

RULE 2

STATEMENT OF PRINCIPLES

SECTION 1: COMMITMENT TO EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION

A. Commitment to Equal Employment Opportunity/Affirmative Action (EEO/AA)

EEO/AA has been, and will continue to be, the policy of the City of Sierra Vista.

It is the City of Sierra Vista's policy to provide equal employment opportunity and to comply with the principles of affirmative action regarding employment practices of protected group minorities and females.

The City will endeavor to provide equal opportunity in employment for all persons regardless of race, color, sex (to include lesbian, gay, bi-sexual, or transgendered (LGBT)), age, religion, national origin, disability, marital status, or genetic information. To achieve this objective, the City has adopted this EEO/AA Policy. The policy includes specific, result-oriented activities designed to eliminate the under-representation of women and minorities in specific job categories and the City's total work force. The program and its results will be reviewed annually and revised as appropriate.

This EEO/AA policy will be extended to all persons in all aspects of the employer-employee relationship, including recruitment, hiring, upgrading, training, promotion, transfer, discipline, layoff, recall and termination.

In keeping with this policy, the City will continue to recruit, hire, train and promote into all job levels the most qualified persons without regard to race, color, sex (to include lesbian, gay, bi-sexual, or transgendered (LGBT)), age, religion, national origin, disability, marital status, or genetic information. Similarly, all other personnel matters such as compensation, benefits, transfers, layoffs, City-sponsored training, education, tuition assistance and social and recreational programs will continue to be administered in accordance with the City's EEO/AA policy.

Employment decisions are based on objective standards so much as possible in the furtherance of EEO/AA.

B. Dissemination of Policy

1. Internal Dissemination

The City will continue to make its EEO/AA policy known internally by:

- a. Including the policy in the City's Personnel Rules and Regulations.
- b. Publicizing the policy in the City's internal publications.

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- c. Conducting special meetings with executive, management and supervisory personnel to explain the intent of the policy and individual responsibilities for effective implementation.
- d. Explaining the policy thoroughly in employee orientation and management training programs. The orientation process shall include an explanation of employee rights and of grievance or appeal procedures.
- e. Meeting with the Executive Committee of the Sierra Vista Employees' Council to discuss the policy and request their continued cooperation.
- f. Posting the policy on the City's intranet site available to all employees.
- g. Picturing both minority and non-minority men and women in publications in which employees are featured.
- h. Making current employees aware of the existence of the City's EEO/AA policy, employee rights and grievance or appeal procedures.

2. External Dissemination

The City will continue to disseminate its policy externally by:

- a. Informing all recruiting sources verbally and in writing of City policy, stipulating that these sources actively recruit and refer minorities and women for all positions listed.
- b. Incorporating the City's EEO/AA policy in all purchase orders, leases and contracts.
- c. Sending written notification of the City's policy to minority and women's organizations, community leaders, and secondary schools and colleges.
- d. Informing prospective employees of the existence of the City's EEO/AA policy and the benefits, if any, which may be available to them under the policy.
- e. Showing both minority and non-minority men and women when employees are pictured in a general portrayal of City operations or in help-wanted advertisements.

C. Responsibilities for Implementation

The City Manager has the overall responsibility for implementation of the City's EEO/AA policy. The coordination of responsibilities for the implementation of the policy has been assigned to the Human Resources Manager, who is also designated as the City's EEO Coordinator, and who has the full support of the City Manager, Mayor and City Council. The City Manager will designate the City's EEO Specialist. The EEO Specialist will make recommendations to the City Manager and work closely with the EEO Coordinator.

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1. Duties of the EEO Coordinator
 - a. Develop policy statements, EEO/AA programs and internal and external communication techniques.
 - b. Assist Department Directors, Managers, and Supervisors (line management) in arriving at solutions to EEO/AA problems.
 - c. Design and implement auditing and reporting systems that: measure the effectiveness of the City's EEO/AA programs, indicate any need for remedial action, and determine the degree to which the City's goals and objectives are being attained.
 - d. Serve as liaison between the City and Federal, State and local EEO enforcement agencies.
 - e. Keep City Manager informed of the latest developments in the EEO/AA area.
 - f. Meet with line management to make certain that the City's EEO/AA policy is being followed.
 - g. Inform all supervisors that their individual work performance is being evaluated on the basis of their EEO/AA efforts and results, as well as other criteria.
 - h. Make recommendations to the City Manager for the implementation of reasonable goals and timetables to address the under utilization of minorities, females and disabled persons.
 - i. Responsible for providing training in such job-related areas as job discrimination, sexual harassment, etc.
2. Duties of the EEO Specialist
 - a. Assist employees in arriving at solutions to EEO/AA problems.
 - b. Keep the City Manager informed of the latest developments in the City's EEO/AA problems.
 - c. Assist the EEO Coordinator in the identification of problem areas.
 - d. Assist in preventing harassment of employees placed through AA efforts.
 - e. Review policy statements, EEO/AA programs and internal communication techniques periodically and make recommendations to the City Manager for improvement.
 - f. Serve as liaison between the City and minority organizations, women organizations and community action groups concerned with employment opportunities of minorities and women.

