must notify their supervisor in writing as soon as he/she receives orders for military duty and provide copies.

### **8.9 Reduction in Work Hours**

A permanent employee's request for a temporary reduction in work hours may be considered by the Town Manager for a period not to exceed thirty (30) days. The Town Manager may allow the employee to continue to earn benefits during this temporary reduction.

### **8.10 Leave of Absence without Pay**

The Town Manager may grant a permanent or probationary employee Leave of Absence Without Pay in special circumstances. A Leave of Absence Without Pay may be requested in writing prior to the beginning of the leave or as soon after as practical, and state the reasons why the request should be granted with the applicable dates. Upon conclusion of an approved Leave of Absence without Pay, an employee may return to their former position if the position is available. To the extent consistent with federal or state law, the employee may alternatively be transferred to another open position. An employee may not be granted more than one Leave of Absence without Pay per year for a non-FMLA protected absence. During the Leave of Absence Without Pay, an employee will not accrue credited service for purposes of retirement, longevity, and vacation accrual rates, 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).

## **SECTION 9**

### **Family and Medical Leave**

### **9.1 Family Medical Leave Act (FMLA)**

Under the FMLA, the Town allows eligible employees to take up to twelve (12) work weeks of job-protected leave per year for certain family and medical reasons, and 26 weeks of military caregiver leave. The leave may be taken intermittently if necessary. FMLA does not require the leave to be paid, but the employee may use accrued sick leave, compensation time, and vacation time until the balance is exhausted. Employees on

Workers' Compensation Leave, who also qualify under FMLA, may choose to take their Worker's Compensation Leave concurrently with FMLA leave to receive the guarantee of reinstatement. Upon returning from leave, the employee will be restored to his/her position or an equivalent unless a position elimination has occurred which would have terminated an employee's job or placed him/her into a different job.

## **9.2 Eligibility**

Employees are eligible for FMLA leave if they have worked for the Town for a total of twelve (12) months within 7 years (need not be consecutive) and have worked at least 1,250 hours over the previous 12 months. Leave will be granted to eligible employees for the following reasons:

- A serious health condition that makes the employee unable to do his or her job.
- To care for a parent, spouse, son or daughter who has a serious health condition.
- To care for a child after birth, adoption or foster care placement within the first 12 months. If spouses both work for the Town, leave shall be limited to a combined total of 12 weeks.
- Urgent leave to take care of nonmedical military matters.
- Leave to care for a military service member who is undergoing medical treatment, recuperation, therapy, is in outpatient status, or is on the disability retired list for a serious injury or illness.

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

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

## **9.3 National Defense Act FMLA Leave**

The National Defense Act further authorizes an employee to take FMLA leave for additional covered events. Covered events may arise out of the foreign deployment of an employee's spouse, son, daughter, or parent who is a member of the armed forces and who is on active duty or has been notified of an impending call or order to active duty. Covered events are:

- Short-term notice of deployment.
- Military events and related activities (e.g. official ceremonies, programs, family support or assistance programs, informational briefings).
- Arrangement of child care, school enrollment, or meetings.
- Care of military member's parent who is incapable of self-care.
- Preparing and executing financial and healthcare powers of attorney.
- Nonmedical counseling for the employee, covered military member, or child.
- Fifteen (15) days each time the covered military member is given temporary rest and recuperation leave.
- Post-deployment activities up to 90 days following termination of the military member's active duty (e.g. arrival ceremonies, reintegration briefings, issues arising from death of covered military member).
- Additional activities where the Town and employee agree to the leave, timing, and duration.

The National Defense Act also expanded FMLA leave protection from 12 to 26 weeks for caregiver leave that permits a spouse, son or daughter, parent, or next of kin (may be any blood relative designated by the service member in writing). Caregiver leave is to care for a service member who is undergoing medical treatment, recuperation, therapy, is in outpatient status, or is on the disability retired list for a serious injury or illness. Veterans who are undergoing medical treatment, recuperation or therapy for a service injury or illness are covered if the veteran was a member of the armed forces at any time during the last five (5) years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

#### **9.4 Health Insurance Continuation**

During FMLA leave, the Town will maintain the employee's group health insurance, but employees must continue to pay their portion of the premium to maintain coverage. The Town's obligation to maintain health benefits will end when the following occurs:

- An employee informs the Town that they will not return to work at the end of the leave period;
- The employee fails to return to work when the FMLA leave is exhausted; or
- If the employee's premium payment is more than 30 days late and the Town has given the employee written notice at least 15 days in advance.

#### **9.5 Calculation**

The Town uses the rolling twelve-month method to measure the yearly period for leave entitlement by determining from the date the covered event occurs, if the employee has already used some of his or her twelve work weeks of FMLA leave.

#### **9.6 Medical Certification**

The Town may require medical certification to verify a serious health condition. The Town, at its own expense, may also obtain an additional independent 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.

#### **9.7 Notice**

An employee who needs leave must provide the Town with notice. The employee should provide as much advance notice as possible so the Town can make appropriate arrangements for coverage. 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 FMLA is:

- When the need for leave is foreseeable, the employee must provide thirty (30) days advance notice.
- If thirty days' notice is not practical, notice must be given as soon as possible, 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 should still give notice of the need for leave as soon as possible.

Employees on FMLA leave must provide periodic reports regarding their status and intent to return to work. Employees should contact the Town for the appropriate forms and further information about FMLA leave.

#### **9.8 Qualifying Disabilities**

The Town is committed to providing reasonable accommodations to allow disabled employees to perform

their essential job functions. If an employee has a disability and requires an accommodation in order to perform his/her job, they should notify the department director. Consistent with the Americans with Disabilities Act, the Town will engage in an interactive process to determine whether he/she has a qualified disability and whether a reasonable accommodation would allow him/her to perform 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 10**

### **Workplace Threats and Violence**

#### **10.1 Threats and Violence in the Workplace**

It is important to the Town to ensure the safety and security of its employees. Threats, threatening behavior, or acts of violence against employees, visitors, guests, or other individuals by anyone on Town 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 Town property shall be removed from the premises as quickly as safety permits, and shall remain off Town property pending the outcome of an investigation. The Town 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 Town 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.

#### **10.2 Reporting**

All Town personnel are responsible for notifying the administration of any threats they witness, receive 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 Town controlled site, or is connected to Town 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 Town's management team.

#### **10.3 Protective or Restraining Orders**

All individuals who apply for or obtain a protective or restraining order which lists Town locations as being protected areas must provide their department head a copy of the petition and declaration used to seek the order, a copy of a 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 11**

### **Substance Abuse Policy**



### **11.1 Purpose of Policy**

The Town of Eagar 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 Town. 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 Town 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 services provided by the Town. For all of those reasons, the Town of Eagar has established this Substance Abuse Policy.

### **11.2 Scope of Policy**

This Policy applies to all Town employees, including management, administration, temporary employees, and to all applicants who have received conditional offers of employment with the Town. This Policy also applies to all employees of Town contractors who are performing services on Town property, or who are operating Town equipment, machinery, or vehicles. These 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 state or federal regulations, including additional restrictions on drug or alcohol use, and additional provisions for random drug and/or alcohol testing.

### **11.3 Dissemination of Policy**

All employees and all applicants who have received conditional offers of employment will receive a copy of this policy, and will be required to sign an acknowledgement and receipt.

### **11.4 Work Rules**

Employees may not use, possess, sell or transfer alcohol while working, while on Town property, or while operating Town 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.

Employees may not possess illegal drugs or engage in the illegal use of drugs while working, while on Town property, or while operating Town 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. Special circumstances may be accommodated for members of the Police Department related to the transport of alcohol or drugs during the course of performing their official duties.

The voters of the State of Arizona have passed a medical marijuana law, but marijuana is still an illegal drug under federal law. There is no duty under federal law or the Americans with Disabilities Act for the Town of Eagar to accommodate employees that have prescriptions for medical marijuana. The Town of Eagar has a drug-free workplace policy and a zero-tolerance policy for on-the-job use of possession of illegal drugs and this applies to marijuana. Employees are prohibited from being under the influence of marijuana while at work or on Town time as exhibited by a positive drug test result. Employees are prohibited from bringing marijuana or any marijuana-related paraphernalia to work or using marijuana while at work, including lunch breaks and other time off during an official work schedule.

The Town will use drug tests for both applicants and current employees for any drug use, including marijuana. Employees who test positive for marijuana, regardless of the reason for the use, or the source from which the employee acquired the drug, will be considered in violation of this policy and are subject to discipline. The Town will treat marijuana use the same as an employee being under the influence of alcohol or any other type of drug. The Town has the right to require immediate drug testing, discipline, or termination.

The Town will uphold our drug-free workplace policy and has the right to refuse to hire applicants that test positive for marijuana use, even if the detectible level is low indicating prior marijuana use that remains detectible in the applicant's system. The Town also has the right to refuse to hire applicants that use medical marijuana because medical marijuana users are not a protected class, thus they are not subject to any special protections under federal or state law. The Town's definition of illegal drugs includes drugs that are illegal under federal, state, or local law and that definition also includes drugs that are illegal under the federal Controlled Substances Act. The Town's position is that marijuana use is still prohibited, despite legalization in several states. The Town realizes that this is an area of law that is rapidly changing and will update this policy as needed to reflect future changes in this law.

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/her supervisor. The Town 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.

#### **11.5 Notification of Drug Related Offense**

Employees accused, arrested, or convicted of any drug-related offense, DUI, or DWI, including pleas of no contest, must inform their immediate supervisor, department director, or the Town Manager the next business day of such arrest, conviction or plea. An employee who is convicted of violating any criminal drug, DUI, or DWI statute while in the workplace will be subject to discipline up to and including immediate termination.

#### **11.6 Inspection of Property, Equipment and Vehicles**

All employees on Town property or who are performing services on a Town project, and all property, equipment, and vehicles on Town property or being used in connection with the performance of work on a Town project (including without limitation all vehicles, containers, desks, and file cabinets), are subject to unannounced inspection by the Town of Eagar. Employees should not expect that any property or items brought to the workplace or that are used in the workplace are private.

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.

#### **11.7 Drug and Alcohol Testing**

The Town will require employees and applicants to provide urine, blood, breath, and/or other samples for drug and/or alcohol testing under the following circumstances.

Pre-Employment Testing - all applicants who have received conditional offers of employment will be required to undergo drug testing as a condition of employment. The Town will revoke a job offer to any applicant who tests positive.

Reasonable Suspicion Testing – an employee may be required to undergo drug and alcohol testing if management has a reasonable suspicion that the employee:

- Has violated the Town's written work rules prohibiting the use, possession, sale, or transfer of alcohol and/or illegal drugs while working, while on Town property, or while operating Town equipment, machinery, or vehicles.
- Is under the influence of alcohol and/or illegal drugs while working, while on Town property, or while operating Town equipment, machinery, or vehicles.
- Is impaired by alcohol and/or illegal drugs.
- 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.
- Employee's behavior is out of character, or an employee exhibits some or all behaviors matching the profile of reasonable suspicion of being under the influence of alcohol or drugs.
- An employee has been working with or around another worker who receives an injury which requires medical treatment.
- An employee has been involved in a vehicular accident during the work day or during lunch breaks in any vehicle regardless of ownership.
- An employee is arrested for DUI while on Town time or while performing Town business regardless of ownership of the vehicle used.
- A Town official or supervisor reasonably suspects that a driver is using a controlled substance or alcohol, either while performing a safety sensitive function on a commercial driver license (CDL), or immediately before or after performing a safety sensitive function on a CDL.

Commercial Motor Vehicle Testing. State and federal law requires employees who drive or work on a commercial motor vehicle (possess a CDL) to submit to testing for alcohol and drugs on a random basis so that at least 50% of the Town's CDL drivers are tested each calendar year for drugs, and at least 25% of the Town's CDL drivers are tested each calendar year for alcohol. Refusal to take the test is grounds for termination. If a driver tests positive for drug or alcohol abuse, the Town will perform a return to duty test on the driver before he/she is allowed to perform any safety-sensitive function on a CDL. A blood alcohol concentration of less than 0.02 is required to return to work on a CDL. If the Town chooses to retain the employee, he/she will be tested on a random basis for up to five (5) years after failing a drug or alcohol test or at the recommendation of a substance abuse counselor as part of a rehabilitation program.

Follow-Up Testing. The Town may offer an employee who violates this policy or tests positive the opportunity to return to work on a last-chance basis subject to successful participation in a rehabilitation program that includes follow-up drug and alcohol testing, as well as, a waiver of the right to contest any termination resulting from a subsequent positive test.

### **11.8 Specimen Collection and Testing Procedures**

The Town will pay for any drug and alcohol test that it requests or requires. Employees subject to reasonable suspicion drug testing will be driven to the Town-designated facility to be tested.

Specimens will be collected and tested only by appropriate professional personnel and laboratories that are properly approved to conduct drug and alcohol testing by the U.S. Department of Health and Human Services, the College of American Pathologists, or the Arizona Department of Health Services. Only these properly approved professional personnel will supervise the testing, collection, chain of custody procedures to safeguard the integrity of the testing process, and to supply a medical review officer to review test results. Testing under this section will also comply with the procedures set forth in 49 C.F.R. Parts 40 and 49. For purposes of this policy, test results generated by law enforcement may be considered by the Town.

The Town will determine the type and manner of drug or alcohol testing including what constitutes a positive test result at its sole discretion. 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.

The Town will promptly communicate test results to test subjects. 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 Town to receive and evaluate test results or hear any explanation regarding a positive test result and other persons authorized by law. Individuals with positive test results may also ask the Medical Review Officer (MRO) to have their split specimen sent to another federally certified laboratory to be tested at the applicant’s or employee’s own expense. Such requests must be made within 72 hours of notice of test results. If the second facility fails to find any evidence of drug use in the split specimen, the employee or applicant will be treated as passing the test.

#### **11.9 Confidentiality of Test Results**

The Town will not disclose test results except as authorized by the test subject or as authorized, permitted, or required by applicable law. Information and records relating to positive test results, drug and alcohol dependencies, and legitimate medical explanations provided to the Town shall be maintained in secure files separate from normal personnel files.

#### **11.10 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 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.

#### **11.11 Right to Explain Test Results**

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

#### **11.12 Consequences of Confirmed Positive Test Results**

Any applicant who tests positive on a confirmatory test on any drug and alcohol test required by the Town will not be hired. Any employee who tests positive on a confirmatory test on any drug and alcohol test required by the Town will be subject to appropriate disciplinary action at the sole discretion of the Town up to and including immediate termination. The specific disciplinary action may include a requirement for the employee to participate in a treatment or rehabilitation program under terms acceptable to the Town and consent to random testing for up to five (5) years.

#### **11.13 Employee Assistance Program / Substance Abuse Treatment**

The Town encourages employees with substance abuse problems to avail themselves of any available treatment or rehabilitative services available under the Town’s group health plans. The Town will assist and support employees who voluntarily seek help for substance abuse before becoming subject to discipline under this policy. The Town will provide its employees with information concerning the dangers of drug and

alcohol abuse, the availability of counseling, and the Town's policy regarding substance abuse. Supervisors will receive training with respect to the detection of controlled substance use and alcohol abuse. Employees are encouraged to approach their supervisor at any time with any questions they have about the Town's Substance Abuse Policy.

## **SECTION 12**

### **Disciplinary Actions**

#### **12.1 Grounds of Disciplinary Action**

Continued employment of any employee is based upon acceptable conduct and satisfactory job performance. Failure to meet standards of conduct and work performance is sufficient grounds for disciplinary action, up to and including termination:

- Violation of or failure to comply with the United States Constitution, Arizona Constitution or statutes, Town ordinances, Town or department policies, and these Personnel Rules.
- Failure or refusal to comply with a lawful order or to accept a reasonable and proper assignment from an authorized supervisor.
- Inefficiency, incompetence, inability, negligence, insubordination, dishonesty / deception, or brutality in the performance of duties both in interactions with members of the public or other Town employees including a pattern of creating conflict.
- Testing positive for a controlled substance, unless the controlled substance is by specific medical authorization.
- Possession, use, or testing positive for illegal drugs.
- Possession, use, or testing positive for alcohol on the job or attempting to work under the influence of alcohol or any intoxicating substance, even if consumed before working hours.
- Carelessness, negligence, or improper use of Town property, equipment, or funds.
- Failure to obtain and maintain a current motor vehicle driver's license or certificate as a condition of employment as required by law.
- Conduct unbecoming a Town 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 Town or on the employee's ability to carry out his or her duties as a Town employee.
- Chronic unexcused absenteeism or tardiness in reporting to work.
- Failure to report to work as scheduled without prior approval or failure to report after a leave of absence has expired.
- Harassment in violation of the Town's policies, sexual or otherwise.
- Poor job performance.
- Abuse of unplanned leave or any unauthorized absence from work.
- Theft or destruction of Town property or another employee's property.
- Prohibited political activities.
- Any other action or misconduct deemed grounds for disciplinary action or termination by the supervisor, a department head, or Town Manager.

For the reference and convenience of employee's supervisors, department heads, and the Town Manager, the above 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 Town.

## **12.2 Types of Disciplinary Actions**

The Town uses a system of progressive discipline that includes oral reprimand, written reprimand, suspension with pay, suspension without pay, involuntary demotion, and involuntary termination.

Oral Reprimand. The first step in the process of progressive discipline used to address substandard performance when the violation is of a minor nature and it is the first occurrence.

Written Reprimand. A final corrective step that may be used before an employee is considered for suspension or termination and serves as a warning to the employee to improve his/her performance or workplace behavior before jeopardizing his/her job.

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 Town Manager must approve any suspension with pay that is expected to last for a longer period of time. Suspensions with pay cannot be appealed.

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 12.4. An employee ordered to serve a Suspension without pay is not permitted to use vacation or compensation time, or any other continuation benefit during the Suspension without pay. At the discretion of the Town Manager, the Town will continue the employee's health care benefits during the suspension. A Suspension without pay may be imposed for up to one (1) week in duration. Any employee who falls within the scope of these rules (see Section 1.1) and is subject to suspension without pay may appeal the decision according to the Appeals Procedure set forth in Section 14.

Involuntary Demotion. Involuntary demotions may take place due to 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 Town Manager. Before any involuntary demotion is imposed, the employee will be given a pre-disciplinary hearing as set forth in Section 12.4. 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 14.

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 12.4. 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 14.

## **12.3 Special Circumstances Applying to Law Enforcement Personnel**

The Chief of Police may establish disciplinary rules and policies specific to law enforcement personnel to incorporate and recognize an officer's Garrity Rights.

## **12.4 Due Process Procedures**

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 Town rules. 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 Town Manager without advance notice to the employee.

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/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 suspension without pay, involuntary demotion, or involuntary termination, or believes the decision was in error or wrongful, the employee may use the Appeals Procedures set in Section 14 of these rules.

## **SECTION 13**

### **Method of Separation**

#### **13.1 Resignation**

An employee who wishes to voluntarily resign from the Town is expected to provide a written resignation to his/her supervisor two (2) weeks in advance of his/her anticipated resignation date. Professional and supervisory staff may be required to provide twenty (20) working days' notice. Failure to give required notice will be cause for denying future employment with the Town. The Town reserves the right to immediately accept the employee's resignation. Any unplanned leave taken after the written notice of resignation is submitted will require a physician's statement.

#### **13.2 Layoff**

If it becomes necessary to layoff Town employees due to lack of funds, lack of work, or reorganization. The Town Manger shall render the final decision as to the selection of employees to be laid off. In administering a layoff action, the Town may consider many factors including:

- The needs of the Town;
- Performance of the employee;
- Special abilities the employee may possess; and
- Length of service.

