



City of Avondale

City Council Online Meeting

Monday, March 1, 2021

Mayor and Council

Kenneth Weise, Mayor

Veronica Malone, Vice Mayor

Tina Conde, Council Member | Pat Dennis, Council Member

Bryan Kilgore, Council Member | Curtis Nielson, Council Member

Mike Pineda, Council Member

Administration

Charles A. Montoya, City Manager

Gina Montes, Assistant City Manager

Tracy Stevens, Deputy City Manager | Cherlene Penilla, Deputy City Manager

Nicholle Harris, City Attorney | Marcella Carrillo, City Clerk

Online Meeting

Join the meeting and view presentations: <https://avondaleaz.zoom.us/j/3083557784>

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**City Council Online Meeting
Notice & Agenda
Monday, March 1, 2021**

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Request to Speak: Anyone wishing to address the Council regarding items listed on the agenda or under unscheduled public appearance should email their comments to CityClerk@AvondaleAZ.gov prior to consideration of that agenda item.

REGULAR MEETING

6:00 PM

CALL TO ORDER BY MAYOR

PLEDGE OF ALLEGIANCE & MOMENT OF REFLECTION

1. ROLL CALL AND STATEMENT OF PARTICIPATION BY THE CITY CLERK

2. UNSCHEDULED PUBLIC APPEARANCES

(Limit three minutes per person. Please state your name.)

3. CONSENT AGENDA

Items on the consent agenda are of a routine nature or have been previously studied by the City Council at a work session. They are intended to be acted upon in one motion. Council members may pull items from consent if they would like them considered separately.

a. MINUTES

City Council will consider a request to approve the January 19, 2021 City Council Meeting Minutes. The Council will take the appropriate action.

b. FINANCIAL ASSISTANCE AGREEMENT WITH ARIZONA COMPLETE HEALTH (AZCH)

City Council will consider a request to approve the Financial Assistance Agreement with Arizona Complete Health Arizona, Inc. (AzCH) to receive funds for operation of the Arizona Complete Health Avondale Resource Center in the amount of \$329,304.13 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

c. ORDINANCE 2014-0321 DEDICATION OF A POWER DISTRIBUTION EASEMENT TO SALT RIVER PROJECT

City Council will consider a request to adopt Ordinance 2014-0321 dedicating a Power Distribution Easement to Salt River Project at two locations along Fairway Drive north of Van Buren Street, and authorize the Mayor or City Attorney, and City Clerk to execute the necessary documents. The Council will take the appropriate action.

d. RESOLUTION 1014-0321 AND ORDINANCE 2013-0321 - AMENDMENTS TO THE CITY OF AVONDALE PERSONNEL POLICIES AND PROCEDURES

City Council will consider a request to (a) adopt Resolution 1014-0321 declaring the "February 16, 2021, Amendments to the City of Avondale Personnel Policies and Procedures Manual" document a public record; and (b) adopt Ordinance 2013-0321 adopting by reference the "February 16, 2021, Amendments to the City of Avondale Personnel Policies and Procedures Manual"; amending the Personnel Policies and Procedures which include updates to comply with changes in federal and state law and to align policies with current practices and; (c) authorize the Mayor, City Attorney and the City Clerk to execute the necessary documents. The Council will take appropriate action.

4. ADJOURNMENT INTO EXECUTIVE SESSION

City Council will consider a request to adjourn the regular meeting and hold an executive session pursuant to Ariz. Rev. Stat. § 38--431.03(A)(3) for the purpose of obtaining legal advice from the designated attorneys of the public body regarding a contract with the Arizona Metropolitan Trust (AzMT).

Council Members of the City of Avondale will attend either in person or by telephone conference call. Individuals with special accessibility needs, including sight or hearing impaired, large print, or interpreter, should contact the City Clerk at 623-333-1200 or TDD 623-333-0010 at least two business days prior to the Council Meeting.

Los miembros del Concejo de la Ciudad de Avondale participaran ya sea en persona o por medio de llamada telefonica. Personas con necesidades especiales de accesibilidad, incluyendo personas con impedimentos de vista u oido, o con necesidad de impresion grande o interprete, deben comunicarse con la Secretaria de la Ciudad at 623-333-1200 o TDD 623-333-0010 cuando menos dos dias habiles antes de la junta del Concejo.

CITY COUNCIL REPORT

SUBJECT: Minutes

MEETING DATE: 3/1/2021

TO: Mayor and Council

FROM: Marcella Carrillo, City Clerk, (623) 333-1214

THROUGH: Cherlene Penilla, Deputy City Manager, 623-333-1015

REVIEWED: Charles A. Montoya, City Manager, (623) 333-1016

PURPOSE:

City Council will consider a request to approve the January 19, 2021 City Council Meeting Minutes. The Council will take the appropriate action.

BACKGROUND:

n/a

DISCUSSION:

n/a

BUDGET IMPACT:

This item has no budget impact.

RECOMMENDATION:

Staff recommends City Council approve the January 19, 2021 City Council Meeting Minutes.

MINUTES OF THE AVONDALE CITY COUNCIL
CITY OF AVONDALE, ARIZONA
ONLINE MEETING
January 19, 2021

A **Work Session** of the City Council of the City of Avondale, Arizona was convened using the Zoom Cloud Meeting platform in open and public session at 6:37 p.m. All participants attended by phone or video.

Members Present: Mayor Kenn Weise; Vice Mayor Veronica Malone; Council Members Tina Conde, Bryan Kilgore, Curtis Nielson, and Mike Pineda.

Members Absent: Council Member Pat Dennis.

Other Municipal Officials Present: Charles Montoya, City Manager; Gina Montes, Assistant City Manager; Tracy Stevens, Deputy City Manager; Cherlene Penilla, Deputy City Manager; Nicholle Harris, City Attorney; Marcella Carrillo, City Clerk; Kirk Beaty, Public Works Director; Ken Chapa, Economic Development Services Director; Lindsey Duncan, Finance and Budget Director; Bryan Hughes, Parks and Recreation Director; Callie McGraw, Interim Human Resource Director; Kevin Murphy, Development and Engineering Services Director; Dale Nannenga, Police Chief; Jeffrey Scheetz, Chief Information Officer; and Pier Simeri, Marketing and Public Relations Director.

Audience: Approximately five members of the public were present.

1. ROLL CALL BY THE CITY CLERK

Mayor Weise took a moment to apologize to Council Member Nielson and to the rest of Council for his oversight in recognizing past Vice Mayor, Sandi Nielson, during the January 1st City Council meeting.

2. CITY'S 2021 STRATEGIC PLAN

City Council reviewed the final draft of the Five-Year Strategic Plan that will guide internal performance management, budget development and external service delivery.

Tracy Stevens, Deputy City Manager, stated that the new Strategic Plan was launched in July 2020 with the Novak Group. The current plan is in draft form and will continue the long-term vision set in the 2016 plan but will have new priorities formed by the strategic outcome areas. The plan will guide internal performance management in terms of setting the budget and providing services to the community and residents. The plan will also provide a direct link to the two plans under development now, including the economic vitality plan and the tourism plan. These will be presented in the coming months and will be implemented by the economic development department and marketing departments.

Community outreach is very important to both the City and Council; therefore, community outreach has shaped the plan in the summary of engagement. Outreach included

surveys, individual interviews with department heads, City management and City Council. A virtual community summit was held on August 27th and 35 participants from the community participated. A staff retreat and a City Council strategic planning retreat were held. The Novak Group included feedback from these events in the Plan.

Priorities of focus included economic development, neighborhood and community development, safe communities, entertainment, recreational opportunities, infrastructure, human services, responsive government and keeping citizens informed.

Seven strategic outcomes were identified:

1. Creative and sustainable community development
2. Diverse recreation and entertainment opportunities
3. Community-Oriented lifelong learning opportunities
4. Innovative program and service delivery
5. Connected community
6. Public health and safety
7. Natural resources and open space

Next steps include feedback from Council by January 31st with final City Council approval on February 16th. Once the plan is approved, the subsequent steps include working with a Strategy Blocks software, via a contract through the Novak Group. The software facilitates tracking and accountability for the strategic outcomes. The target date for initiation is March 1, 2021. Implementation and tracking of each strategy will commence on July 1, 2021. Ms. Stevens stated that each strategic outcome in the Plan will have a number of strategies associated with it. Utilizing the Strategy Blocks software, each department will have an action item associated with each strategy. This will form their department work plan.

Mayor Weise asked Council to email all questions regarding the Strategic Plan to staff by January 31st.

Council Member Nielson requested more information on matching the projects with the strategic plan. Ms. Stevens stated each strategic outcome will have a number of strategies under it. Each department will have an action item attached to the strategies. This will then be included in a department workplan which documents how the strategic plan is fulfilled. Council Member Nielson recommended that staff use the names of the strategic initiatives instead of the assigned number in the future.

Council Member Conde and Council Member Pineda did not have any questions. Comments will be forwarded to staff.

Council Member Kilgore thanked Ms. Stevens for the presentation and expressed his appreciation to staff for their hard work on the project. He commented positively on the Wi-Fi expansion and partnerships within the plan, stating those items looked promising.

Vice Mayor Malone and Mayor Weise did not have any questions. Questions and comments will be forwarded to staff.

3. ADJOURNMENT

There being no further business before the Council, Council Member Kilgore moved to adjourn the Work Session meeting; Council Member Pineda seconded the motion.

Upon vote, the motion was carried unanimously 6 to 0.

Council Member Conde	Aye
Council Member Kilgore	Aye
Council Member Nielson	Aye
Council Member Pineda	Aye
Vice Mayor Malone	Aye
Mayor Weise	Aye

Meeting adjourned at 6:52 p.m.

A **Regular Meeting** of the City Council of the City of Avondale, Arizona was convened using the Zoom Cloud Meeting platform in open and public session at 7:01 p.m. All participants attended by phone or video.

Mayor Kenn Weise led the Pledge of Allegiance, following a moment of silent reflection for members of the police force, who have had a tragic week.

Members Present: Mayor Kenn Weise; Vice Mayor Veronica Malone; Council Members Tina Conde, Bryan Kilgore, Curtis Nielson, and Mike Pineda.

Members Absent (Excused): Council Member Pat Dennis.

Other Municipal Officials Present: Charles Montoya, City Manager; Gina Montes, Assistant City Manager; Tracy Stevens, Deputy City Manager; Cherlene Penilla, Deputy City Manager; Nicholle Harris, City Attorney; Marcella Carrillo, City Clerk; Kirk Beaty, Public Works Director; Ken Chapa, Economic Development Services Director; Lindsey Duncan, Finance and Budget Director; Bryan Hughes, Parks and Recreation Director; Callie McGraw, Interim Human Resource Director; Kevin Murphy, Development and Engineering Services Director; Dale Nannenga, Police Chief; Jeffrey Scheetz, Chief Information Officer; and Pier Simeri, Marketing and Public Relations Director.

Audience: Approximately 30 members of the public were present.

1. ROLL CALL AND STATEMENT OF PARTICIPATION BY THE CITY CLERK

2. UNSCHEDULED PUBLIC APPEARANCES

None.

3. RECOGNITION ITEMS

a. EXCEPTIONAL STUDENT OF AVONDALE RECOGNITION (AVI STAR STUDENT)

The Mayor and City Council recognized Avondale students from all six school districts located in Avondale for their character and achievement.

Donna Gardner, Community Engagement Manager, presented the Exceptional Student of Avondale nominations:

- Jonah Pacheco from Agua Fria High School District
- Faith Porter from Avondale Elementary School District
- Blake Blaylark from Litchfield Elementary School District
- Kennie Williams from Littleton Elementary School District
- Diego Rinesmith from Pendergast Elementary School District
- Roxana Del Toro Miranda from Tolleson Union High School District

Mayor Weise expressed, on behalf of Council, pride and encouragement at the accomplishments and character of the nominated students.

Council Members each congratulated the students for their accomplishments and provided advice and guidance.

4. CONSENT AGENDA

Items on the consent agenda are of a routine nature or have been previously studied by the City Council at a work session. They are intended to be acted upon in one motion. Council members may pull items from consent if they would like them considered separately.

Mayor Weise asked if any Council Member wished to have an item removed from the Consent Agenda. Having no requests from Council, motion was made by Council Member Nielson, seconded by Council Member Conde, to approve the Consent Agenda.

Upon vote, the motion carried unanimously 6 to 0.

Council Member Conde	Aye
Council Member Kilgore	Aye
Council Member Nielson	Aye
Council Member Pineda	Aye
Vice Mayor Malone	Aye
Mayor Weise	Aye

a. MINUTES

City Council approved the December 7, 2020 City Council Meeting Minutes.

b. RESOLUTION 1006-0121 - COUNCIL CODE OF CONDUCT

City Council adopted Resolution 1006-0121, approving a Code of Conduct outlining the standards of conduct for councilmembers when representing the City of Avondale.

c. PRESENTATION OF THE AUDIT REPORT

City Council accepted the City's Comprehensive Annual Financial Report and the results of the annual audit for the fiscal year ended June 30, 2020.

d. SIXTH AMENDMENT TO JOB ORDER CONTRACT - SCHOFIELD CIVIL CONSTRUCTION AND BUDGET TRANSFER REQUEST - RILEY LIFT STATION RELOCATION

City Council approved an amendment to job order contract number 19-097C with Schofield Civil Construction, LLC, adding job order number six (6) for the construction of the Riley Drive Wastewater Lift Station in the amount of \$738,611; approved a budget amendment in the amount of \$340,000; and authorized the Mayor, or City Manager and City Clerk to execute the necessary documents.

e. RESOLUTION 1003-0121 - AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT WITH MARICOPA COUNTY ADMINISTERED BY THE HUMAN SERVICES DEPARTMENT

City Council adopted Resolution 1003-0121, approving an amendment to an Intergovernmental Agreement with the Maricopa County Human Services Department for the provision of the Community Action Program (CAP) services, and authorized the Mayor or City Manager and City Clerk to execute the necessary documents.

f. RESOLUTION 1004-0121 - FOURTH AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PHOENIX FOR RECYCLING SERVICES

City Council adopted Resolution 1004-0121, authorizing the Fourth Amendment to the Intergovernmental Agreement with the City of Phoenix for recyclable materials processing services and authorized the Mayor, or City Manager and City Clerk to execute the necessary documents.

g. ORDINANCE 2003-0121- SIXTH AMENDMENT TO THE OFFICE LEASE WITH THE UNIVERSITY OF MEDICAL SCIENCES ARIZONA

City Council adopted Ordinance 2003-0121, approving the Sixth Amendment to the Office Lease with the University of Medical Sciences Arizona to remain in the space on a month to month lease until June 30, 2021 and authorized the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents.

h. ORDINANCE 2004-0121 - DEDICATION OF PUBLIC UTILITY EASEMENT (PUE) FROM THE PENDERGAST SCHOOL DISTRICT

City Council adopted Ordinance 2004-0121, authorizing the dedication of a Public Utility Easement (PUE) on Palm Lane from 118th Avenue to 116th Drive adjacent to Canyon Breeze Elementary School, owned by the Pendergast School District No. 92, and authorized the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents.

i. ORDINANCE 2005-0121 - RECREATIONAL MARIJUANA REGULATIONS - CHAPTER 15 OF AVONDALE CITY CODE

City Council adopted Ordinance 2005-0121, amending Chapter 15 of the Avondale City Code relating to the regulation of recreational marijuana and authorized the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents.

j. ORDINANCE 2006-0121 - DECLARING AS A PUBLIC RECORD AND ADOPTING THE AVONDALE AMENDMENTS TO THE 2018 INTERNATIONAL FIRE CODE.

City Council adopted Ordinance 2006-0121 declaring the 2018 International Fire Code and the 2021 Avondale Specific Amendments to the 2018 International Fire Code as public record and adopted them by reference and authorized the Mayor or City Manager, City Attorney and City Clerk to execute the necessary documents.

k. PENA MINOR LAND DIVISION - 1ST STREET AND HARRISON DRIVE - APPLICATION PL-20-0252

City Council approved a request by Mr. Miguel Pena, of Dynamic Homez LLC, for approval of a Minor Land Division (MLD) to split an existing single lot into two (2) separate lots and dedicate public utility easements along Harrison Drive and 1st Street. The site is approximately 0.4 gross acres in size and located at the southwest corner of 1st Street and Harrison Drive.

5. REGULAR AGENDA

a. PUBLIC HEARING - REQUEST OF WITHDRAW OF APPLICATION PL-20-0167 - ZONING TEXT AMENDMENT - SECTION 1303.B MEDICAL MARIJUANA DISPENSARY HOURS OF OPERATION

City Council considered a request to withdraw application PL-20-0167, a request by Ms. Lauren Niehaus, Harvest Health & Recreation, Inc., for a text amendment to the Zoning Ordinance, Section 1303.B (Medical Marijuana Uses/Requirements), extending the permitted hours of operation of medical marijuana dispensaries from 8:00 P.M. to 10:00 P.M. In a letter dated December 23, 2020, the applicant has requested a withdrawal of this item.

Council Member Nielson moved to approve a withdrawal of Application PL-20-0167, as requested by the applicant; Council Member Kilgore seconded the motion.

Upon vote, the motion was carried unanimously 6 to 0.

Council Member Conde	Aye
Council Member Kilgore	Aye
Council Member Nielson	Aye
Council Member Pineda	Aye
Vice Mayor Malone	Aye
Mayor Weise	Aye

b. PUBLIC HEARING – RESOLUTION 1005-0121 AND ORDINANCE 2007-0121 – CITY OF AVONDALE MARIJUANA USES - APPLICATION PL-20-0260

City Council held a public hearing and considered a request to adopt Resolution 1005-0121, declaring as a public record a document entitled City of Avondale Marijuana Uses Regulations, and adopt Ordinance 2007-0121, adopting the aforementioned document as Section 13 of the Zoning Ordinance and revising Sections 1 and 13 relating to Marijuana Uses. The Council will take appropriate action. The amendments to Avondale Zoning Ordinance Section 1 (Administration and Procedures) and Section 13 (Marijuana Uses), will allow for continued refinement of the Zoning Ordinance to address a recently approved ballot initiative related to marijuana establishments and clarify restrictions for marijuana related uses and operations.

Brian Craig, Planning Manager, provided a brief summary of the background. This agenda item is in direct response to the voter approved Proposition 207, specifically related to recreational marijuana. The presentation concerns items related to the land use aspects of the marijuana ordinance update. The consent agenda approved code amendments relating to recreational marijuana. This item includes an update to Section 13 of the Zoning Ordinance. Section 1 is being updated as it relates to the definitions for marijuana establishments. The term marijuana cultivation location is removed as it is now folded within the marijuana establishment definition. Section 1302 is being updated as it relates to allowed locations for marijuana usage. There is a separation requirement of 2,000 feet from other similar facilities.

There is a prohibition on new marijuana establishments, unless operating as a dual licensee. Section 1303 details existing regulations regarding floor area limitations for marijuana operations. Section 1304 addresses qualified patient and caregiver cultivation at their home location. Section 1305 is a companion to Section 1303 regarding the floor area regulations. Section 1306 includes existing operational requirements for medical marijuana dispensaries. Hours of operation remain at 9:00 a.m. to 8:00 p.m. These regulations, the suggested amendments to the zoning ordinance, and the amendments to the City Code are directly related to the League of Arizona Cities template.

Mayor Weise opened the public hearing and did not receive any requests to speak. Mayor Weise closed the public hearing and did not receive any comments from Council.

Mayor Weise noted there were 131 dispensaries who applied for a recreational marijuana license and the state are looking at those applications now.

There were no additional comments from Council.

Council Member Pineda moved to adopt Resolution 1005-0121 declaring as a public record a document entitled "City of Avondale Marijuana Uses Regulations"; Council Member Nielson seconded the motion.

Upon vote, the motion was carried unanimously 6 to 0.

Council Member Conde	Aye
Council Member Kilgore	Aye
Council Member Nielson	Aye
Council Member Pineda	Aye
Vice Mayor Malone	Aye
Mayor Weise	Aye

Council Member Conde moved to adopt Ordinance 2008-0121 adopting the aforementioned document as Section 13 of the Zoning Ordinance and revising Sections 1 and 13 relating to Marijuana Uses; Vice Mayor Malone seconded the motion.

Upon vote, the motion was carried unanimously 6 to 0.

Council Member Conde	Aye
Council Member Kilgore	Aye
Council Member Nielson	Aye
Council Member Pineda	Aye
Vice Mayor Malone	Aye
Mayor Weise	Aye

c. FULTON HOMES ACCLAIM - PRELIMINARY PLAT - 99TH AVENUE AND THOMAS ROAD - APPLICATION PL-20-0198

City Council will consider a request by Mr. Josh Hannon, EPS Group, Inc., for approval of a Preliminary Plat for Fulton Homes Acclaim, a proposed 581-lot single-family residential subdivision on approximately 153.20 gross acres at the northwest corner of 99th Avenue and Thomas Road. The Council will take appropriate action.

Brian Craig, Planning Manager, reviewed that City Council had the opportunity to discuss the Fulton Homes Acclaim rezone and General Plan amendment in October of 2020. The item is being presented tonight for the preliminary plat for approval. The site is located at 99th Avenue and Thomas Road, consisting of approximately 153 gross acres. It is now zoned Fulton Homes Acclaim PAD for single family residential development. To the west is the Glenarm Farms rural estates. To the south is the Holy Cross Cemetery and Mortuary. To the east, across 99th Avenue is within the jurisdiction of the City of Phoenix

and planned for future mixed use residential and commercial. The Parkside Development with over 600 single family lots is to the north. The development proposes three lot sizes with a total of 581 lots and a total 146 net acres, with 35 open space acres.

There is a central open space, long linear open space on the west side of the site and improvements to landscaping and sidewalk along 99th Avenue and Thomas Road. The development is planned in two phases, with the offsite improvements provided in phase one. Offsite requirements include an additional north/south lane along 99th Avenue, restriping 99th Avenue to a five-lane section, undergrounding the SRP Canal that runs along 99th Avenue, installation of deceleration lanes into the development on Thomas Road and 99th Avenue, sidewalk and landscaping along 99th Avenue, and the installation of a sewer lift station.

Amenities within the community include a community pool, restrooms, off-street parking, a clubhouse, shaded tot lot, sport courts, seating, shading, stage, sand volleyball court, pickleball court and pocket parks. The trail and widened sidewalk network were reviewed, including three pedestrian connections to the Parkside Development to the north.

The development proposes 581 lots with a mix of one and two-story homes, 19 floor plans, four elevations, and four different color schemes per elevation, and varying roof tile designs. The proposed development conforms with the approved PAD approved by Council in October 2020. Staff believes it conforms to the zoning ordinance and subdivision regulations. It is compatible with adjacent land uses and provides adequate transition to the estate residential to the west. Adequate school facility certificates are on file. Staff recommends approval of this item.

Council Member Kilgore thanked Mr. Craig and staff for their hard work on this project, which he described as visually pleasing and a nice addition to the City. He addressed the trails, stating he liked how they connected to the sidewalks and streets which he described as a nice amenity. He stated the texture and color pallets of the homes were very visually pleasing. He was glad staff reached out to the Pendergast and Tolleson school districts to ensure there is adequate capacity, stating that is one thing that is near and dear to the Council. Since everything is online, he noted the importance of ensuring there is good Wi-Fi in the area.

Council Member Conde asked about additional parking availability for the large open space centered in the community. Mr. Craig confirmed that there will be parking on both sides of the central open space. He noted a rough estimate of 100 parking spaces. Council Member Conde noted the development will be a wonderful addition to the City.

Council Member Pineda commented that this development is a great option in terms of bringing additional housing opportunities to Avondale residents.

Council Member Nielson inquired on the pedestrian crossings and asked whether the streets will be wide enough to accommodate emergency vehicles. Mr. Craig provided

additional information regarding the locations of the pedestrian crossing. He said the fire marshal has reviewed the plan and deemed it adequate for this purpose. In response to a question from Council Member Nielson, Mr. Craig stated that the central park location is called the Great Event Lawn and will include a stage and ramada. There will be a play structure on the south end of the site.

Vice Mayor Malone commented that the quality of the development and its open space is a great addition to the community, as is the opportunity to select from many design options.

Mayor Weise commented on the longevity and quality of Fulton Homes developments around the Valley. He spoke positively on the 100 parking spaces at the park as parking along the street has been a concern of his. He stressed the need for sound buffering on 99th Avenue due to the high-traffic area. Mr. Montoya stated that due to the need to tile the canal in the area, the houses will be set back at a greater distance than they normally would be.

Council Member Pineda moved to approve Application PL-20-0198 Preliminary Plat for the Fulton Homes Acclaim development subject to the four (4) recommended conditions as listed in the staff report; Council Member Kilgore seconded the motion.

Upon vote, the motion was carried unanimously 6 to 0.

Council Member Conde	Aye
Council Member Kilgore	Aye
Council Member Nielson	Aye
Council Member Pineda	Aye
Vice Mayor Malone	Aye
Mayor Weise	Aye

6. ADJOURNMENT

There being no further business before the Council, Council Member Nielson moved to adjourn the Regular Meeting; Council Member Conde seconded the motion.

Upon vote, the motion was carried unanimously 6 to 0.

Council Member Conde	Aye
Council Member Kilgore	Aye
Council Member Nielson	Aye
Council Member Pineda	Aye
Vice Mayor Malone	Aye
Mayor Weise	Aye

Meeting adjourned at 7:52 p.m.

Kenn Weise, Mayor

CERTIFICATION AND ATTESTATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Work Session and Regular Meeting of the Council of the City of Avondale held on the 19th day of January 2021. I further certify that the meeting was duly called and held, and that the quorum was present.

Marcella Carrillo, City Clerk

Date Approved by City Council

CITY COUNCIL REPORT

SUBJECT: Financial Assistance Agreement with Arizona Complete Health (AzCH)

MEETING DATE: 3/1/2021

TO: Mayor and Council

FROM: Chris Lopez, Neighborhood & Family Services Director, (623) 333-2711

THROUGH: Cherlene Penilla, Deputy City Manager, 623-333-1015

REVIEWED: Charles A. Montoya, City Manager, (623) 333-1016

PURPOSE:

City Council will consider a request to approve the Financial Assistance Agreement with Arizona Complete Health Arizona, Inc. (AzCH) to receive funds for operation of the Arizona Complete Health Avondale Resource Center in the amount of \$329,304.13 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

In 2008, the City entered into an agreement with Care1st Health Plan Arizona to operate a resource center with the support of financial sponsorship. The former Old Town Library building was available and with relatively minor renovations was converted into a resource and housing center.

The first of its kind in the Southwest Valley, this multifaceted hub for human services was established in 2009 through an innovative public and private partnership between Care1st Health Plan Arizona, the City of Avondale and First Things First. Approximately 61 agencies provide an array of services to include, health insurance enrollment, nutrition services, financial and emergency assistance, rental/ mortgage assistance, utility assistance, parenting and early childhood development classes.

Due to growing community needs, the center has moved to a new facility that has significantly increased the size of the previous space. Arizona Complete Health has assumed all programs and services in Maricopa County that Care1st Health Plan of Arizona previously operated.

With funding from Arizona Complete Health, Neighborhood and Family Services staff will continue to identify needed human services and recruit agencies which provide the services needed in the community. The creation of the resource center has complimented the revitalization efforts in Historic Avondale and has attracted other human services funding, specifically from First Things First.

DISCUSSION:

The resource center is managed by staff of the Neighborhood and Family Services Department (NFS). In response to the transition into the new facility and the anticipated increase in client volume, NFS staff have worked with AzCH to increase funding by 89 percent from the amount provided in the previous calendar year.

The information listed below is a summary of how the financial support provided by Arizona Complete Health (AzCH) will be utilized.

Funding from AzCH will provide:

- Support the salary of the Resource Center Coordinator who is a City employee and is responsible for the day to day center operations
- Janitorial services and supplies, facility and grounds maintenance, including upkeep of the interior garden
- General office supplies, meeting supplies, postage, printing, risk management, repair and maintenance of equipment, IT replacement charges, and utilities
- ****NEW**** -Two full time staff members who will be a City employees and will serve in a reception/clerical capacity and be supervised by the Family Services Manager

Joint City of Avondale and AzCH Responsibilities:

- Work together to provide a comprehensive marketing plan to create awareness by residents in the Southwest Valley of the services provided in the resource center
- Work together to provide an evaluation plan which will provide both AzCH and the City with accurate, timely, and comprehensive evaluation data

BUDGET IMPACT:

AzCH will provide a total of \$329,304.13 for calendar year 2021. Appropriations will be transferred from the grant contingency account 209-5300-00-6990 to 209-7510.

RECOMMENDATION:

Staff recommends that the City Council approve the Financial Assistance Agreement with Arizona Complete Health to receive funding for operation of the AzCH Avondale Resource Center in the amount of \$329,304.13 and authorize the Mayor or City Manager and City Clerk to execute the necessary documents.

**FINANCIAL ASSISTANCE AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
HEALTH NET OF ARIZONA, INC.
D/B/A
ARIZONA COMPLETE HEALTH**

THIS FINANCIAL ASSISTANCE AGREEMENT (this “Agreement”) is made as of February 16, 2021, between the City of Avondale, an Arizona municipal corporation (the “City”) and Health Net of Arizona, Inc., an Arizona corporation d/b/a Arizona Complete Health (the “Provider”). The City and Provider are also referred to herein individually as a “Party” or collectively as the “Parties”.

RECITALS

A. Provider is a health insurance provider that offers healthcare related support and services to eligible members enrolled in programs such as Arizona Health Care Cost Containment System, Arizona’s Marketplace and Medicare.

B. Provider desires to promote and provide information regarding its services to residents in the southwestern valley region.

C. The City owns and operates a resource center to provide convenient and comprehensive human and housing services (the “Services”) to residents of the southwestern valley region (the “Resource Center”) located at 995 E. Riley, Avondale, Arizona (the “Facility”).

D. Provider desires to provide funding to the City to support the City’s operation of the Resource Center, including improving and maintaining the Facility to accommodate the Resource Center.

E. The Parties desire to enter into this Agreement to set forth their respective rights and obligations with respect to the operation and maintenance of the Resource Center.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. **City’s Obligations.**

1.1. **Facility Use.** The City will provide the Facility for use as the Resource Center. The City will allow Provider to utilize the Resource Center at no charge for: (i) health education programs; (ii) meetings (A) of Provider’s internal staff, (B) between Provider’s staff

and current or potential enrollees and (C) between Provider's staff and members of the community; and (iii) related to Provider's community outreach activities.

1.2. Facility Name. The City will name the Resource Center the "Arizona Complete Health Avondale Resource Center at the Marie Lopez Rogers Complex."

1.3. Service Providers at Resource Center. The City will identify, recruit and contract with agencies and organizations that provide human and housing services to operate out of the Resource Center.

1.4. Resource Center Coordinator. The City will hire a Resource Center Coordinator who will manage the day-to-day operations of the Resource Center and serve as a liaison for the service providers and clients.

1.5. Facility Operations and Maintenance. The City will facilitate the Facility operations and maintenance and arrange for the services that will be paid for by Provider.

1.6. Reporting Requirements. The City will provide a regular financial reconciliation report accounting for all expenditures to the Provider according to the schedule set forth in the Financial Reporting Schedule, attached hereto as Exhibit B and incorporated herein by reference. Upon request of Provider, the City shall provide receipts or other documentation of expenditures reported as part of the financial reconciliation. The City will also provide a monthly demographic report using mutually agreed upon demographic information fields from all intake forms collected from the community that is required before receiving services. The demographic report will identify any Arizona Complete Health members, in compliance with HIPAA and confidentiality requirements.

2. Provider's Obligations.

2.1. Funding for Operations. Provider shall provide funding to the City in the amount of \$265,645 to support the City in maintaining and operating the Resource Center as set forth in Exhibit A. This amount will be used at the City's discretion to pay for any items listed in the Resource Center budget, which shall be mutually approved by the City and the Provider. If the City's costs exceed the amount as set forth in Exhibit A, Provider shall not be held responsible nor shall it be obligated to provide funding beyond the amount set forth in Exhibit A, unless the Parties have agreed to additional funding pursuant to a written amendment to this Agreement.

2.2. City Staff Members. Provider shall provide \$63,659.15 as set forth in Exhibit A for support staff members who will be employees of the City and work under the supervision of the City's Family Services Manager.

2.3. Payment. Provider shall provide the funding in Subsection 2.1 and Subsection 2.2 to the City in accordance with the Payment Schedule as set forth in Exhibit A.

3. Joint Obligations of the City and Provider.

3.1. Marketing Plan. The City and Provider will jointly develop a marketing plan to promote the Services provided in the Resource Center to residents in the southwestern valley region.

3.2. Evaluation Plan. The City and Provider will jointly develop an evaluation plan that will provide both the City and Provider with accurate, timely, and comprehensive evaluation data.

4. Term of Agreement.

4.1. Initial Term. This Agreement shall be retroactively effective as of January 1, 2021 and shall remain in full force and effect until December 31, 2021 (the “Initial Term”), unless terminated as otherwise provided in this Agreement.

4.2. Renewal Terms. After the expiration of the Initial Term, this Agreement may be renewed for successive one-year terms (each, a “Renewal Term”), as evidenced in a writing signed by the Parties. The Initial Term and any Renewal Term(s) are collectively referred to herein as the “Term.” Upon renewal, the terms and conditions of this Agreement shall remain in full force and effect.

4.3. Non-Default. By executing a writing for a Renewal Term or consenting to a Renewal Term in any manner, Provider shall be deemed to affirmatively assert that (i) the City is not currently in default, nor has been in default at any time prior to the Renewal Term, under any of the terms or conditions of the Agreement and (ii) any and all of the Provider’s claims, known and unknown, relating to the Agreement and existing on or before the commencement date of the Renewal Term are forever waived.

5. Termination.

5.1. For City’s Convenience. This Agreement is for the convenience of the City and, as such, may be terminated without cause 60 days after receipt by Provider of written notice by the City. In the event the City terminates this Agreement for convenience, the City will return to the Provider the balance of any prepaid operating funds.

5.2. For Cause. If the City fails to perform any obligation pursuant to this Agreement and fails to cure its nonperformance within 30 days after notice of nonperformance is given by Provider (“Cure Period”), the City will be in default. In the event of such City default, the Provider may terminate this Agreement and will have all remedies that are available to it by law or in equity including, without limitation, the remedy of specific performance. If the nature of the City’s nonperformance is such that it cannot reasonably be cured within the Cure Period, then the City will have such additional periods of time as may be reasonably necessary under the circumstances, provided the City immediately commences to cure its nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 90 days (such additional periods up to 90 days shall be referred to as

an “Extended Cure Period”). If Provider fails to perform any obligation pursuant to this Agreement, and Provider fails to cure its nonperformance within the Cure Period or Extended Cure Period, as the case may be, the Provider will be in default. In the event of such Provider default, the City may terminate this Agreement and will have all remedies that are available to it by law or in equity, including, without limitation, the remedy of specific performance. If the City terminates this Agreement for cause, the City will refund to Provider any operating funds paid in advance minus employment related costs for the support staff members. If Provider terminates this Agreement for cause, payment shall be made by the Provider to the City for the undisputed portion of its payment due as of the termination date.

6. Compliance with Applicable Laws. The Parties agree to comply with all applicable state, federal and local laws, rules, regulations and executive orders.

7. Relationship and Workers’ Compensation. Except as otherwise provided by law, in the performance of duties and activities under this Agreement, all parties hereto will be acting in their individual capacities and not as agents, employees, partners, joint ventures, or associates of each other. The officers, employees, agents, or subcontractors of one Party shall not be deemed or construed to be the employees or agents of the other Party. Each Party shall maintain adequate workers’ compensation insurance as required by law.

8. Indemnification. To the extent permitted by law, each Party shall defend, indemnify and hold harmless the other Party and its departments, officers, employees and agents for, from and against all losses, damages, claims, liabilities and expenses (including reasonable attorneys’ fees) for damages to property or for injury to or death of persons which relate to the performance of this Agreement and which result from any negligent act or willful misconduct of the indemnifying Party or its departments, officers, employees or agents.

9. Miscellaneous.

9.1 Conflict of Interest. This Agreement is subject to the provisions of ARIZ. REV. STAT. § 38-511. The City may cancel this Agreement without penalty or further obligations by the City or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the City or any of its departments or agencies is, at any time while this Agreement or any extension of this Agreement is in effect, an employee of any other party to this Agreement in any capacity or a consultant to any other party of this Agreement with respect to the subject matter of this Agreement.

9.2 Amendments. This Agreement may be modified only by a written amendment signed by persons duly authorized to enter into contracts on behalf of the City and the Provider.

9.3 No Waiver. No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision. The waiver of any of the terms and conditions of this Agreement shall be limited to the particular instance involved and shall not continue.

9.4 Entire Agreement; Interpretation; Parol Evidence. This Agreement represents the entire agreement of the Parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by this Agreement. No representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this Agreement. This Agreement shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of, or against the Party drafting this Agreement. The Parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in the drafting of, review of, and entry into this Agreement.

9.5 Notices. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (i) delivered to the Party at the address set forth below, (ii) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or (iii) given to a recognized and reputable overnight delivery service, to the address set forth below:

If to the City: City of Avondale
11465 West Civic Center Drive
Avondale, Arizona 85323
Attn: Charles Montoya, City Manager

With copy to: City of Avondale
11465 W. Civic Center Drive
Avondale, Arizona 85323
Attn: Nicholle Harris, City Attorney.

If to Provider: Health Net Arizona, Inc. d/b/a
Arizona Complete Health
1870 W. Rio Salado Parkway
Tempe, Arizona 85281
Attn: Veronica DeLa O/Greg Taylor

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this Section. Notices shall be deemed received (i) when delivered to the Party, (ii) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (iii) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day. If a copy of a notice is also given to a Party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a Party shall mean and refer to the date on which the Party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

9.6 Applicable Law; Venue. This Agreement shall be governed by the laws of the State of Arizona and suit pertaining to this Agreement may be brought only in courts in Maricopa County, Arizona.

9.7 Severability. The provisions of this Agreement are severable to the extent that any provision or application held to be invalid by a Court of competent jurisdiction shall not affect any other provision or application of this Agreement which may remain in effect without the invalid provision or application.

9.8 E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Provider, and its subcontractors performing services related to this Agreement, warrant compliance with all federal immigration laws and regulations that relate to their employees and compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). Provider's or its subcontractor's failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the City.

9.9 Israel. For Agreements in excess of One Hundred Thousand (\$100,000) Dollars, Provider certifies that it is not currently engaged in, and agrees for the duration of this Agreement that it will not engage in a "boycott," as that term is defined in ARIZ. REV. STAT. § 35-393, of Israel.

IN WITNESS WHEREOF, the Parties hereto have executed this instrument as of the date and year first set forth above.

"City"

CITY OF AVONDALE, an Arizona
municipal corporation

Charles Montoya, City Manager

"Provider"

HEALTH NET OF ARIZONA, INC., an
Arizona corporation d/b/a
ARIZONA COMPLETE HEALTH

By:_____

Name:_____

Title:_____

EXHIBIT A
TO
FINANCIAL ASSISTANCE AGREEMENT
BETWEEN
THE CITY OF AVONDALE
AND
HEALTH NET OF ARIZONA, INC.,
D/B/A
ARIZONA COMPLETE HEALTH

[Payment Schedule]

Item	Amount	Due Date
Funding for Operations and Staff Members	\$164,652.07	Due January 1, 2021
Funding for Operations and Staff Members	\$164,652.08	Due July 1, 2021
TOTAL AMOUNT DUE:		\$329,304.15

EXHIBIT B
TO
FINANCIAL ASSISTANCE AGREEMENT
BETWEEN
THE CITY OF AVONDALE
HEALTH NET OF ARIZONA, INC.,
D/B/A
ARIZONA COMPLETE HEALTH

[Financial Reporting Schedule]

Item	Due Date
Quarterly Financial Reconciliation Reports	April 15, 2021 July 15, 2021 October 15, 2021 January 15, 2022
Final report on first year funding	February 15, 2022
Quarterly Financial Reconciliation Reports	April 15, 2022 July 15, 2022 October 15, 2022 January 15, 2023
Final report on second year funding	February 15, 2023

CITY COUNCIL REPORT

SUBJECT: Ordinance 2014-0321 Dedication of a Power Distribution Easement to Salt River Project

MEETING DATE: 3/1/2021

TO: Mayor and Council

FROM: Kevin Murphy, Director of Development and Engineering Services, (623) 333-4011

THROUGH: Tracy Stevens, Deputy City Manager, 623-333-1014

REVIEWED: Charles A. Montoya, City Manager, (623) 333-1016

PURPOSE:

City Council will consider a request to adopt Ordinance 2014-0321 dedicating a Power Distribution Easement to Salt River Project at two locations along Fairway Drive north of Van Buren Street, and authorize the Mayor or City Attorney, and City Clerk to execute the necessary documents. The Council will take the appropriate action.

BACKGROUND:

The City acquired right-of-way from the Millie L. Henderson Living Trust for the Fairway Drive Improvements - Van Buren Street to Garfield Street Project per Ordinance No. 2009-0320, adopted by City Council on March 2, 2020. The project has been completed and was opened to traffic on January 25, 2021.

DISCUSSION:

As part of the City's Fairway Drive Improvements Project, two Salt River Project power poles had to be removed and the power lines on these poles were converted underground and extended to new transformers within the right-of-way purchased for this project. Salt River Project requires these underground power lines to be in a dedicated easement.

STRATEGIC PLAN ALIGNMENT

Initiative:

Foster Sustainable Community Development

Goal:

Maintain and Expand Infrastructure and Improve Connectivity to City Amenities

BUDGET IMPACT:

The dedication of the Power Distribution Easement will have no budgetary impact to the City.

RECOMMENDATION:

Staff recommends that the City Council adopt an Ordinance dedicating a Power Distribution Easement to Salt River Project at two locations along Fairway Drive north of Van Buren Street and authorize the Mayor or City Attorney, and City Clerk to execute the necessary documents.

ORDINANCE NO. 2014-0321

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE,
ARIZONA, GRANTING AN EASEMENT TO SALT RIVER PROJECT
AGRICULTURAL IMPROVEMENT AND POWER DISTRICT.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVONDALE as follows:

SECTION 1. An easement is hereby granted to Salt River Project Agricultural Improvement and Power District, in substantially the form and substance attached hereto as Exhibit A and incorporated herein by reference, through, over, under and across certain real property generally located along Fairway Drive, north of Van Buren Street, as described in the easement form attached hereto as part of Exhibit A.

SECTION 2. The Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to execute all documents and take all steps necessary to carry out the purpose and intent of this Ordinance.

PASSED AND ADOPTED by the Council of the City of Avondale, Arizona,
March 1, 2021.

Kenneth N. Weise, Mayor

ATTEST:

Marcella Carrillo, City Clerk

APPROVED AS TO FORM:

Nicholle Harris, City Attorney

EXHIBIT A
TO
ORDINANCE NO. 2014-0321

[SRP Power Distribution Easement]

See following pages.

WHEN RECORDED MAIL TO:

SALT RIVER PROJECT
Land Department/PAB10W
P. O. Box 52025
Phoenix, Arizona 85072-2025

**EXEMPT PURSUANT TO
A.R.S. §§ 11-1134(A)(2) and (A)(3)**

POWER DISTRIBUTION EASEMENT

Maricopa County
Fairway Drive
SW ¼, SEC. 01, T01N, R01W

Agt. HAS
Job # LJ79786 / T3227177
W _____ C pb
R/W # _____

CITY OF AVONDALE, an Arizona municipal corporation,

hereinafter called Grantor, for and in consideration of the sum of One Dollar, and other valuable consideration, receipt of which is hereby acknowledged, does hereby grant and convey to **SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT AND POWER DISTRICT**, an agricultural improvement district organized and existing under the laws of the State of Arizona, its agents, employees, contractors and permittees and its and their respective successors and assigns, hereinafter called the Grantee, a non-exclusive easement in, upon, over, under, across, through and along the lands hereinafter described (such lands hereinafter described being sometimes referred to herein as the "Easement Parcel") to construct, install, reconstruct, replace, remove, repair, operate and maintain underground electrical conductors, conduits, pipes, cables, vaults, pads, switching equipment, enclosures, manholes and transformers and all other appliances, appurtenances and fixtures (collectively "Facilities") for the transmission and distribution of electricity and for all other purposes connected therewith at such locations and elevations, in, upon, over, under, across, through and along the Easement Parcel as Grantee may now or hereafter deem convenient or necessary from time to time, together with the right of ingress and egress to, from, across and along the Grantor's Property.

The lands in, upon, over, under, across, through and along which this easement is granted are situated in the County of Maricopa, State of Arizona, and are more particularly described as:

Grantor's Property:

A portion of the Southwest quarter of Section 01, Township 01 North, Range 01 West of the Gila and Salt River Base and Meridian, Maricopa County, Arizona.

Easement Parcel:

See Exhibit "A" attached hereto and by their reference made a part hereof.

CAUTION: Facilities placed within the Easement Parcel may contain high voltage electrical equipment. Notice is hereby given that the location of underground electrical conductors or facilities must be verified as required by Arizona Revised Statutes, Section 40-360.21, et. seq., Arizona Blue Stake Law, prior to any excavation.

Grantor shall maintain a clear area that extends 3.00 feet from and around all edges of all transformer pads and other equipment pads, and a clear operational area that extends 12.00 feet immediately in front of all transformer and other equipment openings. No obstruction, trees, shrubs, fixtures or permanent structures shall be placed within said areas.

Grantor shall not construct, install or place, or permit to be constructed, installed or placed any building or other structure, plant any trees, drill any well, store materials of any kind, or alter ground level by cut or fill, within the area of the Easement Parcel.

Grantee shall have the right (but not the obligation) to trim, cut and clear away trees, brush or other vegetation on, the Easement Parcel whenever in its judgment the same shall be necessary for the convenient and safe exercise of the rights herein granted.

By accepting this easement, Grantee agrees to restore the surface of the Easement Parcel upon completion of the initial installation and any subsequent construction, reconstruction, repair or maintenance work that may be required.

In the event Grantee records a document to formally abandon the easement granted herein, all Grantee's rights hereunder shall cease, except the right to remove any and all property placed upon the Easement Parcel within a reasonable time subsequent to such abandonment.

Notwithstanding anything in this instrument, or laws, statutes, ordinances, rules, or regulations to the contrary, if Grantor requires Grantee to relocate or modify the Facilities, Grantor will (i) pay and/or reimburse Grantee any and all costs incurred for such relocation or modification and (ii) provide a reasonable new location for the Facilities, and easement rights therefor, that meets the standards set forth in this instrument. Grantor acknowledges that the Facilities are being located within public right-of-way at the request of Grantor, and that Grantee materially relied on the provisions of this paragraph in agreeing to Grantor's request.

The covenants and agreements herein set forth shall extend and inure in favor and to the benefit of and shall be binding on the heirs, administrators, executors, personal representatives, legal representatives, successors (including successors in ownership and estate), assigns and lessees of the Grantor and Grantee.

THE REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK

IN WITNESS WHEREOF, **CITY OF AVONDALE**, an Arizona municipal corporation, has caused its name to be executed by its duly authorized representative(s), this _____ day of _____, 20__.

CITY OF AVONDALE,
An Arizona municipal corporation

By _____

Its _____

APPROVED AS TO FORM:

ATTEST: _____
City Clerk

City Attorney for the
City of Avondale

STATE OF _____)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021, by _____ as _____, of **THE CITY OF AVONDALE**, an Arizona municipal corporation of the State of Arizona.

My Commission Expires:

Notary Public

Notary Stamp/Seal

Note: This instrument is exempt from the real estate transfer fee and affidavit of legal value required under A.R.S. Sections 11-1132 and 11-1133 pursuant to the exemptions set forth in A.R.S. Sections 11-1134(A)(2) and (A)(3).

Cimage

EXHIBIT "A"

SRP JOB NUMBER: T3227177

SRP JOB NAME: FAIRWAYS IMPROVEMENTS – ST1336 CRI

TTRSS: 02N01W01

DATE: 01-06-2021

PAGE: 1 OF 4

AN EASEMENT LOCATED IN THE SOUTHWEST QUARTER OF SECTION 1, TOWNSHIP 1 NORTH, RANGE 1 WEST OF THE GILA AND SALT RIVER MERIDIAN, MARICOPA COUNTY, ARIZONA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 1, BEING A CITY OF AVONDALE BRASS CAP FLUSH, FROM WHICH THE WEST QUARTER CORNER OF SAID SECTION 1, A CITY OF AVONDALE BRASS CAP FLUSH, BEARS NORTH 00 DEGREES 00 MINUTES 13 SECONDS WEST, A DISTANCE OF 2671.92 FEET (**BASIS OF BEARINGS**);

THENCE NORTH 00 DEGREES 00 MINUTES 13 SECONDS WEST, ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 1, A DISTANCE OF 308.88 FEET TO A POINT HEREAFTER KNOWN AS **POINT "A"**;

THENCE DEPARTING SAID WEST LINE, NORTH 89 DEGREES 59 MINUTES 47 SECONDS EAST, A DISTANCE OF 31.66 FEET, TO AN EXISTING POWER POLE AND THE **POINT OF BEGINNING**;

THENCE SOUTH 78 DEGREES 04 MINUTES 19 SECONDS EAST, A DISTANCE OF 8.67 FEET TO THE WINDOW OF A 3.50 FOOT BY 3.50 FOOT TRANSFORMER PAD;

THENCE NORTH 85 DEGREES 00 MINUTES 11 SECONDS EAST, A DISTANCE OF 4.88 FEET TO THE EAST RIGHT OF WAY LINE OF FAIRWAY DRIVE AND THE **POINT OF TERMINUS**.

TOGETHER WITH:

COMMENCING AT SAID **POINT "A"**;

THENCE NORTH 00 DEGREES 00 MINUTES 13 SECONDS WEST, ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 1, A DISTANCE OF 478.10 FEET;

THENCE DEPARTING SAID WEST LINE, NORTH 89 DEGREES 59 MINUTES 47 SECONDS EAST, A DISTANCE OF 38.06 FEET, TO A J-BOX AND THE **POINT OF BEGINNING**;

THENCE SOUTH 09 DEGREES 24 MINUTES 23 SECONDS WEST, A DISTANCE OF 12.62 FEET TO THE WINDOW OF A 3.50 FOOT BY 3.50 FOOT TRANSFORMER PAD HEREAFTER KNOWN AS **POINT "B"**;

THENCE SOUTH 00 DEGREES 31 MINUTES 13 SECONDS EAST, A DISTANCE OF 5.51 FEET TO THE WINDOW OF A 3.50 FOOT BY 3.50 FOOT TRANSFORMER PAD AND THE **POINT OF TERMINUS**.

EXHIBIT "A"

SRP JOB NUMBER: T3227177

SRP JOB NAME: FAIRWAYS IMPROVEMENTS – ST1336 CRI

TTRSS: 02N01W01

DATE: 01-06-2021

PAGE: 2 OF 4

TOGETHER WITH:

COMMENCING AT SAID **POINT "B"**;

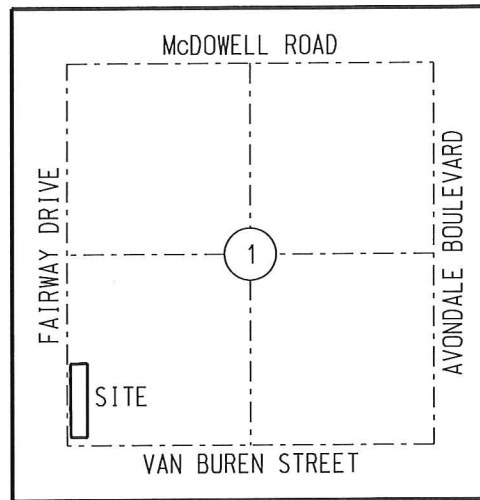
THENCE NORTH 26 DEGREES 08 MINUTES 54 SECONDS WEST, A DISTANCE OF 8.43 FEET TO THE WINDOW OF A 3.50 FOOT BY 3.50 FOOT TRANSFORMER PAD AND THE **POINT OF TERMINUS**.

SIDELINES BEING LENGTHENED OR SHORTENED TO FORM VERTICES AT ALL ANGLE POINTS AND TO TERMINATE AT ALL REFERENCED BOUNDARY LINES WHICH PASS THROUGH A POINT OF TERMINUS.

END OF DESCRIPTION



EXHIBIT "A"



VICINITY MAP (NTS)
T1N, R1W
G&SRM



BASIS OF BEARINGS:
BASED ON THE MARICOPA COUNTY
LOW DISTORTION PROJECTION
COORDINATE SYSTEM.

LEGEND

- SECTION AND CENTERLINE
- PROPERTY LINE
- CENTERLINE OF 8' EASEMENT
- TIE LINE
- ◆ SECTION CORNER AS NOTED
- EQUIPMENT PAD(S) - 3.50'X3.50'
ARE PART OF THIS EASEMENT
- J-BOX
- POWER POLE

ABBREVIATION TABLE

APN	ASSESSOR'S PARCEL NUMBER
BCF	BRASS CAP FLUSH
FND	FOUND
COA	CITY OF AVONDALE
MCR	MARICOPA COUNTY RECORDER
(M)	MEASURED
LVI	LAST VISUAL INSPECTION
NTS	NOT TO SCALE
POC	POINT OF COMMENCEMENT
POB	POINT OF BEGINNING

CAUTION

THE EASEMENT LOCATION AS HEREON DELINEATED MAY CONTAIN HIGH VOLTAGE ELECTRICAL EQUIPMENT, NOTICE IS HEREBY GIVEN THAT THE LOCATION OF UNDERGROUND ELECTRICAL CONDUCTORS OR FACILITIES MUST BE VERIFIED AS REQUIRED BY ARIZONA REVISED STATUTES, SECTION 40-380.21, ET. SEQ., ARIZONA BLUE STAKE LAW, PRIOR TO ANY EXCAVATION.

NOTES

THIS EXHIBIT IS INTENDED TO ACCOMPANY AN EASEMENT. ALL PARCELS SHOWN WERE PLOTTED FROM RECORD INFORMATION, AND NO ATTEMPT HAS BEEN MADE TO VERIFY THE LOCATION OF ANY BOUNDARIES SHOWN. THIS IS NOT AN ARIZONA BOUNDARY SURVEY.

ALL ELECTRIC LINES SHOWN ARE MEASURED TO THE WINDOW OF THE EQUIPMENT PAD UNLESS OTHERWISE NOTED.

SALT RIVER PROJECT
AGRICULTURAL IMPROVEMENT & POWER DISTRICT



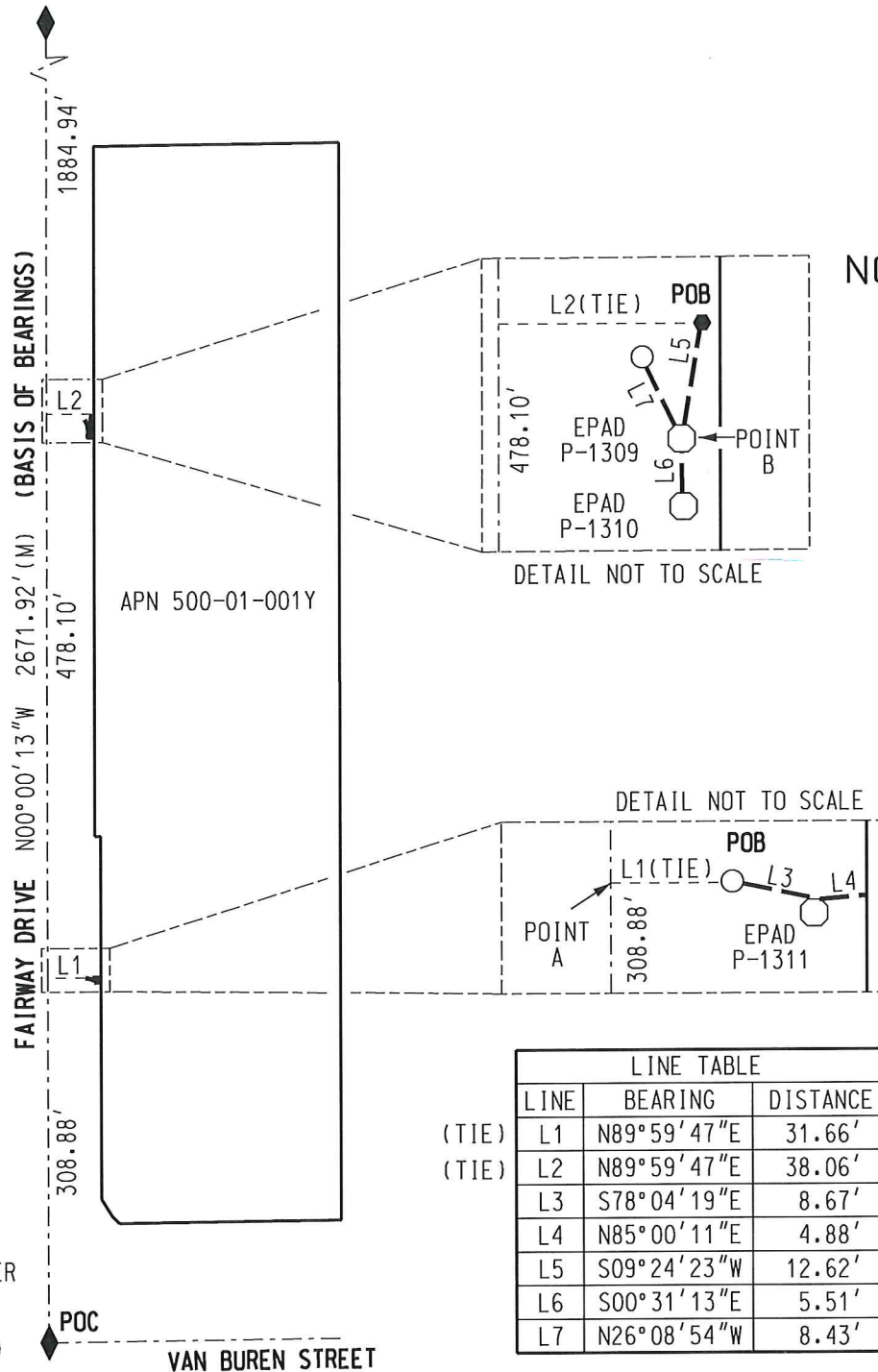
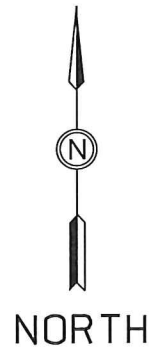
SURVEY DIVISION
LAND DEPARTMENT

SRP LDWR NUMBER: 20-1101-NS	SCALE: NTS
I.D. NUMBER: T3227177	SHEET: 3 OF 4
AGENT: SOLIZ <i>pb</i>	SHEET SIZE: 8.5"x11"
DRAWN: GREIFE	REVISION: 0
CHECKED BY: HOWARD	CREW CHIEF: McCAFFERY
DATE: 01-06-2021	FIELD DATE: 11-20-2020

FAIRWAYS IMPROVEMENTS
- ST1336 CRI
SW 1/4, SECTION 1
T.1 N., R.1 W.
5.1 NORTH - 0.9 WEST

EXHIBIT "A"

WEST 1/4 CORNER
SECTION 1
FND COA BCF
LVI(08/01/2018)



SOUTHWEST CORNER
SECTION 1
FND COA BCF
LVI(08/02/2012)

SALT RIVER PROJECT AGRICULTURAL IMPROVEMENT & POWER DISTRICT	
SRP LDWR NUMBER: 20-1101-NS	SCALE: NTS
I.O. NUMBER: T3227177	SHEET: 4 OF 4
AGENT: SOLIZ	SHEET SIZE: 8.5"x11"
DRAWN: GREIFE	REVISION: 0
CHECKED BY: HOWARD	CREW CHIEF: McCAFFERY
DATE: 01-06-2021	FIELD DATE: 11-20-2020

SRP SURVEY DIVISION
LAND DEPARTMENT

FAIRWAYS IMPROVEMENTS
- ST1336 CRI
SW 1/4, SECTION 1
T.1 N., R.1 W.
5.1 NORTH - 0.9 WEST



CITY OF AVONDALE



POWER DISTRIBUTION EASEMENT TO BE DEDICATED
TO SALT RIVER PROJECT

CITY COUNCIL REPORT

SUBJECT: Resolution 1014-0321 and Ordinance 2013-0321 - Amendments to the City of Avondale Personnel Policies and Procedures

MEETING DATE: 3/1/2021

TO: Mayor and Council

FROM: Cherlene Penilla, Deputy City Manager, (623) 333-2214

THROUGH: Gina Montes, Assistant City Manager, (623) 333-1012

REVIEWED: Charles A. Montoya, City Manager, (623) 333-1016

PURPOSE:

City Council will consider a request to (a) adopt Resolution 1014-0321 declaring the "February 16, 2021, Amendments to the City of Avondale Personnel Policies and Procedures Manual" document a public record; and (b) adopt Ordinance 2013-0321 adopting by reference the "February 16, 2021, Amendments to the City of Avondale Personnel Policies and Procedures Manual"; amending the Personnel Policies and Procedures which include updates to comply with changes in federal and state law and to align policies with current practices and; (c) authorize the Mayor, City Attorney and the City Clerk to execute the necessary documents. The Council will take appropriate action.