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- g. Determine the degree to which the City's goals and objectives are being attained.
 - h. Review and submit recommendations to the City Manager on in-house training programs and improving promotional opportunities.
 - i. Provide advice and monitor Human Resources Division as it relates to classification standards and to certify employment applications to eliminate non-bona fide discriminatory occupational qualification standards.
3. Duties Shared by EEO Coordinator and EEO Specialist
- a. Assist Directors, Managers, and Supervisors in arriving at solutions to EEO/AA problems.
 - b. Serve as liaison between the City and minority organizations, women organizations and community action groups concerned with employment opportunities for minorities and women.
 - c. Meet with line management to make certain that the City's EEO/AA policy is being followed.
4. Duties of Department Directors, Managers and Supervisory Staff
- a. Assist the EEO Coordinator in the identification of problem areas and in the establishment of department goals and objectives.
 - b. Perform periodic audits of training programs and hiring and promotion patterns to isolate impediments to the attainment of goals and objectives.
 - c. Meet with employees to be certain the City's policies are being followed.
 - d. Review the qualifications of all employees to ensure that minorities and women are given full opportunity for transfers and promotions.
 - e. Provide career counseling for all employees.
 - f. Perform periodic audits to ensure that EEO posters are properly displayed and that all facilities which the City maintains for the use and benefit of its employees are in fact desegregated, both in policy and use, and that any facilities such as dormitories, locker rooms and rest rooms are comparable for both sexes.
 - g. Encourage minority and female employees to participate in City-sponsored educational, training, recreational and social activities.
 - h. Understand that their work performance is being evaluated on the basis of the effects and results of their EEO/AA efforts, as well as other criteria.
 - i. Prevent harassment of employees placed through affirmative action efforts.

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D. Reporting and Internal Auditing System

As stated previously, the EEO Coordinator is responsible for the implementation of the auditing and reporting system. This system is monitored on an annual basis. The reporting and auditing system should:

1. Maintain and monitor accurate and up-to-date records on all referrals, applicants, hires, promotions, transfers and terminations by race and sex to be certain that all employees are treated on a fair and equitable basis.
2. Require formal reports from Department Directors on a scheduled basis that indicate the degree to which City goals are attained and timetables are met.
3. Review all selection, promotional and training procedures to ensure that they are nondiscriminatory.
4. Inform the City Manager, on an annual basis, of the effectiveness of the policy and recommendations for improvements, if necessary.

E. Compliance with Discrimination Guidelines

It has been and continues to be the policy of the City of Sierra Vista not to discriminate on the basis of race, color, sex (to include lesbian, gay, bi-sexual, or transgendered (LGBT)), age, religion, national origin, disability, marital status, or genetic information (except where age is a bona fide occupational qualification.)

1. Discrimination is defined as the differential treatment of members of the organization on the basis as defined above. Examples in employment include, but are not limited to:
 - a. access to employment
 - b. hiring and promotion
 - c. compensation
 - d. job assignments
 - e. training opportunity
 - f. fringe benefits
 - g. leaves of absence
 - h. labor organization contracts or professional agreements

Discrimination and the associated behaviors as stated, but not limited to the stated examples, are unacceptable within the workplace and during off duty hours sponsored events/activities.

2. Complaint Procedures:

Persons who have complaints of discrimination as defined in this policy may make a complaint in writing with any of the following:

Immediate Supervisor
Division Manager

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Department Director
Human Resources Manager
City Manager
EEO Specialist
Employee Council Representative

3. Complaint Rights:

Complainants who exercise their right to use this procedure agree to accept the conditions outlined herein and in Rule 14, "Appeal to Hearing Officer."

4. Timing of Complaint:

Any complaint must be filed with designated officers within 90 working days of last alleged discrimination. All other time periods may be reasonably extended by the City Manager.

5. Withdrawal of Complaint:

The complainant may withdraw the complaint at any point during the investigation or prior to the adjournment of a formal hearing.