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.

#### **13.3 Termination**

Part-time and 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 Personnel Rules who are not at-will may be terminated in accordance with the

termination procedures set forth in Section 12. 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.

Upon termination of employment, the employee shall return to the department head any keys, credit cards, employee identification cards, or other items belonging to the Town.

## **SECTION 14**

### **Appeal Procedure**

#### **14.1 Scope of Appeals**

Any full-time permanent employee who is not at will and falls within the scope of these Rules (as defined in Section 1.1) may appeal a Suspension without Pay, Involuntary Demotion, or Involuntary Termination in writing to the Town Manager within two (2) weeks. Failure to request an appeal within the timeframe specified will be considered the employee's abandonment of the right to appeal. The Town Manager may waive the time limits on a particular case for good cause.

#### **14.2 Format of Appeals**

An appeal must set forth the reason for the Appeal why the employee believes the employment decision was wrongful or in error. Within three (3) weeks of receipt of an appeal, the Town Manager will appoint an independent Hearing Officer to evaluate the facts and conduct an impartial hearing.

#### **14.3 Appeal Hearing Process**

At the Appeal Hearing the employee may be represented by counsel at his/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, if approved in advance by the Hearing Officer. The conduct of the hearing, including decisions of the admissibility of evidence will be determined by the Hearing Officer. The formal rules of evidence do not apply. The Town will also present evidence and witnesses as appropriate, and may cross-examine the employee and any witnesses. The burden of proof will be on the employee to demonstrate that the employment decision was wrongful or in error.

#### **14.4 Decision of the Hearing Officer**

After a review of the facts, the Hearing Officer will render a decision within fifteen (15) days of the conclusion of the Appeal Hearing. The Hearing Officer's decision will be based on the evidence presented. The decision will be final for all purposes, and therefore not appealable to any office or other body of the Town or to any other forum, administrative or judicial.

In the event the Hearing Officer decides to reverse or lessen a decision imposing suspension without pay, involuntary demotion, or involuntary termination, the remedies granted by the Hearing Officer will be designed to make the employee "whole" but shall not bestow a windfall. Remedies may include reduction in duration of suspension, reinstatement, appropriate back pay, and/or reimbursement of actual legal costs. In no event may the employee be awarded punitive damages as a remedy.

The Town Manager will review all decisions concerning appropriate remedies and consult with the Town Attorney or other legal counsel. Any decision to award an employee reimbursement of actual legal costs will be subject to an allocation of funds and approved by the Town Council. The Town Manager shall sign the



final action, which is binding on all parties.

## **SECTION 15** **Personnel Records**

### **15.1 Access to Personnel Files**

The Town respects employees' privacy. Personnel files will be kept safeguarded in a locked cabinet and access will be limited to the following authorized individuals:

- The employee or an individual who has written authorization from the employee to review the personnel file;
- The Town Manager or a designee;
- Mayor and Vice Mayor;
- The employee's supervisor and department head;
- Town Clerk staff members in the performance of their official duties, including responding to court orders or subpoenas; and
- Employees or agents of companies providing employee benefits if necessary to determine eligibility or otherwise administer benefits to the employee.

### **15.2 Public Record Requests**

Arizona Public Records Law makes public documents accessible by request. Most information included in an employee's personnel file must be provided to any person making a request for it as a public record, including compensation information, performance reviews, and any documentation of disciplinary action. The home address and home telephone number may be redacted from the records provided for law enforcement officers, judges, code enforcement officers, and individuals protected under an order of protection or injunction against harassment.

In compliance with the Health Insurance Portability and Accountability Act (HIPPA), access to any medical information or reports relating to the employee contained in his/her personnel file will be kept confidential and will not be disclosed. Access to medical information shall be limited to the employee, the Town Manager, the Town Attorney, and the Town Manager's designee. Attorneys employed or contracted by the Town may also have access to this information if necessary to assess the Town's legal position or to provide legal advice to the Town Attorney, Town Manager, or Town Council.

## **SECTION 16** **Definitions**

Alcohol: the intoxicating agent in beverage alcohol. Ethyl alcohol or other low molecular weight alcohol including methyl and isopropyl.

Anniversary Date: the date an employee is hired for full-time employment used to determine benefits such as vacation, sick leave, and medical coverage.

At-will Employee: probationary, part-time and temporary employees and all department directors and supervisors with direct responsibility over town staff.

Bereavement Leave: time needed to care for family members, other matters, or to mourn the death of an immediate family members as defined in “Relative” in Section 3.8.

Class: all positions sufficiently similar in duties and responsibility.

Commercial Driver License (CDL) Driver: any person who operates a commercial vehicle and is subject to Title 49 Code of Federal Regulations (CFR) Part 40.

Conflict of Interest: a direct or indirect interest that conflicts substantially with an employee’s official duties and responsibilities.

Contract Position: any employee who receives compensation and other benefits through an individual contract negotiated between the employee and the Town.

Covered Event: a serious health conditions covered under the FMLA involving incapacity and/or treatment for an employee’s own serious health condition, to care for a seriously ill family member, or taking care of urgent military matters and military member caregiving.

Department Head: an exempt employee who directs a major department and has been appointed to the position by the Town Manager and serves at-will.

Designee: a staff member designated by the Town Manager.

Exempt Employee: an employee who regularly works 40 hours a week and is exempt from overtime status due to Federal Government Fair Labor Standards Act designations.

Family and Medical Leave Act (FMLA): a federal law that generally requires covered employers to allow eligible employees to take unpaid, job-protected leave for certain covered events. FMLA allows employees to take unpaid leave due to a serious health condition that makes the employee unable to perform the job or to care for a sick family member or to care for a new son or daughter (including birth, adoption or foster care). FMLA applies to those working for employers with 50 or more employees within a 75-mile radius. In addition, employees must have worked for the employer at least 12 months and 1,250 hours in those 12 months.

Flexible Spending Account: a tax-advantaged financial account that allows an employee to contribute a set amount from their paycheck in order to cover out-of-pocket medical, dental, vision expensed, and/or dependent day care for themselves and their dependents.

457 Retirement Plan: a type of qualified pre-tax deferred-compensation retirement plan that is available for governmental employers.

Full-time Employee: a permanent employee who works more than 32 hours per week and is eligible for the full range of employee benefits.

Hearing Officer: an outside and impartial professional assigned by the Town Manager to hear and resolve personnel appeals.

Illegal Drug: any controlled substance listed in scheduled 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. Illegal drugs may include over-the-counter medications if they are not being used for the purpose(s) for which they were intended by the manufacturer.

Incapacity and/or Treatment: a period of incapacity for three consecutive, full calendar days and any subsequent treatment or incapacity relating to a covered event under FMLA.

Industrial Injury: injuries or illness that occurs at work.

Insurance In-Lieu: a benefit applied to a Flexible Spending Account in-lieu of an employee enrolling in the Town's health plan.

Legal Drug: 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.

Legally Protected Class: individuals belonging to a class which is protected by state or federal law because of sex, race, color, ancestry, genetics, national origin, religion, disability, pregnancy, age, sexual orientation or gender identity, or any other legally protected status in accordance with applicable federal, state, and local laws.

Medical Review Officer: a licensed physician responsible for receiving laboratory results generated by the Town's drug testing program. A Medical Review Officer must meet the qualifications per Department of Transportation 49 CFR 40.3 for CDL drivers.

Military Leave: leave required for those employees who are required to participate in National Guard or Military Reserve Unit training or deployment.

Nepotism: favoritism showed to relatives, especially in appointments to Town positions.

Next of Kin: the nearest blood relative other than a covered service member's spouse, parent, son, or daughter as designated in writing by the covered service member under FMLA.

Non-exempt Employee: a full-time, part-time, or temporary employee who is eligible for overtime pay.

Overtime: the actual time worked, or actual time worked plus holiday time, in excess of 40 hours in a scheduled workweek. Overtime for 207(k) employees (police and firefighters) is defined by the Fair Labor Standards Act.

Part-time Employee: a permanent employee who works less than 32 hours per week. Part-time employees are eligible for holiday pay for hours normally scheduled that may fall on a Town designated holiday.

Premises: includes all buildings, offices, facilities, grounds, parking lots, places and vehicles owned, leased or managed by the Town.

Probationary Employee: any permanent employee serving during the probationary period, or temporary employee not exceeding 19 weeks of employment

Probationary Period: a trial period during which an employee is required to demonstrate fitness for the position to which appointed by actual performance of the duties of the position.

Promotion: the movement of an employee from one class to another class having a higher maximum rate of pay.

Reclassification: the movement of an employee, for reasons other than promotion or demotion, from one class to another class having a higher or lower maximum rate of pay.

Refuse to Cooperate: to obstruct the collection or testing process; to submit an altered, adulterated or substitute sample; to fail to show up for a scheduled test; to refuse to complete the requested drug testing forms; or to fail to promptly provide specimen(s) for testing when directed to do so, without a valid medical basis for the failure. Employees who leave the scene of an accident without justifiable explanation prior to submission to drug and alcohol testing will also be considered to have refused to cooperate and will automatically be subject to discharge.

Safety-Sensitive CDL Function: includes all on-duty functions performed from the time a CDL driver begins work or is required to be ready to work. It includes driving, waiting to be dispatched, inspecting and servicing equipment, supervising, performing or assisting in loading and unloading, repairing or waiting for help with a disabled vehicle, and performing driver requirements related to accidents.

Serious Medical Condition: may include but are not limited to: 1) recovery period for surgical procedures; 2) maternity leave; 3) any other condition that in the opinion of the employee's physician will not allow employees to perform their required job duties.

Supervisor: a person who has been designated to supervise one or more employees.

Suspension with Pay: the temporary relief from duty of an employee during a period of inquiry into actions of the employee.

Suspension without Pay: the temporary separation from employment of an employee without pay for disciplinary purposes.

Temporary/Seasonal Employee: an employee who is hired for the express purpose of job(s) or project(s) that are of a temporary nature. The length of time to be employed shall not exceed 19 weeks in a calendar year. Temporary employees do not accrue benefits and serve at will. Temporary employees may be dismissed at any time without cause.

Town Property: "Town property" and "Town equipment, machinery, and vehicles" is all property, equipment, machinery and vehicles owned, leased, rented, or used by the Town.

Transfer: the change of an employee from one position to another position in the same pay range.

Under the Influence of Alcohol: an alcohol concentration equal to or greater than .04, or actions, appearance, speech or bodily odors that reasonably cause a supervisor to conclude that an employee is impaired because of alcohol use.

Under the Influence of Drugs: a confirmed positive test result for illegal drug use or the misuse of legal drugs (prescription and possibly OTC) when there is not a valid prescription from a physician for the lawful use of a drug in the course of medical treatment. Containers must include the patient's name, the name of the substance, quantity/amount to be taken and the period of authorization.

Undue Hardship: an action to accommodate a disability which would require significant difficulty or expense in light of the Town's size and financial resources.

Workman's Compensation Injury: injuries or illness that occurs at work.

Windfall: an unexpected gain.

**TOWN OF EAGAR**  
**Wireless Phone Usage**  
**Acknowledgement and Agreement**

I, \_\_\_\_\_, hereby acknowledge that I have read and understand the Town of Eagar wireless phone usage policy.

I understand that I am an employee required by the Town to have a wireless phone and that the phone number is accessible to the Town of Eagar.

I understand that any information stored on the phone may be subject to disclosure under the Freedom of Information Act (FOIA).

I understand that I will be compensated and taxed for reimbursement of the "basic service plan" monthly allowance.

I understand that I will be fully responsible for all charges that are over and beyond the Council approved monthly phone stipend.

Date \_\_\_\_\_ Signature \_\_\_\_\_

**TOWN OF EAGAR**  
**Notification for Family and Medical Leave Act**  
**Application Requesting Family and Medical Leave**

I, \_\_\_\_\_, am making notification to the Town of Eagar that I am requesting to take up to 12 weeks of Family and Medical Leave.

As the requested Family and Medical Leave is scheduled, the beginning date is \_\_\_\_\_ and ends on \_\_\_\_\_. If the dates are unscheduled I am aware that the hours, days, or weeks will still be counted against my FMLA 12-week entitlement.

I request that the leave requested be paid \_\_\_\_\_ unpaid \_\_\_\_\_ (or both). To be deducted from my annual sick or vacation leave.

The reason for this FMLA leave request is for:

\_\_\_\_\_ My own serious health condition; (Certification from Health Care Provider required.)

\_\_\_\_\_ I need to care for a \_\_\_\_\_ spouse; \_\_\_\_\_ child; \_\_\_\_\_ parent due to his/her serious health condition;

\_\_\_\_\_ The birth of a child, or placement of a child with me for adoption or foster care;

\_\_\_\_\_ For a qualifying urgent need for a \_\_\_\_\_ spouse; \_\_\_\_\_ son/daughter; \_\_\_\_\_ parent who is on active duty or call to active duty status in support of a contingency operation as a member of the National Guard or Reserves.

\_\_\_\_\_ I am the \_\_\_\_\_ spouse; \_\_\_\_\_ son/daughter; \_\_\_\_\_ parent; \_\_\_\_\_ next of kin of a covered service member with a serious injury or illness.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date





**Town of Eagar**  
**ACKNOWLEDGMENT AND RECEIPT**  
**Personnel Rules**

I have received and read a copy of the Town of Eagar’s Personnel Rules, 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. I understand that if I fail to comply with any aspect of the Rules, I will be subject to discipline, up to and including immediate termination of my employment with the Town of Eagar. I understand that the Substance Abuse Policy supersedes and revokes all previous practices, procedures, rules, and other statements of the Town of Eagar, whether written or oral that modify, supplement, or conflict with the Rules. I also understand that the Rules may be amended at any time.

I also understand the Town’s policy against harassment and discrimination, including the procedure for reporting complaints.

I understand the Personnel Rules apply to me, and I understand that I must comply with all terms and conditions. I understand that if I fail to comply with any aspect of the Personnel Rules, I will be subject to discipline, up to and including immediate termination of my employment with the Town of Eagar. I understand that these modifications supersedes and revokes all previous practices, procedures, rules, and other statements of the Town of Eagar, whether written, or oral that modify, supplement or conflict with the Personnel Rules. I also understand that the Personnel Rules may be amended at any time.

I also understand that the full current version of the Town’s Personnel Rules is available online and that I may request a hardcopy at any time.

I have reviewed and understand the Town of Eagar Personnel Rules.

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Employee Signature Date

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Employee Name (Printed) Date



TOWN OF EAGAR



GUIDELINE 10  
MODIFIED LIGHT DUTY PROGRAM

## **MODIFIED LIGHT DUTY PROGRAM**

### **10.2 PURPOSE**

It is the policy of the Town of Eagar, when possible, to modify work assignments for a limited period to assist employees who are temporarily restricted from performing their regularly assigned duties due to an on-the-job injury or a personal injury that occurs while the employee is on their own time.

### **10.4 DEFINITION**

Modified Light Duty is used in two contexts for the purpose of this guideline.

1. The Modified Light Duty Program is not optional for those employees that are receiving worker's compensation. These employees will be required to participate in the Town's Modified Light Duty Program insofar as a physician has released the employee to perform modified light duty.
2. Employees who have suffered an injury while they were on their own personal time may choose to not participate in the Modified Light Duty Program. However, employees who choose not to participate may have some benefits suspended. These employees may not be guaranteed a modified light duty position.

(Note: This policy should not be construed as recognition that an employee has a disability as defined by the Americans with Disabilities Act (ADA) of 1990. or Americans with Disabilities Act Amendments Act (ADAAA) of 2009.)

### **10.6 ELIGIBILITY**

To be eligible for participation in the Program, an employee must provide a written statement from his/her treating physician that he/she is:

1. Temporarily unable to perform his/her essential duties, following an employment or personal time related injury or illness; and
2. Capable of carrying out work of a modified nature from his/her regular duties and is expected to return to his/her regular duties within 90 calendar days.

### **10.8 PROCESS**

For employees injured in the process of their employment, the following process will apply.

1. The employee shall immediately notify his or her supervisor of an on-the-job injury or illness, the supervisor or department head will initiate a phone call to TriageNow at 1-(844) 282-7823 upon which a registered nurse (RN) speaks to the injured employee privately; care advice is then determined and shared with the supervisor and employee. At this time the supervisor will inform the employee in writing of the Modified Light Duty Program.
2. If so referred to do so by the TriageNow RN, the employee must be seen and evaluated by his/her physician to determine if the employee is able to return to work, and if so, with or without restrictions.

At the time of the evaluation, the employee informs the physician of the Modified Light Duty Program, and provides the physician with a copy of the employee's regular job description that identifies the essential functions of the job and its requirements.

3. When the employee is able to return to work with restrictions, the employee's physician must provide

documentation indicating the following:

- a. Type of injury/illness or condition,
  - b. The specific restrictions corresponding with the employee's job description,
  - c. Expected duration of those restrictions,
4. Taking into consideration the information provided by the physician, the employee's department (in consultation with the town manager) will determine if a temporary Modified Light Duty assignment can be offered.

For employees injured in during their personal time, the employee will contact their supervisor as soon as they are aware that they will not be able to report to duty. Items 3 & 4 above will then apply.

#### **10.10 COMPENSATION**

There will not be an adjustment in the compensation of the employee that is placed in a Modified Light Duty position.

#### **10.12 OFFER OF MODIFIED LIGHT DUTY POSITION**

Once the employee has been approved to participate in the Modified Light Duty Program, the department will provide a Modified Light Duty job offer letter. This letter shall include:

- A. The position offered.
- B. The location and duties of the position offered.
- C. The wages and schedule of the position offered.
- D. The duration of the temporary work assignment.
- E. A statement that the department will only assign a position/duties consistent with the employee's knowledge and skills, and will provide training if necessary.
- F. A statement acknowledging that the employer is knowledgeable about and will abide by the limitations under which the treating physician has authorized the return to work.

#### **10.14 WHILE ON MODIFIED LIGHT DUTY**

Employees on Modified Light Duty will be under the supervision of their regular supervisor unless changed by the department administrator.

Every attempt will be made to return an employee to duty who has suffered an industrial injury and is receiving workman's compensation. These employees will be required to participate in the Town's Modified Light Duty Program insofar as a physician has released the employee to perform modified light duty.

Every attempt will be made to return an employee to duty who has suffered an injury while they were on their own personal time. However, an employee who is injured while on their personal time may not be guaranteed a modified light duty position.

Any injured employee will be required to use sick, comp, or vacation leave to attend physical therapy and doctor appointments as needed. No overtime, comp-time, on-call time, off-duty, or extra duty will be permitted for employees on Modified Light Duty.

Employees that are not participating in the Modified Light Duty Program will have their leave time accrual suspended until they are back to regular duty.

Employees on probation and working Modified Light Duty may not be released from their probationary status until they have returned to regular duty and actually worked in the probationary position for the required probation period. Nor may the employee receive a pay-for-performance wage adjustment until they have returned to work and actually worked in their regular position for a period of one year.

Employees on Modified Light Duty will be permitted to test in any promotional process allowed other employee in their regular department.

The use of uniform allowance will be suspended until the employee returns to his/her regular duties.

#### **10.16 REFUSAL OF MODIFIED LIGHT DUTY OFFER**

An employee may choose to accept or refuse the Modified Light Duty job offer. However, an employee who refuses a Modified Light Duty job offer is subject to termination. Rejection of the job offer might also result in cancellation of income benefits under Workers' Compensation Insurance.

