

**TOWN OF PINETOP-LAKESIDE**

**RESOLUTION NO. 17-1428**

**A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PINETOP-LAKESIDE, ARIZONA, AMENDING AND ADOPTING THE EMPLOYEE MANUAL OF THE TOWN OF PINETOP-LAKESIDE.**

**WHEREAS**, the Mayor and Council of the Town of Pinetop-Lakeside from time to time approve employee manual applicable to Town Employees; and

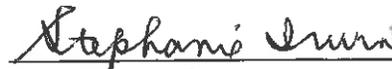
**WHEREAS**, the City Manager has submitted a proposed and revised Employee Manual to the Town Council as show in Exhibit A, which is attached hereto.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of Town of Pinetop-Lakeside, Arizona that said proposed Employee Manual is hereby adopted as the official policy of the Town of Pinetop-Lakeside effective on August 21, 2017.

**BE IT FURTHER RESOLVED** that this Employee Manual is intended to and shall replace all previous versions, and that copies of said manual shall be available in the Office of the Town Clerk.

**PASSED AND ADOPTED** by the Mayor and Council of the Town of Pinetop-Lakeside, Arizona, this 20th day of July, 2017.

**TOWN OF PINETOP-LAKESIDE**



Stephanie Irwin  
Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

  
Remilie S. Miller, MM  
Town Clerk





William J. Sims, III  
Town Attorney

**August 2017 Amendments to the  
Employee Manual of the Town of Pinetop-Lakeside**



**EMPLOYEE MANUAL  
OF THE  
TOWN OF PINETOP-LAKESIDE**

**2017 Edition**

**Adopted by Resolution No. 17-1428 on July 20, 2017**

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## **FOREWORD**

### **Welcome to our team!**

Whether you have just joined our staff or been employed with the Town of Pinetop-Lakeside for a while, we consider our employees to be our most valuable resource. We are confident that you will find our Town to be a dynamic and rewarding place in which to work and we look forward to a productive and successful association.

This manual has been prepared to acquaint you with the policies and procedures that govern the employer and employee relationship. **This handbook does not constitute a contract of employment.** We have prepared this handbook to provide you with information covering most aspects of your employment, and to answer questions you might have about your job. Employees are responsible for reading, understanding and abiding by the policies and procedures contained in this Manual.

### **We are excited that you are part of our team!**

**ARTICLE I  
GENERAL PROVISIONS**

**Section 101 – PURPOSE**

The general purpose of this Manual is to establish a system of personnel management and administration of the Town of Pinetop-Lakeside, hereinafter referred to as the “Town.” It is not a contract, and the Town reserves the right to amend, change or discontinue the practices and benefits described in this handbook at any time, at the Town’s sole discretion.

**Section 102 – EQUAL EMPLOYMENT OPPORTUNITIES**

The Town of Pinetop-Lakeside is firmly committed to the concept and practice of equal opportunity for all of its employees, and will comply fully with all laws guaranteeing equal employment opportunity and prohibiting discrimination based on any characteristic protected by law. The Town endeavors to make all of its programs, services, facilities and employment opportunities available to, accessible for, and usable by qualified individuals with disabilities pursuant to The Americans with Disabilities Act (ADA) of 1990 with amendments. It is the policy of the Town not to discriminate based on physical or mental disabilities in any of its policies, procedures and practices.

**Section 103 – EXEMPT SERVICE**

- A. The objective of the exempt service is to create a responsive management team to carry out the goals and policies of the Town of Pinetop-Lakeside. The exempt service is made up of the following:
  - 1. The Town Manager.
  - 2. The Town Clerk.
  - 3. All department directors and Managers.
  - 4. “Key staff” that are identified as being in an exempt position as approved by the Town Manager.
  - 5. Employees appointed directly by the Town Council shall be considered exempt employees (except for services contracted as independent of Town “employment”).
- B. Exempt employees shall be entitled to all regular benefits and leaves unless specifically stated otherwise in this Employee Manual.
- C. The grievance procedure and right of appeal conferred by this Manual upon non-exempt employees shall not apply to exempt employees.

- D. Exempt service positions, assignments, or jobs involving independent contractors or temporary employment shall be exempt from all benefits, including grievances and rights of appeal unless required by applicable contract or law.

**Section 104 – NON-EXEMPT SERVICE**

- A. The objective of the non-exempt service is to facilitate efficient and economical services to the public for the Town of Pinetop-Lakeside.
- B. This Section sets forth the procedures for those who compete for employment and promotion, and defines the obligations, rights, privileges, benefits, and prohibitions, which are placed upon all employees in the non-exempt service of the Town.

It is the personnel policy of the Town of Pinetop-Lakeside that:

1. Employment by the Town shall be based upon merit and fitness, without regard to personal and political considerations.
  2. Employment by the Town shall not be based upon gender, age, race, color, religion, national origin, or physical or mental disability. The Town is an equal opportunity employer.
  3. Appointments, promotions, and other actions requiring the application of the merit principle shall be based upon fair, systematic evaluations and/or examinations.
  4. Positions having similar duties and responsibilities shall be non-exempt and compensated on a reasonably consistent basis.
  5. In general, all non-exempt employee positions shall be assigned a pay range within the compensation schedule.
  6. Employment in the non-exempt service shall be conditioned upon good behavior, satisfactory work performance, the Town's need for the performance of the work, and the availability of funds.
- C. Any action concerning a non-exempt employee's status of employment shall be processed on a Personnel Action Form. Such status shall become effective upon signing of the Personnel Action Form by the Personnel Director. All employees in the non-exempt service shall receive a copy of any effective Personnel Action Form concerning his/her status of employment and the original shall be placed in the employee's respective personnel file.
  - D. Employees in the non-exempt service shall complete a trial period as established for their position before consideration for regular employment status. Trial periods may be extended in appropriate circumstances with the approval of the Personnel Director.

- E. During the trial period, employees shall be employees “at will” who may be terminated, reclassified or reassigned at any time, with or without cause. Trial employees shall have no grievance or appeal rights.
- F. Non-exempt employees who have satisfactorily completed their trial period, and who have attained regular employment status shall have appeal rights as set forth in Section 715.

**Section 105 – INDEPENDENT CONTRACTED SERVICE**

The Town of Pinetop-Lakeside may from time to time contract for services from an independent contractor that will not be an “employee” of the Town. This Employee Manual does not apply to independent contractors for contracted services from a business or individual. Independent contracted services shall be exempt from all benefits, including grievance and rights of appeal, unless otherwise stated or required by applicable contract or law.

**Section 106 – PERSONNEL DIRECTOR**

A. The Town Manager serves as the Personnel Director unless or until a person or independent contractor is appointed to that position, and may authorize a department director or other designee to carry out the selection process listed in Section B.

B. The Personnel Director shall administer and supervise the Personnel System of the Town, including:

Notification of all job openings in the Town:

- 1. Publish or post notices of openings or examinations for positions.
- 2. Receive applications.
- 3. Prepare, conduct and score examinations.
- 4. Certify to the department directors a list of all persons eligible for appointment.

C. Administer all the provisions of this Manual and of the personnel rules not specifically reserved to others.

D. Prepare and recommend to the Town Council revisions and amendments to the Employee Manual.

E. Assume responsibility, in conjunction with department directors, for development of training programs and safety programs.

## **Section 107 – JOB DESCRIPTIONS**

The Personnel Director is responsible for drafting and maintaining job descriptions for all employment positions of the Town. Job descriptions should contain a descriptive title with levels of pay where applicable, a general description of the duties and responsibilities of the position, and the pay range schedule for the position. It shall not be necessary for the written job description to include all of the tasks or duties to be performed by an employee, but the job description should give an employee or a prospective employee a general idea of the tasks and duties involved in performing the job. Job descriptions may be changed at any time to meet the changing needs of the Town.

## **Section 108 – FULL-TIME, PART-TIME AND TEMPORARY EMPLOYMENT**

An employee position should be designated at the time of hire through an executed Personnel Action Form as full-time, part-time or temporary.

### **A. Full-time employment:**

1. Full-time employees may be included in the non-exempt service. They are typically hired for a regular work week of 40 hours, and must be hired to work a schedule of at least 30 hours per week.
2. A full-time employee hired with the intent of working 30 hours or more per week should be eligible for health insurance and other available benefits.

### **B. Part-time employment:**

1. Part-time employees are generally hired with the intent of working less than 30 hours per week.
2. Part-time employees hired to work 20 or more hours per week will be eligible for vacation and sick leave. Part-time employees hired with the intent of working less than 20 hours per week will not generally be eligible for benefits except for sick leave as required by applicable law. These amounts will be prorated based on the number of hours worked.
3. Part-time employees, upon satisfactory completion of their trial period, shall be entitled to use of the grievance and appeal procedure provided for non-exempt employees.

### **C. Temporary employment:**

Under certain circumstances the Town may need to hire an employee for services or seasonal assignments on a temporary basis.

1. Temporary employees will not generally receive any employee benefits except as required by applicable contract or law.

2. Temporary employees are not entitled to use the grievance or appeal procedures provided for non-exempt employees.

## **ARTICLE II WAGES**

### **Section 201 – PAY PLAN**

- A. The Personnel Director is responsible for the preparation and maintenance of a pay plan covering all classes of positions in the non-exempt service. In arriving at pay rates or ranges, consideration may be given to prevailing rates of pay and consideration of working conditions for comparable work in other public and in private employment, current cost of living, and suggestions by department directors, the Town's financial condition and policies, and any other relevant factors.
- B. Salaries and compensation for all regular Town employees will be paid on a biweekly basis.

### **Section 202 – MERIT PAY INCREASES**

Merit pay increases for non-exempt employees may only be granted upon recommendation/evaluation from the employee's department director. Merit pay increases must be approved by the Personnel Director. Merit increases for exempt/non-exempt employees are to be determined by the Town Manager in accordance with the pay plan. Newly hired employees are only eligible for a merit increase after successful completion of their trial period and evaluation.