BACKGROUND:

Several changes to the Personnel Policies and Procedures are proposed which include updates to comply with changes in federal and state law and to align policies with current practices. In addition, the policies have been improved and reorganized to be more straightforward, understandable and easier to use for management, supervisory staff and all employees.

The following are the chapters that have changes: Chapter and Administrative Policy Definitions of Terms; Chapter 1 Purpose; Chapter 2 Personnel Administration; Chapter 3 Equal Employment Opportunity (EEEE); Chapter 4 Recruitment and Selection; Chapter 5 Classification and Compensation; Chapter 6 Employee Benefits; Chapter 7 Drug and Alcohol; Chapter 9 Conduct; Chapter 14 Tuition Reimbursement; Chapter 15 Workplace Harassment and Discrimination; Chapter 16 Information and Communications Technology; Chapter 17 Separations; Chapter 19 Appeals (formerly Grievances and Appeals); Chapter 20 Grievances (formerly Definitions); Chapter 21 Changes and Amendments (moved to Chapter 1 and now reserved); Chapter 22 Ethics and Ethics Manual.

In addition, the definitions section has been removed from Chapter 20 and placed at the beginning of the document. Grievances and Appeals which were formerly in one Chapter are now in separate and distinct chapters providing more clarity and organization. The objective of many of the changes is to make the personnel policies and procedures more understandable and allow specific information contained in the document to be located easily.

DISCUSSION:

The following are major highlights of the changes to the definitions (formerly Chapter 20 and now moved to the beginning of the policies):

- The definitions have been moved from Chapter 20 and placed at the beginning of the Personnel Policies
- Various definitions have been updated and/or added to reflect language in the City Charter and City Code
- Various definitions have been added to reflect state and federal laws and regulations
- Various definitions have been amended to clarify their meaning in the policies

The following are major highlights of the changes to CHAPTER 1, Purpose:

- The contents of Chapter 21 Changes and Amendments has been added under Section C. This section indicates that changes to the policies will be communicated to all employees prior to their implementation. This is accomplished through SafePersonnel (an online training platform) which requires all employees to read and review all policy changes once approved

The following are major highlights of the changes to CHAPTER 2 Organization for Personnel Administration:

- Changed the title for Chapter 2 from Organization for Personnel Administration to Personnel Administration
- Deleted section F., Department Regulations to preserve the consistency of policies and their application City-wide

The following are major highlights of the changes to CHAPTER 3, Equal Employment Opportunity (EEO):

- Changed the Chapter name from Applications to Equal Employment Opportunity (EEO)
- Removed sections regarding employment applications to Chapter 4 Recruitment and Selection policy
- All Equal Employment Opportunity policies have been consolidated in Chapter 3

The following are major highlights of the changes to CHAPTER 4, Recruitment:

- Removed sections referring to Equal Employment Opportunity (EEO) and placed in the newly revised Chapter 3 Equal Employment Opportunity
- Changed section titles to fully reflect the content of the section
- Clarified language regarding pre-employment drug screening

Removed:

- Removed language that indicates HR conducts fingerprinting for all employees and volunteers
- Removed Section on Nepotism. This is currently covered in Chapter 8
- Removed non-budgeted Appointments section
- References to “classified/unclassified” positions
- Removed 12-month promotional probation period for Department Directors

Added from Chapter 3

- Added language prohibiting false statements/deception by applicants
- Added language regarding certain positions requiring competitive testing
- Added language regarding certified lists
- Clarified language regarding the duration of original probation by removing a specified time limit and added “as stated in the Offer Letter”

The following are major highlights of the changes to CHAPTER 5 Classification and Compensation:

- Removed from On-Call policy language specifying “pager or beeper” and added cell phone
- Added “Demotion” language from Chapter 4 to Section (13) Involuntary Demotion to clarify that a probationary period is not required, unless the employee was in a probationary status
- Updated language to clarify that termination pay will be paid to the terminated employee within the time limits specified by Arizona state law
- Added Salary Structure Adjustment to explain the practice of moving the salary ranges to bring them in line with current market levels
- Added language to clarify that pay increases such as Cost of Living Adjustments, Merit Pay and Salary Structure Adjustments do not apply to employees covered under a Memorandum of Understanding

The following are major highlights of the changes to CHAPTER 6 Employee Benefits:

- Added language to Section I Holiday Leave Policy to clarify that certain Police employees do not participate in the Holiday Leave program

The following are major highlights of the changes to CHAPTER 7 Drug and Alcohol:

- Removed reference to “classified” positions
- Added section to address Recreational Marijuana and Marijuana based products and the prohibited uses at work
- Added language to clarify that the City uses a third-party vendor to randomly select employees covered under the Federal Department of Transportation (DOT) for drug and alcohol testing
- Added new language to G.4.d Reasonable Suspicion Testing to match current procedures/guidelines and to clarify the steps taken if there is a reasonable suspicion that an employee is under the influence of alcohol or controlled substances

The following are major highlights of the changes to CHAPTER 9 Appearance and Conduct

- Updated language to clarify that employees will wear clothing that is appropriate for their specific work environment
- Added recreational marijuana to the list of drugs that employees may not have in their possession or be under the influence of while performing their duties
- Added section C. Fraternization from Chapter 15 Discrimination and Harassment (new title) and deleted this language from Chapter 15
- Updated the section on attendance and included language to address situations when employees fail to return to work after authorized leave
- Added language from Chapter 15 that employees are prohibited from engaging in sexual conduct of any kind on City property or on City time.

The following are major highlights of the changes to CHAPTER 14 Tuition Reimbursement:

- Changed Chapter title from “Employee Education Assistance” to **Tuition Reimbursement Program**
- Added language to clarify that associates, bachelors and master’s degrees are eligible educational programs
- Clarified that the calendar year in which an employee completes a class will determine the amount of reimbursement an employee is eligible to receive (each calendar year is capped at \$5,000 due to IRS regulations)
- Added language to clarify the documentation required for tuition reimbursement

The following are major highlights of the changes to CHAPTER 15 Discrimination and Harassment:

- Changed the chapter title from Workplace Harassment and Discrimination to Discrimination and Harassment
- Removed Fraternization section and moved to Chapter 9 Appearance and Conduct
- Added definition for: Bullying, Cyberbullying, Fraternization, Harassment, Hostile Work Environment and Retaliation
- Added language to clarify responsibilities for the HR Director, Supervisors/Managers, and Employees
- Added language to clarify the reporting process for employees
- Added a separate section to address confidentiality expectations in addressing complaints, investigation matters and disciplinary actions

The following are major highlights of the changes to CHAPTER 16 Information and Communications Technology Policy:

- Added language to define Mobile Device Management (MDM)
- Added language to clarify that supervisors must seek authority from HR and City Management to monitor City Employees in their work environment through City security cameras
- Added language to clarify that department management must seek authority from HR and the City Manager to review City employees use of City technology
- Added language requiring City owned devices must include Mobile Device Management software as specified by IT
- Added language requiring City owned equipment to be sanitized or destroyed when repurposing or disposing of computer equipment
- Added language to reflect that annual IT security assessments results will be shared with the City Manager and City departments for corrective measures to protect all City systems from security breaches
- Added language to clarify the City’s practice that all technology procurement and budgeting is managed by the IT Department
- Added language to clarify that IT shall have access to all Cloud/SaaS based software
- Added language instructing employees that email cannot be forwarded or stored in systems other than City systems unless prior approval is provided by the City Attorney, City Clerk and IT
- Added language to clarify that only cloud-based systems approved and authorized by IT can be used for City purposes
- Only cloud-based systems approved and authorized by IT are permitted
- Added language to ensure that passwords provide adequate security for all City systems

The following are major highlights of the changes to CHAPTER 17 Separations:

- Added language to refer to Chapter 5 Classification and Compensation, for policies covering payment of leave balances when an employee is separating from City employment
- Added language to clarify that regular employees cannot be subject to reduction in force if there are other employees on original probation, part-time, or temporary in the same class of position.

- Added language to clarify the order of reduction in force is within the same classification within a department
- Added language to reflect employees “may” be eligible for re-employment with preference for rehire
- Added language to reflect reduction in force are not appealable or subject to grievance
- Added language to refer employees to their respective retirement system website for information on retirement
- Added language to clarify that an employee that is involuntarily terminated will not be compensated for holiday leave.
- Added language to clarify that employees leaving the City service will return City property to their supervisor or the HR Department.

The following are major highlights of the changes to CHAPTER 19 Appeals:

- Retitled Chapter 19 Grievances to **Appeals**
- Removed language on Grievances and moved to Chapter 20
- Added language to reflect that the appellant may appear virtually
- Added language to reflect that the Independent Hearing officer may conduct the hearing in person or virtually

The following are major highlights of the changes to *former* CHAPTER 20 Definitions of Terms and now retitled Grievances:

- Chapter 20 is retitled to **Grievances** and all definition of terms has been moved to the beginning of the personnel policies and procedures document
- Removed language from Chapter 19, formerly known as Grievances, and placed all grievance policy language in the new Chapter 20 Grievances
- Replaced the term layoff with reduction in force

The following are major highlights of the changes to CHAPTER 21 Changes and Amendments:

- Removed language on Changes and Amendments and moved to Chapter 1 Purpose
- Chapter 21 is now reserved until it is needed for additional policies

The following are major highlights of the changes to CHAPTER 22 Ethics and Ethics Manual:

- Ethics Handbook - Added language to reflect the updated Core Mission, Purpose, City Values and Code of Conduct statements

BUDGET IMPACT:

There are no direct costs associated with the amendments to the City of Avondale Policies and Procedures.

RECOMMENDATION:

Staff recommends that Council adopt this amendment to the City of Avondale Policies and Procedures.

RESOLUTION NO. 1014-0321

A RESOLUTION OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND ENTITLED THE "MARCH 1, 2021, AMENDMENTS TO THE CITY OF AVONDALE PERSONNEL POLICIES AND PROCEDURES MANUAL."

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF AVONDALE as follows:

SECTION 1. That certain document entitled the "March 1, 2021, Amendments to the City of Avondale Personnel Policies and Procedures Manual," of which one paper copy and one electronic copy are on file in the office of the City Clerk and open for public inspection during normal business hours, is hereby declared to be a public record and said copies are ordered to remain on file with the City Clerk.

PASSED AND ADOPTED by the Council of the City of Avondale, Arizona, March 1, 2021.

Kenneth N. Weise, Mayor

ATTEST:

Marcella Carrillo, City Clerk

APPROVED AS TO FORM:

Nicholle Harris, City Attorney

ORDINANCE NO. 2013-0321

AN ORDINANCE OF THE COUNCIL OF THE CITY OF AVONDALE, ARIZONA, ADOPTING BY REFERENCE THAT CERTAIN DOCUMENT KNOWN AS THE “MARCH 1, 2021, AMENDMENTS TO THE CITY OF AVONDALE PERSONNEL POLICIES AND PROCEDURES MANUAL”; AMENDING THE CITY OF AVONDALE PERSONNEL POLICIES AND PROCEDURES MANUAL, CHAPTERS 1 (PURPOSE), 2 (ORGANIZATION FOR PERSONNEL ADMINISTRATION), 3 (APPLICAITONS), 4 (RECRUITMENT AND SELECTION), 5 (CLASSIFICATION AND COMPENSATION PLAN), 6 (EMPLOYEE BENEFITS), 7 (DRUG AND ALCOHOL POLICY), 9 (APPEARANCE AND CONDUCT), 14 (EMPLOYEE EDUCATION ASSISTANCE), 15 (WORKPLACE HARASSMENT AND DISCRIMINATION, 16 (INFORMATION AND COMMUNICATIONS TECHNOLOGY), 17 (SEPARATIONS), 19 (GRIEVANCES AND APPEALS); 20 (DEFINITIONS OF TERMS), 21 (CHANGES AND AMENDMENTS) AND 22 (ETHICS POLICY; ETHICS HANDBOOK).

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVONDALE as follows:

SECTION 1. That certain document known as the “March 1, 2021, Amendment to the City of Avondale Personnel Policies and Procedures Manual,” of which one paper copy and one electronic copy maintained in compliance with Ariz. Rev. Stat. § 44-7041 are on file in the office of the City Clerk, which document was made a public record by Resolution No. 1014-0321 of the City of Avondale, Arizona, is hereby referred to, adopted and made a part hereof as if fully set out in this Ordinance.

SECTION 2. The City of Avondale Personnel Policies and Procedures Manual (the “Personnel Manual”), Chapters 1, 2, 3, 4, 5, 6, 7, 9, 14, 15, 16, 17, 19, 20, 21 and 22 are hereby deleted in their entirety and replaced by the March 1, 2021, Amendments to the City of Avondale Personnel Policies and Procedures Manual, which shall be inserted into the Personnel Manual as a new Chapter 1 (Purpose), Chapter 2 (Personnel Administration), Chapter 3 (Equal Employment Opportunity (EEOC)), Chapter 4 (Recruitment and Selection), Chapter 5 (Classification and Compensation), Chapter 6 (Employee Benefits), Chapter 7 (Drug and Alcohol), Chapter 9 (Conduct), Chapter 14 (Tuition Reimbursement), Chapter 15 (Workplace Harassment and Discrimination), Chapter 16 (Information and Communications Technology Policy), Chapter 17 (Separations), Chapter 19 (Appeals), Chapter 20 (Grievances), Chapter 21 (RESERVED), Chapter 22 (Ethics and Ethics Manual).

SECTION 3. A new Chapter and Administrative Policy Definitions of Terms section is hereby added and shall be inserted into the Personal Manual as set forth in the March 1, 2021, Amendments to the City of Avondale Personnel Policies and Procedures Manual.

SECTION 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the March 1, 2021, Amendments to the City of Avondale Personnel Policies and Procedures Manual, adopted herein by reference, is for any reason to be held invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 5. The Mayor, the City Manager, the City Clerk and the City Attorney are hereby authorized and directed to take all steps and to execute all documents necessary to carry out the purpose and intent of this Ordinance.

PASSED AND ADOPTED by the Council of the City of Avondale, Arizona, March 1, 2021.

Kenneth N. Weise, Mayor

ATTEST:

Marcella Carrillo, City Clerk

APPROVED AS TO FORM:

Nicholle Harris, City Attorney

February 16, 2021
Amendments to the
City of Avondale
Personnel Policies and
Procedures Manual

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CHAPTER AND ADMINISTRATIVE POLICY

DEFINITIONS of TERMS

The following words and phrases will have the meanings as indicated throughout Chapter and Administrative Policies except where the context clearly indicates otherwise.

- A. **Accrual** – the accumulation or increase, typically referring to a benefit such as vacation or sick leave, that has increased from pay period to pay period.
- B. **Administrative Leave** – employee leave while the employer conducts an investigation regarding the employee’s behavior. May be paid or unpaid.
- C. **Americans With Disabilities Act (ADA)** – Title I of the Americans with Disabilities Act of 1990 is part of a federal law that prohibits discrimination against someone with a disability, defined as “a physical or mental impairment that substantially limits a major life activity.” Disability is decided on a case-by-case basis and does not include conditions such as substance abuse. This law applies to the whole employment cycle, from application through advancement and termination.
- D. **Anniversary Date** – the calendar date upon which employment started with the City of Avondale by a specific employee.
- E. **Appeal to the Independent Hearing Officer** – a request to the Independent Hearing Officer. Such will be limited to action taken by the City which involves, as a disciplinary action, dismissal, demotion, suspension without pay of more than 40 hours, suspension without pay for more than eight hours for law enforcement officers and detention officers pursuant to Ariz. Rev. Stat. 38- 1101, reduction in pay in lieu of suspension without pay of more than 40 hours, or reduction in pay in lieu of suspension without pay for law enforcement officers and detention officers pursuant to Ariz. Rev. Stat. 38-1101. All other appeals to the Independent Hearing Officer are specifically prohibited. The right of appeal hereunder extends to all regular employees in the classified service.
- F. **Appointing Authority** – an employee, or City Council, having the power of appointment and removal of subordinate positions in any office authorized by the City Council in the budget, or any group of persons having the power by other lawfully delegated authority to make appointments to specific positions in the municipal service of the City of Avondale.
- G. **Appointment** – the designation of a person to a position in classified or temporary authorized by the City Council in the budget.
- H. **Background Screening/Pre-employment Screening** – testing to ensure that employers are hiring qualified and honest employees and that a prospective employee is capable of performing the functions required by the job. The screening can involve criminal

background checks, verification of Social Security numbers, past addresses, age or year of birth, corporate affiliations, bankruptcies, liens, drug screening, skills assessment and behavioral assessments. If an employer outsources pre-employment screening, the federal Fair Credit Reporting Act requires that there must be a consent and disclosure form separate from an employment application.

- I. Base Wage Rate (or base rate)** – the monthly salary or hourly wage paid for a job, irrespective of benefits, bonuses or overtime.
- J. City Council** – Council of the City of Avondale AZ.
- K. City Manager** – hired by the City Council, the City Manager serves as the chief executive of the city government.
- L. Class** – a group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training, experience, or skill, and such other characteristics that the same title and the same pay grade apply to each position in the group.
- M. Class Series** – the group of related classes as subsection of the occupational groups.
- N. Class Specification** – the description of the type and level of duties and responsibilities of the positions assigned to a class.
- O. Classification** – the original assignment of the position to an appropriate class on the basis of the type, difficulty and responsibility of work.
- P. Classified Service** – all regular full-time, part-time, and temporary positions.
- Q. Compensation** – any form of payment made to an individual for services rendered as an employee for an employer.
- R. Conditional Offer of Employment** – an offer of employment that is dependent on the successful completion of certain conditions typically outlined in the letter offering employment.
- S. Department** – a major functional unit of the City of Avondale governmental structure.
- T. Department Director** – the officially appointed director of any department who is directly responsible for the administration of the department.
- U. Discrimination** – the practice of unfairly treating different categories of people, especially on the grounds of ethnicity, national origin, gender, race, religion, and sexual orientation.
- V. Demotion** – a reduction in rank or movement to a lower grade position.
- W. Drug Screening** – the evaluation of urine or blood to determine if the subject has been using the drug or drugs in question.

- X. Emergency** – a sudden and unforeseen happening that requires the unscheduled service of an employee to protect the health, welfare, and safety of the community.
- Y. Emergency Appointment** – filling a critical open position when a department has a need that cannot be immediately filled through an open recruitment process or through the use of a temporary status employee.
- Z. Employee** – an employee may be defined as:
1. Regular, full-time – this person is employed on a regular schedule of greater than 30 hours throughout the year and was hired with a position control number authorized through the budget process. They are not currently serving a probationary period.
 2. Regular, part-time – this person is employed on a regular schedule less than thirty (30) hours per week throughout the year and was hired with a position control number authorized through the budget process. They are not currently serving a probationary period.
 3. Temporary – this person may be employed for any number of hours per week in positions declared to be temporary in nature. This person may be assigned to a classification temporarily vacated by a regular employee while on military duty or other authorized absence and is excluded from receiving normal fringe benefits.
- AA. Equal Employment Opportunity Commission (EEOC)** – the federal agency who is responsible for publishing guidelines, enforcing EEO laws and investigating complaints of job discrimination based on race, color, religion, sex (including pregnancy), national origin, age or disability.
- BB. Employment Certified Lists** – following a selection process, a list of individuals that would be immediately eligible for hire if a future opening would arise. These lists have a limited period of time that they are valid for use.
- CC. Exempt** – an employee who generally holds a professional, administrative, or executive position and is regularly paid a predetermined amount of money per pay period.
- DD. Fair Labor Standards Act (FLSA) of 1938** – a Federal law which covers public agencies and businesses engaged in interstate commerce or providing goods and services for commerce. The FLSA provides guidelines on employment status, child labor, minimum wage, overtime pay, and record-keeping requirements. It determines which employees are exempt from the Act (not covered by the Act) and which are non-exempt (covered by the Act). It establishes wage and time requirements when minors can work. It sets the minimum wage that must be paid, and mandates when overtime must be paid.
- EE. Grievance** – any dispute regarding the meaning, interpretation, or alleged violation of these policies and procedures.

- FF. Holiday** – the twenty-four (24) hour period starting at midnight and ending at 11:59 pm of the day observed.
- GG. Immediate Family** – husband, wife, (common-law spouse), son, daughter, mother, father, brother, sister, son-in-law, daughter-in-law, parent-in-law, brother-in-law, sister-in-law, grandparent, or grandchild of an employee or other legal dependent.
- HH. Independent Hearing Officer** – an attorney licensed and in good standing with the State Bar of Arizona with at least five years of experience and knowledge of municipal law and/or employment law that the City Manager or designee selects to hear an appeal from the City’s list of qualified independent hearing officers on a rotational basis.
- II. Independent Medical Officer** – An impartial physician who provides an expert report regarding injuries, impairment, and disabilities.
- JJ. Leave** – an authorized absence from regularly scheduled work hours, which has been approved by proper authority.
- KK. Limited Appointment** – an individual hired for a fixed or defined period of time, not to exceed 2 years in duration.
- LL. Loyalty Oath** – a pledge of allegiance to an organization, institution, or state of which an individual is a member.
- MM. Mayor** – the elected head of the City, who also serves as a member of the city council.
- NN. Merit Pay Increase** – an increase in pay from one percentage to the next higher percentage in the same pay grade of the pay schedule which is granted to any employee who is consistently proficient in his/her duties, and exceeds the standards of performance expected of a competent employee, over a period of time (usually one (1) year or more).
- OO. Merit System** – a system whereby employees are promoted or rewarded based on ability and achievement.
- PP. Nepotism** – Employment of immediate family, including step-family, in positions within the City of Avondale to include instances where immediate family members are employed in positions where one is in the supervisory chain of the other.
- QQ. Nonexempt Employees** – workers who are entitled to earn the federal minimum wage and qualify for one-and-a-half-times their hourly rate for every hour they work, above and beyond a standard 40-hour work week. This does not apply to the 56-hour employee.
- RR. Overtime** – authorized time worked by a regular full-time employee in excess of a standard workweek (more than forty (40) hours in one week). This does not apply to the 56-hour employee.
- SS. Pay Grade** – the identifying number for a single rate or a range of pay rate as established in the salary grade table.

- TT. Pay Reduction** – a decrease in pay, which may result from reduction in grade or reallocation of a position to a lower grade.
- UU. Payroll Taxes** – taxes paid on the wages and salaries of employees.
- VV. Performance Evaluation** – A written appraisal of the job performance of an employee designed to inform the employee of the manner in which he/she is meeting standards of performance established by a supervisor, department director, or the City Manager.
- WW. Personnel Action Form (PAF)** – a form that is completed before any change of employment status of an employee is official.
- XX. Promotion** – the movement of any employee from a position of one class to a position of another class in a higher maximum salary rate.
- YY. Probationary Period** – a probationary period is a period of time when an employee is first placed into a position which allows either the employer or the employee to terminate the employment for any reason. This time is for both parties to decide whether the employee is suited to the position and/or the employer's organization.
- ZZ. Promotional Probation** – the probationary period in effect immediately after an individual has been promoted within the organization.
- AAA. Recruitment** – refers to the overall process of identifying, attracting, screening, testing and interviewing suitable candidates for jobs within an organization.
- BBB. Reduction in Force** – an involuntary separation of an employee or groups of employees due to economic pressures, lack of work, organizational changes, or other reasons of business necessity which require a reduction in staff.
- CCC. Reference** – the positive or negative comments about a candidate's previous job performance provided to a prospective employer.
- DDD. Reduction in Grade** – the movement of an employee from a position in one class to a position in the same or another class having a lower maximum salary rate because of disciplinary reasons, incapacity to perform the work, inefficiency, or unsatisfactory work performance.
- EEE. Reprimand** – a formal disciplinary action designed not only to admonish or warn an employee, but also to lead, guide, direct, and instruct the employee in how to correct and avoid repeating a mistake, infraction, inefficiency, or problem.
- FFF. Retirement Contributions** – funds earmarked specifically for qualified retirement accounts. Typically taken directly from an employee's paycheck on a bi-weekly basis.
- GGG. Retirement Systems** – a system that provides retirement, disability and survivor benefits for eligible participants within the City.

- HHH. Resident** – a person whose principle place of domicile is within the corporate boundaries of the City of Avondale.
- III. Separation** – the termination of employment by reason of disqualification, end of temporary assignment, reduction in force, resignation, retirement, dismissal, or death.
- JJJ. Supervisor** – an employee having authority to, in the interest of the city, direct the work efforts of other employees and evaluate and recommend their promotions, discipline and termination.
- KKK. Suspension** – a form of discipline consisting of relieving an employee from work without pay for a specific period of time, depending upon the seriousness of the act bringing about disciplinary action.
- LLL. Temporary Appointment** – an appointment of an individual offering a limited period of time for employment.
- MMM. Termination** – the permanent separation of an employee from the City of Avondale.
- NNN. Transfer** – the movement of an employee from one department, division, or unit of municipal government to another class having the same maximum salary rate, involving the performance of similar duties and requiring essentially the same qualifications.
- OOO. Vacancy** – a duly created position which is not occupied and for which funds have been provided.
- PPP. Volunteer** – an individual who performs hours of service for civic, charitable or humanitarian reasons, without promise, expectation or receipt of compensation for services rendered.
- QQQ. Workers' Compensation Insurance** – benefits received by an employee who is hurt on the job or gets sick from a work related cause.

CHAPTER 1

Purpose

A. Policy Statement

The City of Avondale, in extending services to its citizens, acknowledges that the well being of its employees is essential to maintaining a high standard of operation. A sound employee-management association makes it possible for the City Manager, department directors/managers, and the employees to cooperatively develop an adequate personnel program. These policies and procedures set forth the principles and procedures, which will be followed by the City of Avondale in the administration of its personnel program. It is not, however, a contract. They are intended to establish an efficient, equitable, and functional system of personnel administration based on merit principles.

B. Suggestions

Suggestions for the improvement of any portion of the City's services are encouraged and welcome. Suggestions will be submitted to the department manager and forwarded to the City Manager.

C. Changes and Amendments

The City retains the right to change or amend these rules or regulations at any time, provided, however, such changes or amendments will be communicated to employees before becoming effective.

CHAPTER 2

Personnel Administration

A. Mayor/City Council

The Mayor and the City Council will be the ultimate policymaking authority for the City of Avondale in matters pertaining to personnel administration.

B. The City Manager

The function of the City Manager is to aid in the formulation of personnel policies, to prescribe policies, and administer policies and procedures with the aim of facilitating personnel administration for the City departments. The City Manager is charged by the City Council with insuring the continued fair administration of the human resources programs which will include recruitment, interviewing, testing job applicants (where applicable), maintaining eligibility lists from which appointments are made, insuring that all appointments are made on the basis of merit, aiding in the formulation and interpretation of personnel policy, maintaining the classification plan, administering the pay plan, keeping records on all employees, supervising the grievance procedures, promoting training programs, and fostering good employee relations. The City Manager will be ultimately responsible for maintaining the appropriate discipline among city employees and accomplishing such other personnel matters as deemed appropriate by the Mayor and City Council.

C. Scope

The City of Avondale is divided into the exempt, nonexempt and temporary services. The purpose of the exempt and nonexempt services is to facilitate efficient and economical services to the public and to provide for a fair and equitable system of the Human Resources Department. The policies established by these policies and procedures will apply to all positions and employees in the exempt and nonexempt services in compliance with applicable FLSA and DOL regulations.

1. Exempt Positions

Exempt positions include the following:

- a. All elected officials and members of boards and commissions.
- b. Volunteer personnel and personnel appointed to serve without pay on ad hoc committees.
- c. Consultants and counselors providing temporary professional service.

- d. The City Manager, Assistant City Manager, City Clerk, City Magistrate, City Attorney, and other personnel meeting Fair Labor Standards Act guidelines and so designated by the City Manager.

2. Classified Positions

Classified positions include all regular, full-time, part-time, and temporary positions provided for by these policies.

3. Temporary Positions

These positions involve temporary employment. The position will be no longer than six (6) months in duration. Request for extensions will be forwarded to the Human Resources Department.

D. Administration

The Human Resources program established by the policies and procedures will be administered by the City Manager or his/her designee, the Human Resources Director. The Human Resources Director will:

1. Attend all meetings of the Personnel Board.
2. Administer all provisions of these policies and procedures.
3. Prepare and recommend to the City Manager revisions and amendments to these policies and procedures.

E. Administration of the Rules

The City Manager, or his/her designated representative, will be charged with the responsibility for the administration of these policies and procedures.

CHAPTER 3

Equal Employment Opportunity

A. Equal Employment Opportunity

1. The City of Avondale provides equal employment opportunities to all employees and applicants for employment and prohibits discrimination and harassment of any type without regard to race, color, religion, age, sex, national origin, disability status, genetics, protected veteran status, sexual orientation, gender identity or expression, or any other characteristic protected by federal, state or local laws.
2. This policy applies to all terms and conditions of employment, including recruiting, hiring, placement, promotion, termination, reduction in force, recall, transfer, leaves of absence, compensation and training.

B. Affirmative Action Policy

The City of Avondale is committed to the principles of affirmative action and proactively seeks to hire and promote qualified minorities, women, disabled persons, and veterans throughout all levels of the organization.

C. Americans with Disabilities Act

1. The City of Avondale endeavors to make all of its programs, services, facilities, and employment opportunities available to, accessible for, and usable by qualified individuals with disabilities.
2. The City has adopted a procedure for prompt and equitable resolution of complaints alleging discrimination by the City on the basis of disability or a violation of the Americans with Disabilities Act.
3. For individuals in need of some reasonable accommodations in the application or interview process, or if such accommodations are denied, contact the Human Resources Director.

D. Pregnancy Discrimination Act

1. The City of Avondale will not discriminate on the basis of pregnancy, childbirth or related medical conditions which constitutes unlawful sex discrimination under Title VII.

2. The City of Avondale will treat women affected by pregnancy or related conditions in the same manner as other applicants or employees with similar abilities or limitations.

E. Equal Employment Opportunity

All persons will be given equal consideration in hiring, promotion, compensation, training, discipline, and all other terms and conditions of employment without regard to race, religion, color, sex, age, national origin, disability, genetic and family medical history information, medical marijuana cardholder status or any other legally protected status.

CHAPTER 4

Recruitment and Selection

A. Affirmative Action Policy

The City of Avondale is committed to the principles of affirmative action and proactively seeks to hire and promote qualified minorities, women, disabled persons, and veterans throughout all levels of the organization.

B. Vacancies

All vacancies in any class of position in the exempt and nonexempt services will be filled by an eligible applicant from a recruitment and selection process, an appropriate certified list, or by means of voluntary demotion or a lateral transfer as approved by the Human Resources Director.

C. Minimum Age of Applicants

An applicant for employment must be at least eighteen (18) years of age by the date of hire and must be able to perform the essential functions and duties of the position, with or without reasonable accommodation.

D. Preference Points

Preference points shall be applied in accordance with Arizona Revised Statutes (A.R.S. § 38-492).

E. Recruitment and Selection Process

1. Authority

The Human Resources Director is the final decision-making authority with regard to the entire recruitment and selection process.

2. Vacancies

When a vacancy occurs, the department shall notify the Human Resources Department and provide information on the vacancy. The Human Resources Department will verify the information, check for a current certified list, and consider any special circumstances.

3. Recruitment Strategy

- a. Human Resources will meet with department representative(s) to determine the steps in the recruitment and selection process and devise a recruitment plan. The position

will be reviewed and analyzed to make sure the job description is current and reflects the current requirements of the position.

- b. The Human Resources Department will advise departments on advertising and outreach approaches to ensure a diverse applicant pool. Labor market conditions and/or any special requirements of the position will determine recruiting sources to be used, and the recruitment time period.
 - c. Vacancies will generally be filled through an “open-competitive” recruitment process. These recruitments are open to the public. Although the City aspires to attain these goals, exceptions to the general rule will inevitably occur. The Human Resources Director has the authority to approve any exception to these guidelines.
 - d. “Closed-promotional” recruitments are open only to City employees and must be approved by the Human Resources Director. A department director’s request for closed-promotional recruitment must include a written explanation of how “closed promotional” recruitments will meet the requirement for a diverse and qualified pool of applicants.
4. Recruitment
- a. Notices of all City recruitments will be posted on the City website and any other sources identified by the hiring department.
 - b. All applications for employment must be submitted online at www.avondaleaz.gov. Resumes and attachments will be accepted only as a supplement to the application.
 - c. Applications will be accepted only during the posted recruitment period. A separate application must be submitted for each position.
 - d. Completed applications and supplements (if applicable) must be submitted online by the date and time indicated on the posting.
 - e. Applications will only be accepted when submitted online and fully completed.
5. Screening Applications
- a. Applications are screened for the minimum qualifications (MQs). Each application is reviewed for the education and experience to meet the stated MQs on the job announcement.
 - b. The Human Resources Director and the hiring department will generally determine the method of evaluating the MQs prior to the job announcement.
 - c. Applicants meeting the MQs will continue in the selection process. Job selection criteria must be job related and specific to the position that is being filled.

- d. Applicants making any false statements of any material fact or attempts to practice any deception or fraud on his/her application and/or attachments, or exams or resumes will be rejected from the selection process.

6. Testing

- a. The selection process may contain one or more tests, including but not limited to interviews, written tests, skill tests, physical ability/fitness tests. Departments must submit to the Human Resources Department the names of applicants to be tested, test information, and panel composition prior to any testing.
- b. Certain positions may be subject to competitive testing and applicants will be informed of the nature of such testing in advance.
- c. The Human Resources Department will be responsible for the administration and security of all tests and testing materials.
- d. The Human Resources Department shall send notification to all applicants once the selection process has concluded.

7. Certified Lists

- a. Completion of some selection processes may result in the establishment of an employment certified list.
- b. All certified lists will remain in effect for up to six (6) months, unless sooner exhausted, prior to their expiration dates, by action of the Human Resources Director for additional periods, but in no event will employment certified lists remain in effect for longer than one (1) year.

8. Reference and Background Checks

- a. The Human Resources Department is authorized to receive, and such persons shall submit, pursuant to A.R.S. § 41-1750, fingerprints for state criminal history record information for the purpose of evaluating the fitness of prospective employees, contract employees, or volunteers. The fingerprints received shall be submitted to the Arizona Department of Public Safety, and the Arizona Department of Public Safety may exchange this fingerprint data with the Federal Bureau of Investigation.
- b. Applicants being considered for hire are subject to a background check, fingerprinting, and reference checks.
- c. Required education and professional certifications will generally be verified.

9. Employment Offers

- a. Prior to making a conditional job offer the hiring department shall consult with the Human Resources Department to discuss the selection, starting date, and compensation.

- b. Once the candidate has been selected and a salary offer is confirmed, the Human Resources Department will extend a conditional offer contingent upon successful completion of the pre-employment drug testing (specified positions only) and/or medical examination(s) (specified positions only).
- c. All background, reference, and testing information must be reviewed and confirmed by the Human Resources Department before employment may begin.

10. Medical, Psychological and Polygraph Examination

- a. Following a conditional offer of employment, a pre-employment drug screen, medical examination, psychological evaluation, and/or polygraph may be required for specified positions with an acceptable result.
- b. After consultation with the department director and appropriate subject matter experts, the Human Resources Director will make the final determination of fitness for employment based on the results of pre-employment examinations.

F. Required New Hire Documentation

- 1. New hire paperwork must be carefully reviewed and completed within three (3) days of the start of employment. The paperwork to be reviewed, completed, and filed in the Human Resources Department includes:
 - a. Loyalty Oath (Arizona Revised Statutes 38-231)
 - b. I-9 Form (Employment Eligibility Verification)
 - c. Selective Service Acknowledgement
 - d. AZ Wage Withholding form
- 2. New hires not presenting acceptable identification documents by the end of three business days after the first day of work may be terminated for failure to meet the requirements of the I-9 process.

G. Returning Recruitment Materials to Human Resources Department

All recruitment and selection materials must be returned to the Human Resources Department after testing has been completed.

H. New Hire Training

All newly hired full-time and part-time regular status employees are required to attend new employee training. Temporary and contractual staff as well as volunteers may attend if referred by their supervisors.

I. Temporary Appointments

1. When the need for a temporary employee occurs, the department shall notify the Human Resources Department and discuss the details of the appointment.
2. Length of Temporary Employment
 - a. In order to work within legal constraints and to preserve the “temporary” status of temporary employment, the maximum length of continuous service that a temporary employee can be employed will be based on the needs of the City.
 - b. Exceptions may be made for temporary employees who are hired to work less than nineteen (19) hours per week. Requests for exceptions under this provision shall be submitted in writing to the Human Resources Director for approval.
 - c. Temporary employees categorized as “seasonal” are not subject to a service limit.
 - 1) “Seasonal Appointments” are defined as: performing duties for only one season or project per year, working no more than six (6) consecutive months during a twelve (12) month period, and having at least a six (6) month break in service before being rehired for the next season or project.
 - 2) This provision applies to all departments throughout the City.
 - d. Some temporary employees work on an as needed basis for the City and are kept on the records as active employees year-round, even though they may only work sporadically during the year.
 - e. Department directors will notify Human Resources of temporary employees working more than twenty (20) hours a week for twenty (20) weeks in a fiscal year.
3. Temporary Agency Staffing
 - a. Temporary employees working through a temporary agency are to be paid the salary the department and agency agree upon.
 - b. Temporaries hired through City of Avondale must be hired within the pay range for an equivalent job.
4. Payroll Taxes and Retirement Contributions
 - a. Temporary employees are subject to the normal payroll taxes including federal and state income tax and social security tax.
 - b. Temporary employees may be subject to Arizona State Retirement System contributions if the employee works twenty (20) or more hours per week for twenty (20) or more weeks per fiscal year.
 - c. The employee may also be subject to retirement contributions if the employee is already contributing to the retirement system through another employer.

J. Seasonal Appointments

1. Seasonal appointments will be made to positions that are seasonal in nature.
2. A person who receives a seasonal appointment is eligible for successive seasonal appointments to the same class without going through a recruitment process.
3. Appointments of seasonal employees will be limited to a maximum of six (6) months of consecutive employment in a twelve (12) month period.

K. Limited Appointments

1. Limited appointments will be made to positions that are expected to support special projects or interim assignments for a limited time period.
2. Appointments shall be made for no less than six (6) months and no more than three (3) years.
3. The length of the appointment is dependent upon project needs, available revenue from the funding source, and/or the City's ability to fund the appointment.

L. Emergency Appointments

In the event of an emergency, the City Manager may select and appoint persons without regard to the policies and procedures governing appointments, but in no case will such emergency appointments continue longer than ninety (90) days nor will it be renewed after ninety (90) days by successive appointment of the same person to the same class in the same department.

M. Probationary Period

All appointments to positions in the service of the City of Avondale are made subject to a probationary period.

1. Purpose

The purpose of a probationary period is to provide a reasonable time for the employee to perform the full range of duties of the position and allow the City a reasonable amount of time to fully assess the employee in this position. The probationary period may be adjusted to exclude suspensions, leaves of absence, sick, and vacation leave or any other absences.

2. Types of Probation.

a. Original Probation.

- 1) An original probationary period is as stated in the Offer Letter. The City Manager may establish a longer period but in no case will the specified probationary period

be less than one year.

- 2) **Police.** Sworn Police Officers shall complete a twelve (12) month original probationary period following graduation from the training academy. All certified detention staff will serve a twelve (12) month original probationary period following graduation from the training academy.
- 3) **Fire.** Firefighters shall complete a twelve (12) month original probationary period following graduation from the recruit training academy.
- 4) Extensions of Original Probation.
 - a) A department director may extend an employee's original probationary period. These extensions must be made in writing and acknowledged by the employee and the Human Resources Department.
 - b) No original probationary period may be extended beyond one (1) additional year. The Human Resources Department must authorize any extension of probation.
 - c) The probationary period may be extended to include suspensions, reductions in pay in lieu of suspension without pay, sick, and vacation leaves, leaves of absence, or any other absences.
 - d) Employees on original probation may have their probationary period extended due to performance concerns identified in their performance evaluation.
- 5) Completion of Original Probation.
 - a) Completion of probation shall be indicated by submission of a performance evaluation to the Human Resources Department. A satisfactory performance evaluation is required to justify completion of probation.
 - b) The employee's supervisor must evaluate a probationary employee and submit an employee performance evaluation to the Human Resources Department at least fifteen (15) days prior to the expiration of the employee's probationary period.
 - c) If an employee performance evaluation is not submitted fifteen (15) days prior to the expiration of the employee's probationary period, the probationary period of the employee will automatically be extended for thirty (30) calendar days.
 - d) Written justification must be provided to the employee to extend the original probation beyond the thirty (30) calendar day period.

- 6) Completing Original Probation early.
 - a) A department director may request to end an employee's original probationary period early.
 - b) A written request with justification shall be made to the Human Resources Director prior to completing the performance evaluation.
- 7) Probationary Termination.
 - a) If the department director determines at any time during an original probationary period that the services of the probationary employee are no longer required for any reason or for no reason, the employee may be dismissed without the right of appeal.
 - b) A written notice of termination must be provided to the probationary employee.
 - c) All terminations of probationary employees must be authorized by the Human Resources Department.
- b. Promotional Probation.
 - 1) Duration.
 - a) An employee who is promoted shall serve a six (6) month promotional probationary period except as noted otherwise in these policies.
 - b) Employees on promotional probation may have their probationary period extended due to performance concerns identified in their performance evaluation.
 - c) The probationary period may be extended with HR department authorization for reasons which may include suspensions, reductions in pay in lieu of suspension without pay, sick, and vacation leaves, leaves of absence, or any other absences.
 - 2) Police and Fire.
 - a) All Police Department employees shall serve a twelve (12) month promotional probationary period.
 - b) All Fire Department positions under the Public Safety Retirement System shall serve a twelve (12) month promotional probationary period.
 - c) Extensions. The probationary period for fire employees under the public safety retirement system and for all police employees may be extended to include suspensions, reductions in pay in lieu of suspension without pay, sick, and vacation leaves, leaves of absence, or any other absences.

3) All employees on promotional probation may have their probationary period extended due to performance concerns identified in their performance evaluation. No promotional probationary period may exceed a total of 12 months.

4) Reversions.

a) An employee who fails to successfully complete a promotional probation shall revert to a vacancy in the current employing department in the class in which regular status was held immediately prior to the promotion, without the right of appeal.

b) A reversion shall not preclude the imposition of any disciplinary action.

c) A reduction in force may be conducted if no vacancy exists.

5) Demotion.

Except as otherwise provided in these policies, if a department director demotes an employee, the employee shall not be required to serve a probationary period in the position to which demoted unless the employee was still on probation at the time of the promotion.

6) Reduction in Grade for Promoted Employees.

a) Employees serving a probation period as a result of promotion may be returned to their former positions for a variety of reasons.

b) Promoted employees reduced in grade for non-disciplinary reasons may be returned to their former positions without having to repeat the probation period for that position.

7) No Appeal Rights.

The City may, within its sole discretion, suspend or dismiss any employee during his/her original probationary period and demote any employee during his/her subsequent promotional probationary periods. There is no right of appeal for such actions.

8) Accrual of Leave.

a) Employees serving an original probationary period will accrue leave.

b) During the original probationary period accrued leave may be granted with the approval of the department director.

CHAPTER 5

Classification and Compensation

A. Purpose of the Classification Plan

The City's job classification system provides a structured, consistent method and quantitative techniques for arriving at objective compensation and classification decision. Some of the criteria used for determining job classifications include job duties, education and training, decision-making authority, supervisory responsibility, contacts with others as required by the job, working conditions, and other qualifications.

1. Classification Plan

A position classification plan based upon and graded according to assigned work duties and responsibilities will be developed and maintained by the Human Resources Department to provide standardization and classification of all positions in the City service. Before the implementation of said plan it will be approved by the City Manager. With the approval of the City Manager, new classifications may be established, combined, or abolished. The position classification plan will include:

- a. Outline of classes of positions in the classified service arranged in appropriate occupational group.
- b. Class specifications.

2. Administration of Classification Plan

The City Manager will instruct the Human Resources Director to conduct position classification studies at such times as he/she deems it necessary or whenever the duties and responsibilities of existing positions have undergone significant change. In addition, a classification study will be made when new positions are to be established, or may be requested by a department manager. If the Human Resources Director finds that a substantial change in organization, creation of change of position or other pertinent conditions warrant the amendment of the existing class, he/she may amend the classification plans subject to review and approval by the City Manager.

B. Compensation Plan

1. Philosophy

The philosophy of the City of Avondale is to provide an equitable compensation program for all employees. The basic concept of the pay system is that job responsibility and job performance as well as market influence will be the key determinants of an employee's

salary. The City is dedicated to providing an atmosphere that demonstrates a commitment to service excellence and customer satisfaction.

2. Purpose

The purpose of the City's pay system is to attract, retain, and motivate employees through the payment of financial compensation that is commensurate with the individual's ability, responsibility and contribution toward the City's goals. This program is designed to recognize and reward performance, and achieve internally equitable and externally competitive market compensation.

3. Objectives

- The objectives of the City's compensation program are:
- To clearly define the essential functions of each position through written job descriptions;
- To provide compensation that is competitive with jobs outside the City;
- To provide recognition for superior performance;
- To comply with federal, state and local regulations;
- To establish a system that is fiscally sound and cost effective;
- To provide a program that is understood by employees;
- To provide a pay system that can easily be administered and maintained; and
- To establish a salary range for each job that is based on a systemic blending of the job's internal worth to the City and the job's external value in the market.

4. Compensation Policy

The compensation program for the City is based on the following compensation policy.

- a. The City will provide total compensation opportunities of direct pay, specialty pays, indirect pay (e.g. benefits), career opportunities, etc., that are a blend of the total compensation opportunities offered by its competitors and the objectives of the City's compensation program.
- b. Each job classification in the City will have a salary range defined by minimum, mid, and maximum dollar limits. The ranges define the pay opportunities for the job. Pay for each employee shall be within the assigned range.
- c. Each job classification in the City will have a written job description. Job descriptions will be reviewed annually or as scheduled by the Human Resources Department. Employee will be provided with a copy of their respective job descriptions.

5. Maintenance of Compensation Plans

- a. Compensation plans shall be reviewed by the Human Resources Department at least every two (2) years or as directed by the City Manager. The Human Resources Department will utilize current salary data obtained from relevant competitive employment markets and other pertinent factors as a basis for maintaining the compensation plans.
- b. Periodic salary surveys will be used as a means to monitor the movement of salaries within the market. Adjustments will be made to the compensation plans subject to the City's overall financial state as determined by the City Council and City Manager.

6. Pay Computation

For hourly employees not exempt from the overtime requirements of the Fair Labor Standards Act ("non-exempt"), gross pay is computed by the hours worked times the rate of pay. Human Resources will determine whether an employee is eligible to receive overtime pay. Net pay for all employees, both hourly and salaried, will be computed by subtracting applicable deductions, e.g., federal and state income tax withholdings, applicable Retirement System contributions, Social Security, etc., from gross pay.

7. On-Call Policy

Certain departments may make non-exempt positions eligible for on-call compensation when the employee is required to be on-call. The employee must be accessible and available for work upon being contacted via cell phone. The employee must be available to report to work within a reasonable time (one hour) after being contacted by the City, if needed. The employee must also be in a physical condition that allows him/her to resume duty.

a. Definitions

- 1) **"On-call"** means when an off-duty employee must remain available to be called back to work on short notice if the need arises. An employee is considered to be on-call only when assigned by the City.
- 2) **"On-call pay"** means the additional compensation awarded to employees who are required to remain on-call during off-duty hours.
- 3) **"On-call status"** means the state of an off-duty employee required to remain on-call. An employee is considered to be in on-call status only when assigned by the City. Hours spent in on-call status will not be considered hours worked for the purposes of calculating overtime compensation.
- 4) **"On-call time"** means the periods of time when an employee is off-duty but is required to remain on, or close to, the City premises or to respond to a call or page within a specified period of time, resulting in the employee being unable to

effectively use such time to attend to his or her own personal activities. On-call time will not be considered hours worked for the purposes of calculating overtime compensation.

- 5) **“Callback”** means when an employee has left the work site and is requested to respond on short notice (either by returning to work or via telephone/computer) to a work situation to:

- a) Avoid significant service disruption.
- b) Avoid placing employees or the public in unsafe situations.
- c) Protect and/or provide emergency services to people, property and/or equipment.
- d) Respond to emergencies.

b. On-call/Callback Compensation

1) On-call Pay Rate

An employee assigned to on-call status will be compensated at the rate of two dollars per hour (\$2.00/hr) as on-call pay of on-call time. On-call hours begin after the completion of the on-call employee’s scheduled workday and continue until resuming work the following workday.

2) Callback Pay Rate

When an on-call employee is called back to work after completing the regular work schedule and leaving the premises, the employee shall be paid for time actually worked upon return or a minimum of two (2) hours at their regular hourly or base rate, whichever is greater.

3) On-call Status Hours Not Included in Overtime Compensation Calculation

On-call time will not be considered hours worked for the purposes of calculating overtime compensation. Only hours actually worked (over forty (40) hours in a workweek) will be included in the computation of overtime unless otherwise specified in these policies.

4) On-call Pay Exclusions

- a) Employees will not receive on-call pay when they are:

- On vacation leave
- On sick leave
- On administrative leave
- Receiving short-term disability benefits

- Receiving worker's compensation benefits
- On bereavement leave
- On an approved leave of absence
- Not available to work
- Restricted to light duty
- Restricted from performing work activities

c. On-Call Duty Requirements

- 1) Employees serving on-call status must adhere to all of the following requirements:
 - a) Thoroughly check the working status of the cell phone before on-call status begins and maintain it in operational mode at all times.
 - b) When notified, respond and arrive at work within one (1) hour or less.
 - c) Arrive fully capable of performing the function of the job.
- 2) If an employee does not meet the criteria as defined above, he/she will forfeit the on-call pay from the time of the first attempt to contact him/her to the end of the "on-call" time period.
- 3) Each employee will be responsible for documenting each time he/she is on-call and forward to his/her supervisor to approve the on-call time.
- 4) An employee who is assigned to on-call status and cannot be reached or does not report within one (1) hour of being contacted may face disciplinary action.

8. Incomplete Pay Period

A nonexempt hourly employee who does not work his/her regularly scheduled work week will be paid only for the number of hours actually worked in the pay period at his/her regular hourly rate of pay, unless such absence is authorized by his/her department director.

9. Overtime

a. Policy

It is the policy of the City of Avondale to discourage overtime work for non-exempt hourly employees, except when required to safeguard public health, safety or property. However, overtime may be assigned by the department director or City Manager as may be necessary to meet operating needs. Non-exempt employees have the right to be paid for overtime worked. Exempt employees are not eligible for overtime compensation. The Human Resources Director determines the exempt and non-exempt status according to the classification of the position, and in compliance with the Fair Labor Standards Act ("FLSA").

b. Overtime Authorization

An employee is expected to seek advance approval for overtime work and to report overtime worked at the time of reporting other hours worked in a work-reporting period. Overtime by non-exempt employees must be approved in advance, but if worked it must be compensated, whether approved or not. An employee that has worked unauthorized overtime may face disciplinary action up to and including termination.

c. Overtime Compensation

1) Overtime Pay Rate

When overtime work is performed and authorized, a non-exempt hourly employee will be compensated at the rate of one and one-half (1.5) the amount of his/her hourly rate for hours worked in excess of forty (40) hours within the designated workweek, as provided by law or as otherwise provided for in these policies.

2) Compensatory Time Off

- a) In lieu of monetary payment at the overtime pay rate set forth in these policies, non-exempt employees may elect to take compensatory time off ("comp time") for overtime hours worked, with approval of the supervisor. Upon approval, overtime shall be compensated at the rate of one and one-half (1.5) hours of comp time for every one (1) hour of overtime worked by the employee.
- b) The maximum number of comp time hours that any employee will be permitted to accrue shall be sixty (60) hours (forty (40) hours of actual overtime worked). The use of comp time by the employee shall be scheduled in accordance with departmental guidelines and procedures. An employee shall be permitted to use accrued comp time within a reasonable period after it is requested if, in the judgment of the supervisor, it does not unduly disrupt the operation of City services.
- c) The City reserves the right to pay out compensatory time balances to the employee at any time.
- d) All compensatory time that is not used that remains on the books at the close of the fiscal year will be paid out to the employee.
- e) Upon separation from City employment, employees with a compensatory time balance will be paid at their current regular rate of pay. An employee who is promoted or reclassified to an exempt position will be paid for any comp time balance at their regular rate of pay prior to the personnel action.

10. Transfers

- a. Employees may be voluntarily or involuntarily transferred from one position to another within the same classification or salary range. The transfer must be in the best interest of the City of Avondale and/or for the development of the employee, as determined by the City Manager.
- b. Employees desiring a voluntary transfer must submit a transfer request and an application to the Human Resources Department. The transfer request and application will be valid until December 31 of each year. Employees wishing to remain on a transfer eligibility list must submit a new transfer request.
- c. When an employee is transferred, the department director of the department to which the employee is transferred may request an increase not to exceed five percent (5%) if the employee possesses special qualifications of benefit in meeting the needs of the new department. Justification for an increase must be provided in writing to, and approved by, the Human Resources Department prior to the effective date of the transfer. Otherwise, no increase shall be granted.
- d. Transferred employees retain their review date for performance evaluations and rate of pay. All leave accruals will remain the same.

11. Promotion

- a. Employees promoted to a higher classification shall be placed in the new classification salary range and shall receive an increase in their base pay in commensurate with their experience, education, and current market conditions. Justification needs to be submitted in writing to the Human Resources Director and must be approved by Human Resources. Anything over midpoint of the new classification range will also require approval of the City Manager. Promotional increases shall not exceed the maximum of the new salary range. Promoted employees will serve the appropriate promotional probationary period applicable to the new position.
- b. Promotional pay increases shall become effective at the beginning of the next pay period.

12. Reclassification

- a. A position may be reclassified on the basis of changes in the duties and responsibilities or qualifications for the position. A reclassification or job title changes requires approval of the Human Resources Director and the City Manager.
- b. If a reclassification results in an employee being assigned to a higher pay range the employee will be placed in the new pay range with a five percent (5%) increase unless more is required to reach the minimum of the new range. A reclassification shall not cause an employee to exceed the maximum of the new pay range.

- c. If an employee is assigned to a lower pay range the employee will be placed in the new pay range without any decrease in pay. If the employee's rate of pay exceeds the maximum of the new range then the employee will be ineligible for any base pay increases. When the range increases to exceed the employee's base rate then the employee will again be eligible for base rate increases.

13. Involuntary Demotion

- a. Employees, who are involuntarily demoted as a result of disciplinary action, shall be placed in the new classification and their rate of pay shall be reduced by at least five percent (5%) from their present rate of pay. The new rate of pay shall not exceed the maximum of the lower salary range. The review date for performance evaluations shall remain the same.
- b. Reduction in pay as a result of involuntary demotion will be effective at the beginning of a pay period.
- c. Except as otherwise provided in these policies, if a department director demotes an employee, the employee shall not be required to serve a probationary period in the position to which demoted unless the employee was still on probation at the time of the demotion.

14. Voluntarily Demotion (requested downgrade)

Employees may be voluntarily demoted from one position to another. Employees who voluntarily demote from one position to another will have their rate reduced by at least five percent (5%) from their present rate of pay. If the new rate of pay exceeds the maximum of the range then the employee's rate of pay will be frozen until such time as the maximum of the pay ranges increases to include the employee's rate of pay. Employees will be required to satisfy selection requirements for the new position to which the employee is voluntarily demoted. The City reserves the exclusive right to consent to or deny a request for voluntary demotion, depending on available positions, qualifications, departmental workload, employee skill level, and the City's need to hire and retain the most qualified applicants.

15. Appointments

- a. Temporary Employee

Pay for temporary employees will be consistent with duties and responsibilities of the temporary position as outlined in the compensation plan. Pay for regular part-time hourly employees will be based on the number of hours worked. Such pay will normally be proportionate to the regular full-time pay rate for the position.

b. New Hires

A department director may request to hire an applicant up to the midpoint of the pay range for the position based upon an assessment of an applicant's relevant experience, training, education and a review of the current incumbents' salaries that are performing the same job. A summary of the findings shall be submitted to the Human Resources Director for approval. Any request to hire an applicant above the midpoint will require the prior approval of the Human Resources Director and the City Manager.

c. Former Employee

Former employees must apply for open positions in the same manner as other applicants for the position.

16. Wages In Advance

It is the policy of the City of Avondale that no advance of wages be made.

17. Termination Pay

- a. An employee who voluntarily resigns will receive his/her final paycheck on the first regularly scheduled payday following termination/separation of his/her employment. An employee who is eligible for vacation time will be paid for all unused vacation time and other leave as allowed in this policy upon termination.
- b. An employee terminated by the City shall receive payment for his/her wages within the time limits prescribed by state law.

18. Pay During National Guard and Reserve Training

- a. All regular employees who serve as active members of the National Guard, the Army Reserves, the Navy Reserves, the Air Force Reserves, Marine Reserves, the Coast guard or other reserve military organizations, will be entitled to leave of absence with pay from their respective duties on all duty days on which they are actively engaged in training. However, such leave with pay will not exceed thirty (30) days in any two (2) year period, or as otherwise required by law.
- b. All regular employees who serve as active members of the National Guard, the Army Reserves, the Navy Reserves, the Air Force Reserves, Marine Reserves, the Coast Guard, or other reserve military organizations will be entitled to compensation if called to active military duty in times of war or national crisis as declared by the President of the United States. In accordance with Arizona law, such employees shall receive military leave with pay for up to thirty (30) days in any two (2) consecutive years.

19. Temporary Reassignment Pay

Regular status employees may be temporarily assigned to a classification in a higher grade upon recommendation of the supervisor and with approval of the department director.