#### **10.18 DURATION OF MODIFIED LIGHT DUTY**

A Modified Light Duty offer will be extended for an initial period not to exceed 90 calendar days. The duration of approved time will be based upon the information provided by the employee's physician. If the employee is unable to return to work at full duty after the initial approved time, he/she may request a continuation of Modified Light Duty and must submit documentation to the department from his/her treating physician. This document should include what limitations continue to exist and the probable duration of those limitations.

#### **10.20 END OF MODIFIED LIGHT DUTY**

An employee who is unable to return to his/her regularly assigned duties at the end of the Modified Light Duty agreement may request a leave of absence through his/her department or may elect to terminate his/her employment with the Town.

Provided the employee has exhausted any entitlement under the Family and Medical Leave Act (FMLA), the department has the option to approve or deny the leave of absence request. If Leave without Pay is denied, employment with Town will be terminated.

If the employee believes that the condition is permanent, progressive, or chronic, the employee may pursue the Town's Americans with Disabilities Act Accommodation Policy to determine if they are a qualified individual with a disability.

**For Assistance:** The Town Manager is responsible for administering the Modified Light Duty Program in consultation with the employee's department. Questions regarding the Modified Light Duty Program should be directed to the Town Manager.

**TOWN OF EAGAR**



**GUIDELINE 20**

**FISCAL POLICY & PROCEDURES**

## TOWN OF EAGAR FISCAL POLICIES & PROCEDURES

### 20.2 INTRODUCTION

- A. The purpose of this policy is to establish and outline the financial, procurement, investment, asset control, and budget policies and operating procedures for the Town of Eagar. These policies and procedures are designed not only to cover internal fiscal policy but also relate to program management and establish the internal control necessary to have sound financial, procurement and property management.

#### 1. Internal Control

Internal controls are plans, policies, and procedures adopted by an organization to safeguard its assets and to check the accuracy and reliability of its accounting system. A sound system of internal control will protect the agency against misappropriation of assets and erroneous statements of accounts.

A system of internal control extends beyond policies and procedures. They are essential to the agency as a whole, and affect all employees. Internal controls include management policy which promotes operational efficiency. This manual presents management policy and fiscal procedures necessary to adhere to the Town's standards of financial responsibility.

The characteristics of a satisfactory system of internal control will include the following:

- a. Established managerial policies that are enforced.
- b. Establishment of responsibilities for each employee.
- c. Ample separation of related duties.
- d. A system for authorization of transactions.
- e. A system of proofs, checks, and balances.

### 20.4. PROCUREMENT

- A. Procedures. The Town Manager or his/her designee, the department head or the designee of either party shall be the purchasing agent for the Town. No purchase or contract services of any kind or description, payment for which is to be made from funds of the Town, shall be made by the purchasing agent, or any officer, employee or agent of the Town, except in the manner set forth in this policy, and unless said purchase is in accordance with the adopted Town budget.
- B. All purchases estimated to exceed \$10,000 require Council approval prior to solicitation of bids/quotes. The Town realizes the significance and presence of local businesses and their contribution to the community. Therefore, the Town will make an earnest effort to solicit bids from local businesses when it is known they carry a product of which the Town is soliciting bids for.



1. **\$1,500 or less.** No bid is necessary. However, Town staff must use wise judgment in making these expenditure decisions. Expenditures must also be in accordance with the department's established budgets.
  2. **\$1,501 to \$5,000 inclusive.** Whenever any contemplated purchase or contract for services is for the sum of \$1,501 to \$5,000, the purchasing agent or designee shall solicit at least three (3) oral bids, which must be documented (ex. vendor name, contact name, phone number, date spoke with contact, amount quoted), for the item or service and award the purchase or contract of services to the lowest responsible bidder. Written bids will be accepted for these dollar thresholds as well, however, are not required.
  3. **\$5,001 to \$10,000 inclusive.** Whenever any contemplated purchase or contract for services is for the sum of \$5,001 to \$10,000 inclusive, the purchasing agent or designee shall solicit at least three (3) current written bids (via fax or mail on the vendor's letterhead), for the item or service and award the purchase or contract of services to the lowest responsible bidder.
  4. **\$10,001 to \$25,000 inclusive.** Subject to Council prior approval, whenever any contemplated purchase or contract for services is for the sum of \$10,001 to \$25,000, the purchasing agent or designee shall solicit at least three (3) current written bids (via fax or mail on the vendor's letterhead), for the item or service on bid forms. The purchasing agent or his/her designee shall then award the purchase or contract of services to the lowest responsible bidder.
  5. **\$25,001 or more.** Subject to Council prior approval, whenever any contemplated purchase or contract for services is for the sum of \$25,001 or more the purchasing agent or designee shall solicit three (3) or more sealed bids, when possible, and said bids shall be in writing. The purchasing agent or his/her designee shall then award the purchase or contract of services to the lowest responsible bidder.
- C. If a bid exceeds the amount approved by Council by more than 10%, it must be brought back before Council for consideration. At that time Council can elect to re-solicit bids, decline to purchase the item, or award the bid if the Department is able to afford the purchase within its adopted budget.
- D. **Alternative Solicitation Process.** For purchases of \$5,000 or less, the Town Manager may authorize the use of an alternative bid or quote solicitation process utilizing e-mail sent to all vendors who have previously registered for notification of e-mail solicitations. Vendors notified of a solicitation under this section shall be given a specified deadline to respond, which shall not be less than 72 hours.
- E. Exceptions to Bid Procedures. (All purchase over \$10,000. require Council approval prior to the purchase.)
1. **Sole Source.** In the event that there is only one firm, company or individual capable of providing a particular service or commodity, and such services or commodities cannot be secured from other persons or companies, such services or commodities may be secured without bidding. The Town Manager shall report to the Council any such purchases.

2. **Professional Services.** Unless required by the Town Council, the provisions of this article should not apply to professional services. Such services shall include, but not be limited to, the following; physicians, attorney, engineers and similar professions. Procurement of said services shall conform to applicable State, Federal and local laws and regulations. However, the Town may require response to a request for proposal initiated by the Town. In addition, when considering retaining professional services the considerations itemized in subsection 2.D.2 of this manual shall be carefully reviewed and applied, except that the provisions of subsection 2.D.2 do not apply to professional services procured pursuant to A.R.S. Title 34 and/or A.R.S. Section 41-2578.
3. **Cooperative Purchasing.** In the event of a purchase made by, through or with the U.S. Government, State of Arizona or its political subdivisions, purchases or award of such contracts for services or materials may be made without the bidding process.
4. **Public Building or Structures.** When the Town constructs any building or structure or makes additions to or alterations of existing buildings or structures, and any purchase or contract falls within the definitions for limitations of A.R.S. 34-201 et seq., as amended, the provisions, requirements and specifications or relevant portions of the Arizona Revised Statutes shall supersede this article and control any such bidding procedures.

F. Competitive Sealed Bid Process

1. **Publication.** Whenever competitive sealed bidding is required under this policy, the purchasing agent or designee shall see that notice is published as required by law. The purchasing agent or designee shall insure that the date and time that the bids close is published in a newspaper of general circulation in the Town. The notice shall include a general description of the articles to be purchased or services to be performed and the time and place for opening bids.
  - a. In addition, the purchasing agent or designee may also mail a copy of the bid notice to any prospective suppliers who have requested to be included on a mailing list for any bids issued by the Town.
  - b. A notice of solicitation of bids, in addition to newspaper solicitation, may be placed on the Town's website.
2. **Procedure.** The purchasing agent and all parties contracting with the Town of Eagar shall follow the procedure set forth in this section in relation to all sealed bids required.
  - a. All notices and solicitation of bids shall state the date, time and place for the opening.
  - b. All bids shall be submitted sealed to the purchasing agent and shall be identified as bids on the envelope.

- c. All bids shall be opened in public at the date, time and place stated in the public notice, unless such bids are required to be opened at a Council meeting in accordance with A.R.S. 34-201.
- d. A tabulation of all bids received shall be posted at Town Hall or on the Town website for public inspection.
- e. Right of Rejection. The purchasing agent under subsections 1, 2, and 3 of section 2.A, and with the prior authorization of the Council under subsection 4 and 5 of section 2.A, shall have the authority to reject any or and all bids and parts of all bids and re-advertise or re-solicit bids.

3. **Determination of Lowest Responsible Bidder.** Unless the Town Council and/or purchasing agent shall exercise the right of rejection as provided by subsection 2.C.2.e., the purchase or contract shall be made from and with the lowest responsible bidder for the entire purchase or contract for any part thereof.

G. Performance Bonds

For those solicitations of construction services to cost in excess of \$100,000, the following securities shall be required:

- 1. A bid guarantee in between the range of a minimum of ten percent (10-20%) and a maximum of twenty percent of the bid price may be required with the bid. This guarantee can be provided in the form of a bid bond, certified check, or other negotiable instrument.
- 2. A performance and payment Bond equal to one hundred percent (100%) of the bid price may be required by the purchasing agent prior to execution of an agreement between the Town and the commodity or service provider.
- 3. For those solicitations for construction services of a cost between \$25,000 and \$100,000 , the purchasing agent shall have the authority to require bid bonds, performance and payment bonds, in cash or otherwise, for such amount as he may deem sufficient to secure the execution of the contract for the best interest of the Town of Eagar.

H. Emergency Purchases

In case of an emergency which requires immediate purchases of supplies or services and when time is of the essence, the Mayor of Eagar shall be empowered to authorize the purchasing agent to purchase or secure services without complying with the procedures of this policy. A report in writing of the circumstances of any emergency purchase shall be filed by the purchasing agent with the Town Council at its next regular meeting.

I. Forms

The purchasing agent shall prescribe such forms as he shall find necessary for the operation of the provisions of this article. Upon the completion of bidding processes, all documentation will be turned over to the Finance Director to maintain as required.

J. Purchases Under ARS §38-503

The Town may purchase supplies, materials and equipment not exceeding three hundred dollars in cost in any single transaction, not to exceed a total of one thousand dollars annually, from a member of the Town Council without competitive bid. Any purchases in excess of the above amounts shall only be made if the procurement is made through a Competitive Sealed Bid Process.

**20.6 PAYROLL**

The Town's Payroll is prepared bi-weekly for the pay period ending the Friday prior to payday. The payroll is prepared on the Town computer and is based on employee time cards. Employees are paid on a salary or hourly basis depending on their FLSA status.

A. Time Cards

The time card is the source document for the Town payroll for all FLSA non-exempt employees. Time cards originate at the department level. Each pay period the employee's Department Head must approve the time card. After the cards are completed, they must be submitted to the Payroll Office by the Monday prior to payday. The following information is required on all time cards:

1. Employee's name.
2. Number of hours worked each day of the pay period.
3. The type of hours being charged must be identified (regular, paid time off, overtime, etc.).
4. Employee's signature and supervisor's signature.
5. Date of applicable pay period.

B. Payroll Checks/Direct Deposit Vouchers

All payroll checks are paid from monies in the Town's general account. Accounts are separated in the payroll journal and charges (gross wages and fringe benefits) are debited. The Finance Director, preferably not the same person preparing the payroll, reconciles the payroll journal to the bank statement. On a payroll basis the amount of funds for payroll must agree with the amount posted to the general ledger.

C. Procedures

As time cards are turned in they are checked for accuracy and given proper approval by the Department Head. All time cards are submitted to a designated Payroll Clerk, who inputs the data into the computer. The approved cards are then organized by department codes and prepared for the payroll run. A spreadsheet is compiled from all of the time cards. The payroll is run on the computer following authorized steps. The computer prints hard copies of reports to be filed, and all employee data for end of year reports is stored. The computer prints checks; direct deposit vouchers and prepares a payroll register. Data is then updated to the general ledger. The completed payroll checks require two signatures.

## **20.8 CASH RECEIPTING**

To establish the concepts and procedures to be followed in processing Cash Receipts Transactions.

### **A. Cash Receipt Items**

Cash receipt items for the Town of Eagar include the following:

1. All federal, state, and local proceeds.
2. Other miscellaneous receipts of checks, money orders, currency, and coin.
3. Other departments' collection/receipt of checks, money orders, currency, and coin.
4. Utility billing receipts.

### **B. Cash Receipting Procedure**

The following sequence of events takes place in processing cash receipts:

1. When cash receipts are received, the cash and check amount is confirmed. The confirmed amount is then applied to the appropriate account codes by entering the information into the computer receipting system.
2. If requested, an original copy of receipt is printed and provided to the customer. If needed a copy of the check may be made and attached to a duplicate copy of the receipt and kept on file. If technical difficulties arise, a manual "hand receipt" may be given in place of a computer generated receipt.
3. All necessary reports are printed and reviewed. The Cash Receipts Register is checked against the daily cash receipts. Once confirmed the cash receipts are updated to the general ledger. All necessary reports are printed out and maintained.

### **C. Deposit Procedures**

1. Designated staff member(s) will:
  - a. As checks and money orders are received, stamp the back "For Deposit Only".
  - b. At the end of the day, complete the deposit slip.

- c. Place the deposit and the original completed slip inside the deposit bag.
- d. The Community Development Department or Town Clerk Department may deposit all cash receipts intact and, if possible, on a daily basis. Daily receipt totals in excess of \$5,000 should be deposited the same day. If amount is below \$5,000, place the sealed bag in drawer and lock it.
- e. Bank receipts will be returned as deposit is completed and returned to the Finance Office. The deposit slip will be matched and attached to the specific daily register.
- f. Finance Director will print and check Cash Receipts Journal.

## **20.10 UTILITY BILLING/PAYMENT PROCEDURES**

In most cases, Town Code, Title 13 will be followed, but the following is provided for further explanation. In the event of a conflict with this section, Town Code, Title 13 will control.

### **A. Billing & Payment**

All billings shall be sent to customers on a monthly basis on or before the 1st of the month and are due by the 15<sup>th</sup> of the month unless other payment arrangements have been made with the Town.

### **B. Late Fees**

All payments received after the 25<sup>th</sup> of the month will be assessed a late fee approved by Town Council.

#### **1. Exceptions**

- a. Accounts that have made prior arrangements for payments to be made in installments prior to the 12<sup>th</sup> of the month shall not be charged a late payment fee. Installment arrangements can be made because of a leak, transferred balance, etc.

### **C. Payment Arrangements**

Payment arrangements made on a utility account will be done by signing an agreement that sets the amount to pay per payment and the frequency of the payments. The account holder shall sign the agreement. If the customer does not comply with the agreement, late fees and shut off of service could follow.

### **D. Closed Accounts Left Unpaid**

- 1. Accounts should be paid in full.
- 2. If customer has another open utility account, the balance left at the closed account will be transferred over.

E. Uncollectible Accounts

Service will not be turned on until full payment of uncollectible account is paid in full.

## 20.12 IDENTITY THEFT PREVENTION PROGRAM

A. Program Adoption

The Eagar Municipal Water and Wastewater Utility ("Utility") developed this Identity Theft Prevention Program ("Program") pursuant to the Federal Trade Commission's Red Flags Rule ("Rule"), which implements Section 114 of the Fair and Accurate Credit Transactions Act of 2003. 16 C. F. R. § 681.2. After consideration of the size and complexity of the Utility's operations and accounting systems, and the nature and scope of the Utility's activities, the Town Council determined that this Program was appropriate for the Eagar Municipal Water and Wastewater Utility.

B. Program Purpose and Definitions

1. Fulfilling requirements of the Red Flags Rule.

Under the Red Flags Rule, every financial institution and creditor is required to establish an "Identity Theft Prevention Program" tailored to its size, complexity and the nature of its operation. Each program must contain reasonable policies and procedures to:

- a. Identify relevant Red Flags for new and existing covered accounts and incorporate those Red Flags into the Program;
- b. Detect Red Flags that have been incorporated into the Program;
- c. Respond appropriately to any Red Flags that are detected to prevent and mitigate Identity Theft; and
- d. Ensure the Program is updated at least annually, to reflect changes in risks to customers or to the safety and soundness of the creditor from Identity Theft.

2. Red Flags Rule definitions used in this Program

The Red Flags Rule defines "Identity Theft" as "fraud committed using the identifying information of another person" and a "Red Flag" as a pattern, practice, or specific activity that indicates the possible existence of Identity Theft.

According to the Rule, a municipal utility is a creditor subject to the Rule requirements. The Rule defines creditors "to include finance companies, automobile dealers, mortgage brokers, utility companies, and telecommunications companies. Where non-profit and government entities defer payment for goods or services, they, too, are to be considered creditors."

All the Utility's accounts that are individual utility service accounts held by customers of the utility whether residential, commercial or industrial are covered by the Rule. Under the Rule, a "covered account" is:

- a. *Any account the Utility offers or maintains primarily for personal, family or household purposes, that involves multiple payments or transactions; and*
- b. *Any other account the Utility offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the Utility from Identity Theft.*

"Identifying information" is defined under the Rule as "any name or number that may be used, alone or in conjunction with any other information, to identify a specific person," including: name, address, telephone number, social security number, date of birth, government issued driver's license or identification number, alien registration number, government passport number, employer or taxpayer identification number, unique electronic identification number, computer's Internet Protocol address, or routing code.

### C. Identification of Red Flags

In order to identify relevant Red Flags, the Utility considers the types of accounts that it offers and maintains, the methods it provides to open its accounts, the methods it provides to access its accounts, and its previous experiences with Identity Theft. The Utility identifies the following Red Flags, in each of the listed categories:

#### 1. Notifications and Warnings From Credit Reporting Agencies

- a. Report of fraud accompanying a credit report;
- b. Notice or report from a credit agency of a credit freeze on a customer or applicant;
- c. Notice or report from a credit agency of an active duty alert for an applicant; and
- d. Indication from a credit report of activity that is inconsistent with a customer's usual pattern or activity.

#### 2. Suspicious Documents

- a. Identification document or card that appears to be forged, altered or inauthentic;
- b. Identification document or card on which a person's photograph or physical description is not consistent with the person presenting the document;
- c. Other document with information that is not consistent with existing customer information (such as if a person's signature on a check appears forged); and
- d. Application for service that appears to have been altered or forged.



3. Suspicious Personal Identifying Information
  - a. Identifying information presented that is inconsistent with other information the customer provides (example: inconsistent birth dates);
  - b. Identifying information presented that is inconsistent with other sources of information (for instance, an address not matching an address on a credit report);
  - c. Identifying information presented that is the same as information shown on other applications that were found to be fraudulent;
  - d. Identifying information presented that is consistent with fraudulent activity (such as an invalid phone number or fictitious billing address);
  - e. Social security number presented that is the same as one given by another customer;
  - f. An address or phone number presented that is the same as that of another person;
  - g. A person fails to provide complete personal identifying information on an application when reminded to do so (however, by law social security numbers must not be required); and
  - h. A person's identifying information is not consistent with the information that is on file for the customer.
4. Suspicious Account Activity or Unusual Use of Account
  - a. Change of address for an account followed by a request to change the account holder's name;
  - b. Payments stop on an otherwise consistently up-to-date account;
  - c. Account used in a way that is not consistent with prior use (example: very high activity);
  - d. Mail sent to the account holder is repeatedly returned as undeliverable;
  - e. Notice to the Utility that a customer is not receiving mail sent by the Utility;
  - f. Notice to the Utility that an account has unauthorized activity;
  - g. Breach in the Utility's computer system security; and
  - h. Unauthorized access to or use of customer account information.
5. Alerts from Others

- a. Notice to the Utility from a customer, identity theft victim, law enforcement or other person that it has opened or is maintaining a fraudulent account for a person engaged in Identity Theft.