### **Section 203 – OVERTIME COMPENSATION AND/OR COMPENSATORY TIME**

All non-exempt (hourly-paid) employees are subject to the overtime pay provisions of the Fair Labor Standards Act and must be compensated for all hours worked, including all hours worked on and off work premises. This section is intended to comply with all federal laws, rules and regulations. **Employees are not permitted to work in excess of their regularly scheduled work hours without prior supervisory approval. Employees working without proper authorization are subject to disciplinary action, which may include dismissal.**

- A. Overtime is based on **actual hours worked** in a work week. Hours for the week that are paid, but not worked, such as holiday, vacation, sick, or personal leave hours taken, do not count toward the accumulation of overtime.
- B. A non-exempt employee who works in excess of his/her regular work week of 40 hours is eligible for overtime or compensatory time off and must be compensated in either of the following ways:
  1. Pay at the rate of one-and-a-half (1½) times the employee's regular rate of pay for all hours worked in excess of 40 hours in the work week; or

2. Time off (compensatory time) equal to one-and-a-half (1½) times the number of hours worked in excess of 40 hours in the workweek if required by the FLSA, but on an hour-per-hour basis if not required by the FLSA.
  3. Overtime shall be calculated to the nearest one-quarter (1/4) hour of overtime worked.
- C. Usually exempt employees, public officers and certain exempt non-exempt positions will be exempt from the above overtime provisions subject to applicable law. Federal laws, rules, and regulations will determine the exempt or non-exempt classification of each employee.
- D. Employees in exempt employment classes may receive additional compensation or compensatory time off in recognition of extraordinary service as authorized by the Personnel Director. Additional compensation or time off will not be calculated on an hourly basis.

### **ARTICLE III WORKING HOURS**

#### **Section 301 – WORK WEEK**

- A. The typical work week for full-time employees is forty (40) hours. In general, the work week for employees begins on Sunday morning at 12:00 a.m. and ends the following Saturday at 11:59 p.m.
- B. As an operational standard policy, employees may be allowed by their direct supervisor up to two (2) work breaks of fifteen (15) minutes duration per day. All work breaks are to be scheduled by the supervisor so that work areas are covered.
- C. Lunch periods shall be scheduled for all employees except those specifically excluded by the Personnel Director. The lunch period will ordinarily last one-half to one hour depending on work demands and scheduling.
- D. Employees are not allowed to accumulate work breaks and/or lunch periods for the purpose of taking time off. Work breaks are not an employee right, but an operational standard.
- E. The Personnel Director shall have the general administrative authority to determine the annual accrual of leave hours according to the approved work schedule of an employee.
- F. Exempt employees shall use leave for absences of more than four hours.

**ARTICLE IV  
HIRING PROCEDURES**

**Section 401 – APPLICATION FOR EMPLOYMENT**

- A. All applicants for Town employment shall make application as specified by or on forms provided by the Town. The application is to include complete, truthful information relating to experience, training, residence, and other necessary qualification information.
1. Failure to accurately and truthfully complete all sections of the application for employment form shall be reason for disqualification. Incomplete applications may be returned to the applicant with notice to amend the same, providing the time limit for receiving applications has not expired.
  2. Application forms, when submitted, shall become the property of the Personnel Department and shall not be returned.
  3. The applicant's application, resume and any other supporting information regarding the applicant should be kept confidential, except when required by law to produce the information. References or other persons with information about the applicant may be consulted concerning an applicant's qualifications and experience as represented by the applicant.
- B. The Personnel Director may reject any application, which indicates that the applicant does not possess the minimum qualifications required for the position. Applications may be rejected if the applicant has made any misstatement of any material fact or has practiced any deception or fraud in his/her application.

**Section 402 – INTERNAL JOB POSTINGS**

- A. All openings subject to posting procedures will be posted on appropriate Town bulletin boards. Each notice will include:
1. The functional classification or title of the opening and the salary range and grade.
  2. A summary of major duties.
  3. Position requirements to include experience, education and/or training requirements, and/or special skills need.
  4. When the job opening closes (deadline for submitting application).
- B. Vacancies will be posted on Town bulletin boards for three (3) working days.

C. Any full-time employee may apply for an internal posted opening, provided he or she has completed their 12 month trial period. Employees will be ineligible for openings if either of the following applies:

1. The employee is currently under disciplinary observation.
2. Unsatisfactory job evaluation within the past twelve (12) months.

### **Section 403 – EMPLOYMENT ELIGIBILITY AND RECRUITMENT**

Employment vacancies should be filled by appointment from open, competitive eligibility lists except that interdepartmental transfers may be allowed without opening the vacancy to the public with approval of the Personnel Director. Posting job openings on the Town bulletin board in the Town offices, on the Town’s website, and/or publication by newspaper or other published advertisement shall be sufficient posting for all employment vacancies.

### **Section 404 – EXAMINATIONS**

Open competition shall be the method of examination and selection for employment with the Town of Pinetop-Lakeside. The selection technique used in the examination process shall be impartial and relate to those subjects, which, in the opinion of the Personnel Director and/or the responsible department director, will maximize reliability, objectivity, and validity through a practical and normally multi-part evaluation of applicant attributes necessary for successful job performance and career development.

## **ARTICLE V TRIAL PERIOD OF EMPLOYMENT**

### **Section 501 – EMPLOYEES AT WILL**

All trial period employees are employees at will and shall be subject to dismissal, reclassification or reassignment at any time, with or without cause. Trial employees shall have no grievance or appeal rights.

### **Section 502 – TRIAL PERIOD**

Original and promotional appointments of employees shall be tentative and subject to a trial period of no less than twelve (12) months. Employees involved in training programs who are subsequently hired by the Town of Pinetop-Lakeside will start their trial period at the completion of their training program.

A. A trial employee is an employee who has not successfully completed his/her trial period, including extensions, or who has not been granted regular employee status by written personnel action.

- B. Upon successful completion of a trial period as evidenced by a written Performance Evaluation with satisfactory job performance, a non-exempt employee shall be granted full-time or part-time regular employee status in the classification in which the trial period was served.

### **Section 503 – PERFORMANCE EVALUATION**

Performance Evaluations will be conducted at six (6) months and at the conclusion of the twelve month trial period, and at least annually thereafter, employees will receive a performance evaluation to summarize and document their performance and ascertain whether professional development goals have been met. Evaluations will be based upon the job duties, responsibilities and objectives of the employee's position. Evaluation forms should be used to foster communication and feedback with the employee part way through the trial period, and be based upon the job duties, responsibilities and objectives of the employee's position. All evaluations must be discussed with the employee and the employee must sign the rating form to indicate the evaluation was discussed. The employee's signature does not necessarily mean the employee agrees with the evaluation. Failure or refusal to sign acknowledgement of the evaluation may result in disciplinary action.

Any employee who receives an overall rating that is unacceptable, or where remedial training is necessary, will generally be placed on a six month probationary period, and enter into a performance plan, unless the employee's performance is such that termination is the appropriate course.

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

### **Section 504 – RETENTION**

A trial employee shall be retained beyond the end of the trial period only if the appropriate department director and the Personnel Director confirm that the services of the employee have been found to meet or exceed expectations. Upon successful completion of the trial employment period, the department director shall submit a Personnel Action Form recommending full-time or part-time regular employee status to the Personnel Director.

**ARTICLE VI  
EMPLOYEE STATUS -- PERSONNEL ACTIONS**

**Section 601 – PURPOSE**

The purpose of this section is to provide for the promotion, resignation, retirement, layoffs, discipline and other personnel actions for Town employees. This section also outlines the Town's progressive disciplinary policy which is designed to provide a structured corrective action process to improve and prevent a recurrence of undesirable employee behavior and performance issues. It has been designed to be consistent with the Town's organizational values, human resource (HR) best practices and employment laws. Town law enforcement officers certified by the Arizona Peace Officer Standards and Training Board ("Arizona P.O.S.T.") who have successfully completed their trial period of employment with the Town shall be accorded the rights set forth in Arizona Revised Statutes Title 38, Chapter 8, Article 1.

**Section 602 – PROMOTION**

A change in an employee's work, which includes more extensive duties together with higher minimum qualifications and a grade with higher maximum pay, is a promotion.

- A. Filling vacancies may be by promotion of employees within the department, by transfer from another department, or by hiring.
- B. Upon promotion to a higher grade, an employee shall receive a rate of pay higher than he/she was receiving in the former classification.
- C. Upon promotion, the employee shall be given a new classification date effective at the time of appointment and shall begin serving a trial period in the new class.

**Section 603 – VOLUNTARY DEMOTION**

- A. An employee may request a voluntary demotion. Such a voluntary demotion shall require the approval of the department director under whom the employee will serve and the Personnel Director. A voluntary demotion shall not be granted unless there is an appropriate vacancy. An employee taking such a voluntary demotion may be placed in any pay range, including the lowest pay level defined by the job description and the pay plan. The employee shall be given a new classification date for purpose of merit pay increases and shall begin serving a trial period in the new class.
- B. Voluntary demotion as a result of an impending layoff shall be in accordance with the provisions of Section 606, Layoffs.

### **Section 604 – RESIGNATION**

- A. An employee wishing to leave employment with the Town of Pinetop-Lakeside in good standing shall file with his/her supervisor, a minimum of ten (10) business days before leaving the service and a written resignation stating the effective date.
- B. A resignation received by a supervisor shall be forwarded immediately to the Personnel Director along with a Personnel Action Form filled out by the department director.
- C. Failure of the employee to comply with this procedure shall be entered into the employee's personnel records and may be cause for denial of future employment with the Town.

### **Section 605 – RETIREMENT**

- A. Unless otherwise set forth herein or specifically designated by an ordinance of Town Council, the Arizona Revised Statutes shall govern retirement procedures for the Town.
- B. An employee wishing to retire should file with his/her supervisor, at least thirty (30) days before the effective date of retirement, a written request for retirement stating the requested effective date of such retirement.
- C. The retirement request along with a Personnel Action Form filled out by the department director should be forwarded to the Personnel Director or designee, who will prepare the proper documents for retirement of the employee.

### **Section 606 – LAYOFFS**

- A. The Personnel Director may lay off an employee in the non-exempt service because of material change in the organization of the Town work force, shortage of work or lack of available funds.
- B. Except in emergency situations declared by Town Council, employees should be given at least two (2) weeks' notice of a pending layoff.
- C. To help in the determination of which employees are to be laid off, the relevant circumstances to be considered include the following:
  - 1. Employee job performance;
  - 2. Length of continuous service with the Town;
  - 3. The critical nature (necessity) of the service performed; and
  - 4. Any other factors the department director and Personnel Director may consider important.

D. The Personnel Director or designee will meet with the employee to be laid off and provide the following information:

1. An estimate of the duration of the layoff;
2. Availability of a voluntary demotion as a result of the pending layoff pursuant to Section 603 B;
3. An explanation on how vacation and sick leave will be affected;
4. An explanation of how other employee benefits will be affected; and
5. An explanation of final pay.

### **Section 607 – COUNSELING AND VERBAL WARNING**

A. Counseling and a verbal warning creates an opportunity for the department director or employee's supervisor to meet and discuss with an employee existing performance, conduct or attendance issues. The supervisor should discuss with the employee the nature of the problem or the violation of policies and procedures. The department director or supervisor is expected to clearly describe expectations and steps the employee must take to improve performance or resolve the problem. Within five (5) business days of this meeting the department director or supervisor will prepare written documentation of the meeting. The employee will be asked to sign this document to demonstrate his or her understanding of the issues and the corrective action.