Eligible employees will receive a minimum of five percent (5%) above their regular salary for the duration of the temporary detail or more, if necessary, to reach the entry level rate of pay in the higher grade. The Human Resources Director may authorize the placement of the employee at greater than five percent (5%) based upon the scope and degree of the duties performed and the anticipated duration of the assignment.

- a. The employee must fully perform the duties and responsibilities of the higher classification for the duration of a minimum of twenty-one (21) consecutive calendar days to receive temporary reassignment pay. Compensation shall be retroactive to day one of the assignment.
- b. If the temporary reassignment pay is for a period of six (6) months or less, the reassignment may be made non-competitively. If the reassignment is for more than six (6) months, then the reassignment shall be made competitively in accordance with these policies and procedures or as approved by the Human Resources Director. An extension may be requested in writing to the Human Resources Director. No temporary reassignment shall extend beyond one (1) year.
- c. Employees on temporary reassignment shall have the right to return to their previous regular position at the conclusion of the assignment.
- d. Increases in pay for the temporary reassignment will be immediately discontinued when the employee returns to their regular position.

20. Shift Differential

- a. A shift differential shall be paid for regularly scheduled work shifts scheduled to begin or end between the hours of 9:00 p.m. and 4:00 a.m. Shift differential is not paid for hours worked over the regular shift when work is a continuation of the regular shift. Employees who are called back or who are covering another shift for another employee and perform work outside their regularly assigned shifts do not receive shift pay. Shift differential is not paid to employees on paid or unpaid leave.
- b. An employee shall be paid a shift differential set by administrative policy when working a shift that ends between the hours of 9:00 p.m. and 12:00 midnight, or when working a shift that includes work between the hours of 12:01 a.m. and 4:00 a.m.
- c. Only regular, non-exempt employees and sworn police employees below the grade of lieutenant are eligible for shift differential. Temporary employees and employees of the Fire Department are not eligible for shift differential.

21. Public Safety Dispatcher Pay

Public safety dispatchers, assigned by the Police Chief to fulfill the duties of public safety training dispatcher, shall receive public safety training dispatcher pay at an amount determined by administrative policy for the term of the assignment. Public safety training

dispatcher pay begins as soon as they begin performing in the position. A public safety training dispatcher on administrative leave and/or on medical leave in excess of eighty (80) hours shall not receive the public safety training dispatcher pay until they are approved to return to full-duty status.

22. Battalion Chief Coverage Pay

Battalion chiefs regularly assigned to work the fifty-six (56) hour shifts may be eligible to receive coverage pay at an amount determined by administrative policy.

23. Bilingual Pay

City employees may be eligible for bilingual pay for Spanish language skills. Guidelines regarding eligibility and compensation are set forth in Administrative Policy 36.

24. Cost of Living Adjustment

- a. Each budget year the City Council determines the amount, if any, of an across-the-board salary increase for employees. This increase is subject to the overall financial state of the City, as determined by the City Council and City Manager. If provided, the increase will be applied at the beginning of the fiscal year or at an alternate time period as specified by the City Council and City Manager.
- b. Cost of Living Adjustments do not apply to employees covered under a Memorandum of Understanding (MOU). Employees covered under a Memorandum of Understanding (MOU) will receive compensation as stated in the MOU. All compensation articulated in the MOU will be subject to the overall financial state of the City, as determined by the Council and City Manager.

25. Merit Pay

- a. Each budget year the City Council determines the amount, if any, of a merit pay increase for employees. Regular status employee chosen to receive a merit increase will receive the increase at the beginning of the fiscal year, or as specified by the City Council and City Manager. Employees who are on their original/promotional probation will receive their merit increase upon successful completion of their probationary period. Merit pay increases will be subject to the overall financial state of the City, as determined by the City Council and City Manager.
- b. Merit pay increases do not apply to employees covered under a Memorandum of Understanding (MOU). Employees covered under a Memorandum of Understanding (MOU) will receive compensation as stated in the MOU. All compensation articulated in the MOU will be subject to overall financial state of the City, as determined by the Council and City Manager.

26. Salary Structure Adjustment

- a. Each budget year the City Council determines the amount, if any, of a salary structure adjustment. A salary structure adjustment refers to the amount by which all salary range control points are raised (minimums, midpoints and maximums) to bring them in line with current market levels. Salary structure adjustments will be subject to the overall financial state of the City, as determined by the Council and the City Manager.
- b. A salary structure adjustment does not apply to employees covered under a Memorandum of Understanding (MOU). Employees covered under an MOU will receive compensation as stated in the MOU. All compensation articulated in the the MOU will be subject ot the overall financial state of the City, as determined by the City Council and City Manager.

27. Uniform Allowance

Regular employees who perform work that requires an employee to wear a uniform and/or safety shoes may be provided with a uniform and/or safety shoes or an allowance as established by administrative policy for each participating department.

CHAPTER 6

Employee Benefits

A. Definitions

Throughout this policy, definitions set out in A.R.S. §23-371 are incorporated by reference. In addition, the following definitions apply:

1. City – the City of Avondale.
2. Department Director – the director of the City department to whom the employee is assigned or the department director’s designee.
3. Employee – an employee of the City.
4. Exempt employee – an employee who is deemed to be exempt from the overtime and maximum hour requirements of the Fair Labor Standards Act, 29 U.S.C.A. § 213, and regulations of the United States Department of Labor.
5. Family Medical Leave (FMLA) – Leave allowed pursuant to the Family Medical Leave Act of 1993 and relevant statutes and regulations.
6. Full time employee – an employee who works thirty (30) hours or more per week.
7. Non-Exempt employee – an employee who is not an exempt employee.
8. Part-time employee – an employee who works less than thirty (30) hours per week.
9. Sick Leave – an approved period of absence granted to an employee according to this policy. “Sick leave” has the same meaning as “earned paid sick time” as that term is used in A.R.S. §23-371.
10. Fiscal year – the 365-day period (or 366 days in the case of a leap year) that commences on July 1 and ends on the next June 30.

B. Accumulation of Sick Leave

1. Regular full-time employees will accrue sick leave at the rate of 3.70 hours per biweekly pay period and these hours are accumulated without limit.
2. Regular part-time temporary, and seasonal part-time employees (working less than thirty (30) hours per week) shall receive a bank of forty (40) hours of paid sick leave per year at the commencement of the fiscal year. They shall accrue no other sick leave during the fiscal year.
3. Newly hired regular part-time, temporary, and seasonal part-time employees (working less than thirty (30) hours per week) are eligible to use sick leave from their bank on the ninetieth calendar day after commencing employment.

4. When an employee is promoted, demoted, or transferred, the employee shall retain all accrued sick leave.
5. Upon hiring any employee, a department director may request that an employee be hired with sick leave already established up to a maximum of 80 hours for employees below the rank of department directors and 120 hours for department directors and above. The Human Resources Director must review and approve this request prior to any official written offer of employment.

C. Sick Leave Usage

1. Employees may use accrued paid sick leave time for any of the following reasons:
 - a. An employee's mental or physical illness, injury or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; an employee's need for preventive medical care.
 - b. Care of a family member with a mental or physical illness, injury or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; care of a family member who needs preventive medical care. For purposes of sick leave usage under this section C, the term "family member" is as defined in A.R.S. §23-371, which is the following:
 - 1) Regardless of age, a biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner, a child to whom the employee stands *in loco parentis*, or an individual to whom the employee stood *in loco parentis* when the individual was a minor;
 - 2) A biological, foster, stepparent or adoptive parent or legal guardian of an employee or an employee's spouse or domestic partner or a person who stood *in loco parentis* when the employee or employee's spouse or domestic partner was a minor child;
 - 3) A person to whom the employee is legally married under the laws of any state, or a domestic partner of an employee as registered under the laws of any state or political subdivision;
 - 4) A grandparent, grandchild, or sibling (whether of a biological, foster, adoptive or step relationship) of the employee or the employee's spouse or domestic partner; or
 - 5) Any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.
 - c. Reasons related to child care, domestic violence, sexual violence, abuse or stalking, and legal services as described in A.R.S. §§23-371 and 23-373.

- d. Closure of the employee's place of business by order of a public official due to a public health emergency or an employee's need to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency, or care for oneself or a family member when it has been determined by the health authorities having jurisdiction or by a health care provider that the employee's or family member's presence in the community may jeopardize the health of others because of his or her exposure to a communicable disease, whether or not the employee or family member has actually contracted the communicable disease.
 - e. In the case of adoption of a minor child, an employee who is a potential or actual adoptive parent may request sick leave to include appointments with adoption agencies, social workers, attorneys, court proceedings, required travel, and any other activities necessary and related to adoption of a minor child.
- 2. An employee will not be subject to retaliation or discrimination for using sick leave, so long as the employee complies with City policy.
 - 3. An employee will not be required to search for or find a replacement worker to cover the hours during which the employee is using sick leave.
 - 4. Employees are subject to discipline for misuse or abuse of sick leave or for violation of City policy.
 - 5. Sick leave may be taken when approved by the employee's department director according to the notification and documentation procedures of City policy.
 - 6. An absence of three or more days shall be reported to the Human Resources Department to determine if FMLA leave is warranted.
 - 7. Sick leave hours taken will not count toward hours worked for purposes of computing overtime.
 - 8. Sick leave must be used in increments of not less than fifteen (15) minutes per occurrence for non-exempt employees.

D. Notification

- 1. An employee shall notify his/her department director as soon as he/she knows that he/she will be unable to work, but no later than the starting time of the employee's work day. The employee shall make a good faith effort to provide notice to the department to which the employee is assigned in advance and make a reasonable effort to schedule the time off in a manner that does not unduly disrupt the operations of the department.

2. An oral or written request by the employee is acceptable. The following methods may be used:

- a. Telephone call
- b. Email
- c. Text message

Employees are responsible to ensure text message or email was successfully delivered. Supervisors shall confirm receipt of notification.

3. When possible, the employee shall include the expected duration of the absence in the request.
4. An employee must notify his/her supervisor on each day of absence unless a notification includes a specific number of days required for the leave or other arrangements have been made for FMLA. All FMLA must be approved through Human Resources.
5. While on short term disability employees are required to report periodically to the Human Resources Department, at least every thirty (30) days, regarding the status of their medical condition and their intent to return to work. Employees will be required to provide medical evidence substantiating their need for continued leave to the Human Resources Department who will then submit it to the Third Party Administrator (TPA) for review. See City Short Term Disability Policy.
6. If an employee fails to return to work following any authorized leave and fails to notify Human Resources of the need for an extension, the employee will be considered to have abandoned the job.
 - a. Human Resources shall send written notice to the employee's last known address requiring the employee to return to duty within forty-eight (48) hours.
 - b. Failure to return to work within forty-eight (48) hours of receipt of the notification will be cause for immediate discharge and the employee automatically waives all appeal rights under this policy.

E. Documentation

1. For earned paid sick time of three or more consecutive work days, a department director may require reasonable documentation that the earned paid sick time has been used for a reason or purpose set out in the definition of sick leave in this policy. Documentation signed by a health care professional indicating that earned paid sick time is necessary shall be considered reasonable documentation for purposes of this section. In cases of domestic violence, sexual violence, abuse or stalking, one of the following types of documentation selected by the employee shall be considered reasonable documentation:

- a. A police report indicating that the employee or the employee's family member was a victim of domestic violence, sexual violence, abuse or stalking;
- b. A protective order; injunction against harassment; a general court order; or other evidence from a court or prosecuting attorney that the employee or employee's family member appeared, or is scheduled to appear, in court in connection with an incident of domestic violence, sexual violence, abuse, or stalking;
- c. A signed statement from a domestic violence or sexual violence program or victim services organization affirming that the employee or employee's family member is receiving services related to domestic violence, sexual violence, abuse, or stalking;
- d. A signed statement from a witness advocate affirming that the employee or employee's family member is receiving services from a victim services organization;
- e. A signed statement from an attorney, member of the clergy, or a medical or other professional affirming that the employee or employee's family member is a victim of domestic violence, sexual violence, abuse or stalking; or
- f. An employee's written statement affirming that the employee or the employee's family member is a victim of domestic violence, sexual violence, abuse, or stalking, and that the leave was taken for one of the purposes of the Victim's Leave section in this policy. The employee's written statement, by itself, is reasonable documentation for absences under this paragraph. The written statement does not need to be in an affidavit format or notarized, but shall be legible if handwritten and shall reasonably make clear the employee's identity, and if applicable, the employee's relationship to the family member.

F. Compensation for Unused Sick Leave upon Resignation or Retirement.

- 1. Compensation upon resignation will be 33.3% of accrued sick leave at the employee's current hourly rate.
- 2. Compensation upon retirement will be as follows:
 - a. Employees with 10 years of continuous service with the City will receive 100% of accrued sick leave up to 250 hours at the employee's current hourly rate, or 33.3% of the total balance of accrued sick leave, whichever is greater.
 - b. Employees with 15 years of continuous service with the City will receive 100% of accrued sick leave up to 375 hours at the employee's current hourly rate, or 33.3% of the total balance of accrued sick leave, whichever is greater.
 - c. Employees with 20 years of continuous service with the City will receive 100% of accrued sick leave up to 500 hours at the employee's current hourly rate, or 33.3% of the total balance of accrued sick leave, whichever is greater.

3. Employees who resign from their employment with the City but return to employment with the City within a nine (9) month period shall have any unused or unreimbursed sick leave reinstated upon rehire.
4. Employees who are involuntarily terminated from their employment are not eligible for compensation of accrued sick leave.
5. An employee may not use sick leave after their last day worked.

G. Family and Medical Leave Act (FMLA)

1. General Provisions

It is the policy of the City to grant up to 12 weeks of FMLA leave during any 12-month period to eligible employees. The City may grant up to a maximum of 26 weeks in a 12-month period for employees taking FMLA Injured Servicemember leave. FMLA may be paid, unpaid or a combination of paid and unpaid leave depending on the circumstances of the leave and as specified in this policy. The City has the right to designate leave, paid or unpaid, as FMLA leave, even if the employee does not request leave as FMLA. Sick leave may be granted under Servicemember Leave of the FMLA and only during this time can sick leave be used.

2. Eligibility

To qualify to take FMLA leave under this policy, the employee must meet all of the following conditions:

- a. The employee must have worked for the City for 12 months or 52 weeks. The 12 months or 52 weeks need not have been consecutive. For eligibility purposes, an employee will be considered to have been employed for an entire week even if the employee was on the payroll for only part of a week.
- b. The employee must have worked at least 1250 hours during the 12-month period immediately before the date when the FMLA leave is requested to commence. The principles established under the Fair Labor Standards Act (FLSA) determine the number of hours worked by an employee. The FLSA does not include time spent on paid or unpaid leave as hours worked. Consequently, these hours of leave will not be counted in determining the 1250 hours eligibility test for an employee under FMLA.

3. Types of Leave Covered

- a. To qualify as FMLA leave under this policy, the employee must be taking leave for one of the reasons listed below:
 - 1) The birth of a child and in order to care for that child;
 - 2) The placement of a child for adoption or foster care and to care for the newly placed child;

- 3) To care for a close family member (usually a spouse, child, or parent) with serious health condition; or
- 4) The serious health condition (described below) of the employee.
 - a) An employee may take FMLA leave due to a serious health condition that makes the employee unable to perform the functions of the employee's position. A serious health condition can include inpatient care at a hospital, hospice or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care or a condition which requires continuing care by a licensed health care provider. However, a serious illness may also include other ailments short of hospitalization.
 - b) This FMLA leave policy covers illnesses of a serious and long-term nature, resulting in recurring or lengthy absences. Generally, a chronic or long term health condition which, if left untreated, would result in a period of incapacity of more than three days, would be considered a serious health condition.
- 5) Qualifying Exigency Leave (necessity) arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.
- 6) Servicemember Family Leave - An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember shall be entitled to a total of 26 work weeks of FMLA leave during a 12-month period to care for the servicemember. The leave described in this paragraph shall only be available during a single 12-month period. During the single 12-month period, an eligible employee shall be entitled to a combined total of 26 work weeks of leave. If both spouses work for the City, each spouse may only take a combined total of 26 workweeks of leave.
 - b. If an employee takes paid sick leave for a condition that progresses into a serious health condition and the employee requests unpaid FMLA leave as provided under this policy, the City may designate all or some portion of related leave taken as FMLA leave under this policy, to the extent that the earlier leave meets the necessary qualifications.
 - c. Employees with questions about who and what situations are covered under this FMLA leave policy or under the City's sick leave policies are encouraged to consult with the Human Resource Department.
 - d. The City requires an employee to provide a doctor's certification of the serious health condition. The certification process is outlined in this policy. The City relies heavily on the physician's assessment.

- e. An eligible employee can take up to 12 weeks of leave under this policy during any rolling 12-month period. The City will measure the 12-month period forward from the date any employee's first FMLA leave begins. Each time an employee takes leave, the City will compute the amount of leave the employee has taken under this policy and subtract it from the 12 weeks of available leave, and the balance remaining is the amount the employee is entitled to take at that time.
 - f. If spouses both work for the City, and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a child, or parent with a serious health condition, each spouse may each take 12 weeks each of leave.
4. Employee Status and Benefits During Leave
- a. While an employee is on leave, the City will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work.
 - b. If the employee chooses not to return to work for reasons other than a continued serious health condition of the employee or the employee's family member or a circumstance beyond the employee's control, the City will require the employee to reimburse the City the amount it paid for the employee's health insurance premium during the leave period.
 - c. The employee pays a portion of the dependent health care premium. While on paid leave, the City will continue to make payroll deductions to collect the employee's share of the premium. While on unpaid leave, the employee must continue to make this payment, either in person or by mail. The payment must be received in the Finance and Budget Department by the 10th day of each month. If the payment is more than 30 days late, the employee's health care coverage may be dropped for the duration of the leave. The City will provide 15 days' notification prior to the employee's loss of coverage.
 - d. If the employee contributes to a dental plan, life insurance, disability plan or any other type of insurance plan the City will continue making payroll deductions while the employee is on paid leave. While the employee is on unpaid leave, the employee may request continuation of such benefits; provided, however, that the employee shall pay their portion of the premiums. If the employee does not continue these payments, the City will discontinue coverage during the leave and Consolidated Omnibus Budget Reconciliation Act (COBRA) would be offered. If the City maintains coverage, the City will recover the costs incurred for paying the employee's share of any premiums whether or not the employee returns to work.

5. Employee Status After Leave

Upon return from FMLA leave, an employee is entitled to be returned to the same position held when leave commenced, or to an equivalent position with equivalent benefits, pay and other terms and conditions of employment.

6. Use of Paid and Unpaid Leave

- a. An employee who is taking FMLA leave because of the employee's own serious health condition or the serious health condition of a family member must use all sick leave prior to being eligible for short term disability or unpaid leave.
- b. Disability leave for the birth of a child and for an employee's serious health condition, including Workers' Compensation leave (to the extent that it qualifies), will be designated as FMLA leave and will run concurrently with FMLA leave. For example, if the City provides six weeks of pregnancy disability leave, the six weeks can be designated as FMLA leave and counted toward the employee's 12-week entitlement. The employee may then be required to substitute accrued (or earned) paid leave as appropriate before being eligible for unpaid leave for what remains of the 12-week entitlement.

7. Intermittent Leave or a Reduced Work Schedule

- a. An employee may take FMLA leave in 12 consecutive weeks, may use the leave intermittently (take a day periodically when needed over the year) or, under certain circumstances, may use the leave to reduce the work week or work day, resulting in a reduced hour schedule. In all circumstances, the leave may not exceed a total of 12 work weeks over a rolling 12-month period. For the birth of a child, the employee may take up to 12 consecutive work weeks.
- b. The City may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule, for FMLA leave for the employee or employee's family member that is foreseeable and for planned medical treatment, including recovery from a serious health condition or to care for a child after birth, or placement for adoption or foster care.
- c. Eligible employees may take FMLA leave on an intermittent or reduced schedule basis when medically necessary due to the serious health condition of a covered family member or the employee or the serious injury or illness of a covered servicemember. (See §825.202). Eligible employees may also take FMLA leave on an intermittent or reduced schedule basis when necessary because of a qualifying exigency as defined in this policy.

- d. Employees using intermittent leave or leave on a reduced schedule must make a reasonable effort to avoid disrupting operations, including scheduling doctor's appointments outside of work hours, if possible.
 - 1) An employee using intermittent leave due to medical necessity should notify his/her supervisor as soon as he/she knows that he/she will be unable to work, but no later than the starting time of the employee's work day.
 - 2) An employee must notify his/her supervisor on each day of absence unless other arrangements have been made. Human Resources should be contacted if there are additional questions on intermittent leave.
- 8. Certification of the Serious Health Condition
 - a. A serious health condition means an illness, injury, impairment or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility; or continuing treatment by a health care provider.
 - b. The City requires certification of a serious health condition.
 - 1) The employee shall make every effort to respond to such a request within 15 calendar days of the request, or provide a reasonable explanation for the delay.
 - 2) Failure to provide certification may result in a denial of continuation of FMLA leave.
 - 3) Medical certification may be provided by using the medical certification form.
 - 4) Request for a medical certificate must be made in writing as part of the City's response to employee request for FMLA leave.
 - c. If the employee plans to take intermittent FMLA leave or work a reduced schedule, the certification must also include dates and the duration of treatment as well as a statement of medical necessity for taking intermittent FMLA leave or working a reduced schedule.
 - d. The City has the right to ask for a second opinion if it has reason to doubt the certification. The City will pay for the employee to get a certification from a second doctor, which the City will select. The employee will be temporarily entitled to leave and benefits under the FMLA pending the second opinion.
- 9. Certification related to active duty orders or call to active duty.

The City may require that a request under active duty or call to active duty be supported by either a leave certification or military orders at such time and in such manner as prescribed by Federal law. Please consult with the Human Resources Department for current Federal guidelines regarding notification and documentation.

10. Procedure for Requesting Leave

- a. All employees requesting leave under this policy must provide notice with an explanation of the reason(s) for the needed leave to the Human Resources Department as soon as practicable. If the leave is foreseeable, the employee is required to provide a written request for leave and reasons(s) to the Human Resources Department. The City will provide individual notice of rights and obligations to each employee requesting leave as soon as practicable.
- b. When an employee plans to take leave under this policy, the employee must give the City 30 days' notice. If it is not possible to give 30 days' notice, the employee must give as much notice as is practicable. An employee who is to undergo planned medical treatment is required to make a reasonable effort to schedule the treatment in order to minimize disruptions to the City's operations.
- c. While on leave, employees must report periodically to the Human Resources Department regarding the status of the medical condition and their intent to return to work.
- d. Employees who are unable to return to work at the end of the expected FMLA leave should notify their supervisors and Human Resources in writing at least two (2) weeks in advance or as soon as possible and must have the physician re-certify that the extended leave is medically necessary.
- e. If an employee does not provide proper notification to Human Resources, the employee will be considered to have abandoned the job and may be subject to disciplinary action up to and including termination.

11. Job Benefits and Protection

- a. For the duration of FMLA leave, the employer must maintain the employee's health coverage under the "group health plan" unless requested in writing from the employee or other legal directives given.
- b. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.
- c. The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.
- d. FMLA makes it unlawful for any employer to:
 - 1) Interfere with, restrain, or deny the exercise of any right provided under FMLA.
 - 2) Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

- e. Notwithstanding the exhaustion of FMLA leave, an employee may be granted additional leave as required under the Americans with Disabilities Act. As an accommodation, additional leave may be granted based on medical necessity and the City's requirements/ability to accommodate. Accommodations will be evaluated upon request.

12. Enforcement

- a. The U.S. Department of Labor is authorized to investigate and resolve complaints of violations.
- b. An eligible employee may bring a civil action against an employer for violations.
- c. FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law which provides greater family or medical leave rights.

H. Vacation Leave

1. Accumulation of Vacation Leave

- a. All full-time employees, excluding sworn firefighters, will accrue vacation leave as follows:

Non-Exempt	Tenure	Hours per Pay Period	Hours per Year
	0-1.99 Years	3.7	96.2
	2-4.99 Years	4.47	116.2
	5-9.99 Years	5.39	140.12
	10-14.99 Years	6.31	164.04
	15 + Years	6.93	180.16

Exempt	Tenure	Hours per Pay Period	Hours per Year
	0-1.99 Years	4.62	120.12
	2-4.99 Years	5.39	140.12
	5-9.99 Years	6.31	164.04
	10 + Years	6.93	180.16

- b. All assistant department directors will accrue vacation leave as follows:

ASSISTANT DEPARTMENT DIRECTORS		
Tenure	Hours per Pay Period	Hours per Year
First 5 Years	6.31	164.04
5+ Years	6.93	180.18

- c. All department directors, Deputy City Managers, Assistant City Managers and will accrue vacation leave as follows:

Department Directors, Deputy City Managers, and Assistant City Managers	
Hours per Pay Period	Hours per Year
6.93	180.18

- d. Battalion Chiefs working a 56-hour schedule

Battalion Chiefs		
Tenure	Hours per Pay Period	Hours per Year
0-1.99 Years	11.21	291.46
2-4.99 Years	12.28	319.28
5-9.99 Years	13.57	352.30
10 + Years	14.44	375.30

- e. Upon hiring any employee, a department director may request that an employee be hired with vacation leave already established up to a maximum of 80 hours for employees below the rank of department directors and 120 hours for department directors and above. The Human Resources Director must review and approve this request prior to any official written offer of employment.
- f. Part-time regular employees are not eligible to accrue vacation leave.
- g. Vacation leave hours taken will not count toward hours worked for purposes of computing overtime.

2. Maximum Accumulation of Vacation Time

Eligible employees have a maximum accrual of vacation time of 320 hours at the end of the calendar year 2020. Fire Battalion Chiefs assigned to a 24-hour shift schedule will have a maximum accrual of vacation time of 504 hours at the end of the calendar year. **The maximum accrual rates are temporary and will be reviewed by the end of 2021 due to the COVID-19 impact on City operations.**

- a. Employees must use all hours over the maximum accrual by the end of each calendar year. Employees will lose any vacation leave hours over the maximum accrual amount not used by December 31st of each calendar year.
- b. Vacation leave accumulated in excess of 320 hours or 504 hours for Fire Battalion Chiefs as of the last day of the last pay period starting in any calendar year shall be forfeited, unless the City Manager authorizes an exception in an individual case. The application for exception submitted through the Human Resources Department shall

contain a plan to use the excess hours during the following calendar year, pay the employee for the excess hours or a combination of both.

3. Use of Vacation Leave

Vacation leave shall be taken with the approval of the department director or designee (i.e., immediate supervisor).

- a. Vacation will only be granted during such time as it is not disruptive to the work schedule of the department concerned.
- b. During the original probationary period, vacation leave may be granted at the discretion of the department director.
- c. Vacation leave granted shall not exceed an employee's accrued balance.

4. Vacation Sell Back

Employees may be paid for a portion of accrued vacation. See Administrative Policy 40 (AP-40) for guidelines.

5. Compensation for Vacation Leave

Compensation upon separation from the City will be 100% of accrued vacation leave at the employee's current hourly rate. An employee may not use vacation leave after their last day worked. Vacation will be paid per City policy.

I. Holiday Leave Policy

1. Objectives

The objectives for the development of the holiday leave policy are:

- a. Equalize the holiday leave allocation, so that each full-time regular employee receives 88 hours of holiday leave hours per fiscal year.
- b. Identify the methods to maximize the number of days that City offices are open to serve citizens.
- c. Ensure that the adoption of a Green Friday schedule or other alternate schedule does not increase the cost of doing business for the City.
- d. Implement a system to increase the flexibility for employees to utilize their holiday compensation.

2. Accumulation of Holiday Leave

- a. The annual holiday leave bank for each full-time, regular employee is 88 hours. Part-time, temporary, and seasonal employees are not eligible for holiday compensation or holiday differential pay. For the purposes of this policy, the holiday will be defined as the 24-hour period (12:00 AM -11:59 PM) on the designated holiday.

- b. Employees will be provided with a bank of 88 hours (full-time) per fiscal year (July 1-June 30) to utilize for holiday compensation for designated holidays or floating holidays as set forth below. The leave banks will be populated during the first payroll period in July and January. The first allocation will be in July for 50 hours (full-time) the second in January for 38 hours (full-time). New hires will receive a prorated number of hours based upon their hire date.

3. Designated Holidays; Floating Holidays

A listing of City-designated holidays will be prepared for each fiscal year. This listing will be included in the Administrative Policy and posted no later than June 1 of each year. The listing will specify any and all designated holidays for the City.

- a. If a designated holiday falls on a scheduled work day, employees will be required to use their holiday leave to cover their scheduled work hours. Employees required to work on a designated holiday due to business need, or who are not scheduled to work on a designated holiday, will not be required to utilize their holiday leave. Any holiday leave hours not used for designated City holidays shall be considered floating holiday leave.
- b. In the event an employee is on paid leave when a holiday occurs, the employee shall receive no pay in addition to holiday pay. Therefore, the employee shall not be charged with applicable paid leave time (i.e., vacation or sick leave).
- c. Floating holiday leave shall be approved to be used at such a time that is mutually agreeable to the employee and the employee's supervisor. Holiday leave will not be available for use on an unplanned or call-in basis.

4. Holidays Eligible for Differential Pay

- a. Each June, a listing will be included in the Administrative Policy of any holidays that will be paid a holiday differential. Non-exempt employees who are required to work on one of the listed holidays shall be given, in addition to regular hourly rate, holiday differential pay equal to one-half of their regular straight-time hourly rate for hours worked on designated holidays. This compensation may be in overtime or compensatory time, depending on the needs of the department (compensatory time guidelines have been established in Chapter 5 of the City of Avondale Policies & Procedures Policy Manual) The additional compensation would only be for the actual day of the holiday, not the Friday or Monday before or after (example: July 4th is on a Sunday; employees working on July 4th would be eligible for additional compensation; employees working on July 3rd or 5th would not).
- b. Exempt employees would not be eligible for any additional compensation if required to work on one of the holidays eligible for differential pay.

5. Use of Holiday Leave

- a. It will be the employees' responsibility to monitor their holiday leave usage.
- b. In the event that the employee does not have enough holiday hours in her/his bank to cover a full day's absence, vacation hours or compensatory time will be used to make up the difference.
- c. All holiday hours not taken prior to the last day of employment with the City, shall be forfeited.
- d. Holiday hours must be used by June 30 of each year or will be forfeited. There will be no "cash out" or carryover of holiday hours.
- e. In the event that an exempt or non-exempt employee does not have either holiday hours, compensatory hours, or vacation hours to cover a designated holiday, they will be placed in a leave without pay (LWOP) status. This will mean that both an exempt and nonexempt employee will have the uncompensated hours deducted to cover their absence.
- f. Holiday hours and holiday differential pay will not count toward hours worked for purposes of overtime for hourly employees.

6. Certain Police Employees Not Participating

- a. Specified Police Employees will not be participating in the holiday leave program set forth above.
 - 1) Those police employees not participating include: Patrol, Detention, Communications, and any other area as recommended by the Chief of Police and HR, and approved by the City Manager.
- b. Specified Police Employees will receive 8 hours of compensation for each of the following holidays as they occur in the calendar:

SPECIFIED POLICE EMPLOYEE HOLIDAYS
INDEPENDENCE DAY LABOR DAY VETERAN'S DAY THANKSGIVING DAY AFTER THANKSGIVING CHRISTMAS DAY NEW YEAR'S DAY MARTIN LUTHER KING JR. DAY PRESIDENT'S DAY MEMORIAL DAY
PERSONAL DAY TO BE SCHEDULED BY EMPLOYEE

- a. Specified Police Employees will have one 8-hour personal day to schedule at their discretion with their supervisor each fiscal year. Personal days and holidays will not be carried over into a new fiscal year. A personal day (8 hours) will be given to the employee on July 1 of each fiscal year. New hires will receive a personal day upon their hire. The personal day must be scheduled in the fiscal year it is earned. Unused personal days will not be paid out at the end of the fiscal year or upon resignation of the employee.
- b. The Specified Police Employee holiday hours set forth above will not count as hours worked for the purpose of overtime compensation. Employees who are required to work on designated holidays shall be given, in addition to regular hourly rate, holiday differential pay equal to one-half of their regular straight-time hourly rate for hours worked on designated holidays.

Example 1: Employee works 14 hours on the holiday (Wednesday*) and works three other days in the week.

Time	Total	M	T	W*	Th	F	S	Su
Hours worked	46	10	11	14	11			

End Result:

Hours worked	46
Holiday compensation at straight rate	8
Regular Hours at straight rate	40
Overtime at 1.5	6
Holiday Differential at .5	14

Example 2: Employee works 14 hours on the holiday (Wednesday*) and calls in sick on Monday for the entire shift of 10 hours.

Time	Total	M	T	W*	Th	F	S	Su
Hours worked	36		11	14	11			
Sick Leave	10	10						

End Result:

Hours worked	36
Holiday compensation at straight rate	8
Sick leave at straight rate	10
Regular Hours at straight rate	54
Overtime at 1.5	0
Holiday Differential at .5	7

J. Industrial Leave

1. Workers' Compensation Coverage

The City provides Workers' Compensation insurance coverage to employees at no cost. If an injury or illness is determined to be job related, the employee will receive medical benefits and, if eligible, temporary compensation.

2. Determination of Compensability

The City's Workers' Compensation carrier will determine compensability for workplace injuries and illnesses.

3. Separation During a Claim

An individual who separates from City employment will only be entitled to the compensation required under Arizona Workers' Compensation Law.

4. Filing a Claim

An injury or illness is covered under Workers' Compensation if it is determined to be job related. It is the employee's responsibility to make sure the injury is reported to his/her supervisor as soon as possible. A claim must be filed within one year of the date of injury. It is the employee's responsibility to ensure the claim has been filed. The supervisor will work with the Risk Management department to provide information to assist in filing the claim. Risk Management will serve as the point person for employees with questions regarding Workers' Compensation.

5. Types of Claims

There are two types of Workers' Compensation claims. One is called a "medical only" claim, which means that only medical expenses are paid. The other is called a "time lost" claim. This means that both medical expenses and temporary compensation benefits for lost wages are paid.

- a. "Medical only" claims are those types of claims for which the insurance company will pay all of the medical expenses associated with the injury, but will not pay compensation benefits for lost wages, as the employee did not lose more than seven days' time from work.
- b. "Time lost" claims are those claims in which the treating doctor states that the employee is unable to work due to their injury and employee is off work more than seven days. The employee would then be eligible for compensation for their lost wages. The days off do not have to be consecutive (in a row) but are cumulative (total). Entitlement to compensation is based on calendar days (not work days) and includes Saturdays, Sundays and holidays.

6. Compensation for Time Lost Claims

- a. The first seven days are not paid for lost wages unless the disability extends to 14 days. For example: If the employee is off ten days, they get paid for days eight, nine and ten only. If the employee is off 14 full days, compensation is retroactive (goes back) to the date of injury and is paid for 14 days. Compensation is not generally paid for the date of injury, as the employee was working that day and was typically compensated already for that day.
- b. Compensation is based on the statutory limit set forth in the Arizona Revised Statutes. The state law establishes a maximum wage figure which can be used to calculate the average monthly wage. This compensation is tax-free to the employee. Payments will be administered through the City's payroll system and will be issued on a bi-weekly basis.
- c. Sick time or vacation time may be utilized to cover the seven-day waiting period or to supplement their Workers' Compensation payments. Employees would need to notify Payroll in writing if they wish to utilize sick time or vacation time to cover their waiting period or supplement their wages.

7. Requirements While Under Workers' Compensation

- a. An employee may not leave the state for more than two weeks while under active medical treatment without approval from the Arizona Industrial Commission. If the employee is planning to be outside the state for more than two weeks, the employee must have written approval from the Arizona Industrial Commission before the employee leaves the state.
- b. Employees are not permitted to engage in outside employment while receiving Workers' Compensation from the City of Avondale unless written permission is granted from Human Resources and Risk Management.
- c. FMLA leave, if eligible, will run consecutively while on Workers' Compensation. While under active medical care, the insurance company has the right to have the employee periodically examined, at a reasonably convenient time and place, by a doctor of its choosing. Failure to attend the examination could result in suspension of Workers' Compensation benefits and the employee could be required to pay for the cost of the missed examination.

8. Return to Work

- a. While under active medical care, a doctor may release an employee to return to modified duty or to the employee's regular job.
- b. If released to regular duty, an employee must be able to perform the essential functions of the employee's job, with or without reasonable accommodations. If an employee

requires accommodations, Human Resources will coordinate an evaluation of the employee's ability to return to the workplace.

- c. If returned to work with restrictions, the physician must provide in writing a detailed outline of what the restrictions are and the duration of those restrictions. Human Resources, Risk Management, and the department will work together to determine if there is work available that meets the restrictions outlined. Modified duty is not guaranteed. It will be up to the City to determine if work is available. At no time will an employee be allowed to be on modified duty for a period of time greater than twelve (12) months from the date of injury or date of onset of illness. Modified duty work would no longer be available once an employee is medically able to return to his or her regular job.
- d. If an employee fails to accept a modified duty work assignment that he or she is medically capable of performing, his or her compensation benefits may be reduced or eliminated by the City.
- e. Risk Management may require a fit for duty evaluation before an employee is returned to regular duty.

K. General Leave

- 1. General leave may be requested for personal reasons that are not covered by the FMLA. This leave is not intended for employees needing time away from work for their own medical condition.
 - a. General leave will last for no more than sixty (60) calendar days.
 - b. Accrued time off must be exhausted before an employee is eligible to take general leave.
 - c. General Leave is not intended for seeking employment outside of the City.
- 2. Requests for general leave must be approved by the employee's department director and the human resources director
 - a. Request for general leave must be in writing and include the purpose, start, and end date of the general leave.
- 3. General leave is unpaid and not job protected
 - a. The department may post to fill the employee's position upon commencement of general leave.
 - b. If the employee's position remains open at the end of their approved leave period, they will be reinstated to their position. If the position is no longer available, then they will be allowed a period of 28 calendar days to apply competitively for any open position as an internal candidate.

- c. If the employee fails to return to work or communicate timely with Human Resources at the end of their approved leave period, it will be deemed job abandonment and they will be terminated.
4. While on general leave the employee may select continuation of benefits by paying the full premium for coverage (i.e., employee and employer premiums). Some benefits may not be continued.
5. Vacation and Sick leave will not accrue while the employee is on general leave.

L. Bereavement Leave

1. General

Upon the death of an employee's immediate family member, an employee may be granted paid bereavement leave not to exceed five work days or 40 hours. Additional hours beyond the limit may be charged to an employee's sick leave or vacation leaves at the employee's discretion and with the department director's approval. Upon the death of an employee's aunt, uncle, cousin, niece, or nephew, an employee may be granted paid bereavement leave not to exceed one work day or eight hours. Only full-time regular and/or probationary employees are eligible for bereavement leave. Part-time employees are not eligible for bereavement leave.

2. Immediate Family Defined

For purposes of bereavement leave, "immediate family" shall refer to a spouse, son, son in-law, daughter, daughter in-law, mother, mother in-law, father, father in-law, brother, brother in-law, sister, sister in-law, grandparent, grandparent in-law, grandchild or step-child, step-parent, step-brother or step-sister.

3. Co-workers

At the discretion of the employee's department director, an employee may be granted up to four (4) hours of bereavement leave for attendance at a co-worker's funeral or memorial service.

M. Military Leave

All regular employees who are or may be members of the National Guard or the Military Reserves (U.S. Armed Forces) will be entitled to leave of absence with pay (upon written request to the employees department director and submittal of appropriate documentation of military active duty orders), from their respective duties on all days during which they are employed with or without pay under the orders of or authorization of competent authority on active duty during training or duty with troops, field exercises, or instruction for a total period not to exceed the lesser of 30 working days or hours times shift based on the Federal government fiscal year in any two consecutive years.

N. Civic Duty Leave

1. General

Upon substantiated application, an employee shall be granted leave with pay as civic duty leave while serving as a juror, complying with a subpoena, or voting.

2. Use of Civic Duty Leave

Except for voting pursuant to ARIZ. REV. STAT. § 16-401 (primary elections) or ARIZ. REV. STAT. § 16-402, (general elections) as amended, an employee granted civic duty leave shall report for work whenever the employee's presence is not required for the civic duty, unless:

- a. The distance to the work location would preclude timely reporting for the civic duty; or
- b. The employee cannot return to work at least one hour before the end of the work shift;
- c. Civic duty leave will not count towards hours worked for purpose of computing overtime.

3. General Election Day

- a. The biannual general election day (the first Tuesday following the first Monday in November of every even-numbered year) is not a legal holiday. However, every public officer or employee is entitled to have adequate time to vote, as set forth in ARIZ. REV. STAT. § 16-402, as amended. The three consecutive hours immediately after the opening or the three consecutive hours prior to the closing of the polls is provided for this purpose.
- b. Arrangements must be made with the supervisor prior to general election day and the supervisor may determine which hours are more suitable in accordance with the needs of the department.

4. Appearance as a Witness

An employee who is subpoenaed as a witness by any court or administrative, executive, or judicial body in this state may be absent with pay unless the testimony or evidence to be given relates to the employee's own personal business.

5. Jury and Witness Compensation

Employees who are granted civic duty leave when called for jury duty or subpoenaed as a witness shall remit any compensation to the City Finance and Budget Department, except for mileage allowance.

O. Victim's Leave

1. Purpose and Eligibility

The City will allow employees who are victims of crimes to leave work to exercise their right to be present at legal proceedings related to the crimes in accordance with Arizona State Victim's Leave Law (ARIZ. REV. STAT. §§ 8-420, 13-4439, 23- 373) as amended. Any City employee is eligible for leave under this policy, except if the employee's family member is the victim and the employee is in custody for an offense or is the accused.

2. Use of Victims Leave

A request for victim's leave must be made to the immediate supervisor providing as much notice as practical. In making this request, the employee shall provide both of the following documents:

- a. A copy of the form provided to the employee by the law enforcement agency.
- b. A copy of the notice of each scheduled proceeding that is provided to the victims by the responsible agency.

Leave records under this policy shall be maintained in a confidential manner. When using victim's leave, the eligible employee may use accrued sick leave, vacation, or time earned. Compensatory time earned may be used for non-exempt employees to remain in a pay status while absent from work. If the employee has exhausted all accrued leave balances or if the employee is not benefit eligible, the leave of absence shall be unpaid and need to be approved by the City Manager. While there is no maximum amount of time allocated for the victim's leave, the City reserves the right to limit the leave provided under state law if the employees' absence from work creates an undue hardship to City business.

P. Administrative Leave

The Human Resources Department may authorize the granting of administrative leave to temporarily relieve an employee of his/her duties during an investigation and/or pending the outcome of a personnel or disciplinary hearing. Administrative leave may be authorized with or without pay depending upon the specific circumstance.

Q. Health, Dental, Life and Optional Insurances

Subject to the approval of City Council, the City provides health, dental and life insurance to regular status full-time employees. Insurance coverage begins 31 days after the first day of the month following the employee's first day of employment.

1. Medical Insurance

Employees hired in 30-40 hour positions are eligible to elect coverage under the City's medical insurance plans. Employees may elect to cover their dependents at the cost which has been negotiated by the City and the insurance carrier. The City may elect to pay a

portion of the dependent's coverage. Employees hired in a position with hours less than 30 hours are not eligible to enroll in the City's medical insurance plans.

2. Dental Insurance

Employees hired in 30-40 hour positions are eligible to elect coverage under the City's dental insurance plans. Employees may elect to cover their dependents at the cost which has been negotiated by the City and the insurance carrier. The City may elect to pay a portion of the dependent's coverage. Employees hired in a position with hours less than 30 hours are not eligible to enroll in the City's dental insurance plans.

3. Life Insurance

Employees hired in 30-40 hour positions are covered by the City's basic life insurance plan. These employees may purchase additional life insurance. Employees hired in a position with hours less than 30 hours are not eligible to enroll in the City's life insurance plans.

4. Optional Insurance Benefits

The City may provide optional benefits through payroll deduction.

R. Continuation of Health Insurance under Consolidated Omnibus Budget Reconciliation Act ("COBRA")

Under the Consolidated Omnibus Budget Reconciliation Act of 1985, better known as COBRA, if an employee terminates employment with the City, the employee is entitled to continue participating in the City's group health plan for a prescribed period of time, usually 18 months. (In certain circumstances, such as an employee's divorce or death, the length of coverage period may be longer for qualified dependents.) COBRA coverage is not extended to employees terminated for gross misconduct.

If a former employee chooses to continue group benefits under COBRA, he/she must pay the total applicable premium plus a 2% administrative fee. Coverage will cease if the former employee fails to make premium payments as scheduled, becomes covered by another group plan that does not exclude pre-existing conditions, or becomes eligible for Medicare.

For detailed information or questions on COBRA, employees are requested to check with the Human Resources Department.

S. Workers' Compensation Insurance

1. General

Workers' Compensation provides a medical and hospitalization expenses benefit as well as partial payment in lieu of salary for workers injured on the job. All City employees are covered by this form of insurance at no cost to the employee from the first day of

employment. Benefits are based on the statutory limit set forth in the Arizona Revised Statutes.

2. Reporting Period

All job-related personal injuries to employees must be reported to Risk Management within 24 hours of the time the accident occurred.

3. Choice of Care Provider

The City has the right to request that an employee injured on the job, seek medical assistance from a doctor of the City's choice.

T. Retirement Plans

1. Enrollment in the Arizona State Retirement System or the Public Safety Personnel Retirement System or the Correctional Officers Retirement Plan will be determined based upon eligibility. The Public Safety Personnel Retirement System is for certified peace officers and firefighters.
2. Deductions for all plans are made from each pay period. The amount of the City's contributions, as well as employee contributions, is determined by state legislation.

U. Deferred Compensation Plans

1. Under these optional plan area several types of programs governed by Internal Revenue Service (IRS) an employee may choose to defer a portion of his/her income through payroll deduction. By deferring income, an employee may lower the income tax they currently pay.
2. The City may elect to contribute funds to employee's Deferred Compensation Plan

V. Health Savings Account (HSA)

1. General

Health Savings Accounts (HSA) were created by Public Law 108-173, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. HSA is designed to help individuals save for qualified medical and retiree health expenses on a tax-advantaged basis.

2. Employee Choice

Employees who select a high deductible health plan may be eligible to participate in an HSA.

3. City Contribution

The City may elect to contribute funds to employee's HSA accounts.

W. Flexible Spending Arrangements (FSA)

1. General

Health Flexible Spending Arrangements and Dependent Care Flexible Spending Arrangements (FSA) allow employees to be reimbursed for medical expenses.

2. Process

- a. Employees may contribute to FSA accounts up to the limit set by the City.
- b. No employment or federal income taxes are deducted from employee contributions to FSA accounts.

CHAPTER 7

Drug and Alcohol Policy

A. Provisions Covered by the Rules

These policies and procedures will apply to all positions, in all departments of the City of Avondale and to such positions in the exempt and temporary service as may be provided herein.

B. Drug and Alcohol Testing Policy

1. The City of Avondale (the “City”) believes that substance abuse is a serious threat to the welfare of our employees, citizens, and the public. To address this problem, we have introduced this policy with respect to the use, possession, or sale of drugs and alcohol. By establishing this policy, we hope to:
 - a. Maintain a safe, healthy, and productive working environment for its employees.
 - b. Ensure the good reputation of the City and its employees.
 - c. Reduce accidents, tardiness, absenteeism, and indifferent job performance.
2. Typically, employees with drug and alcohol abuse problems make up only a small part of the work force, so we regret any inconvenience to the majority of you that are not substance abusers. We believe, however, that the benefits of our drug and alcohol testing program will more than make up for any inconvenience. Thus, we ask for your understanding and cooperation in implementing this policy.

C. Substance Abuse Policy

This policy requires all employees of the City to refrain from being involved in any way with illegal drugs or from abusing alcohol, on or off the job.

D. Grounds for Termination or Discipline

The following are grounds for discipline up to and including termination, even for a first offense.

1. Illegal Drug Use Prohibited

Illegal drug use includes possessing, using, purchasing, distributing, or selling illegal drugs, or reporting to work impaired by illegal drugs. Under this policy, “illegal drugs” include any drug or drug-like substance which:

- a. Is not legally obtainable.
- b. May be legally obtainable but has not been legally obtained.
- c. Is being used in a manner or for a purpose other than as prescribed.

2. Alcohol Use Prohibited

Alcohol use includes possessing, using, purchasing, distributing, or selling alcohol beverages at any time during the hours between the beginning and ending of the employee's work day, or reporting to work or working while impaired by alcohol in any way.

3. Recreational Marijuana and Marijuana-Based Product Use Prohibited

Use includes possessing, using, purchasing, distributing, or selling marijuana or marijuana-based products at any time during the hours between the beginning and ending of the employee's work day, or reporting to work or working while impaired by marijuana or marijuana-based products in any way.

4. Failure to Participate

- a. The following will be considered a failure to participate in the City's drug and alcohol testing policy:
 - 1) Failure to submit to drug or alcohol testing.
 - 2) Failure to immediately report for drug or alcohol testing when requested to do so.
 - 3) Refusal to sign all appropriate consent forms.
 - 4) Any other failure to cooperate to the City's complete satisfaction.

5. Use of Legal Drugs

- a. In recognition of privacy concerns, the City will not solicit information from an employee regarding medications that an employee may be taking absent an indication that the employee is impaired or poses a safety hazard. The exception to this section of the policy is Police Officers and Detention Officers.
- b. It is the responsibility of any employee who is taking any medication, including those sold without a prescription, which may interfere with the safe and effective performance of duties to notify their supervisor before beginning work.
 - 1) Disclosure of the specific medical condition or the specific medication to the supervisor is not required (it may ultimately be required to be made to City Human Resources or a City-contracted Physician).
 - 2) The employee shall provide documentation from the treating physician of any limitations this may impose on the employee.

- 3) If the limitations are such that the employee cannot safely and effectively perform his/her job duties, the employee may be placed on sick leave and referred to the Human Resources Department for discussion of reasonable accommodation.
- c. It is the employee's responsibility to advise the City when the employee is no longer using the medication in question.
- d. Any medical documentation shall be sent to City Human Resources for filing in the employee's confidential medical file.

E. Testing

1. Pre-Employment Drug Abuse Screening

The City will test all applicants who, as required by AZ Peace Officers Standards and Training Board and Federal/state law, receive an offer of employment prior to commencing employment, in an effort to detect individuals who currently use illegal drugs.

2. Reasonable Suspicion Testing

- a. The City will require an employee to submit to alcohol and/or drug testing when there is reasonable suspicion to believe that the employee is under the influence of illegal and legal drug or alcohol use.
- b. For purposes of this policy, "reasonable suspicion" will be based on specific observations concerning the appearance, behavior, speech or body odors of the employee, including, without limitation, slurred speech, red eyes, dilated pupils, incoherence, unsteadiness, unexplained carelessness or accidents, erratic behavior, inability to perform the job and other unexplained behavioral changes.
- c. These observations must be made by a supervisor or other City official who has been trained to recognize signs of alcohol and/or drug use.

3. Random Testing

- a. The following employees are subject to unannounced random screening for illegal drug use
 - 1) Certified police officers
 - 2) Police reserve officers
 - 3) Firefighters
 - 4) Firefighter reserve employees.
- b. See Section G.4.c of this policy for Department of Transportation (DOT) requirements.

F. Consequences of Violating This Policy

1. An employee who tests positive, refuses to submit to drug or alcohol testing, refuses to sign all appropriate consent forms, or otherwise fails to participate in this policy to the City's complete satisfaction, may be subject to discipline up to, and including, immediate termination.
2. The appropriate level of discipline will be determined on a case-by-case basis at the City's discretion, and may include treatment or rehabilitation under terms established by the City in consultation with a substance abuse professional.
3. This policy shall be construed in accordance with federal and state laws, including the Americans with Disabilities Act, the Family and Medical Leave Act, and the OMNIBUS Transportation Employee Testing Act of 1991.
4. Rehabilitation is the responsibility of the individual employee. An employee with a drug or alcohol abuse problem is encouraged to use whatever treatment or rehabilitative services are available under the City's group and health plan in effect at that time.
5. The City may not keep an employee in any particular job classification or position after the employee, either voluntarily or as a result of a positive drug test, seeks treatment or rehabilitation, unless otherwise required by law.

G. Federal Highway Administration Controlled Substances and Alcohol Use Testing Requirements

The United States Department of Transportation (DOT) has adopted mandatory rules which require employers to adopt and maintain substance abuse prevention programs, including drug and alcohol testing.

1. DOT Definitions
 - a. **Alcohol use** means the consumption of any beverage, mixture or preparation, including any medication, containing alcohol.
 - b. **Controlled substances** are marijuana, cocaine, opiates, amphetamines and phencyclidine.
 - c. A **commercial motor vehicle** is any motor vehicle used to transport passengers or property if it has a gross vehicle or combination weight of 26,001 or more pounds, is designed to transport 16 or more passengers, including the driver, or is used to transport placarded hazardous materials.
 - d. A **driver** is considered to be performing a safety sensitive function during any period in which he or she is doing any of the following with respect to a CMV; waiting to be dispatched, inspecting, servicing, conditioning, driving, loading or unloading (whether

supervising, assisting or merely attending), repairing, obtaining assistance, waiting for held while the vehicle and all other time in or upon the vehicle.

- e. ***A refusal to submit to alcohol or controlled substance testing*** includes any of the following:
 - a. Failure to provide adequate breath for alcohol testing without a valid medical explanation.
 - b. Failure to provide an adequate urine sample for controlled substances testing without a genuine inability to provide such a sample.
 - c. Or any other conduct that obstructs the testing process.

2. Rules

These rules apply to every person who performs a safety sensitive function on a commercial motor vehicle (CMV) and is required to hold a commercial driver's license (CDL) to perform his or her job duties.

- a. All employees required to hold a CDL as part of their job with the City must always be immediately available to perform any safety sensitive function, and must comply with these rules at all times while on duty.
- b. Any questions concerning the DOT drug and alcohol testing rules should be directed to the Human Resources Department.

3. Prohibitions

The City will not permit any driver to operate or continue to perform safety sensitive functions if he or she:

- a. Has an alcohol concentration of 0.04 or greater.
- b. Is using alcohol while performing any safety sensitive function.
- c. Has used alcohol within 4 hours of performing any safety sensitive function.
- d. Has used a controlled substance.
- e. Or has tested positive for any controlled substance.
- f. If a driver has an alcohol concentration of 0.02 – 0.039, he or she will not be allowed to perform any safety sensitive function for the City for at least 24 hours.
- g. The City also will not permit a driver to operate a commercial motor vehicle if the driver possesses alcohol or if the driver refuses to submit to required alcohol or controlled substance testing.

4. Required Testing

a. Pre-Employment Testing

- 1) The City will not permit any driver to perform safety sensitive functions unless that driver has received a controlled substances test result from the medical review officer (MRO) indicating a verified negative result.
- 2) The only exception to this rule is if the driver is excused from the pre-employment testing requirement pursuant to 49 C.F.R. 381.301 (c).

b. Post-Accident Testing

- 1) As soon as practicable following an accident, the City will test each driver for alcohol and controlled substances if:
 - a) The driver was performing a safety sensitive function with respect to the vehicle, and the accident involved the loss of a human life.
 - b) Or the driver receives a citation for a moving traffic violation arising from the accident, and the accident resulted in bodily harm to any person requiring medical treatment away from scene of the accident.
 - c) Or there is disabling damages to any of the vehicles involved in the accident.
- 2) An alcohol test will be administered within 8 hours and a drug test will be administered within 32 hours of the accident. If these tests are not performed within these periods, the City will cease its testing efforts and prepare to record identifying the reason(s) why one or both of these tests were not administered.
- 3) A driver who is subject to post accident testing shall remain readily available for such testing or may be deemed to have refused to submit to testing.
- 4) A driver may not consume any alcohol for 8 hours following an accident, or until tested, whichever occurs first.
- 5) A driver must contact his or her supervisor immediately after an accident so that the need for alcohol and drug testing can be assessed and to ensure that the driver will be able to comply with the DOT rules.
- 6) Failure to report an accident involving a commercial motor vehicle may be grounds for disciplinary action.

c. Random Testing

The City uses a third party vendor to randomly select a number of drivers each calendar year for drug and alcohol testing at an annual percentage rate determined by the Federal Motor Carriers Safety Association (FMCSA). ([49 CFR Part 40](#))

d. Reasonable Suspicion Testing

- 1) The City will require drivers to submit to alcohol and/or controlled substances testing when there is reasonable suspicion to believe that the driver has violated the DOT rules concerning alcohol use or controlled substances.
- 2) The request to undergo a reasonable suspicion test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odor of the driver.
 - a) These observations may include indications of the chronic and withdrawal effects of controlled substances.
 - b) The chronic and withdrawal effects of controlled substances may not be the sole indicator for reasonable suspicion, but may be used in conjunction with other indicators.
- 3) Reasonable suspicion testing is designed as a tool to identify affected drivers who, through alcohol or controlled substances misuse, may pose a danger to themselves and others in their performance of safety-sensitive functions.
 - a) Drivers may be at work in a condition that raises concern regarding their safety or productivity.
 - b) A supervisor must then make a decision as to whether reasonable suspicion exists that a controlled substance and/or alcohol may be causing the behavior.
- 4) These observations will be made by a supervisor or City official who has been trained to recognize signs of alcohol and/or controlled substance abuse.
- 5) When the City reasonably believes a driver is impaired, that driver will not be allowed to perform any safety sensitive function until:
 - a) An alcohol test is administered and the alcohol concentration is less than 0.02;
 - b) Or 24 hours have elapsed since the reasonable suspicion determination.

e. Return to Duty Testing

- 1) Before returning to duty requiring the performance of any safety sensitive function following alcohol-related conduct prohibited by the DOT rules, a driver must undergo a return to duty alcohol test with a result indicating an alcohol concentration of less than 0.02.
- 2) Before returning to duty requiring the performance of any safety sensitive function following controlled substances related conduct prohibited by the DOT rules, a driver must undergo return to duty controlled substances testing with a result indicating a verified negative result for controlled substances.

f. Follow Up Testing

- 1) A driver who has been determined to need assistance in resolving problems associated with alcohol misuse and/or controlled substances is subject to unannounced follow up testing as directed by a substance abuse professional.
- 2) There must be at least 6 follow up tests within the first 12 months after a driver returns to duty, follow up testing will not exceed 60 months from the date of the driver's return to duty.

Testing under paragraphs c, d, and f will occur while the driver is performing safety sensitive functions, or just before the driver is to perform safety sensitive functions or just after the driver has ceased performing such functions.