#### D. Detecting Red Flags

##### 1. New Accounts

In order to detect any of the Red Flags identified above associated with the opening of a **new account**, Utility personnel will take the following steps to obtain and verify the identity of the person opening the account:

- a. Require certain identifying information such as name, date of birth, residential or business address, principal place of business for an entity, driver's license or other identification;
- b. Verify the customer's identity (for instance, review a driver's license or other identification card);
- c. Review documentation showing the existence of a business entity; and
- d. Independently contact the customer.

##### 2. Existing Accounts

In order to detect any of the Red Flags identified above for an **existing account**, Utility personnel will take the following steps to monitor transactions with an account:

- a. Verify the identification of customers if they request information (in person, via telephone, via facsimile, via e-mail);
- b. Verify the validity of requests to change billing addresses; and
- c. Verify changes in banking information given for billing and payment purposes.

#### E. Preventing and Mitigating Identity Theft

In the event Utility personnel detect any identified Red Flags, such personnel shall take one or more of the following steps, depending on the degree of risk posed by the Red Flag:

##### 1. Prevent and Mitigate

- a. Continue to monitor an account for evidence of Identity Theft;
- b. Contact the customer;
- c. Change any passwords or other security devices that permit access to accounts;
- d. Not open a new account;

- e. Close an existing account;
  - f. Reopen an account with a new number;
  - g. Notify the Program Administrator (Finance Manager) for determination of the appropriate step(s) to take;
  - h. Notify law enforcement; or
  - i. Determine that no response is warranted under the particular circumstances.
2. Protect customer-identifying information

In order to further prevent the likelihood of identity theft occurring with respect to Utility accounts, the Utility will take the following steps with respect to its internal operating procedures to protect customer-identifying information:

- a. Ensure that its website is secure or provide clear notice that the website is not secure;
- b. Ensure complete and secure destruction of paper documents and computer files containing customer information;
- c. Ensure that office computers are password protected and that computer screens lock after a set period of time;
- d. Keep offices clear of papers containing customer information;
- e. Request only the last 4 digits of social security numbers (if any);
- f. Ensure computer virus protection is up to date; and
- g. Require and keep only the kinds of customer information that are necessary for utility purposes.

#### F. Program Updates

This Program will be at least annually reviewed and updated to reflect changes in risks to customers and the soundness of the Utility from Identity Theft. At least once a year, the Program Administrator (Finance Manager) will consider the Utility's experiences with Identity Theft situation, changes in Identity Theft methods, changes in Identity Theft detection and prevention methods, changes in types of accounts the Utility maintains and changes in the Utility's business arrangements with other entities. After considering these factors, the Program Administrator will determine whether changes to the Program, including the listing of Red Flags, are warranted. If warranted, the Program Administrator will update the Program or present the Town Council with his or her recommended changes and the Town Council will make a determination of whether to accept, modify or reject those changes to the Program.

#### G. Program Administration

## 1. Oversight

The Program Administrator (Finance Manager) will be responsible for the program administration, for ensuring appropriate training of Utility staff on the Program, for reviewing any staff reports regarding the detection of Red Flags and the steps for preventing and mitigating Identity Theft, determining which steps of prevention and mitigation should be taken in particular circumstances and considering periodic changes to the Program.

## 2. Staff Training and Reports

Utility staff responsible for implementing the Program shall be trained either by or under the direction of the Program Administrator in the detection of Red Flags, and the responsive steps to be taken when a Red Flag is detected.

### a. Training frequency:

1. At the inception of the program, general training will be coordinated with all Utility Billing staff.
2. Subsequent training will occur any time the Program is amended or once a year, whichever comes first.

### b. Reporting:

1. Utility staff is required to report any incident of Identity Theft to the Program Administrator.
2. The Program Administrator shall compile all incidents of Identity Theft and recommend necessary changes to the Identity Theft Committee for their approval.

## 3. Service Provider Arrangements

In the event the Utility engages a service provider to perform an activity in connection with one or more accounts, the Utility will take the following steps to ensure the service provider performs its activity in accordance with reasonable policies and procedures designed to detect, prevent, and mitigate the risk of Identity Theft.

- a. Require, by contract, that service providers have such policies and procedures in place; and
- b. Require, by contract, that service providers review the Utility's Program and report any Red Flags to the Program Administrator.

## 4. Specific Program Elements and Confidentiality

For the effectiveness of Identity Theft prevention Programs, the Red Flag Rule envisions a degree of confidentiality regarding the Utility's specific practices relating to Identity Theft detection, prevention and mitigation. Therefore, under this Program, knowledge of such specific practices are limited to the Town Manager, Program Administrator, and those employees who need to know them for purposes of preventing Identity Theft. Because this Program is to be adopted by a public body and thus publicly available, it would be counterproductive to list

these specific practices here. Therefore, only the Program's general red flag detection, implementation and prevention practices are listed in this document.

## 20.14 PETTY CASH

### A. Establishment

The fund is established to provide a readily available source of funds for the payment of small, incidental, miscellaneous expenses, or to provide cash for making change, etc. The goal of such funds is to avoid the need for writing checks for small items (under \$50), to facilitate quick minor disbursements, and to make small disbursements at the lowest possible operating level. The Petty Cash Fund is authorized by the Town Manager and issued by the Finance Director. Certain departments are authorized a petty cash fund. The amount of each fund will vary depending on need. The fund is cash kept on hand.

### B. Procedures

1. Each department shall appoint a petty cash custodian and he/she will be totally responsible for safeguarding the fund.
  - a. Petty Cash Custodian Duties:
    1. Disburse cash from fund for authorized purposes.
    2. Prepare a petty cash voucher for each disbursement of funds. The voucher must include the date, amount of disbursement, payee, purpose of disbursement, general ledger account to be charged, signature of payee, approval of custodian.
    3. Attach all supporting documents for the purchase, such as receipts, cash register tapes, etc., to the petty cash voucher. *No disbursements are to be made without supporting documentation.*
    4. File a Reimbursement Request, with the petty cash vouchers and supporting documents attached, with the Finance when replenishment is required.
2. All petty cash purchase requests will originate at the department level and will be approved by the department head or his/her designee.
3. The petty cash fund must always be kept in balance since the Finance Director will periodically perform spot checks.
4. There are no strict guidelines as to what can or cannot be purchased through the petty cash fund but care must be exercised in the final determination by the department head. The fund should be considered a privilege and can be forfeited at any time if abused.
5. Additional petty cash funds may be established for programs within departments by approval of the Town Manager or, if designated, the Finance Director.

### C. Restrictions and Control

The Finance Director, or his/her designee, conducts periodic and unannounced audits of the petty cash fund. Such audits include a counting of cash, an explanation of unredeemed cash vouchers, and a reconciliation of the petty cash fund with the bank statement.

The following restrictions are to be observed regarding petty cash funds:

1. The amount to be disbursed per transaction may not exceed \$50.00.
2. Only the persons to whom the fund was assigned may have access to the cash.
3. No other monies may be mixed with the petty cash fund.
4. No personal checks are to be cashed from the petty cash fund.
5. No loans or advances are to be made from the petty cash fund.
6. The maximum amount for petty cash is to be determined based on need.
7. Under no circumstances is the petty cash fund to be used to circumvent the established purchasing policies or procedures.

## **20.16 BANK RECONCILIATION**

### **A. Procedure**

The reconciliation is to be done monthly and must be completed before the second monthly regular Town Council meeting. Preferably, another person not controlling the receipts and disbursements into that account will perform the reconciliation, but at minimum the Finance Director will approve all reconciliations.

1. Once the bank reconciliations are completed, a hard copy of the reconciliations are printed out and maintained with the copy of the bank statements.
2. Confirm the ending cash balance from the reconciliation equals the ending balance of the cash general ledger account (01-10600) and/or (01-10700).
3. Cancelled and voided checks are filed in chronological order.

## **20.18 CASH DISBURSEMENTS**

In general, the accountings procedures set forth below are designed to ensure satisfactory controls over cash disbursements. These controls include, but are not limited to, adequate separation of duties, proper support by source documentation of all disbursements, no signing of blank checks, and the keeping of all non-issued checks in a secure place.

### **A. Check Safeguards**

1. All blank checks are to be kept in the locked accounting office storage area or safe at all times.

2. Checks are to be maintained and utilized in sequential numerical order only.
3. All voided checks are to be filed numerically along with the returned cancelled checks.
  - a. All voided checks must be defaced sufficiently to guard against their potential use. The word “void” shall be stamped or written on the check in sufficient size to be easily noticed.

B. Requisitions/Purchase Orders

The purpose for Requisitions and Purchase Orders is to provide a better budgetary measure of each department’s expenditures. Requisitions or “requests” for purchases must be approved by the authorized Department Head before a Purchase Order will be issued. Purchase Orders are not required to be obtained for vendors providing a regular monthly service, such as electricity, water, telephone, propane, etc., or for purchases under \$100.00. The amount shown on a requisition or purchase order is based upon an estimate given by the requester. This estimate allows for the accounts payable clerk to ensure only what was requested to purchase was actually purchased and to ensure that the vendor did not over charge.

1. No checks will be issued using just the Requisition or Purchase Order amount.
2. No invoice will be paid without a Purchase Order, unless one is not required, as stated above.
3. Purchase Orders over \$10,000 require the applicable Department Head approval as well as the approval of either the Finance Director or Assistant Finance Director. Approvals must be obtained prior to the purchase being made.
4. Requisition/Purchase Order Process and Procedures.
  - a. A requisition is only required if the Department Head deems it necessary for their department.
  - b. Once a requisition has been input into the computer; a requisition number is created within the department.
  - c. Each Department Head will select the employees that are authorized to obtain a Requisition and/or Purchase Order, and will notify the accounts payable clerk of those employees.
  - d. The Department Head or other authorized personnel can then review the department requisitions, approve, cancel or make any changes they deem necessary and submit the approved requisitions to the accounts payable clerk.
  - e. Once the Requisition has been approved, the accounts payable clerk will create a Purchase Order and the item may then be purchased.
  - f. Any items that are shipped will require the department to compare the items shipped to the packing ticket. The packing ticket should reflect a confirmation of items received, should be initialed and dated by the person completing the inventory, and should be submitted to the accounts payable clerk.

- g. When the invoice is received, the accounts payable clerk will match the requisition, purchase order, and packing ticket to the invoice, reviewing each for any discrepancies.
- h. The accounts payable clerk will input each invoice into the Accounts Payable software system and print out an Unpaid Invoice Report for the Finance Director and/or the Town Manager to review and approve payment.

C. Check Register

1. A check register and single line payroll register for computer checks and cash disbursement journal printout for hand checks shall be maintained showing each and every check.
2. The registers and journal shall balance to the General Ledger and monthly bank reconciliation.

D. Credit Cards

1. The Town Manager and Department Heads are provided a credit card for special purchases and for travel expenses. Detailed receipts must be turned into the accounts payable clerk on a weekly basis. If the card gets lost or stolen the administrative offices must be notified as soon as possible and/or the department head must call and notify the credit card company to cancel the card.
2. A credit card is maintained in the Finance office safe. If a staff member needs to use it, the person will complete the sign out sheet. When they return the card they will sign the card back in and turn in the detailed receipts to the accounts payable clerk. If the card gets lost or stolen the administrative offices must be notified immediately so the credit card company can be notified to cancel the card.
3. Credit card purchases are subject to required procurement procedures.
4. Credit card purchases made over the phone must have detailed receipts submitted to the Accounts Payable Clerk by the purchaser as soon as possible.
5. When the Accounts Payable Clerk reconciles the monthly credit card statement, any receipts that are missing must be provided. If a receipt is lost, a written explanation or other form of back up documentation must be provided.
6. No personal charges are allowed on the Town Credit Card.
7. Any misuse of the Town Credit Card is subject to disciplinary action.

**20.20 FISCAL AUTHORITY**

- A. The Mayor, Vice-Mayor, Town Manager, Finance Manager, Town Clerk and, subject to written delegation by the Town Manager, up to two additional department heads, are authorized signors on the Town accounts. All checks require two signors.



- B. Any contractual fiscal commitments, regardless of the amount, may be signed by any two persons listed above; however, the Town Manager or Finance Manager must be one of the authorizing signatures. Funds in all Town savings accounts may be withdrawn and expended within approved budgets. Any two persons listed above can make all withdrawals; however, the Finance Manager must be one of the authorizing signatures. Any withdrawals from these accounts must be reported to the Town Council.

## **20.22 INVESTMENT POLICY**

- A. It is the policy of the Town of Eagar to invest public funds in a manner that, in conformance with applicable state statutes, will provide the highest reasonable investment return with the maximum security while meeting the daily cash flow demands of the entity.
- B. This policy applies to all financial assets and funds held by the Town, including the following:
  - 1. General Fund
  - 2. Special Revenue Funds
  - 3. Capital Projects Funds
  - 4. Enterprise Funds
  - 5. Debt Service Funds
  - 6. Internal Service Funds
  - 7. Trust and Agency Funds
  - 8. Permanent Funds
  - 9. Any new funds created by Town Council unless specifically exempted from this policy
- C. Investments shall be made with judgment and care, under the circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived. The standard of prudence to be used shall be the “prudent person” or “prudent investor” standard, and shall be applied in the context of the overall portfolio of investments.
- D. The primary objectives, in priority order, of the Town’s investment activities shall be the safety of principal, liquidity, and yield.
- E. The authority to manage the Town’s investment program is derived from ARS §9-240. The Town Manager is designated as the Investment Officer for the Town, and is responsible for investment decisions and activities. The Finance Manager is designated as Deputy Investment Officer.
- F. The Investment Officer shall establish written administrative policies and procedures for the operation of the Town’s investment program. Such procedures shall include explicit delegation of authority to persons responsible for investment transactions. No person may engage in an investment transaction except as provided by these procedures.

- G. The Town shall maintain a list of financial institutions authorized to provide investment and banking services. The list shall be established through a competitive bid process. The list shall be valid for three years from the date of initial issuance. All financial institutions and banks that wish to qualify for Town investments shall supply the following:
1. Most recent annual audited financial statements
  2. Proof of State of Arizona registration
  3. Proof of Federal Deposit Insurance Corporation (FDIC) or National Association of Security Dealers certification
- H. An annual review of the financial condition and registration of qualified bidders will be conducted by the Town.
- I. Cash Reserve Account. The Town Council hereby directs that an amount approximately equivalent to three months budgeted operating expenses shall be retained as an operating cash reserve. This amount shall be invested solely in an Interest bearing savings account deposited at banking institutions doing business within Arizona and located within the Town of Eagar whose accounts are insured by the FDIC). If the cash reserve account drops below the required amount, the Town Manager and Finance Manager shall report the fact to the Council at its first business meeting of the month.
- J. Suitable Investments. The Town may invest all of funds in the following types of accounts or securities:
1. Obligations of the United States or its agencies or instrumentalities
  2. Obligations of the State of Arizona, or any of its counties, incorporated cities or towns, or school districts
  3. Fully insured or collateralized certificates of deposit issued by nationally or state chartered banking institutions
  4. Negotiable or brokered certificates of deposit issued by nationally or state chartered banking institutions
  5. Interest bearing savings account deposits at banking institutions doing business within Arizona whose accounts are insured by the FDIC)
  6. The State of Arizona's Local Government Investment Pool (LGIP)
- K. Internal Controls. The Town shall establish an annual process of independent review by an external auditor. This review will provide internal control by assuring compliance with Town policies and procedures. The controls shall be designed to prevent the loss of public funds due to fraud, employee error, misappropriation or misrepresentation by third parties, unanticipated market changes, or imprudent actions of employees or investment counterparts.

- L. Performance Standards. The Town is not in the investment business as a primary means of earning revenue and shall have a passive investment strategy. A benchmark shall be established by the Investment Officer against which portfolio performance is measured on an annual basis as compared to prior period performance.
- M. Reporting. The Investment Officer shall report at least quarterly to the Town Council on investments that have been made and total portfolio returns. The report shall include comments on markets and economic conditions that may be affecting portfolio performance.
- N. The Investment Officer may convene an advisory committee to assist in the review of competitive bids, the development of investment strategies, and review of portfolio performance.

## **20.24 ASSET INVENTORY**

- A. Authority and Purpose. The purpose of this policy is to obtain control and accountability over the Town's assets, provide centralized documentation for insurance purposes, meet financial reporting needs, and generate asset management information.
- B. Definitions. The following definitions shall apply under this policy:
  1. "Capital asset" means any tangible asset used in operations with an initial useful life extending beyond one year with an initial value in excess of \$5,000.
  2. "Department supervisor" means the person authorized as head of the operating department utilizing the tangible asset.
  3. "Historic cost" means the original cost to acquire, construct, develop or better a tangible asset and includes all costs directly attributable to its acquisition.
- C. Depreciation. Depreciation is not recorded for the Town's assets but may be used for asset replacement planning.
- D. Asset Inventory System.
  1. An asset inventory system shall be maintained by the Finance Department for tracking fixed assets of the Town.
  2. The department supervisor shall be responsible for completing an asset control form for each asset covered by this policy, and shall send the forms to the Finance Department for entry into the asset inventory system.
  3. Whenever a grant requires special considerations regarding use or disposition, the asset shall be tagged or marked with a unique inventory identification number issued by the Finance Department. The assigned number will follow the asset throughout its life in the Town's asset inventory system. Such tags/markings shall be removed or obliterated only when the item is sold, scrapped, or otherwise

disposed of. If the identification number is removed or defaced, the item shall be marked again with the original number as recorded in the asset inventory system.

4. If an item is purchased with grant funding, the asset record shall reference the grant with an identifying project code.
5. For purpose of this policy, assets shall be valued at historic cost or estimated historic cost.

E. Financial Accountability.

1. Duties of the Finance Department:

- a. Maintain the asset inventory system as directed by the Town Manager.
  - b. Submit periodic asset information in the designated format to the Town Council.
  - c. Ensure that accounting for assets is being exercised by updating the asset inventory to reflect additions, deletions, modifications and transfers.
  - d. Ensure that department supervisors complete an annual physical count on all assets and reconcile the physical inventory to the asset inventory system.
2. When the Town receives grants, loans or assistance for the acquisition, construction or development of a capital asset, the amount of the contribution shall be recorded as revenues and not as a reduction in the costs of the capital asset.

F. Asset Tracking.

1. The day-to-day stewardship of Town property is the responsibility of the head of the department utilizing the property. All Town property, regardless of cost, shall be safeguarded from loss or theft. To obtain control and accountability for town assets, all assets shall be recorded in the fixed asset system, including certain minor assets.
2. For inventory purposes, the following assets shall be included in the fixed asset system:
  - a. All Town owned real property, buildings, and other infrastructure permanently affixed to Town owned real property.
  - b. All capital assets.
  - c. All vehicles, machinery and equipment with a historic cost of \$500.00 or more, as described in Section 3.05.03.
  - d. All computer software purchased by the town.
  - e. All computer-related and other electronic equipment.