B. The following is a non-exhaustive list of grounds for progressive disciplinary action which could also lead to the dismissal of a non-exempt employee:

1. Failure of adequate performance of duties and responsibilities;
2. Disregard of safety practices and procedures; or other Town policies and rules such as overtime, vehicle use, or rules in this Manual;
3. Abusive behavior in attitude, language, actions, or conduct toward any fellow employee, supervisor, or the public;
4. Insubordination or willful disobedience, or failure to obey any lawful and reasonable direction from an appropriate supervisor;
5. Conviction of a felony while employed by the Town;
6. Absence without leave, other absenteeism or being late for work;
7. Falsification of any document, report, or statement relating to his/her employment with the Town;

8. Discrimination against any other employee or a member of the public because of gender, age, race, color, religion, national origin or disability;
9. Theft of public or private property, or misappropriation of funds; or complicity in these activities while employed by the Town; or
10. Violation of the Town's Drug-free Workplace policy (Article XI).

C. The list in Section B, above, is not meant to be inclusive in nature and is intended only to indicate a range of actions that may be considered grounds for progressive disciplinary action up to and including dismissal. Other acts not enumerated herein may be cause for dismissal.

#### **Section 608 – WRITTEN REPRIMAND**

A reprimand may be issued by a department director, or an employee's supervisor with department director approval, to an employee for an offense not serious enough for suspension, demotion or dismissal. A reprimand shall be in writing, signed and dated by the employee and department director or supervisor, and a copy shall be forwarded to the Personnel Director for insertion in the employee's personnel file. A copy shall also be given to the employee.

#### **Section 609 – ADMINISTRATIVE LEAVE WITH PAY**

Administrative leave with pay means the temporary involuntary separation from Town service of an employee with compensation for a period of time as specifically designated by the employee's department director or his/her authorized representative, with approval of the Personnel Director.

A department director, with approval of the Personnel Director, may place an employee on administrative leave with pay for the purpose of investigation of an allegation, which may result in the employee's suspension without pay, demotion or dismissal.

#### **Section 610 – SUSPENSION WITHOUT PAY AND FINAL WRITTEN WARNING**

Suspension without pay means the temporary involuntary separation from Town service of an employee without compensation for a period of time specifically designated by the employee's department director or his/her authorized representative, with approval of the Personnel Director, as either a disciplinary measure, or pending demotion or dismissal. Employees may not substitute or use accrued paid vacation or sick leave in lieu of a suspension without pay.

A department director, with the approval of the Personnel Director, may suspend an employee without pay. Suspension without pay constitutes disciplinary action with a temporary loss of pay. Law enforcement officers may appeal a suspension as set forth in state law. Other non-exempt employees may only appeal a suspension without pay if the suspension is for more than 40 hours.

## **Section 611 – INVOLUNTARY DEMOTION**

A department director may demote a non-exempt employee by forwarding to the Personnel Director a Personnel Action Form stating the reasons for such proposed action, with a copy to the employee. The employee shall also be notified in writing of his/her right to an appeal pursuant to Section 614. If no appeal is filed, the Personnel Director shall act upon the department director's recommendation and shall accept in whole or in part, or reject, said recommendation. The employee shall receive a copy of the Personnel Action Form before the effective date of the demotion.

## **Section 612 – DISMISSAL**

- A. A department director, with the approval of the Personnel Director, may dismiss a non-exempt employee after providing the employee with notice and an opportunity for a hearing in accordance with Section 613.
- B. If an emergency situation exists which requires the immediate dismissal of an employee, the Personnel Director may suspend or discharge said employee, giving the employee a written statement of the reasons for said action.

## **Section 613 – PRE-DETERMINATION PROCEDURES**

- A. Discipline. Any non-trial employee in the non-exempt service who is subject to disciplinary suspension without pay for more than 40 hours pursuant to Section 610, demotion pursuant to Section 611, or dismissal pursuant to Section 612, shall be entitled to a pre-determination meeting. For statutorily defined law enforcement officers, the Town will follow the pre-disciplinary procedures set forth in A.R.S. § 38-1101 et seq.
- B. The employee's department director shall provide the employee written notice by way of a proposed Personnel Action Form setting forth the proposed disciplinary action(s) regarding disciplinary suspension without pay pursuant to Section 610, demotion pursuant to Section 611, or dismissal pursuant to Section 612 at least one (1) business day before the proposed action will be imposed. A copy of the proposed Personnel Action Form shall be forwarded at the same time to the Personnel Director.
  - 1. The Personnel Action Form shall contain a statement of the reasons given for such disciplinary action and shall document the opportunity for a pre-determination meeting with the employee's department director, or designee. These pre-disciplinary meetings are informal in nature and there shall be no right to be represented by a lawyer at a pre-disciplinary meeting.
  - 2. Following the pre-determination meeting, or the time set for such meeting if the employee fails to attend, the department director will withdraw, amend, or finalize his/her proposed personnel action(s) and document it with a Personnel Action Form giving a copy to the employee and documenting to the Personnel Director the date the employee received the Personnel Action Form.

## **Section 614 – POST DETERMINATION APPEAL PROCEDURES**

- A. Within ten (10) calendar days of the receipt of a notice of determination in which the employee receives discipline in the form of demotion, unpaid suspension for more than 40 hours, or termination, the employee may file a written notice of appeal with the Personnel Director. Failure on the part of an employee to file a timely notice of appeal shall constitute a waiver of the employee's right to any post-disciplinary process, and shall result in a final and binding determination that the disciplinary action was for cause. Upon receipt of a notice of appeal, the Personnel Director shall set a date for an appeal hearing. The date of the hearing shall be within a reasonable time from the receipt of the notice of appeal. The hearing will be conducted by a hearing officer who shall be appointed by the Town. At the hearing, the employee will be afforded the right to present evidence, be represented by legal counsel, and cross examine witnesses. The hearing shall not be bound by formal rules of procedure or evidence. A continuance of the hearing date may be granted by the Personnel Director if in his or her judgment there is good cause to do so.

All testimony shall be under oath or affirmation and recorded by a certified court reporter or other reliable means. The order of proof in any hearing shall begin with the Town presenting evidence supporting the disciplinary action, which shall be followed by the employee's production of evidence in his or her defense, and shall end with rebuttal by the Town.

In addition to this section, appeal rights and procedures for statutorily defined law enforcement officers shall be in accordance with A.R.S. § 38-1101 et seq.

- B. Following the hearing, the hearing officer shall issue a written report within 14 calendar days, with a recommendation to uphold, modify, or reject the disciplinary action. The disciplinary action shall be upheld unless it is found to be arbitrary or without reasonable cause. The hearing officer will send the recommendation to the Town Manager. The Town Manager or his or her designate will make a final and binding determination, based on his or her review of the hearing officer's report and/or evidence presented during the disciplinary process or hearing as to whether the disciplinary action should be upheld, rejected, or modified.

## **ARTICLE VII EMPLOYEE BENEFITS**

### **Section 701 – EMPLOYEE INSURANCE**

The Town furnishes all full-time employees with a major medical insurance plan, which complies with current health care laws. The Town reserves the right to alter, amend or delete any of the employee benefits. Employees will be notified in advance of any plan changes or premium cost changes.

## **Section 702 – EMPLOYEE RETIREMENT PLAN**

The Town of Pinetop-Lakeside participates in the Arizona State Retirement System (ASRS) and the Public Safety Personnel Retirement System (PSPRS), as well as Social Security and Medicare. Employees of the Town of Pinetop-Lakeside may be required to contribute to these plans, according to the requirements of ASRS and PSPRS.

## **ARTICLE VIII LEAVE POLICY**

### **Section 801 – HOLIDAYS**

- A. Section 801 shall not apply to independent contractors and employees not entitled to benefits.
- B. The following days shall be recognized as holidays and full-time employees shall have these holidays off with pay for the number of hours the employee would normally have worked that day up to a maximum of eight hours. Part-time non-exempt employees subject to Section 108B.2 shall have these holidays off prorated by the number of hours worked:
- New Year's Day, January 1<sup>st</sup>
  - Civil Rights Day, Third Monday in January
  - President's Day, Third Monday in February
  - Memorial Day, Last Monday in May
  - Independence Day, July 4<sup>th</sup>
  - Labor Day, First Monday in September
  - Columbus Day, Friday following Thanksgiving Day
  - Veteran's Day, November 11<sup>th</sup>
  - Thanksgiving Day, Fourth Thursday in November
  - Christmas Day, December 25<sup>th</sup>
- C. If a holiday falls on a Saturday, the workday immediately prior shall be observed; if a holiday falls on a Sunday, the workday immediately following shall be observed; however, at the discretion of the Town Manager these may be altered.
- D. If the holiday falls on an employee's regular scheduled work day and he/she does not work, he/she will receive his/her regular wages for the holiday taken.
- E. If the holiday falls on an employee's regular scheduled work day and he/she does work, he/she will receive time and one-half for the actual hours worked.
- F. If the holiday falls on an employee's regular scheduled day off and he/she does not work, he/she shall be allowed to take another day off with pay for the holiday missed or will receive one (1) additional day of pay for the holiday not taken.

G. If the holiday falls on an employee’s regular scheduled day off and he/she does work, he/she will receive time and one-half for the actual hours worked only and shall be allowed to take off another day with pay for the holiday missed. In lieu of being given another day off, an employee may receive regular wages for the holiday missed.

H. No employee who is on suspension or unpaid leave of absence on either the regularly scheduled work day immediately preceding or immediately following the holiday or day observed in lieu of the holiday shall receive compensation for said holiday or day observed in lieu of holiday.