5. Testing Procedures

a. Controlled Substances

- 1) Precautions will be taken to ensure that a urine specimen is not adulterated or diluted during the collection procedure, and that information on the urine bottle and on the urine custody and control form identifies the driver from whom the specimen was collected.
 - a) These precautions will include placing a bluing agent in toilets when possible, securing and monitoring water sources and positively identifying the driver as the employee selected for testing.
 - b) Additionally, drivers will be required to remove any outer garments and personal belongings (such as purses or briefcases) in which items may be concealed, and to wash and dry their hands prior to testing.
- 2) Under normal circumstances, the actual collection of the urine specimen will not be observed unless:
 - a) The urine specimen falls outside the normal temperature range and the driver either declines to allow measurement of his or her body temperature or his or her oral body temperature varies by more than 1.8 degrees Fahrenheit from the specimen;
 - b) The driver's previous specimen did not register a normal measurement of specific gravity and creatinine;
 - c) The collection site person observes conduct clearly and unequivocally indicating an attempt to substitute or adulterate the specimen; or

- d) The driver has previously been determined to have used a controlled substance and the particular test was being conducted under DOT agency regulation providing for follow up testing upon or after the driver's return to duty.
- 3) If the temperature of the specimen falls outside of the normal range, the assumption will be that it has been altered or substituted.
 - a) The driver may volunteer to have his or her oral temperature taken to counter this presumption.
 - b) In all circumstances, the collection site person will inspect the specimen to determine if it has been contaminated, and will note any unusual findings on the custody and control form.
 - c) All specimens suspected of being adulterated will still be forwarded for testing.
 - d) Whenever there is reason to believe that a specimen has been altered or substituted, a second observed specimen will be obtained from the driver as soon as possible.
- 4) Both the driver and the collection site person must be present when:
 - a) The specimen is labeled;
 - b) The driver initials the label to confirm that it is his or her specimen;
 - c) The collection site person enters the information to identify the specimen and
 - d) Signs the custody and control form;
 - e) The driver reads and signs the statement of the form certifying that the specimen is the one he or she provided; and
 - f) The driver signs a consent or release form if specified by DOT rules or is required by the collection site or laboratory.
- 5) The collection site person will note any refusal to cooperate with the testing process on the custody and control form and will notify the City.
- 6) The City will use a "split sample" method of testing performed by laboratories certified under the HHS "Mandatory Guidelines for Federal Workplace Drug Testing Programs."
 - a) If the initial screening test is positive, the driver may request that the MRO send the split specimen to another HHS certified laboratory to test for the presence of the drugs for which a positive result was initially obtained.
 - b) This request must be made within 72 hours of the driver's notification of the test results.

- 7) The MRO will review the final confirmed test results before they are transmitted to the City. However, the MRO will first contact a driver to discuss a confirmed positive test result.
 - a) If the MRO is unable to contact the driver directly, he or she will attempt to do so through a designated City official.
 - 8) The MRO may verify a test result as positive without communicating with the driver if:
 - a) The driver declines to discuss the test with the MRO;
 - b) More than 5 days pass since the time the designated City official informs the driver that he or she should contact the MRO; or
 - c) Other circumstances provided for in DOT agency rules.
 - 9) Following verification of a positive test result, the MRO will refer the case to the City's Human Resources Department.
- b. Alcohol Testing
- 1) The City will conduct a screening test for alcohol use using either an evidentiary breath testing device (EBT) or a non-evidential screening device approved by the National Highway Traffic Safety Administration.
 - a) If the screening test yields an alcohol concentration of 0.02 or greater, a confirmation test will be performed between 15 and 30 minutes after the first test using an EBT.
 - b) If the two tests yield different results, the confirmation test will be deemed to be the final result upon which any action is based.
 - 2) The City will comply with the quality assurance plan and the manufacturer's instructions for each screening device used, and shall maintain records relating to the inspection, maintenance, compliance with the quality assurance plan, calibration and qualifications of individuals using each screening device.
- c. Handling of Test Results
- 1) Test results will be kept confidential except as required by law or expressly authorized by the DOT rules.
 - 2) The City will notify driver applicants of pre-employment test results if the driver requests such results within 60 days of being notified of the disposition of his or her application.

- 3) The City will notify a driver of the results of random, reasonable, suspicion, and post-accident test results verified as positive for controlled substances, and identify for the driver the controlled substances that were detected and verified.
6. Consequences for Engaging in Prohibited Conduct
 - a. A driver who engages in conduct prohibited under the DOT rules must be evaluated by a substance abuse professional who will determine what assistance, if any, the driver needs in resolving problems associated with alcohol or controlled substances use.
 - b. Additionally, the driver will not be allowed to perform any safety sensitive function for the City until meeting the requirements for referral, evaluation and treatment, and has taken and passed a return to duty test.

H. Drug Free Awareness Program

1. To educate employees about the dangers of substance abuse, the City has established a drug free awareness program along with the availability of counseling, and the City's policy regarding substance abuse.
2. The City has also established a training program for all Commercial Motor Vehicle operators and supervisory employees, which includes information on the effects and consequences of controlled substances and training to detect controlled substance abuse.
3. Treatment
 - a. The City encourages employees with substance abuse problems to avail themselves of any available treatment or rehabilitative services available under the City's group health plan.
 - b. Information regarding these services can be obtained from the Human Resources Department.
4. Discipline
 - a. An employee who tests positive, refuses to submit to drug or alcohol testing, refuses to sign all appropriate consent forms, or otherwise fails to comply with this policy to the City's complete satisfaction may be subject to discipline up to, and including, immediate termination.
 - b. The appropriate level of discipline will be determined on a case by case basis at the City's discretion, and may include treatment or rehabilitation under terms established by the City.
 - c. The City is entitled to rely on the results of its drug or alcohol test to determine whether the employee has violated the policy prohibiting drug or alcohol.

I. Other Laws

This policy will be construed in accordance with federal, state, and local laws, including the Americans with Disabilities Act the Family Medical Leave Act, and the OMNIBUS Transportation Employee Testing Act of 1991.

CHAPTER 9

Appearance and Conduct

A. Appearance

All employees are required to maintain a clean and well-groomed appearance in conjunction with the position they hold.

1. Department Directors are responsible for enforcing the proper dress, personal appearance, hygiene, and service provided by their department.
2. Employees will wear clothing which is appropriate for the nature of their work as deemed by the Department Director and/or Supervisor.
 - a. The City Manager may, at his/her discretion, authorize casual days.

B. Conduct

All employees shall:

1. Treat their co-workers, supervisors, department directors, City Manager, and Council Members with appropriate respect for the position they hold, and carry out all instructions from management to the best of their ability.
2. Conduct themselves in a manner so as to be a credit to the City both on and off duty.
3. Be just and honorable in all their relations with each other. They will not make false reports and statements or gossip to the discredit or injury of another City employee or concerning municipal matters; nor will they act in a manner directed toward creating a disturbance or dissension within City departments.
4. Not consume or have in their possession, while on duty or during any authorized work break, any alcoholic beverages, recreational marijuana, or unlawful drugs.
5. Not possess any gambling devices or paraphernalia on City property with the intent to use the same for an unlawful purpose, nor will employees conduct or attend or make any bet, lottery, or gambling for profit during working hours.
6. Adhere to the City's Chapter 7 Drug and Alcohol Policy to ensure that all employees are free from drug and alcohol abuse. Consequently, the use of alcohol and illegal drugs while on duty is prohibited. The City has a zero tolerance policy against drugs and alcohol. This policy is to ensure a positive and productive work environment.

C. Fraternization

1. Definition

- a. A relationship that falls outside of normal work interactions and communications, which is usually (but not necessarily) romantic or sexual in nature.

2. The City has adopted this section in recognition of its responsibilities to provide guidelines on and caution employees of the potential problems posed by intimate relationships with other employees such as conflicts of interest, interference with productivity of co-workers, and potential charges of sexual harassment. These problems can be particularly serious in situations in which one person has a position of authority over the other, such as in a supervisor-subordinate relationship.

3. Restrictions on Employee Conduct

- a. The City does not prohibit consensual relationships between employees, but it does impose the following restrictions:
 - 1) The City strongly discourages supervisors and directors from engaging in sexual or otherwise intimate relationships with subordinates within the same department and requires the employees involved to disclose the existence of such relationship to the Human Resources Director or the City Manager.
 - 2) Additionally, supervisors and directors are required to take the steps to resolve any actual or potential conflict of interest or impropriety created by the relationship.

4. Disclosure

- a. Once disclosed, the Human Resources Director and the City Manager must assess the situation and make a recommendation to resolve any actual or potential conflict of interest or impropriety created by the relationship.
- b. Such recommendation may require the supervisor or non-supervisory employee to transfer to another department or facility where the supervisor is prohibited from having any involvement in professional decision-making affecting the partner who transfers.

5. Discipline

- a. Failure to comply with the recommendation to resolve a conflict with this policy can result in discipline up to and including termination of employment.

D. Prohibited Conduct

1. Employees are prohibited from engaging in sexual conduct of any kind on City property or on City time.

E. Attendance

Employees are required to be at their assigned work stations prepared to work, on time, and as scheduled each day.

1. If an employee, for some unavoidable reason, cannot report for work, he/she will notify his/her supervisor or department director prior to the first normal duty hour, or within thirty (30) minutes following the time scheduled to report for work.
2. If an employee fails to return to work following any authorized leave and fails to notify Human Resources of the need for an extension, the employee will be considered to have abandoned the job.
 - a. Human Resources shall send written notice to the employee's last known address requiring the employee to return to duty within forty-eight (48) hours.
 - b. Failure to return to work within forty-eight (48) hours of receipt of the notification will be cause for immediate discharge and the employee automatically waives all appeal rights under this policy.
3. Failure on the part of an employee to comply with these policies will be cause for disciplinary action.

F. Hours of Work

Hours of work will be established by each department director and upon approval of the City Manager.

CHAPTER 14

Tuition Reimbursement Program

A. Policy

1. The City of Avondale values the importance of the individual growth of each employee because it is seen as a contributing factor in the growth of the City. Therefore, it is the City's policy to encourage employee development through tuition reimbursement.
2. Affirmative action will be taken to assure that there is equal opportunity to participate in tuition reimbursement opportunities without regard to race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, disability, age (age 40 or older), or genetic information.

B. Purpose

1. The City recognizes the need for employees to develop knowledge, skills, and abilities in order to keep pace with the rapid changes in technology, methodologies, and workplace diversity. This program has been established so the City of Avondale and its employees may benefit from the rewards of additional education.
2. The purpose of this program is to increase an employee's competence in his/her current position and to broaden his/her career opportunities with the City.

C. Employee Eligibility

1. Any regular, full-time employee holding an exempt or non-exempt position and who has successfully completed original probation is eligible to participate in the tuition reimbursement program.
2. Any employee on original probation is not eligible for the tuition reimbursement program.
3. The resignation or termination of an employee prior to the completion of a course will automatically terminate his/her eligibility for reimbursement under this program.
4. A reduction in force or approved leave of absence status of an employee after the approval of his/her application for education assistance will not alter their eligibility for reimbursement.

D. Course Eligibility

1. Tuition reimbursement will be provided for courses of instruction taken at, or through, private and public institutions of learning such as universities, colleges, trade schools, and technical institutions. All eligible institutions must be fully accredited by a regional institutional accrediting association such as, the North Central Association of Colleges and Secondary Schools.
2. Eligible programs are Associate, Bachelor's, and Master's degree programs. Certificate programs and individual course-work will be evaluated for approval by the Human Resources Director.
3. To be eligible for tuition reimbursement, courses will be taken on the employee's personal time and the employee will have personally paid the tuition for which they are requesting reimbursement.
 - a. Employees who receive financial assistance for his/her education from another source (i.e. scholarships, grants, military education benefits, etc.) must disclose the source and the amount at the time they apply for course reimbursement.
 - b. If an employee receives 100% funding for his/her tuition from another source, the City shall not provide reimbursement.
 - 1) Under certain circumstances, coordination with other funding sources is possible. In all instances, total financial assistance and tuition reimbursement shall not exceed the educational expenditures incurred.
4. To be eligible for reimbursement, an employee will submit an application for tuition reimbursement at least five (5) days **prior to** the beginning of a course. Reimbursement will not be approved if an application for this reimbursement is received after a course has been completed.
5. To be approved for reimbursement, a course must result in formal college credit and will meet one of the following criteria:
 - a. It relates directly to the job classifications of the employee's present position, or it relates to the job classification of a position, which would be career advancement for the employee and thereby makes an employee more in line with career progression.
 - b. Courses taken as electives by employees in a degree program are acceptable; however, the Human Resources Director must approve other elective classes.

- c. Courses taken to complete a General Education Diploma “GED”.
- 6. Courses will be taken for an academic grade. A course taken for pass/fail credit may be approved if an academic grade (A-F) is not available. Audited courses will not be eligible for reimbursement.
- 7. Courses must be completed with a grade of “C” or better, to qualify for reimbursement.
- 8. The Human Resources Director will issue the final decision of whether an educational course meets these requirements and contributes to employee development supported by this policy.

E. Reimbursement Eligibility and Level of Assistance

- 1. The City will reimburse tuition cost of up to \$5,000 in eligible tuition expenses per calendar year pending sufficient availability of Human Resources Department funds. All other costs, including books, fees, transportation, online program costs, etc. are the responsibility of the employee.
- 2. Tuition reimbursement is not available more than one time for the same course.
- 3. The calendar year in which the reimbursement is paid to the employee will determine the calendar year that the tuition reimbursement amount will be counted against. For example, if a course is taught from October-December and the reimbursement is paid in the following January, the course’s reimbursement amount will be counted toward January’s calendar year limit of \$5,000.

F. Reimbursement

- 1. Upon successful completion of the course(s), reimbursement is contingent upon the employee submitting the following documentation to the Human Resources Department:
 - a. A copy of the HR Department approved application for tuition reimbursement
 - b. A copy of the official grade report or transcript from the educational institution.
 - c. An original paid tuition receipt.
 - 1) The receipt must itemize all of the charges, including tuition.

- 2) The receipt should indicate the method of payment, such as by personal check, credit card, or student loan.
 - 3) The receipt must indicate a “zero” balance for the course in order to be eligible for tuition reimbursement.
- d. The documents must be submitted within 60 days after completion of the course(s).
 - e. When all requirements are met, the Human Resources Director will approve reimbursement and reimbursement will be issued to the employee.
2. No advance payment will be made to employees for tuition expenses covered under this policy and no payment will be made directly to an institution.
 3. The employee is expected to make personal payment to his/her educational institution.
 4. This benefit will only reimburse employees for approved tuition after the satisfactory completion of the course.

CHAPTER 15

Discrimination and Harassment

A. Purpose and Scope

1. The City of Avondale (City) provides equal employment opportunities to all employees and applicants for employment and prohibits discrimination and harassment of any type without regard to race, color, religion, age, sex, national origin, disability status, genetics, protected veteran status, sexual orientation, gender identity or expression, marital status, or any other characteristic protected by federal, state, or local laws.
2. The purpose of this policy is to make it clear that the City of Avondale has zero tolerance for any form of harassment or unlawful discrimination in the workplace, and to establish procedures for reporting behavior prohibited by the law and this policy.

B. Policy

1. It is the policy of the City to strictly prohibit any form of workplace harassment and discrimination. Complaints of behavior in violation of this policy will be investigated, and violators will be appropriately disciplined, up to and including termination. This policy applies to all employees of the city. Supervisory or managerial personnel are responsible for taking proper action in accordance with this policy.
2. Employees who are unclear about whether conduct is in violation of this policy are encouraged to contact Human Resources (HR) to discuss it.

C. Definitions

1. **Bullying** – Bullying refers to repeated, unreasonable actions of individuals (or a group) directed towards an employee (or a group of employees), which are intended to intimidate, degrade, humiliate, or undermine; or which create a risk to the health or safety of the employee(s). Examples include unwarranted or invalid criticism, blame without factual justification, being treated differently than the rest of your workgroup, being sworn at. Bullying may be offensive, intimidating, malicious, or insulting behavior involving the misuse of power that may cause an employee to feel vulnerable, upset, humiliated, undermined, or threatened. “Power” does not always mean being in a position of authority, but can include both personal strength and the power to coerce through fear or intimidation. Bullying can take the form of physical, verbal, and non-verbal conduct. Bullying can constitute harassment or discrimination if the target is a member of a protected class.
2. **Cyberbullying** – Cyberbullying is bullying behavior as defined in C.1 above that takes place through the use of computers, cellphones or other electronic devices.

3. **Discrimination** – Discrimination means to exclude individuals from an employment opportunity, benefits or privileges; to create discriminatory work conditions; or to use discriminatory evaluation standards in employment if the discriminatory behavior is based on the individual's race, color, religion, sex, age, disability status, sex, sexual orientation, gender identity or expression, genetic information, marital status or national origin. This type of discrimination may also be strictly prohibited by a variety of federal, state and local laws, including Title VII of the Civil Rights Act of 1964, the Age Discrimination Act of 1967, and the Americans with Disabilities Act of 1990.
4. **Harassment** – For purposes of this policy, harassment is any verbal or physical behavior designed to threaten, intimidate or coerce an employee, co-worker, or any person working for or on behalf of the City. Examples may include, but are not limited to, verbal comments that are offensive or unwelcome regarding a person's national origin, race, color, religion, age, sex, sexual orientation, pregnancy, appearance, disability, gender identity or expression, marital status or other protected status, including epithets, slurs and negative stereotyping. Nonverbal harassment includes distribution, display or discussion of any written or graphic material that ridicules, denigrates, insults, belittles or shows hostility, aversion or disrespect toward an individual or group because of national origin, race, color, religion, age, sex, sexual orientation, pregnancy, appearance, disability, sexual identity, marital status or other protected status. The harasser can be the person's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the City, such as a contractor, client, or customer.
5. **Hostile Work Environment** – A hostile work environment exists when one's behavior within a workplace creates an environment that, on a regular basis, is difficult or uncomfortable for another person to work in, due to discrimination, harassment or bullying. Small matters, annoyances, and isolated incidents are usually not considered to be statutory violations of the discrimination laws.
6. **Retaliation** – Any adverse action taken against an individual (applicant or employee) because he/she filed a charge of discrimination, complained to the City or a government agency about discrimination on the job, or participated in an employment discrimination proceeding (such as an internal investigation or lawsuit), including as a witness. Retaliation also includes adverse action taken against someone who is associated with the individual opposing the perceived discrimination, such as a family member.
7. **Sexual Harassment** – Sexual Harassment is a form of unlawful employment discrimination under Title VII of the Civil Rights Act of 1964 and is prohibited under this policy. Sexual Harassment consists of making unwelcome sexual advances or requests for sexual favors, or engaging in other verbal or physical acts of sexual or sex-

based nature where such conduct interferes with the employee's work performance or creates an intimidating, hostile, or offensive working environment.

8. **Workplace Harassment** – Workplace Harassment is any unwelcome and offensive conduct that is based on race, color, national origin, sex (including pregnancy, gender identity, and sexual orientation), religion, disability, age (age 40 or older), or genetic information.

D. Responsibilities

1. Human Resources Director is responsible for the following activities:
 - a. Assist supervisors, managers, and directors with identifying the most appropriate measures to ensure compliance with this policy.
 - b. Ensure supervisors, managers, and directors receive training related to compliance with this policy and completion is included in their performance appraisals.
 - c. Ensure all new employees receive a copy of this policy.
 - d. Maintain all types of harassment inquiry-related records and files in a secure location.
2. Supervisors, Managers, and Directors are responsible for the following activities:
 - a. Contact HR immediately upon any allegation or report of any type of harassment as described in this policy.
 - b. Maintain a respectful work environment that is free from any form of harassment by both employees and non-employees; take prompt, effective corrective action when knowing or have reason to know of interactions among coworkers, either on or off duty, that foster a hostile work environment.
 - c. Ensure subordinates are aware of this policy and procedure and evaluate employees' compliance.
 - d. Foster a work environment free from harassment by setting an example through personal behavior of appropriate conduct in both the workplace and in social settings.
 - e. Understand and clearly communicate the process for investigating and resolving harassment complaints made by employees.
 - f. Take immediate and appropriate steps to address any allegations of harassment upon becoming aware of them, whether or not a complaint has been made.
 - g. Monitor the work environment after a complaint of an alleged violation of this policy has been made to ensure there are no further violations or incidents of

retaliation against any individual who reported or participated in the inquiry or investigation.

- h. Ensure harassment situations are dealt with in a sensitive, prompt, and confidential manner.
3. Employees are responsible for the following:
- a. Treat others with respect.
 - b. Understand rights and responsibilities under this policy and the related procedures.
 - c. Promptly report harassing conduct in the workplace by employees or others.
 - d. Promptly report any suspected retaliation for making a complaint or helping another employee make a complaint, participating in an inquiry into potential violations of this policy, or opposing unlawful discrimination or harassment.
 - e. Fully cooperate in an inquiry or investigation and respect the confidentiality related to the investigative process.

E. Reporting

- 1. An employee who has been subjected to any form of harassment as defined by this policy is encouraged to inform the person(s) responsible for the conduct that is unwelcome and offensive and request that the behavior stop immediately.
- 2. If unwelcomed behavior continues, or the employee feels uncomfortable confronting the responsible person(s) about the conduct, he/she should report the conduct as provided below:
 - a. Employees who have experienced conduct that they believe violates this policy, or who have concerns about such matters, should report their complaints verbally or in writing to their immediate supervisor, the Department Director, HR Director, Deputy City Manager, Assistant City Manager, or the City Manager.
 - b. Employees should not feel obligated to report their complaints to their immediate supervisor first before bringing the matter to the attention of one of the other designated City representatives identified above.
 - c. Employees who have observed or are otherwise aware of hostile or abusive conduct directed at others are encouraged to report the conduct to the supervisor of the offending employee, the reporting employee's own supervisor, the Department Director, or the HR Director.
 - d. Any supervisory or managerial personnel who becomes aware of possible harassment or discrimination must immediately advise HR so that the matter can be investigated.

F. Investigation

1. All allegations of harassment will be investigated.
2. To the extent possible, the identity of the employee alleging conduct in violation of this policy will be treated as confidential, as well as the identity of any witness(es) and the alleged violator. All city employees who are involved with or aware of investigations are expected to maintain the same level of confidentiality.
3. The city has a responsibility to all employees to investigate all allegations of conduct in violation of this policy, which may include interviewing alleged offenders and witnesses.
4. When the city's investigation is complete, employees involved with the investigation will be informed of the outcome.

G. Retaliation

1. Under no circumstances will any employee be subject to any form of retaliation or discipline for addressing or making a complaint about harassment of any kind including bullying, for cooperating in an investigation, for appearing as a witness in the investigation of a complaint, or for serving as an investigator of a complaint.
2. An employee or supervisor who initiates a retaliatory act is subject to discipline up to and including dismissal.
3. Reports of retaliation may be made verbally or in writing.

H. Discipline

1. Discrimination, workplace harassment, bullying, and retaliation are forms of employee misconduct.
2. Disciplinary action, up to and including termination, will be taken against any employee engaging in behavior in violation of this policy.
3. Supervisory and managerial personnel who have knowledge of such behavior, but fail to take action to address it, will be subject to disciplinary action, up to and including termination.

I. Confidentiality

1. The City will protect the confidentiality of allegations to the extent reasonably possible.
 - a. Information will be disclosed on a need-to-know basis, consistent with the City's legal obligations to follow up on complaints, including investigation, remedial action, and if required, reporting to appropriate enforcement agencies.

- b. Employees interviewed as part of an investigation must refrain from discussing the investigative interview with other employees.
- c. All information pertaining to a complaint or investigation under this policy will be maintained in secure files within the HR department.
- d. Confidentiality will be maintained with the respect to the complaint, and the results of the investigation to the extent authorized by the Arizona Public Records law A.R.S §39-121, et seq. Once the investigation has been completed, it may be available for public inspection with some redactions as legally appropriate.

CHAPTER 16

Information and Communications Technology Policy

A. Policy Statement

The City shall maintain its information and communications technology environment to enable efficient, secure, legally compliant, and effective work by staff. The function of the Information Technology Department (IT) is to fulfill these technology, communications, and collaboration needs in a well-planned manner.

B. Key Definitions

1. **Access Control.** Limits placed on the ability to interact with networks, hardware, and/or software. Limits can be physical or logical in nature, affecting access to computing hardware, resources on data networks, entry into and use of business software, and ability to work with data.
2. **Backup.** A copy of original content that is transferred to a separate location(s) and/or medium(s) to safeguard the content for later restoring of information in the event of unwanted deletion, alteration, or disaster.
3. **De Minimus Use.** Personal employee use of City IT resources that is nominal, irregular, and within ethics standards.
4. **Information Systems.** Computer hardware, software, storage, networking, procedures and processes used in collecting, processing, storing, sharing, or distributing information.
5. **Information Security Officer (ISO).** City employee(s) designated by the Chief Information Officer to serve as the point-of-control for technology-related security issues. The individuals are designated in IT employee listings.
6. **Malware.** Any code, script, or other software that disrupts proper operation of systems, provides unauthorized access to network and/or systems, gathers/shares information without knowing consent, or otherwise causes undesired and compromising activity.
7. **Mobile Devices.** Portable communications and computing devices, such as cellular-based smartphones, tablet computers, and portable personal network cards/peripherals.
8. **Passphrase.** A sentence-like string of words used for authentication that is longer than a traditional password, easy to remember and difficult to crack.
9. **Password.** A sequenced combination of characters and numbers used to confirm that a user requesting access to a network or system is permitted to do so. Typically, a unique

User Access Account is paired with a password to manage access. The password, known only to the user who generated it, is entered to verify identity. A password is deemed “strong” if requirements for length, character use, and pattern significantly impede malicious and/or unintended access.

10. ***Private and Sensitive Data.*** Information defined by law, policy, or regulation as warranting controls over access, storage, release, modification, destruction, loss, and/or misuse.
11. ***Technology Assets and Resources.*** The City’s computers, servers, mobile devices, printers, computing peripherals, software and licenses, data communications network, technology vendor contracts, and services agreements.
12. ***User Access Account.*** An electronic identity used to access specific resources. Paired with a password and/or additional means of authentication, User Access Accounts allow secure use of information assets, resources, and tools.
13. ***Mobile Device Management (MDM).*** A type of security software used to monitor, manage, and secure mobile devices such as mobile phones, tablets, and laptops. The intent of this software is to optimize functionality, security, and protect the network and other City resources.

C. Information and Communications Technology Usage

1. **Accountability.** All employees are responsible for all activity occurring under their User Access Accounts. For information security purposes, employees **shall not** permit or make it convenient for individuals to use accounts not assigned to that person.
2. **Privacy.** No person using City technology and communications resources has any right or claim to privacy. Conduct on City resources, at City facilities, and/or during work time is subject to monitoring and recording as approved by the City Manager and/or designee(s).
3. **Appropriate Use.** City employees shall use City technology assets and resources in a professional, legal, and ethical manner. Misuse of technology assets and resources may result in discipline up to and including termination. The following are expressly prohibited:
 - a. Originating or relaying materials that discriminate or cause discrimination as defined under local, state, and Federal laws.
 - b. Originating or relaying intimidating, hostile, and/or threatening communications.
 - c. Altering messages to attribute and relay incorrect information.
 - d. Violating copyrights, trademarks, or licenses.

- e. Knowingly introducing malware and security risks into the City technology and communications environment.
 - f. Accessing the secure files and/or the communications of others without prior approval by the City Manager or designee.
 - g. Using City technology and communications resources to benefit personally, apart from employment terms.
 - h. Using City technology and communications resources on assigned work hours without current supervisor permission.
 - i. Any political activity defined as inappropriate under local, state, and Federal laws, and not approved as part of the City's approved legislative efforts.
- 4. **Personal Use.** The technology and communications resources of the City are for business use. De minimus personal use is permitted if extenuating circumstances exist and provided the employee does not violate Federal or state laws. It is the responsibility of the employee to ensure the limits on personal usage of public assets are understood prior to making such use.
 - 5. **Informal Communications.** Instant messaging, voice mail, and text messages are informal tools for coordination purposes. Communications on these tools may fall under Arizona Public Records laws and corresponding retention schedules.
 - 6. **Recording.** City of Avondale employees may not record images or sound of City work, programs, services, projects, employees or activities while in the course and scope of their employment unless it is for City business purposes and is either: (1) specifically authorized in writing by their supervisor or manager or (2) pursuant to department policy. Such recordings may fall under the Arizona Public Records laws and corresponding retention schedules.

Absent preauthorization, when urgent circumstances reasonably prevent the employee from first seeking the prior written approval from their supervisor or manager for the specific use in question, employees may record the images and sound and obtain approval after the fact.

- 7. **Employee Monitoring.** City employees or supervisors shall not use the City security cameras to monitor employees in their work environment without prior consent of Human Resources. IT may retrieve security footage for an investigation upon the approval of HR or City Management.
- 8. **Review of Use.** Requests to examine a specific employee's use of City technology and communications resources must be approved by the City Manager, and the Human Resources Director, or their respective designee(s).

9. Preventative Monitoring. IT shall maintain solutions to prevent malware and to filter materials of a discriminatory, prohibited, and/or illegal nature.

If activities of these types are detected, employee conduct will be addressed by the employee's managers and the Human Resources Department.

10. Telecommuting. Support for employees to work from home can benefit City services and operations by improving staffing flexibility in desired situations. If granted by the City to sustain operations, IT shall maintain the ability for required employees to remotely and securely access the City network to perform essential job functions. Specialized costs in addition to core network services are to be addressed by the requesting department and IT. Any employee approved for and who accepts a telecommuting assignment is responsible for ensuring the security of City assets at all times.
11. Research and Development. Exceptions to Chapter 16 may be allowed to support testing of new technologies. The purposes of these initiatives are to pilot viability of new services, improve existing services, and/or reduce costs. In all instances, testing must be approved by the City's Chief Information Officer, not interfere with City operations, and ensure private and sensitive data is not placed at risk.

D. Information and Systems Security

1. Intent. IT shall ensure the City's technology and communications environment is secure, reliable, and usable.
 - a. Information Security Officer. The City shall name an Information Security Officer (ISO) and at least one alternate to coordinate information security efforts, address security incidences as they occur, and complete investigations approved by the City Manager and Chief Information Officer, or their designee(s).
 - b. Access. Permissions shall be based on an assessment of the City's potential exposure to unauthorized access, theft, destruction, alteration, or misuse of information resources.
 - 1) Security and controls shall be applied in a least-permissive manner. Employees, interns, volunteers, and contractors shall be granted and exercise only those rights needed to perform their assigned duties and to perform required administrative tasks.
 - 2) Critical technology assets and resources – e.g., servers, security gateways, network equipment, system consoles – shall be physically secured in protected areas with access logging. Security designs must be approved through IT.
 - 3) Employee technology and security training is required at least annually and shall be tracked by the Human Resources Department.

- 4) Only personnel authorized by IT shall have access to the City data center, network closets, server rooms, control centers, or network operation centers.
 - 5) The Human Resources Department, Facilities Division, and IT shall coordinate a program for badges and physical access controls for the City.
- c. Access Forms. All employees, volunteers, interns, contractors, and other users of the City IT resources shall be required to sign an acknowledgment of the City's Information and Communications Technology Policy prior to starting work for the City.
- 1) Signed employee, volunteer, and intern forms are to be maintained by the Human Resources Department.
 - 2) Signed contractor forms are to be maintained by IT. Individual access may not exceed six months, after which access must automatically terminate, unless departments review and reauthorize access.
 - 3) IT shall review associated forms at least annually and shall maintain the forms on the City Intranet for easy access and use.
- d. Notification. Hiring managers and supervisors must submit signed forms to IT at least three work days prior to the arrival, reassignment, and separation of all employees, interns, and volunteers.
- e. Secure Computing. All computing devices connecting to City technology networks and assets must have appropriate countermeasures installed and active as deemed appropriate by IT under applicable agreements or standards. Countermeasures must include the following:
- 1) Anti-malware, anti-virus, email scanning, and firewall software/hardware.
 - 2) Secure password usage.
 - 3) Setting to purge or lock device if an incorrect password is used excessively.
 - 4) Active permissions allowing IT to remotely wipe City information.
 - 5) Pre-boot encrypted hard-drives for City-owned computers.
 - 6) City-owned mobile devices must include Mobile Device Management (MDM) Software as specified by IT. Additional software licensing may be necessary and will be purchased as part of the hardware or project.
- f. External Security Requirements. IT shall be responsible for coordinating all external security requirements placed on the City, including audits and any mandates from state and/or Federal agencies.

- g. Media Sanitization and Destruction. When City equipment is repurposed or disposed of that has been used to store and/or transmit secure sensitive information, IT will appropriately follow the measures established by the National Institute of Standards and Technology (NIST) Special Publication 800-88 <https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-88r1.pdf> This includes, but not limited to, media destruction/shredding, cryptographic erasing, and data overwrite wiping.
- h. IT shall have a 3rd party conduct a security assessment annually. Results will be shared with the City Manager and department directors for corrective action.
- 2. Position Coordination. The Human Resources Department shall consult with IT when filling positions that are technology focused. IT shall ensure that consistent position descriptions exist for City technical staff, individuals with appropriate technical qualifications are hired for City IT positions, and security needs for specialized positions required by City departments are properly addressed.
- 3. Incident Response. IT shall be the central authority for computer and data security.
 - a. Definition. An incident is defined as any event wherein the security of City data, hardware, software, and/or network is potentially compromised. This includes suspected malware infection, loss/theft of a computer(s), loss/theft of data media, discovery of inappropriate sharing of private and confidential data, etc.
 - b. Employee Responsibility. City employees and departments are responsible for notifying the IT Help Desk and/or Information Security Officer of any malware infections, hardware loss, or data loss upon discovery.
 - c. Coordination. IT shall notify the City Manager, City Clerk, and City Attorney of any security incident that rises to the level of security breach, as defined under Arizona law. The City Attorney and IT will coordinate to fulfill legal requirements as needed. In such an event, the responsible department shall be first to cover expenses to address the breach.

E. Technology Procurement and Budget

Reliable technology is important to maintaining smooth operations of City functions. All technology shall be kept technically current to remain compatible with required capabilities, security constructs and technology innovation. To ensure all technology systems and applications follow the City's architecture, technology procurement guidelines, security, and replacement cycle; all technology related software, hardware and/or services shall be budgeted and managed by IT.

- 1. Technology Acquisitions. IT shall serve as the central authority for acquisition, asset management, and licensing compliance of City technology assets. City departments shall work with IT to minimize redundant technology purchases in favor of enterprise-

wide, secure, and economical approaches. The Finance and Budget Department, and IT shall jointly ensure the City's interests are protected in technology-related contracts.

- a. Approval. All technology hardware, software, and services for use by the City must be approved through IT prior to procurement and purchase.
- b. Procurement. IT shall have a voting member on all procurement selection committees for software, technology hardware, and/or technology services. The role of IT in procurements is to ensure successful integration and execution of technology-related projects, systems, and services. All technology -related purchases must comply with the requirements of the Avondale Procurement Code (Municipal Code, Chapter 25) and Procurement Administrative Policy.
- c. IT Asset Management. IT shall be responsible for the following IT Asset Management functions:
 - 1) Accepting delivery of technology assets.
 - 2) Maintaining accurate asset inventories and tracking.
 - 3) Complying with all appropriate licensing requirements.
 - 4) Disposing of hardware in an environmentally-responsible manner.
 - 5) Restricting software, hardware, and services that unnecessarily compromise the security and/or reliability of the City's information technology environment.
 - 6) With the Finance and Budget Department, maintaining cost allocation and capital plans for the City's software licensing, hardware replacements, and central services funds.
- d. External/Cloud IT Services. For all vendor-provided products and/or services, City departments are responsible for working with IT to ensure:
 - 1) Security of City information and data.
 - 2) Appropriate vendor staff expertise.
 - 3) Required performance.
 - 4) Preservation of data by the City upon conclusion of services.
 - 5) Contractual allowances for migration to alternative, future services.
 - 6) Adequate long-term funding to maintain services.
 - 7) IT shall have access to all Cloud/SaaS based software for purposes of security administration. IT will act as the clearinghouse for all on-premise and all cloud based access to applications and systems.

2. Audits. IT will ensure the City's compliance for secure computing and licensing.
 - a. IT shall conduct audits of physical, network, system, data, application, and operational information systems security at least once every two years. Results will be shared with the City Manager and department directors for corrective action.
 - b. IT shall periodically review licensing for software and services to verify the City meets required obligations and limits under its service agreements and contracts.

F. IT Asset Allocation

1. Computers.
 - a. Primary Use Computers. Centrally allocated computers shall be those assigned to employees for the primary performance of their duties. Computers are to be budgeted and assigned on a one computer per FTE basis.
 - b. Special Use Computers. Special Use hardware are those devices deemed necessary by departments for specific, non-convenience uses – e.g., grant-funded programs, Council Chambers, library patron use, unique public safety and public works field applications, et al. Special Use computers must be approved by the responsible department director and IT prior to purchase and paid for from respective department operating funds, unless otherwise arranged through the Finance and Budget Department.
 - c. Standard Specifications. IT is charged with responsibility for setting standard specifications for computers and including assignment of desktop/laptop/virtual units.
 - d. Lifecycle. Computers are to be managed, inventoried, and maintained through IT. Computers shall be replaced on an equipment lifecycle defined by IT. The lifecycle shall balance costs and the usable life of equipment.
 - e. Inventory Recovery. Computers replaced shall be reclaimed by IT for secure disposal, ensuring equipment has not been lost/stolen, and for removing assignments of licensed software. Departments may temporarily retain replaced computers for short periods in special circumstances, as approved by IT. Temporary retained equipment will be physically identified, and the equipment will not be eligible for replacement under the technology replacement fund.
 - f. Technology Replacement Fund. Replacement costs for Primary Use computers shall be budgeted for and charged to departments as part of the City's annual capital plan. Cost allocations shall be set in the City's budget by the Finance and Budget Department and IT, with City Council and City Manager approval.

2. Servers, Communications Hardware, and Reprographic Equipment.

- a. Efficient Deployment. Servers, telecommunication equipment, and multi-function printers/copiers/scanners shall be managed, inventoried, and maintained through IT. All departments are responsible for minimizing costs while meeting functional needs in specific areas of the City organization.
- b. Special Uses. Departments may request and pay for specialized equipment and service in specific areas through IT. Special Use equipment must be approved by IT prior to purchase and paid for from respective department operating funds, unless otherwise arranged through the Finance and Budget Department.
- c. Lifecycle. Servers, telecommunication equipment, and multi-function printers/copiers/scanners shall be replaced on an equipment lifecycle defined by IT in administrative procedures. The lifecycle shall balance costs and the usable life of equipment.
- d. Technology Replacement Fund. Replacement costs for servers, communications hardware, and reprographic equipment shall be budgeted for and charged to departments as part of the City's annual capital plan. Cost allocations shall be set in the City's budget by the Finance and Budget Department and IT, with City Council and City Manager approval.

3. Mobile Communications and Computing.

- a. Provision. Mobile devices should not be purchased by the City except for special needs. Technology stipends should be used as the standard solution to address needs for key department personnel to be reachable and/or have extra mobility for work purposes. Departments are responsible for minimizing costs while meeting these functional needs.
- b. Approval Process. Requests for stipends and reimbursements should be submitted by employees via their department director to IT, the Human Resources Department, and the City Manager for approval. Hourly employees may not access City resources outside of working hours unless otherwise approved by their respective department. Mobile communications and computing devices should be paid for from respective department operating funds, unless otherwise arranged through the Finance and Budget Department.
- c. City-owned mobile devices must include Mobile Device Management (MDM) Software to be installed and managed by IT. Any additional cost for the software will be included in the purchase of mobile devices.

G. Records Administration

1. Intent. IT shall maintain City information and data to support operating needs, including disaster recovery, business resumption, and data loss prevention. Standards shall be set between the City Clerk and IT to meet requirements and standards set by ARIZ. REV. STAT.§ 39-101, as well as departmental needs.
2. Archiving and Recovery. IT shall configure systems to save central data and information to recover from corruption and loss. Recovery will include full, incremental, and differential backups to allow the City to restore to past days, weeks, months, and years as required by records retention schedules published by the Arizona State Library, Archives and Public Records and administered by the City Clerk. IT is charged with conducting central backups, testing backups for the ability to successfully restore systems and information, ensuring the ability to resume business in the event of a disaster, and maintaining the ability to retrieve information from required legacy files and formats. City employees are charged with ensuring their work products and information are saved to central IT resources to be backed up and archived.
 - a. Email. Electronic messages will be saved per the current records retention schedules published by the Arizona State Library, Archives and Public Records and coordinated by the City Clerk. Storage options will be provided for longer-term storage as determined necessary by the City Clerk and departments.
 - 1) Email shall not be forwarded or stored in a system other than what is provided by City IT without prior approval by the City Attorney, Clerk and IT.
 - b. Files. Electronic files will be saved per the records retention schedules published by the Arizona State Library, Archives and Public Records and coordinated by the City Clerk. Archived files will consist of most recent backup copies and year-end copies.
 - 1) Only cloud-based systems authorized and approved by IT may be used to store files and/or data.
 - c. Databases. Databases will be saved per the current records retention schedules published by the Arizona State Library, Archives and Public Records and coordinated by the City Clerk. Archived databases will consist of most recent backup copies and a defined schedule of periodic copies.
3. Records Hold. The City Attorney and IT shall provide processes and tools for saving files related to known legal actions. The City Clerk, City Attorney, and City departments will train to appropriately manage departmental files and information to comply with legal requirements.

H. Password/Passphrase Policy

1. For many systems, passwords are the only form of authentication. Poor password complexity, including insufficient length or the inclusion of commonly-used words, may allow an attacker to guess the password and gain unauthorized access to the system.

In addition, failing to change passwords from the default setting established by the vendor is equivalent to having no password at all, as default passwords are commonly known by attackers.

2. Purpose

- a. Passwords are the primary form of user authentication used to grant access to the City of Avondale's information systems.
- b. To ensure that passwords provide as much security as possible, they must be carefully created and used.
- c. Without strict usage guidelines, the potential exists that passwords will be created that are easy to break, thus allowing easier illicit access to Avondale's information systems, and thereby compromising the security of those systems.
- d. This Policy applies to all information systems, information components, and employees of the City of Avondale, including all temporary or contract workers.

3. Non-Compliance

- a. Violations of this policy will be treated like other allegations of wrongdoing at the City of Avondale.
- b. Allegations of misconduct will be adjudicated according to established procedures.
- c. Sanctions for non-compliance may include, but are not limited to, one or more of the following:
 - 1) Disciplinary action according to applicable Avondale policies,
 - 2) Termination of employment; and/or
 - 3) Legal action according to applicable laws and contractual agreements.

I. IT Protocols and Guidelines

1. IT Administrative Policies and rules shall be reviewed and updated at least annually to ensure they continue to meet the requirements of the City and its departments.
2. IT shall maintain and publish operating guidelines to employees via the City Intranet. Standard guidelines include those of the following:
 - a. Standard specifications for computers used by employees by utilization type – e.g.,

administrative computers, GIS/developer/engineer workstations, and semi-rugged and fully-rugged computers

b. Support for Mobile Communications Devices

- 1) Advanced support for smartphones and tablet computers.
- 2) Supported service for access to City email, schedules, and contacts.
- 3) Supported online storage services for saving work for backup and public records searches.
- 4) Supported note-taking and mark-up applications
- 5) Supported wireless access methods.

c. Security Standards

- 1) Security Signature Forms.
- 2) Password Complexity and Expiration.
- 3) Incident Response and Monitoring Processes.
- 4) Access Audits.

d. Technology Reimbursements and Stipends

- 1) The City Manager shall set technology and telecommunications stipend/reimbursement standards for the City to address eligibility, stipend and reimbursement rates, approval process, and authorization forms to be used.

CHAPTER 17

Separations

A. Resignation

1. Any employee who desires to resign his/her position with the City of Avondale (City) and be in good standing with the City, will provide a written resignation to his/her department manager or the City Manager stating the effective date and reason for such action.
2. Notification will be provided at least two weeks prior to the effective date unless otherwise waived by the City Manager.
3. Refer to Chapter 5 and Chapter 6 for holiday, sick leave, and vacation compensation.

B. Reduction in Force

1. The City Manager, with the concurrence of the City Council, may separate any employee without prejudice because of lack of funds or curtailment of work, after giving notice of at least thirty (30) days to such employee.
2. No regular employee will be separated from any department while there are other employees on original probation, part-time or temporary employees serving in the same class of positions in that department.
3. Whenever possible, employees who are to be laid off in one department will be integrated into another department by transfer.
4. When a reduction in force is required, it will be in the inverse order of the relative length of service of the employee; that is, the employee with the longest service time in the classification within the department will be the last to be laid off.
5. Any employee affected by reduction in force through no fault of his/her own may be eligible for re-employment with preference for rehire.
6. Reductions in force are not appealable or subject to grievance.

C. Retirement

A full-time regular employee in the City will be eligible for retirement benefits in accordance with the Arizona State Retirement System, Arizona Public Safety Personnel Retirement System, or Corrections Officer Retirement Plan. (Refer to the relevant plan's website for further information.)

D. Involuntary Terminations

1. The City may dismiss any regular status employee for cause.
 - a. A written statement of reasons for the dismissal will be provided to the employee.
2. The City may dismiss any original probationary employee at its sole discretion.
 - a. No written statement of reasons for dismissal is required.
3. An employee who is involuntarily terminated will not be compensated for any unused sick leave and/or holiday leave.

E. Return of City Property

1. Any employee leaving the City service whether through resignation, reduction in force, or dismissal is responsible for returning any City property which he/she may have in his/her possession.
2. All City property must be returned to the employee's supervisor or the Human Department prior to receiving a final paycheck.

CHAPTER 19

Appeals

A. Statement

This Chapter applies to all employees including represented and certified employee units. The City of Avondale, in keeping with its policy of maintaining satisfactory working conditions, will provide a means to ensure fair handling of employee complaints and grievances. Any employee whose state of mind is so affected by a grievance that he/she will not endeavor to or cannot do the proper thing in the course of performing his/her regular duties should immediately pursue the prescribed procedures for grievances.

B. Matters Subject to an Appeal

Any employee will have the right to appeal, under this rule, a decision affecting his/her employment, over which his appointing power has partial or complete jurisdiction, with the exception of suspensions, demotions, reductions in pay in lieu of suspension, or terminations which will be appealed directly to the Independent Hearing Officer, through the Assistant City Manager or designee as provided by these policies.

C. Appeal to the Independent Hearing Officer or Personnel Board

1. Right to Appeal

Any regular employee will have the right to appeal to the Independent Hearing Officer any disciplinary action by the City which involves termination, demotion, suspension without pay, or reduction in pay in lieu of suspension without pay, except in instances where the right of appeal is specifically prohibited by these policies.

2. Methods of Appeal

- a. Appeals will be in writing, signed by the appellant, and delivered in person, email, or by first-class mail to the Human Resources Director.
 - 1) Appeals must be delivered to the Human Resources Director within ten (10) working days of the date of the disciplinary action to be appealed.
 - 2) The formality of a legal pleading is not required. However, failure to file the appeal on time will constitute a waiver, and the decision will become final.

- b. Within ten (10) working days after receipt of the appeal, the Human Resources Director will notify the Assistant City Manager, the Independent Hearing Officer, and such other persons named or affected by the appeal.
 - c. Upon filing of an appeal, the Independent Hearing Officer will set a date for a hearing on the appeal not less than ten (10) working days or no more than thirty (30) working days from the date of filing.
 - d. The Human Resources Director will notify all interested parties of the date, time, and place of the hearing. The Human Resources Department will provide administrative assistance to the Independent Hearing Officer.
 - e. The appeal will be a written statement, addressed to the Independent Hearing Officer, explaining the matter appealed, the specific grounds for the appeal (explaining why he/she believes the decision appealed is incorrect), and setting forth therein a statement of the action desired by the appellant.
 - 1) The written appeal will constitute the entire matter before the Independent Hearing Officer.
 - 2) The appellant may not add new matters, grounds, facts, or theories to those already stated in the original appeal.
 - 3) The Independent Hearing Officer will not have jurisdiction to consider any such additional matters, grounds, facts, or theories outside of the written appeal.
3. Independent Hearing Officer
- a. Pursuant to a periodic solicitation of qualifications or through cooperative solicitation, the City shall establish a list of at least three attorneys (or fewer if an insufficient number of qualified candidates respond to the solicitation), who are licensed and in good standing with the State Bar of Arizona and who have at least five years of experience and knowledge or municipal law and/or employment law, to serve as the Independent Hearing Officer. Upon receipt of a written appeal, the City Manager or designee shall select the Independent Hearing Officer from the qualified list.
 - b. The City shall pay the reasonable fees and costs of the Independent Hearing Officer; however, the Independent Hearing Officer will not represent either the City or the appellant. The duties of the Independent Hearing Officer are to make rulings and determinations pursuant to these rules.
 - c. The Independent Hearing Officer shall have the following duties and authority.
 - 1) Pre-Hearing:
 - a) Consider and rule on any pre-hearing motions, including those that could result in the dismissal of the appeal for failure to follow these rules.

- b) Set reasonable restrictions and deadlines for the method (in person or virtual), timing, and conduct of the hearing.
 - c) Prepare the hearing notice and agenda.
- 2) Presiding over the Hearing:
 - a) Rule on objections and motions by a party, unless they are dispositive of the appeal.
 - b) Submit his/her findings and recommendations on the merits of the appeal; in accordance with the timeframe and procedure set forth in subsection (f) below.
 - c) Prepare a written report and recommendation for the City Manager.
- 4. Pre-hearing Procedures
 - a. As outlined above, the Independent Hearing Officer shall set the time and place for the hearing.
 - b. Prior to the hearing, the Independent Hearing Officer shall do the following:
 - 1) Within five (5) working days of filing the written appeal with the Human Resources Director, the appellant may request his/her personnel record from the City. Neither party shall be entitled to any additional discovery in this process, except as outlined below.
 - 2) At least seven (7) working days prior to the hearing, the City and the appellant shall disclose to one another the witnesses that each anticipates calling, a synopsis of their testimony, and any documents each anticipates presenting to the Independent Hearing Officer.
 - a) The proposed testimony and exhibits must relate to the written appeal filed by the appellant.
 - b) Any proposed testimony or exhibits that do not relate to the written appeal shall not be considered or presented. The Independent Hearing Officer will make this determination, as necessary.
 - 3) Not less than three (3) working days after the exchange of proposed testimony and exhibits, the parties shall work together to determine if either side objects to any exhibits, and work through those objections.
 - a) If after consulting with one another, there is still a disagreement, the parties shall file a brief letter (no more than one page) outlining the disputed items to the Independent Hearing Officer. The letter must be filed at least two (2) working days prior to the hearing. If there is no dispute, no letter need be filed.

- b) The Independent Hearing Officer shall rule on any disagreement prior to the hearing.
- c) All exchanged exhibits will be deemed admissible and presented to the Independent Hearing Officer at the hearing.

5. Hearings

- a. The appellant shall appear either personally or virtually and testify before the Independent Hearing Officer at the time and place of the hearing.
- b. The proposed testimony and exhibits used by the appellant shall only be those permitted pursuant to subsection (d) above.
 - 1) No other witnesses or documents will be considered by the Independent Hearing Officer unless (i) the party can show that it was newly discovered, there was prompt disclosure, and the evidence is crucial or (ii) the Independent Hearing Officer may, at his/her discretion, exclude certain witnesses or documents even if timely disclosed if such evidence would be irrelevant, cumulative, redundant, or overly prejudicial.
- c. The appellant may be represented by any person (other than the Independent Hearing Officer) or attorney as he/she may select, and at the hearing may produce on his/her behalf relevant oral or documentary evidence.
- d. The City will present its case first, establishing the reasons for the employment action.
 - 1) At the conclusion of the City's case, the appellant will then present his/her case in opposition. Each side may call its disclosed witnesses.
 - 2) The parties are responsible for securing the attendance of their own witnesses, but the City will make City employees available for the hearing if timely disclosed.
 - 3) The parties do not have any subpoena power to compel a witness's attendance.
- e. Cross-examination of witnesses will be permitted.
- f. The conduct and decorum of the hearing will be under the control of the Independent Hearing Officer, with due regard to the rights and privileges of the parties.
- g. Hearings need not be conducted according to technical rules relating to evidence and witnesses.
- h. Hearings will be closed or held in executive session, as applicable, unless the appellant, in writing, requests an open, public hearing.
 - 1) A closed hearing does not preclude the attendance of (i) persons necessary to assist in the presentation of evidence and arguments, (ii) the Human Resources Director or authorized designee or (iii) the appellant's department director or authorized

designee. Notwithstanding anything herein to the contrary, this paragraph does not apply to hearings held pursuant to the Peace Officers Bill of Rights, A.R.S. §38-1101 et. Seq.

6. Findings and Recommendations

- a. The Independent Hearing Officer will, within fifteen (15) working days after the conclusion of the hearing, submit his/her findings and recommendations that will be advisory to the City Manager.
 - 1) The Independent Hearing Officer may recommend that the City Manager affirm, revoke, or modify the employment action taken.
- b. The City Manager or designee will review the findings and recommendations of the Independent Hearing Officer. He/she may then affirm, revoke, or modify the employment action taken as in his/her judgment seems warranted.
- c. The City Manager or designee will inform the appellant within twenty (20) working days of his/her decision. The action of the City Manager or designee will be final.

7. Conduct of Appeal Procedure

The time limits specified above may be extended to a definite date by mutual agreement of the employee and the reviewer concerned.

D. Matters Subject to A.R.S. §§ 38-531 through 534 Disclosure of Information by Public Employees

This section does not apply to any persons outside the definition of Employee (as hereinafter defined).

1. When a complaint is filed by a former or current employee (the “Employee”) as defined by A.R.S. § 38-531, alleging violation of A.R.S. §§ 38-531 *et. seq.*, the City Manager shall convene an *ad hoc* independent personnel board (“Board”) pursuant to A.R.S. §§ 38-532 and 534, which shall consist of five (5) members having the following qualifications:
 - a. Three (3) members who are residents of the City, not employed by the City, and not related to the Employee;
 - b. One (1) member who is employed by another municipality as an administrator in the department of human resources or personnel and who is not related to the Employee; and,
 - c. One (1) member who is employed by another municipality, who does not belong to any professional organizations or affiliates that the Employee belongs to and who is not related to the Employee.

2. The members of the Board shall meet, hear evidence, and decide the following:
 - a. The validity of the complaint.
 - b. Whether a prohibited personnel practice, as defined by A.R.S. § 38-532(A), was committed against the employee or former employee as a result of disclosure of information by the employee or former employee.
3. The provisions of A.R.S. § 38-532 are incorporated by this reference.

E. For the purposes of this Chapter:

1. “Working Days” means Monday through Thursday, exclusive of City designated Holidays.

CHAPTER 20

Grievances

A. Statement

This Chapter applies to all employees including represented and certified employee units. The City of Avondale, in keeping with its policy of maintaining satisfactory working conditions, will provide a means to ensure fair handling of employee complaints and grievances. Any employee whose state of mind is so affected by a grievance that he/she will not endeavor to or cannot do the proper thing in the course of performing his/her regular duties should immediately pursue the prescribed procedures for grievances.

B. Matters Subject to Grievances

For the purpose of this Chapter, a grievance means any dispute regarding the meaning, interpretation, or alleged violation of these policies and procedures.

C. Matters Not Subject to Grievance

1. Suspensions, demotions, reductions in pay in lieu of suspension, and terminations are not grievable.
2. An employee cannot grieve a reduction in force, the contents of a performance evaluation, the lack or amount of a pay increase (merit or otherwise) or any form of reprimand.
3. An employee that is a member of a certified Employee Group pursuant to Chapter 2, Article II, Division 4, Section 2-56 of the Avondale City Code, may not grieve any issue covered under a Memorandum of Understanding.
4. Part-time employees are not entitled to any rights pursuant to this Chapter.
5. An employee may not file a grievance for any concern more than fifteen (15) working days after the employee first becomes aware of it unless the grievance is governed by a federal or state statute.

D. Procedures

1. Informal Grievance Procedure
 - a. An employee who has a problem or complaint should first try to get it settled through discussion with his/her immediate supervisor without undue delay.
 - b. If, after this discussion, he/she does not believe the problem has been satisfactorily resolved, he/she will have the right to discuss it with his/her supervisor's immediate department director. If the employee's supervisor does not have a department director, he/she shall discuss the matter with Human Resources. In some circumstances, Human

Resources will determine that matter should be referred to the City Manager, or his/her designee, at this stage.

- c. Every effort should be made to find an acceptable solution by informal means at the lowest level of supervision. If an employee fails to follow this informal procedure, the grievance will be denied and he/she will not be permitted to proceed to the formal grievance procedure outlined below.

2. Formal Grievance Procedure

Levels of review through the chain of command are listed below:

a. First Level of Review

- 1) If the employee has properly followed the informal grievance procedure and the matter is not resolved, the employee is eligible to elevate the grievance to the first level. Initially, the employee must reduce the grievance to writing citing the article and section of the personnel policies and procedures alleged to be violated, the date of the violation that is the basis for the grievance, the nature of the grievance, and the relief requested.
- 2) This grievance should be presented to the employee's immediate supervisor, within fifteen (15) working days of the occurrence, and no later than ten (10) working days after the informal grievance procedure has been fully exhausted. The supervisor will render his/her decision and comments in writing and return them to the employee within fifteen (15) working days after receiving the grievance.
- 3) If the employee does not agree with his/her supervisor's decision, or if no answer has been received within fifteen (15) working days, and the employee wishes to continue in the grievance process, the employee may present the grievance in writing to his/her supervisor's immediate department director (the "second level supervisor").
- 4) Failure of the employee to take further action within ten (10) working days after receipt of the written decision of his/her supervisor or within a total of twenty-five (25) working days after presentation of the grievance to the employee's immediate supervisor if no decision is rendered, will constitute a withdrawal of the grievance.

b. Further Level(s) of Review as Appropriate

- 1) The second level supervisor receiving the grievance will review it, render his/her decision, and comments in writing, and return them to the employee within fifteen (15) calendar days after receiving the grievance.
- 2) If the employee does not agree with the second level supervisor's decision, or if no answer has been received within fifteen (15) working days after the second level supervisor received the grievance, and the employee wishes to continue in the

grievance process, he/she may present the grievance in writing to the City Manager – through the Human Resources Director.

- 3) Failure of the employee to take further action within ten (10) working days after receipt of the decision, or within a total of twenty-five (25) working days of referral to his/her second level supervisor if no decision is rendered, will constitute a withdrawal of the grievance.

c. City Manager

- 1) Upon receiving the grievance, the City Manager or designee should discuss the grievance with the employee and with other appropriate persons.
- 2) The City Manager or designee may designate a fact-finding committee or supervisor to advise him/her concerning the grievance.
- 3) The City Manager or designee will render a final decision. Grievances may not be appealed to the Independent Hearing Officer.

E. Matters Subject to A.R.S. §§ 38-531 through 534 Disclosure of Information by Public Employees

This section does not apply to any persons outside the definition of Employee (as hereinafter defined).

1. When a complaint is filed by a former or current employee (the “Employee”) as defined by A.R.S. § 38-531, alleging violation of A.R.S. §§ 38-531 *et. seq.*, the City Manager shall convene an *ad hoc* independent personnel board (“Board”) pursuant to A.R.S. §§ 38-532 and 534, which shall consist of five (5) members having the following qualifications:
 - a. Three (3) members who are residents of the City, not employed by the City, and not related to the Employee;
 - b. One (1) member who is employed by another municipality as an administrator in the department of human resources or personnel and who is not related to the Employee; and
 - c. One (1) member who is employed by another municipality, who does not belong to any professional organizations or affiliates that the Employee belongs to and who is not related to the Employee.
2. The members of the Board shall meet, hear evidence, and decide the following:
 - a. The validity of the complaint.

- b. Whether a prohibited personnel practice, as defined by A.R.S. § 38-532(A), was committed against the employee or former employee as a result of disclosure of information by the employee or former employee.
3. The provisions of A.R.S. § 38-532 are incorporated by this reference.

F. For the purposes of this Chapter:

1. “Working Days” means Monday through Thursday, exclusive of City designated Holidays.