- f. All Minor assets with a historic cost more than \$100.00 and a useful life of more than one year including weapons, radios, computer peripherals, printers, recording devices, chain saws, GPS devices, specialized public safety equipment, small motor equipment and power tools. These minor but sensitive items shall be included in the asset inventory system and reported on the asset control form.
  3. The department supervisor or designee shall complete asset control forms for all assets used by and assigned to the operating department. For maintenance of the fixed asset system, the head of each operating department is responsible for reporting additions, deletions, modifications, and transfers, in detail to the Finance Department.
  4. It is the responsibility of the department supervisor to ensure that the equipment allocated to that department is tagged and to keep track of the location of all the assets on the departmental list of fixed assets.
  5. The Town Manager is authorized to grant exceptions to specific provisions of this policy on a case-by-case basis within the intent of the overall policy.
- G. Donated Assets. Upon acceptance, a donated asset shall be recorded in the fixed asset system at its estimated fair market value.
- H. Annual Physical Inventory. All departments shall take a complete physical inventory of all assets each year. Inventories shall be updated on an annual basis and submitted to the Finance Department by March 1 of each year.
- I. Internal Controls. All departments shall have procedures in place so that assets are adequately safeguarded from loss or theft, that adequate documentation is maintained to support the cost of the assets, and proper approvals are obtained for all acquisitions in accordance with the financial policies adopted by the Town Council.
- J. Lost or Stolen Assets. Whenever an item in the fixed asset system has disappeared and all efforts to recover it have failed, the department supervisor shall notify the Police Department and the Finance Department. Sixty days after notification, if the item has not been found, the department shall send an asset control form to the Finance Department to remove the asset from the asset inventory and, where applicable, submit a claim for insurance coverage. Copies of the report shall be sent to the Town Manager.
- K. Surplus Property.
1. "Surplus property" includes fixed assets that are obsolete, broken, no longer needed or unusable by the Town, but shall not include land or buildings. "Surplus property" shall also include fixtures and such salvage as may be taken from a building without structural damage when such fixtures and salvage are not part of a demolition contract.
  2. The department supervisor shall report surplus property items to the Town Manager and request approval for disposing of the property. The Town Manager shall examine the property and estimate its value. If the estimated value of the

property exceeds \$10,000, the Town Manager shall make a recommendation regarding disposition to the Town Council. The Town Council shall then determine whether or not the item is surplus property, and determine the method for disposing of any item declared to be surplus property.

3. The Town Council may dispose of the surplus items by one of the following methods:
  - a. Transfer of the item to another Town department;
  - b. Donation to a nonprofit organization within the Town or to a governmental agency;
  - c. Public auction;
  - d. Sale by sealed bid; or
  - e. Destruction and/or disposal of the item if the item has no market value.
4. When sold by auction or bid, the item will be sold in “as is” condition to the person submitting the highest bid. If the item is not removed within the time designated by the Town, the item shall revert to the Town. If no bids are received, the item shall be disposed of as directed by the Town Council.
5. Public notice shall be given for a public auction or sale by sealed bids of surplus property. The Town Council shall specify the method of notice required.
6. Surplus property shall not be given to any official, employee, volunteer, or contractor of the Town, but may be sold through a competitive auction or bid process.
7. Upon sale of surplus property, any proceeds shall be returned to the Town’s general fund unless federal or state law precludes this and requires a specific use of the money.
8. An asset control form for each item disposed of shall be sent to the Finance Department to remove the item from the fixed asset inventory.

## **20.26 BUDGET PREPARATION AND ADMINISTRATION**

- A. The annual tentative budget shall be prepared and presented by the Town Manager and Finance Manager to the Town Council no later than the third Tuesday in May of each year. The proposed tentative budget shall be based on documented estimate of revenues from all sources for the upcoming fiscal year. Absent a clear demonstration of need and the availability of funds in reserve that exceed the amount required to be retained in the cash reserve account, budgeted expenses shall not exceed the amount of estimated revenues for the fiscal year.
- B. The tentative budget shall be prepared on a line item basis in sufficient detail to inform the Town Council of the sources of revenues and types of expenditures that are

anticipated to be made in the upcoming fiscal year. The tentative budget shall set the maximum allowed total appropriation for the upcoming fiscal year.

- C. The annual final budget shall be prepared and presented to the Town Council no later than the second Tuesday in July. Once approved, the budget shall be administered during the fiscal year on a lump sum basis. Any expenditure in excess of a department or fund's appropriation for the fiscal year shall require presentation of a request for additional appropriation to the Town Council. Any such request must be within the maximum total appropriation established by the tentative budget.
- D. The Finance Manager shall provide a monthly report to Town Council on revenues and expenditures to date and submit such reports to the state Department of Administration as may be required to comply with ARS §41-725.

Revised: May 7, 2013





**TOWN OF EAGAR**



**GUIDELINE 30**

**FLEXIBLE SPENDING ACCOUNTS**

## **FLEXIBLE SPENDING ACCOUNTS**

### **30.2 Introduction**

A Flexible Spending Account (FSA) is a tax-advantaged financial account that is an employer-provided, optional benefit that allows the employee to contribute a set amount from their paycheck in order to cover out-of-pocket medical, dental, vision expenses, prescribed drugs, and/or dependent day care. The employee contribution is deducted through regular, equal payroll deductions per plan year.

This tax-advantaged, optional benefit is allowed by Section 125 of the Internal Revenue Code. Money deducted from an employee's pay into an FSA is not subject to payroll taxes, resulting in a substantial payroll tax savings.

### **30.4 Filing a Claim**

Medical and dependent day care expenses reimbursed under a FSA must be incurred during a specified coverage period called the Plan Year (July 1 through June 30). Expenses are incurred when medical and dependent care is received and not when the bill/invoice is billed, charged for, or paid. The employee will have sixty (60) days to file a claim for expenses incurred after the previous plan year has ended.

A claim form may be obtained from the Payroll or Human Resource Departments must be accompanied with a legible receipt(s) from the service provider showing:

- A. Provider name;
- B. A description of the service or a list of supplies furnished;
- C. The charge(s) for each service;
- D. The date(s) of service;
- E. The name of the person(s) receiving the service. (The service provider's signature on the claim form can be substituted for a receipt.)

### **30.6 Types of Flexible Spending Accounts**

At the beginning of each plan year, the employee will elect a specific dollar amount for each FSA they wish to participate in. The I.R.S. determines the maximum benefit that may be elected for each plan year.

There are two types of Flexible Spending Accounts:

- A. Reimbursable Medical/Health;
- B. Dependent Daycare.

#### Reimbursable Medical/Health

Reimbursable Medical/Health allows employees to contribute a set amount (aligned with I.R.S. cap) from their paycheck per plan year in order to cover qualifying out-of-pocket medical, dental, and vision expenses such as health insurance co-pays, uninsured treatments, or over-the-counter prescribed drugs, and expenses other than drugs.

To be eligible for reimbursement, an expense must be for medical care.

- A. Medical care means diagnosis, cure, treatment, or prevention of disease.
- B. A surgery or procedure necessary to correct a deformity resulting from a disfiguring disease, an accident, or trauma may be eligible.
- C. Expenses for medical care will be limited to expenses incurred primarily for the prevention or improvement of a physical or mental defect or illness.

Medical care does not include cosmetic surgery or similar procedures. Cosmetic surgery means any procedure to improve a person's appearance.

The employee can normally provide substantiation by submitting a physician's statement of medical care. The physician's statement should contain the following information and may only be applied to the plan year in which it is used:

- A. Patient's name,
- B. Specific medical condition for which treatment is prescribed,
- C. Description of the treatment and how it treats the medical condition,
- D. Length/frequency of the treatment program (if related).

Qualifying Medical/Health Expenses

Acupuncture	Adoption-related medical cost	Air Conditioner--allergy relief
Alcoholism Treatment	Ambulance Services	Attendant Blind/Deaf Student
Autoette	Band-Aids/Bandages	Blind Person Accessories
Capital Expenditures-home modification for handicapped	Birth Control Pills	Childbirth prep classes-mother only
Chiropractors	Car Modifications-for handicapped	Carpal Tunnel Wrist Supports
Condoms	Christian Science Treatment	Cold/Hot Packs for Injuries
Cosmetic Surgery-nonelective	Crutches	Contact Lenses
Contact Lens Clean Solution	Dentures	Deaf Person Accessories
Dental Fees	Domestic Aid-In Home Nurse	Diagnostic Fees
Doctors' Fees	Electrolysis – Medical Only	Drug Addiction Treatment
Dyslexia Language Training	Fertility Enhancement	Elevator-Cardiac Conditions
Eye Exams/Glasses	Hair Transplant-Medical Only	Fluoride Device
Guide Animals	Hospital Care	Hearing Aids
HMO's	Insurance Premium-Post Tax	Indian Medicine Man
Incontinence Supplies	Laetrile-Legal Use	Iron Lung

Insulin	Learning Disability-Dr. Rec.	Laser Eye Surgery
Lab Fees	Limbs (artificial)	Legal Expenses related to medical condition
Lead Paint Removal	Long Term Care Services-qualified medical only	Liquid Adhesive for Cuts
Lifetime Medical Care Prepaid retirement Home	Nursing Home-medical reason	Lodging (for medical care away from home)
Long Term Care Contracts-qualified medical only	Orthodontia	Meals-medical care away from home
Medical Conference-related to illness	Oxygen Equipment	Operation-legal
Organ Donor	Pregnancy Test Kit	Orthopedic Shoes
Osteopaths	Psychotherapists	Prescription Drugs*
Pedialyte for Ill Child	Spermicidal Foam	Sexual Dysfunction Treatment
Psychiatric Care	Stop Smoking Program	Telephone Equipment-hearing impaired
Sterilization	Weight Loss Program-doctor prescribed for medical reason	Wheelchair
Reading Glasses	<b>X-rays</b>	Counseling-medical reason only
Vasectomy	Rental Medical Equipment	
Thermometers	Wigs-alleviation of physical or mental discomfort	Insurance Co-pays & Deductibles

\*Prescription drug receipts reflecting an insurance co-payment or deductible will be considered eligible.

This list does not include all reimbursable items but is the best guidance provided by the Internal Revenue Service to date.

#### Eligible Over-The-Counter Drugs with a Prescription

The following is a list of common non-prescription over-the-counter items the I.R.S. has determined to be primarily for medical care and eligible for reimbursement when purchased with a prescription. Over-the-counter drugs that are used to alleviate or treat personal injuries or sickness must require documentation identifying the name of the over-the counter drug.

Allergy Medicine	Antacids	Bactine
Anti-diarrhea Medicine	Bug Bite Medication	Calamine Lotion
Cold Medicines	Cough Drops	Diaper Rash Ointment
First Aid Cream/First Aid Kit	Hemorrhoid Medication	Laxatives
Menstrual Cycle Products-for Pain & Cramps	Motion Sickness Pills	Muscle or Joint Pain Products
Nasal Sinus Spray/Strips	Nicotine Gum/Patches for Stop Smoking	Pain Relievers
Rubbing Alcohol	Sinus Medications	Sleeping Aid-Treat Insomnia
Sunburn Ointment/Cream	Throat Lozenges	Visine/Other Eye Products
Wart Remover Treatment		

#### Dual Purpose Items

The following list of dual-purpose over-the-counter items can be reimbursed if used for medical purposes.

They must be accompanied by a medical practitioner's note stating the item is to treat a specific medical condition and not a cosmetic procedure.

- Acne treatment (Retin A) only to treat a specific medical conditions such as acne vulgaris,
- Dietary supplements or herbal medicines to treat medical conditions in narrow circumstances,
- Fiber supplements under narrow circumstances,
- Glucosamine/chondroitin for arthritis or other medical conditions,
- Orthopedic shoes and inserts (only the cost difference between orthopedic and non-orthopedic shoes will be reimbursed),
- Hormone therapy and treatment for menopause symptoms such as hot flashes and night sweats,
- Pills for lactose intolerance,
- Prenatal vitamins,
- St. John's Wort for depression,
- Sunscreen,
- Weight-loss drugs to treat specific disease including obesity.

Non-Qualifying Medical/Health Expenses

Spouses' Group Plan Medical Premiums-Pre-tax	Chap stick	Face Cream/Moisteners
Medicated Shampoos/Soaps	One-a-Day Vitamins	Suntan Lotion

Over-the-counter drugs purchased for personal/cosmetic reasons or simply for good health do not qualify as eligible expenses. This includes drugs such as anti-aging treatments, vitamins, and nutritional supplements. An expense that is merely beneficial to a person's general health is not an eligible expense.

Dependent Daycare

Dependent Daycare allows employees to contribute a set amount (aligned with I.R.S. cap) from their paycheck per plan year to care for dependents that live with the employee while they are at work. While this most commonly means child care, it can also be used for adult day care for senior citizen dependents that live with the employee, such as parents.

Dependent Daycare expenses may be reimbursed for work-related expenses for any Qualifying Individual described below whom resides with the employee:

- A. A dependent age 12 or under who entitles the employee to a personal tax exemption;
- B. A spouse or other tax dependent that is physically or mentally unable to care for himself/herself.

Qualifying Dependent Daycare

Dependent Daycare expenses must meet all of the following conditions to be eligible for reimbursement:

- A. Expenses must be incurred for a qualifying individual.
- B. Expenses must be incurred to allow the employee to work. If the employee is married, expenses must be incurred to allow the employee and spouse to work unless the spouse is a full-time student or incapable of self-care.
- C. Expenses must be incurred for services performed after the date of the Dependent Daycare election and during the current plan year.

### Eligible Dependent Daycare Expenses for Qualifying Individuals

- A. Expenses incurred for services outside of the employee's household for the care of a dependent (for example, a baby sitter). If the dependent is age 13 or older, he/she must be disabled and spend at least eight hours per day in the employee's home.
- B. Expenses incurred for services provided by a dependent care center i.e., a facility providing care for more than six individuals not residing at the facility. However Dependent Daycare is not eligible for long term care for parents that live elsewhere such as in a nursing home.
- C. Expenses incurred for services provided by a relative who is not the employee's dependent even if he or she lives in the household. However, the employee may not claim any amounts paid to:
  - 1. An individual for whom the employee or employee's spouse is entitled to receive a personal tax exemption as a dependent, or
  - 2. Any of the children who are under age 19 at the end of the year in which the expenses were incurred even if he or she is not a dependent.
- D. Expenses incurred for a day camp that is primarily custodial in nature rather than educational. However, expenses for overnight camps are not considered work-related and are ineligible.

### **30.8 Election to Revoke / Open Enrollment**

An employee may not make changes before the beginning of the next plan year, open enrollment, unless there is a qualified change in status that affects eligibility. Qualified changes in status include:

- A. Change in employee's legal marital status;
- B. Change in number of tax dependents;
- C. Change in employment status that affects eligibility;
- D. Dependent satisfies or ceases to satisfy eligibility requirements;
- E. Change in residence that affects eligibility;
- F. Judgment, decree, or court order dictating provision of coverage;
- G. Entitlement to Medicare or Medicaid (reimbursable medical/health only);
- H. Change in cost of the benefit (Dependent Daycare only);
- I. Addition or elimination of benefit option;
- J. Change in coverage of spouse or dependent under his/her employer's plan;
- K. Significant curtailment of coverage.

If a change in status occurs, the employee may make changes consistent with the qualifying event. See

Human Resources for further details about making changes.

### **30.10 No Transfer**

The employee may not transfer money between the Medical/Health and the Dependent Daycare FSA accounts once the plan year has started.

### **30.12 Use-It-Or-Lose-It Rule**

Money remaining in the employee's FSA account(s) will not be returned to the employee at the end of the plan year. Any amount remaining after the end of the runoff or grace period will be forfeited. Because of the use-it-or-lose-it rule, it is important for the employee to carefully estimate the out-of-pocket Medical/Health and Dependent Daycare expenses for the upcoming plan year.

### **30.14 Termination of Employment**

When the employee terminates employment, their participation in the FSA plan ends and the employee will no longer be able to incur expenses for reimbursement. Salary redirections will end; however, the employee may still file claims for dates of service that were incurred before the termination as long as they are within the eligible plan year.

### **30.16 Insurance In Lieu Program**

In order to help the Town continue to get affordable, quality health insurance for its employees, the Town has initiated an Insurance in Lieu Program Flexible Spending Account in lieu of benefits. The Town may give these employees – the insurance in lieu in a Flexible Spending Account in a Medical/Health Account only.

This program will allow employees with other insurance to opt out of the Town's insurance. Employees that choose Insurance in Lieu will need to provide proof that they have medical insurance elsewhere to be eligible for the program.

Employees may receive per month, ninety percent (90%) of the amount of what the Town pays for an employee only premium for medical insurance into a Flexible Spending Account. No more than the amount that has been aligned with federal caps for all participants of the Flexible Spending Account. This amount may fluctuate from year to year based on the medical insurance premiums.

The "No Transfer", "Use-It-Or-Lose-It", and "Termination of Employment" rules also apply to the Insurance In-Lieu Program.







## 10.2 PURPOSE

The purpose of this guideline is to provide guidance and procedures governing information security and computer usage by protecting the confidentiality, integrity, and availability of the information created on, data stored on, redirected through, or processed by Town computer and phone/voice systems. This guideline will also help ensure consistency among Town departments regarding use, and control of the Town's electronic communication systems and establishes the parameters of appropriate use for employees in their use of the following, including but not limited to:

- Computer hardware and software, network servers
- Internet
- E-mail services
- Social media
- Wireless communication (cell phone or smart phones)
- Telephone

All Town-supplied or town funded technologies or electronic communication systems used for Town endeavors are Town-related work records which belong to the Town of Eagar and not the employee. All files created, saved, sent, or retrieved with the Town's technologies are the properties of the Town and are generally presumed to be public information. As such, all information and communications carried on the Town's electronic communication systems may be subject to public access, pursuant to the State of Arizona Public Records Laws (A.R.S. § 39-121).

## 10.4 Computer Hardware and Software

The Town maintains various configurations of computer hardware for business related use by its employees. The hardware remains the property of the Town, and is to be returned to the Town upon request. For purposes of this guideline, "hardware" is defined as personal computers, laptops, tablets, smart phones, smart wrist wear and all related peripheral equipment (including, but not limited to printers, scanners, projectors, keyboards, mice, routers, etc.)

Portable personal computers (laptops, tablets, smart phones) may be made available to an employee to assist them in the performance of Town business. Because information contained on portable computers is especially vulnerable, special care should be exercised. These devices may only be removed from Town facilities with the permission of the Town Manager, or Department Administrator.

If the electronic communication system is not working properly, such as the personal computer will not power up, keyboard or mouse will not work, network connection dropped, or food or drink is spilled on the hardware, employees need to notify their Department Administrators.

Any software purchased for use by the Town should be registered in the name of the Town of Eagar and/or a Town department, not an individual or employee. The information technology personnel or consultant (IT) should generally handle the registration of software and all licenses and logins be filed in the Town Clerk's office.

All users are prohibited from installing any software on Town of Eagar computers without proper authorization. If there is a work-related need to install a software package, a request must be submitted to the Department Administrator who is in turn responsible for working with the Town's IT to insure that the

software is compatible with the Town's systems and is being used in conformance with the software's license.

All computer games (not part of the standard operating system) and non-business related software on Town computer equipment is prohibited.

### **10.6 Appropriate and Inappropriate Use of Computer Hardware and Software**

Employees may use the hardware and software supplied to them to perform functions in the normal course of their employment for the Town that clearly support the mission, vision, and goals of the Town.

Employees may utilize the supplied hardware and software for non-business purposes, provided that they have the prior written consent of their immediate supervisor. The written consent should specifically list the additional usage in which the employee is authorized.

Customizing the windows desktop with personal preferences for resolution, color, wallpaper, screen saver, and using the options and software provide with the operating system is permissible.