**Section 802 – VACATION**

A. All full-time employees hired on or after July 20, 2017 shall receive annual vacation with pay at the following rate:

<b>NON-EXEMPT (Full-Time/Hourly)</b>			
<b>YEARS OF SERVICE</b>	<b>EARNED HOURS ANNUALLY</b>	<b>BI WEEKLY ACCRUAL 26 per year</b>	<b>Maximum Allowed Accrual Hours</b>
> 1	80	<b>3.33</b>	120
1 > 5	100	<b>4.17</b>	150
5 > 10	120	<b>5.42</b>	180
10 > 15	140	<b>6.25</b>	210
15 > 20	160	<b>6.67</b>	240
20 >	180	<b>7.50</b>	270
<b>EXEMPT (Department Directors/Salaried)</b>			
<b>YEARS OF SERVICE</b>	<b>EARNED HOURS ANNUALLY</b>	<b>BI WEEKLY ACCRUAL 26 per year</b>	<b>Maximum Allowed Accrual Hours</b>
> 1	80	<b>3.33</b>	120
1 > 5	100	<b>4.17</b>	150
5 > 10	120	<b>5.42</b>	180
10 > 15	140	<b>6.25</b>	210
15 > 20	160	<b>6.67</b>	240
20>	180	<b>7.5</b>	270

All full-time employees hired prior to July 20, 2017 shall receive annual vacation with pay at the following rate:

<b>CLASSIFIED / NON EXEMPT (Full-Time/Hourly)</b>			<b>VACATION</b>
<b>YEARS OF SERVICE</b>	<b>EARNED HOURS ANNUALLY</b>	<b>BI WEEKLY ACCRUAL 26 per year</b>	<b>Maximum Allowed Accrual Hours</b>
<b>&gt; 1</b>	80	<b>3.076</b>	120
<b>1 &gt; 5</b>	100	<b>3.846</b>	150
<b>5 &gt; 10</b>	130	<b>5.000</b>	195
<b>10 &gt; 15</b>	150	<b>5.769</b>	225
<b>15 &gt; 20</b>	160	<b>6.154</b>	240
<b>20 &gt;</b>	180	<b>6.923</b>	270

<b>UNCLASSIFIED / EXEMPT (Department Directors/Salaried)</b>			<b>VACATION</b>
<b>YEARS OF SERVICE</b>	<b>EARNED HOURS ANNUALLY</b>	<b>BI WEEKLY ACCRUAL 26 per year</b>	<b>Maximum Allowed Accrual Hours</b>
<b>&gt; 1</b>	160	<b>6.154</b>	240
<b>1 &gt; 5</b>	170	<b>6.538</b>	255
<b>5 &gt; 10</b>	220	<b>8.462</b>	330
<b>10 &gt; 15</b>	250	<b>9.615</b>	375
<b>15 &gt;</b>	260	<b>10.00</b>	390

<b>SICK LEAVE ACCRUAL</b>	<b>EARNED HOURS ANNUALLY</b>	<b>BI WEEKLY ACCRUAL 26 per year</b>	<b>Maximum Allowed Accrual Hours</b>
All Full Time Employees			
	<b>96.00</b>	<b>3.69</b>	520

The Town Manager is authorized to offer a higher starting accrual than the above schedule would otherwise permit for an offer of future employment.

Part-time employees subject to Section 108.B.2 shall receive annual vacation leave and sick leave at a prorated amount based on the number of hours worked.

Trial employees, while earning vacation from the date of hire, will normally be allowed to use accrued vacation after a period of six (6) months. Police Department employees will be allowed to use accrued vacation after successful completion of field training, or earlier with the approval of the Chief of Police and Personnel Director.

- B. The times during a calendar year at which an employee may take his/her vacation shall be determined by the department director, who shall consider the wishes of the employee and the needs of the department. If the requirements of the department are such that an employee cannot take part or all of his/her annual vacation in a particular calendar year, such vacation shall be taken during the following calendar year. Length of service shall be used to resolve conflicts over vacation periods between employees of the same class.
- C. **Annual Vacation Leave payout.** As stated in section (A) (1), employees are expected to use Vacation Leave in part to ensure necessary rest and relaxation away from work. An employee may request payment for up to a total of eighty (80) hours of Vacation Leave each fiscal year. Such requests shall be in writing on approved forms, an employee may request payment of Vacation Leave no more than once per quarter. Requests may be granted for this within available fiscal constraints at the discretion of the Town Manager on approval of the department director and Personnel Director.
  - a. In order to be eligible for a payout the employee must have used forty (40) hours of Vacation Leave during the previous twelve (12) months.
  - b. Employees must maintain a Vacation Leave balance of at least one hundred sixty (160) hours after deduction of the hours for the payout.
- D. In the event one or more municipal holidays fall within an approved vacation leave, such holiday shall not be charged as vacation leave.
- E. Employees who have satisfactorily completed a trial period and whom leave employment with the Town shall be paid in a lump sum for all accrued vacation leave earned up to the maximum amount.

### **Section 803 – Administrative Leave**

- A. Exempt salaried employees hired after July 20, 2017 will be granted eighty (80) hours of Administrative Leave per calendar year. Administrative leave will not be carried over from one calendar year to another. No compensation will be paid for unused Administrative Leave upon separation.

**Section 804 – SICK LEAVE**

A. Sick leave with pay shall be granted to all employees pursuant to the following schedule:

<b>Employee Category</b>	<b>Accrual Rate</b>	<b>Accrual/Carryover Provisions</b>
Full-time employees	3.69 hours per pay period	Accrual is capped at 520 hours
Part-time, temporary and seasonal employees.	Accrued on a prorated basis according to number of hours worked	Accrual is capped at 520 hours

Full-time and part-time employees whose sick leave bank exceeds 520 hours, will no longer accrue sick leave until the balance drops below 520 hours.

- B. Sick leave with pay may be used for the purposes set forth in A.R.S. § 23-373, including an employee’s or a family member’s mental or physical illness, injury, or health condition; an employee’s or a family member’s need for medical diagnosis, treatment, or preventative care; and absence due to domestic violence, sexual violence, abuse, or stalking involving the employee or a family member.
- C. Full-time and part-time employees may use sick leave for qualifying Family and Medical Leave Act (“FMLA”) leave or Americans with Disabilities Act leave.
- D. If accrued sick leave is not available, employees eligible for vacation time may use any accrued vacation time.
- E. Except in the case of an emergency, to receive sick leave compensation, an employee must notify his/her immediate supervisor or department director prior to, or within one hour after, the time set for beginning his/her daily duties. For absences of three or more consecutive days, an employee may be required to provide reasonable documentation demonstrating the need for sick leave.
- F. Full-time and part-time employees with a minimum of 10 years of service and with any unused sick leave shall be paid at separation of employment at the rate of one hour for each three hours of unused sick leave.
- G. If a full-time or a part-time employee separates employment but is rehired within nine months of the separation date, the employee’s previously accrued, unused sick time that has not been paid out will be reinstated and immediately available for use.
- H. If any paid holiday occurs during a period when an employee is on sick leave, the holiday shall not be charged against the employee’s accrued sick leave.
- I. If an employee eligible for vacation leave becomes sick or has an accident during paid time off for vacation, with proper medical documentation, the time may be charged to accrued sick leave.

- J. An employee receiving temporary disability payments under the workers' compensation laws or other laws may use accumulated sick leave in order to continue to maintain his/her regular income. Town employees receiving full salaries from the Town, as well as disability payments under workers' compensation, must remit to the Town any funds received from workers' compensation. These payments will be credited to the employee's sick leave account. The purpose of this regulation is to ensure that an employee does not suffer an economic hardship because of a work-related injury, as well as to ensure that the employee will not be making a financial gain because of an injury. It is the employee's prerogative to determine whether he/she wishes to accept disability payments from workers' compensation in lieu of continuing on the Town payroll.
- K. Full-time and part-time employees may use sick leave donated by other employees in accordance with Section 805, below. Such employees may not use donated sick leave until the employee exhausts his/her own accrued sick, vacation, and any other available leave.
- L. Sick leave may only be used as permitted by applicable law and as set forth in this handbook. Misuse of sick leave shall be cause for disciplinary action, including suspension, demotion, or dismissal.

#### **Section 805 – DONATED SICK LEAVE**

Full-time and part-time employees may donate up to twenty (20) hours of sick leave to other employees who need sick leave but who have exhausted their own leave. Donated sick leave shall be transferred as hours, not funds, and will be paid at the receiving employee's regular rate.

- A. All donations must be approved by the Personnel Director.
- B. An employee may not donate sick leave if that employee has 80 hours or less accrued sick leave.
- C. The maximum donated sick leave that any employee can receive from co-employees in a 12-month period is 160 hours.

#### **Section 806 – BEREAVEMENT LEAVE**

- A. Bereavement leave with pay may be requested following the death of a member of the employee's immediate family. The immediate family shall consist of the employee's spouse, children, parents, grandparents, grandchildren, brothers, sisters, or other dependents; or the spouse's children, parents, grandparents, grandchildren, brothers and sisters.
- B. For each occurrence, up to three (3) days of bereavement leave may be granted for an immediate family member's death if within the State of Arizona, and up to five (5) days may be granted if the death occurred outside of Arizona.

**Section 807 – FAMILY AND MEDICAL LEAVE ACT (FMLA)**

- A. The Town shall follow the requirements of the Family and Medical Leave Act of 1993, as amended, and will post notices required by FMLA on the Town Bulletin Board.
  - 1. An employee becomes eligible for FMLA leave once they have worked for an employer for 12 months, during which they worked at least 1250 hours.
  - 2. An eligible employee is entitled to up to 12 weeks of FMLA leave during a 12-month period. The Town calculates FMLA time based on a calendar year.
  - 3. If an employee's leave time qualifies and is documented as FMLA leave, the employee will be required to apply all accrued sick, vacation, and/or other leave (including comp time) during the FMLA absence. This paid leave will run concurrently with the qualifying FMLA leave time. If an employee does not have enough accrued paid leave available to cover the FMLA leave, the remaining FMLA time will be unpaid.

**Section 808 – MILITARY LEAVE**

- A. Neither the Town nor any department shall refuse to permit members of the reserve or National Guard to take leaves of absence from employment for the purpose of complying with competent orders of the State or United States for active duty, or to attend camps, maneuvers, formations or armory drills. The leaves of absence shall not affect vacation rights which employees otherwise have, except that an employer need not consider the period of absence as a period of work performed for him/her in determining eligibility for vacation and the amount of vacation pay to which the employee is entitled.
- B. A member of the reserve or National Guard shall not lose seniority or precedence while absent under competent military orders. Upon return to employment the employee shall be returned to his/her previous position, or to a higher position commensurate with his/her ability and experience as seniority or precedence would ordinarily entitle him.
- C. An employee who is a member of the reserve or National Guard shall be entitled to leave of absence from his/her duties without loss of time or efficiency rating on all days during which he/she is engaged in field training and for a period during leave of absence not to exceed thirty days in any two consecutive years he/she shall be entitled to his/her pay. For purposes of this section, an employee shall not be charged military leave for days on which the individual was not otherwise scheduled for work.
- D. When a vacancy exists through the induction or order of an employee into the armed forces of the United States, the appointing or employing authority shall inform any person appointed to fill the vacancy that his/her tenure, apart from other considerations, is contingent upon restoration of the former officer or employee.