CHAPTER 21

RESERVED

RESERVED

CHAPTER 22

Ethics Policy

A. Purpose

“Ethics” is defined as a system of principles governing the appropriate conduct of an individual or group. The purpose of this policy is to address ethical issues and to clarify standards of behavior. The policy establishes expectations for employee behavior, requires the avoidance of conflicts of interest, defines acceptable outside employment, prohibits the acceptance of gratuities and protects confidential information.

B. The City of Avondale Ethics Handbook

To further the policy set forth in this Chapter, the City Manager may establish an Ethics Handbook to provide definitions, examples and guidelines to clarify the application of the standards set forth herein. All employees shall be required to acknowledge (i) his or her understanding of this policy and (ii) the receipt of the Ethics Handbook, both of which shall be kept on file with the employee’s personnel records.

C. Policy

1. Each City employee is required to uphold, promote and demand the highest ethical standards when representing the City in the course of employment.
2. All City employees should maintain personal integrity, truthfulness, honesty and fairness in carrying out their public duties.
3. Any employee who is unsure of how to respond to a particular situation should first seek the guidance of his or her supervisor to determine the appropriate course of action. If it is not possible or practical to obtain guidance from his or her supervisor or department director, an employee shall contact the Ethics Standard Committee for advice and direction. This Committee shall be chaired by the Human Resources Director and shall include the following members as appointed by the City Manager:
 - a. An Assistant City Manager
 - b. Finance and Budget Director
 - c. Two members at large
4. The Ethics Standards Committee shall recommend a course of action for the individual(s) making an inquiry. All decisions shall be forwarded to the City Manager for final approval. Decisions made by the Ethics Standards Committee and approved by the City Manager shall be recorded and shall be used as a guide when determining future cases.

5. The City's policies and procedures shall be used as a reference in determining the recommended course of action. No retribution or disciplinary action shall be taken against employees for bringing issues before the Ethics Standards Committee.
6. City employees shall be provided with mandatory, annual training concerning ethical standards and behaviors. In addition, optional ethical and character-based training will be offered to employees periodically.



Ethics Handbook

Avondale's Core Mission is: We Provide City Services for Public Benefit.

Our Core Purpose: Making Lives Better.

City Values and Code of Conduct: We value those who are Helpful, Kind and Professional, and we conduct ourselves in a manner that is Responsive, Innovative and Caring.

I. Introduction

- A. Ethics is defined as a system of moral principles governing the appropriate conduct of an individual or group. Ethical behavior is the foundation for excellent customer service.
- B. The City's ethical performance standard is guided by the simple principles of:
 - 1. Knowing right from wrong,
 - 2. Acting in accordance with what is right
 - 3. Avoiding even the appearance of what is wrong.
 - 4. Avondale employees demonstrate these principles through the practice of ethically-driven customer service:
 - Empathetic,
 - Thoughtful,
 - Honest,
 - Intelligent, and
 - Caring
 - Service.
- C. This handbook reviews various ethical scenarios that relate to the Policy and Procedures Manual.
- D. The handbook's purpose is to provide examples of ethical behavior to ensure that each employee maintains public trust through ethically-driven public service.

II. Setting the Stage

- Q:** Have you ever been asked to do a favor for a member of the public that caused you some concern?
- Q:** Has someone offered you a gift, asked for a break, or requested an exception?
- Q:** Have you seen a co-worker take something from the City?
- Q:** Are you aware of a co-worker working under the influence of drugs or alcohol?
- Q:** Are you aware of an employee treating another employee or a member of the public inappropriately?
- Q:** Have you observed situations or actions of others that may seem wrong and wondered what to do about it?

If you answered yes to any of the questions listed above, the following information may help you to face the challenges of making the right decision.

III. Alcohol Use

Drinking alcohol of any kind during the work hours (to include breaks and meal periods) or during off-hours while wearing City of Avondale apparel is not acceptable and will result in disciplinary action.

Example: An employee goes out to lunch at a restaurant and orders a beer with lunch. A resident observes this behavior and recognizes this person as an Avondale employee because he/she is wearing a uniform/apparel with the Avondale logo. The resident calls City Hall to complain that an employee is drinking on the job.

Policies and Procedures Manual, Chapter 7

IV. Appearance

1. Staff is required to project the appropriate image and appearance for the work they perform.
2. Appropriate attire, grooming, and behavior are required of each employee in his/her job and relationship with the public.
3. Neatness, cleanliness, and good judgment are required of all employees when dressing for work.
4. If a supervisor deems the dress to be inappropriate for the position, the employee will be sent home to change.

Example: An employee who has direct contact with the public comes to work in clothes that had been previously worn and not washed. The clothes are also wrinkled and stained. The supervisor directs the employee to go home and change into cleaner and more presentable clothes.

Professional Image and Appearance Administrative Procedure AP-10, May 15, 2014

V. Compensation and Employee Benefits

1. Compensation is the payment and the provision of an assortment of employee benefits that are given to employees in exchange for work performed as it relates to their duties.
2. Employees are required to work the hours for which they are being compensated. Supervisors must be notified when employees have personal issues to address during work hours.
3. Employees shall compensate the City for personal time taken by:
 - a. Working to make up for the personal time taken.
 - b. Submitting the appropriate leave requests.
4. Repeated violations of misreporting hours are grounds for dismissal.

Example: An employee drives a city vehicle home for lunch. The drive takes 10 minutes from the job site. The vehicle is parked on the curb outside the employee's home for 90 minutes. The return trip to the job-site takes 15 minutes. The employee works 60 minutes past the traditional end of the work day and marks 60 minutes overtime on the time card.

This example presents two ethical problems. The first is the appearance of the city vehicle in front of an employee's home for an extended period of time during the workday. The second issue is clocking 60 minutes overtime at the end of the day when the lunch period was not reported as being extended 60 minutes, assuming the lunch period is sixty minutes.

Policies and Procedures Manual, Chapter 5

VI. Confidentiality

1. An employee is never to use or disclose any confidential information acquired in the performance of governmental duties as a means for personal/professional gain.
2. Employees are expected to keep confidential various aspects of city business not intended for public disclosure. This is important for building trusted relationships between city employees and residents, stakeholders, and others doing business with the City.
3. Abuse of confidential relationships and attempts to gain from confidential information will not be tolerated.

Example: As part of his/her job duties, an employee has access to residents' addresses and phone numbers. A member of the public asks the employee to divulge this information.

Agreeing to give out that information would be considered a breach of confidentiality. Being paid for that information is not only unethical, the employee may also face criminal charges.

As described by applicable city departmental policies and signed confidentiality agreements.

VII. Conflict of Interest

1. A conflict of interest occurs when an employee is no longer able to remain impartial or objective in choosing between the interest of the City and his or her self-interest.
2. Conflicts of interests may develop directly or indirectly from a relationship with a vendor, a supplier, a customer, a competitor, or any other person or company who deals with the City of Avondale.
3. No employee shall engage in any activity or enterprise that conflicts with his or her duties as a City employee or with the duties, functions, and responsibilities in the department that he or she is employed.
4. Employees must manage business affairs within City procurement guidelines and personnel policies to avoid conflicts and the appearance of conflicts of interest.

5. Employees should immediately tell their supervisor or a manager if they become involved in a situation which might cause a conflict of interest or the appearance of a conflict of interest.
6. Employees must ensure that they treat all businesses and individuals equitably and fairly.
7. The most ethical City business practice regarding all purchasing activities is to ensure that all actions are fair and equitable and provide the City with the optimum of quality, value, and cost-savings.
8. The Charter and Procurement Codes address employee contractual processes and procedures. Deliberately trying to steer business to a particular company or firm is grounds for termination.

Example: A city department has previously done business with a regional screen printer for a variety of clothing needs. The department is looking at sponsoring a larger event that would necessitate ordering enough screen printed items to exceed the threshold triggering the need for three quotes. The employee approaches three screen printing vendors – the wholesale vendor who had done business with the City in the past, and two retail vendors, to generate quotes. The wholesaler submits the lowest bid. This action is unethical because of the different pricing mechanisms offered by the wholesaler and the retailers. In this instance, the bidding process has been steered to favor the wholesale screen printer.

Example: The City has vacant property that an individual wants to buy. The potential buyer has access to a fix and repair service and offers the employee handling the transaction free assistance if the employee can ensure the transaction price is within a certain dollar range.

The employee respectfully declines and informs the potential buyer the asking price for the land will be based on established appraisal values and city interests.

Article VIII in the City Charter Chapter 25 in the City Procurement Code, and AP 23 Procurement Policy

VIII. Drug Use

1. Drug use is defined as the use of any illegal drug at any time or the use of any legal drug that impairs an employee's ability to perform his/her job competently.
2. Illegal drug use on the job is not acceptable and will lead to termination.
3. Employees must report any legal drug use that may impair their ability to perform their job to the supervisor. Failure to do so can lead to serious consequences.

Example: An employee is taking a prescription anti-depressant drug that impairs his/her ability to drive. The employee did not inform the supervisor of the drug use before driving a city vehicle. The employee was in an accident and it was discovered that the employee had taken the prescribed drug one hour before driving the vehicle. The employee may not have been at fault in the accident. However, the city may be placed in a difficult position with regard to any

liability claims as a result of the actions of this employee.

Policies and Procedures Manual, Chapter 7

IX. Employee Records

- A. Employee records are any information submitted to the Human Resources Department from the time an individual submits and application for employment to the end of that individual's employment with the City.
- B. Employees must accurately report and submit to Human Resources, accurate documents pertaining to education, training, medical/ insurance issues, previous work experience, and all other records. It is unethical, and in some cases illegal, to submit false documentation to Human Resources.
- C. Employee records are separated from the main personnel file based on privacy and security concerns.
- D. The only file available for public viewing is the main personnel file.

Example: An applicant applies for a job that requires a bachelor's degree from an accredited university or college. The application submitted states that a bachelor's degree was earned at a particular university. After the applicant is hired, it is discovered that the employee was short 12 credits from obtaining the degree.

Example: An employee signs up for a half-day training course off-site and attends for 45 minutes, leaving at the first break. The employee runs errands, has a leisurely brunch and returns to the work site in the afternoon. The employee reports that training was completed.

These two examples demonstrate unethical behavior, which impacts the City's efforts to employ the most qualified people available for the position, as well as the City's efforts to improve employees' work skills.

Policies and Procedures Manual, Chapter 13

X. Favoritism

- A. Favoritism is defined as providing preferred service or granting special concessions to one person or business over another.
- B. All customers, both internal and external, will be treated fairly and with equity.
- C. If some customers are served before others, it is because it is based on an urgency/greatest need standard established by individual service functions.
- D. Otherwise, customer service requests will be handled in chronological order, providing thorough responses to each person's inquiries and requests, so that the appearance of favoritism is eliminated.

Example: Two people apply for the same job and will be interviewing for the position the next day. An employee happens to know one of the two applicants and calls this person up to offer information about the position, the way the department works, as well as other information that gives this particular applicant an edge over the other.

This example demonstrates unethical behavior, which affects the City's ability to treat applicants fairly and to employ the most qualified applicant for the position.

Reflected in various city policies that address procurement, employment, and customer service

XI. Financial Responsibility

- A. Employees will use City purchasing authority/credit cards for City business only.
- B. Employees will not exert pressure to borrow money from other City employees, supervisors, or subordinates.

Example: A City employee makes a purchase at Home Depot for city materials using the City credit card. The employee also purchases a personal item with the credit card within the same transaction. The employee writes a check to reimburse the City a week later before the City receives the billing statement.

It is never acceptable to use the City credit card for transactions that are not City-related. Such actions will lead to discipline by the City, up to termination from employment.

City Charter, Chapter 25; Procurement Code; Finance Department Credit Card policy

XII. Fraternalization

- A. Fraternalization is defined as an intimate, sexual relationship between employees.
- B. Fraternalization among supervisors and managers with employees from the same department is not permitted.
- C. Sexual liaisons between employees are absolutely forbidden while on duty and will lead to termination whether they occur on city property or not.

Example: Two employees from separate departments who both report to work at 8:00 a.m. meet during the lunch hour at one of the employee's homes and extend their liaison for two and one half hours. They return to work and leave at 5:00 p.m. giving themselves credit for an eight-hour work day.

Problems can and do arise in the workplace when employees have intimate, sexual relationships with other employees. Potential problems include conflict of interest, reduced productivity, and potential charges of sexual harassment. Sexual encounters while "on the clock" will not be tolerated.

Policies and Procedures Manual, Chapter 15

XIII. Future Employment

- A. City employees applying for positions with companies that do business with the City are vulnerable to offers of future employment in exchange for favors and/or information obtained through the employee's position.
- B. Employees must disclose possible future employment with companies doing business with the City to the Ethics Standards Committee within three business days after a job interview takes place.
- C. In addition, an employee will be expected to sign a confidentiality statement limiting the disclosure of City information with any company that is involved in potential business with the City for one year.

Example: A City employee leaves to take a position with a private corporation that does development business with the City of Avondale. Privately-held City information that is not part of the public record, such as potential land purchases or targeted amounts for future capital improvement projects, could be used to the advantage of the employee's new employer when making bids for specific projects. Ethically, that employee should not be the representative for the company in work with the City until one year has passed.

Policies and Procedures Manual, Chapter 8

XIV. Gifts and Gratuities

- A. Employees should always decline any gift, regardless of value, for themselves or their families if it appears to, or is intended to, influence decisions they make for the City of Avondale.
- B. Employees should immediately tell their supervisor or a manager if they become involved in a situation which might cause a conflict or even the appearance of a conflict.
- C. Employees should never accept, for themselves or their families, any favors or special benefits that might be perceived as influencing the performance of their governmental duties.
- D. When the employee has lunch with a vendor, the employee should pay for his or her own meal.

Example: A resident wants to purchase property from the City and offers the employee handling the transaction gardening services for the employee's home as a token of appreciation. The employee must refuse the offer.

Policies and Procedures Manual, Chapter 12 A. Solicitation; B. Conflict of Interest; City Charter, Chapter 25; Procurement Code

XV. Grievance

- A. A grievance is defined as any dispute regarding the meaning, interpretation, or alleged violation of the policies and procedures.
- B. It is unethical to treat any employee unfairly while that employee is going through a grievance process.
- C. The grievance process is established to enable employees to continue to interact in a professional, ethically-driven customer service approach while the grievance process works its way to conclusion.
- D. Unethical treatment of an employee in the grievance process will be grounds for discipline.

Policies and Procedures Manual, Chapter 20

XVI. Illegal Activity

- A. All employees will be expected to engage in activities that are lawful.
- B. Employees must uphold the constitution, laws and legal regulations of the United States, the State of Arizona, the City of Avondale, and other legally incorporated governments.
- C. Misdemeanors and felonies committed by employees will be examined on a case-by-case basis and may be cause for action by the City against the employee.
- D. Illegal actions performed on the job will lead to termination.

Example: An employee driving a city vehicle is involved in an accident and leaves the scene of the accident. This behavior is illegal. All accidents involving city vehicles, or personal vehicles while on City business, must be reported to the Police Department, Risk Management and your supervisor.

XVII. Inappropriate Use of City E-mail System and Internet

- A. Employees will not use the City's computer system and associated software and hardware for personal profit or personal use not related to work assigned.
- B. Use of the city's property to carry out activities that lead to personal profit or reduce the employee's productivity on the job is considered a misuse of city funds and equipment and is not acceptable.
 - 1. Examples of such use include surfing the Internet for pornographic materials, financial and stock market information for personal investment purposes, personal banking, on-line auction participation, fantasy sports leagues, chain letters of any type, and other uses not pertinent to one's employment duties.

Example: An employee receives a message from a friend with a sexually oriented cartoon attached. The employee forwards the cartoon to several other employees. This is a violation of City policy and will result in disciplinary action, potentially including termination.

Policies and Procedures Manual, Chapter 16

XVIII. Nepotism

- A. Nepotism is defined as the paid employment of family members, friends, or associates in positions with the City, whether the positions are temporary or permanent, without a proper posting of an open position and a review of qualifications by Human Resources, or the competitive bid process if contracting for services. Although the Policies and Procedures Manual defines “family” as immediate members; an ethical definition of family should include those family members that have a reasonably close relationship with the hiring supervisor that leads to preferential hiring treatment.
- B. Wherever possible, hiring should be an open, competitive process to ensure that the best qualified person available at the time is hired by the City to fulfill the temporary or permanent vacant position. This eliminates nepotism and favoritism when hiring. Policies and Procedures Manual, Chapter 8 addresses situations when relatives are hired or a marriage takes place that creates a potential ethical conflict.

Example: A temporary administrative position opens within the City and the department hires directly a family member of one of the employees without posting the position or going through a temporary help service. This action constitutes a violation of city policy.

Policies and Procedures Manual, Chapter 8

XIX. Open Meetings and Public Records

- A. State law requires that meetings of public bodies be open to the public and that public records be available for inspection. Quick response to open meeting or records requests is important.
- B. Internal work groups consisting of employees and others are not subject to open meeting laws unless public input is requested at the work group meeting.
- C. All public meetings must have an agenda produced and posted twenty-four hours in advance.
- D. As a matter of good management practices, all internal meetings should have an accompanying agenda.

Example: Internal meetings with a developer to review plans with city staff are not considered a public meeting. Once staff and the planner come to agreement to the plans and proposed stipulations made by the City, the entire project is brought forward for public comment through

the Planning and Zoning Commission or a Council agenda item. It is at this time that public concerns with a project can be publicly addressed.

XX. Outside Employment

A. Outside employment is allowed, provided that:

1. there is not a conflict of interest,
2. the job does not interfere with the time and attention an employee must devote to the City job, and
3. City equipment or use of proprietary information will not be involved.

B. Employees must notify their immediate supervisor of their intent to engage in outside employment.

C. Supervisors who have questions regarding possible conflicts with an employee's outside employment should contact the Human Resources department.

D. Employees are not to engage in outside work if they are not working due to any disability status in their City employment.

E. City obligations take precedence over outside employment requirements at all times.

Example: An employee works for a local retail store on weekends. During the Holiday season the store Manager requires the employee to come in to work on Mondays and Wednesdays at noon. The employee asks for a revision in her City work schedule. The supervisor, after speaking with Human Resources, informs the employee that she must continue to work her regular work schedule. The employee must give precedence to her City job and should inform the store Manager that she cannot work the additional days.

Policies and Procedures Manual, Chapter 8

XXI. Personal Conduct

A. Employees are expected to conduct themselves at all times in a manner that brings credit to the City. This includes:

1. Providing a full day's work for a full day's pay and performing those duties to the employee's best efforts.
2. Providing all employees, stakeholders, residents, and others doing business with the City with **Empathetic, Thoughtful, Honest, Intelligent, and Caring Service**.
3. Working with all parties in a professional and equitable manner. Employees shall not discriminate in any way on the basis of race, color, religion, sex, age, national origin, veteran status, handicap, marital status, disability, sexual orientation, or any other bias.
4. Dressing appropriately for the position hired.

5. Demonstrating common sense, professionalism, productive effort that promotes public acceptance for city employee and organizational effort.
6. Participating in off-duty activities that will not result in publicity that harms the City.

Example: An employee is assigned to visit a local retail store to purchase supplies for a City event. While paying for the merchandise the employee notices that the clerk has overcharged for the purchase. The employee becomes very agitated and starts screaming at the clerk, saying “I work for the City of Avondale and I don’t have to put up with this horrible service”. The employee goes on to swear at the clerk. This behavior is inappropriate and brings discredit to the City.

Policies and Procedures Manual, Chapter 9

XXII. Political Involvement in the Community

- A. Employees are encouraged to exercise the right to be active members of the community at large in such a manner that is lawful and ethical.
- B. An employee’s involvement in the community shall be positive and reflect well on the City.
- C. Participating in City Council campaigns is strictly prohibited by the City Charter.
- D. Political activity at any other level of government shall comply with the applicable laws that govern that activity.

Example: A local city council candidate asks an employee to help place election signs at various corners and vacant lots in the City to publicize the candidate’s re-election campaign. The employee declines and immediately reports the incident to the City Manager. This could be considered an election violation with possible consequences faced by the candidate.

Policies and Procedures Manual, Chapter 12

XXIII. Productive Work Effort

- A. Employees are expected to perform assigned work effectively and efficiently.
- B. Deliberate misuse of time and not accounting for that time properly is an unethical acceptance of compensation from the City.
- C. Leave is provided in order for employees to ethically account for time periods when work cannot be performed to meet the weekly compensation for work performed.

Example: An employee works at a desk from 8:00 a.m. – 5:00 p.m. in an office. After taking a full lunch, the employee shuts the door and takes a nap for 45 minutes. The employee leaves at 5:00 p.m. and claims a full day of work. Sleeping on the job is not considered productive work.

Policies and Procedures Chapter 5

XXIV. Rumors and Gossip

- A. A rumor is defined as a circulated story, report, or statement without facts to confirm its truth.
- B. Gossip is defined as conversation about personal or intimate rumors or facts, especially when malicious.
- C. Rumors and gossip are not accepted in the workplace.

Example: Disciplinary actions, including terminations, and the reasons why an action was taken are not discussed by Human Resources personnel or the responsible supervisors to ensure the confidentiality of the affected employee is maintained. Initiating or spreading rumors creates an unhealthy work environment. Gossiping about a fellow employee is disrespectful and unprofessional, as well as a waste of City time. Repeated incidences of such behavior will result in disciplinary action.

XXV. Sick Leave

- A. Sick leave is an approved period of absence granted to an employee due to:
 - 1. Illness, injury, or other medical condition of the employee.
 - 2. Illness, injury, medical condition evaluation or procedure, or treatment for a medical condition for a member of the employee's family, as defined in Chapter 6.
 - 3. Improper reporting of sick leave is not allowed and could lead to disciplinary measures, including termination.
 - 4. Frequent use of sick leave may lead to the City requesting medical verification for illness as described in the policies and procedures.
 - 5. Sick leave is an employee benefit that involves compensating employees monetarily for missed work days either by
 - a. ensuring that compensation continues for the duration of sick leave, or,
 - b. if unclaimed, a reimbursement of sick leave for monetary gain for the employee at the time of retirement based upon the number of hours sick leave accumulated and the number of years a person has worked for the City.

Example: An employee calls in sick for the day and goes out golfing instead. This is an improper use of City time.

Policies and Procedures Manual, Chapter 6

XXVI. Undue Influence on Subordinates

- A. Supervisors and managers are expected to engage in the highest level of professional behavior when dealing with employees whom they supervise.
- B. Favored treatment due to personal friendships will not be tolerated.
- C. Supervisors should not exert verbal or non-verbal pressure on subordinates to grant personal favors and complete requested work while off duty, nor should they request monetary favors or contributions.

Example: A supervisor requests that his subordinate helps with a charity event during a Saturday night. The supervisor hints that it may lead to a favorable performance review, and implies that not helping will lead to an unfavorable review. This action needs to be reported to the Ethics Standards Committee.

Policies and Procedures Manual, Chapter 9

XXVII. Use of City Equipment

- A. Employees will only use City-owned equipment for City-related work.
- B. City equipment is not available for personal/private use by employees.
- C. Employees will be fully trained in the use of all City equipment that pertains both directly and indirectly to the performance of their duties.

Example: Landscaping tools are used by a grounds employee to landscape his own home over the weekend. This is unethical and improper use of city equipment for personal benefit. Disciplinary action will be taken against the employee.

Policies and Procedures Manual, Chapter 10

XXVIII. Use of City Logo

- A. Use of the City logo or name is for City purposes only.
- B. Clothing bearing the City of Avondale name or logo shall be worn only for official City purposes or business and shall not be worn while consuming alcoholic beverages.

Example: A group of employees forms a softball team and finds a sponsor to support the team's purchases for softball, bats, and T-shirts. The sponsor requests a letter of request on City letterhead to send it to its corporate offices to honor the request. The team captain explains to the sponsor that this team does not represent the City of Avondale. He drafts the letter instead on plain paper to distinguish this activity from official city business.

Policies and Procedures Manual, Chapter 10

XXIX. “The Ethics Test”

A. When you face a situation that causes YOU to question your ethical conduct, ask yourself these questions:

- How does this situation make me feel about myself?
- How would my family react to knowing about this and my role/decision?
- Would it pass the “headline test?” How would the community react?
- How does the decision and my proposed action align with the City’s mission and values?
- Will it violate a law or a City policy?
- Is my action or potential outcome/solution balanced? Will it be fair to all concerned?
- How will this affect other decisions I may be called upon to make in the future?
- Could I disclose, without reservations, my decision or action to my family, my peers, my superiors, or the community?

B. When you observe a situation or the actions of OTHERS that cause you to question their conduct, ask yourself these questions:

- Have I defined the ethical question/problem accurately?
- How would I define it if I stood on the other side of the fence or if I placed myself in the other’s situation?
- Can I discuss this with the affected parties before I bring it to the attention of my supervisor?
- What is my intent in making the decision to alert my supervisor?
- What result or outcome do I expect to achieve to resolve the problem?
- How do these results compare with my intent in bring this to the attention of my supervisor?
- Could my decision or action unfairly injure someone or something?

XXX. Where To Go For Help

- A. If an employee is unsure of what the “right thing to do” is, he/she should first seek the guidance of the supervisor to determine the right course of action.
- B. If an employee determines that ethical guidance will be compromised by seeking out his or her supervisor or department director, employees may contact the Human Resources department or the Ethics Standard Committee for advice and direction.

- C. The Ethics Standards Committee shall include the following members as appointed by the City Manager:
- Human Resources Director, (Committee Chair)
 - Assistant City Manager
 - Finance and Budget Director
 - Two members at-large
- D. If ethical guidance is sought, the Ethics Standards Committee shall recommend a course of action for the individual(s) making an inquiry.
1. All decisions shall be forwarded to the City Manager for final approval.
 2. Decisions made by the Ethics Standards Committee and approved by the City Manager shall be recorded and shall be used as a guide when determining future cases.
- E. Employees wishing to discuss and/or report unethical behavior/problems or issues are encouraged to contact the Human Resources Department.
1. An employee may request his or her supervisor present the issue on the employee's behalf.
 2. **Issues that are reported from an anonymous source will not be accepted for review.**
 3. To the extent possible, information provided will be held in the strictest of confidence.
- F. The City of Avondale is committed to ethically-driven customer service. Contact the Human Resources Department (623-333-2200) if you wish to initiate a report.

DOCUMENT KEY

Yellow Highlighted Text = Added Text

~~Strikethrough Text~~ = Removed Text

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CHAPTER AND ADMINISTRATIVE POLICY

DEFINITIONS of TERMS

The following words and phrases will have the meanings as indicated throughout Chapter and Administrative Policies except where the context clearly indicates otherwise.

- A. Accrual** – the accumulation or increase, typically referring to a benefit such as vacation or sick leave, that has increased from pay period to pay period.
- B. Administrative Leave** – leave while the employer conducts an investigation regarding the employee’s behavior. May be paid or unpaid.
- C. Americans With Disabilities Act (ADA)** – Title I of the Americans with Disabilities Act of 1990 is part of a federal law that prohibits discrimination against someone with a disability, defined as “a physical or mental impairment that substantially limits a major life activity.” Disability is decided on a case-by-case basis and does not include conditions such as substance abuse. This law applies to the whole employment cycle, from application through advancement and termination.
- D. Anniversary Date** – the calendar date upon which employment started with the City of Avondale by a specific employee.
- E. Appeal to the Independent Hearing Officer** – a request to the Independent Hearing Officer. Such will be limited to action taken by the City which involves, as a disciplinary action, dismissal, demotion, suspension without pay of more than 40 hours, suspension without pay for more than eight hours for law enforcement officers and detention officers pursuant to Ariz. Rev. Stat. 38- 1101, reduction in pay in lieu of suspension without pay of more than 40 hours, or reduction in pay in lieu of suspension without pay for law enforcement officers and detention officers pursuant to Ariz. Rev. Stat. 38-1101. All other appeals to the Independent Hearing Officer are specifically prohibited. The right of appeal hereunder extends to all regular employees in the classified service.
- F. Appointing Authority** – an employee, or City Council, having the power of appointment and removal of subordinate positions in any office authorized by the City Council in the budget, or any group of persons having the power by other lawfully delegated authority to make appointments to specific positions in the municipal service of the City of Avondale.
- G. Appointment** – the designation of a person to a position in classified or temporary authorized by the City Council in the budget.
- H. Background Screening/Pre-employment Screening** – testing to ensure that employers are hiring qualified and honest employees and that a prospective employee is capable of performing the functions required by the job. The screening can involve criminal background checks, verification of Social Security numbers, past addresses, age or year of birth, corporate affiliations, bankruptcies, liens, drug screening, skills assessment and

behavioral assessments. If an employer outsources pre-employment screening, the federal Fair Credit Reporting Act requires that there must be a consent and disclosure form separate from an employment application.

- I. Base Wage Rate (or base rate)** – the monthly salary or hourly wage paid for a job, irrespective of benefits, bonuses or overtime.
- J. City Council** – ~~a municipal body having legislative and administrative powers, such as passing ordinances and appropriating funds. In Avondale, it is comprised of the Mayor and six council members elected at large for a term of four years.~~ Council of the City of Avondale AZ.
- K. City Manager** – hired by the City Council, the City Manager serves as the chief executive of the city government.
- L. Class** – a group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training, experience, or skill, and such other characteristics that the same title and the same pay grade apply to each position in the group.
- M. Class Series** – the group of related classes as subsection of the occupational groups.
- N. Class Specification** – the description of the type and level of duties and responsibilities of the positions assigned to a class.
- O. Classification** – the original assignment of the position to an appropriate class on the basis of the type, difficulty and responsibility of work.
- P. Classified Service** – all regular full-time, part-time, and temporary positions.
- Q. Compensation** – any form of payment made to an individual for services rendered as an employee for an employer.
- R. Conditional Offer of Employment** – an offer of employment that is dependent on the successful completion of certain conditions typically outlined in the letter offering employment.
- S. Department** – a major functional unit of the City of Avondale governmental structure.
- T. Department Director** – the officially appointed director of any department who is directly responsible for the administration of the department.
- U. Discrimination** – the practice of unfairly treating different categories of people, especially on the grounds of ethnicity, national origin, gender, race, religion, and sexual orientation.
- V. Demotion** – a reduction in rank or movement to a lower grade position.
- W. Drug Screening** – the evaluation of urine or blood to determine if the subject has been using the drug or drugs in question.
- X. Emergency** – a sudden and unforeseen happening that requires the unscheduled service of

an employee to protect the health, welfare, and safety of the community.

Y. Emergency Appointment – filling a critical open position when a department has a need that cannot be immediately filled through an open recruitment process or through the use of a temporary status employee.

Z. Employee – an employee may be defined as:

1. Regular, full-time – this person is employed on a regular schedule of greater than 30 hours throughout the year and was hired with a position control number authorized through the budget process. They are not currently serving a probationary period.
2. Regular, part-time – this person is employed on a regular schedule less than thirty (30) hours per week throughout the year and was hired with a position control number authorized through the budget process. They are not currently serving a probationary period.
3. Temporary – this person may be employed for any number of hours per week in positions declared to be temporary in nature. This person may be assigned to a classification temporarily vacated by a regular employee while on military duty or other authorized absence and is excluded from receiving normal fringe benefits.

AA. Equal Employment Opportunity Commission (EEOC) – the federal agency who is responsible for publishing guidelines, enforcing EEO laws and investigating complaints of job discrimination based on race, color, religion, sex (including pregnancy), national origin, age or disability.

BB. Employment Certified Lists – following a selection process, a list of individuals that would be immediately eligible for hire if a future opening would arise. These lists have a limited period of time that they are valid for use.

CC. Exempt – an employee who generally holds a professional, administrative, or executive position and is regularly paid a predetermined amount of money per pay period.

DD. Fair Labor Standards Act (FLSA) of 1938 – a Federal law which covers public agencies and businesses engaged in interstate commerce or providing goods and services for commerce. The FLSA provides guidelines on employment status, child labor, minimum wage, overtime pay, and record-keeping requirements. It determines which employees are exempt from the Act (not covered by the Act) and which are non-exempt (covered by the Act). It establishes wage and time requirements when minors can work. It sets the minimum wage that must be paid, and mandates when overtime must be paid.

EE. Grievance – any dispute regarding the meaning, interpretation, or alleged violation of these policies and procedures.

FF. Holiday – the twenty-four (24) hour period starting at midnight and ending at 11:59 pm ~~midnight~~ of the day observed.

- GG. Immediate Family** – husband, wife, (common-law spouse), son, daughter, mother, father, brother, sister, son-in-law, daughter-in-law, parent-in-law, brother-in-law, sister-in-law, grandparent, or grandchild of an employee or other legal dependent.
- HH. Independent Hearing Officer** – an attorney licensed and in good standing with the State Bar of Arizona with at least five years of experience and knowledge of municipal law and/or employment law that the City Manager or designee selects to hear an appeal from the City’s list of qualified independent hearing officers on a rotational basis.
- II. Independent Medical Officer** – An impartial physician who provides an expert report regarding injuries, impairment, and disabilities.
- ~~**JJ. Layoff** – the separation of an employee from city service which has been made necessary by the lack of work or funds or other reasons not related to fault, delinquency, or misconduct on the part of the employee~~
- JJ. Leave** – an authorized absence from regularly scheduled work hours, which has been approved by proper authority
- KK. Limited Appointment** – an individual hired for a fixed or defined period of time, not to exceed 2 years in duration.
- LL. Loyalty Oath** – a pledge of allegiance to an organization, institution, or state of which an individual is a member.
- MM. Mayor** – the elected head of the City, who also serves as a member of the city council.
- NN. Merit Pay Increase** – an increase in pay from one percentage to the next higher percentage in the same pay grade of the pay schedule which is granted to any employee who is consistently proficient in his/her duties, and exceeds the standards of performance expected of a competent employee, over a period of time (usually one (1) year or more).
- OO. Merit System** – a system whereby employees are promoted or rewarded based on ability and achievement.
- PP. Nepotism** – Employment of immediate family, including step-family, in positions within the City of Avondale to include instances where immediate family members are employed in positions where one is in the supervisory chain of the other.
- QQ. Nonexempt Employees** – workers who are entitled to earn the federal minimum wage and qualify for one-and-a-half-times their hourly rate for every hour they work, above and beyond a standard 40-hour work week. This does not apply to the 56-hour employee.
- RR. Overtime** – authorized time worked by a regular full-time employee in excess of a standard workweek (more than forty (40) hours in one week). This does not apply to the 56-hour employee.
- SS. Pay Grade** – the identifying number for a single rate or a range of pay rate as established in the salary grade table.

- TT. Pay Reduction** – a decrease in pay, which may result from reduction in grade or reallocation of a position to a lower grade.
- UU. Payroll Taxes** – taxes paid on the wages and salaries of employees.
- VV. Performance Evaluation** – A written appraisal of the job performance of an employee designed to inform the employee of the manner in which he/she is meeting standards of performance established by a supervisor, department director, or the City Manager.
- WW. Personnel Action Form (PAF)** – a form that is completed before any change of employment status of an employee is official.
- XX. Promotion** – the movement of any employee from a position of one class to a position of another class in a higher maximum salary rate
- YY. Probationary Period** – a probationary period is a period of time when an employee is first placed into a position which allows either the employer or the employee to terminate the employment for any reason. This time is for both parties to decide whether the employee is suited to the position and/or the employer's organization.
- ZZ. Promotional Probation** – the probationary period in effect immediately after an individual has been promoted within the organization.
- AAA. Recruitment** – refers to the overall process of identifying, attracting, screening, testing and interviewing suitable candidates for jobs within an organization.
- BBB. Reduction in Force** – an involuntary separation of an employee or groups of employees due to economic pressures, lack of work, organizational changes, or other reasons of business necessity which require a reduction in staff.
- CCC. Reference** – the positive or negative comments about a candidate's previous job performance provided to a prospective employer.
- DDD. Reduction in Grade** – the movement of an employee from a position in one class to a position in the same or another class having a lower maximum salary rate because of disciplinary reasons, incapacity to perform the work, inefficiency, or unsatisfactory work performance.
- EEE. Reprimand** – a formal disciplinary action designed not only to admonish or warn an employee, but also to lead, guide, direct, and instruct the employee in how to correct and avoid repeating a mistake, infraction, inefficiency, or problem.
- FFF. Retirement Contributions** – funds earmarked specifically for qualified retirement accounts. Typically taken directly from an employee's paycheck on a bi-weekly basis.
- GGG. Retirement Systems** – a system that provides retirement, disability and survivor benefits for eligible participants within the City.
- HHH. Resident** – a person whose principle place of domicile is within the corporate boundaries of the City of Avondale.

- III. Separation** – the termination of employment by reason of disqualification, end of temporary assignment, layoff–reduction in force, resignation, retirement, dismissal, or death.
- JJJ. Supervisor** – an employee having authority to, in the interest of the city, direct the work efforts of other employees and evaluate and recommend their promotions, discipline and termination.
- KKK. Suspension** – a form of discipline consisting of relieving an employee from work without pay for a specific period of time, depending upon the seriousness of the act bringing about disciplinary action.
- LLL. Temporary Appointment** – an appointment of an individual offering a limited period of time for employment.
- MMM. Termination** – the permanent separation of an employee from the City of Avondale.
- NNN. Transfer** – the movement of an employee from one department, division, or unit of municipal government to another class having the same maximum salary rate, involving the performance of similar duties and requiring essentially the same qualifications.
- OOO. Vacancy** – a duly created position which is not occupied and for which funds have been provided.
- PPP. Volunteer** – an individual who performs hours of service for civic, charitable or humanitarian reasons, without promise, expectation or receipt of compensation for services rendered.
- QQQ. Workers' Compensation Insurance** – benefits received by an employee who is hurt on the job or gets sick from a work related cause.

CHAPTER 1

Purpose

A. Policy Statement

The City of Avondale, in extending services to its citizens, acknowledges that the well being of its employees is essential to maintaining a high standard of operation. A sound employee-management association makes it possible for the City Manager, department directors/managers, and the employees to cooperatively develop an adequate personnel program. These policies and procedures set forth the principles and procedures, which will be followed by the City of Avondale in the administration of its personnel program. It is not, however, a contract. They are intended to establish an efficient, equitable, and functional system of personnel administration based on merit principles.

B. Suggestions

Suggestions for the improvement of any portion of the City's services are encouraged and welcome. Suggestions will be submitted to the department manager and forwarded to the City Manager.

C. Changes and Amendments

The City retains the right to change or amend these rules or regulations at any time, provided, however, such changes or amendments will be communicated to employees before becoming effective.

CHAPTER 2

Organization for Personnel Administration

A. Mayor/City Council

The Mayor and the City Council will be the ultimate policymaking authority for the City of Avondale in matters pertaining to personnel administration.

B. The City Manager

The function of the City Manager is to aid in the formulation of personnel policies, to prescribe policies, and administer policies and procedures with the aim of facilitating personnel administration for the City departments. The City Manager is charged by the City Council with insuring the continued fair administration of the human resources programs which will include recruitment, interviewing, testing job applicants (where applicable), maintaining eligibility lists from which appointments are made, insuring that all appointments are made on the basis of merit, aiding in the formulation and interpretation of personnel policy, maintaining the classification plan, administering the pay plan, keeping records on all employees, supervising the grievance procedures, promoting training programs, and fostering good employee relations. The City Manager will be ultimately responsible for maintaining the appropriate discipline among city employees and accomplishing such other personnel matters as deemed appropriate by the Mayor and City Council.

C. Scope

The City of Avondale is divided into the exempt, nonexempt and temporary services. The purpose of the exempt and nonexempt services is to facilitate efficient and economical services to the public and to provide for a fair and equitable system of the Human Resources Department. The policies established by these policies and procedures will apply to all positions and employees in the exempt and nonexempt services in compliance with applicable FLSA and DOL regulations.

1. Exempt Positions

Exempt positions include the following:

- a. All elected officials and members of boards and commissions.
- b. Volunteer personnel and personnel appointed to serve without pay on ad hoc committees.
- c. Consultants and counselors providing temporary professional service.

- d. The City Manager, Assistant City Manager, City Clerk, City Magistrate, City Attorney, and other personnel meeting Fair Labor Standards Act guidelines and so designated by the City Manager.

2. Classified Positions

Classified positions include all regular, full-time, part-time, and temporary positions provided for by these policies.

3. Temporary Positions

These positions involve temporary employment. The position will be no longer than six (6) months in duration. Request for extensions will be forwarded to the Human Resources Department.

D. Administration

The Human Resources program established by the policies and procedures will be administered by the City Manager or his/her designee, the Human Resources Director. The Human Resources Director will:

1. Attend all meetings of the Personnel Board.
2. Administer all provisions of these policies and procedures.
3. Prepare and recommend to the City Manager revisions and amendments to these policies and procedures.

E. Administration of the Rules

The City Manager, or his/her designated representative, will be charged with the responsibility for the administration of these policies and procedures.

F. Department Regulations

~~These policies and procedures will not be construed as limiting in any way the power and authority of any department manager to make departmental policies and procedures governing the conduct and performance of employees. Departmental policies and procedures will not conflict with provisions of these policies and procedures. If such a conflict exists, these policies take precedent over department policies. Department policies and procedures, when approved by the City Council, then published and distributed as herein provided, will have the force and effect of policies and procedures of that department, and disciplinary action may be based upon breach of any such policies and procedures. Department policies and procedures will be reviewed and approved by the City Manager.~~

CHAPTER 3

Equal Employment Opportunity

A. Equal Employment Opportunity

1. The City of Avondale provides equal employment opportunities to all employees and applicants for employment and prohibits discrimination and harassment of any type without regard to race, color, religion, age, sex, national origin, disability status, genetics, protected veteran status, sexual orientation, gender identity or expression, or any other characteristic protected by federal, state or local laws.
2. This policy applies to all terms and conditions of employment, including recruiting, hiring, placement, promotion, termination, ~~layoff~~ reduction in force, recall, transfer, leaves of absence, compensation and training.

B. Affirmative Action Policy

The City of Avondale is committed to the principles of affirmative action and proactively seeks to hire and promote qualified minorities, women, disabled persons, and veterans throughout all levels of the organization.

C. Americans with Disabilities Act

1. The City of Avondale endeavors to make all of its programs, services, facilities, and employment opportunities available to, accessible for, and usable by qualified individuals with disabilities.
2. The City has adopted a procedure for prompt and equitable resolution of complaints alleging discrimination by the City on the basis of disability or a violation of the Americans with Disabilities Act.
3. For individuals in need of some reasonable accommodations in the application or interview process, or if such accommodations are denied, contact the Human Resources Director.

D. Pregnancy Discrimination Act

1. The City of Avondale will not discriminate on the basis of pregnancy, childbirth or related medical conditions which constitutes unlawful sex discrimination under Title VII.
2. The City of Avondale will treat women affected by pregnancy or related conditions in the same manner as other applicants or employees with similar abilities or limitations.

E. Equal Employment Opportunity

All persons will be given equal consideration in hiring, promotion, compensation, training, discipline, and all other terms and conditions of employment without regard to race, religion, color, sex, age, national origin, disability, genetic and family medical history information, medical marijuana cardholder status or any other legally protected status.

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CHAPTER 4

Recruitment and Selection

A. Equal Employment Opportunity

~~It is the policy of the City of Avondale to ensure equal employment opportunity without discrimination or harassment on the basis of race, color, religion, sex, age, disability, citizenship, genetic and family medical history information, medical-marijuana cardholder status or any other legally protected status. The City of Avondale strictly prohibits any such discrimination or harassment. This policy applies to all terms and conditions of employment, including, but not limited to, hiring, placement, promotion, termination, layoff, recall, transfers, leave of absence, and compensation.~~

~~The City of Avondale provides equal employment opportunities to all employees and applicants for employment and prohibits discrimination and harassment of any type without regard to race, color, religion, age, sex, national origin, disability status, genetics, protected veteran status, sexual orientation, gender identity or expression, or any other characteristic protected by federal, state or local laws.~~

~~This policy applies to all terms and conditions of employment, including recruiting, hiring, placement, promotion, termination, layoff, recall, transfer, leaves of absence, compensation and training.~~

A. Affirmative Action Policy

The City of Avondale is committed to the principles of affirmative action and proactively seeks to hire and promote qualified minorities, women, disabled persons, and veterans throughout all levels of the organization.

B. Vacancies

All vacancies in any class of position in the exempt and nonexempt services will be filled by an eligible applicant from **a recruitment and selection process**, an appropriate certified list, or by means of voluntary demotion or a lateral transfer as approved by the Human Resources Director.

C. An Applicant for Employment **Minimum Age of Applicants**

An applicant for ~~full-time~~ employment must be at least eighteen (18) years of age by the date of hire and must be able to perform the essential functions and duties of the position, with or without reasonable accommodation.

D. Preference Points

Preference points shall be applied in accordance with Arizona Revised Statutes (A.R.S. § 38-492).

E. Recruitment and Selection Process

1. ~~Recruitment and Selection Process~~ Authority

The Human Resources Director is the final decision-making authority with regard to the entire recruitment and selection process.

2. Vacancies

When a vacancy occurs, the department shall notify the Human Resources Department and provide information on the vacancy. ~~by sending a Personnel Requisition Form (PRF).~~ The Human Resources Department will verify the information, check for a current eligibility ~~certified~~ list, and consider any special circumstances.

3. Recruitment Strategy

- a. Human Resources will meet with department representative(s) to determine the steps in the recruitment and selection process and devise a recruitment plan. The position will be reviewed and analyzed to make sure the job description is current and reflects the current requirements of the position.
- b. The Human Resources Department will advise departments on advertising and outreach approaches to ensure a diverse applicant pool. Labor market conditions and/or any special requirements of the position will determine recruiting sources to be used, and the recruitment time period.
- c. Vacancies will generally be filled through an “open-competitive” recruitment process. These recruitments are open to the public. Although the City aspires to attain these goals, exceptions to the general rule will inevitably occur. The Human Resources Director has the authority to approve any exception to these guidelines. “Closed-promotional” recruitments are open only to City employees and must be approved by the Human Resources Director. A department director’s request for closed-promotional recruitment must include a written explanation of how “closed promotional” recruitments will meet the requirement for a diverse and qualified pool of applicants.

4. Recruitment

- a. Notices of all City recruitments will be posted on the City ~~internet~~ website and any other sources identified by the hiring department. ~~and the Human Resources Director.~~
- b. All applications for employment must be submitted online at www.avondaleaz.gov. Resumes and attachments will be accepted only as a supplement to the application.

- c. Applications will be accepted only during the posted recruitment period. A separate application must be submitted for each position.
- d. ~~Closing Date Deadline~~. Completed applications and supplements (if applicable) must be submitted online by the date and time indicated on the posting.
- e. ~~Submission of Applications~~. Applications will only be accepted when submitted online and fully completed.

5. ~~Examinations~~ Screening Applications

- a. ~~The first step in the selection process is to screen~~ Applications are screened for the minimum qualifications (MQs). Each application is reviewed for the education and experience to meet the stated MQs on the job announcement. ~~Applicants who do not meet the MQs for a position shall not be eligible for employment.~~
- b. The Human Resources Director and the hiring department will generally determine the method of evaluating the MQs prior to the job announcement.
- c. ~~The Human Resources Department will generally notify all applicants on the status of their application after the screening process. All applicants who meet the MQs will have their name placed on an eligibility list. Departments will use this list to select the most qualified candidates who will continue in the selection process.~~ Applicants meeting the MQs will continue in the selection process. Job selection criteria must be job related and specific to the position that is being filled.
- d. Applicants making any false statements of any material fact or attempts to practice any deception or fraud on his/her application and/or attachments, or exams or resumes will be rejected from the selection process.

6. Testing

- a. The selection process may contain one or more tests, including but not limited to interviews, written tests, skill tests, physical ability/fitness tests. ~~polygraphs, psychological tests, medical tests, and background checks.~~ Departments must submit to the Human Resources Department the names of applicants to be tested, ~~criteria used for selection,~~ test information, and panel composition prior to any testing. ~~The Human Resources Director will review and approve all tests and the composition of interview panels.~~
- b. Certain positions may be subject to competitive testing and applicants will be informed of the nature of such testing in advance.
- c. The Human Resources Department will be responsible for the administration and security of all tests and testing materials.
- d. The Human Resources Department shall send notification to all applicants ~~on test and~~ once the selection results ~~once the testing~~ process has concluded.

7. Certified Lists

- a. Completion of some selection processes may result in the establishment of an employment certified list.
- b. All certified lists will remain in effect for up to six (6) months, unless sooner exhausted, prior to their expiration dates, by action of the Human Resources Director for additional periods, but in no event will employment certified lists remain in effect for longer than one (1) year.

8. Reference and Background Checks

- a. The Human Resources Department ~~will conduct~~ is authorized to receive, and such persons shall submit, pursuant to A.R.S. Section 41-1750, fingerprints for state criminal history record information for the purpose of evaluating the fitness of prospective employees, contract employees, or volunteers. The fingerprints received shall be submitted to the Arizona Department of Public Safety, and the Arizona Department of Public Safety may exchange this fingerprint data with the Federal Bureau of Investigation.
- b. Applicants being considered for hire are subject to a background check, fingerprinting, and reference checks. ~~on all applicants that are being considered for hire.~~
- c. Required education and professional certifications will generally be verified.

9. Selection/~~Employment~~ Offers

- a. Prior to making a conditional job offer the hiring department shall consult with the Human Resources Department to discuss the selection, starting date, ~~salary offers, and compensation package etc.~~ All background, reference, and testing information ~~must be reviewed and confirmed by the Human Resources Department before an offer will be made~~ and compensation.
- b. Once the candidate has been selected and a salary offer is confirmed, the Human Resources Department will extend a conditional offer (contingent upon successful completion of the pre-employment drug testing (specified positions only) and/or medical examination(s) (specified positions only). ~~When a candidate accepts, the Human Resources Department will send an "offer letter" to the candidate. Employees may not start work until the Human Resources Department has notified the hiring department that the employee has successfully completed the necessary pre-employment examination(s).~~
- c. All background, reference, and testing information must be reviewed and confirmed by the Human Resources Department before ~~an offer will be made~~ employment may begin.

10. Medical, Psychological and Polygraph Examination

- a. **Following a conditional offer of employment,** a pre-employment drug screen, ~~(specified positions only) or~~ medical examination, psychological evaluation and/or **polygraph is may be** required ~~(specified positions only).~~ **for specified positions with an acceptable result.**
 - 1) ~~Once a conditional offer of employment has been made to the applicant, the Human Resources Department will contact the candidate to schedule a pre-employment drug screen (specified positions only) and, if required, a physical and psychological examination (specified positions only).~~
 - a. ~~Applicants selected to appointment to specified positions with the City of Avondale will first successfully pass a drug testing program. Failure to pass the test will disqualify an applicant from any future consideration of employment for a period of one (1) year. If an applicant begins employment before the results of the drug test are received, and the applicant tests positive for illegal drug use, they will be immediately terminated from employment and not eligible for consideration for re-employment for a period of one (1) year. The City of Avondale will comply with DOT drug testing guidelines.~~
 - b. ~~Once a conditional offer of employment has been made to the applicant, the Human Resources Department will contact the candidate to schedule a pre-employment drug screen (specified positions only) and, if required, a physical and psychological examination (specified positions only).~~
 - c. ~~The Police Department and Court require a pre-employment psychological and polygraph examination for the majority of their positions.~~
- b. After consultation with the department director and appropriate subject matter experts, the Human Resources Director will make the final determination of fitness for employment based on the results of pre-employment examinations.

F. Required **New Hire** Documentation

1. New hire paperwork must be carefully reviewed and completed within ~~two~~ **three (3)** days of the start of employment. The paperwork to be reviewed, completed, and filed in the Human Resources Department includes:
 - ~~Personnel Action Form~~
 - ~~Application for Employment~~

- Retirement Enrollment Form
 - a. Loyalty Oath (Arizona Revised Statutes 38-231)
 - b. I-9 Form (Employment Eligibility Verification)
 - ~~W-4 Form (Federal Withholding Allowance)~~
 - ~~A-4 form (State Withholding Allowance)~~
 - Personnel Policy Manual Receipt and Acknowledgement Form
 - Kronos Acknowledgment Form
 - Information Technology Policy Receipt Acknowledgement Form
 - Signed copy of the Job Description
 - c. Selective Service Acknowledgement
 - d. AZ Wage Withholding form
2. ~~New hires that fail to provide appropriate I-9 documentation are subject to termination and will not be permitted to work for the City of Avondale.~~ New hires not presenting acceptable identification documents by the end of three business days after the first day of work may be terminated for failure to meet the requirements of the I-9 process.
1. **Fingerprinting** ~~The Human Resources Department will conduct fingerprinting for all employees and volunteers. The Human Resources Department will notify departments of any relevant criminal history and assist with any follow-up necessary.~~

G. Returning Recruitment Materials to Human Resources Department

All recruitment and testing **selection** materials ~~including interview questions and rating forms,~~ must be returned to the Human Resources Department after the position has been filled testing **has been completed**. All applications will be returned to the Human Resources Department. The application of the selected applicant must be returned to Human Resources.

H. New Hire Training

All newly hired full-time and part-time regular status employees are required to attend new employee training, ~~as soon as possible following their date of hire.~~ Temporary and contractual staff as well as volunteers may attend if referred by their supervisors.

~~The department must call the Human Resources Department to schedule all new full-time and part-time employees.~~

I. Temporary Appointments

1. When the need for a temporary employee occurs, the department shall notify the Human Resources Director-Department **and discuss the details of the appointment.** ~~by sending a personnel requisition form (PRF). The hiring department will contact the Human Resources Department to discuss the salary, length of employment, and options to be considered. A PRF must be completed and approved by the Human Resources Director and Budget Manager prior to an offer of employment being made to an individual.~~
2. Length of Temporary Employment
 - a. In order to work within legal constraints and to preserve the “temporary” status of temporary employment, the maximum length of continuous service that a temporary employee can be employed **will be based on the needs of the City.**
 - b. ~~An exception to the one-year time limit can.~~ **Exceptions may** be made for temporary employees who are hired to work less than nineteen (19) hours per week. Requests for exceptions ~~to the one-year limit~~ under this provision shall be submitted in writing to the Human Resources Director for approval.
 - c. Temporary employees categorized as “seasonal” are not subject ~~the one-year~~ to a service limit.
 - 1) “Seasonal Appointments” are defined as: performing duties for only one season or project per year, working no more than six (6) consecutive months during a twelve (12) month period, and having at least a six (6) month break in service before being rehired for the next season or project.
 - 2) This provision applies to all departments throughout the City.
 - d. Some temporary employees work on an as needed basis for the City and are kept on the records as active employees year-round, even though they may only work sporadically during the year.
 - e. Department directors will notify Human Resources of temporary employees working more than twenty (20) hours a week for twenty (20) weeks in a fiscal year.
3. Temporary Agency Staffing
 - a. Temporary employees working through a temporary agency are to be paid the salary the department and agency agree upon.
 - b. Temporaries hired through City of Avondale must be hired within the pay range for an equivalent job. ~~The Human Resources Director will discuss the salary with the department at the time the PRF is received.~~
1. ~~Nepotism~~

~~As with all employees, the City’s nepotism policy also applies to all~~

~~temporary employees, including those hired through a temporary agency. It is the department director's responsibility to ensure compliance with this policy.~~

4. Payroll Taxes and Retirement Contributions

- a. Temporary employees are subject to the normal payroll taxes including federal and state income tax and social security tax.
- b. Temporary employees may be subject to Arizona State Retirement System contributions if the employee works twenty (20) or more hours per week for twenty (20) or more weeks per fiscal year.
- c. The employee may also be subject to retirement contributions if the employee is already contributing to the retirement system through another employer. ~~It is the responsibility of the department director to determine the employee's eligibility for retirement contributions.~~

J. Seasonal Appointments

1. Seasonal appointments will be made to positions that are seasonal in nature.
2. ~~Initial appointments shall be made from certified eligibility lists.~~ A person who receives a seasonal appointment is eligible for successive seasonal appointments to the same class without re-evaluation **going through a recruitment process.**
3. ~~procedure or re-certification.~~ Appointments of seasonal employees will be limited to a maximum of six (6) months of consecutive employment in a twelve (12) month period.

K. Limited Appointments

1. Limited appointments will be made to positions that are expected to support special projects **or interim assignments** for a limited time period.
2. Appointments shall be made for no less than ~~twelve~~ **six (6)** months and no more than three (3) years.
3. The length of the appointment is dependent upon project needs, available revenue from the funding source, and/or the City's ability to fund the appointment. ~~Limited appointments shall be made from certified eligibility lists. Refusal of a candidate on an eligibility list to accept an appointment to a limited position will not affect eligibility to a regular appointment.~~

~~K. Non-budgeted Appointments~~

~~All requests for non-budgeted appointments must be made in writing through the Human Resources Director and approved by the City Manager. Written~~

~~approval from the City Manager must be received by the Finance and Budget Department and the Human Resources Department prior to the appointment of an employee.~~

L. Emergency Appointments

In the event of an emergency, the City Manager may select and appoint persons without regard to the policies and procedures governing appointments, but in no case will such emergency appointments continue longer than ninety (90) days nor will it be renewed after ninety (90) days by successive appointment of the same person to the same class in the same department.

M. Probationary Period

All appointments to positions in the service of the City of Avondale are made subject to a probationary period.

1. Purpose

The purpose of a probationary period is to provide a reasonable time for the employee to perform the full range of duties of the position and allow the City a reasonable amount of time to fully assess the employee in this position. ~~All appointments to classified positions in the City of Avondale are subject to an original probationary period consisting of full-time, active, continuous employment.~~ The probationary period may be adjusted to exclude suspensions, leaves of absence, sick, and vacation leave or any other absences.

2. Types of Probation. ~~There are two types of probation, original probation and promotional probation.~~

a. Original Probation.

- ~~1) Duration of Original Probation. An original probationary period is as stated in the Offer Letter. is one year except as noted otherwise. Upon request of a department director~~ **The City Manager may establish a longer period** ~~for any classification. the Human Resources Director may establish a longer period for any class of positions in the department. In~~ **but in** ~~no case will the specified probationary period for a classification be less than one year.~~

- 2) Police.** Sworn Police Officers shall complete a twelve (12) month original probationary period following graduation from the training academy. ~~All other Police Department positions shall serve a twelve (12) month original probationary period. Probation may be extended up to an additional six (6) months. All certified detention staff will serve a twelve (12) month original probationary period following graduation from the training academy.~~

- 3) **Fire.** Firefighters shall complete a twelve (12) month original probationary period following graduation from the recruit training academy. ~~All other Fire Department positions under the Public Safety Retirement System shall serve a twelve (12) month original probationary period. Probation may be extended up to an additional six (6) months.~~
- 4) Extensions of Original Probation.
- a) A department director may extend an employee's original probationary period. These extensions must be made in writing and acknowledged by the employee and the Human Resources Department.
 - b) No original probationary period may be extended beyond **one (1) additional year** ~~six (6) months~~. The Human Resources Department must authorize any extension of probation.
 - c) The probationary period may be extended to include suspensions, reductions in pay in lieu of suspension without pay, sick, and vacation leaves, leaves of absence, or any other absences.
 - d) Employees on original probation may have their probationary period extended due to performance concerns identified in their performance evaluation.
- 5) Completion of Original Probation.
- a) Completion of probation shall be indicated by submission of a performance evaluation to the Human Resources Department. A satisfactory performance evaluation is required to justify completion of probation.
 - b) The employee's supervisor ~~department director~~ must evaluate a probationary employee and submit an employee performance evaluation to the Human Resources Department at least fifteen (15) days prior to the expiration of the employee's probationary period.
 - c) If an employee performance evaluation is not submitted fifteen (15) days prior to the expiration of the employee's probationary period, the probationary period of the employee will automatically be extended for thirty (30) calendar days.
 - d) Written justification must be provided to the employee to extend the original probation beyond the thirty (30) calendar day period. ~~At the end of the thirty (30) day automatic extension the Human Resources Department will bring the department management and the probationary employee together to determine probationary status. Completion of probation shall not be considered automatic and shall not occur by default. Completion of probation~~

~~shall be indicated by submission of a performance evaluation to the Human Resources Department. A satisfactory performance evaluation is required to justify completion of probation.~~

6) **Completing Original Probation early.**

- a) **A department director may request to end an employee's original probationary period early.**
- b) **A written request with justification shall be made to the Human Resources Director prior to completing the performance evaluation.**

7) **Probationary** Termination.