Any activity involving the Town's hardware, software or network which knowingly contradicts the mission, vision, and goals of the Town, is inappropriate. Activities that violate local, state, or federal laws are also prohibited. Actions that violate public trust or hamper the ability of IT to provide network support are likewise prohibited. Some examples of inappropriate use include, but are not limited to the following:

1. Loading any software on a personal computer (PC) without the knowledge and consent of the Department Administrator. This includes wallpaper, screen savers, sound effects, and other software components.
2. Altering system hardware settings of a personal computer through any system setup or windows utility.
3. Addition of peripheral devices (routers, printers, scanners, etc.) to a personal computer without the knowledge and consent of the Department Administrator.
4. Possession of a password does not extend any rights of privacy in e-mail, Internet access, word processing or other software.
5. Knowingly and falsely taking the identity of another employee while accessing any Town-owned computer system. Example: finding a personal computer, which somebody else had signed on, and sending e-mail using the person's identity.
6. Changing the software or hardware settings on another user's personal computer.
7. Attempting to gain access to information, computer accounts, or other computing resources in which you are not authorized.
8. Damaging, altering, or tampering with another's data contained within the Town network, without the other's approval and/or consent of the employee's supervisor.
9. The use of profane, abusive, or threatening language in any electronic files or correspondence.

10. Any action in which the employee knowingly affects the efficient operations of the Town's network.  
Example: streaming movies or music.
11. Violating any copyright protection or license agreements for computer software.
12. Violation of any other Town or information and technology services rule or procedure.
13. Employees are not allowed to load or download any software on Town-owned computers without prior authorization from the Department Administrator.
14. Staff will not connect, disconnect, relocate, upgrade, repair, or change the configuration of Town-owned computer equipment without the approval of the Department Administrator.

### **10.8 Internet and E-mail Services**

Every employee has a responsibility to maintain and enhance the Town's public image and to use the internet and e-mail in a productive manner. The Town reserves the right to audit, review, intercept, access and to disclose any and all Internet searches or e-mail messages created, received, or sent over the Town's e-mail system or equipment and to take appropriate action regarding the finding of these audits.

1. Internet Service: Although encouraged to explore the vast resources available on the internet in connection with their jobs, employees should use discretion in the sites that are accessed. Access to the internet and use of computer systems and network owned or operated by the Town is a privilege, which imposes certain responsibilities and obligations on employees.

The reason for providing internet access to the Town of Eagar employees is to enable staff to better serve their internal and external customers. Employees will be allowed to browse and retrieve the wealth of research information that is available on the internet; however, access to the internet is provided to employees by the Town for business use and must be to achieve the Town's mission, goals, and objectives.

2. E-mail Service: The Town maintains an electronic mail system, and it is necessary for the Town to encourage and promote the responsible use of electronic communications in the administrative, business, and technical operations of the Town.

The Town's e-mail system, transmitting, receiving and storing information is for Town business purposes. It is not recommended that Town personnel use the Town's e-mail system for personal communications. E-mail information is presumed to be open to the public for inspection upon public record requests, and as provided by law. Use common sense about what is said or sent; you cannot control who will ultimately read it. Confidentiality is a misnomer and privacy does not exist in this context. A good rule of thumb is "never write anything to email that you would not want to become public knowledge."

All messages composed, sent, or received on the e-mail system are, and remain, the property of the Town of Eagar. A Town e-mail account does not inherently authorize the employee to represent the Town or to act on its behalf.

### **10.10 Appropriate and Inappropriate Use of Internet and E-mail Services**

The Internet and e-mail system is available to employees of the Town to assist them in their work. Occasional and reasonable personal use is permitted within reasonable limits, provided that this does not

interfere with the performance of work duties and responsibilities. In addition, it must be consistent with restrictions defined elsewhere in this guideline.

Violation of any provisions in this guideline can result in disciplinary action, up to and including termination. Deliberate attempts to degrade or disrupt network performance or circumvent network security may be viewed as criminal activity under applicable state and federal law. If necessary, the Town will advise appropriate legal authorities of any violations of law.

1. Town's internet and e-mail access may not be used for transmitting, retrieving or storing of any communications with derogatory or inflammatory remarks about an individual's race, age, disability, religion, national origin, physical attributes or sexual preference shall be transmitted.
2. No disparaging (belittling or mocking), abusive, profane, or offensive language; materials that might adversely or negatively reflect upon the Town of Eagar or be contrary to the Town of Eagar's best interests.
3. Harassment of any kind is prohibited.
4. Town's internet is not to be used to view or subscribe to pornographic websites or e-mail addresses.
5. Any illegal activities—including piracy, cracking, extortion, blackmail, copyright infringement, viewing pornographic material, and unauthorized access to any computers on the internet or e-mail are forbidden.
6. Town's internet is not to be used for games or entertainment.
7. No issuing or forwarding e-mail chain letters or other frivolous messages, such as practical jokes.
8. Employees are not to use the Town's network systems e-mail system or internet for personal gain as in accessing to solicit business for a non-work-related venture or for any personal cause, including, but not limited to, those associated with political or religious issues.
9. Staff may not print, display, run, play, download, or send any programs, audio, images, messages, cartoons, or jokes that are in conflict with any Personnel Rules or Procedures of the Town of Eagar. Employees receiving any of the foregoing from another person or entity, either inside or outside the organization, should immediately advise the sender that they are not permitted to receive such information and not to send it again.
10. Political statements – political statements and/or campaigning are unacceptable uses of the e-mail system.

11. Confidential e-mails may not be used to create or transmit messages relating to discipline, grievances, and/or any other confidential matters.
12. Creation and/or sending of "spam" is prohibited.
13. No e-mail generated or received by any member of the police department may be viewed, reproduced, printed, transmitted or disseminated without the express written permission of the chief of police. No assumptions shall be made with respect to what is or is not subject to release pursuant to applicable freedom of information acts, and as provided by law.

Any employee who abuses the privilege of Town facilitated access to e-mail or the internet, may be denied access to the internet and, if appropriate, be subject to disciplinary action up to and including termination. The Town of Eagar may routinely monitor usage patterns for its e-mail and internet communications.

The Town reserves the right to discontinue Internet use and e-mail accounts with or without warning, for any reason including, but not limited to, violations of this guideline.

#### **10.12 Storing of E-mail Records**

Communications sent via the Town's network are intended as a medium for communication, not for storage of official records. Therefore, e-mail should not be used for the storage or maintenance of official Town records. If official records are transmitted via e-mail, such records should be transferred to an appropriate storage area (folders) in a format approved and in accordance with each department's State of Arizona Records Retention and Disposition Schedule.

Practice good housekeeping rules. Storage space on the computer is critical:

1. Create folders for received and sent messages. Use folders to save important information but make it a regular habit to review all folders and delete old or out-dated material. Delete unimportant messages as you read them.
2. Keep your "in" and "sent" boxes clean. We recommend that all employees purge their files every 60 days.

3. Do not save multiple copies of threads. When you send a message and get a response with your original message attached, you begin to have several layers; only the last one needs to be saved. Do not reply with attachments or use "reply all" unless the response requires it.

#### **10.14 Social Media**

Town presence on social networking sites represents commitment to engaged and transparent communications. The Town recognizes social media use to improve interaction between governments and their constituencies.

Some Town employees may be authorized to use social media and social networking sites specifically for business purposes. The Town's social networking accounts will be designed to drive traffic to the Town's website as the primary source of information. Use of these sites where a Town employee is representing the Town, must be approved by the Town Manager.

#### **10.16 Personal Use of Social Media at Work**

Likewise the Town understands social media can be a fun and rewarding way to share life and opinions with family, friends and co-workers on a personal level. Use of social media also presents certain risks and carries with it certain responsibilities. To assist all employees in making appropriate, responsible decisions about social media use, the following guidelines have been established.

It is against Town guidelines to use personal social media sites while on work time or on equipment provided by the Town, unless it is work-related as authorized by the Town Manager or consistent with the Town's personnel rules and procedures. Employees shall not use Town email addresses to register on social networks, blogs or other online tools utilized for personal use.

Employees should ensure that their personal social media postings are always honest and accurate when posting information or news regarding Town events or activities. An employee shall never post any information or rumors they know to be false about the Town, customers, employees, boards, commissions, associates, or suppliers, or others working on behalf of the Town.

Post only appropriate and respectful content:

1. The Town has a minimal amount of information that is confidential or protected information, however, employees shall maintain the confidentiality of those certain records.
2. Employees shall not create a link from their blog, website or other social networking site to a Town of Eagar website without identifying themselves as a Town employee.
3. Employees shall only express their personal opinions. They shall never represent themselves as a spokesperson for the Town. If the Town is a subject of the content being created, the employee shall be clear and open about the fact that they are an employee and it be made clear that their views do not represent those of Town customers, employees, boards, commissions, associates, or suppliers.
4. If employees choose to publish a blog or post online related to the work performed, it shall be made clear that they are not speaking on behalf of Town. It is best to include a disclaimer such as "The

postings on this site are my own and do not necessarily reflect the views of the Town.”

Social media includes all means of communicating or posting information or content of any sort on the Internet, including one's personal account, or someone else's web log or blog, journal or diary, personal web site, social networking or similar web site, web bulletin board or a chat room, whether or not associated with the Town, as well as any other form of electronic communication. Ultimately, employees are solely responsible for what is posted online.

Any conduct on social media sites that adversely affects job performance, the performance of fellow employees or otherwise adversely affects members, customers, suppliers, people who work on behalf of the Town or Town of Eagar's legitimate business interests may result in disciplinary action up to and including termination.

Inappropriate postings that may include complaints or criticisms using statements, photographs, video, or audio that could be viewed as malicious, obscene, threatening, or intimidating, that disparage customers, employees, boards, commissions, associates, or suppliers or that might constitute harassment or bullying are prohibited. Discriminatory remarks, harassment, and threats of violence or similar inappropriate or unlawful conduct will not be tolerated and may subject employees to disciplinary action up to and including termination. Examples of such conduct might include offensive posts meant to intentionally harm someone's reputation or posts that could contribute to a hostile work environment on the basis of race, sex, disability, religion or any other status protected by law or Town rules or procedures.

#### **10.18 Passwords for Electronic Communication Systems**

The confidentiality and integrity of data stored on Town electronic communication systems must be protected by access controls to ensure that only Town employees have access. This access shall be restricted to only those capabilities that are appropriate to each employee's job duties. Every employee shall be responsible for all technological transactions that are made with his/her User ID and password. Below are some security guidelines of password usage:

1. Employees should use passwords that will not be easily guessed by others.
2. Passwords should not be recorded where they may be easily obtained.
3. Employees should log-out or lock the workstation when leaving for an extended period.
4. Staff cannot use unauthorized passwords. All passwords used by staff will be recorded with an assigned person.
5. Passwords must be changed immediately if it is suspected that they have become known to others and the new password filed in the Town Clerk's office.

Revealing any system passwords to another employee or using the password of another is forbidden unless authorized by the Department Administrator. Mechanisms are in place that would allow qualified personnel access to an employee's computer systems should that employee be unexpectedly unavailable.

#### **10.20 Malicious Programs**

The internet is full of useful programs that can be downloaded, but some of them may contain malicious programs such as computer viruses, worms, trojan horses and e-mail bombs that can extensively damage Town computers. These malicious programs are designed to make unauthorized changes to programs and data, and then propagate itself throughout the network and therefore causing destruction of Town information and resources. It is important to know that computer viruses are much easier to prevent than to



cure. Defenses against computer viruses include protection against unauthorized access to computer systems, using only trusted sources for data and programs, and maintaining virus-scanning software. Be sure to virus-check downloaded files immediately. Instructions on how to check for viruses are available through the IT personnel or consultant.

To keep damages from occurring due to malicious programs:

- Employees shall not knowingly introduce a computer virus into Town computers.
- Employees shall not load from any type of medium (DVD's, thumb drives) of unknown origin.

Any employee who suspects that his/her computer has been infected by a virus shall IMMEDIATELY POWER OFF the computer and contact their immediate supervisor.

Also, many browser add-on packages called "plug-ins" (such as Adobe Flash Player or QuickTime) are available to download. There is no guarantee that such will be compatible with other programs on the network and such may cause problems; therefore, please verify the compatibility before downloading such plug-ins.

Sensitive and confidential information exists throughout the organization. Staff will not compromise security measures or access materials that are not meant for their viewing. Employees will not read another employee's e-mail or access, delete or alter someone else's files unless they have that employee's permission or unless they are directed to do so by qualified authority.

#### **10.22 License Agreements**

All Town employees are legally bound to comply with the Federal Copyright Act (Title 17 of the U.S. Code) and all proprietary software license agreements. Noncompliance can expose the Town and the responsible employee to civil and/or criminal penalties. Unauthorized copying of copyrighted material including, but not limited to, digitization and distribution of photographs from magazines, books or other copyrighted sources, copyrighted music, and the installation of any copyrighted software for which the Town or the employee does not have an active license is strictly prohibited

Copyrighted materials belonging to entities other than the Town of Eagar may not be transmitted by employees on the Town's network. All employees obtaining access to other companies' or individual's materials must respect all copyrights and may not copy, retrieve, modify or forward copyrighted materials, except with permission or as a single copy to reference only. If you find something on the internet that may be interesting to others, do not copy it to a network drive. Instead, give the URL (uniform resource locator or "address") to the person who may be interested in the information and have that person look at it on his/her own.

#### **10.24 Cellular or Smart Phone**

Employees should be aware of the hazard related to use of cellular telephones while driving or operating machinery/equipment.

Employees are responsible for the control of the vehicles/equipment at all times, and using a cellular/smart telephone may contribute to an accident or injury when the employee's primary focus should be on operating the vehicle/equipment.

Therefore, employees may not talk on cellular telephones when operating a moving Town-owned vehicle or equipment, particularly

if it is for personal purposes. Employees operating a Town-owned vehicle or equipment should use cellular telephones only if their vehicle is off the road and parked or they are utilizing a hands-free device. Under no circumstances is an employee allowed to text, browse the internet or social media on cellular/smart telephones when operating a moving Town-owned vehicle or equipment.

Failure to comply with this requirement may result in the employee being disciplined. If an employee operating a Town vehicle/equipment is involved in an accident and use of the cellular telephone contributed to the accident, the employee will be subject to disciplinary action, including dismissal.

Recognizing that there may be circumstances where police officers may need to use their cellular telephone when operating a vehicle the police chief has the authority to determine how this section will apply to police department employees. This determination will be documented in writing and distributed to police department employees.

Employees are only allowed to use their cellular/smart telephones to take photos of work-related incidences when those photos are to be used specifically for work-related documentation. The employee is to use discretion and tact when the need arises to do so.

#### **10.26 Telephone (Long Distance)**

All long distance telephone calls made from Town phones should pertain to Town business only. If it becomes necessary for an employee to make a personal long distance call from a Town telephone, the call should be charged to the employee's personal banking or credit card.

TOWN OF EAGAR



GUIDELINE 50

REASONABLE SUSPICION TESTING

(DRUG AND ALCOHOL)

REASONABLE SUSPICION TESTING (DRUG AND ALCOHOL)

## **50.2 Introduction**

The Town of Eagar 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 Town. Drugs or alcohol may pose serious risks to the user and all those who work with the user.

The Town does not require random drug or alcohol testing for its employees (other than commercial driver licensed employees as required by federal law), however, the Town will require an employee to drug or alcohol test for reasonable suspicion of use. (See Personnel Rules & Regulations Section 11)

### Step 1: Identifying Employee

Concerns that an employee is under the influence often come from co-workers or even clients or vendors before it is noticed by a supervisor or manager. You do not want to send an employee for testing based on hearsay or gossip, but you should document the complaint or concerns of co-workers who bring this information forward. Take a few extra minutes to ask what the employee observed, when it was observed and if others witnessed this or commented on this situation. You also want to know if this is something that has happened in the past (a pattern of behavior) or new behavior.

### Step 2: Observations by Management

Firsthand observation should be made by at least two members of management. Immediately upon notice of this type of concern, the supervisor, an available manager or HR/town manager should go to this employee's work area for firsthand observation. They may be able to observe the employee from afar, but usually they will need to talk with the employee directly to observe any smell of alcohol, eye dilation, slurred speech or other behaviors.

### Step 3: Removing from Safety Sensitive Areas

If this employee is working around machinery or heavy equipment or is in any other type of safety-sensitive job, or is acting out in a way that appears to be a safety concern for the employee or others, you may need to remove the employee from the work area immediately and ask him or her to wait in a conference room or an office.

### Step 4: Observations by Another Person

The manager or HR person who performed the initial observation should seek a second member of management to confirm initial suspicions. This second observer should perform his or her own firsthand observation of the employee.

### Step 5: Documenting Observations

Both observers should clearly document their observations, including any abnormal behaviors. You want to be as specific as possible in your description, but do not attempt to diagnose the situation. For example, an observation may include:

- Odors (smell of alcohol, body odor or urine).
- Movements (unsteady, fidgety, dizzy).
- Eyes (dilated, constricted, watery, involuntary eye movements).
- Face (flushed, sweating, confused or blank look).
- Speech (slurred, slow, distracted mid-thought, inability to verbalize thoughts).
- Emotions (argumentative, agitated, irritable, drowsy).
- Actions (yawning, twitching).
- Inactions (sleeping, unconscious, no reaction to questions).

### Step 6: Assessing Situation

After the situation has been clearly documented, you need to assess what you know and observed to determine next steps. If both observers witnessed behaviors that create a suspicion and the documentation supports this, then proceed with step 7. If there is disagreement, you may need to bring in a third party to also observe and help make a determination. You may decide that you don't have anything that leads you to a reasonable suspicion of use of drugs

or alcohol outside of an employee complaint. You do not want to send an employee for testing unless you have documented concerns that support a reasonable suspicion.

#### Step 7: Meeting with Employee

You will want to meet with the employee and a witness; often the meeting includes the employee, supervisor and human resources or town manager. During this meeting you should clearly explain what has been observed or documented by management. Then explain that in order to rule out the possibility that the employee is in violation of the town's drug and alcohol policy, you will be sending the employee for a drug and/or alcohol test. Explaining it in this manner shows the employee that you haven't jumped to any conclusions, but are just following your procedures; and if the employee is not under the influence of drugs or alcohol at work, the test will prove this. If you have not obtained a drug testing consent previously, you should have a consent form available at this meeting for the employee's signature.

#### Step 8: Preparing Transportation

You do not want to allow someone you suspect of being under the influence behind the wheel of a car; therefore, you should ensure the employee does not have to drive to the testing center or back home afterward. As the testing center is White Mountain Regional Medical Center (WMRMC), there should be no need for any long or out of area shuttling.

#### Step 9: Sending for Testing

Contact WMRMC Laboratory at 333-4368 facility to notify them that you have an employee on the way for reasonable suspicion testing. The facility's normal hours of operation are Monday-Friday 8:00 a.m. – 5:00 p.m., however they do have personnel that are on-call beyond those regular hours.

#### Step 10: Waiting for Results

The employee needs to know what to do and expect the following day or after. The employee will be suspended pending the results of the drug or alcohol test. Employee's conduct involving alcohol cannot return to duty until the return-to-duty test produces a verified result of less than 0.02. Employee's conduct involving drugs cannot return to duty until the return-to-duty test produces a verified negative result. The Town is not obligated to pay a nonexempt employee for any time or days he or she must spend off work waiting for test results; however, we may be required to pay exempt employees for this time off work according to the Fair Labor Standards Act. The Town will be paid for the time spent in alcohol or drug testing required by the policy.

#### Step 11: Refusing the Test

If the employee refuses to go for the test this they may be terminated immediately to be determined by the town manager. If there is reason to believe he or she is impaired, under no circumstances allow the employee to drive himself or herself home. If the employee refuses a ride and attempts to drive home, **never** attempt to physically restrain the employee. Take note of the employee's type of car and license plate and contact the authorities to report concern that the employee is driving under the influence.