- E. An employee having been inducted or ordered into active service in the armed forces of the United States shall, upon completion of his/her service, be restored to the position held by him/her at the time of induction or of reporting for service or to a position having similar or other duties which he/she is qualified to discharge, and of like status and pay, if such employee:
1. Possesses a certificate of satisfactory training and service or honorable discharge issued by the proper military or naval authority;
  2. Is still qualified to perform the duties of the position;
  3. Applies for restoration within sixty days after separation from the armed forces; and
  4. Has either served in the armed forces during time of war or was called to service because of his/her status as an active or inactive member of the reserve.

### **Section 809 – JURY DUTY**

Every employee of the Town who is required to serve as a juror shall be entitled to absent themselves from their duties with the Town during the period of such service or while necessarily being present in court as a result of a call for jury duty. Under such circumstances, the employee will be paid the difference between his/her full salary and any payment received by him/her, except travel pay and additional child care fees incurred directly due to jury duty.

### **Section 810 – EXTENDED LEAVE WITHOUT PAY**

- A. Extended leave without pay may be granted for educational, professional or other personal reasons.
1. A department director may grant any employee a leave of absence without pay for not more than two (2) calendar weeks. Employees may appeal denial of this privilege to the Personnel Director.
  2. The Personnel Director may grant a non-trial employee leave of absence without pay for a maximum of twelve (12) months.
- B. An employee on leave without pay shall receive no compensation, no benefits and shall accumulate no vacation or sick leave while on such leave. However, an employee on leave without pay may continue his/her insurance benefits at the employee's sole cost and expense, so long as purchasing these insurance benefits does not violate applicable insurance contracts between the Town and its insurer(s).

## **Section 811 – SUPPLEMENTAL BENEFITS PLAN FOR PUBLIC SAFETY OFFICERS**

- A. **Purpose.** The purpose of this Supplemental Benefits Plan for Public Safety Employees (“Plan”) is for the Town to satisfy the requirements of A.R.S. § 38-961 (“SBP Statute”). The SBP Statute requires a political subdivision of the State of Arizona to establish a supplemental benefits plan for its public safety employees who satisfy certain eligibility criteria. The Plan shall be effective from and after August 2, 2012, and shall continue for the minimum period it is required to be maintained by the SBP Statute, unless extended by an amendment to the Plan made pursuant to D.9 below.
- B. **Eligibility.** An employee of the Town shall be eligible to participate in the Plan, and to continue participating in the Plan, only if and for so long as the employee satisfies all of the following criteria (“Participant”), namely, the employee shall:
1. Be employed full-time by the Town at the time of injury and be a member of the Public Safety Personnel Retirement System at the time of the injury;
  2. Be injured while on duty and be unable by reason thereof to perform the functions of his or her position;
  3. Be eligible for workers’ compensation benefits pursuant to A.R.S. § 23-1021;
  4. Be receiving workers’ compensation lost-time wage replacement benefits pursuant to A.R.S. § 23-1041 and related statutes and provide evidence thereof to the Town;
  5. Request in writing, submitted to the Personnel Director, supplemental benefits under the Plan within thirty (30) days after receiving his or her first payment of workers’ compensation lost-time wage replacement benefits pursuant to A.R.S. § 23-1041;
  6. Participate in all risk management activities related to the employee’s workers’ compensation injury, including evaluation for light duty assignment and rehabilitation programs;
  7. Be physically unable to return to work in the employee’s position or to perform services for the Town in any capacity, including alternative work assignments or light duty to which the employee is assigned by the Town, and such inability is established by appropriate medical documentation from either (i) an independent medical exam ordered by the Town directly or through its workers’ compensation insurance provider or (ii) the employee’s physician, whichever is selected by the Town;
  8. Remain a full time employee of the Town during the time period the employee is receiving benefits under the Plan;

9. Be injured in a manner that is not caused by, and is not subsequently made worse or the employee reinjured by, either (A) the employee's gross negligence or (B) an unapproved activity regardless of whether a physical fitness activity and regardless of whether performed during or outside of work hours; and

10. Follow all other Town policies and procedures for requesting benefits as outlined in the Plan or as adopted by the Town from time to time.

C. **Benefits.** The following benefits will be provided by the Town to the eligible Participant commencing on the date the employee receives his or her first payment of workers' compensation lost-time wage replacement benefits pursuant to A.R.S. § 23-1041 and continuing for up to, but not in excess of, six (6) months, but in any case only for so long as such eligibility criteria continue to be satisfied:

1. Payment on the Town's regular payroll payment dates of an amount equal to the excess, if any, of (i) the Participant's base salary at the time of the injury over (ii) the sum of (A) the workers' compensation benefits paid to the Participant pursuant to A.R.S. § 23-1041 and related statutes and (B) all taxes the Participant was having withheld from his or her base salary at the time of the injury, and (C) all deductions, including voluntary deductions, from the Participant's base salary at the time of the injury.
2. Continued payment of the employer portion for health care benefits paid by the Town at the time of the injury. The Participant continues to be responsible for paying the same portion of his or her health care benefits as he or she was paying at the time of the injury and for any optional health related deductions and any optional life insurance deductions.
3. Payment of both the employer and the employee contributions to the Public Safety Personnel Retirement System that were being paid at the time of the injury;
4. Receive credit for service in the Public Safety Personnel Retirement System at the same accrual rate as was in effect at the time of the injury; and
5. All accrued and unused balances of sick leave, vacation leave, and personal time off at the time of the injury, if any, will not be decreased; provided, however, the Participant will not accrue any additional sick leave, vacation leave, and personal time off while the Participant is receiving benefits under the Plan.

If and to the extent a Participant's base salary is increased or any of the applicable benefits are modified while the Participant is receiving benefits under the Plan, the benefits provided to the Participant hereunder shall be adjusted accordingly. For example, if all employees are provided automatic base salary increases as part of an annual process, the Participant will receive benefits under the Plan based on his or her new base salary. Such adjustments may or may not be beneficial to the Participant under C.2 through C.5. For example, if the Town adjusts downward its contribution for health care premiums, the Participant would be

required to pay the additional premiums in the same manner as other similarly situated employees.

D. **Procedures.** The Plan will be operated in accordance with the following policies and procedures and such additional policies and procedures as the Town may adopt from time to time.

1. The Town will appoint a person to act as the Plan administrator, who may be removed and replaced by the Town in its sole discretion. The Plan administrator will receive requests for benefits under the Plan in writing on a form provided by the Town from the employee. The request for benefits must address each of the eligibility criteria set forth above and must be received by the Town within thirty (30) days after the employee's receipt of his or her first lost-time wage replacement benefit paid under workers' compensation. The employee's failure to deliver a complete and timely request for benefits shall be conclusively deemed a waiver of any rights to the benefits provided by the Plan.
2. The employee also must provide to the Town any other information reasonably requested by the Town to determine the employee's initial eligibility and thereafter continued eligibility for benefits under the Plan, including without limitation required medical documentation.
3. The Town will review and investigate the employee's written request for benefits, the circumstances surrounding the employee's injury, the employee's eligibility for and receipt of workers' compensation benefits, and any other factors the Town deems relevant. The Town will provide to the employee a written determination of the employee's eligibility for benefits under the Plan within thirty (30) calendar days after the Town's receipt of the employee's timely and complete request for benefits.
4. An employee who requests and a Participant who receives benefits under the Plan shall cooperate fully with the Town and with all other persons working to coordinate benefits hereunder.
5. If an employee is denied participation in the Plan, the employee has a right to appeal the Town's decision. The exclusive appeal process is as follows:
  - a) The employee shall deliver to the Town Manager's office, within ten (10) business days after the date the employee received the Town's letter denying benefits, a written appeal stating the reasons for the appeal and the facts supporting the employee's position.
  - b) The Town Manager will consider the appeal and any other information the Town Manager might request from the Plan administrator and will send to the employee a written opinion affirming or denying eligibility within ten (10) business days after the Town Manager receives the employee's timely and complete appeal.

- c) If the Town Manager is also the Plan administrator, the appeal instead will be delivered to and decided by the Town Council. Provided, however, the Town Council shall have thirty (30) business days to render a written opinion on the appeal.
  - d) A “business day” means each day on which Town Hall offices are open to the public.
- 6. A Participant’s eligibility or receipt of benefits under the Plan shall not preclude the Town from taking disciplinary action, including termination, respecting the Participant. Nothing in the Plan gives to any Participant any right to continued employment with the Town.
  - 7. The Plan does not supersede any contract or any other plan or policy of the Town that provides for greater benefits than are provided hereunder.
  - 8. A Participant has no right or power to sell, assign, pledge or otherwise transfer any benefits provided under the Plan.
  - 9. The Town may amend or modify the Plan in whole or part from time to time so long as the amendment or modification is consistent with the SBP Statute. The Town may terminate the Plan when permitted under the SBP Statute.

**Section 812 – UNAUTHORIZED LEAVE**

- A. Any unauthorized absence for one (1) work day or more by an employee will usually be deemed absent without pay and abandonment of his/her position. Any employee who absents himself/herself from work and abandons his/her job in this manner may be subject to termination without any other cause or reason.
- B. Under extenuating circumstances, the appropriate department director, with written approval of the Personnel Director, may rescind the termination and grant leave without pay.

**ARTICLE IX  
SAFETY-TRAINING**

**Section 901 – SAFETY**

- A. The Town of Pinetop-Lakeside seeks to provide a safe working environment for its employees, utilizing Occupational Safety and Health Administration (OSHA) standards as a guide.
- B. The Safety Director shall be appointed by the Town Manager and shall be responsible for the overall supervision, administration, coordination and record keeping of the Safety Program throughout the Town.

- C. Supervisory personnel have the responsibility to see that the employees under their supervision are aware of and observe all safety rules pertaining to their duties.
- D. Employees are required, as a condition of employment, to observe all safety regulations and requirements given verbally or in writing by supervisory personnel or the Safety Director. An employee who becomes aware of hazardous work practices or conditions shall immediately advise his/her supervisor of the situation.

### **Section 902 – TRAINING**

- A. The Town Council encourages employee training. Responsibility for developing training programs for employees shall be assumed jointly by the Personnel Director and the department directors.
  - 1. Reimbursement to employees for costs incurred for formalized training shall be in accordance with regulations established in the Purchasing Procedures Policy.
  - 2. Participation in and successful completion of special training courses may be considered in making advancements and promotions. Evidence of such activity shall be filed by the employee with his/her supervisor and the Personnel Director.