- a) If the department director determines at any time during an original probationary period that the services of the probationary employee are no longer required for any reason or for no reason, the employee may be dismissed without the right of appeal.
- b) A written notice of termination must be provided to the probationary employee.
- c) **All terminations of probationary employees must be authorized by the Human Resources Department.**

b. Promotional Probation.

1) Duration.

- a) An employee who is promoted shall serve a six (6) month promotional probationary period except as noted otherwise in these policies.
- b) ~~Department directors shall serve a twelve (12) month promotional probationary period.~~ Employees on promotional probation may have their probationary period extended due to performance concerns identified in their performance evaluation.
- c) ~~No promotional probationary period may be extended beyond three (3) months. The Human Resources Department must authorize any extension of probation.~~ The probationary period may be extended **with HR department authorization for reasons which may include** suspensions, reductions in pay in lieu of suspension without pay, sick, and vacation leaves, leaves of absence, or any other absences.

2) Police and Fire.

- a) All Police Department employees shall serve a twelve (12) month promotional probationary period. ~~All Fire Department positions under the Public Safety Retirement System shall serve a twelve (12) month promotional~~

~~probationary period.~~

- b) ~~Fire.~~—All Fire Department positions under the Public Safety Retirement System shall serve a twelve (12) month promotional probationary period.
- c) Extensions. The probationary period for fire employees under the public safety retirement system and for all police employees may be extended to include suspensions, reductions in pay in lieu of suspension without pay, sick, and vacation leaves, leaves of absence, or any other absences.

3) All employees on promotional probation may have their probationary period extended due to performance concerns identified in their performance evaluation. No promotional probationary period may be extended beyond six (6) months. ~~Human Resources must authorize any extension of probation~~ exceed a total of 12 months.

4) Reversions.

- a) An employee who fails to successfully complete a promotional probation shall revert to a vacancy in the current employing department in the class in which regular status was held immediately prior to the promotion, without the right of appeal.
- b) A reversion shall not preclude the imposition of any disciplinary action.
- c) A reduction in force may be conducted if no vacancy exists.

5) Demotion.

Except as otherwise provided in these policies, if a department director demotes an employee, the employee shall not be required to serve a probationary period in the position to which demoted unless the employee was still on probation at the time of the promotion.

6) Reduction in Grade for Promoted Employees.

- a) Employees serving a probation period as a result of promotion may be returned to their former positions for a variety of reasons.
- b) Promoted employees reduced in grade for non-disciplinary reasons may be returned to their former positions ~~in the classified service~~ without having to repeat the probation period for that position.

7) No Appeal Rights.

The City may, within its sole discretion, suspend or dismiss any employee during his/her original probationary period and demote any employee during his/her subsequent promotional probationary periods. There is no right of appeal for such actions.

8) Accrual of Leave.

- a) Employees serving an original probationary period will accrue leave.
- b) During the original probationary period accrued leave may be granted with the approval of the department director.

DRAFT

CHAPTER 5

Classification and Compensation

A. Purpose of the Classification Plan

The City's job classification system provides a structured, consistent method and quantitative techniques for arriving at objective compensation and classification decision. Some of the criteria used for determining job classifications include job duties, education and training, decision-making authority, supervisory responsibility, contacts with others as required by the job, working conditions, and other qualifications.

1. Classification Plan

A position classification plan based upon and graded according to assigned work duties and responsibilities will be developed and maintained by the Human Resources Department to provide standardization and classification of all positions in the City service. Before the implementation of said plan it will be approved by the City Manager. With the approval of the City Manager, new classifications may be established, combined, or abolished. The position classification plan will include:

- a. Outline of classes of positions in the classified service arranged in appropriate occupational group.
- b. Class specifications.

2. Administration of Classification Plan

The City Manager will instruct the Human Resources Director to conduct position classification studies at such times as he/she deems it necessary or whenever the duties and responsibilities of existing positions have undergone significant change. In addition, a classification study will be made when new positions are to be established, or may be requested by a department manager. If the Human Resources Director finds that a substantial change in organization, creation of change of position or other pertinent conditions warrant the amendment of the existing class, he/she may amend the classification plans subject to review and approval by the City Manager.

B. Compensation Plan

1. Philosophy

The philosophy of the City of Avondale is to provide an equitable compensation program for all employees. The basic concept of the pay system is that job responsibility and job performance as well as market influence will be the key determinants of an employee's

salary. The City is dedicated to providing an atmosphere that demonstrates a commitment to service excellence and customer satisfaction.

2. Purpose

The purpose of the City's pay system is to attract, retain, and motivate employees through the payment of financial compensation that is commensurate with the individual's ability, responsibility and contribution toward the City's goals. This program is designed to recognize and reward performance, and achieve internally equitable and externally competitive market compensation.

3. Objectives

- The objectives of the City's compensation program are:
- To clearly define the essential functions of each position through written job descriptions;
- To provide compensation that is competitive with jobs outside the City;
- To provide recognition for superior performance;
- To comply with federal, state and local regulations;
- To establish a system that is fiscally sound and cost effective;
- To provide a program that is understood by employees;
- To provide a pay system that can easily be administered and maintained; and
- To establish a salary range for each job that is based on a systemic blending of the job's internal worth to the City and the job's external value in the market.

4. Compensation Policy

The compensation program for the City is based on the following compensation policy.

- a. The City will provide total compensation opportunities of direct pay, specialty pays, indirect pay (e.g. benefits), career opportunities, etc., that are a blend of the total compensation opportunities offered by its competitors and the objectives of the City's compensation program.
- b. Each job classification in the City will have a salary range defined by minimum, mid, and maximum dollar limits. The ranges define the pay opportunities for the job. Pay for each employee shall be within the assigned range.
- c. Each job classification in the City will have a written job description. Job descriptions will be reviewed annually or as scheduled by the Human Resources Department. Employee will be provided with a copy of their respective job descriptions.

5. Maintenance of Compensation Plans

- a. Compensation plans shall be reviewed by the Human Resources Department at least every two (2) years or as directed by the City Manager. The Human Resources Department will utilize current salary data obtained from relevant competitive employment markets and other pertinent factors as a basis for maintaining the compensation plans.
- b. Periodic salary surveys will be used as a means to monitor the movement of salaries within the market. Adjustments will be made to the compensation plans subject to the City's overall financial state as determined by the City Council and City Manager.

6. Pay Computation

For hourly employees not exempt from the overtime requirements of the Fair Labor Standards Act ("non-exempt"), gross pay is computed by the hours worked times the rate of pay. Human Resources will determine whether an employee is eligible to receive overtime pay. Net pay for all employees, both hourly and salaried, will be computed by subtracting applicable deductions, e.g., federal and state income tax withholdings, applicable Retirement System contributions, Social Security, etc., from gross pay.

7. On-Call Policy

Certain departments may make non-exempt positions eligible for on-call compensation when the employee is required to be on-call. The employee must be accessible and available for work upon being contacted via ~~telephone~~ cell phone or pager (beeper). The employee must be available to report to work within a reasonable time (one hour) after being contacted by the City, if needed. The employee must also be in a physical condition that allows him/her to resume duty.

a. Definitions

- 1) **"On-call"** means when an off-duty employee must remain available to be called back to work on short notice if the need arises. An employee is considered to be on-call only when assigned by the City.
- 2) **"On-call pay"** means the additional compensation awarded to employees who are required to remain on-call during off-duty hours.
- 3) **"On-call status"** means the state of an off-duty employee required to remain on-call. An employee is considered to be in on-call status only when assigned by the City. Hours spent in on-call status will not be considered hours worked for the purposes of calculating overtime compensation.
- 4) **"On-call time"** means the periods of time when an employee is off-duty but is required to remain on, or close to, the City premises or to respond to a call or page within a specified period of time, resulting in the employee being unable to

effectively use such time to attend to his or her own personal activities. On-call time will not be considered hours worked for the purposes of calculating overtime compensation.

5) **“Callback”** means when an employee has left the work site and is requested to respond on short notice (either by returning to work or via telephone/computer) to a work situation to:

- a) Avoid significant service disruption.
- b) Avoid placing employees or the public in unsafe situations.
- c) Protect and/or provide emergency services to people, property and/or equipment.
- d) Respond to emergencies.

b. On-call/Callback Compensation

1) On-call Pay Rate

An employee assigned to on-call status will be compensated at the rate of two dollars per hour (\$2.00/hr) as on-call pay of on-call time. On-call hours begin after the completion of the on-call employee's scheduled workday and continue until resuming work the following workday.

2) Callback Pay Rate

When an on-call employee is called back to work after completing the regular work schedule and leaving the premises, the employee shall be paid for time actually worked upon return or a minimum of two (2) hours at their regular hourly or base rate, whichever is greater. ~~Sworn police employees covered under the Police Association shall refer to the MOU for call back rate calculations.~~

3) On-call Status Hours Not Included in Overtime Compensation Calculation

On-call time will not be considered hours worked for the purposes of calculating overtime compensation. Only hours actually worked (over forty (40) hours in a workweek) will be included in the computation of overtime unless otherwise specified in these policies.

4) On-call Pay Exclusions

- a) Employees will not receive on-call pay when they are:
- On vacation leave
 - On sick leave
 - On administrative leave

- Receiving short-term disability benefits
- Receiving worker's compensation benefits
- On bereavement leave
- On an approved leave of absence
- Not available to work
- Restricted to light duty
- Restricted from performing work activities

c. On-Call Duty Requirements

- 1) Employees serving on-call status must adhere to all of the following requirements:
 - a) Thoroughly check the working status of the cell phone before on-call status begins and maintain it in operational mode at all times.
 - b) When notified, respond and arrive at work within one (1) hour or less.
 - c) Arrive fully capable of performing the function of the job.
- 2) If an employee does not meet the criteria as defined above, he/she will forfeit the on-call pay from the time of the first attempt to contact him/her to the end of the "on-call" time period.
- 3) Each employee will be responsible for documenting each time he/she is on-call and forward to his/her supervisor to approve the on-call time.
- 4) An employee who is assigned to on-call status and cannot be reached or does not report within one (1) hour of being contacted may face disciplinary action.

8. Incomplete Pay Period

A nonexempt hourly employee who does not work his/her regularly scheduled work week will be paid only for the number of hours actually worked in the pay period at his/her regular hourly rate of pay, unless such absence is authorized by his/her department director.

9. Overtime

a. Policy

It is the policy of the City of Avondale to discourage overtime work for non-exempt hourly employees, except when required to safeguard public health, safety or property. However, overtime may be assigned by the department director or City Manager as may be necessary to meet operating needs. Non-exempt employees have the right to be paid for overtime worked. Exempt employees are not eligible for overtime compensation. The Human Resources Director determines the exempt and non-exempt

status according to the classification of the position, and in compliance with the Fair Labor Standards Act (“FLSA”).

b. Overtime Authorization

An employee is expected to seek advance approval for overtime work and to report overtime worked at the time of reporting other hours worked in a work-reporting period. Overtime by non-exempt employees must be approved in advance, but if worked it must be compensated, whether approved or not. An employee that has worked unauthorized overtime may face disciplinary action up to and including termination.

c. Overtime Compensation

1) Overtime Pay Rate

When overtime work is performed and authorized, a non-exempt hourly employee will be compensated at the rate of one and one-half (1.5) the amount of his/her hourly rate for hours worked in excess of forty (40) hours within the designated workweek, as provided by law or as otherwise provided for in these policies.

2) Compensatory Time Off

a) In lieu of monetary payment at the overtime pay rate set forth in these policies, non-exempt employees may elect to take compensatory time off (“comp time”) for overtime hours worked, with approval of the supervisor. Upon approval, overtime shall be compensated at the rate of one and one-half (1.5) hours of comp time for every one (1) hour of overtime worked by the employee.

b) The maximum number of comp time hours that any employee will be permitted to accrue shall be sixty (60) hours (forty (40) hours of actual overtime worked). The use of comp time by the employee shall be scheduled in accordance with departmental guidelines and procedures. An employee shall be permitted to use accrued comp time within a reasonable period after it is requested if, in the judgment of the supervisor, it does not unduly disrupt the operation of City services. ~~Sworn police employees covered under the Police Association shall refer to the MOU for comp time accrual maximums.~~

c) The City reserves the right to pay out compensatory time balances to the employee at any time.

d) All compensatory time that is not used that remains on the books at the close of the fiscal year will be paid out to the employee.

e) Upon separation from City employment, employees with a compensatory time balance will be paid at their current regular rate of pay. An employee who is promoted or reclassified to an exempt position will be paid for any comp time

balance at their regular rate of pay prior to the personnel action.

10. Transfers

- a. Employees may be voluntarily or involuntarily transferred from one position to another within the same classification or salary range. The transfer must be in the best interest of the City of Avondale and/or for the development of the employee, as determined by the City Manager.
- b. Employees desiring a voluntary transfer must submit a transfer request and an application to the Human Resources Department. The transfer request and application will be valid until December 31 of each year. Employees wishing to remain on a transfer eligibility list must submit a new transfer request.
- c. When an employee is transferred, the department director of the department to which the employee is transferred may request an increase not to exceed five percent (5%) if the employee possesses special qualifications of benefit in meeting the needs of the new department. Justification for an increase must be provided in writing to, and approved by, the Human Resources Department prior to the effective date of the transfer. Otherwise, no increase shall be granted.
- d. Transferred employees retain their review date for performance evaluations and rate of pay. All leave accruals will remain the same.

11. Promotion

- a. Employees promoted to a higher classification shall be placed in the new classification salary range and shall receive an increase in their base pay in commensurate with their experience, education, and current market conditions. Justification needs to be submitted in writing to the Human Resources Director and must be approved by Human Resources. Anything over midpoint of the new classification range will also require approval of the City Manager. Promotional increases shall not exceed the maximum of the new salary range. Promoted employees will serve the appropriate promotional probationary period applicable to the new position.
- b. Promotional pay increases shall become effective at the beginning of the next pay period.

12. Reclassification

- a. A position may be reclassified on the basis of changes in the duties and responsibilities or qualifications for the position. A reclassification or job title changes requires approval of the Human Resources Director and the City Manager.
- b. If a reclassification results in an employee being assigned to a higher pay range the employee will be placed in the new pay range with a five percent (5%) increase unless more is required to reach the minimum of the new range. A reclassification shall not

cause an employee to exceed the maximum of the new pay range.

- c. If an employee is assigned to a lower pay range the employee will be placed in the new pay range without any decrease in pay. If the employee's rate of pay exceeds the maximum of the new range then the employee will be ineligible for any base pay increases. When the range increases to exceed the employee's base rate then the employee will again be eligible for base rate increases.

13. Involuntary Demotion

- a. Employees, who are involuntarily demoted as a result of disciplinary action, shall be placed in the new classification and their rate of pay shall be reduced by at least five percent (5%) from their present rate of pay. The new rate of pay shall not exceed the maximum of the lower salary range. The review date for performance evaluations shall remain the same.
- b. Reduction in pay as a result of involuntary demotion will be effective at the beginning of a pay period.
- c. Except as otherwise provided in these policies, if a department director demotes an employee, the employee shall not be required to serve a probationary period in the position to which demoted unless the employee was still on probation at the time of the demotion.

14. Voluntarily Demotion (requested downgrade)

Employees may be voluntarily demoted from one position to another. Employees who voluntarily demote from one position to another will have their rate reduced by at least five percent (5%) from their present rate of pay. If the new rate of pay exceeds the maximum of the range then the employee's rate of pay will be frozen until such time as the maximum of the pay ranges increases to include the employee's rate of pay. Employees will be required to satisfy selection requirements for the new position to which the employee is voluntarily demoted. The City reserves the exclusive right to consent to or deny a request for voluntary demotion, depending on available positions, qualifications, departmental workload, employee skill level, and the City's need to hire and retain the most qualified applicants.

15. Appointments

- a. Temporary Employee

Pay for temporary employees will be consistent with duties and responsibilities of the temporary position as outlined in the compensation plan. Pay for regular part-time hourly employees will be based on the number of hours worked. Such pay will normally be proportionate to the regular full-time pay rate for the position.

b. New Hires

A department director may request to hire an applicant up to the midpoint of the pay range for the position based upon an assessment of an applicant's relevant experience, training, education and a review of the current incumbents' salaries that are performing the same job. A summary of the findings shall be submitted to the Human Resources Director for approval. Any request to hire an applicant above the midpoint will require the prior approval of the Human Resources Director and the City Manager.

c. Former Employee

Former employees must apply for open positions in the same manner as other applicants for the position.

16. Wages In Advance

It is the policy of the City of Avondale that no advance of wages be made.

17. Termination Pay

- a. An employee who voluntarily resigns will receive his/her final paycheck on the first regularly scheduled payday following termination/separation of his/her employment. An employee who is eligible for vacation time will be paid for all unused vacation time and other leave as allowed in this policy upon termination.
- b. An employee terminated by the City shall receive payment for his/her wages **within the time limits prescribed by state law**. ~~three (3) working days of his/her termination from employment.~~

18. Pay During National Guard and Reserve Training

- a. All regular employees who serve as active members of the National Guard, the Army Reserves, the Navy Reserves, the Air Force Reserves, Marine Reserves, the Coast guard or other reserve military organizations, will be entitled to leave of absence with pay from their respective duties on all duty days on which they are actively engaged in training. However, such leave with pay will not exceed thirty (30) days in any two (2) year period, or as otherwise required by law.
- b. All regular employees who serve as active members of the National Guard, the Army Reserves, the Navy Reserves, the Air Force Reserves, Marine Reserves, the Coast Guard, or other reserve military organizations will be entitled to compensation if called to active military duty in times of war or national crisis as declared by the President of the United States. In accordance with Arizona law, such employees shall receive military leave with pay for up to thirty (30) days in any two (2) consecutive years.

19. Temporary Reassignment Pay

Regular status employees may be temporarily assigned to a classification in a higher grade

upon recommendation of the supervisor and with approval of the department director. Eligible employees will receive a minimum of five percent (5%) above their regular salary for the duration of the temporary detail or more, if necessary, to reach the entry level rate of pay in the higher grade. The Human Resources Director may authorize the placement of the employee at greater than five percent (5%) based upon the scope and degree of the duties performed and the anticipated duration of the assignment.

- a. The employee must fully perform the duties and responsibilities of the higher classification for the duration of a minimum of twenty-one (21) consecutive calendar days to receive temporary reassignment pay. Compensation shall be retroactive to day one of the assignment.
- b. If the temporary reassignment pay is for a period of six (6) months or less, the reassignment may be made non-competitively. If the reassignment is for more than six (6) months, then the reassignment shall be made competitively in accordance with these policies and procedures or as approved by the Human Resources Director. An extension may be requested in writing to the Human Resources Director. No temporary reassignment shall extend beyond one (1) year.
- c. Employees on temporary reassignment shall have the right to return to their previous regular position at the conclusion of the assignment.
- d. Increases in pay for the temporary reassignment will be immediately discontinued when the employee returns to their regular position.

20. Shift Differential

- a. A shift differential shall be paid for regularly scheduled work shifts scheduled to begin or end between the hours of 9:00 p.m. and 4:00 a.m. Shift differential is not paid for hours worked over the regular shift when work is a continuation of the regular shift. Employees who are called back or who are covering another shift for another employee and perform work outside their regularly assigned shifts do not receive shift pay. Shift differential is not paid to employees on paid or unpaid leave.
- b. An employee shall be paid a shift differential set by administrative policy when working a shift that ends between the hours of 9:00 p.m. and 12:00 midnight, or when working a shift that includes work between the hours of 12:01 a.m. and 4:00 a.m.
- c. Only regular, non-exempt employees and sworn police employees below the grade of lieutenant are eligible for shift differential. Temporary employees and employees of the Fire Department are not eligible for shift differential.

21. Public Safety Dispatcher Pay

Public safety dispatchers, assigned by the Police Chief to fulfill the duties of public safety training dispatcher, shall receive public safety training dispatcher pay at an amount

determined by administrative policy for the term of the assignment. Public safety training dispatcher pay begins as soon as they begin performing in the position. A public safety training dispatcher on administrative leave and/or on medical leave in excess of eighty (80) hours shall not receive the public safety training dispatcher pay until they are approved to return to full-duty status.

22. Battalion Chief Coverage Pay

Battalion chiefs regularly assigned to work the fifty-six (56) hour shifts may be eligible to receive coverage pay at an amount determined by administrative policy.

23. Bilingual Pay

City employees may be eligible for bilingual pay for Spanish language skills. Guidelines regarding eligibility and compensation are set forth in Administrative Policy 36.

24. Cost of Living Adjustment

- a. Each budget year the City Council determines the amount, if any, of an across-the-board salary increase for employees. This increase is subject to the overall financial state of the City, as determined by the City Council and City Manager. If provided, the increase will be applied at the beginning of the fiscal year or at an alternate time period as specified by the City Council and City Manager.
- b. Cost of Living Adjustments do not apply to employees covered under a Memorandum of Understanding (MOU). Employees covered under a Memorandum of Understanding (MOU) will receive compensation as stated in the MOU. All compensation articulated in the MOU will be subject to the overall financial state of the City, as determined by the Council and City Manager.

25. Merit Pay

- a. Each budget year the City Council determines the amount, if any, of a merit pay increase for employees. Regular status employee chosen to receive a merit increase will receive the increase at the beginning of the fiscal year, or as specified by the City Council and City Manager. Employees who are on their original/promotional probation period will receive their merit increase upon successful completion of their probationary period. Merit pay increases will be subject to the overall financial state of the City, as determined by the City Council and City Manager.
- b. Merit pay increases do not apply to employees covered under a Memorandum of Understanding (MOU). Employees covered under a Memorandum of Understanding (MOU) will receive compensation as stated in the MOU. All compensation articulated in the MOU will be subject to overall financial state of the City, as determined by the Council and City Manager.

26. Salary Structure Adjustment

- a. Each budget year the City Council determines the amount, if any, of a salary structure adjustment. A salary structure adjustment refers to the amount by which all salary range control points are raised (minimums, midpoints and maximums) to bring them in line with current market levels. Salary structure adjustments will be subject to the overall financial state of the City, as determined by the Council and the City Manager.
- b. A salary structure adjustment does not apply to employees covered under a Memorandum of Understanding (MOU). Employees covered under an MOU will receive compensation as stated in the MOU. All compensation articulated in the the MOU will be subject of the overall financial state of the City, as determined by the City Council and City Manager.

27. Uniform Allowance

Regular employees who perform work that requires an employee to wear a uniform and/or safety shoes may be provided with a uniform and/or safety shoes or an allowance as established by administrative policy for each participating department.

CHAPTER 6

Employee Benefits

A. Definitions

Throughout this policy, definitions set out in A.R.S. §23-371 are incorporated by reference. In addition, the following definitions apply:

1. City - the City of Avondale.
2. Department Director - the director of the City department to whom the employee is assigned or the department director's designee.
3. Employee - an employee of the City.
4. Exempt employee - an employee who is deemed to be exempt from the overtime and maximum hour requirements of the Fair Labor Standards Act, 29 U.S.C.A. § 213, and regulations of the United States Department of Labor.
5. Family Medical Leave (FMLA) - Leave allowed pursuant to the Family Medical Leave Act of 1993 and relevant statutes and regulations.
6. Full time employee - an employee who works thirty (30) hours or more per week.
7. Non-Exempt employee - an employee who is not an exempt employee.
8. Part-time employee - an employee who works less than thirty (30) hours per week.
9. Sick Leave - an approved period of absence granted to an employee according to this policy. "Sick leave" has the same meaning as "earned paid sick time" as that term is used in A.R.S. §23-371.
10. Fiscal year - the 365-day period (or 366 days in the case of a leap year) that commences on July 1 and ends on the next June 30.

B. Accumulation of Sick Leave

1. Regular full-time employees will accrue sick leave at the rate of 3.70 hours per biweekly pay period and these hours are accumulated without limit.
2. Regular part-time temporary, and seasonal part-time employees (working less than thirty (30) hours per week) shall receive a bank of forty (40) hours of paid sick leave per year at the commencement of the fiscal year. They shall accrue no other sick leave during the fiscal year.

3. Newly hired regular part-time, temporary, and seasonal part-time employees (working less than thirty (30) hours per week) are eligible to use sick leave from their bank on the ninetieth calendar day after commencing employment.
4. When an employee is promoted, demoted or transferred, the employee shall retain all accrued sick leave.
5. Upon hiring any employee, a department director may request that an employee be hired with sick leave already established up to a maximum of 80 hours for employees below the rank of department directors and 120 hours for department directors and above. The Human Resources Director must review and approve this request prior to any official written offer of employment.

C. Sick Leave Usage

1. Employees may use accrued paid sick leave time for any of the following reasons:
 - a. An employee's mental or physical illness, injury or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; an employee's need for preventive medical care.
 - b. Care of a family member with a mental or physical illness, injury or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; care of a family member who needs preventive medical care. For purposes of sick leave usage under this section C, the term "family member" is as defined in A.R.S. §23-371, which is the following:
 - 1) Regardless of age, a biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner, a child to whom the employee stands *in loco parentis*, or an individual to whom the employee stood *in loco parentis* when the individual was a minor;
 - 2) A biological, foster, stepparent or adoptive parent or legal guardian of an employee or an employee's spouse or domestic partner or a person who stood *in loco parentis* when the employee or employee's spouse or domestic partner was a minor child;
 - 3) A person to whom the employee is legally married under the laws of any state, or a domestic partner of an employee as registered under the laws of any state or political subdivision;
 - 4) A grandparent, grandchild or sibling (whether of a biological, foster, adoptive or step relationship) of the employee or the employee's spouse or domestic partner; or
 - 5) Any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

- c. Reasons related to child care, domestic violence, sexual violence, abuse or stalking, and legal services as described in A.R.S. §§23-371 and 23-373.
 - d. Closure of the employee's place of business by order of a public official due to a public health emergency or an employee's need to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency, or care for oneself or a family member when it has been determined by the health authorities having jurisdiction or by a health care provider that the employee's or family member's presence in the community may jeopardize the health of others because of his or her exposure to a communicable disease, whether or not the employee or family member has actually contracted the communicable disease.
 - e. In the case of adoption of a minor child, an employee who is a potential or actual adoptive parent may request sick leave to include appointments with adoption agencies, social workers, attorneys, court proceedings, required travel and any other activities necessary and related to adoption of a minor child.
- 2. An employee will not be subject to retaliation or discrimination for using sick leave, so long as the employee complies with City policy.
 - 3. An employee will not be required to search for or find a replacement worker to cover the hours during which the employee is using sick leave.
 - 4. Employees are subject to discipline for misuse or abuse of sick leave or for violation of City policy.
 - 5. Sick leave may be taken when approved by the employee's department director according to the notification and documentation procedures of City policy.
 - 6. An absence of three or more days shall be reported to the Human Resources Department to determine if FMLA leave is warranted.
 - 7. Sick leave hours taken will not count toward hours worked for purposes of computing overtime.
 - 8. Sick leave must be used in increments of not less than fifteen (15) minutes per occurrence for non-exempt employees.

D. Notification

- 1. An employee shall notify his/her department director as soon as he/she knows that he/she will be unable to work, but no later than the starting time of the employee's work day. The employee shall make a good faith effort to provide notice to the department to which the employee is assigned in advance and make a reasonable effort to schedule the time off in a manner that does not unduly disrupt the operations of the department.

2. An oral or written request by the employee is acceptable. The following methods may be used:

- a. Telephone call
- b. Email
- c. Text message

Employees are responsible to ensure text message or email was successfully delivered. Supervisors shall confirm receipt of notification.

3. When possible, the employee shall include the expected duration of the absence in the request.
4. An employee must notify his/her supervisor on each day of absence unless a notification includes a specific number of days required for the leave or other arrangements have been made for FMLA. All FMLA must be approved through Human Resources.
5. While on short term disability employees are required to report periodically to the Human Resources Department, at least every thirty (30) days, regarding the status of their medical condition and their intent to return to work. Employees will be required to provide medical evidence substantiating their need for continued leave to the Human Resources Department who will then submit it to the Third Party Administrator (TPA) for review. See City Short Term Disability Policy.
6. If an employee fails to return to work following any authorized leave and fails to notify Human Resources of the need for an extension, the employee will be considered to have abandoned the job.
 - a. Human Resources shall send written notice to the employee's last known address requiring the employee to return to duty within forty-eight (48) hours.
 - b. Failure to return to work within forty-eight (48) hours of receipt of the notification will be cause for immediate discharge and the employee automatically waives all appeal rights under this policy.

E. Documentation

1. For earned paid sick time of three or more consecutive work days, a department director may require reasonable documentation that the earned paid sick time has been used for a reason or purpose set out in the definition of sick leave in this policy. Documentation signed by a health care professional indicating that earned paid sick time is necessary shall be considered reasonable documentation for purposes of this section. In cases of domestic violence, sexual violence, abuse or stalking, one of the following types of documentation selected by the employee shall be considered reasonable documentation:

- a. A police report indicating that the employee or the employee's family member was a victim of domestic violence, sexual violence, abuse or stalking;
- b. A protective order; injunction against harassment; a general court order; or other evidence from a court or prosecuting attorney that the employee or employee's family member appeared, or is scheduled to appear, in court in connection with an incident of domestic violence, sexual violence, abuse, or stalking;
- c. A signed statement from a domestic violence or sexual violence program or victim services organization affirming that the employee or employee's family member is receiving services related to domestic violence, sexual violence, abuse, or stalking;
- d. A signed statement from a witness advocate affirming that the employee or employee's family member is receiving services from a victim services organization;
- e. A signed statement from an attorney, member of the clergy, or a medical or other professional affirming that the employee or employee's family member is a victim of domestic violence, sexual violence, abuse or stalking; or
- f. An employee's written statement affirming that the employee or the employee's family member is a victim of domestic violence, sexual violence, abuse, or stalking, and that the leave was taken for one of the purposes of the Victim's Leave section in this policy. The employee's written statement, by itself, is reasonable documentation for absences under this paragraph. The written statement does not need to be in an affidavit format or notarized, but shall be legible if handwritten and shall reasonably make clear the employee's identity, and if applicable, the employee's relationship to the family member.

F. Compensation for Unused Sick Leave upon Resignation or Retirement.

- 1. Compensation upon resignation will be 33.3% of accrued sick leave at the employee's current hourly rate.
- 2. Compensation upon retirement will be as follows:
 - a. Employees with 10 years of continuous service with the City will receive 100% of accrued sick leave up to 250 hours at the employee's current hourly rate, or 33.3% of the total balance of accrued sick leave, whichever is greater.
 - b. Employees with 15 years of continuous service with the City will receive 100% of accrued sick leave up to 375 hours at the employee's current hourly rate, or 33.3% of the total balance of accrued sick leave, whichever is greater.
 - c. Employees with 20 years of continuous service with the City will receive 100% of accrued sick leave up to 500 hours at the employee's current hourly rate, or 33.3% of the total balance of accrued sick leave, whichever is greater.

3. Employees who resign from their employment with the City but return to employment with the City within a nine (9) month period shall have any unused or unreimbursed sick leave reinstated upon rehire.
4. Employees who are involuntarily terminated from their employment are not eligible for compensation of accrued sick leave.
5. An employee may not use sick leave after their last day worked.

G. Family and Medical Leave Act (FMLA)

1. General Provisions

It is the policy of the City to grant up to 12 weeks of FMLA leave during any 12-month period to eligible employees. The City may grant up to a maximum of 26 weeks in a 12-month period for employees taking FMLA Injured Servicemember leave. FMLA may be paid, unpaid or a combination of paid and unpaid leave depending on the circumstances of the leave and as specified in this policy. The City has the right to designate leave, paid or unpaid, as FMLA leave, even if the employee does not request leave as FMLA. Sick leave may be granted under Servicemember Leave of the FMLA and only during this time can sick leave be used.

2. Eligibility

To qualify to take FMLA leave under this policy, the employee must meet all of the following conditions:

- a. The employee must have worked for the City for 12 months or 52 weeks. The 12 months or 52 weeks need not have been consecutive. For eligibility purposes, an employee will be considered to have been employed for an entire week even if the employee was on the payroll for only part of a week.
- b. The employee must have worked at least 1250 hours during the 12-month period immediately before the date when the FMLA leave is requested to commence. The principles established under the Fair Labor Standards Act (FLSA) determine the number of hours worked by an employee. The FLSA does not include time spent on paid or unpaid leave as hours worked. Consequently, these hours of leave will not be counted in determining the 1250 hours eligibility test for an employee under FMLA.

3. Types of Leave Covered

- a. To qualify as FMLA leave under this policy, the employee must be taking leave for one of the reasons listed below:
 - 1) The birth of a child and in order to care for that child;
 - 2) The placement of a child for adoption or foster care and to care for the newly placed child;

- 3) To care for a close family member (usually a spouse, child, or parent) with serious health condition; or
- 4) The serious health condition (described below) of the employee.
 - a) An employee may take FMLA leave due to a serious health condition that makes the employee unable to perform the functions of the employee's position. A serious health condition can include inpatient care at a hospital, hospice or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care or a condition which requires continuing care by a licensed health care provider. However, a serious illness may also include other ailments short of hospitalization.
 - b) This FMLA leave policy covers illnesses of a serious and long-term nature, resulting in recurring or lengthy absences. Generally, a chronic or long term health condition which, if left untreated, would result in a period of incapacity of more than three days, would be considered a serious health condition.
- 5) Qualifying Exigency Leave (necessity) arising out of the fact that the spouse, son, daughter or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.
- 6) Service member Family Leave - An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member shall be entitled to a total of 26 work weeks of FMLA leave during a 12-month period to care for the service member. The leave described in this paragraph shall only be available during a single 12-month period. During the single 12-month period, an eligible employee shall be entitled to a combined total of 26 work weeks of leave. If both spouses work for the City, each spouse may only take a combined total of 26 workweeks of leave.
 - b. If an employee takes paid sick leave for a condition that progresses into a serious health condition and the employee requests unpaid FMLA leave as provided under this policy, the City may designate all or some portion of related leave taken as FMLA leave under this policy, to the extent that the earlier leave meets the necessary qualifications.
 - c. Employees with questions about who and what situations are covered under this FMLA leave policy or under the City's sick leave policies are encouraged to consult with the Human Resource Department.
 - d. The City requires an employee to provide a doctor's certification of the serious health condition. The certification process is outlined in this policy. The City relies heavily on the physician's assessment.

- e. An eligible employee can take up to 12 weeks of leave under this policy during any rolling 12-month period. The City will measure the 12-month period forward from the date any employee's first FMLA leave begins. Each time an employee takes leave, the City will compute the amount of leave the employee has taken under this policy and subtract it from the 12 weeks of available leave, and the balance remaining is the amount the employee is entitled to take at that time.
 - f. If spouses both work for the City, and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a child, or parent with a serious health condition, each spouse may each take 12 weeks each of leave.
4. Employee Status and Benefits During Leave
- a. While an employee is on leave, the City will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work.
 - b. If the employee chooses not to return to work for reasons other than a continued serious health condition of the employee or the employee's family member or a circumstance beyond the employee's control, the City will require the employee to reimburse the City the amount it paid for the employee's health insurance premium during the leave period.
 - c. The employee pays a portion of the dependent health care premium. While on paid leave, the City will continue to make payroll deductions to collect the employee's share of the premium. While on unpaid leave, the employee must continue to make this payment, either in person or by mail. The payment must be received in the Finance and Budget Department by the 10th day of each month. If the payment is more than 30 days late, the employee's health care coverage may be dropped for the duration of the leave. The City will provide 15 days' notification prior to the employee's loss of coverage.
 - d. If the employee contributes to a dental plan, life insurance, disability plan or any other type of insurance plan the City will continue making payroll deductions while the employee is on paid leave. While the employee is on unpaid leave, the employee may request continuation of such benefits; provided, however, that the employee shall pay their portion of the premiums. If the employee does not continue these payments, the City will discontinue coverage during the leave and Consolidated Omnibus Budget Reconciliation Act (COBRA) would be offered. If the City maintains coverage, the City will recover the costs incurred for paying the employee's share of any premiums whether or not the employee returns to work.

5. Employee Status After Leave

Upon return from FMLA leave, an employee is entitled to be returned to the same position held when leave commenced, or to an equivalent position with equivalent benefits, pay and other terms and conditions of employment.

6. Use of Paid and Unpaid Leave

- a. An employee who is taking FMLA leave because of the employee's own serious health condition or the serious health condition of a family member must use all sick leave prior to being eligible for short term disability or unpaid leave.
- b. Disability leave for the birth of a child and for an employee's serious health condition, including Workers' Compensation leave (to the extent that it qualifies), will be designated as FMLA leave and will run concurrently with FMLA leave. For example, if the City provides six weeks of pregnancy disability leave, the six weeks can be designated as FMLA leave and counted toward the employee's 12-week entitlement. The employee may then be required to substitute accrued (or earned) paid leave as appropriate before being eligible for unpaid leave for what remains of the 12-week entitlement.

7. Intermittent Leave or a Reduced Work Schedule

- a. An employee may take FMLA leave in 12 consecutive weeks, may use the leave intermittently (take a day periodically when needed over the year) or, under certain circumstances, may use the leave to reduce the work week or work day, resulting in a reduced hour schedule. In all circumstances, the leave may not exceed a total of 12 work weeks over a rolling 12-month period. For the birth of a child, the employee may take up to 12 consecutive work weeks.
- b. The City may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule, for FMLA leave for the employee or employee's family member that is foreseeable and for planned medical treatment, including recovery from a serious health condition or to care for a child after birth, or placement for adoption or foster care.
- c. Eligible employees may take FMLA leave on an intermittent or reduced schedule basis when medically necessary due to the serious health condition of a covered family member or the employee or the serious injury or illness of a covered servicemember. (See §825.202). Eligible employees may also take FMLA leave on an intermittent or reduced schedule basis when necessary because of a qualifying exigency as defined in this policy.

- d. Employees using intermittent leave or leave on a reduced schedule must make a reasonable effort to avoid disrupting operations, including scheduling doctor's appointments outside of work hours, if possible.
 - 1) An employee using intermittent leave due to medical necessity should notify his/her supervisor as soon as he/she knows that he/she will be unable to work, but no later than the starting time of the employee's work day.
 - 2) An employee must notify his/her supervisor on each day of absence unless other arrangements have been made. Human Resources should be contacted if there are additional questions on intermittent leave.
- 8. Certification of the Serious Health Condition
 - a. A serious health condition means an illness, injury, impairment or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility; or continuing treatment by a health care provider.
 - b. The City requires certification of a serious health condition.
 - 1) The employee shall make every effort to respond to such a request within 15 calendar days of the request, or provide a reasonable explanation for the delay.
 - 2) Failure to provide certification may result in a denial of continuation of FMLA leave.
 - 3) Medical certification may be provided by using the medical certification form.
 - 4) Request for a medical certificate must be made in writing as part of the City's response to employee request for FMLA leave.
 - c. If the employee plans to take intermittent FMLA leave or work a reduced schedule, the certification must also include dates and the duration of treatment as well as a statement of medical necessity for taking intermittent FMLA leave or working a reduced schedule.
 - d. The City has the right to ask for a second opinion if it has reason to doubt the certification. The City will pay for the employee to get a certification from a second doctor, which the City will select. The employee will be temporarily entitled to leave and benefits under the FMLA pending the second opinion.
- 9. Certification related to active duty orders or call to active duty.

The City may require that a request under active duty or call to active duty be supported by either a leave certification or military orders at such time and in such manner as prescribed by Federal law. Please consult with the Human Resources Department for current Federal guidelines regarding notification and documentation.

10. Procedure for Requesting Leave

- a. All employees requesting leave under this policy must provide notice with an explanation of the reason(s) for the needed leave to the Human Resources Department as soon as practicable. If the leave is foreseeable, the employee is required to provide a written request for leave and reasons(s) to the Human Resources Department. The City will provide individual notice of rights and obligations to each employee requesting leave as soon as practicable.
- b. When an employee plans to take leave under this policy, the employee must give the City 30 days' notice. If it is not possible to give 30 days' notice, the employee must give as much notice as is practicable. An employee who is to undergo planned medical treatment is required to make a reasonable effort to schedule the treatment in order to minimize disruptions to the City's operations.
- c. While on leave, employees must report periodically to the Human Resources Department regarding the status of the medical condition and their intent to return to work.
- d. Employees who are unable to return to work at the end of the expected FMLA leave should notify their supervisors and Human Resources in writing at least two (2) weeks in advance or as soon as possible and must have the physician re-certify that the extended leave is medically necessary.
- e. If an employee does not provide proper notification to Human Resources, the employee will be considered to have abandoned the job and may be subject to disciplinary action up to and including termination.

11. Job Benefits and Protection

- a. For the duration of FMLA leave, the employer must maintain the employee's health coverage under the "group health plan" unless requested in writing from the employee or other legal directives given.
- b. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.
- c. The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.
- d. FMLA makes it unlawful for any employer to:
 - 1) Interfere with, restrain or deny the exercise of any right provided under FMLA.
 - 2) Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

- e. Notwithstanding the exhaustion of FMLA leave, an employee may be granted additional leave as required under the Americans with Disabilities Act. As an accommodation, additional leave may be granted based on medical necessity and the City's requirements/ability to accommodate. Accommodations will be evaluated upon request.

12. Enforcement

- a. The U.S. Department of Labor is authorized to investigate and resolve complaints of violations.
- b. An eligible employee may bring a civil action against an employer for violations.
- c. FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law which provides greater family or medical leave rights.

H. Vacation Leave

1. Accumulation of Vacation Leave

- a. All full-time employees, excluding sworn firefighters, will accrue vacation leave as follows:

Non-Exempt	Tenure	Hours per Pay Period	Hours per Year
	0-1.99 Years	3.7	96.2
	2-4.99 Years	4.47	116.2
	5-9.99 Years	5.39	140.12
	10-14.99 Years	6.31	164.04
	15 + Years	6.93	180.16

Exempt	Tenure	Hours per Pay Period	Hours per Year
	0-1.99 Years	4.62	120.12
	2-4.99 Years	5.39	140.12
	5-9.99 Years	6.31	164.04
	10 + Years	6.93	180.16

- b. All assistant department directors will accrue vacation leave as follows:

ASSISTANT DEPARTMENT DIRECTORS		
Tenure	Hours per Pay Period	Hours per Year
First 5 Years	6.31	164.04
5+ Years	6.93	180.18

- c. All department directors, Deputy City Managers, Assistant City Managers and will accrue vacation leave as follows:

Department Directors, Deputy City Managers, and Assistant City Managers	
Hours per Pay Period	Hours per Year
6.93	180.18

- d. Battalion Chiefs working a 56-hour schedule

Battalion Chiefs		
Tenure	Hours per Pay Period	Hours per Year
0-1.99 Years	11.21	291.46
2-4.99 Years	12.28	319.28
5-9.99 Years	13.57	352.30
10 + Years	14.44	375.30

- e. Upon hiring any employee, a department director may request that an employee be hired with vacation leave already established up to a maximum of 80 hours for employees below the rank of department directors and 120 hours for department directors and above. The Human Resources Director must review and approve this request prior to any official written offer of employment.
- f. Part-time regular employees are not eligible to accrue vacation leave.
- g. Vacation leave hours taken will not count toward hours worked for purposes of computing overtime.

2. Maximum Accumulation of Vacation Time

Eligible employees have a maximum accrual of vacation time of 320 hours at the end of the calendar year 2020. Fire Battalion Chiefs assigned to a 24-hour shift schedule will have a maximum accrual of vacation time of 504 hours at the end of the calendar year. **The maximum accrual rates are temporary and will be reviewed by the end of 2021 due to the COVID-19 impact on City operations.**

- a. Employees must use all hours over the maximum accrual by the end of each calendar year. Employees will lose any vacation leave hours over the maximum accrual amount not used by December 31st of each calendar year.
- b. Vacation leave accumulated in excess of 320 hours or 504 hours for Fire Battalion Chiefs as of the last day of the last pay period starting in any calendar year shall be forfeited, unless the City Manager authorizes an exception in an individual case. The application for exception submitted through the Human Resources Department shall

contain a plan to use the excess hours during the following calendar year, pay the employee for the excess hours or a combination of both.

3. Use of Vacation Leave

Vacation leave shall be taken with the approval of the department director or designee (i.e., immediate supervisor).

- a. Vacation will only be granted during such time as it is not disruptive to the work schedule of the department concerned.
- b. During the original probationary period, vacation leave may be granted at the discretion of the department director.
- c. Vacation leave granted shall not exceed an employee's accrued balance.

4. Vacation Sell Back

Employees may be paid for a portion of accrued vacation. See Administrative Policy 40 (AP-40) for guidelines.

5. Compensation for Vacation Leave

Compensation upon separation from the City will be 100% of accrued vacation leave at the employee's current hourly rate. An employee may not use vacation leave after their last day worked. Vacation will be paid per city policy.

I. Holiday Leave Policy

1. Objectives

The objectives for the development of the holiday leave policy are:

- a. Equalize the holiday leave allocation, so that each full-time regular employee receives 88 hours of holiday leave hours per fiscal year.
- b. Identify the methods to maximize the number of days that City offices are open to serve citizens.
- c. Ensure that the adoption of a Green Friday schedule or other alternate schedule does not increase the cost of doing business for the City.
- d. Implement a system to increase the flexibility for employees to utilize their holiday compensation.

2. Accumulation of Holiday Leave

- a. The annual holiday leave bank for each full-time, regular employee is 88 hours. Part-time, temporary, and seasonal employees are not eligible for holiday compensation or holiday differential pay. For the purposes of this policy, the holiday will be defined as the 24-hour period (12:00 AM -11:59 PM) on the designated holiday.

- b. Employees will be provided with a bank of 88 hours (full-time) per fiscal year (July 1-June 30) to utilize for holiday compensation for designated holidays or floating holidays as set forth below. The leave banks will be populated during the first payroll period in July and January. The first allocation will be in July for 50 hours (full-time) the second in January for 38 hours (full-time). New hires will receive a prorated number of hours based upon their hire date.

3. Designated Holidays; Floating Holidays

A listing of City-designated holidays will be prepared for each fiscal year. This listing will be included in the Administrative Policy and posted no later than June 1 of each year. The listing will specify any and all designated holidays for the City.

- a. If a designated holiday falls on a scheduled work day, employees will be required to use their holiday leave to cover their scheduled work hours. Employees required to work on a designated holiday due to business need, or who are not scheduled to work on a designated holiday, will be not be required to utilize their holiday leave. Any holiday leave hours not used for designated City holidays shall be considered floating holiday leave.
- b. In the event an employee is on paid leave when a holiday occurs, the employee shall receive no pay in addition to holiday pay. Therefore, the employee shall not be charged with applicable paid leave time (i.e., vacation or sick leave).
- c. Floating holiday leave shall be approved to be used at such a time that is mutually agreeable to the employee and the employee's supervisor. Holiday leave will not be available for use on an unplanned or call-in basis.

4. Holidays Eligible for Differential Pay

- a. Each June, a listing will be included in the Administrative Policy of any holidays that will be paid a holiday differential. Non-exempt employees who are required to work on one of the listed holidays shall be given, in addition to regular hourly rate, holiday differential pay equal to one-half of their regular straight-time hourly rate for hours worked on designated holidays. This compensation may be in overtime or compensatory time, depending on the needs of the department (compensatory time guidelines have been established in Chapter 5 of the City of Avondale Policies & Procedures Policy Manual) The additional compensation would only be for the actual day of the holiday, not the Friday or Monday before or after (example: July 4th is on a Sunday; employees working on July 4th would be eligible for additional compensation; employees working on July 3rd or 5th would not).
- b. Exempt employees would not be eligible for any additional compensation if required to work on one of the holidays eligible for differential pay.

5. Use of Holiday Leave

- a. It will be the employees' responsibility to monitor their holiday leave usage.
- b. In the event that the employee does not have enough holiday hours in her/his bank to cover a full day's absence, vacation hours or compensatory time will be used to make up the difference.
- c. All holiday hours not taken prior to the last day of employment with the City, shall be forfeited.
- d. Holiday hours must be used by June 30 of each year or will be forfeited. There will be no "cash out" or carryover of holiday hours.
- e. In the event that an exempt or non-exempt employee does not have either holiday hours, compensatory hours or vacation hours to cover a designated holiday, they will be placed in a leave without pay (LWOP) status. This will mean that both an exempt and nonexempt employee will have the uncompensated hours deducted to cover their absence.
- f. Holiday hours and holiday differential pay will not count toward hours worked for purposes of overtime for hourly employees.

6. Certain Police Employees Not Participating

- a. ~~Sworn police officers (except the Criminal Investigations, and Professional Standards Bureau) ("Specified Police Employees")~~ Specified Police Employees will not be participating in the holiday leave program set forth above.

1) Those police employees not participating include: Patrol, Detention, Communications, and any other area as recommended by the Chief of Police and HR and approved by the City Manager.

- b. Specified Police Employees will receive 8 hours of compensation for each of the following holidays as they occur in the calendar:

SPECIFIED POLICE EMPLOYEE HOLIDAYS
INDEPENDENCE DAY
LABOR DAY
VETERAN'S DAY
THANKSGIVING
DAY AFTER THANKSGIVING
CHRISTMAS DAY
NEW YEAR'S DAY

MARTIN LUTHER KING JR. DAY
PRESIDENT'S DAY
MEMORIAL DAY
PERSONAL DAY TO BE SCHEDULED BY EMPLOYEE

- a. Specified Police Employees will have one 8-hour personal day to schedule at their discretion with their supervisor each fiscal year. Personal days and holidays will not be carried over into a new fiscal year. A personal day (8 hours) will be given to the employee on July 1 of each fiscal year. New hires will receive a personal day upon their hire. The personal day must be scheduled in the fiscal year it is earned. Unused personal days will not be paid out at the end of the fiscal year or upon resignation of the employee.
- b. The Specified Police Employee holiday hours set forth above will not count as hours worked for the purpose of overtime compensation. Employees who are required to work on designated holidays shall be given, in addition to regular hourly rate, holiday differential pay equal to one-half of their regular straight-time hourly rate for hours worked on designated holidays.

Example 1: Employee works 14 hours on the holiday (Wednesday*) and works three other days in the week.

Time	Total	M	T	W*	Th	F	S	Su
Hours worked	46	10	11	14	11			

End Result:

Hours worked	46
Holiday compensation at straight rate	8
Regular Hours at straight rate	40
Overtime at 1.5	6
Holiday Differential at .5	14

Example 2: Employee works 14 hours on the holiday (Wednesday*) and calls in sick on Monday for the entire shift of 10 hours.

Time	Total	M	T	W*	Th	F	S	Su
------	-------	---	---	----	----	---	---	----

Hours worked	36		11	14	11			
Sick Leave	10	10						

End Result:

Hours worked	36
Holiday compensation at straight rate	8
Sick leave at straight rate	10
Regular Hours at straight rate	54
Overtime at 1.5	0
Holiday Differential at .5	7

J. Industrial Leave

1. Workers' Compensation Coverage

The City provides Workers' Compensation insurance coverage to employees at no cost. If an injury or illness is determined to be job related, the employee will receive medical benefits and, if eligible, temporary compensation.

2. Determination of Compensability

The City's Workers' Compensation carrier will determine compensability for workplace injuries and illnesses.

3. Separation During a Claim

An individual who separates from City employment will only be entitled to the compensation required under Arizona Workers' Compensation Law.

4. Filing a Claim

An injury or illness is covered under Workers' Compensation if it is determined to be job related. It is the employee's responsibility to make sure the injury is reported to his/her supervisor as soon as possible. A claim must be filed within one year of the date of injury. It is the employee's responsibility to ensure the claim has been filed. The supervisor will work with the Risk Management department to provide information to assist in filing the claim. Risk Management will serve as the point person for employees with questions regarding Workers' Compensation.

5. Types of Claims

There are two types of Workers' Compensation claims. One is called a "medical only" claim, which means that only medical expenses are paid. The other is called a "time lost" claim. This means that both medical expenses and temporary compensation benefits for lost wages are paid.

- a. “Medical only” claims are those types of claims for which the insurance company will pay all of the medical expenses associated with the injury, but will not pay compensation benefits for lost wages, as the employee did not lose more than seven days’ time from work.
- b. “Time lost” claims are those claims in which the treating doctor states that the employee is unable to work due to their injury and employee is off work more than seven days. The employee would then be eligible for compensation for their lost wages. The days off do not have to be consecutive (in a row) but are cumulative (total). Entitlement to compensation is based on calendar days (not work days) and includes Saturdays, Sundays and holidays.

6. Compensation for Time Lost Claims

- a. The first seven days are not paid for lost wages unless the disability extends to 14 days. For example: If the employee is off ten days, they get paid for days eight, nine and ten only. If the employee is off 14 full days, compensation is retroactive (goes back) to the date of injury and is paid for 14 days. Compensation is not generally paid for the date of injury, as the employee was working that day and was typically compensated already for that day.
- b. Compensation is based on the statutory limit set forth in the Arizona Revised Statutes. The state law establishes a maximum wage figure which can be used to calculate the average monthly wage. This compensation is tax-free to the employee. Payments will be administered through the City’s payroll system and will be issued on a bi-weekly basis.
- c. Sick time or vacation time may be utilized to cover the seven-day waiting period or to supplement their Workers’ Compensation payments. Employees would need to notify Payroll in writing if they wish to utilize sick time or vacation time to cover their waiting period or supplement their wages.

7. Requirements While Under Workers’ Compensation

- a. An employee may not leave the state for more than two weeks while under active medical treatment without approval from the Arizona Industrial Commission. If the employee is planning to be outside the state for more than two weeks, the employee must have written approval from the Arizona Industrial Commission before the employee leaves the state.
- b. Employees are not permitted to engage in outside employment while receiving Workers’ Compensation from the City of Avondale unless written permission is granted from Human Resources and Risk Management.

- c. FMLA leave, if eligible, will run consecutively while on Workers' Compensation. While under active medical care, the insurance company has the right to have the employee periodically examined, at a reasonably convenient time and place, by a doctor of its choosing. Failure to attend the examination could result in suspension of Workers' Compensation benefits and the employee could be required to pay for the cost of the missed examination.

8. Return to Work

- a. While under active medical care, a doctor may release an employee to return to modified duty or to the employee's regular job.
- b. If released to regular duty, an employee must be able to perform the essential functions of the employee's job, with or without reasonable accommodations. If an employee requires accommodations, Human Resources will coordinate an evaluation of the employee's ability to return to the workplace.
- c. If returned to work with restrictions, the physician must provide in writing a detailed outline of what the restrictions are and the duration of those restrictions. Human Resources, Risk Management and the department will work together to determine if there is work available that meets the restrictions outlined. Modified duty is not guaranteed. It will be up to the City to determine if work is available. At no time will an employee be allowed to be on modified duty for a period of time greater than twelve (12) months from the date of injury or date of onset of illness. Modified duty work would no longer be available once an employee is medically able to return to his or her regular job.
- d. If an employee fails to accept a modified duty work assignment that he or she is medically capable of performing, his or her compensation benefits may be reduced or eliminated by the City.
- e. Risk Management may require a fit for duty evaluation before an employee is returned to regular duty.

K. General Leave

- 1. General leave may be requested for personal reasons that are not covered by the FMLA. This leave is not intended for employees needing time away from work for their own medical condition.
 - a. General leave will last for no more than sixty (60) calendar days.
 - b. Accrued time off must be exhausted before an employee is eligible to take general leave.
 - c. General Leave is not intended for seeking employment outside of the City.

2. Requests for general leave must be approved by the employee's department director and the human resources director
 - a. Request for general leave must be in writing and include the purpose, start and end date of the general leave.
3. General leave is unpaid and not job protected
 - a. The department may post to fill the employee's position upon commencement of general leave.
 - b. If the employee's position remains open at the end of their approved leave period, they will be reinstated to their position. If the position is no longer available, then they will be allowed a period of 28 calendar days to apply competitively for any open position as an internal candidate.
 - c. If the employee fails to return to work or communicate timely with Human Resources at the end of their approved leave period, it will be deemed job abandonment and they will be terminated.
4. While on general leave the employee may select continuation of benefits by paying the full premium for coverage (i.e., employee and employer premiums). Some benefits may not be continued.
5. Vacation and Sick leave will not accrue while the employee is on general leave.

L. Bereavement Leave

1. General

Upon the death of an employee's immediate family member, an employee may be granted paid bereavement leave not to exceed five work days or 40 hours. Additional hours beyond the limit may be charged to an employee's sick leave or vacation leaves at the employee's discretion and with the department director's approval. Upon the death of an employee's aunt, uncle, cousin, niece, or nephew, an employee may be granted paid bereavement leave not to exceed one work day or eight hours. Only full-time regular and/or probationary employees are eligible for bereavement leave. Part-time employees are not eligible for bereavement leave.

2. Immediate Family Defined

For purposes of bereavement leave, "immediate family" shall refer to a spouse, son, son in-law, daughter, daughter in-law, mother, mother in-law, father, father in-law, brother, brother in-law, sister, sister in-law, grandparent, grandparent in-law, grandchild or step-child, step-parent, step-brother or step-sister.

3. Co-workers

At the discretion of the employee's department director, an employee may be granted up to four (4) hours of bereavement leave for attendance at a co-worker's funeral or memorial service.

M. Military Leave

All regular employees who are or may be members of the National Guard or the Military Reserves (U.S. Armed Forces) will be entitled to leave of absence with pay (upon written request to the employees department director and submittal of appropriate documentation of military active duty orders), from their respective duties on all days during which they are employed with or without pay under the orders of or authorization of competent authority on active duty during training or duty with troops, field exercises or instruction for a total period not to exceed the lesser of 30 working days or hours times shift based on the Federal government fiscal year in any two consecutive years.

N. Civic Duty Leave

1. General

Upon substantiated application, an employee shall be granted leave with pay as civic duty leave while serving as a juror, complying with a subpoena or voting.

2. Use of Civic Duty Leave

Except for voting pursuant to ARIZ. REV. STAT. § 16-401 (primary elections) or ARIZ. REV. STAT. § 16-402, (general elections) as amended, an employee granted civic duty leave shall report for work whenever the employee's presence is not required for the civic duty, unless:

- a. The distance to the work location would preclude timely reporting for the civic duty; or
- b. The employee cannot return to work at least one hour before the end of the work shift;
- c. Civic duty leave will not count towards hours worked for purpose of computing overtime.

3. General Election Day

- a. The biannual general election day (the first Tuesday following the first Monday in November of every even-numbered year) is not a legal holiday. However, every public officer or employee is entitled to have adequate time to vote, as set forth in ARIZ. REV. STAT. § 16-402, as amended. The three consecutive hours immediately after the opening or the three consecutive hours prior to the closing of the polls is provided for this purpose.
- b. Arrangements must be made with the supervisor prior to general election day and the supervisor may determine which hours are more suitable in accordance with the needs of the department.