6. Confidentiality of Proceedings and Records:

Except as otherwise prescribed by law, investigators and those designated as prescribed in this policy are individually charged to preserve confidentiality with respect to any matter investigated or heard. A breach of the duty to preserve confidentiality is considered a serious offense and will subject the offender to appropriate disciplinary action.

All records, involving discrimination, upon disposition of a complaint, shall be transmitted to and maintained by the Human Resources Manager as confidential records except to the extent disclosure is required by law.

7. Discrimination Complaint Process:

When an employee alleges that his/her rights have been violated due to race, color, sex (to include lesbian, gay, bi-sexual, or transgendered (LGBT)), age, religion, national origin, disability, marital status, or genetic information, the following procedure will apply:

- a. Any person listed under Section 1, Subsection E-2, Complaint Procedures of this rule who receives a complaint of discrimination must notify the Human Resources Manager immediately.
- b. If the complaint is received by the immediate supervisor, after conferring with the Human Resources Manager, the supervisor shall attempt to resolve the complaint informally. If the supervisor is unable to resolve the issue, the complaint will be referred to the Human Resources Manager.

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- c. Upon notification of a complaint, the Human Resources Manager shall conduct an investigation to determine if there is any merit for a formal complaint to be filed.
- d. The EEO Specialist will assist the Human Resources Manager with all investigations.
- e. If no merit is found, the supervisor and Human Resources Manager may meet with the parties involved to conciliate the complaint. If no conciliation of the preliminary complaint can be achieved, the Human Resources Manager will render a written notification to the complainant that discrimination was unfounded.
- f. If, after receiving the formal answer from the Human Resources Manager, the employee still does not feel the complaint is satisfactory resolved, the employee may within seven (7) calendar days of the date of the formal answer, appeal in writing to the Hearing Officer, appointed by the Mayor and City Council, for a hearing on the issue. See Rule 14, "Appeal to Hearing Officer."

8. Satisfactory Resolution:

If a resolution satisfactory to the City, the complainant, and the respondent is reached through the efforts of the Human Resources Manager, the Human Resources Manager shall prepare a written statement indicating the resolution. The Human Resources Manager, as a representative for the City, the complainant, and the respondent will attest to the resolution by signature. At that time the investigation and the record thereof shall be closed.

9. Disciplinary Action:

Any employee, regardless of position, who engages in discriminatory behavior as described herein will be subject to disciplinary action up to and including termination.

If harassment is determined to have occurred, the Human Resources Manager shall recommend to the City Manager effective remedial action against the respondent. The action will be commensurate with the severity of the offense.

Reprisal and/or Retaliation:

Making reprisals, threats of reprisal, or implied threats of reprisal following a rebuff or discriminatory behavior within the work place includes implying or actually withholding support for an appointment, promotion or change of assignment; submitting or threatening to submit an undeserved performance report; or failing or threatening to fail the probationary period.

Retaliation in any manner against a person for filing a harassment charge is expressly prohibited and subject to disciplinary action. The City will take

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reasonable steps to protect the victim and other potential victims from further harassment or retaliations as a result of communicating the complaint.

F. Compliance with Guidelines on Discrimination Because of Religion or National Origin

The City does the following to ensure that all applicants and employees are not discriminated against because of religion or national origin:

1. EEO/AA Policy and Practices

- a. City communicates its obligation to provide EEO without regard to religion or national origin to all employees, including executives, managers and supervisors.
- b. Internal procedures exist at the City to implement EEO without regard to religion or national origin.
- c. The City periodically informs all employees of its commitment to EEO without regard to religion or national origin.
- d. Recruitment sources are informed of the City's intent to provide EEO without regard to religion or national origin.

2. Accommodations to Religious Observance and Practice

The City accommodates the religious observances and practices of employees or prospective employees except where such accommodation causes undue hardship on the conduct of the City's business. The extent of the City's obligation is determined by considering business necessity, financial costs and expenses, and resulting personnel problems.

3. Nondiscrimination

In implementing its EEO policy regarding nondiscrimination because of religion or national origin, the City does not discriminate against any qualified employee or applicant for employment because of race, color, or sex (to include lesbian, gay, bi-sexual, or transgendered (LGBT)).

G. Current Program

The City shall pursue activities to ensure its compliance with the principles and policies of EEO/AA in its selection processes and take aggressive steps in recruiting and providing promotional opportunities.

1. Selection Process

In an effort to further the City's goals to recruit and hire minorities and females:

- a. The City shall annually conduct a comprehensive classification and compensation study for all positions. In the course of the study, all positions

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will be reviewed and if necessary, new descriptions written. These descriptions should accurately reflect position and function and be consistent for the same position from one location to another.