### **Section 903 – VEHICLE USE REGULATIONS**

- A. Town vehicles shall be used for Town of Pinetop-Lakeside business only. All Town vehicles are nonsmoking.
- B. Passengers shall not be permitted in Town vehicles unless such passengers are in the vehicle on official Town business.
- C. Town vehicles shall not be operated by individuals who are not employed by the Town of Pinetop-Lakeside. A Town vehicle may be operated by a volunteer authorized to use the vehicle for Town business or a non-employed individual to maintain or repair said vehicle.
- D. All operators of Town vehicles shall possess a valid driver's license of the appropriate class.
- E. Out of town use of vehicles shall be permitted only with approval of the employee's supervisor except for appropriate use of emergency or Police Department vehicles.
- F. Town vehicles shall be operated in a safe, responsible manner and in compliance with all applicable State and local laws at all times.
- G. Each department is responsible for submitting a list to the Town Manager of any vehicle that is routinely taken to the residence of the employee as a matter of necessity to properly execute employee's job duties and indicate the physical location where the vehicle will be taken. The Police Department Take Home Vehicle Policy will state the requirements for police vehicles.

H. Town employees are not authorized to drive their personal vehicle on any Town related business unless approved in advance by their supervisor.

1. An employee's supervisor must first obtain approval from the Town Manager for the employee's use of a personal vehicle for Town business.
2. The employee must have a valid driver license and vehicle insurance and place a copy of each in his/her personnel file, updating any changes when changes occur or when requested.

I. Any Town employee must immediately notify his/her supervisor of any suspension or revocation of his/her driver license, or of any lapse in vehicle insurance coverage.

J. Reporting accidents – Town vehicle / personal vehicle

1. Employees involved in Town vehicle accidents, or incidents involving Town vehicle damage, shall notify their immediate supervisor as soon as possible. All Town vehicle accidents and incidents should be investigated by the police department. Employees shall not conduct the investigation of an occurrence in which they are personally involved.
2. Employees involved in accidents or incidents involving damage while using their personal vehicle on pre-approved Town business shall notify their immediate supervisor as soon as possible. All such accidents or incidents should be investigated by the police department.

K. An employee's use of his/her personal vehicle for valid Town business which has been properly pre-approved and accurately documented on the Mileage Reimbursement form will be reimbursed at the current Internal Revenue Service (IRS) mileage rate.

#### **Section 904 – CELL PHONE AND/OR ELECTRONIC DEVICE USAGE IN A VEHICLE**

This Cell Phone Usage in a Vehicle policy applies to any device that makes or receives phone calls, leaves messages, sends text messages, accesses the Internet, or downloads and allows for the reading of and responding to email or other messages whether the device is Town-supplied or personally owned.

The Town prohibits the use of any device described in this Section 904 for any purpose, unless using a hands-free device, while driving or operating any Town-owned vehicle or while driving or operating any personal vehicle in the course of conducting Town business.

**ARTICLE X  
EMPLOYEE RESPONSIBILITIES AND LIMITATIONS**

**Section 1001 – POLITICAL ACTIVITY**

- A. Any Town employee desiring to run for town, county, state or federal office must take a leave of absence without pay upon filing for said office and if elected, shall resign from Town service. The purpose of this is to prevent conflict between elected positions and paid positions. Individual cases shall be subject to review by the Town Council.
- B. It shall be the policy of the Town of Pinetop-Lakeside for all employees, regardless of classification, to remain free from any political activity in any election, while on duty, while on Town Office premises, or while in an official uniform of the Town.

**Section 1002 – NEPOTISM**

- A. Relatives shall be defined to include:

Mother	(in-law)	Husband
Father	(in-law)	Wife
Sister	(in-law)	Step children
Brother	(in-law)	Step parents (in-law)
Daughter	(in-law)	Grandchildren
Son	(in-law)	Grandparents (in-law)

- B. A Town employee may not be promoted or transferred into a position involving supervision by or of a relative.
- C. No relative as defined above can be hired as an employee, including contract employees if related to a Town Councilor, Mayor, Personnel Director or the Town Manager.

**Section 1003 – GRATUITIES**

An employee or public officer who knowingly asks for or receives any emolument, gratuity or reward, or any promise thereof, excepting those authorized by law, for doing any official act is subject to disciplinary action.

**Section 1004 – OUTSIDE EMPLOYMENT**

Outside employment of full-time personnel shall be permitted with written permission of the department director and with the approval of the Personnel Director. Such permission shall not be given if it is determined that such outside employment is likely to physically or mentally prevent the employee from performing the job required of him/her by the Town, if the second job would likely reflect discredit on the Town, or if the second job would create conflicts or potential conflicts with the Town or the employee.

## **Section 1005 – CREDIT CARD POLICY**

The Town issues credit cards to be used for Town related business and travel only. Credit card numbers are *not* to be written down or otherwise used without physical possession of the card. Town credit cards are not to be used for any personal business whatsoever. Use of a Town credit card for personal expenses may be cause for discipline, up to and including termination. All credit card purchases are subject to the Town's Purchasing Policies.

## **Section 1006 – INFORMATION TECHNOLOGY REGULATIONS**

These regulations provide employees with requirements and standards for utilizing the Town's computers, networks, electronic equipment devices, internet, intranet, USB memory drives, Zip drives, and electronic mail services, communication devices and all other information technology. This policy should be applied in conjunction with other Town policies and regulations, including any that may govern the Town's management of its information systems.

These regulations provide general guidelines and examples of acceptable and prohibited use for illustrative purposes but do not state all potential uses or abuses.

- A. **Access.** The level of access which employees are granted to the Town's computers, networks and information services, Internet, e-mail, file servers, etc. is based upon the specific employee job requirements and access will be determined by the employee's Department Head and/or Town Clerk.

Employee access to the Town's computers, networks and information services is provided for work related communication, research and data retrieval. Any use that is consistent with the Town's goals in providing services and within the regulations is encouraged.

- B. **Use.** The Town provides Information Technology resources for employees' official Town business. The following uses are examples of those that are prohibited, and which may lead to discipline including termination of employment:

1. Any use that is illegal or in violation of Town policies;
2. Any illegal use of information technology systems or services such as copyright violations and/or violations of software licensing;
3. Copying, downloading, installing/removing software or applications without permission from the Personnel Director;
4. Any use involving materials that are obscene, sexually explicit, sexually suggestive or that may be insensitive regarding any protected employment category such as race, gender, age, disability, religion, or national origin;
5. Misuse and/or sharing of computer passwords/accounts including accessing the systems and/or data of other users without permission or authorization from the Personnel Director;

6. Effecting security breaches or disruptions of network communication on computer systems both internal and external to the Town. Security breaches include, but are not limited to, accessing data of which the employee is not an intended recipient or logging into a server, network equipment, or account that the employee is not expressly authorized to access. For purposes of this section, “disruption” includes, but is not limited to, network sniffing, ping floods, packet spoofing, denial of service, and forged routing information for malicious purposes;
7. Port scanning or security scanning of computer systems both internal and external to the Town is expressly prohibited unless authorized by the Personnel Director;
8. Executing any form of network monitoring which will intercept data not intended for the employee’s host;
9. Any inappropriate communications with staff, non-Town personnel and minors. A communication is inappropriate if it would meet any of the misuse examples provided in this regulation or comparable unprofessional conduct;
10. Any use for private or commercial financial gain or commercial advertising which includes solicitation;
11. Any use as a forum for personal communications by e-mail, chat or other medium whether to internal or external parties to solicit, advocate or communicate the views of an individual or non-Town sponsored organization whether for profit or not;
12. Providing e-mail addresses of Town employees to outside parties whose intent is to communicate with Town staff on non-Town purposes. Using Town e-mail addresses for personal use or registration for non-Town business related accounts of any kind;
13. Forwarding e-mail attachments which contain executable files from unidentified and/or unsolicited sources that may contain malicious software code (i.e. viruses, spyware, adware, and similar software);
14. Sending of mass e-mail to users in and out of the Town network for non-Town business;
15. Malicious use or damage to Town computers, networks and information services;
16. Attempts to access inappropriate websites or encouraging others to do so;
17. Communications that do not adhere to professional standards;
18. Failing to report misuse, unauthorized activity, breach or attempt to breach computer security to the department head and the Information Technology department head;

19. Using Town computers, networks, electronic equipment devices and information services after such access has been denied or revoked;
20. Any attempt to delete, erase or otherwise conceal any information stored on a Town computer that violates these regulations;
21. Connecting or installing personal laptops or wireless devices using the Town internet services or network services without prior consent through the Information Technology Department;
22. Visiting adult pornographic material(s), websites, or posting or viewing anything which is reasonably construed, within the context of a professional work environment, as sexually explicit, scandalous, defamatory, libelous, illegal or immoral, or includes material that is obscene, sexually explicit, sexually suggestive or insensitive regarding any other protected employment category such as race, gender, age, disability, religion, or national origin;
23. Using the computer to view or send material that involves hate or discrimination;
24. Threats of violence;
25. Gambling;
26. Playing computer games;
27. Sending humor oriented e-mails or links, including comics;
28. Using the computer for buying or selling illegal drugs, alcohol, and tobacco;
29. Dating/relationships websites or media;
30. Any use of the computer to buy, secure, or sell weapons of any kind;
31. Issuing or sending chain mail, practical jokes and other frivolous messages; and/or
32. Any other activity that would violate any federal, state, or local law. Any use that is determined not to be Town business and inconsistent with the Town's goals and regulations, which results in an intentional breach, any attempt to breach the system security, any damage to information systems, equipment, network and other information services is understood to be prohibited.

**C. No Expectation of Privacy.** The Town retains control, custody and supervision of all computers, networks, communication devices and information services owned or leased by the Town. The Town reserves the right to monitor all information technology and internet activity by employees and other systems users, without prior notice. The Town also reserves the right to access information technology and data to update and maintain equipment without notice. Employees have no expectation of privacy in their use of Town information technology, including e-mail messages, internet communications and stored files.

D. **Confidentiality of Information.** Employees are expected to use appropriate judgment and caution in communications to staff, business associates and residents of the Town. Personally identifiable information may be confidential, and records and other documents stored electronically that are sensitive in nature are to be treated in the same manner. Every reasonable effort will be undertaken to maintain information in a secure manner.

E. **Public Record Nature of Email/Confidentiality.** Email may be subject to disclosure pursuant to the public records laws as enacted under Title 39 of the Arizona Revised Statutes. A public record is a document that is made in the course of performing a duty, the immediate purpose of which is to disseminate information to the public or to serve as a memorial of official transactions for public record.

If an email is considered a public record, the Town may be required to disclose the email upon request. If the context of the email is considered a public record, you must retain the record for the period of time as required by the retention schedule for the record.

F. **Compensation for Losses, Costs and/or Damages.** The employee may be responsible for any losses, costs or damages incurred by the Town related to employee violations of this policy. This will be determined once damage assessment has been done by the Information Technology Department.