4. Appearance as a Witness

An employee who is subpoenaed as a witness by any court or administrative, executive, or judicial body in this state may be absent with pay unless the testimony or evidence to be given relates to the employee's own personal business.

5. Jury and Witness Compensation

Employees who are granted civic duty leave when called for jury duty or subpoenaed as a witness shall remit any compensation to the City Finance and Budget Department, except for mileage allowance.

O. Victim's Leave

1. Purpose and Eligibility

The City will allow employees who are victims of crimes to leave work to exercise their right to be present at legal proceedings related to the crimes in accordance with Arizona State Victim's Leave Law (ARIZ. REV. STAT. §§ 8-420, 13-4439, 23- 373) as amended. Any City employee is eligible for leave under this policy, except if the employee's family member is the victim and the employee is in custody for an offense or is the accused.

2. Use of Victims Leave

A request for victim's leave must be made to the immediate supervisor providing as much notice as practical. In making this request, the employee shall provide both of the following documents:

- a. A copy of the form provided to the employee by the law enforcement agency.
- b. A copy of the notice of each scheduled proceeding that is provided to the victims by the responsible agency.

Leave records under this policy shall be maintained in a confidential manner. When using victim's leave, the eligible employee may use accrued sick leave, vacation or time earned. Compensatory time earned may be used for non-exempt employees to remain in a pay status while absent from work. If the employee has exhausted all accrued leave balances or if the employee is not benefit eligible, the leave of absence shall be unpaid and need to be approved by the City Manager. While there is no maximum amount of time allocated for the victim's leave, the City reserves the right to limit the leave provided under state law if the employees' absence from work creates an undue hardship to City business.

P. Administrative Leave

The Human Resources Department may authorize the granting of administrative leave to temporarily relieve an employee of his/her duties during an investigation and/or pending the outcome of a personnel or disciplinary hearing. Administrative leave may be authorized with or without pay depending upon the specific circumstance.

Q. Health, Dental, Life and Optional Insurances

Subject to the approval of City Council, the City provides health, dental and life insurance to regular status full-time employees. Insurance coverage begins 31 days after the first day of the month following the employee's first day of employment.

1. Medical Insurance

Employees hired in 30-40 hour positions are eligible to elect coverage under the City's medical insurance plans. Employees may elect to cover their dependents at the cost which has been negotiated by the City and the insurance carrier. The City may elect to pay a portion of the dependent's coverage. Employees hired in a position with hours less than 30 hours are not eligible to enroll in the City's medical insurance plans.

2. Dental Insurance

Employees hired in 30-40 hour positions are eligible to elect coverage under the City's dental insurance plans. Employees may elect to cover their dependents at the cost which has been negotiated by the City and the insurance carrier. The City may elect to pay a portion of the dependent's coverage. Employees hired in a position with hours less than 30 hours are not eligible to enroll in the City's dental insurance plans.

3. Life Insurance

Employees hired in 30-40 hour positions are covered by the City's basic life insurance plan. These employees may purchase additional life insurance. Employees hired in a position with hours less than 30 hours are not eligible to enroll in the City's life insurance plans.

4. Optional Insurance Benefits

The City may provide optional benefits through payroll deduction.

R. Continuation of Health Insurance under Consolidated Omnibus Budget Reconciliation Act ("COBRA")

Under the Consolidated Omnibus Budget Reconciliation Act of 1985, better known as COBRA, if an employee terminates employment with the City, the employee is entitled to continue participating in the City's group health plan for a prescribed period of time, usually 18 months. (In certain circumstances, such as an employee's divorce or death, the length of coverage period may be longer for qualified dependents.) COBRA coverage is not extended to employees terminated for gross misconduct.

If a former employee chooses to continue group benefits under COBRA, he/she must pay the total applicable premium plus a 2% administrative fee. Coverage will cease if the former employee fails to make premium payments as scheduled, becomes covered by another group plan that does not exclude pre-existing conditions, or becomes eligible for Medicare.

For detailed information or questions on COBRA, employees are requested to check with the Human Resources Department.

S. Workers' Compensation Insurance

1. General

Workers' Compensation provides a medical and hospitalization expenses benefit as well as partial payment in lieu of salary for workers injured on the job. All City employees are covered by this form of insurance at no cost to the employee from the first day of employment. Benefits are based on the statutory limit set forth in the Arizona Revised Statutes.

2. Reporting Period

All job-related personal injuries to employees must be reported to Risk Management within 24 hours of the time the accident occurred.

3. Choice of Care Provider

The City has the right to request that an employee injured on the job, seek medical assistance from a doctor of the City's choice.

T. Retirement Plans

1. Enrollment in the Arizona State Retirement System or the Public Safety Personnel Retirement System or the Correctional Officers Retirement Plan will be determined based upon eligibility. The Public Safety Personnel Retirement System is for certified peace officers and firefighters.

2. Deductions for all plans are made from each pay period. The amount of the City's contributions, as well as employee contributions, is determined by state legislation.

U. Deferred Compensation Plans

1. Under these optional plan area several types of programs governed by Internal Revenue Service (IRS) an employee may choose to defer a portion of his/her income through payroll deduction. By deferring income, an employee may lower the income tax they currently pay.

2. The City may elect to contribute funds to employee's Deferred Compensation Plan

V. Health Savings Account (HSA)

1. General

Health Savings Accounts (HSA) were created by Public Law 108-173, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. H.S.A. are designed to help individuals save for qualified medical and retiree health expenses on a tax-advantaged basis.

2. Employee Choice

Employees who select a high deductible health plan may be eligible to participate in an HSA.

3. City Contribution

The City may elect to contribute funds to employee's HSA accounts.

W. Flexible Spending Arrangements (FSA)

1. General

Health Flexible Spending Arrangements and Dependent Care Flexible Spending Arrangements (FSA) allow employees to be reimbursed for medical expenses.

2. Process

- a. Employees may contribute to FSA accounts up to the limit set by the City.
- b. No employment or federal income taxes are deducted from employee contributions to FSA accounts.

CHAPTER 7

Drug and Alcohol Policy

A. Provisions Covered by the Rules

These policies and procedures will apply to all ~~classified~~ positions in all departments of the City of Avondale and to such positions in the exempt and temporary service as may be provided herein.

B. Drug and Alcohol Testing Policy

1. The City of Avondale (the “City”) believes that substance abuse is a serious threat to the welfare of our employees, citizens, and the public. To address this problem, we have introduced this policy with respect to the use, possession, or sale of drugs and alcohol. By establishing this policy, we hope to:
 - a. Maintain a safe, healthy, and productive working environment for its employees.
 - b. Ensure the good reputation of the City and its employees.
 - c. ~~And reduce~~ Reduce accidents, tardiness, absenteeism, and indifferent job performance.
2. Typically, employees with drug and alcohol abuse problems make up only a small part of the work force, so we regret any inconvenience to the majority of you that are not substance abusers. We believe, however, that the benefits of our drug and alcohol testing program will more than make up for any inconvenience. Thus, we ask for your understanding and cooperation in implementing this policy.

C. Substance Abuse Policy

This policy requires all employees of the City to refrain from being involved in any way with illegal drugs or from abusing alcohol, on or off the job.

D. Grounds for Termination or Discipline

The following are grounds for discipline up to and including termination, even for a first offense.

1. Illegal Drug Use Prohibited

Illegal drug use includes possessing, using, purchasing, distributing, or selling illegal drugs, or reporting to work impaired by illegal drugs. Under this policy, “illegal drugs” include any drug or drug-like substance which:

- a. Is not legally obtainable.
- b. May be legally obtainable but has not been legally obtained.
- c. Is being used in a manner or for a purpose other than as prescribed.

2. Alcohol Abuse Use Prohibited

Alcohol ~~abuse~~ **use** includes possessing, using, purchasing, distributing, or selling alcohol beverages at any time during the hours between the beginning and ending of the employee's work day, or reporting to work or working while impaired by alcohol in any way.

3. Recreational Marijuana and Marijuana-Based Product Use Prohibited

Use includes possessing, using, purchasing, distributing, or selling marijuana or marijuana-based products at any time during the hours between the beginning and ending of the employee's work day, or reporting to work or working while impaired by marijuana or marijuana-based products in any way.

4. Failure to Participate

- a. The following will be considered a failure to participate in the City's drug and alcohol testing policy:
 - 1) Failure to submit to drug or alcohol testing.
 - 2) Failure to immediately report for drug or alcohol testing when requested to do so.
 - 3) Refusal to sign all appropriate consent forms.
 - 4) Any other failure to cooperate to the City's complete satisfaction.

5. Use of Legal Drugs

- a. In recognition of privacy concerns, the City will not solicit information from an employee regarding medications that an employee may be taking absent an indication that the employee is impaired or poses a safety hazard. The exception to this section of the policy is Police Officers and Detention Officers.
- b. It is the responsibility of any employee who is taking any medication, including those sold without a prescription, which may interfere with the safe and effective performance of duties to notify their supervisor before beginning work.
 - 1) Disclosure of the specific medical condition or the specific medication to the supervisor is not required (it may ultimately be required to be made to City Human Resources or a City-contracted Physician).

- 2) The employee shall provide documentation from the treating physician of any limitations this may impose on the employee.
 - 3) If the limitations are such that the employee cannot safely and effectively perform his/her job duties, the employee may be placed on sick leave and referred to the Human Resources Department for discussion of reasonable accommodation.
- c. It is the employee's responsibility to advise the City when the employee is no longer using the medication in question.
 - d. Any medical documentation shall be sent to City Human Resources for filing in the employee's confidential medical file.

E. Testing

1. Pre-Employment Drug Abuse Screening

The City will test all applicants who, as required by AZ Peace Officers Standards and Training Board and Federal/state law, receive an offer of employment prior to commencing employment, in an effort to detect individuals who currently use illegal drugs.

2. Reasonable Suspicion Testing

- a. The City will require an employee to submit to alcohol and/or drug testing when there is reasonable suspicion to believe that the employee is engaged in **under the influence** of illegal **and legal** drug use or alcohol abuse use.
- b. For purposes of this policy, "reasonable suspicion" will be based on specific observations concerning the appearance, behavior, speech or body odors of the employee, including, without limitation, slurred speech, red eyes, dilated pupils, incoherence, unsteadiness, unexplained carelessness or accidents, erratic behavior, inability to perform the job and other unexplained behavioral changes.
- c. These observations must be made by a supervisor or other City official who has been trained to recognized signs of alcohol and/or drug use.

3. Random Testing

- a. The following employees are subject to unannounced random screening for illegal drug use
 - 1) Certified police officers
 - 2) Police reserve officers
 - 3) Firefighters

4) Firefighter reserve employees.

b. See Section G.4.c of this policy for Department of Transportation (DOT) requirements.

F. Consequences of Violating This Policy

1. An employee who tests positive, refuses to submit to drug or alcohol testing, refuses to sign all appropriate consent forms, or otherwise fails to participate in this policy to the City's complete satisfaction, may be subject to discipline up to, and including, immediate termination.
2. The appropriate level of discipline will be determined on a case-by-case basis at the City's discretion, and may include treatment or rehabilitation under terms established by the City in consultation with a substance abuse professional.
3. This policy shall be construed in accordance with federal and state laws, including the Americans with Disabilities Act, the Family and Medical Leave Act, and the OMNIBUS Transportation Employee Testing Act of 1991
4. Rehabilitation is the responsibility of the individual employee. An employee with a drug or alcohol abuse problem is encouraged to use whatever treatment or rehabilitative services are available under the City's group and health plan in effect at that time.
5. The City may not keep an employee in any particular job classification or position after the employee, either voluntarily or as a result of a positive drug test, seeks treatment or rehabilitation, unless otherwise required by law.

G. Federal Highway Administration Controlled Substances and Alcohol Use Testing Requirements

The United States Department of Transportation (DOT) has adopted mandatory rules which require employers to adopt and maintain substance abuse prevention programs, including drug and alcohol testing.

1. DOT Definitions

- a. **Alcohol use** means the consumption of any beverage, mixture or preparation, including any medication, containing alcohol.
- b. **Controlled substances** are marijuana, cocaine, opiates, amphetamines and phencyclidine.
- c. A **commercial motor vehicle** is any motor vehicle used to transport passengers or property if it has a gross vehicle or combination weight of 26,001 or more pounds, is

designed to transport 16 or more passengers, including the driver, or is used to transport placarded hazardous materials.

- d. A **driver** is considered to be performing a safety sensitive function during any period in which he or she is doing any of the following with respect to a CMV; waiting to be dispatched, inspecting, servicing, conditioning, driving, loading or unloading (whether supervising, assisting or merely attending), repairing, obtaining assistance, waiting for held while the vehicle and all other time in or upon the vehicle.
- e. A **refusal to submit to alcohol or controlled substance testing** includes any of the following:
 - a. Failure to provide adequate breath for alcohol testing without a valid medical explanation.
 - b. Failure to provide an adequate urine sample for controlled substances testing without a genuine inability to provide such a sample.
 - c. Or any other conduct that obstructs the testing process.

2. Rules

These rules apply to every person who performs a safety sensitive function on a commercial motor vehicle (CMV) and is required to hold a commercial driver's license (CDL) to perform his or her job duties.

- a. All employees required to hold a CDL as part of their job with the City must always be immediately available to perform any safety sensitive function, and must comply with these rules at all times while on duty.
- b. Any questions concerning the DOT drug and alcohol testing rules should be directed to the Human Resources Department.

3. Prohibitions

The City will not permit any driver to operate or continue to perform safety sensitive functions if he or she:

- a. Has an alcohol concentration of 0.04 or greater.
- b. Is using alcohol while performing any safety sensitive function.
- c. Has used alcohol within 4 hours of performing any safety sensitive function.
- d. Has used a controlled substance.
- e. Or has tested positive for any controlled substance.

- f. If a driver has an alcohol concentration of 0.02 – 0.039, he or she will not be allowed to perform any safety sensitive function for the City for at least 24 hours.
- g. The City also will not permit a driver to operate a commercial motor vehicle if the driver possesses alcohol or if the driver refuses to submit to required alcohol or controlled substance testing.

4. Required Testing

a. Pre-Employment Testing

- 1) The City will not permit any driver to perform safety sensitive functions unless that driver has received a controlled substances test result from the medical review officer (MRO) indicating a verified negative result.
- 2) The only exception to this rule is if the driver is excused from the pre-employment testing requirement pursuant to 49 C.F.R. 381.301 (c).

b. Post-Accident Testing

- 1) As soon as practicable following an accident, the City will test each driver for alcohol and controlled substances if:
 - a) The driver was performing a safety sensitive function with respect to the vehicle, and the accident involved the loss of a human life.
 - b) Or the driver receives a citation for a moving traffic violation arising from the accident, and the accident resulted in bodily harm to any person requiring medical treatment away from scene of the accident
 - c) Or there is disabling damages to any of the vehicles involved in the accident.
- 2) An alcohol test will be administered within 8 hours and a drug test will be administered within 32 hours of the accident. If these tests are not performed within these periods, the City will cease its testing efforts and prepare to record identifying the reason(s) why one or both of these tests were not administered.
- 3) A driver who is subject to post accident testing shall remain readily available for such testing or may be deemed to have refused to submit to testing.
- 4) A driver may not consume any alcohol for 8 hours following an accident, or until tested, whichever occurs first.
- 5) A driver must contact his or her supervisor immediately after an accident so that the need for alcohol and drug testing can be assessed and to ensure that the driver will be able to comply with the DOT rules.
- 6) Failure to report an accident involving a commercial motor vehicle may be grounds for disciplinary action.

c. Random Testing

The City will also randomly select a number of drivers each calendar year for drug and alcohol testing at an annual percentage rate determined by the FHWA Administrator. Currently, the annual percentage rate for covered drivers is 25 percent for alcohol testing and 50 percent for controlled substances testing. The City uses a third party vendor to randomly select a number of drivers each calendar year for drug and alcohol testing at an annual percentage rate determined by the Federal Motor Carriers Safety Association (FMCSA). ([49 CFR Part 40](#))

d. Reasonable Suspicion Testing

- 1) The City will require drivers to submit to alcohol and/or controlled substances testing when there is reasonable suspicion to believe that the driver has violated the DOT rules concerning alcohol use or controlled substances.
- 2) The request to undergo a reasonable suspicion test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odor of the driver.
 - a) These observations may include indications of the chronic and withdrawal effects of controlled substances.
 - b) The chronic and withdrawal effects of controlled substances may not be the sole indicator for reasonable suspicion, but may be used in conjunction with other indicators.
- 3) Reasonable suspicion testing is designed as a tool to identify affected drivers who, through alcohol or controlled substances misuse, may pose a danger to themselves and others in their performance of safety-sensitive functions.
 - a) Drivers may be at work in a condition that raises concern regarding their safety or productivity.
 - b) A supervisor must then make a decision as to whether reasonable suspicion exists that a controlled substance and/or alcohol may be causing the behavior.
- 4) These observations will be made by a supervisor or City official who has been trained to recognize signs of alcohol and/or controlled substance abuse.
- 5) When the City reasonably believes a driver is impaired, that driver will not be allowed to perform any safety sensitive function until:
 - a) An alcohol test is administered and the alcohol concentration is less than 0.02;
 - b) Or 24 hours have elapsed since the reasonable suspicion determination.

e. Return to Duty Testing

- 1) Before returning to duty requiring the performance of any safety sensitive function following alcohol-related conduct prohibited by the DOT rules, a driver must undergo a return to duty alcohol test with a result indicating an alcohol concentration of less than 0.02.
- 2) Before returning to duty requiring the performance of any safety sensitive function following controlled substances related conduct prohibited by the DOT rules, a driver must undergo return to duty controlled substances testing with a result indicating a verified negative result for controlled substances.

f. Follow Up Testing

- 1) A driver who has been determined to need assistance in resolving problems associated with alcohol misuse and/or controlled substances is subject to unannounced follow up testing as directed by a substance abuse professional.
- 2) There must be at least 6 follow up tests within the first 12 months after a driver returns to duty, follow up testing will not exceed 60 months from the date of the driver's return to duty.

Testing under paragraphs c, d, and f will occur while the driver is performing safety sensitive functions, or just before the driver is to perform safety sensitive functions or just after the driver has ceased performing such functions.

5. Testing Procedures

a. Controlled Substances

- 1) Precautions will be taken to ensure that a urine specimen is not adulterated or diluted during the collection procedure, and that information on the urine bottle and on the urine custody and control form identifies the driver from whom the specimen was collected.
 - a) These precautions will include placing a bluing agent in toilets when possible, securing and monitoring water sources and positively identifying the driver as the employee selected for testing.
 - b) Additionally, drivers will be required to remove any outer garments and personal belongings (such as purses or briefcases) in which items may be concealed, and to wash and dry their hands prior to testing.
- 2) Under normal circumstances, the actual collection of the urine specimen will not be observed unless:
 - a) The urine specimen falls outside the normal temperature range and the driver either declines to allow measurement of his or her body temperature or his or

- her oral body temperature varies by more than 1.8 degrees Fahrenheit from the specimen;
- b) The driver's previous specimen did not register a normal measurement of specific gravity and creatinine;
 - c) The collection site person observes conduct clearly and unequivocally indicating an attempt to substitute or adulterate the specimen; or
 - d) The driver has previously been determined to have used a controlled substance and the particular test was being conducted under DOT agency regulation providing for follow up testing upon or after the driver's return to duty.
- 3) If the temperature of the specimen falls outside of the normal range, the assumption will be that it has been altered or substituted.
- a) The driver may volunteer to have his or her oral temperature taken to counter this presumption.
 - b) In all circumstances, the collection site person will inspect the specimen to determine if it has been contaminated, and will note any unusual findings on the custody and control form.
 - c) All specimens suspected of being adulterated will still be forwarded for testing.
 - d) Whenever there is reason to believe that a specimen has been altered or substituted, a second observed specimen will be obtained from the driver as soon as possible.
- 4) Both the driver and the collection site person must be present when:
- a) The specimen is labeled;
 - b) The driver initials the label to confirm that it is his or her specimen;
 - c) The collection site person enters the information to identify the specimen and
 - d) Signs the custody and control form;
 - e) The driver reads and signs the statement of the form certifying that the specimen is the one he or she provided; and
 - f) The driver signs a consent or release form if specified by DOT rules or is required by the collection site or laboratory.
- 5) The collection site person will note any refusal to cooperate with the testing process on the custody and control form and will notify the City.

- 6) The City will use a “split sample” method of testing performed by laboratories certified under the HHS “Mandatory Guidelines for Federal Workplace Drug Testing Programs.”
 - a) If the initial screening test is positive, the driver may request that the MRO send the split specimen to another HHS certified laboratory to test for the presence of the drugs for which a positive result was initially obtained.
 - b) This request must be made within 72 hours of the driver’s notification of the test results.
- 7) The MRO will review the final confirmed test results before they are transmitted to the City. However, the MRO will first contact a driver to discuss a confirmed positive test result.
 - a) If the MRO is unable to contact the driver directly, he or she will attempt to do so through a designated City official.
- 8) The MRO may verify a test result as positive without communicating with the driver if:
 - a) The driver declines to discuss the test with the MRO;
 - b) More than 5 days pass since the time the designated City official informs the driver that he or she should contact the MRO; or
 - c) Other circumstances provided for in DOT agency rules.
- 9) Following verification of a positive test result, the MRO will refer the case to the City’s Human Resources Department.

b. Alcohol Testing

- 1) The City will conduct a screening test for alcohol use using either an evidentiary breath testing device (EBT) or a non-evidential screening device approved by the National Highway Traffic Safety Administration.
 - a) If the screening test yields an alcohol concentration of 0.02 or greater, a confirmation test will be performed between 15 and 30 minutes after the first test using an EBT.
 - b) If the two tests yield different results, the confirmation test will be deemed to be the final result upon which any action is based.
- 2) The City will comply with the quality assurance plan and the manufacturer’s instructions for each screening device used, and shall maintain records relating to

the inspection, maintenance, compliance with the quality assurance plan, calibration and qualifications of individuals using each screening device.

c. Handling of Test Results

- 1) Test results will be kept confidential except as required by law or expressly authorized by the DOT rules.
- 2) The City will notify driver applicants of pre-employment test results if the driver requests such results within 60 days of being notified of the disposition of his or her application.
- 3) The City will notify a driver of the results of random, reasonable, suspicion, and post-accident test results verified as positive for controlled substances, and identify for the driver the controlled substances that were detected and verified.

6. Consequences for Engaging in Prohibited Conduct

- a. A driver who engages in conduct prohibited under the DOT rules must be evaluated by a substance abuse professional who will determine what assistance, if any, the driver needs in resolving problems associated with alcohol or controlled substances use.
- b. Additionally, the driver will not be allowed to perform any safety sensitive function for the City until meeting the requirements for referral, evaluation and treatment, and has taken and passed a return to duty test.

~~H. Other Policies~~

~~This appendix is in addition to the City of Avondale Drug and Alcohol Abuse Policy adopted by the City pursuant to all employees. All City employees are subject to this general drug and alcohol testing policy and the City may, independent of the rules described in this Appendix and the DOT rules, require any City employee to submit alcohol and/or drug testing in accordance with that policy. Any employee who violates that Policy is to be subject to discipline under its terms and provisions, which may include termination of employment.~~

H. Drug Free Awareness Program

1. To educate employees about the dangers of substance abuse, the City has established a drug free awareness program along with the availability of counseling, and the City's policy regarding substance abuse.
2. The City has also established a training program for all Commercial Motor Vehicle operators and supervisory employees, which includes information on the effects and consequences of controlled substances and training to detect controlled substance abuse.

3. Treatment

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

4. Discipline

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

I. Other Laws

This policy will be construed in accordance with federal, state, and local laws, including the Americans with Disabilities Act the Family Medical Leave Act, and the OMNIBUS Transportation Employee Testing Act of 1991.

CHAPTER 9

Appearance and Conduct

A. Appearance

All employees are required to maintain a clean **and** well-groomed appearance in conjunction with the position they hold.

1. Department ~~managers~~ **Directors** are responsible for enforcing the proper dress, personal appearance, hygiene, and service provided by their department.
2. ~~Dungarees or similar~~ **Employees will wear clothing** ~~will not be worn by office personnel or personnel other than those persons for whom such clothing~~ **which is appropriate due to the nature of their work as deemed by the Department Director and/or Supervisor.**
 - a. ~~However, the~~ **The City Manager may, at his/her discretion, authorize** ~~the wearing of such clothing for special occasions~~ **casual days.**

B. Conduct

All employees shall:

1. Treat their co-workers, supervisors, department ~~manager~~ **directors**, City Manager, and Council Members with appropriate respect for the position they hold, and carry out all instructions from management to the best of their ability.
2. Conduct themselves in a manner so as to be a credit to the City both on and off duty.
3. Be just and honorable in all their relations with each other. They will not make false reports and statements or gossip to the discredit or injury of another City employee or concerning municipal matters; nor will they act in a manner directed toward creating a disturbance or dissension within City departments.
4. Not consume or have in their possession, while on duty or during any authorized work break, any alcoholic beverages, **recreational marijuana**, or unlawful drugs.
5. Not possess any gambling devices or paraphernalia on City property with the intent to use the same for an unlawful purpose, nor will employees conduct or attend or make any bet, lottery, or gambling for profit during working hours.
6. Adhere to the City's **Chapter 7** Drug and Alcohol Policy to ensure that all employees are free from drug and alcohol abuse. Consequently, the use of alcohol and illegal drugs while on duty is prohibited. The City has a zero tolerance policy against drugs and alcohol. This policy is to ensure a positive and productive work environment.

C. Fraternization

1. Definition

- a. A relationship that falls outside of normal work-related interactions and communications, which is usually (but not necessarily) romantic or sexual in nature.

2. The City has adopted this section in recognition of its responsibilities to provide guidelines on and caution employees of the potential problems posed by intimate relationships with other employees such as conflict of interests, interference with productivity of co-workers, and potential charges of sexual harassment. These problems can be particularly serious in situations in which one person has a position of authority over the other, such as in a supervisor-subordinate relationship.

3. Restrictions on Employee Conduct

- a. The City does not prohibit consensual relationships between employees, but it does impose the following restrictions:
 - 1) The City strongly discourages supervisors and managers/directors from engaging in sexual or otherwise intimate relationships with subordinates within the same department and requires the employees involved to disclose the existence of such relationship to the Human Resources Director or the City Manager.
 - 2) Additionally, supervisors and managers/directors are required to take the steps to resolve any actual or potential conflict of interest or impropriety created by the relationship.

4. Disclosure

- a. Once disclosed, the Human Resources Director and the City Manager must assess the situation and make a recommendation to resolve any actual or potential conflict of interest or impropriety created by the relationship.
- b. Such recommendation may require the supervisor or non-supervisory employee to transfer to another department or facility where the supervisor is prohibited from having any involvement in professional decision-making affecting the partner who transfers.

5. Discipline

- a. Failure to comply with the recommendation to resolve a conflict with this policy can result in discipline up to and including termination of employment.

D. Prohibited Contact Conduct

1. Employees are prohibited from engaging in sexual conduct of any kind on City property or on City time.

E. Attendance

Employees are required to be at their assigned work stations prepared to work, on time, and as scheduled each day.

1. If an employee, for some unavoidable reason, cannot report for work, he/she will notify his/her supervisor or department ~~manager~~director prior to the first normal duty hour, or within thirty (30) minutes following the time scheduled to report for work.
2. If an employee fails to return to work following any authorized leave and fails to notify Human Resources of the need for an extension, the employee will be considered to have abandoned the job.
 - a. Human Resources shall send written notice to the employee's last known address requiring the employee to return to duty within forty-eight (48) hours.
 - b. Failure to return to work within forty-eight (48) hours of receipt of the notification will be cause for immediate discharge and the employee automatically waives all appeal rights under this policy.
3. Failure on the part of an employee to comply with these policies will be cause for disciplinary action.

F. Hours of Work

Hours of work will be established by each department ~~manager~~director and upon approval of the City Manager.

CHAPTER 14

Employee Education Assistance Tuition Reimbursement Program

A. Policy

1. The City of Avondale values the importance of the individual growth of each employee because it is seen as a contributing factor in the growth of the City. Therefore, it is the City's policy to encourage employee development through educational **tuition reimbursement** and training opportunities.
2. Affirmative action will be taken to assure that there is equal opportunity to participate in development **tuition reimbursement opportunities** programs without regard to race, color, religion, sex **(including pregnancy, gender identity, and sexual orientation)**, national origin, **disability**, age **(age 40 or older)** or **genetic information**. ~~disability.~~

B. Purpose

1. The City recognizes ~~that we increasingly~~ **the need for** our employees to develop their knowledge, skills, and abilities in order to keep pace with the rapid changes in technology, methodologies, and **workplace** diversity. This program has been established so the City of Avondale and its employees may benefit from the rewards of additional education.
2. The purpose of this program is to increase an employee's competence in his/her current position and to broaden his/her career opportunities with the City.

C. Employee Eligibility

1. Any regular, full-time employee holding an exempt or non-exempt position and who has successfully completed their original probation is eligible to participate in the ~~employee education assistance~~ **tuition reimbursement** program.
2. Any employee on original probation is not eligible for the **tuition reimbursement** ~~education assistance~~ program.
3. The resignation or termination of an employee prior to the completion of a course will automatically terminate his/her eligibility for reimbursement under this program.

4. A ~~layoff~~ **reduction in force** or approved leave of absence status of an employee after the approval of his/her application for education assistance will not alter their eligibility for reimbursement.

D. Course Eligibility

1. ~~Educational assistance~~ **Tuition reimbursement** will be provided for courses of instruction taken at, or through, private and public institutions of learning such as universities, colleges, trade schools, and technical institutions. All eligible institutions must be fully ~~credited~~ **accredited** by a regional institutional accrediting association such as, the North Central Association of Colleges and Secondary Schools.
2. **Eligible programs are Associates, Bachelors and Master's degree programs. Certificate programs and individual course-work will be evaluated for approval by the Human Resources Director.**
3. To be eligible for **tuition** reimbursement, ~~a course~~ **courses** will be taken on the employee's personal time and the employee will have personally paid the fees **tuition** for which they are requesting reimbursement.
 - a. Employees who receive financial assistance for ~~his/her~~ **their** education from another source (i.e. scholarships, grants, military education benefits, etc.) must disclose the source and the amount at the time they apply for course reimbursement.
 - b. If an employee receives 100% funding for his/her ~~education~~ **tuition** from another source, the City shall not provide reimbursement.
 - 1) Under certain circumstances, coordination with other funding sources is possible. In all instances, total financial assistance and tuition reimbursement shall not exceed the educational expenditures incurred.
4. To be eligible for reimbursement, an employee will submit an application for ~~education~~ **tuition** reimbursement at least five (5) days **prior to** the beginning of a course. Reimbursement will not be approved if an application for this reimbursement is received after a course has been completed.
5. To be approved for reimbursement, a course must result in formal college credit and will meet one of the following criteria:
 - a. It relates directly to the job classifications of the employee's present position, or it relates to the job classification of a position, which would be career advancement for the employee and thereby makes an employee more in line with career progression.

- b. Courses taken as electives by employees in a degree program are acceptable; however, the Human Resources Director must approve other elective classes.
 - c. Courses taken to complete a General Education Diploma “GED”.
- 6. Courses will be taken for an academic grade. A course taken for pass/fail credit may be approved if an academic grade (A-F) is not available. Audited courses will not be eligible for reimbursement.
 - 7. Courses will **must** be completed with a grade of “C” or better, to qualify for reimbursement.
 - 8. The Human Resources Director will issue the final decision of whether an educational course meets these requirements and contributes to the employee development supported by this policy.

E. Reimbursement Eligibility and Level of Assistance

- 1. The City will reimburse for the tuition cost of up to \$5,000 in eligible education **tuition** expenses per calendar year pending sufficient availability of **Human Resources Department** funds. All other costs, **including books, fees, transportation, online program costs, etc.** are the responsibility of the employee.
- 2. **Educational Tuition** reimbursement is not available more than one time for the same course.
- 3. The calendar year in which the course ends will determine the year in which the course is eligible for **tuition reimbursement**. **The calendar year in which the reimbursement is paid to the employee will determine the calendar year that the tuition reimbursement amount will be counted against. For example, if a course is taught from October-December and the reimbursement is paid in the following January, the course’s reimbursement amount will be counted toward January’s calendar year limit of \$5,000.**

F. Reimbursement

- 1. Upon successful completion of the course(s), reimbursement is contingent upon the employee submitting the following documentation to the Human Resources Department:
 - a. A copy of the HR Department approved application for ~~education~~—tuition reimbursement
 - b. A copy of the official grade report or transcript from the educational institution.

- c. An original paid tuition receipt.
 - 1) The receipt must itemize all of the charges, including tuition.
 - 2) The receipt should indicate the method of payment, such as by personal check, credit card, or student loan.
 - 3) The receipt must indicate a “zero” balance for the course in order to be eligible for tuition reimbursement.
 - d. These documents must be submitted within 60 days after completion of the course(s).
 - e. When all requirements are met, the Human Resources Director will approve reimbursement and a check reimbursement will be issued to the employee.
- 2. No advance payment will be made to employees for educational tuition expenses covered under this policy and no payment will be made directly to an institution.
 - 3. The employee is expected to make personal payment to their his/her educational institution. ~~this benefit will only reimburse employees, for approved tuition expenses, after the satisfactory completion of the course.~~
 - 4. This benefit will only reimburse employees for approved tuition expenses after the satisfactory completion of the course.

CHAPTER 15

Discrimination and Harassment

~~A WORKPLACE HARASSMENT AND DISCRIMINATION~~

A. Purpose and Scope

1. ~~It has long been the City's policy that~~ The City of Avondale (City) provides equal employment opportunities to all employees have a right to be free from any form of and applicants for employment and prohibits discrimination and workplace harassment including of any type without regard to race, color, religion, age, sex, national origin, disability status, genetics, protected veteran status, sexual harassment. The city is committed to maintaining a workplace free of discrimination and harassment, and such behavior will not be tolerated. orientation, gender identity or expression, marital status, or any other characteristic protected by federal, state or local laws.
2. The purpose of this policy is to make it clear that the City of Avondale has zero tolerance for any form of harassment or unlawful discrimination in the workplace, and to establish procedures for reporting behavior prohibited by the law and this policy.

~~Historical Note: Adopted Effective: 8/15/02~~

~~Amended Effective: 7/21/04~~

B. Policy

1. ~~The~~It is the policy of the City to strictly prohibit any form of workplace harassment and discrimination. Complaints of behavior in violation of this policy will be investigated, and violators will be appropriately disciplined, up to and including termination. This policy applies to all employees of the city. Supervisory or managerial personnel are responsible for taking proper action in accordance with this policy.
2. Employees who are unclear about whether conduct is in violation of this policy are encouraged to contact Human Resources (HR) to discuss it.

~~Historical Note: Adopted Effective: 8/15/02~~

~~Amended Effective: 7/21/04~~

C. Definitions

1. **Bullying** – Refers to repeated, unreasonable actions of individuals (or a group) directed towards an employee (or a group of employees), which are intended to intimidate, degrade, humiliate, or undermine; or which create a risk to the health or safety of the employee(s). Examples include unwarranted or invalid criticism, blame without factual justification, being treated differently than the rest of your workgroup, being sworn at.

Bullying may be offensive, intimidating, malicious, or insulting behavior involving the misuse of power that may cause an employee to feel vulnerable, upset, humiliated, undermined, or threatened. “Power” does not always mean being in a position of authority, but can include both personal strength and the power to coerce through fear or intimidation. Bullying can take the form of physical, verbal, and non-verbal conduct. Bullying can constitute harassment or discrimination if the target is a member of a protected class.

2. **Cyberbullying** – Bullying behavior as defined in C.1 above that takes place through the use of computers, cellphones or other electronic devices.
3. **Discrimination** – ~~Discrimination means to exclude individuals from an employment opportunity based on the individual employee’s race, color, religion, sex, age, disability or national origin.~~ Discrimination means to exclude individuals from an employment opportunity, benefits or privileges; to create discriminatory work conditions; or to use discriminatory evaluation standards in employment if the discriminatory behavior is based on the individual’s race, color, religion, sex, age, disability status, sex, sexual orientation, gender identity or expression, genetic information, marital status or national origin. This type of discrimination may also be strictly prohibited by a variety of federal, state and local laws, including Title VII of the Civil Rights Act of 1964, the Age Discrimination Act of 1967 and the Americans with Disabilities Act of 1990.
4. **Harassment** – ~~Harassment means an act or a series of acts of an offensive nature between employees, that (i) are offensive to a reasonable person; (ii) are offensive to the employee subjected to the harassing conduct; and (iii) serve no legitimate purpose. Harassment in violation of this policy may include, but is not limited to, the following behavior and conduct: Offensive physical actions by an employee toward another employee, including, assault. Offensive verbal actions by an employee toward another employee, including derogatory, prejudicial, stereotypical or otherwise offensive comments, slurs, jokes, posters, cartoons, pictures, e-mails, voice mail or any form of communication or computer media where a person is depicted in an insulting or demeaning manner.~~

For purposes of this policy, harassment is any verbal or physical behavior designed to threaten, intimidate or coerce an employee, co-worker, or any person working for or on behalf of the City. Examples may include, but are not limited to, verbal comments that are offensive or unwelcome regarding a person’s national origin, race, color, religion, age, sex, sexual orientation, pregnancy, appearance, disability, gender identity or expression, marital status or other protected status, including epithets, slurs and negative stereotyping. Nonverbal harassment includes distribution, display or discussion of any written or graphic material that ridicules, denigrates, insults, belittles or shows hostility, aversion or disrespect toward an individual or group because of national origin, race, color, religion, age, sex, sexual orientation, pregnancy,

appearance, disability, sexual identity, marital status or other protected status. The harasser can be the person's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the City, such as a contractor, client, or customer.

5. **Hostile Work Environment** – A hostile work environment exists when one's behavior within a workplace creates an environment that, on a regular basis, is difficult or uncomfortable for another person to work in, due to discrimination, harassment or bullying. Small matters, annoyances, and isolated incidents are usually not considered to be statutory violations of the discrimination laws.
6. **Retaliation** – Any adverse action taken against an individual (applicant or employee) because he/she filed a charge of discrimination, complained to the City or a government agency about discrimination on the job, or participated in an employment discrimination proceeding (such as an internal investigation or lawsuit), including as a witness. Retaliation also includes adverse action taken against someone who is associated with the individual opposing the perceived discrimination, such as a family member.
7. **Sexual Harassment** – ~~Conduct constituting sexual harassment is as defined in the equal employment opportunity commission guidelines, and includes, but is not limited to sexual advances, expectations, requests, demands or pressure for sexual favors or express or implied promises or threats that participation in sexual conduct might affect a person's job in some way.~~ Sexual Harassment is a form of unlawful employment discrimination under Title VII of the Civil Rights Act of 1964 and is prohibited under this policy. Consists of making unwelcome sexual advances or requests for sexual favors, or engaging in other verbal or physical acts of sexual or sex-based nature where such conduct interferes with the employee's work performance or creates an intimidating, hostile, or offensive working environment.
8. **Workplace Harassment** – ~~Workplace harassment includes harassment and sexual harassment, as defined in this policy.~~ Workplace Harassment is any unwelcome and offensive conduct that is based on race, color, national origin, sex (including pregnancy, gender identity, and sexual orientation), religion, disability, age (age 40 or older), or genetic information.

~~Historical Note: Adopted Effective: 8/15/02~~

~~Amended Effective: 7/21/04~~

1. ~~Responding to Workplace Harassment and Discrimination~~

- a. ~~Allegations of workplace harassment and discrimination. Employees who feel they have been subjected to conduct in violation of this policy must report it immediately to his or her supervisor. If the employee's supervisor is (i) the source of the alleged conduct or~~

(ii) not available, or if the employee is uncomfortable discussing it with the supervisor, the conduct should be reported to the Human Resources Department.

D. Responsibilities

1. Human Resources Director is responsible for the following activities:

- a. Assist supervisors, managers and directors with identifying the most appropriate measures to ensure compliance with this policy.
- b. Ensure supervisors, managers and directors receive training related to compliance with this policy and completion is included in their performance appraisals.
- c. Ensure all new employees receive a copy of this policy.
- d. Maintain all types of harassment inquiry-related records and files in a secure location.

2. Supervisors, Managers, and Directors are responsible for the following activities:

- a. Contact HR immediately upon any allegation or report of any type of workplace harassment as described in this policy.
- b. Maintain a respectful work environment that is free from any form of workplace harassment by both employees and non-employees; take prompt, effective corrective action when knowing or have reason to know of interactions among coworkers, either on or off duty, that foster a hostile work environment.
- c. Ensure subordinates are aware of this policy and procedure and evaluate employees' compliance.
- d. Foster a work environment free from workplace harassment by setting an example through personal behavior of appropriate conduct in both the workplace and in social settings.
- e. Understand and clearly communicate the process for investigating and resolving workplace harassment complaints made by employees.
- f. Take immediate and appropriate steps to address any allegations of workplace harassment upon becoming aware of them, whether or not a complaint has been made.
- g. Monitor the work environment after a complaint of an alleged violation of this policy has been made to ensure there are no further violations or incidents of retaliation against any individual who reported or participated in the inquiry or investigation.
- h. Ensure workplace harassment situations are dealt with in a sensitive, prompt, and confidential manner.

3. Employees

- a. Treat others with respect. ~~in the workplace.~~
- b. Understand rights and responsibilities under this policy and the related procedures.
- c. Promptly report workplace harassing conduct in the workplace by employees or others. ~~before it becomes severe or pervasive.~~
- d. Promptly report any suspected retaliation for making a complaint or helping another employee make a complaint, participating in an inquiry into potential violations of this policy, or opposing unlawful discrimination or workplace harassment
- e. Fully cooperate in an inquiry or investigation and respect the confidentiality related to the investigative process

E. Reporting

1. An employee who has been subjected to any form of workplace harassment as defined by this policy is encouraged to inform the person(s) responsible for the conduct that is unwelcome and offensive and ~~to request that the behavior stop immediately.~~
2. If unwelcomed behavior continues, or the employee feels uncomfortable confronting the responsible person(s) about the conduct, he/she should report the conduct as provided below:
 - a. Employees who have experienced conduct that they believe violates this policy, or who have concerns about such matters, should report their complaints verbally or in writing to their immediate supervisor, the Department Director, HR Director, Deputy City Manager, Assistant City Manager, or the City Manager. ~~before the conduct becomes severe or pervasive.~~
 - b. Employees should not feel obligated to report their complaints to their immediate supervisor first before bringing the matter to the attention of one of the other designated City representatives identified above.
 - c. Employees who have observed or are otherwise aware of hostile or abusive conduct directed at others are encouraged to report the conduct to the supervisor of the offending employee, the reporting employee's own supervisor, the Department Director, or the HR Director.
 - d. Any supervisory or managerial personnel who becomes aware of possible workplace harassment or discrimination must immediately advise the human resources department **HR** so that the matter can be investigated. ~~in a timely manner.~~

F. Investigation

1. All allegations of workplace harassment and discrimination will be thoroughly investigated.
2. To the extent possible, the identity of the employee alleging conduct in violation of this policy will be treated as confidential, as well as the identity of any witness(es) and the alleged violator. All city employees who are involved with or aware of investigations are expected to maintain the same level of confidentiality.
3. The city has a responsibility to all employees to thoroughly investigate all allegations of conduct in violation of this policy, which may include interviewing alleged offenders and witnesses.
4. When the city's investigation is complete, employees involved with the investigation will be informed of the outcome.

Historical Note: Adopted Effective: 8/15/02

Amended Effective: 7/21/04

G. Retaliation

- a. Under no circumstances will anyone any employee be retaliated against subject to any form of retaliation or disciplined discipline for complaining in good faith addressing or making a complaint about or otherwise reporting discrimination or workplace harassment of any kind including bullying, for cooperating in an investigation, for appearing as a witness in the investigation of a complaint, or for serving as an investigator of a complaint.
- b. An employee or supervisor who initiates a retaliatory act is subject to discipline up to and including dismissal.
- c. Reports of retaliation may be made verbally or in writing, and as soon as possible.
 - a. Written reports can be submitted using the XXXX form.
 - b. Verbal reports should be reduced to writing as soon as possible using the XXXX form.

Historical Note: Adopted Effective: 8/15/02

Amended Effective: 7/21/04

H. Discipline

- a. Discrimination, workplace harassment, bullying, and retaliation are considered to be forms of employee misconduct.
- b. Disciplinary action, up to and including termination, will be taken against any employee engaging in behavior in violation of this policy.

- c. Supervisory and managerial personnel who have knowledge of such behavior, but fail to take action to address it, will be subject to disciplinary action, up to and including termination.

~~Historical Note: Adopted Effective: 8/15/02~~

~~Amended Effective: 7/21/04~~

Fraternization

~~The City has adopted this section in recognition of its responsibilities to provide guidelines on and caution employees of the potential problems posed by intimate relationships with other employees. These problems include conflict of interests, interference with productivity of co-workers, and potential charges of sexual harassment. These problems can be particularly serious in situations in which one person has a position of authority over the other, such as in a supervisor-subordinate relationship.~~

1. Restrictions on Employee Conduct

~~The City does not prohibit consensual relationships between employees, but it does impose the following restrictions:~~

- ~~a.) The City strongly discourages supervisors and managers from engaging in sexual or otherwise intimate relationships with subordinates within the same department and requires the employees involved to disclose the existence of such relationship to the or the City Manager.~~
- ~~b.) Additionally, supervisors and managers are required to take the steps to resolve any actual or potential conflict of interest or impropriety created by the relationship.~~

I. Confidentiality

1. The City will protect the confidentiality of allegations to the extent reasonably possible
 - a. Information will be disclosed on a need-to-know basis, consistent with the City's legal obligations to follow up on complaints, including investigation, remedial action, and if required, reporting to appropriate enforcement agencies
 - b. Employees interviewed as part of an investigation must refrain from discussing the investigative interview with other employees
 - c. All information pertaining to a complaint or investigation under this policy will be maintained in secure files within the HR department.
 - d. Confidentiality will be maintained with the respect to the complaint, and the results of the investigation to the extent authorized by the Arizona Public Records law A.R.S §39-121, et seq. Once the investigation has been completed, it may be available for public inspection with some redactions as legally appropriate

2. Disclosure

Once disclosed, the Human Resources Director and the City Manager must assess the situation and make a recommendation to resolve any actual or potential conflict of interest or impropriety created by the relationship. Such recommendation can require the supervisor or non-supervisory employee to transfer to another department or facility where the supervisor is prohibited from having any involvement in professional decision-making affecting the partner who transfers.

3. Discipline

Failure to comply with the recommendation to resolve a conflict with this policy can result in discipline up to and including termination of employment.

C. Prohibited Conduct

Employees are prohibited from engaging in sexual conduct of any kind on City property or on City time.

CHAPTER 16

Information and Communications Technology Policy

A. Policy Statement

The City shall maintain its information and communications technology environment to enable efficient, secure, legally compliant, and effective work by staff. The function of the Information Technology Department (IT) is to fulfill these technology, communications, and collaboration needs in a well-planned manner.

B. Key Definitions

1. **Access Control.** Limits placed on the ability to interact with networks, hardware, and/or software. Limits can be physical or logical in nature, affecting access to computing hardware, resources on data networks, entry into and use of business software, and ability to work with data.
2. **Backup.** A copy of original content that is transferred to a separate location(s) and/or medium(s) to safeguard the content for later restoring of information in the event of unwanted deletion, alteration, or disaster.
3. **De Minimus Use.** Personal employee use of City IT resources that is nominal, irregular, and within ethics standards.
4. **Information Systems.** Computer hardware, software, storage, networking, procedures and processes used in collecting, processing, storing, sharing, or distributing information.
5. **Information Security Officer (ISO).** City employee(s) designated by the Chief Information Officer to serve as the point-of-control for technology-related security issues. The individuals are designated in IT employee listings.
6. **Malware.** Any code, script, or other software that disrupts proper operation of systems, provides unauthorized access to network and/or systems, gathers/shares information without knowing consent, or otherwise causes undesired and compromising activity.
7. **Mobile Devices.** Portable communications and computing devices, such as cellular-based smartphones, tablet computers, and portable personal network cards/peripherals.
8. **Passphrase.** A sentence-like string of words used for authentication that is longer than a traditional password, easy to remember and difficult to crack.
9. **Password.** A sequenced combination of characters and numbers used to confirm that a user requesting access to a network or system is permitted to do so. Typically, a unique User Access Account is paired with a password to manage access. The password, known only to the user who generated it, is entered to verify identity. A password is deemed “strong” if requirements for length, character use, and pattern significantly impede

malicious and/or unintended access.

10. ***Private and Sensitive Data.*** Information defined by law, policy, or regulation as warranting controls over access, storage, release, modification, destruction, loss, and/or misuse.
11. ***Technology Assets and Resources.*** The City's computers, servers, mobile devices, printers, computing peripherals, software and licenses, data communications network, technology vendor contracts, and services agreements.
12. ***User Access Account.*** An electronic identity used to access specific resources. Paired with a password and/or additional means of authentication, User Access Accounts allow secure use of information assets, resources, and tools.
13. ***Mobile Device Management (MDM).*** A type of security software used to monitor, manage, and secure mobile devices such as mobile phones, tablets, and laptops. The intent of this software is to optimize functionality, security, and protect the network and other City resources.

C. Information and Communications Technology Usage

1. Accountability. All employees are responsible for all activity occurring under their User Access Accounts. For information security purposes, employees **shall not** permit or make it convenient for individuals to use accounts not assigned to that person.
2. Privacy. No person using City technology and communications resources has any right or claim to privacy. Conduct on City resources, at City facilities, and/or during work time is subject to monitoring and recording as approved by the City Manager and/or designee(s).
3. Appropriate Use. City employees shall use City technology assets and resources in a professional, legal, and ethical manner. Misuse of technology assets and resources may result in discipline up to and including termination. The following are expressly prohibited:
 - a. Originating or relaying materials that discriminate or cause discrimination as defined under local, state, and Federal laws.
 - b. Originating or relaying intimidating, hostile, and/or threatening communications.
 - c. Altering messages to attribute and relay incorrect information.
 - d. Violating copyrights, trademarks, or licenses.
 - e. Knowingly introducing malware and security risks into the City technology and communications environment.
 - f. Accessing the secure files and/or the communications of others without prior approval by the City Manager or designee.

- g. Using City technology and communications resources to benefit personally, apart from employment terms.
 - h. Using City technology and communications resources on assigned work hours without current supervisor permission.
 - i. Any political activity defined as inappropriate under local, state, and Federal laws, and not approved as part of the City's approved legislative efforts.
4. **Personal Use.** The technology and communications resources of the City are for business use. De minimus personal use is permitted if extenuating circumstances exist and provided the employee does not violate Federal or state laws. It is the responsibility of the employee to ensure the limits on personal usage of public assets are understood prior to making such use.
 5. **Informal Communications.** Instant messaging, voice mail, and text messages are informal tools for coordination purposes. Communications on these tools may fall under Arizona Public Records laws and corresponding retention schedules.
 6. **Recording.** City of Avondale employees may not record images or sound of City work, programs, services, projects, employees or activities while in the course and scope of their employment unless it is for City business purposes and is either: (1) specifically authorized in writing by their supervisor or manager or (2) pursuant to department policy. Such recordings may fall under the Arizona Public Records laws and corresponding retention schedules.

Absent preauthorization, when urgent circumstances reasonably prevent the employee from first seeking the prior written approval from their supervisor or manager for the specific use in question, employees may record the images and sound and obtain approval after the fact.

7. **Employee Monitoring.** City employees or supervisors shall not use the City security cameras to monitor employees in their work environment without prior consent of Human Resources. IT may retrieve security footage for an investigation upon the approval of HR or City Management.
 8. **Review of Use.** Requests to examine a specific employee's use of City technology and communications resources must be approved by the City Manager, and the Human Resources Director, or their respective designee(s).
 9. **Preventative Monitoring.** IT shall maintain solutions to prevent malware and to filter materials of a discriminatory, prohibited, and/or illegal nature.
- If activities of these types are detected, employee conduct will be addressed by the employee's managers and the Human Resources Department.

10. Telecommuting. Support for employees to work from home can benefit City services and operations by improving staffing flexibility in desired situations. If granted by the City to sustain operations, IT shall maintain the ability for required employees to remotely and securely access the City network to perform essential job functions. Specialized costs in addition to core network services are to be addressed by the requesting department and IT. Any employee approved for and who accepts a telecommuting assignment is responsible for ensuring the security of City assets at all times.
11. Research and Development. Exceptions to Chapter 16 may be allowed to support testing of new technologies. The purposes of these initiatives are to pilot viability of new services, improve existing services, and/or reduce costs. In all instances, testing must be approved by the City's Chief Information Officer, not interfere with City operations, and ensure private and sensitive data is not placed at risk.

D. Information and Systems Security

1. Intent. IT shall ensure the City's technology and communications environment is secure, reliable, and usable.
 - a. Information Security Officer. The City shall name an Information Security Officer (ISO) and at least one alternate to coordinate information security efforts, address security incidences as they occur, and complete investigations approved by the City Manager and Chief Information Officer, or their designee(s).
 - b. Access. Permissions shall be based on an assessment of the City's potential exposure to unauthorized access, theft, destruction, alteration, or misuse of information resources.
 - 1) Security and controls shall be applied in a least-permissive manner. Employees, interns, volunteers, and contractors shall be granted and exercise only those rights needed to perform their assigned duties and to perform required administrative tasks.
 - 2) Critical technology assets and resources – e.g., servers, security gateways, network equipment, system consoles – shall be physically secured in protected areas with access logging. Security designs must be approved through IT.
 - 3) Employee technology and security training is required at least annually and shall be tracked by the Human Resources Department.
 - 4) Only personnel authorized by IT shall have access to the City data center, network closets, server rooms, control centers, or network operation centers.
 - 5) The Human Resources Department, Facilities Division, and IT shall coordinate a program for badges and physical access controls for the City.

- c. Access Forms. All employees, volunteers, interns, contractors, and other users of the City IT resources shall be required to sign an acknowledgment of the City's Information and Communications Technology Policy prior to starting work for the City.
 - 1) Signed employee, volunteer, and intern forms are to be maintained by the Human Resources Department.
 - 2) Signed contractor forms are to be maintained by IT. Individual access may not exceed six months, after which access must automatically terminate, unless departments review and reauthorize access.
 - 3) IT shall review associated forms at least annually and shall maintain the forms on the City Intranet for easy access and use.
- d. Notification. Hiring managers and supervisors must submit signed forms to IT at least three work days prior to the arrival, reassignment, and separation of all employees, interns, and volunteers.
- e. Secure Computing. All computing devices connecting to City technology networks and assets must have appropriate countermeasures installed and active as deemed appropriate by IT under applicable agreements or standards. Countermeasures must include the following:
 - 1) Anti-malware, anti-virus, email scanning, and firewall software/hardware.
 - 2) Secure password usage.
 - 3) Setting to purge or lock device if an incorrect password is used excessively.
 - 4) Active permissions allowing IT to remotely wipe City information.
 - 5) Pre-boot encrypted hard-drives for City-owned computers.
 - 6) City-owned mobile devices must include Mobile Device Management (MDM) Software as specified by IT. Additional software licensing may be necessary and will be purchased as part of the hardware or project.
- f. External Security Requirements. IT shall be responsible for coordinating all external security requirements placed on the City, including audits and any mandates from state and/or Federal agencies.
- g. Media Sanitization and Destruction. When City equipment is repurposed or disposed of that has been used to store and/or transmit secure sensitive information, IT will appropriately follow the measures established by the National Institute of Standards and Technology (NIST) Special Publication 800-88 <https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-88r1.pdf> This includes, but not limited to, media destruction/shredding, cryptographic erasing, and data overwrite wiping.

h. IT shall have a 3rd party conduct a security assessment annually. Results will be shared with the City Manager and department directors for corrective action.

2. Position Coordination. The Human Resources Department shall consult with IT when filling positions that are technology focused. IT shall ensure that consistent position descriptions exist for City technical staff, individuals with appropriate technical qualifications are hired for City IT positions, and security needs for specialized positions required by City departments are properly addressed.
3. Incident Response. IT shall be the central authority for computer and data security.
 - a. Definition. An incident is defined as any event wherein the security of City data, hardware, software, and/or network is potentially compromised. This includes suspected malware infection, loss/theft of a computer(s), loss/theft of data media, discovery of inappropriate sharing of private and confidential data, etc.
 - b. Employee Responsibility. City employees and departments are responsible for notifying the IT Help Desk and/or Information Security Officer of any malware infections, hardware loss, or data loss upon discovery.
 - c. Coordination. IT shall notify the City Manager, City Clerk, and City Attorney of any security incident that rises to the level of security breach, as defined under Arizona law. The City Attorney and IT will coordinate to fulfill legal requirements as needed. In such an event, the responsible department shall be first to cover expenses to address the breach.

E. Technology Procurement and Budget

Reliable technology is important to maintaining smooth operations of City functions. All technology shall be kept technically current to remain compatible with required capabilities, security constructs and technology innovation. To ensure all technology systems and applications follow the City's architecture, technology procurement guidelines, security, and replacement cycle; all technology related software, hardware and/or services shall be budgeted and managed by IT.

1. Technology Acquisitions. IT shall serve as the central authority for acquisition, asset management, and licensing compliance of City technology assets. City departments shall work with IT to minimize redundant technology purchases in favor of enterprise-wide, secure, and economical approaches. The Finance and Budget Department, City Attorney, and IT shall jointly ensure the City's interests are protected in technology-related contracts.
 - a. Approval. All technology hardware, software, and services for use by the City must be approved through IT prior to procurement and purchase.
 - b. Procurement. IT shall have a voting member on all procurement selection

committees for software, technology hardware, and/or technology services. The role of IT in procurements is to ensure successful integration and execution of technology-related projects, systems, and services. All technology -related purchases must comply with the requirements of the Avondale Procurement Code (Municipal Code, Chapter 25) and Procurement Administrative Policy. ~~All technology-related software, hardware and/or services-related budget expenses shall be re-allocated and managed by IT.~~

- c. IT Asset Management. IT shall be responsible for the following IT Asset Management functions:

- 1) Accepting delivery of technology assets.
- 2) Maintaining accurate asset inventories and tracking.
- 3) Complying with all appropriate licensing requirements.
- 4) Disposing of hardware in an environmentally-responsible manner.
- 5) Restricting software, hardware, and services that unnecessarily compromise the security and/or reliability of the City's information technology environment.
- 6) With the Finance and Budget Department, maintaining cost allocation and capital plans for the City's software licensing, hardware replacements, and central services funds.

- d. External/Cloud IT Services. For all vendor-provided products and/or services, City departments are responsible for working with IT to ensure:

- 1) Security of City information and data.
- 2) Appropriate vendor staff expertise.
- 3) Required performance.
- 4) Preservation of data by the City upon conclusion of services.
- 5) Contractual allowances for migration to alternative, future services.
- 6) Adequate long-term funding to maintain services.

7) IT shall have access to all Cloud/SaaS based software for purposes of security administration. IT will act as the clearinghouse for all on-premise and all cloud based access to applications and systems.

2. Audits. IT will ensure the City's compliance for secure computing and licensing.

- a. IT shall conduct audits of physical, network, system, data, application, and operational information systems security at least once every two years. Results will be shared with the City Manager and department directors for corrective action.
- b. IT shall periodically review licensing for software and services to verify the City

meets required obligations and limits under its service agreements and contracts.