#### Step 12: Results are Negative

If the drug or alcohol test results are negative a date and time will be set for the employee to meet with a member of management/supervision and HR. The employee will be returned to his or her prior job as soon as possible. The employee will receive back pay for the times/days of suspension waiting for the negative test results.

#### Step 13: Results are Positive

If the drug or alcohol test results are positive a date and time will be set for the employee to meet with the Town Manager. The HR department will provide the employee with contact information for appropriate services regardless of whether we continue the individual's employment. The Town Manager may offer a last-chance agreement allowing the employee to seek counseling and/or treatment and return to work with the understanding that he or she will be terminated if under the influence at work again. The Town also has the option to terminate immediately for positive test results. The Town may seek legal counsel on how to proceed.

## 50.6 Scenarios

### Scenario One

The supervisor of a two-person department receives an e-mail from Mike (one employee) stating that he thinks Dave, the other employee in the department, is coming to work drunk. The e-mail states, "On Monday Dave smelled like a brewery." It is now Thursday. The supervisor talks with Mike to get more information, but there are no other witnesses due to the small department. The supervisor thanks Mike for coming forward with his concerns and asks Mike to let him know immediately if it happens again, and if he is not in the office, Mike should contact HR or the department head. The supervisor meets with Dave but observes no signs of Dave being under the influence at work. The supervisor talks with HR and the department head, and they agree that they cannot move forward with any testing based on one employee's complaint about a concern a few days old. The supervisor is asked to document the situation and provide it to HR so that they can maintain this in a separate investigation file for future reference. The supervisor will keep his eyes open, and decides to make a point to check in on Mike and Dave each morning and after lunch for the next week or so.

### Scenario Two

The shipping supervisor, Tim, was walking past Sandy in the packing department. Sandy stumbled into him. When Tim helped her up, he noticed her eyes were making some unusual movements, and she seemed confused and acted as if she didn't recognize Tim. Tim went back to his office and called in Sandy's supervisor, John. Tim asked if John had noticed anything odd about Sandy lately. John stated that Sandy had been very erratic; she was coming in late and she never seemed to be at her workstation when John walked through. He had written her up just last week for both issues, but admitted he hadn't talked to Sandy yet today. Tim relayed what he had observed. John asked Tim to report this to HR while he went looking for Sandy. When John found her, she was standing at her workstation but was not working – she was staring off in a daydream. When John asked her what she was working on, she didn't hear him at first, and then had a hard time focusing on him. Her eyes wouldn't hold steady, her pupils were dilated, and finally she started rambling on and on. John asked Sandy to walk with him to the conference room and remain there for a few minutes, he wanted to talk with her some more.

HR's office was across the hall and Tim was already reporting what he had observed. John filled HR in on his additional observations. HR asked John to document what he observed, and after review of all the information they agree to send Sandy for reasonable suspicion drug and alcohol testing. The HR person arranged for transportation to the facility and printed out the drug testing consent form.

John and the HR representative returned to the conference room to meet with Sandy. HR explained what had been observed today and stated that in order to rule out the possibility that Sandy had violated the company's drug and alcohol policy, they were going to send her for drug and alcohol testing. Sandy started crying and shaking her head. She balled up the drug test consent form and threw it in the trash and stood up to leave. The HR representative explained this was the only way to rule out the possibility of policy violation, but if Sandy refused to sign the consent form or go for testing it would be treated as a positive test and subject to immediate termination of employment. Sandy continued to refuse to sign the consent form or go for testing. Sandy was sent a termination letter in accordance with their drug testing policy.

### Scenario Three

Jane tells her manager that she suspects Joe (an accountant) had a few drinks at lunch. She had suspected Joe was drinking at lunch in the past, but this is the first time she smelled the alcohol on his breath. The manager asks Jane when she observed this and how, why she had suspected it before, if she observed any other concerning behaviors, and whether anyone else commented on this or witnessed this. The manager then approaches Joe's workstation and asks him a few questions about the project he is working on today. During this exchange, the manager observes the smell of alcohol when Joe speaks; also, his speech was slurred and he seemed distracted and flushed. The manager asks his lead to stop by Joe's desk to drop off some papers and chat with him. The manager asks the lead to let him know if he notices anything odd. The lead returns 10 minutes later and says that something was definitely off with Joe; he was talking slower and sounded like his words were slurred. His desk was a mess (very unusual for this accountant) and he was dropping papers and folders, and even bumped into his coffee cup (which thankfully was empty). They both document what they observed and call HR. HR reviews their observations, prints off a drug test consent form and a copy of the drug and alcohol policy, and agrees they should send Joe for reasonable suspicion

testing according to their policy. The HR representative arranges for transportation in half an hour. Then they call Joe into a meeting with the manager and the HR representative.

In the meeting, the manager explains what he had observed and the HR representative confirms that he can smell beverage alcohol on Joe's breath right now. The HR representative explains that in order to rule out the possibility that Joe violated the drug and alcohol policy, they were going to send him for testing.

After Joe signs the consent form, the HR representative explains that a ride will be provided to take him to the testing facility and then home. It usually takes up to 48 hours to get the test results, and according to procedure Joe would be called back to work after the results come back. An employee with negative test results will be paid for the days missed waiting for the results.

Joe has a positive test result. The company procedure is to offer a last chance agreement to the employee, and Joe accepted this. The company mandatorily referred Joe to the appropriate contact, and he signed the last chance agreement and will be putting in a request for FMLA leave for treatment.





TOWN OF EAGAR



GUIDELINE 60

**PUBLIC SAFETY PERSONNEL  
SUPPLEMENTAL BENEFITS  
(PUBLIC SAFETY PERSONNEL RETIREMENT SYSTEM MEMBERS)**

## **PUBLIC SAFETY PERSONNEL SUPPLEMENTAL BENEFITS PROGRAM**

### **60.2 PURPOSE**

The purpose of this Supplemental Benefits Program for Public Safety Employees is to meet the requirements of A.R.S. § 38-961 and provide additional economic benefits to public safety employees who are injured and eligible for a specific category of workers' compensation benefits.

### **60.4 ELIGIBILITY**

To be eligible for supplemental benefits under this program the employee must meet all of the following criteria:

- A. Be a member of the Public Safety Personnel Retirement System as a public safety officer, and be employed full-time by the Town at the time of injury.
- B. Be receiving workers' compensation lost-time wage replacement benefits due to an on-the-job injury.
- C. Request supplemental benefits, in writing addressed to the Town Manager's office, within 30 days of receiving first payment of workers' compensation lost-time wage replacement benefits.
- D. Follow all other procedures for requesting benefits as outlined in the Town Personnel Policy or related guidelines. Participate in all risk management activities related to his or her workers' compensation injury.
- E. Be physically unable to return to work for the Town in any capacity, including Modified Duty, as determined by the Town and as supported by the employee's physician or an independent medical exam ordered by the Town directly or through its workers' compensation insurance provider.
- F. Remain a Town full-time employee during the time period the employee is receiving the supplemental benefits.

### **60.6 BENEFITS**

All benefits under this program will be provided while the employee meets all eligibility criteria, for a period up to six (6) months from the date the employee receives first payment of workers' compensation lost-time wage replacement benefits. Benefits under this program include (A.R.S. § 38-961):

- A. Payment by the Town, the difference in salary between the employee's base pre-injury salary, less taxes and the workers' compensation benefit paid to the employee and any other voluntary deductions on the part of the employee.
- B. Continued payment of the Town's employer portion of premium for health care benefits as was paid pre-injury and/or is paid other similarly enrolled employees. The employee remains responsible for paying the same portion of his/her health care benefits as was paid pre-injury and/or as is paid by similarly enrolled employees.
- C. Payment by the Town of both employer and employee contributions to the Public Safety Personnel Retirement System as based on the employee's pre-injury salary.
- D. Credit for service in the Public Safety Personnel Retirement System at the same accrual rate as pre-

injury.

- E. Maintenance of accrued Town leave balances at pre-injury level, including sick and vacation leave; leave accounts will be frozen as of date of injury until conclusion of participation in the program.

If the employee is eligible for and receives salary or benefit changes while receiving benefits under this program, the program benefits will be adjusted accordingly. For instance, if all employees are provided salary adjustments as part of an annual process, the employee will receive benefits under this program based on his/her new adjusted salary as he/she would receive if not injured.

#### **60.8 PROCESS**

The Town Manager's Office will receive all requests for the program benefits in writing from the employee outlining the request and any relevant information needed for decision making by the Town. Such request must be made within 30 days of the employee's receipt of his or her first lost-time wage replacement benefit paid under workers' compensation. Failure to make a request within the timeframe established herein shall be construed as a waiver of any rights.

Within 30 days of receipt of request for benefits the Town Manager or his/her designee will provide the employee with written determination of benefits eligibility under this program.

#### **60.10 DENIAL/APPEAL OF PARTICIPATION**

If an employee is denied participation in the program for any reason, he or she has a right to appeal such denial. The process for doing so is, exclusively, the following:

1. Within 10 (ten) working days from receipt of denial letter file a written appeal with the Town Manager stating the reason for the appeal and facts that the employee wishes to have considered.
2. Within five (5) working days the Town Manager will render a written opinion affirming or denying eligibility based upon the information provided.



TOWN OF EAGAR



**GUIDELINE 70  
MILITARY LEAVE**

**MILITARY LEAVE**

## **70.2 Purpose**

Military leave is for those employees who are required to participate in National Guard or Military Reserve Unit Training and is handled in accordance with federal law and with Arizona Revised Statutes.

## **70.4 Military Leave**

In general, employees will be paid differential pay for up to a five (5) year cumulative service limit. Leave that extends beyond five (5) years shall be without pay for the remainder of the active duty period.

All employees entitled to military leave shall give their supervisor an opportunity, within the limits of military regulations, to determine when such leave shall be scheduled.

## **70.6 Benefits**

During an employee's military leave of absence, the employee may use accrued vacation leave while performing military duty. During this military leave of absence vacation leave and sick time will not continue to accrue.

While on military leave of absence the employee may continue coverage on the town's health insurance and other health insurance coverage with the same contribution rate as active employees up to 30 days. If the military leave of absence exceeds 31 days, coverage may be continued up to twenty-four (24) months and the full cost of continuation of coverage will be the financial responsibility of the employee. If the employee does not have pay during a pay period from which insurance contributions are drawn, an invoice for the employee's premium will be sent to the employee's home address.

While on military leave of absence group life insurance will be administered in accordance with the provisions of the life insurance policy.

The employee's participation in the Arizona State Retirement System (ASRS) or Public Safety Personnel Retirement System (PSPRS) shall be in accordance with federal law and Arizona Revised Statutes.

## **70.8 Reinstatement**

Reinstatement to employment and reemployment rights will adhere to the provisions set under the Uniformed Services Employment and Reemployment Rights Act (USERRA).



# ETHICS HANDBOOK

A Statement of the Town of Eagar's Ethics Policy



## **Preface**

As public employees, we are each called upon to make decisions every day. As we make these decisions, each of us has an obligation to the residents of the Town of Eagar to maintain the very highest ethical standards. Everyone, from volunteers to employees, to members of boards and commissions, must maintain unquestionable standards of integrity, truthfulness, honesty, fairness, and personal responsibility in the performance of our public functions.

### **The Code of the West**

The decisions that we have to make can sometimes be complicated. One way to help sort out how to make complicated ethical decisions is to refer back to simpler times. James Owen's book "Cowboy Ethics\*" summed it up like this:

Live each day with courage.  
Take pride in your work.  
Always finish what you start.  
Do what has to be done.  
Be tough, but fair.  
When you make a promise, keep it.  
Ride for the brand.  
Talk less and say more.  
Remember that some things aren't for sale.  
Know where to draw the line.

### **The Headline Test**

Another simple way to think about the complex ethical issues is to apply the "headline test". In other words, to consider how a person would feel about the conduct if it were accurately described on the front page of the newspaper. If the story would result in embarrassment, the conduct should be reconsidered.

\* From the book Cowboy Ethics © 2004 Used by Permission

## **The Town of Eagar's Ethics Policy**



All Town employees, elected and appointed officials, volunteers, and members of appointed boards, committees, and commissions, shall maintain unquestionable standards of high personal integrity, truthfulness, honesty and fairness in the exercise of their official responsibilities. All individuals covered by this policy are expressly prohibited from accepting improper personal gain as a result of their position or in connection with information received by virtue of their service with the Town of Eagar.

All public servants shall carry out the public's business in a manner that benefits the public interest and the common good. They shall uphold the United States Constitution and the Constitution of the State of Arizona. They shall impartially carry out all Federal, State, and Town laws and ordinances in an effort to foster respect for all levels of government. They shall not exceed their authority, breach the law, act dishonestly, nor directly or indirectly request others to do so. They shall observe the highest standards of ethical behavior and discharge faithfully their duties and responsibilities, regardless of personal considerations, and shall avoid circumstances that create an appearance of impropriety. They shall protect the Town's assets and its reputation through professional and personal conduct that is above reproach. This means treating co-workers and all members of the public with respect, courtesy, fairness, honesty, and integrity.

Nothing in this handbook is intended to suggest that anyone should alter their personal beliefs. It is, however, meant to assist all of us in making the ethical decisions that face each of us every day. A personal commitment to sound, ethical decisions is essential to Eagar's continued long term success. The Town's reputation for integrity is a crucial factor in maintaining the public's trust, and each employee, elected and appointed official, volunteer, and member of an appointed board is a personal steward of that reputation.

## **Conflict of Interest**

A conflict of interest occurs when an employee, elected or appointed official, volunteer, or a member of an appointed board, committee, or commission: (1) Has a substantial interest in any decision, contract, sale, purchase, or invoice with the Town of Eagar (see Appendix, ARS § 38-502); (2) Solicits, accepts or agrees to accept, any compensation, favor, gift, promise or other items of value (whether tangible or intangible) in return for influencing, attempting to influence, rewarding or not rewarding an official action or decision; or, (3) Participates in a Town action while negotiating prospective employment with a person who has a financial interest in the negotiation.

Anyone who believes that they may have a conflict of interest should:

- notify their immediate supervisor;
- make their interest known in the official record or minutes of the board, committee, or commission; and/or
- refrain from voting or participating in the matter.

Anyone who is unsure if they have a conflict of interest, should consult their immediate supervisor, the Town Manager or the Town Clerk.

## **Appearance of Impropriety**

A situation can sometimes make it appear that a conflict of interest exists but does not meet the technical definition. The appearance of a conflict may be just as damaging to the Town's reputation as an actual conflict. All individuals are encouraged to avoid situations that create even the appearance of a conflict of interest.

## **Gifts from Outside Sources**

It is the Town's policy that employees may not accept any gifts or favors that would lead to favoritism or the appearance of favoritism. Similarly, Arizona law prohibits Town employees and members of boards, committees, and commissions from receiving anything of value or any compensation other than their normal salary for any service rendered in connection with that person's duties with the Town of Eagar. (See Appendix, ARS § 38-505.)

As a general rule, an employee should refuse any gift or favor which may reasonably be interpreted to be offered in order to influence a Town decision. An employee's compensation for performing his or her public duties should be limited to salaries, fringe benefits, and the personal satisfaction that is derived from doing a good job.

There are some examples of gifts that are permissible:

- a personal gift from a friend or family member,
- winning or receiving a promotional gift from a community business, where the opportunity to win/receive the gift is open to the community in general,
- gifts of nominal value,
- normal and customary hospitality in a social setting.

While the individual employee is the first to decide whether to accept a gift, each individual must recognize that others will ultimately decide if the acceptance of the gift created an "appearance of favoritism."

Example: Carl administers a contract with Select Services Corporation. Select Services Corporation offers Carl two airplane tickets, can he accept the tickets?

Answer: No. The company that is offering Carl the tickets is a company that holds a Town contract that Carl must impartially administer. By accepting the tickets, Carl's impartiality may be compromised or appear to be compromised.

## **Gifts between Employees**

The same basic rule applies to gifts between employees. An employee generally should not give a gift to another employee unless the employees have a personal relationship outside of the work environment that justifies the gift, i.e., family or close personal friendship. Gifts from subordinate employees to their supervisors are discouraged due to the inherent appearance of impropriety.

These general limitations should not, of course, be taken out of context or misused. These guidelines are not intended to interfere with normal, customary hospitality or personal friendships. Furthermore, they should not be used as a retaliatory tool or to achieve a private, personal agenda or political purpose.

Example: Donna would like to get a promotion. In the hope of getting her supervisor demoted, she reports that her supervisor has received a set of inexpensive goblets from a sales representative who Donna also knows has been a long time personal friend of the supervisor. Has Donna acted appropriately?

Answer: No. The gift is from a personal friend and is of a "nominal" value. More importantly, Donna's motivation for reporting the gift was not proper. Allegations of improper activities are not to be made in order to get a promotion.

Example: Edward would like to take his employees to lunch in appreciation for their hard work in completing an annual strategic planning document. Can Edward do this?

Answer: Yes. The lunch is being given to mark an infrequent event the completion of an annual project. The lunch is also being provided by a supervisor to all the employees who participated in the project and thus ensures fair and equitable treatment.

## **Honoraria**

An honoraria is traditionally regarded as a payment for making a presentation or the authoring of an article or publication. An honoraria may be accepted only if the speech, presentation, article, or publication is not related to an individual's official duties with the Town of Eagar. It is generally not permissible to accept honoraria when it is offered by a person who:

- is regulated by the department,
- does business with the department directly,
- attempts to lobby or to influence departmental action or positions on rules, regulations, etc.,
- is involved in litigation adverse to the Town of Eagar,
- has received or applied for funds from the Town.

## **Voting Conflicts**

A voting conflict occurs when a member of a board, commission, or selection committee is in a position to vote on an issue or employment that will involve a conflict of interest. If this occurs, the individual should abstain and remove him or herself from participation in the discussion pertaining to the item and not vote or attempt to influence the vote. If the issue does not present a conflict of interest but creates an appearance of impropriety, the individual should, at a minimum, disclose the nature of the concern to the other members of the body prior to the vote. Failure to do so jeopardizes the public perception of the outcome of their vote.

## **Fair and Equitable Treatment**

As public servants, each of us must perform our duties and responsibilities in a fair and equitable manner. This means:

- not exceeding the authority of your official role to assist private entities or individuals in their dealings with the Town where this would result in preferential treatment to any person or organization;
- not granting or making available any special consideration, treatment, advantage, favor, service, or thing of value beyond that which is commonly granted to the public at large, unless specifically authorized by statute, ordinance, or regulation;
- not permitting anyone to be placed under any kind of personal obligation that could lead to expectations of official favors;
- not treating any individual more or less favorably because of their race, color, creed, religion, national origin, age, sex, disability, political affiliation, or the exercise of rights secured by the First Amendment of the United States Constitution;
- giving open and equal access to consideration for appointments to employment, boards and commissions and other voluntary positions based on the merits of the individual;
- not harassing other employees or the public;
- not using any position for private gain or gaining at the expense of other employees.

Example: Helen's friend needs a building permit quickly. Can Helen process her friend's permit ahead of those already waiting simply because of their friendship?

Answer: No. No one should be given preferential treatment because of personal friendship.

## **Nepotism**

Nepotism is the employment, promotion, appointment, or supervision of a relative, whether qualified or not, to a position with the Town. However, an individual who is otherwise qualified should not be denied employment or appointment by the Town solely because he or she is related to a Town employee or appointee (who would not be supervising his or her activities). An employee's spouse, domestic partner, mother, father, sister, brother, son, daughter, in-laws, aunts, uncles, grandparents, grandchildren and custodial person are defined as "relatives."