G. **Town Assumes No Responsibility for Unauthorized Charges, Costs or Illegal Use.** The Town assumes no responsibility for any unauthorized charges made by the employees including but not limited to credit card charges, subscriptions, long distance telephone charges, equipment and line costs, or for any illegal use of its computers such as copyright violations and/or violations of software licensing.

H. **Employee Questions.** Employees having questions regarding acceptable computer activity may seek further guidance from the Department Head and/or the Personnel Director.

I. **Disciplinary Action.** Failure to comply with this policy may result in disciplinary action, up to and including termination. Illegal use of the Town's computers may also result in referral to law enforcement authorities.

J. **Email Archiving and Retention Policy.** Employees shall take appropriate action to promptly save e-mails that need to be retained in connection with any State law, contractual requirements or any other applicable retention schedule.

1. The Town will keep all active e-mail on the production server for a 90-day period after the e-mail is generated or received.
2. After the 90-day period the Town will automatically move all active e-mail to online archive.
3. The Town will keep the e-mails in archive status for one year. After one year, all e-mail will be deleted.

4. The Town will purge all deleted e-mail 90 days after the deletion date.

## **Section 1007 – SOCIAL MEDIA AND SOCIAL NETWORKING WEBSITES**

This policy provides guidance to Town employees, contractors, volunteers of the Town, and any other person in a position in the Town service (for the purposes of this section, such persons are collectively referred to hereinafter as “employees”) that are authorized to add, modify or delete information (collectively, “post” or other conjugation thereof) on social media or social networking websites. All posting should be in accordance with the guidelines set forth in this section. Nothing contained in this policy shall be construed as denying employees their civil or political liberties as guaranteed by the United States and Arizona Constitutions.

- A. **Social Media and Social Networking Websites.** “Social media” refers to the interaction among people in which they create, share, and/or exchange information and ideas in virtual communities and networks. It is the collective of online communication channels dedicated to community-based input, interaction, content-sharing and collaboration. Websites and applications dedicated to forums, blogging, social networking, professional networking, and wikis are among the different types of social media. Social media includes social networking and professional networking sites. Social networking is the practice of expanding social contacts by making connections through individuals. A social networking website is a platform to build social networks or social relations among people who may share interests, activities, backgrounds or real-life connections. A social networking website consists of a representation of each user (profile), social links, and a variety of additional services. Social networking allows individuals to create a profile, create a list of users with whom to share connections, view and cross the connections within the system, and share information, photos, links, and items of interest. Examples include Facebook, Google+, Instagram, Pinterest, Tumblr, Twitter and YouTube.
- B. **Policy.** The Town Manager, or authorized designee, is responsible for the creation, administration and deactivation of approved social media or social networking website accounts. In the interest of maintaining the efficient operation of the Town and its departments, Employees shall not:
  1. Post or use social media or social networking websites using any Town-owned computers or other Town-owned or Town-subsidized electronic devices at any time without the prior, written approval of the Town Manager, or authorized designee;
  2. Post or use social media or social networking websites using any personal electronic device during the course of or in the performance of an employee’s official duties;
  3. Post or use social media or social networking websites using any electronic device while driving or operating any Town-owned vehicle;

4. Post any information or content that depicts Town personnel in the course of or in the performance of official duties, Town logos or copyrighted marks, equipment, uniforms, facilities, or other identifiable Town-owned property, real, personal or otherwise without prior, written approval of the Town Manager, or authorized designee; or
5. Post any information or content that (i) is defamatory, false or illegal, (ii) creates an unreasonable adverse effect on the workplace, (iii) is represented or appears to be made as part of the official duties of the employee, unless the official duties of the employee include the authority to engage in speech in the manner in which the speech occurred, or (iv) otherwise exposes the Town to liability or interferes with the efficient operation or function of the Town or any of its departments. This paragraph shall apply to official, job related posting and personal, non-job related posting or other speech-related activities. Employees found in violation of this policy may be subject to disciplinary action, up to and including termination in accordance with Town personnel policies.

**C. Conditions of Approved Use. Conditions of Approved Use include:**

1. All Town social media or social networking website accounts, and any use thereof, must comply with applicable federal, state and local laws, regulations, and policies;
2. All Town social media or social networking website accounts must be (i) established as “community” or “government” accounts, (ii) clearly indicate they are maintained by the Town of Pinetop-Lakeside, Arizona, (iii) contain the Town’s logo and (iv) have Town contact information prominently displayed. Content should be consistently branded to communicate a clear association with the Town. The form of terms of use in effect at the time of establishment of any social media or social networking website accounts must be approved by the Town Attorney prior to establishment of such accounts;
3. Content on all Town social media or social networking website accounts is a public record and shall be open to the public as required by Arizona’s public records laws. All content must be able to be managed, stored, and retrieved to comply with these laws;
4. Content on all Town social media or social networking website accounts should focus on significant Town interest areas and be organized in a manner that avoids duplication, ambiguities, and/or conflicting information across the Town’s various communication mediums;
5. Content on all Town social media or social networking website accounts may be posted only by employees who (i) have been approved to do so by the Town Manager, or authorized designee, (ii) have a complete and acknowledged understanding of this policy and other applicable Town policies, (iii) possess appropriate content and (iv) possess appropriate technical experience. Oversight of the Town’s social media or social networking website accounts will be provided by the Town Manager, or authorized designee;

6. The Town Manager may delegate all or a portion of the responsibilities for management, administration and/or implementation of any Town social media or social networking website accounts to the Town's department directors as the authorized designee(s) of the Town Manager for purposes of this social media and social networking website policy. If so delegated, certain departments may choose to prohibit employees from identifying themselves as employees of the department and/or may prohibit the depiction of the employees' Town uniform or insignia;
7. All Town social media or social networking website accounts must contain the following Town-standard disclaimer: "The Town of Pinetop-Lakeside's use of external social media or social networking websites is provided as a public service. The Town of Pinetop-Lakeside disclaims liability for ads, videos, promoted content, or messages accessible from any external web page. The responsibility for external content or messages rests with the organizations or individuals providing them. Any inclusion of external content or messages on external social media or social networking websites does not imply endorsement by the Town of Pinetop-Lakeside. The Town of Pinetop-Lakeside reserves the right to remove any content or information that is profane or obscene";
8. All messages or other information posted on Town social media or social networking website accounts must (i) present the Town in a positive light, (ii) contain information that is freely available to the public and not confidential as defined by any Town policy or state or federal law, (iii) not contain any personal information except the names of employees whose job duties include being available for contact by the public and (iv) comply with local, state and federal laws;
9. Employees who are approved by the Town Manager, or authorized designee, to post on Town social media or social networking website accounts are expected to understand the current terms of service for the social media or social networking website account being used or to which information is Posted; and
10. Except as expressly provided in this policy, accessing any social media or social networking website shall otherwise comply with all applicable policies of the Town pertaining to use of the internet by employees, including email or any messaging content.

#### **D. Compliance.**

1. Prior to Posting on any social media or social networking website account for an approved Town purpose, each Employee shall sign an acknowledgement of receipt of this policy indicating that he or she has read and understands all of its provisions, and agrees to be bound by the same.

2. The Town Manager, or authorized designee, shall review the Town's usage of social media or social networking website accounts to ensure appropriate usage. The Town Manager, or authorized designee, shall review (i) the number of followers, (ii) the frequency of messages and (iii) the consistency of such social media or social networking website accounts with Town image and core values.
3. The Town Manager, or authorized designee, shall maintain a list of all social media or social networking website accounts approved for Town participation and account information, including login and password, to allow for immediate alteration or removal of content that is inappropriate or inconsistent with Town policy.
4. The Town Manager, or authorized designee, shall maintain a record of social media website account information, including user name, registered email address, date established, and authorizing representative, name of person who created account and a copy of any site use or terms of use. Records of user names, logins and passwords shall not be provided to the public.
5. The Town Manager, or authorized designee, may at any time monitor or conduct an audit of employees' use of Town-owned computers or other Town-owned or Town subsidized electronic devices capable of Posting.
6. Employees found in violation of this policy may be subject to disciplinary action, up to and including termination.

## **ARTICLE XI DRUG-FREE WORKPLACE**

### **Section 1101 – DRUG-FREE WORKPLACE POLICY**

The Town has established a drug-free workplace. No employee shall work or otherwise provide services to the Town during that employee's work hours while under the influence of intoxicating liquor, any drug, a vapor-releasing substance containing a toxic substance or any combination of liquor, drugs or vapor-releasing substances if the employee is impaired to the slightest degree. In addition, the Town has established a zero tolerance policy for illegal drugs, and the possession, use, manufacture; distribution or dispensing of any illegal drug in the workplace by any employee is strictly prohibited. The Town may require the collection and testing of samples for any job-related purpose, including:

1. Investigation of work-related accidents.
2. Maintenance of safety for both employees and the public at large.
3. Maintenance of productivity, quality of service and security of property and information.

4. Reasonable suspicion that an employee may be affected by the use of drugs or alcohol and that the use may adversely affect the job performance or the work environment.

#### **Section 1102 – ILLEGAL DRUGS**

Any employee who unlawfully possesses, uses, manufactures, distributes or dispenses illegal drugs shall be subject to personnel action up to and including dismissal.

#### **Section 1103 – POLICE DEPARTMENT EXCEPTION**

Nothing in this section shall prevent a law enforcement officer authorized by the Police Department to be in possession of alcohol, prescription drugs or illegal drugs when required as part of that officer's official duties.

#### **Section 1104 - CONVICTION OF ALCOHOL/DRUG-RELATED CRIME**

Any employee who is convicted of a drug/alcohol statute violation or drug/alcohol-related crime (including all DUIs) shall notify his immediate department director who shall then notify the Town Manager no later than five (5) days after the entry of the conviction.

#### **Section 1105 – PRESCRIPTION/NON-PRESCRIPTION MEDICATION; IMPAIRMENT**

Any employee who has been prescribed medication by a physician or is taking over-the-counter medication, which may impair the employee's ability to perform job duties, shall report to their supervisor or department director prior to reporting to work. Employees who report to work impaired by medication shall not be allowed to work.

#### **Section 1106 – NEW EMPLOYEE DRUG TESTING**

The Town requires drug testing of all new employees in the Police Department, and those who will be regularly operating a motor vehicle or heavy equipment as part of his/her job, or any other employment position involving any safety-sensitive function. Prospective employees who refuse to test shall not be eligible for hire.