3. ~~Review of Use. Requests to examine a specific employee's use of City technology and communications resources must be approved by the City Manager, and the Human Resources Director, or their respective designee(s).~~

F. IT Asset Allocation

1. Computers.

- a. **Primary Use Computers.** Centrally allocated computers shall be those assigned to employees for the primary performance of their duties. Computers are to be budgeted and assigned on a one computer per FTE basis.
- b. **Special Use Computers.** Special Use hardware are those devices deemed necessary by departments for specific, non-convenience uses – e.g., grant-funded programs, Council Chambers, library patron use, unique public safety and public works field applications, et al. Special Use computers must be approved by the responsible department director and IT prior to purchase and paid for from respective department operating funds, unless otherwise arranged through the Finance and Budget Department.
- c. **Standard Specifications.** IT is charged with responsibility for setting standard specifications for computers and including assignment of desktop/laptop/virtual units.
- d. **Lifecycle.** Computers are to be managed, inventoried, and maintained through IT. Computers shall be replaced on an equipment lifecycle defined by IT. The lifecycle shall balance costs and the usable life of equipment.
- e. **Inventory Recovery.** Computers replaced shall be reclaimed by IT for secure disposal, ensuring equipment has not been lost/stolen, and for removing assignments of licensed software. Departments may temporarily retain replaced computers for short periods in special circumstances, as approved by IT. **Temporary retained equipment will be physically identified, and the equipment will not be eligible for replacement under the technology replacement fund.**
- f. **Technology Replacement Fund.** Replacement costs for Primary Use computers shall be budgeted for and charged to departments as part of the City's annual capital plan. Cost allocations shall be set in the City's budget by the Finance and Budget Department and IT, with City Council and City Manager approval.

2. Servers, Communications Hardware, and Reprographic Equipment.

- a. **Efficient Deployment.** Servers, telecommunication equipment, and multi-function printers/copiers/scanners shall be managed, inventoried, and maintained through IT. All departments are responsible for minimizing costs while meeting functional needs in specific areas of the City organization.

- b. Special Uses. Departments may request and pay for specialized equipment and service in specific areas through IT. Special Use equipment must be approved by IT prior to purchase and paid for from respective department operating funds, unless otherwise arranged through the Finance and Budget Department.
 - c. Lifecycle. Servers, telecommunication equipment, and multi-function printers/copiers/scanners shall be replaced on an equipment lifecycle defined by IT in administrative procedures. The lifecycle shall balance costs and the usable life of equipment.
 - d. Technology Replacement Fund. Replacement costs for servers, communications hardware, and reprographic equipment shall be budgeted for and charged to departments as part of the City's annual capital plan. Cost allocations shall be set in the City's budget by the Finance and Budget Department and IT, with City Council and City Manager approval.
3. Mobile Communications and Computing.
- a. Provision. Mobile devices should not be purchased by the City except for special needs. Technology stipends should be used as the standard solution to address needs for key department personnel to be reachable and/or have extra mobility for work purposes. Departments are responsible for minimizing costs while meeting these functional needs.
 - b. Approval Process. Requests for stipends and reimbursements should be submitted by employees via their department director to IT, the Human Resources Department, and the City Manager for approval. Hourly employees may not access City resources outside of working hours unless otherwise approved by their respective department. Mobile communications and computing devices should be paid for from respective department operating funds, unless otherwise arranged through the Finance and Budget Department.
 - c. City-owned mobile devices must include Mobile Device Management (MDM) Software to be installed and managed by IT. Any additional cost for the software will be included in the purchase of mobile devices.

G. Records Administration

- 1. Intent. IT shall maintain City information and data to support operating needs, including disaster recovery, business resumption, and data loss prevention. Standards shall be set between the City Clerk and IT to meet requirements and standards set by ARIZ. REV. STAT.§ 39-101, as well as departmental needs.
- 2. Archiving and Recovery. IT shall configure systems to save central data and information to recover from corruption and loss. Recovery will include full, incremental, and differential backups to allow the City to restore to past days, weeks, months, and years

as required by records retention schedules published by the Arizona State Library, Archives and Public Records and administered by the City Clerk. IT is charged with conducting central backups, testing backups for the ability to successfully restore systems and information, ensuring the ability to resume business in the event of a disaster, and maintaining the ability to retrieve information from required legacy files and formats. City employees are charged with ensuring their work products and information are saved to central IT resources to be backed up and archived.

- a. Email. Electronic messages will be saved per the current records retention schedules published by the Arizona State Library, Archives and Public Records and coordinated by the City Clerk. Storage options will be provided for longer-term storage as determined necessary by the City Clerk and departments.

- 1) Email shall not be forwarded or stored in a system other than what is provided by City IT without prior approval by the City Attorney, Clerk and IT.

- b. Files. Electronic files will be saved per the records retention schedules published by the Arizona State Library, Archives and Public Records and coordinated by the City Clerk. Archived files will consist of most recent backup copies and year-end copies.

- 1) Only cloud-based systems authorized and approved by IT may be used to store files and/or data.

- c. Databases. Databases will be saved per the current records retention schedules published by the Arizona State Library, Archives and Public Records and coordinated by the City Clerk. Archived databases will consist of most recent backup copies and a defined schedule of periodic copies.

3. Records Hold. The City Attorney and IT shall provide processes and tools for saving files related to known legal actions. The City Clerk, City Attorney, and City departments will train to appropriately manage departmental files and information to comply with legal requirements.

H. Password/Passphrase Policy

1. For many systems, passwords are the only form of authentication. Poor password complexity, including insufficient length or the inclusion of commonly-used words, may allow an attacker to guess the password and gain unauthorized access to the system.

In addition, failing to change passwords from the default setting established by the vendor is equivalent to having no password at all, as default passwords are commonly known by attackers.

2. Purpose

- a. Passwords are the primary form of user authentication used to grant access to the City of Avondale's information systems.
- b. To ensure that passwords provide as much security as possible, they must be carefully created and used.
- c. Without strict usage guidelines, the potential exists that passwords will be created that are easy to break, thus allowing easier illicit access to Avondale's information systems, and thereby compromising the security of those systems.
- d. This Policy applies to all information systems, information components, and employees of the City of Avondale, including all temporary or contract workers.

3. Non-Compliance

- a. Violations of this policy will be treated like other allegations of wrongdoing at the City of Avondale.
- b. Allegations of misconduct will be adjudicated according to established procedures.
- c. Sanctions for non-compliance may include, but are not limited to, one or more of the following:
 - 1) Disciplinary action according to applicable Avondale policies,
 - 2) Termination of employment; and/or
 - 3) Legal action according to applicable laws and contractual agreements.

I. IT Protocols and Guidelines

- 1. IT Administrative Policies and rules shall be reviewed and updated at least annually to ensure they continue to meet the requirements of the City and its departments.
- 2. IT shall maintain and publish operating guidelines to employees via the City Intranet. Standard guidelines include those of the following:
 - a. Standard specifications for computers used by employees by utilization type – e.g., administrative computers, GIS/developer/engineer workstations, and semi-rugged and fully-rugged computers
 - b. Support for Mobile Communications Devices
 - 1) Advanced support for smartphones and tablet computers.
 - 2) Supported service for access to City email, schedules, and contacts.
 - 3) Supported online storage services for saving work for backup and public records searches.
 - 4) Supported note-taking and mark-up applications
 - 5) Supported wireless access methods.

c. Security Standards

- 1) Security Signature Forms.
- 2) Password Complexity and Expiration.
- 3) Incident Response and Monitoring Processes.
- 4) Access Audits.

d. Technology Reimbursements and Stipends

- 1) The City Manager shall set technology and telecommunications stipend/reimbursement standards for the City to address eligibility, stipend and reimbursement rates, approval process, and authorization forms to be used.

CHAPTER 17 Separations

A. Resignation

1. Any employee who desires to resign his/her position with the City and be in good standing with the City will provide a written resignation to his/her department manager or the City Manager stating the effective date and reason for such action.
2. Notification will be provided at least two weeks prior to the effective date unless otherwise waived by the City Manager.
3. ~~Employees who resign will be entitled~~ Refer to compensation City Chapter 5 and Chapter 6 for holiday, and sick leave compensation. ~~their earned and unused vacation.~~ leave

B. Layoff Reduction in Force

1. The City Manager, with the concurrence of the City Council, may separate any employee without prejudice because of lack of funds or curtailment of work, after giving notice of at least thirty (30) days to such employee.
2. ~~However, no~~ No regular employee will be separated from any department while ~~they there are~~ trial other employees on original probation, part-time or temporary employees serving in the same class of positions in that department.
3. Whenever possible, employees who are to be laid off in one department will be integrated into another department by transfer.
4. When layoffs a reduction in force is required, it will be in the inverse order of the relative length of service of the employee; that is, the employee with the longest service time in the classification within the department will be the last to be laid off.
5. Any employee affected by layoff reduction in force through no fault of his/her own will ~~may~~ be eligible for re-employment with preference for rehire.
6. Layoffs Reductions in force are not appealable or subject to grievance.

C. Retirement

A full-time regular employee in the City will be eligible for retirement benefits in accordance with the Arizona State Retirement System ~~or the~~, Arizona Public Safety Personnel Retirement System, or **Corrections Officer Retirement Plan**. **(Refer to Chapter 6 the relevant plan's website for compensation further information.**

D. Involuntary Terminations

1. The City may dismiss any regular status employee for cause.
 - a. A written statement of reasons for the dismissal will be provided to the employee.
2. The City may dismiss any original probationary employee at its sole discretion.
 - a. No written statement of reasons for dismissal is required.
3. An employee who is involuntarily terminated will not be compensated for any unused sick leave **and/or holiday leave**.

E. Return of City Property

1. Any employee leaving the City service whether through resignation, ~~layoff~~, **reduction in force**, or dismissal is responsible for returning any City property, which he/she may have in his/her possession.
2. All City property must be returned to **the department manager employee's supervisor** or the Human Resources ~~Director~~ **Department** prior to receiving a final paycheck.

CHAPTER 19

Appeals

A. Statement

This Chapter applies to all employees including represented and certified employee units. The City of Avondale, in keeping with its policy of maintaining satisfactory working conditions, will provide a means to ensure fair handling of employee complaints and grievances. Any employee whose state of mind is so affected by a grievance that he/she will not endeavor to or cannot do the proper thing in the course of performing his/her regular duties should immediately pursue the prescribed procedures for grievances.

B. Matters Subject to ~~Grievances~~ an Appeal

1. ~~For the purpose of this Chapter, a grievance means any dispute regarding the meaning, interpretation, or alleged violation of these policies and procedures.~~
2. Any employee ~~in the classified service~~ will have the right to appeal, under this rule, a decision affecting his/her employment, over which his appointing power has partial or complete jurisdiction, with the exception of suspensions, demotions, reductions in pay in lieu of suspension, or terminations which will be appealed directly to the Independent Hearing Officer, through the Assistant City Manager or designee as provided by these policies.

C. Appeal to the **Independent Hearing Officer or Personnel Board**

1. Right to Appeal

Any regular employee ~~in the classified service~~ will have the right to appeal to the Independent Hearing Officer any disciplinary action by the City which involves termination, demotion, suspension without pay, or reduction in pay in lieu of suspension without pay, except in instances where the right of appeal is specifically prohibited by these policies.

2. Methods of Appeal

- a. Appeals will be in writing, signed by the appellant, and delivered in person, email or by first-class mail to the Human Resources Director.
 - 1) Appeals must be delivered to the Human Resources Director within ten (10) working days of the date of the disciplinary action to be appealed.
 - 2) The formality of a legal pleading is not required. However, failure to file the appeal on time will constitute a waiver, and the decision will become final.

- b. Within ten (10) working days after receipt of the appeal, the Human Resources Director will notify the Assistant City Manager, the Independent Hearing Officer, and such other persons named or affected by the appeal.
 - c. Upon filing of an appeal, the Independent Hearing Officer will set a date for a hearing on the appeal not less than ten (10) working days or no more than thirty (30) working days from the date of filing.
 - d. The Human Resources Director will notify all interested parties of the date, time, and place of the hearing. The Human Resources Department will provide administrative assistance to the Independent Hearing Officer.
 - e. The appeal will be a written statement, addressed to the Independent Hearing Officer, explaining the matter appealed, the specific grounds for the appeal (explaining why he/she believes the decision appealed is incorrect), and setting forth therein a statement of the action desired by the appellant.
 - 1) The written appeal will constitute the entire matter before the Independent Hearing Officer.
 - 2) The appellant may not add new matters, grounds, facts, or theories to those already stated in the original appeal.
 - 3) The Independent Hearing Officer will not have jurisdiction to consider any such additional matters, grounds, facts, or theories outside of the written appeal.
3. Independent Hearing Officer
- a. Pursuant to a periodic solicitation of qualifications or through cooperative solicitation, the City shall establish a list of at least three attorneys (or fewer if an insufficient number of qualified candidates respond to the solicitation), who are licensed and in good standing with the State Bar of Arizona and who have at least five years of experience and knowledge or municipal law and/or employment law, to serve as the Independent Hearing Officer. Upon receipt of a written appeal, the City Manager or designee shall select the Independent Hearing Officer from the qualified list.
 - b. The City shall pay the reasonable fees and costs of the Independent Hearing Officer; however, the Independent Hearing Officer will not represent either the City or the appellant. The duties of the Independent Hearing Officer are to make rulings and determinations pursuant to these rules.
 - c. The Independent Hearing Officer shall have the following duties and authority.
 - 1) Pre-Hearing:
 - a) Consider and rule on any pre-hearing motions, including those that could result in the dismissal of the appeal for failure to follow these rules.

- b) Set reasonable restrictions and deadlines for the **method (in person or virtual), timing,** and conduct of the hearing.
 - c) Prepare the hearing notice and agenda.
- 2) Presiding over the Hearing
 - a) Rule on objections and motions by a party, unless they are dispositive of the appeal.
 - b) Submit his/her findings and recommendations on the merits of the appeal; in accordance with the timeframe and procedure set forth in subsection (f) below.
 - c) Prepare a written report and recommendation for the City Manager.
- 4. Pre-hearing Procedures
 - a. As outlined above, the Independent Hearing Officer shall set the time and place for the hearing.
 - b. Prior to the hearing, the Independent Hearing Officer shall do the following:
 - 1) Within five (5) working days of filing the written appeal with the Human Resources Director, the appellant may request his/her personnel record from the City. Neither party shall be entitled to any additional discovery in this process, except as outlined below.
 - 2) At least seven (7) working days prior to the hearing, the City and the appellant shall disclose to one another the witnesses that each anticipates calling, a synopsis of their testimony, and any documents each anticipates presenting to the Independent Hearing Officer.
 - a) The proposed testimony and exhibits must relate to the written appeal filed by the appellant.
 - b) Any proposed testimony or exhibits that do not relate to the written appeal shall not be considered or presented. The Independent Hearing Officer will make this determination, as necessary.
 - 3) Not less than three (3) working days after the exchange of proposed testimony and exhibits, the parties shall work together to determine if either side objects to any exhibits, and work through those objections.
 - a) If after consulting with one another, there is still a disagreement, the parties shall file a brief letter (no more than one page) outlining the disputed items to the Independent Hearing Officer. The letter must be filed at least two (2) working days prior to the hearing. If there is no dispute, no letter need be filed.
 - b) The Independent Hearing Officer shall rule on any disagreement prior to the hearing.

- c) All exchanged exhibits will be deemed admissible and presented to the Independent Hearing Officer at the hearing.

5. Hearings

- a. The appellant shall appear **either** personally **or virtually** and testify before the Independent Hearing Officer at the time and place of the hearing.
- b. The proposed testimony and exhibits used by the appellant shall only be those permitted pursuant to subsection (d) above.
 - 1) No other witnesses or documents will be considered by the Independent Hearing Officer unless (i) the party can show that it was newly discovered, there was prompt disclosure, and the evidence is crucial or (ii) the Independent Hearing Officer may, at his/her discretion, exclude certain witnesses or documents even if timely disclosed if such evidence would be irrelevant, cumulative, redundant, or overly prejudicial.
- c. The appellant may be represented by any person (other than the Independent Hearing Officer) or attorney as he/she may select, and at the hearing may produce on his/her behalf relevant oral or documentary evidence.
- d. The City will present its case first, establishing the reasons for the employment action.
 - 1) At the conclusion of the City's case, the appellant will then present his/her case in opposition. Each side may call its disclosed witnesses.
 - 2) The parties are responsible for securing the attendance of their own witnesses, but the City will make City employees available for the hearing if timely disclosed.
 - 3) The parties do not have any subpoena power to compel a witness's attendance.
- e. Cross-examination of witnesses will be permitted.
- f. The conduct and decorum of the hearing will be under the control of the Independent Hearing Officer, with due regard to the rights and privileges of the parties.
- g. Hearings need not be conducted according to technical rules relating to evidence and witnesses.
- h. Hearings will be closed or held in executive session, as applicable, unless the appellant, in writing, requests an open, public hearing.
 - 1) A closed hearing does not preclude the attendance of (i) persons necessary to assist in the presentation of evidence and arguments, (ii) the Human Resources Director or authorized designee or (iii) the appellant's department director or authorized designee. Notwithstanding anything herein to the contrary, this paragraph does not apply to hearings held pursuant to the Peace Officers Bill of Rights, A.R.S. 38-1101 et. Seq.

6. Findings and Recommendations

- a. The Independent Hearing Officer will, within fifteen (15) working days after the conclusion of the hearing, submit his/her findings and recommendations that will be advisory to the City Manager.
 - 1) The Independent Hearing Officer may recommend that the City Manager affirm, revoke, or modify the employment action taken.
- b. The City Manager or designee will review the findings and recommendations of the Independent Hearing Officer. He/she may then affirm, revoke, or modify the employment action taken as in his/her judgment seems warranted.
- c. The City Manager or designee will inform the appellant within twenty (20) working days of his/her decision. The action of the City Manager or designee will be final.

7. Conduct of Appeal Procedure

The time limits specified above may be extended to a definite date by mutual agreement of the employee and the reviewer concerned.

D. Matters Subject to A.R.S. §§ 38-531 through 534 Disclosure of Information by Public Employees

This section does not apply to any persons outside the definition of Employee (as hereinafter defined).

1. When a complaint is filed by a former or current employee (the “Employee”) as defined by A.R.S. § 38-531, alleging violation of A.R.S. §§ 38-531 *et. seq.*, the City Manager shall convene an *ad hoc* independent personnel board (“Board”) pursuant to A.R.S. §§ 38-532 and 534, which shall consist of five (5) members having the following qualifications:
 - a. Three (3) members who are residents of the City, not employed by the City, and not related to the Employee;
 - b. One (1) member who is employed by another municipality as an administrator in the department of human resources or personnel and who is not related to the Employee; and
 - c. One (1) member who is employed by another municipality, who does not belong to any professional organizations or affiliates that the Employee belongs to and who is not related to the Employee.
2. The members of the Board shall meet, hear evidence, and decide the following:
 - a. The validity of the complaint.

- b. Whether a prohibited personnel practice, as defined by A.R.S. § 38-532(A), was committed against the employee or former employee as a result of disclosure of information by the employee or former employee.
3. The provisions of A.R.S. § 38-532 are incorporated by this reference.

E. For the purposes of this Chapter:

1. “Working Days” means Monday through Thursday, exclusive of City designated Holidays.

CHAPTER 1920

Grievances

A. Statement

This Chapter applies to all employees including represented and certified employee units. The City of Avondale, in keeping with its policy of maintaining satisfactory working conditions, will provide a means to ensure fair handling of employee complaints and grievances. Any employee whose state of mind is so affected by a grievance that he/she will not endeavor to or cannot do the proper thing in the course of performing his/her regular duties should immediately pursue the prescribed procedures for grievances.

B. Matters Subject to Grievances

For the purpose of this Chapter, a grievance means any dispute regarding the meaning, interpretation, or alleged violation of these policies and procedures.

1. ~~Any employee in the classified service will have the right to appeal, under this rule, a decision affecting his/her employment, over which his appointing power has partial or complete jurisdiction, with the exception of suspensions, demotions, reductions in pay in lieu of suspension, or terminations which will be appealed directly to the Independent Hearing Officer, through the Assistant City Manager or designee as provided by these policies.~~

C. Matters Not Subject to Grievance

1. Suspensions, demotions, reductions in pay in lieu of suspension, and terminations are not grievable.
2. An employee cannot grieve a **layoff reduction in force**, the contents of a performance evaluation, the lack or amount of a pay increase (merit or otherwise) or any form of reprimand.
3. An employee that is a member of a certified Employee Group pursuant to Chapter 2, Article II, Division 4, Section 2-56 of the Avondale City Code, may not grieve any issue covered under a Memorandum of Understanding.
4. Part-time employees are not entitled to any rights pursuant to this Chapter.
5. An employee may not file a grievance for any concern more than fifteen (15) working days after the employee first becomes aware of it **unless the grievance is governed by a federal or state statute.**

D. Procedures

1. Informal Grievance Procedure

- a. An employee who has a problem or complaint should first try to get it settled through discussion with his/her immediate supervisor without undue delay.
- b. If, after this discussion, he/she does not believe the problem has been satisfactorily resolved, he/she will have the right to discuss it with his/her supervisor's immediate department director. If the employee's supervisor does not have a department director, he/she shall discuss the matter with Human Resources. In some circumstances, Human Resources will determine that matter should be referred to the City Manager, or his/her designee, at this stage.
- c. Every effort should be made to find an acceptable solution by informal means at the lowest level of supervision. If an employee fails to follow this informal procedure, the grievance will be denied and he/she will not be permitted to proceed to the formal grievance procedure outlined below.

2. Formal Grievance Procedure

Levels of review through the chain of command are listed below:

a. First Level of Review

- 1) If the employee has properly followed the informal grievance procedure and the matter is not resolved, the employee is eligible to elevate the grievance to the first level. Initially, the employee must reduce the grievance to writing citing the article and section of the personnel policies and procedures alleged to be violated, the date of the violation that is the basis for the grievance, the nature of the grievance, and the relief requested.
- 2) This grievance should be presented to the employee's immediate supervisor, within fifteen (15) working days of the occurrence, and no later than ten (10) working days after the informal grievance procedure has been fully exhausted. The supervisor will render his/her decision and comments in writing and return them to the employee within fifteen (15) working days after receiving the grievance.
- 3) If the employee does not agree with his/her supervisor's decision, or if no answer has been received within fifteen (15) working days, and the employee wishes to continue in the grievance process, the employee may present the grievance in writing to his/her supervisor's immediate department director (the "second level supervisor").
- 4) Failure of the employee to take further action within ten (10) working days after receipt of the written decision of his/her supervisor or within a total of twenty-five (25) working days after presentation of the grievance to the employee's immediate supervisor if no decision is rendered, will constitute a withdrawal of the grievance.

b. Further Level(s) of Review as Appropriate

- 1) The second level supervisor receiving the grievance will review it, render his/her decision, and comments in writing, and return them to the employee within fifteen (15) calendar days after receiving the grievance.
- 2) If the employee does not agree with the second level supervisor's decision, or if no answer has been received within fifteen (15) working days after the second level supervisor received the grievance, and the employee wishes to continue in the grievance process, he/she may present the grievance in writing to the City Manager – through the Human Resources Director.
- 3) Failure of the employee to take further action within ten (10) working days after receipt of the decision, or within a total of twenty-five (25) working days of referral to his/her second level supervisor if no decision is rendered, will constitute a withdrawal of the grievance.

c. City Manager

- 1) Upon receiving the grievance, the City Manager or designee should discuss the grievance with the employee and with other appropriate persons.
- 2) The City Manager or designee may designate a fact-finding committee or supervisor to advise him/her concerning the grievance.
- 3) The City Manager or designee will render a final decision. Grievances may not be appealed to the Independent Hearing Officer.

3. ~~Appeal to the Personnel Board~~

a. ~~Right to Appeal~~

~~Any regular employee in the classified service will have the right to appeal to the Independent Hearing Officer any disciplinary action by the City which involves termination, demotion, suspension without pay, or reduction in pay in lieu of suspension without pay, except in instances where the right of appeal is specifically prohibited by these policies.~~

b. ~~Methods of Appeal~~

- 1) ~~Appeals will be in writing, signed by the appellant, and delivered in person, email or by first class mail to the Human Resources Director. Appeals must be delivered to the Human Resources Director within ten (10) working days of the date of the disciplinary action to be appealed. The formality of a legal pleading is not required. However, failure to file the appeal on time will constitute a waiver, and the decision will become final.~~

- ~~2) Within ten (10) working days after receipt of the appeal, the Human Resources Director will notify the Assistant City Manager, the Independent Hearing Officer, and such other persons named or affected by the appeal.~~
 - ~~3) Upon filing of an appeal, the Independent Hearing Officer will set a date for a hearing on the appeal not less than ten (10) working days or no more than thirty (30) working days from the date of filing.~~
 - ~~4) The Human Resources Director will notify all interested parties of the date, time, and place of the hearing. The Human Resources Department will provide administrative assistance to the Independent Hearing Officer.~~
 - ~~5) The appeal will be a written statement, addressed to the Independent Hearing Officer, explaining the matter appealed, the specific grounds for the appeal (explaining why he/she believes the decision appealed is incorrect), and setting forth therein a statement of the action desired by the appellant. The written appeal will constitute the entire matter before the Independent Hearing Officer. The appellant may not add new matters, grounds, facts, or theories to those already stated in the original appeal. The Independent Hearing Officer will not have jurisdiction to consider any such additional matters, grounds, facts, or theories outside of the written appeal.~~
- ~~c. Independent Hearing Officer~~
- ~~1) Pursuant to a periodic solicitation of qualifications or through cooperative solicitation, the City shall establish a list of at least three attorneys (or fewer if an insufficient number of qualified candidates respond to the solicitation), who are licensed and in good standing with the State Bar of Arizona and who have at least five years of experience and knowledge of municipal law and/or employment law, to serve as the Independent Hearing Officer. Upon receipt of a written appeal, the City Manager or designee shall select the Independent Hearing Officer from the qualified list.~~
 - ~~2) The City shall pay the reasonable fees and costs of the Independent Hearing Officer; however, the Independent Hearing Officer will not represent either the City or the appellant. The duties of the Independent Hearing Officer are to make rulings and determinations pursuant to these rules.~~
 - ~~3) Independent Hearing Officer~~
~~The Independent Hearing Officer shall have the following duties and authority:~~
 - ~~a) Pre-Hearing:~~
 - ~~i. Consider and rule on any pre-hearing motions, including those that could result in the dismissal of the appeal for failure to follow these rules.~~

- ii. ~~Set reasonable restrictions and deadlines for the timing and conduct of the hearing.~~
 - iii. ~~Prepare the hearing notice and agenda.~~
- b) ~~Presiding over the Hearing~~
 - i. ~~Rule on objections and motions by a party, unless they are dispositive of the appeal.~~
 - ii. ~~Submit his/her findings and recommendations on the merits of the appeal; in accordance with the timeframe and procedure set forth in subsection (f) below.~~
 - iii. ~~Prepare a written report and recommendation for the City Manager.~~
- d. ~~Pre-hearing Procedures~~

~~As outlined above, the Independent Hearing Officer shall set the time and place for the hearing. Prior to the hearing, the Independent Hearing Officer shall do the following:~~

- 1) ~~Within five (5) working days of filing the written appeal with the Human Resources Director, the appellant may request his/her personnel record from the City. Neither party shall be entitled to any additional discovery in this process, except as outlined below.~~
- 2) ~~At least seven (7) working days prior to the hearing, the City and the appellant shall disclose to one another the witnesses that each anticipates calling, a synopsis of their testimony, and any documents each anticipates presenting to the Independent Hearing Officer. The proposed testimony and exhibits must relate to the written appeal filed by the appellant. Any proposed testimony or exhibits that do not relate to the written appeal shall not be considered or presented. The Independent Hearing Officer will make this determination, as necessary.~~
- 3) ~~Not less than three (3) working days after the exchange of proposed testimony and exhibits, the parties shall work together to determine if either side objects to any exhibits, and work through those objections. If after consulting with one another, there is still a disagreement, the parties shall file a brief letter (no more than one page) outlining the disputed items to the Independent Hearing Officer. The letter must be filed at least two (2) working days prior to the hearing. If there is no dispute, no letter need be filed. The Independent Hearing Officer shall rule on any disagreement prior to the hearing. All exchanged exhibits will be deemed admissible and presented to the Independent Hearing Officer at the hearing.~~

e. ~~Hearings~~

- 1) ~~The appellant shall appear personally and testify before the Independent Hearing Officer at the time and place of the hearing.~~

- ~~2) The proposed testimony and exhibits used by the appellant shall only be those permitted pursuant to subsection (d) above. No other witnesses or documents will be considered by the Independent Hearing Officer unless (i) the party can show that it was newly discovered, there was prompt disclosure, and the evidence is crucial or (ii) the Independent Hearing Officer may, at his/her discretion, exclude certain witnesses or documents even if timely disclosed if such evidence would be irrelevant, cumulative, redundant, or overly prejudicial.~~
 - ~~3) The appellant may be represented by any person (other than the Independent Hearing Officer) or attorney as he/she may select, and at the hearing may produce on his/her behalf relevant oral or documentary evidence.~~
 - ~~4) The City will present its case first, establishing the reasons for the employment action. At the conclusion of the City's case, the appellant will then present his/her case in opposition. Each side may call its disclosed witnesses. The parties are responsible for securing the attendance of their own witnesses, but the City will make City employees available for the hearing if timely disclosed. The parties do not have any subpoena power to compel a witness's attendance.~~
 - ~~5) Cross-examination of witnesses will be permitted.~~
 - ~~6) The conduct and decorum of the hearing will be under the control of the Independent Hearing Officer, with due regard to the rights and privileges of the parties.~~
 - ~~7) Hearings need not be conducted according to technical rules relating to evidence and witnesses.~~
 - ~~8) Hearings will be closed or held in executive session, as applicable, unless the appellant, in writing, requests an open, public hearing. A closed hearing does not preclude the attendance of (i) persons necessary to assist in the presentation of evidence and arguments, (ii) the Human Resources Director or authorized designee or (iii) the appellant's department director or authorized designee. Notwithstanding anything herein to the contrary, this paragraph does not apply to hearings held pursuant to the Peace Officers Bill of Rights, A.R.S. 38-1101 et. Seq.~~
- f. Findings and Recommendations
- ~~1) The Independent Hearing Officer will, within fifteen (15) working days after the conclusion of the hearing, submit his/her findings and recommendations that will be advisory to the City Manager. The Independent Hearing Officer may recommend that the City Manager affirm, revoke, or modify the employment action taken.~~
 - ~~2) The City Manager or designee will review the findings and recommendations of the Independent Hearing Officer. He/she may then affirm, revoke, or modify the employment action taken as in his/her judgment seems warranted.~~

- 3) ~~The City Manager or designee will inform the appellant within twenty (20) working days of his/her decision. The action of the City Manager or designee will be final.~~

4. ~~Conduct of Appeal Procedure~~

~~The time limits specified above may be extended to a definite date by mutual agreement of the employee and the reviewer concerned.~~

E. Matters Subject to A.R.S. §§ 38-531 through 534 Disclosure of Information by Public Employees

This section does not apply to any persons outside the definition of Employee (as hereinafter defined).

1. When a complaint is filed by a former or current employee (the "Employee") as defined by A.R.S. § 38-531, alleging violation of A.R.S. §§ 38-531 *et. seq.*, the City Manager shall convene an *ad hoc* independent personnel board ("Board") pursuant to A.R.S. §§ 38-532 and 534, which shall consist of five (5) members having the following qualifications:
 - a. Three (3) members who are residents of the City, not employed by the City, and not related to the Employee;
 - b. One (1) member who is employed by another municipality as an administrator in the department of human resources or personnel and who is not related to the Employee; and
 - c. One (1) member who is employed by another municipality, who does not belong to any professional organizations or affiliates that the Employee belongs to and who is not related to the Employee.
2. The members of the Board shall meet, hear evidence, and decide the following:
 - a. The validity of the complaint.
 - b. Whether a prohibited personnel practice, as defined by A.R.S. § 38-532(A), was committed against the employee or former employee as a result of disclosure of information by the employee or former employee.
3. The provisions of A.R.S. § 38-532 are incorporated by this reference.

F. For the purposes of this Chapter:

1. "Working Days" means Monday through Thursday, exclusive of City designated Holidays.

CHAPTER 21

RESERVED

Changes and Amendments

~~The City retains the right to change or amend these rules or regulations at any time, provided, however, such changes or amendments will be communicated to employees before becoming effective.~~

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CHAPTER 22

Ethics Policy

A. Purpose

“Ethics” is defined as a system of principles governing the appropriate conduct of an individual or group. The purpose for this policy is to address ethical issues and to clarify standards of behavior. The policy establishes expectations for employee behavior, requires the avoidance of conflicts of interest, defines acceptable outside employment, prohibits the acceptance of gratuities and protects confidential information.

B. The City of Avondale Ethics Handbook

To further the policy set forth in this Chapter, the City Manager may establish an Ethics Handbook to provide definitions, examples and guidelines to clarify the application of the standards set forth herein. All employees shall be required to acknowledge (i) his or her understanding of this policy and (ii) the receipt of the Ethics Handbook, both of which shall be kept on file with the employee’s personnel records.

C. Policy

1. Each City employee is required to uphold, promote and demand the highest ethical standards when representing the City in the course of employment.
2. All City employees should maintain personal integrity, truthfulness, honesty and fairness in carrying out their public duties.
3. Any employee who is unsure of how to respond to a particular situation should first seek the guidance of his or her supervisor to determine the appropriate course of action. If it is not possible or practical to obtain guidance from his or her supervisor or department director, an employee shall contact the Ethics Standard Committee for advice and direction. This Committee shall be chaired by the Human Resources Director and shall include the following members as appointed by the City Manager:
 - a. An Assistant City Manager
 - b. Finance and Budget Director
 - c. Two members at large
4. The Ethics Standards Committee shall recommend a course of action for the individual(s) making an inquiry. All decisions shall be forwarded to the City Manager for final approval. Decisions made by the Ethics Standards Committee and approved by the City Manager shall be recorded and shall be used as a guide when determining future cases.

5. The City's policies and procedures shall be used as a reference in determining the recommended course of action. No retribution or disciplinary action shall be taken against employees for bringing issues before the Ethics Standards Committee.
6. City employees shall be provided with mandatory, annual training concerning ethical standards and behaviors. In addition, optional ethical and character-based training will be offered to employees periodically.

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Ethics Handbook

City Mission Statement:

~~Serving the citizens of Avondale: Building community...celebrating diversity...fostering pride.~~

Avondale's Core Mission is: *We Provide City Services for Public Benefit.*

Our Core Purpose: *Making Lives Better.*

City Values and Code of Conduct: ~~We value integrity, communication, customer service, innovation, creativity, and our history~~ ***those who are Helpful, Kind and culture as Professional, and we fulfill our mission. conduct ourselves in a manner that is Responsive, Innovative and Caring.***

I. Introduction

- A. Ethics is defined as a system of moral principles governing the appropriate conduct of an individual or group. Ethical behavior is the foundation for excellent customer service.
- B. The City's ethical performance standard is guided by the simple principles of:
 - 1. Knowing right from wrong,
 - 2. Acting in accordance with what is right
 - 3. Avoiding even the appearance of what is wrong.
 - 4. Avondale employees demonstrate these principles through the practice of ethically-driven customer service:
 - Empathetic,
 - Thoughtful,
 - Honest,
 - Intelligent, and
 - Caring
 - Service.
- C. This handbook reviews various ethical scenarios that relate to the Policy and Procedures Manual.
- D. The handbook's purpose is to provide examples of ethical behavior to ensure that each employee maintains public trust through ethically-driven public service.

II. Setting the Stage

- Q:** Have you ever been asked to do a favor for a member of the public that caused you some concern?
- Q:** Has someone offered you a gift, asked for a break, or requested an exception?
- Q:** Have you seen a co-worker take something from the City?
- Q:** Are you aware of a co-worker working under the influence of drugs or alcohol?
- Q:** Are you aware of an employee treating another employee or a member of the public inappropriately?
- Q:** Have you observed situations or actions of others that may seem wrong and wondered what to do about it?

If you answered yes to any of the questions listed above, the following information may help you to face the challenges of making the right decision.

III. Alcohol Use

Drinking alcohol of any kind during the work hours (to include breaks and meal periods) or during off-hours while wearing City of Avondale apparel is not acceptable and will result in disciplinary action.

Example: An employee goes out to lunch at a restaurant and orders a beer with lunch. A resident observes this behavior and recognizes this person as an Avondale employee because he/she is wearing a uniform/apparel with the Avondale logo. The resident calls City Hall to complain that an employee is drinking on the job.

Policies and Procedures Manual, Chapter 7

IV. Appearance

1. Staff is required to project the appropriate image and appearance for the work they perform.
2. Appropriate attire, grooming, and behavior are required of each employee in his/her job and relationship with the public.
3. Neatness, cleanliness, and good judgment are required of all employees when dressing for work.
4. If a supervisor deems the dress to be inappropriate for the position, the employee will be sent home to change.

Example: An employee who has direct contact with the public comes to work in clothes that had been previously worn and not washed. The clothes are also wrinkled and stained. The supervisor directs the employee to go home and change into cleaner and more presentable clothes.

Professional Image and Appearance Administrative Procedure AP-10, October 6, 2003 May 15, 2014

V. Compensation and Employee Benefits

1. Compensation is the payment and the provision of an assortment of employee benefits that are given to employees in exchange for work performed as it relates to their duties.
2. Employees are required to work the hours for which they are being compensated. Supervisors must be notified when employees have personal issues to address during work hours. ~~Employees shall compensate the City for personal time taken by a.) working to make up for the personal time taken, or b.) by submitting the appropriate leave forms.~~
3. Employees shall compensate the City for personal time taken by:
 - a. working to make up for the personal time taken.
 - b. submitting the appropriate leave requests.

4. Repeated violations of misreporting hours are grounds for dismissal.

Example: An employee drives a city vehicle home for lunch. The drive takes 10 minutes from the job site. The vehicle is parked on the curb outside the employee's home for 90 minutes. The return trip to the job-site takes 15 minutes. The employee works 60 minutes past the traditional end of the work day and marks 60 minutes overtime on the time card.

This example presents two ethical problems. The first is the appearance of the city vehicle in front of an employee's home for an extended period of time during the workday. The second issue is clocking 60 minutes overtime at the end of the day when the lunch period was not reported as being extended 60 minutes, assuming the lunch period is sixty minutes.

Policies and Procedures Manual, Chapter 5

VI. Confidentiality

1. An employee is never to use or disclose any confidential information acquired in the performance of governmental duties as a means for personal/professional gain.
2. Employees are expected to keep confidential various aspects of city business not intended for public disclosure. This is important for building trusted relationships between city employees and residents, stakeholders, and others doing business with the City.
3. Abuse of confidential relationships and attempts to gain from confidential information will not be tolerated.

Example: As part of his/her job duties, an employee has access to residents' addresses and phone numbers. A member of the public asks the employee to divulge this information.

Agreeing to give out that information would be considered a breach of confidentiality. Being paid for that information is not only unethical; the employee may also face criminal charges.

As described by applicable city departmental policies and signed confidentiality agreements.

VII. Conflict of Interest

1. A conflict of interest occurs when an employee is no longer able to remain impartial or objective in choosing between the interest of the City and his or her self-interest.
2. Conflicts of interests may develop directly or indirectly from a relationship with a vendor, a supplier, a customer, a competitor or any other person or company who deals with the City of Avondale.
3. No employee shall engage in any activity or enterprise that conflicts with his or her duties as a City employee or with the duties, functions, and responsibilities in the department that he or she is employed.
4. Employees must manage business affairs within City procurement guidelines and personnel policies to avoid conflicts and the appearance of conflicts of interest.

5. Employees should immediately tell their supervisor or a manager if they become involved in a situation which might cause a conflict of interest or the appearance of a conflict of interest.
6. Employees must ensure that they treat all businesses and individuals equitably and fairly.
7. The most ethical City business practice regarding all purchasing activities is to ensure that all actions are fair and equitable and provide the City with the optimum of quality, value and cost-savings.
8. The Charter & Procurement Codes address employee contractual processes and procedures. Deliberately trying to steer business to a particular company or firm is grounds for termination.

Example: A city department has previously done business with a regional screen printer for a variety of clothing needs. The department is looking at sponsoring a larger event that would necessitate ordering enough screen printed items to exceed the \$2,000 threshold triggering the need for three quotes. The employee approaches three screen printing vendors – the wholesale vendor who had done business with the City in the past, and two retail vendors, to generate quotes. The wholesaler submits the lowest bid. This action is unethical because of the different pricing mechanisms offered by the wholesaler and the retailers. In this instance, the bidding process has been steered to favor the wholesale screen printer.

Example: The City has vacant property that an individual wants to buy. The potential buyer has access to a fix and repair service and offers the employee handling the transaction free assistance if the employee can ensure the transaction price is within a certain dollar range.

The employee respectfully declines and informs the potential buyer the asking price for the land will be based on established appraisal values and city interests.

Policies and Procedures Manual, Chapter 12; Article VIII in the City Charter and Chapter 25 in the City Procurement Code, and AP 23 Procurement Policy

VIII. Drug Use

1. Drug use is defined as the use of any illegal drug at any time or the use of any legal drug that impairs an employee's ability to perform his/her job competently.
2. Illegal drug use on the job is not acceptable and will lead to termination.
3. Employees must report any legal drug use that may impair their ability to perform their job to the supervisor. Failure to do so can lead to serious consequences.

Example: An employee is taking a prescription anti-depressant drug that impairs his/her ability to drive. The employee did not inform the supervisor of the drug use before driving a city vehicle. The employee was in an accident and it was discovered that the employee had taken the prescribed drug one hour before driving the vehicle. The employee may not have been at fault in the accident. However, the city may be placed in a difficult position with regard to any

liability claims as a result of the actions of this employee.

Policies and Procedures Manual, Chapter 7

IX. Employee Records

- A. Employee records are any information submitted to the Human Resources Department from the time an individual submits and application for employment to the end of that individual's employment with the City.
- B. Employees must accurately report and submit to Human Resources, accurate documents pertaining to education, training, medical/ insurance issues, previous work experience, and all other records. It is unethical, and in some cases illegal, to submit false documentation to Human Resources. ~~Employee records are kept in seven different files. They are: the main personnel file, pay file, medical file, background file, disciplinary file, investigative file, and safety file.~~
- C. Employee records are separated from the main personnel file based on privacy and security concerns.
- D. The only file available for public viewing is the main personnel file.

Example: An applicant applies for a job that requires a bachelor's degree from an accredited university or college. The application submitted states that a bachelor's degree was earned at a particular university. After the applicant is hired, it is discovered that the employee was short 12 credits from obtaining the degree.

Example: An employee signs up for a half-day training course off-site and attends for 45 minutes, leaving at the first break. The employee runs errands, has a leisurely brunch and returns to the work site in the afternoon. The employee reports that training was completed.

These two examples demonstrate unethical behavior, which impacts the City's efforts to employ the most qualified people available for the position, as well as the City's efforts to improve employees' work skills.

Policies and Procedures Manual, Chapter 13

X. Favoritism

- A. Favoritism is defined as providing preferred service or granting special concessions to one person or business over another.
- B. All customers, both internal and external, will be treated fairly and with equity.
- C. If some customers are served before others, it is because it is based on an urgency/greatest need standard established by individual service functions.
- D. Otherwise, customer service requests will be handled in chronological order, providing thorough responses to each person's inquiries and requests, so that the appearance of

favoritism is eliminated.

Example: Two people apply for the same job and will be interviewing for the position the next day. An employee happens to know one of the two applicants and calls this person up to offer information about the position, the way the department works, as well as other information that gives this particular applicant an edge over the other.

This example demonstrates unethical behavior, which affects the City's ability to treat applicants fairly and to employ the most qualified applicant for the position.

Reflected in various city policies that address procurement, employment, and customer service

XI. Financial Responsibility

- A. Employees will use City purchasing authority/credit cards for City business only.
- B. Employees will not exert pressure to borrow money from other City employees, supervisors, or subordinates.

Example: A City employee makes a purchase at Home Depot for city materials using the City credit card. The employee also purchases a personal item with the credit card within the same transaction. The employee writes a check to reimburse the City a week later before the City receives the billing statement.

It is never acceptable to use the City credit card for transactions that are not City-related. Such actions will lead to discipline by the City, up to termination from employment.

City Charter, Chapter 25; Procurement Code; Finance Department Credit Card policy statement

XII. Fraternization

- A. Fraternization is defined as an intimate, sexual relationship between employees.
- B. Fraternization among supervisors and managers with employees from the same department is not permitted.
- C. Sexual liaisons between employees are absolutely forbidden while on duty and will lead to termination whether they occur on city property or not.

Example: Two employees from separate departments who both report to work at 8:00 a.m. meet during the lunch hour at one of the employee's homes and extend their liaison for two and one half hours. They return to work and leave at 5:00 p.m. giving themselves credit for an eight-hour work day.

Problems can and do arise in the workplace when employees have intimate, sexual relationships with other employees. Potential problems include conflict of interest, reduced productivity, and potential charges of sexual harassment. Sexual encounters while "on the clock" will not be tolerated.

XIII. Future Employment

- A. City employees applying for positions with companies that do business with the City are vulnerable to offers of future employment in exchange for favors and/or information obtained through the employee's position.
- B. Employees must disclose possible future employment with companies doing business with the City to the Ethics Standards Committee within three business days after a job interview takes place.
- C. In addition, an employee will be expected to sign a confidentiality statement limiting the disclosure of City information with any company that is involved in potential business with the City for one year.

Example: A City employee leaves to take a position with a private corporation that does development business with the City of Avondale. Privately-held City information that is not part of the public record, such as potential land purchases or targeted amounts for future capital improvement projects, could be used to the advantage of the employee's new employer when making bids for specific projects. Ethically, that employee should not be the representative for the company in work with the City until one year has passed.

Policies and Procedures Manual, Chapter 8

XIV. Gifts and Gratuities

- A. Employees should always decline any gift, regardless of value, for themselves or their families if it appears to, or is intended to influence decisions they make for the City of Avondale.
- B. Employees should immediately tell their supervisor or a manager if they become involved in a situation which might cause a conflict or even the appearance of a conflict.
- C. Employees should never accept, for themselves or their families, any favors or special benefits that might be perceived as influencing the performance of their governmental duties.
- D. When the employee has lunch with a vendor, the employee should pay for his or her own meal.

Example: A resident wants to purchase property from the City and offers the employee handling the transaction gardening services for the employee's home as a token of appreciation. The employee must refuse the offer.

Policies and Procedures Manual, Chapter 12 A. Solicitation; B. Conflict of Interest; City Charter, Chapter 25; Procurement Code

XV. Grievance

- A. A grievance is defined as any dispute regarding the meaning, interpretation, or alleged violation of the policies and procedures.
 - B. It is unethical to treat any employee unfairly while that employee is going through a grievance process.
 - C. The grievance process is established to enable employees to continue to interact in a professional, ethically-driven customer service approach while the grievance process works its way to conclusion. ~~Unethical treatment of an employee in the grievance process will be grounds for discipline.~~
 - D. Unethical treatment of an employee in the grievance process will be grounds for discipline.
- Policies and Procedures Manual, Chapter 19 20*

XVI. Illegal Activity

- A. All employees will be expected to engage in activities that are lawful.
- B. Employees must uphold the constitution, laws and legal regulations of the United States, the State of Arizona, the City of Avondale, and other legally incorporated governments.
- C. Misdemeanors and felonies committed by employees will be examined on a case-by-case basis and may be cause for action by the City against the employee.
- D. Illegal actions performed on the job will lead to termination.

Example: An employee driving a city vehicle is involved in an accident and leaves the scene of the accident. This behavior is illegal. All accidents involving city vehicles, or personal vehicles while on City business, must be reported to the Police Department, Risk Management and your supervisor.

XVII. Inappropriate Use of City E-mail System and Internet

- A. Employees will not use the City's computer system and associated software and hardware for personal profit or personal use not related to work assigned.
- B. Use of the city's property to carry out activities that lead to personal profit or reduce the employee's productivity on the job is considered a misuse of city funds and equipment and is not acceptable.
 - 1. Examples of such use include surfing the Internet for pornographic materials, financial and stock market information for personal investment purposes, personal banking, on-line auction participation, fantasy sports leagues, chain letters of any type, and other uses not pertinent to one's employment duties.

Example: An employee receives a message from a friend with a sexually oriented cartoon

attached. The employee forwards the cartoon to several other employees. This is a violation of City policy and will result in disciplinary action, potentially including termination.

Policies and Procedures Manual, Chapter 19-16

XVIII. Nepotism

- A. Nepotism is defined as the paid employment of family members, friends, or associates in positions with the City, whether the positions are temporary or permanent, without a proper posting of an open position and a review of qualifications by Human Resources, or the competitive bid process if contracting for services. Although the Policies and Procedures Manual defines “family” as immediate members; an ethical definition of family should include those family members that have a reasonably close relationship with the hiring supervisor that leads to preferential hiring treatment.
- B. Wherever possible, hiring should be an open, competitive process to ensure that the best qualified person available at the time is hired by the City to fulfill the temporary or permanent vacant position. This eliminates nepotism and favoritism when hiring. Policies and Procedures Manual, Chapter 8 addresses situations when relatives are hired or a marriage takes place that creates a potential ethical conflict.

Example: A temporary administrative position opens within the City and the department hires directly a family member of one of the employees without posting the position or going through a temporary help service. This action constitutes a violation of city policy.

Policies and Procedures Manual, Chapter 8

XIX. Open Meetings and Public Records

- A. State law requires that meetings of public bodies be open to the public and that public records be available for inspection. Quick response to open meeting or records requests is important.
- B. Internal work groups consisting of employees and others are not subject to open meeting laws unless public input is requested at the work group meeting.
- C. All public meetings must have an agenda produced and posted twenty-four hours in advance.
- D. As a matter of good management practices, all internal meetings should have an accompanying agenda.

Example: Internal meetings with a developer to review plans with city staff are not considered a public meeting. Once staff and the planner come to agreement to the plans and proposed stipulations made by the City, the entire project is brought forward for public comment through the Planning and Zoning Commission or a Council agenda item. It is at this time that public concerns with a project can be publicly addressed.

XX. Outside Employment

- A. Outside employment is allowed, provided that:
 - 1. there is not a conflict of interest,
 - 2. the job does not interfere with the time and attention an employee must devote to the City job, and
 - 3. City equipment or use of proprietary information will not be involved.
- B. Employees must notify their immediate supervisor of their intent to engage in outside employment.
- C. Supervisors who have questions regarding possible conflicts with an employee's outside employment should contact the Human Resources department.
- D. Employees are not to engage in outside work if they are not working due to any disability status in their City employment.
- E. City obligations take precedence over outside employment requirements at all times.

Example: An employee works for a local retail store on weekends. During the Holiday season the store Manager requires the employee to come in to work on Mondays and Wednesdays at noon. The employee asks for a revision in her City work schedule. The supervisor, after speaking with Human Resources, informs the employee that she must continue to work her regular work schedule. The employee must give precedence to her City job and should inform the store Manager that she cannot work the additional days.

Policies and Procedures Manual, Chapter 8

XXI. Personal Conduct

- A. Employees are expected to conduct themselves at all times in a manner that brings credit to the City. This includes:
 - 1. Providing a full day's work for a full day's pay and performing those duties to the employee's best efforts.
 - 2. Providing all employees, stakeholders, residents, and others doing business with the City with Empathetic, Thoughtful, Honest, Intelligent, and Caring Service.
 - 3. Working with all parties in a professional and equitable manner. Employees shall not discriminate in any way on the basis of race, color, religion, sex, age, national origin, veteran status, handicap, marital status, disability, sexual orientation, or any other bias.
 - 4. Dressing appropriately for the position hired.
 - 5. Demonstrating common sense, professionalism, productive effort that promotes public acceptance for city employee and organizational effort.

6. Participating in off-duty activities that will not result in publicity that harms the City.

Example: An employee is assigned to visit a local retail store to purchase supplies for a City event. While paying for the merchandise the employee notices that the clerk has overcharged for the purchase. The employee becomes very agitated and starts screaming at the clerk, saying “I work for the City of Avondale and I don’t have to put up with this horrible service”. The employee goes on to swear at the clerk. This behavior is inappropriate and brings discredit to the City.

Policies and Procedures Manual, Chapter 9

XXII. Political Involvement in the Community

- A. Employees are encouraged to exercise the right to be active members of the community at large in such a manner that is lawful and ethical.
- B. An employee’s involvement in the community shall be positive and reflect well on the City.
- C. Participating in City Council campaigns is strictly prohibited by the City Charter.
- D. Political activity at any other level of government shall comply with the applicable laws that govern that activity.

Example: A local city council candidate asks an employee to help place election signs at various corners and vacant lots in the City to publicize the candidate’s re-election campaign. The employee declines and immediately reports the incident to the City Manager. This could be considered an election violation with possible consequences faced by the candidate.

Policies and Procedures Manual, Chapter 12

XXIII. Productive Work Effort

- A. Employees are expected to perform assigned work effectively and efficiently.
- B. Deliberate misuse of time and not accounting for that time properly is an unethical acceptance of compensation from the City.
- C. Leave is provided in order for employees to ethically account for time periods when work cannot be performed to meet the weekly compensation for work performed.

Example: An employee works at a desk from 8:00 a.m. – 5:00 p.m. in an office. After taking a full lunch, the employee shuts the door and takes a nap for 45 minutes. The employee leaves at 5:00 p.m. and claims a full day of work. Sleeping on the job is not considered productive work.

Policies and Procedures Chapter 5

XXIV. Rumors and Gossip

- A. A rumor is defined as a circulated story, report, or statement without facts to confirm its

truth.

B. Gossip is defined as conversation about personal or intimate rumors or facts, especially when malicious.

C. Rumors and gossip are not accepted in the workplace.

Example: Disciplinary actions, including terminations, and the reasons why an action was taken are not discussed by Human Resources personnel or the responsible supervisors to ensure the confidentiality of the affected employee is maintained. Initiating or spreading rumors creates an unhealthy work environment. Gossiping about a fellow employee is disrespectful and unprofessional, as well as a waste of City time. Repeated incidences of such behavior will result in disciplinary action.

XXV. Sick Leave

A. Sick leave is an approved period of absence granted to an employee due to:

1. ~~Illness~~ Illness, injury, or other medical condition which renders of the employee unable to fulfill his or her duties.
2. Illness, injury, medical condition evaluation or procedure, or treatment for a medical condition for a member of the employee's immediate family, as defined as parent, sibling, in law, grandparent, or legal dependent. in Chapter 6.
3. Improper reporting of sick leave is not allowed and could lead to disciplinary measures, including termination.
4. Frequent use of sick leave may lead to the City requesting medical verification for illness as described in the policies and procedures.
5. Sick leave is an employee benefit that involves compensating employees monetarily for missed work days either by
 - a. ensuring that compensation continues for the duration of sick leave, or,
 - b. if unclaimed, a reimbursement of sick leave for monetary gain for the employee at the time of retirement based upon the number of hours sick leave accumulated and the number of years a person has worked for the City.

Example: An employee calls in sick for the day and goes out golfing instead. This is an improper use of City time.

Policies and Procedures Manual, Chapter 6

XXVI. Undue Influence on Subordinates

A. Supervisors and managers are expected to engage in the highest level of professional behavior when dealing with employees whom they supervise.

- B. Favored treatment due to personal friendships will not be tolerated.
- C. Supervisors should not exert verbal or non-verbal pressure on subordinates to grant personal favors and complete requested work while off duty, nor should they request monetary favors or contributions.

Example: A supervisor requests that his subordinate helps with a charity event during a Saturday night. The supervisor hints that it may lead to a favorable performance review, and implies that not helping will lead to an unfavorable review. This action needs to be reported to the Ethics Standards Committee.

Policies and Procedures Manual, Chapter 9

XXVII. Use of City Equipment

- A. Employees will only use City-owned equipment for City-related work.
- B. City equipment is not available for personal/private use by employees.
- C. Employees will be fully trained in the use of all City equipment that pertains both directly and indirectly to the performance of their duties.

Example: Landscaping tools are used by a grounds employee to landscape his own home over the weekend. This is unethical and improper use of city equipment for personal benefit. Disciplinary action will be taken against the employee.

Policies and Procedures Manual, Chapter 10

XXVIII. Use of City Logo

- A. Use of the City logo or name is for City purposes only.
- B. Clothing bearing the City of Avondale name or logo shall be worn only for official City purposes or business and shall not be worn while consuming alcoholic beverages.

Example: A group of employees forms a softball team and finds a sponsor to support the team's purchases for softball, bats, and T-shirts. The sponsor requests a letter of request on City letterhead to send it to its corporate offices to honor the request. The team captain explains to the sponsor that this team does not represent the City of Avondale. He drafts the letter instead on plain paper to distinguish this activity from official city business.

Policies and Procedures Manual, Chapter 10

XXIX. "The Ethics Test"

- A. When you face a situation that causes YOU to question your ethical conduct, ask yourself these questions:
 - How does this situation make me feel about myself?
 - How would my family react to knowing about this and my role/decision?

- Would it pass the “headline test?” How would the community react?
- How does the decision and my proposed action align with the City’s mission and values?
- Will it violate a law or a City policy?
- Is my action or potential outcome/solution balanced? Will it be fair to all concerned?
- How will this affect other decisions I may be called upon to make in the future?
- Could I disclose, without reservations, my decision or action to my family, my peers, my superiors, or the community?

B. When you observe a situation or the actions of OTHERS that cause you to question their conduct, ask yourself these questions:

- Have I defined the ethical question/problem accurately?
- How would I define it if I stood on the other side of the fence or if I placed myself in the other’s situation?
- Can I discuss this with the affected parties before I bring it to the attention of my supervisor?
- What is my intent in making the decision to alert my supervisor?
- What result or outcome do I expect to achieve to resolve the problem?
- How do these results compare with my intent in bring this to the attention of my supervisor?
- Could my decision or action unfairly injure someone or something?

XXX. Where To Go For Help

- A. If an employee is unsure of what the “right thing to do” is, he/she should first seek the guidance of the supervisor to determine the right course of action.
- B. If an employee determines that ethical guidance will be compromised by seeking out his or her supervisor or department director, employees may contact the Human Resources department or the Ethics Standard Committee for advice and direction.
- C. The Ethics Standards Committee shall include the following members as appointed by the City Manager:
 - Human Resources Director, (Committee Chair)
 - Assistant City Manager
 - Finance and Budget Director
 - Two members at-large
- D. If ethical guidance is sought, the Ethics Standards Committee shall recommend a course of

action for the individual(s) making an inquiry.

1. All decisions shall be forwarded to the City Manager for final approval.
 2. Decisions made by the Ethics Standards Committee and approved by the City Manager shall be recorded and shall be used as a guide when determining future cases.
- E. Employees wishing to discuss and/or report unethical behavior/problems or issues are encouraged to contact the Human Resources Department.
1. An employee may request his or her supervisor present the issue on the employee's behalf.
 2. **Issues that are reported from an anonymous source will not be accepted for review.**
 3. To the extent possible, information provided will be held in the strictest of confidence.
- F. The City of Avondale is committed to ethically-driven customer service. Contact the Human Resources Department (623-333-2200) if you wish to initiate a report.