Nepotism arises when an individual is involved, directly or indirectly, in the hiring, appointment, promotion or supervision of a relative. No employee or appointee shall:

- participate in any Town matter affecting, directly or indirectly, the financial interests of a relative;
- directly or indirectly, advocate, participate in, or cause the employment, appointment, reappointment, evaluation, promotion, transfer, determination of compensation or discipline of a relative;

- exercise direct or indirect jurisdiction, supervision or direction of a relative;
- have a relative serve on the same appointive board, committee, or commission;
- exercise contract management authority where a relative is employed by or has contracts or development agreements with persons doing Town work over which the public servant has or exercises contract management authority;
- use or permit the use of his or her position to assist a relative in securing contracts or development agreements with persons or departments, for whom the public servant exercises contracting authority.

Example: Irving's sister, Jane, applies for a position that reports to her brother, can Irving hire her?

Answer: No. Irving cannot either hire or supervise a relative. Jane should apply for a position for which she is qualified that does not report to a relative.

## **Use of Public Property**

A Town of Eagar employee or appointee should not, directly or indirectly, use or allow the use of Town property (including leased property) for anything other than official activities. The Town is not permitted to use its personnel, equipment, materials, buildings, or other resources for the purpose of influencing the outcome of elections. Each individual has a duty to protect and conserve Town property, including equipment, supplies, and other property entrusted to them. This includes:

- computer equipment (computer, printers, scanners);
- telecommunications equipment (phones, cellular phones, pagers, radios);
- motor vehicles (or travel reimbursement);
- fax machines;
- office supplies;
- mail systems (internal, external, voice or electronic);
- paid employee work time;
- audio-visual equipment (cameras, TVs, digital recorders);
- copy machines.

## **Voice and Electronic Mail**

Electronic and voice mail are to be used only for official business and are to be used in a respectful and professional manner. Electronic mail is considered a Public Record and may be subject to disclosure under Arizona's Public Records Law.

In addition to the use of e-mail in the performance of their job duties, employees may make limited, incidental personal use of e-mail under the following circumstances

:

- Scheduling of personal appointments as an effective extension of one's overall time management during the workday (lunches, meetings, etc.).
- Sharing of personal events (employee birthdays, marriages, births, etc.)
- Other limited, incidental uses that do not violate Town policy.
- "Limited" as used in this subsection means limited in terms of time spent on non-work related items.

Users have no personal right of privacy in the content of the message or equipment, and the Town may monitor such use without prior notice.

Example: Jeff's supervisor has authorized him to attend a class qualifying for tuition reimbursement. One of the requirements for the class is to provide a 10 page paper. Can Jeff type his paper on Town time and equipment?

Answer: Yes and no. An employee may use Town equipment-but on their own time and with their supervisor's prior approval, to complete work for an approved class only. This limited use of Town equipment for training purposes is an investment in upgrading an employee's skills.

Example: Jennifer's daughter gets out of school at 3:00 p.m. and no one is home to make sure she is safe. Can Jennifer call and check on her daughter?

Answer: Yes. Use of Town equipment and time is allowed for local calls of a short duration with family members or health care providers that can only be made during work hours, as long as the privilege is not abused. Telephone calls should be made on a work break where practical. All long distance calls should be made with a long distance carrier calling card at the employee's own expense.

## **Disclosure of Town Information**

Town of Eagar information should only be disclosed in accordance with the following:

- all documents, statements, registrations, reports, agreements, and contracts obtained in the regular course of Town duties and responsibilities must be maintained in accordance with Federal, State, and Town record retention requirements;
- all documents, statements, registrations, reports, agreements, and contracts that are not confidential must be made available in a timely manner, for public inspection and copying during regular business hours, subject to reasonably established fees.

## **Non-Disclosure of Confidential Information**

No current or former employee may:

- use or disclose confidential information for personal gain, benefit, or convenience;
- engage in any business or professional activity that could reasonably require or induce any employee to disclose confidential or non-public information;
- disclose confidential or non-public information to any person not entitled or authorized to receive the information by ordinance or law;
- intentionally conceal a record that is required by law to be released.

Example: Ken's department is in the process of selecting a contract vendor. One of the contractors is a friend of Ken's and calls to find out who bid and for how much. May Ken give this information to his friend before it is disclosed to the public?

Answer: No. The information is confidential until a vendor is selected. Ken may not give this information to anyone. Ken should refer the person to the Town Manager or Finance Director to answer any permissible questions.

## **Dedicated Service**

All employees of the Town of Eagar are required to:

- dedicate their full idea and energy potential to the performance of their position;
- work faithfully to implement the objectives and ordinances directed by the elected representatives of the Town of Eagar;
- adhere to the rules of work and performance standards established for each position; and
- work in full cooperation with other public servants unless prohibited by law or by the confidential nature of one's work.

## **Political Activity**

### **Permitted Political Activity**

Town employees are permitted to participate in most political activities on their own time, and may:

- express political opinions, publicly or privately as long as they are not in a Town uniform, the opinions do not impair the fair and impartial discharge of their official duties, and they do not purport to speak on behalf of the Town but rather express an opinion solely as a private citizen;
- attend meetings for the purpose of becoming better informed on an issue or candidate; register and cast a vote;
- sign a political nomination or recall petition;
- make contributions to candidates, political parties or campaign committees;
- circulate candidate nomination or recall petitions;
- engage in activities to advocate the election or defeat of candidates;
- solicit or encourage contributions to be made directly to a political candidate or campaign committee;
- campaign for themselves and hold unpaid, non-partisan, public office, including school or community college board positions;
- campaign for or against ballot issues, referendum questions, constitutional amendments, municipal ordinances etc., except where a conflict of interest is created;
- display bumper stickers, posters, or pamphlets on their private property concerning candidates or issues;

(For more information on political activity, contact the Town Clerk's Office.)

### **Prohibited Political Activity**

Some limitations on political activity are necessary in order to ensure the proper and unbiased functioning of Town government. The following political activities are prohibited:

- the use of any threat, intimidation or coercion including threats of discrimination, reprisal, force or any other adverse consequences including the loss of any benefit, reward, promotion, advancement or compensation to cause other Town employees to make political contributions;
- any personal campaign activities while carrying out official duties;
- any campaign activities on Town property or while wearing a uniform normally identified with the Town of Eagar.
- use of Town property or resources for political activities.

Example: Mark works for the Police Department and is politically active on a current referendum issue. He wants people to listen to him so he wears his uniform at a public meeting and encourages everyone to vote for the issue. Is this proper?

Answer: No. Political activities shall be conducted on an employee's own time and not while in an identifiable Town uniform. Mark should change out of his uniform into his personal clothing before attending the meeting.

## **Political Candidacy**

A Town employee may not be a candidate for nomination or election to any public office which is either paid or partisan. Upon the filing for nomination papers or making a formal public declaration of candidacy, an employee shall be required to submit a letter of resignation.

## **Use of Paid Work Time**

All employees are expected to use paid work time in a full and honest effort to perform their official duties and responsibilities. Employees are expected to:

- begin and end work at assigned times;
- adhere to lunch and break time limitations;
- be productive, courteous, considerate, and prompt in conducting business during work times.

What is not an appropriate use of a subordinate's time? A public servant should not encourage, direct, coerce, request or authorize a subordinate to use paid work time to perform activities other than those required in the performance of official duties.

Example: Nellie always punches in (and starts) work six minutes after the start of her shift because she knows that she will be paid from the top of the hour. She always clocks out (and leaves) about six minutes before the end of her shift to "beat the rush" at closing time. Is this permissible?

Answer: No. Nellie's practice effectively steals a quarter hour per shift of productive time that the Town's residents should be receiving from her. Furthermore, employees on



flexible work schedules or other arrangements should diligently ensure that a full 40 hours per week are devoted to their job.

Example: Oliver is a member of a professional association. The meetings are in the middle of Oliver's work day. May he attend on paid work time?

Answer: Maybe. If the Town directly benefits from Oliver's attendance, he may attend on paid work time. Oliver must first obtain supervisory approval and his Town duties must not suffer. If his attendance benefits Oliver personally more than the Town, he may not attend on work time. Oliver may, with the approval of his supervisor, attend on his own leave time and at his own expense, however.

## **Incompatible Employment**

Employees must notify their supervisor in writing of any outside employment. An employee or appointee should not accept outside employment or engage in other activities that are not compatible with the full and proper discharge of the employee's Town responsibilities or that tend to impair the individual's capacity to perform his or her Town duties. An employee or appointee should not accept outside employment that:

- involves using Town working time, facilities, equipment or supplies, a badge, uniform, or the prestige of duties and responsibilities for the Town for private gain or advantage without the Town Manager's written permission;
- involves the receipt or acceptance of any money or other consideration from anyone for the performance of an act that the employee would be required or expected to perform in the regular course of the Town employment;
- involves the performance of an act that may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement by the employee;
- involves the use of Town of Eagar information for private benefit;
- involves an activity that would routinely place the employee in an adversarial relationship with his department;
- involves time demands that would render the performance of the employee's duties less efficient.

## **Post-Employment Restrictions**

A former Town employee shall not act, or appear to act, after leaving public service, in such a manner as to take improper advantage of previous public service. An individual should not:

- use a former Town position to obtain special or preferential treatment in any transaction with the Town of Eagar either on the individual's own behalf or on behalf of another;
- for twenty-four (24) months following the date on which the individual ceases to be a Town public servant, take advantage of confidential or non-public information obtained during the course of the individual's official duties and responsibilities. If, during the twenty-four (24) months immediately preceding separation from Town service, an individual was engaged in the negotiation,

management, or administration of a Town contract with a company that later becomes the individual's employer, the company may not assign the employee to work on the Town contract. This is particularly true where the business or professional activity will require the individual to disclose confidential information that was gained by reason of the individual's previous official position.

Example: Peg serves as a planner for the Town of Eagar. Peg also wishes to accept a second part-time employment as a consultant assisting property owners in challenging the Town's zoning of their property. Can Peg accept the second job?

Answer: No. Peg's second job would be incompatible with her primary Town employment because her second job would, among other difficulties, routinely place her in an adversarial position with her own department.

### **Post-Employment Waiver**

The above post-employment restrictions, except with regard to contracts where a former Town employee participated personally or substantially in the selection process, may be waived by the Town Council if:

- the individual has outstanding or otherwise unavailable qualifications; and
- the individual is acting with respect to a particular matter that requires such qualifications; and
- the public interest would be served by the individual's continued participation.

### **Employee Concerns**

If an employee believes that the provisions of this Handbook are not being followed, he or she should report the concern to their supervisor. If an employee still does not believe that the issue is being adequately addressed, the employee should communicate the concern to the Town Manager.

### **Citizen Concerns**

If an individual (other than an employee) believes that the provisions of this Handbook are not being followed, he or she should report the concern to the Town Manager by calling (928) 333-4128 x230 during regular business hours, or by e-mailing to [t.hinton@eagaraz.gov](mailto:t.hinton@eagaraz.gov) or writing to:

Town Manager  
Town of Eagar, Arizona  
22 West 2<sup>nd</sup> Street  
Eagar, Arizona 85925

# Acknowledgements

## Town Council

### **Mayor**

Bryce Hamblin

### **Vice Mayor**

Steve Erhart

### **Council Members**

Marsha Tucker

Reece Hadlock

Winslow McNeill

John O. Phelps

Don Davis

## Management Team

### **Town Manager**

Terry Hinton

### **Town Clerk**

Kate Brady

### **Town Attorney**

Brett Rigg

### **Finance Director**

Kate Brady

### **Community Development Director**

Jeremiah Loyd

### **Fire Chief**

Frank Adams

### **Police Chief**

Mike Sweetser

# Appendices

## Selected Provisions from the Arizona Revised Statutes

### **Section 38-481. Employment of relatives; violation; classification; definition**

A. It is unlawful, unless otherwise expressly provided by law, for an executive, legislative, ministerial or judicial officer to appoint or vote for appointment of any person related to him by affinity or consanguinity within the third degree to any clerkship, office, position, employment or duty in any department of the state, district, county, city or municipal government of which such executive, legislative, ministerial or judicial officer is a member, when the salary, wages or compensation of such appointee is to be paid from public funds or fees of such office, or to appoint, vote for or agree to appoint, or to work for, suggest, arrange or be a party to the appointment of any person in consideration of the appointment of a person related to him within the degree provided by this section.

B. Any executive, legislative, ministerial or judicial officer who violates any provision of this section is guilty of a class 2 misdemeanor.

C. The designation executive, legislative, ministerial or judicial officer includes all officials of the state, or of any county or incorporated city within the state, holding office either by election or appointment, and the heads of the departments of state, county or incorporated cities, officers and boards or managers of the universities.

### **Section 38-502. Definitions**

In this article, unless the context otherwise requires:

1. "Compensation" means money, a tangible thing of value or a financial benefit.
2. "Employee" means all persons who are not public officers and who are employed on a full-time, part-time or contract basis by an incorporated city or town, a political subdivision or the state or any of its departments, commissions, agencies, bodies or boards for remuneration.
3. "Make known" means the filing of a paper which is signed by a public officer or employee and which fully discloses a substantial interest or the filing of a copy of the official minutes of a public agency which fully discloses a substantial interest. The filing shall be in the special file established pursuant to section 38-509.
4. "Official records" means the minutes or papers, records and documents maintained by a public agency for the specific purpose of receiving disclosures of substantial interests required to be made known by this article.
5. "Political subdivision" means all political subdivisions of the state and county, including all school districts.
6. "Public agency" means:
  - (a) All courts.
  - (b) Any department, agency, board, commission, institution, instrumentality or legislative or administrative body of the state, a county, an incorporated town or city and any other political subdivision.
  - (c) The state, county and incorporated cities or towns and any other political subdivisions.
7. "Public competitive bidding" means the method of purchasing defined in title 41, chapter 4, article 3, or procedures substantially equivalent to such method of purchasing, or as provided by local charter or ordinance.
8. "Public officer" means all elected and appointed officers of a public agency established by charter, ordinance, resolution, state constitution or statute.

9. "Relative" means the spouse, child, child's child, parent, grandparent, brother or sister of the whole or half blood and their spouses and the parent, brother, sister or child of a spouse.

10. "Remote interest" means:

- (a) That of a nonsalaried officer of a nonprofit corporation.
  - (b) That of a landlord or tenant of the contracting party.
  - (c) That of an attorney of a contracting party.
  - (d) That of a member of a nonprofit cooperative marketing association.
  - (e) The ownership of less than three per cent of the shares of a corporation for profit, provided the total annual income from dividends, including the value of stock dividends, from the corporation does not exceed five per cent of the total annual income of such officer or employee and any other payments made to him by the corporation do not exceed five per cent of his total annual income.
  - (f) That of a public officer or employee in being reimbursed for his actual and necessary expenses incurred in the performance of official duty.
  - (g) That of a recipient of public services generally provided by the incorporated city or town, political subdivision or state department, commission, agency, body or board of which he is a public officer or employee, on the same terms and conditions as if he were not an officer or employee.
  - (h) That of a public school board member when the relative involved is not a dependent, as defined in section 43-1001, or a spouse.
  - (i) That of a public officer or employee, or that of a relative of a public officer or employee, unless the contract or decision involved would confer a direct economic benefit or detriment upon the officer, employee or his relative, of any of the following:
    - (i) Another political subdivision.
    - (ii) A public agency of another political subdivision.
    - (iii) A public agency except if it is the same governmental entity.
  - (j) That of a member of a trade, business, occupation, profession or class of persons consisting of at least ten members which is no greater than the interest of the other members of that trade, business, occupation, profession or class of persons.
11. "Substantial interest" means any pecuniary or proprietary interest, either direct or indirect, other than a remote interest.

### **Section 38-503. Conflict of interest; exemptions; employment prohibition**

A. Any public officer or employee of a public agency who has, or whose relative has, a substantial interest in any contract, sale, purchase or service to such public agency shall make known that interest in the official records of such public agency and shall refrain from voting upon or otherwise participating in any manner as an officer or employee in such contract, sale or purchase.

B. Any public officer or employee who has, or whose relative has, a substantial interest in any decision of a public agency shall make known such interest in the official records of such public agency and shall refrain from participating in any manner as an officer or employee in such decision.

C. Notwithstanding the provisions of subsections A and B of this section, no public officer or employee of a public agency shall supply to such public agency any equipment, material, supplies or services, unless pursuant to an award or contract let after public competitive bidding, except that:

- 1. A school district governing board may purchase, as provided in sections 15-213 and 15-323, supplies, materials and equipment from a school board member.
- 2. Political subdivisions other than school districts may purchase through their governing bodies, without using public competitive bidding procedures, supplies, materials and

equipment not exceeding three hundred dollars in cost in any single transaction, not to exceed a total of one thousand dollars annually, from a member of the governing body if the policy for such purchases is approved annually.

D. Notwithstanding subsections A and B of this section and as provided in sections 15-421 and 15-1441, the governing board of a school district or a community college district may not employ a person who is a member of the governing board or who is the spouse of a member of the governing board.

#### **Section 38-504. Prohibited acts**

A. No public officer or employee may represent another person for compensation before a public agency by which he is or was employed within the preceding twelve months or on which he serves or served within the preceding twelve months concerning any matter with which such officer or employee was directly concerned and in which he personally participated during his employment or service by a substantial and material exercise of administrative discretion.

B. During the period of his employment or service and for two years thereafter, no public officer or employee may disclose or use for his personal profit, without appropriate authorization, any information acquired by him in the course of his official duties which has been clearly designated to him as confidential when such confidential designation is warranted because of the status of the proceedings or the circumstances under which the information was received and preserving its confidentiality is necessary to the proper conduct of government business. No public officer or employee shall disclose or use, without appropriate authorization, any information acquired by him in the course of his official duties which is declared confidential by law.

C. No public officer or employee may use or attempt to use his official position to secure any valuable thing or valuable benefit for himself that would not ordinarily accrue to him in the performance of his official duties, which thing or benefit is of such character as to manifest a substantial and improper influence upon him with respect to his duties.

#### **Section 38-505. Additional income prohibited for services**

A. No public officer or employee may receive or agree to receive directly or indirectly compensation other than as provided by law for any service rendered or to be rendered by him personally in any case, proceeding, application, or other matter which is pending before the public agency of which he is a public officer or employee.

B. This section shall not be construed to prohibit the performance of ministerial functions including, but not limited to, the filing, or amendment of tax returns, applications for permits and licenses, incorporation papers, and other documents.

#### **Section 38-506. Remedies**

A. In addition to any other remedies provided by law, any contract entered into by a public agency in violation of this article is voidable at the instance of the public agency.

B. Any person affected by a decision of a public agency may commence a civil suit in the superior court for the purpose of enforcing the civil provisions of this article. The court may order such equitable relief as it deems appropriate in the circumstances including the remedies provided in this section.

C. The court may in its discretion order payment of costs, including reasonable attorney's fees, to the prevailing party in an action brought under subsection B.

## **Arizona Constitution Article 9, Section 7**

Neither the State, nor any county, city, town, municipality, or other subdivision of the State shall ever give or loan its credit in the aid of, or make any donation or grant, by subsidy or otherwise, to any individual, association, or corporation, or become a subscriber to, or a shareholder in, any company or corporation, or become a joint owner with any person, company, or corporation, except as to such ownerships as may accrue to the State by operation or provision of law.