#### **Section 1107 – REASONABLE SUSPICION DRUG TESTING**

All employees shall be subject to alcohol or drug testing in accordance with this Policy whenever there is reasonable suspicion to believe that the employee has reported for work or is working while impaired to the slightest degree by alcohol or drugs. In the event that any department director or any other employee believes that another employee has reported for work or is working while impaired by alcohol or drugs, that employee or department director shall immediately report that information to the employee's department director who shall report to the Town Manager or his/her designee as soon as reasonably possible. Following the receipt of an Incident Report, the Town Manager or his/her designee shall make a determination about whether or not the employee who is suspected to be impaired by alcohol or drugs shall submit to alcohol or drug testing. The Town Manager may require breath, urine, blood, saliva or other bodily fluids samples from such employee, shall designate the type of sample, the licensed

medical practitioner who will take the sample and the independent testing laboratory that will test the sample. In the case of alcohol testing, the Town Manager shall designate the law enforcement authority (other than the Pinetop-Lakeside Police Department) or the medical practitioner that will perform the alcohol sample testing.

#### **Section 1108 – SCHEDULING OF TESTS**

Any drug testing or alcohol impairment testing normally shall occur during or immediately before or after a regular or on-call work period. The time required for drug testing or alcohol impairment testing shall be deemed work time for the purposes of compensation and benefits. The Town shall pay all of the actual costs for drug testing and alcohol impairment testing required by the Town.

#### **Section 1109 – TESTING PROCEDURES**

The collection of breath samples or bodily fluids samples shall be performed under reasonable and sanitary conditions. An employee to be tested may provide notification to the Town Manager of any information that may be considered relevant to the test including identification of currently or recently used prescription or non-prescription drugs or other relevant information. sample collection, storage and transportation to the place of testing shall be performed in a manner reasonably designed to preclude the possibility of contamination, adulteration or misidentification. Testing shall comply with scientifically accepted analytical methods and procedures and shall be conducted at a place approved or certified by the United States Department of Health and Human Services, the Arizona Department of Health Services, or the College of American Pathologists. Drug testing shall include confirmation of any positive drug test results by a second or confirmatory alcohol or drug test. Alcohol breath testing may be duplicated using the same breath testing machine as used for the first test. A second or confirmatory drug test shall be a chromatographic technique such as gas chromatography, mass spectrometry or other acceptable and reliable analytical method.

#### **Section 1110 – DUPLICATE SAMPLES**

Whenever reasonable, a person who is subjected to alcohol or drug testing pursuant to this Policy may request that a duplicate sample be taken for the employee's use and at the employee's sole expense. This duplicate sample may be tested at the employee's sole expense at a laboratory, which meets any of the qualifications set forth in Section 1109, above.

#### **Section 1111 – TEST RESULTS; COPIES**

An employee may, upon written request to the Town Manager, obtain copies of test results.

## **Section 1112 – CONFIDENTIALITY OF TEST RESULTS**

Test results shall be kept confidential, except that the employee's supervisor, the Town Manager and the Town Attorney may be given copies of test results. Further, to the extent that test results of a public employee are public information, the Town may release written test results after receiving an order from a court or other competent legal authority. Except as stated in this Policy, test results may not be used or received in evidence, obtained in discovery or disclosed in any public or private proceeding, except in a proceeding related to an action taken by an employer or employee relating to this Policy.

## **Section 1113 – CAUSES OF ACTION BASED UPON TEST RESULTS**

No cause of action may be brought against the Town relating to alcohol or drug testing performed in accordance with this Policy, including dismissal for a violation of this Policy, unless the Town knew or clearly should have known that the drug testing result was in error and ignored the true test result because of reckless or malicious disregard for the truth or the willful intent to deceive or be deceived.

## **Section 1114 – REFUSAL OF EMPLOYEE TO TEST**

Any employee who refuses to participate in the alcohol or drug testing allowed by this Policy shall be subject to discipline up to and including termination of employment. Prospective employees who refuse to test shall not be hired.

## **Section 1115 – TESTING OF MINORS**

This Drug-Free Workplace Policy applies to all full-time and part-time employees, whether or not that employee is under the age of 18 years. However, in the event that testing of a person under the age of 18 years is required or recommended pursuant to this Policy, no such testing shall take place without the minor's parents being notified, and at least one (1) parent or guardian of that minor shall authorize such testing, in writing. In the event that the parent or guardian of a minor refuses to allow that minor employee to be tested, Section 1114 shall apply.

## **Section 1116 – DEPARTMENT HEAD TRAINING**

The Town Manager, the Town Clerk and all department heads shall be required to receive training in recognizing alcohol and drug abuse in the work place. The training shall meet with the requirements of 49 C.F.R. 382.603 and shall be approved by the Town Manager. Other employees who wish to receive this training may be trained as authorized by the Town Manager.

## **Section 1117 – INVALIDITY**

If any section, subsection, sentence, clause or portion of this Policy is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof.

**ARTICLE XII**  
**POLICY AGAINST HARASSMENT OR DISCRIMINATION**

**Section 1201 – NO HARASSMENT OR DISCRIMINATION**

The Town of Pinetop-Lakeside, consistent with its commitment to provide equal employment opportunities, will not tolerate any form of employee harassment or discrimination, including sexual harassment, harassment or discrimination based upon race, national origin, religion, age, or disability.

- A. **Sexual Harassment.** Sexual harassment is defined as any unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.
- B. **Other Harassment or Discrimination.** Other harassment or discrimination, which may become the basis for a legally recognized cause of action against the Town or one of its officers or employees, is also covered by this policy. It includes but is not limited to harassment based on race, national origin, religion, age or disability.
- C. All supervisors and managers are responsible for maintaining an atmosphere free from harassment or discrimination.

**Section 1202 – EMPLOYEE, DUTY TO REPORT**

Any employee who feels that he or she has been harassed or discriminated against should immediately contact either the director of the department in which he or she works or the Personnel Director and report the harassing or discriminatory behavior. If the employee's allegations involve the Personnel Director, Town Manager, the employee shall report to the behavior to the Mayor.

**Section 1203 – OTHER EMPLOYEE, DUTY TO REPORT**

All other employees, including supervisors or managers who become aware of possible harassment or discrimination of an employee, either as a result of having received a complaint directly from the employee or from any other reliable source of information, shall report the behavior to the department director, the Personnel Director (if designated), or the Town Manager.

**Section 1204 – INVESTIGATION**

The Personnel Director is responsible for investigating any complaint of harassment or discrimination promptly and thoroughly. Following the investigation, the Personnel Director shall take appropriate corrective action on all violations of this policy against harassment.

**Section 1205 – NO REPRISALS**

No reprisals of any kind shall be taken against a complaining employee or a witness who in good faith has reported or has assisted in any way in the investigation of a harassment/discrimination complaint.

**Section 1206 – PENALTIES**

Depending upon all of the circumstances, a violation of this policy against harassment may result in discipline up to and including dismissal.

**Section 1207 – FALSE ACCUSATIONS**

The Town also recognizes that false accusations of harassment may have serious effects on innocent individuals. Any employee who knowingly files a false charge of harassment or who knowingly gives false or misleading information that leads to or takes place during an investigation shall be subject to disciplinary action up to and including dismissal. No action will be taken against a person who makes a complaint of harassment in good faith even if an investigation fails to substantiate the complaint.

**ARTICLE XIII  
GRIEVANCE PROCEDURE**

**Section 1301 – GRIEVANCE**

A grievance is a circumstance other than suspension, demotion, dismissal, or harassment. A grievance is intended for use under circumstances that are reasonably believed by the employee to be unjust. A grievance may be informal or formal. An informal grievance can be made verbally to an employee’s immediate supervisor or department director as set forth in Section 1302, below. A formal grievance shall be in writing and shall be filed with the Town Manager as set forth in Section 1303.

## **Section 1302 – INFORMAL GRIEVANCE**

When an employee has a grievance, he/she should first discuss the grievance with his/her supervisor. If the grievance is not resolved after discussion with the employee's immediate supervisor, the employee may go to the department director. Discussions with an employee's immediate supervisor or the department director may be handled informally and without the filing of a written grievance. If, at any time, the employee decides to formalize the grievance by putting it in writing, the written grievance shall be immediately filed with the Town Manager.

## **Section 1303 – FORMAL GRIEVANCE, WRITTEN**

All written grievances should be filed with the Town Manager as soon as possible after the incident that gave rise to the grievance and no later than twenty (20) calendar days after the incident.

## **Section 1304 – GRIEVANCE PROCEDURES**

The following procedures should be followed when any employee desires to express a grievance:

- A. An employee who has a grievance shall first present his/her grievance orally to his/her immediate supervisor so that an effort can be made to settle the grievance through informal discussion. Every effort shall be made by the employee and the supervisor to resolve all complaints on an informal basis. Supervisors are encouraged to notify their department directors or the Personnel Director when an oral grievance is presented in order to help settle such grievances on an informal basis.
- B. If, after informal discussion with the employee's supervisor, the grievance has not been satisfactorily resolved, the employee may discuss the grievance with the department director. The department director and the employee shall make every effort to resolve the grievance on an informal basis as soon as practicable.
- C. If an employee grievance cannot be informally resolved after discussing the grievance with supervisors up to the department director level, the employee may file a formal written grievance by delivering it to the Town Manager as soon as possible, and in no event later than twenty (20) days after the incident, which gave rise to the grievance. A copy of the formal written grievance shall be delivered to the employee's department director.
- D. The department director has five (5) business days from the filing of the grievance, to render a written, dated response to the employee's grievance that will be filed with the Town Manager with a copy to the employee. This written response should indicate, at a minimum, the following:
  1. The date(s) the department director and the employee discussed the grievance.
  2. The department director's suggested resolution or partial resolution of the grievance.

3. The basis for the department director's suggested resolution.
  4. Upon receipt of the employee's written grievance and the department director's response, the Town Manager or Personnel Director may conduct any other investigation and review deemed appropriate.
- E. The Personnel Director should meet with the employee and the appropriate supervisors and/or other personnel, individually or together, and seek to resolve the grievance as soon as possible, typically no later than fifteen (15) days after receipt of the employee grievance and department director response. Normally within seven (7) business days of the completion of the Personnel Director's investigation and the meetings with the employee and the appropriate supervisors, the Town Manager or Personnel Director will render a written decision that will be final and binding.
- F. In no event will an employee, except the Town Manager or Personnel Director, discuss employment grievances with members of the Town Council.
- G. Depending upon all of the circumstances, a violation of this grievance procedure may result in discipline up to and including dismissal.

**ARTICLE XIV  
ADMINISTRATION OF THE RULES**

**Section 1401 – RESPONSIBILITY**

The responsibility for the administration and interpretation of these Rules and Regulations rests solely within the discretion of the Town Manager.

PASSED, APPROVED AND ADOPTED by the Council of the Town of Pinetop-Lakeside this 20<sup>th</sup> day of July, 2017.



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