- b. With the completion of the study, the City will validate the minimum qualifications for each job classification using only job performance criteria. These specifications are nondiscriminatory with respect to race, color, sex (to include lesbian, gay, bi-sexual, or transgendered (LGBT)), age, religion, national origin, disability, marital status, or genetic information (except where age is a bona fide occupational qualification). Specifications for a particular job are consistent in all locations.
- c. These validated position descriptions and minimum qualifications are available to all members of management involved in the recruiting, screening, selection and promotion process. Copies of position descriptions and minimum qualifications for job openings are available to all recruiting sources.
- d. All other City selection processes are continually monitored and evaluated to ensure nondiscrimination. All personnel who participate in any part of the selection processes receive ongoing training to ensure that these processes remain nondiscriminatory. In addition, the City observes the requirements of the Uniform Guidelines on Employee Selection Procedures and audits all unscored selection procedures to ensure objectivity.

2. Recruitment

The City has little turnover and therefore, fewer opportunities to increase the flow of minority and female applicants than other employers may have. However, when vacancies occur, the City will continue to attempt to increase the number of qualified minority and female applicants through the use of the following techniques:

- a. Contact minority groups, professional women's organizations and organizations for the handicapped for referrals, and to encourage qualified members of these groups to apply for City employment.
- b. Actively encourage minority and female employees to refer applicants.
- c. Make minority and female employees available for participation in Career Days, Youth Motivation Programs, and related activities in the community.
- d. Participate actively in local job fairs.
- e. Carry out active recruiting programs at secondary schools, junior colleges, and colleges with predominantly minority or female enrollment.
- f. Make a special effort at schools to recruit minorities and women.
- g. Whenever possible, undertake special employment programs such as

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technical and non-technical co-op programs with predominantly minority and women's colleges.

- h. Develop after school and/or work-study jobs for minority youths.
- i. Develop summer jobs for underprivileged youths.
- j. Advertise vacant positions on a regular basis in minority and women's interest media in the appropriate labor market.
- k. Make a special effort to hire qualified minorities and women in job groups where they are underrepresented.

3. Promotions

The City does the following to ensure that minority and female employees have equal opportunity for all promotions:

- a. Promotional opportunities are posted or announced.
- b. Formal employee evaluation programs are provided.
- c. Worker specifications are validated based on job performance related criteria.
- d. Informal career counseling is provided to all employees during the performance appraisal process.

4. Welfare

The City continues to ensure desegregation and equal opportunity in Employee Welfare programs:

- a. The City's facilities and social and recreation activities are desegregated. All employees are encouraged to participate in City sponsored activities.
- b. Employee benefits are available to all eligible employees and are offered without regard to race, color, sex (to include lesbian, gay, bi-sexual, or transgendered (LGBT)), religion or national origin.

H. Goals and Activities to be Under-taken for Program Improvement

1. Applicant Flow Data

- a. The City will retain, for reporting and statistical purposes, the following data on all qualified applicants:
 - a. Race/Color
 - b. Sex
 - c. Physical Handicap

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- d. Position Applied For
 - a. The form used to gather this data will clearly state that the information is for statistical purposes only and will be stored separately from the application.
2. Improve Potential for Promotion
 - a. Supervisory personnel submit written justification for all candidates interviewed, indicating reasons for the selection and non-selection of those candidates.
 - b. Inform all minorities and females of the existence of the newly developed career ladders and provide periodic counseling to employees on how to prepare for promotion.
 - c. Begin the development of an inventory of the skills, academic and experience level of current and future minority and female employees in order to evaluate potential for promotion.
 - d. Provide employees with opportunities to participate in education and training programs to enhance their potential for advancement.
3. Evaluate Training Programs

Maintain records on all training programs for City employees, both on-site and away from the workplace, to determine if minorities or women are underutilized or significantly underrepresented in these programs.
4. Community Action Programs

Expand the City's involvement in and support for community action programs.

 - a. Selected City employees will actively participate in appropriate programs designated to enhance the employment opportunities of minorities and females.
 - b. The targeted community action programs will be selected by City Manager upon the recommendation of the EEO Coordinator.
5. Validation of Employment Tests and Procedures
 - a. Maintain records of all applicants who take City employment tests to determine if minorities and females are eliminated from consideration for employment in significantly higher percentages than non-minorities or males.
 - b. Continue to validate employment tests and procedures to ensure compliance with the requirements of the Uniform Guidelines on Employee Selection Procedures.
6. Increasing Representation of Minorities and Women in the City's Workforce

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Because of the relatively small size of the City's workforce and the limited number of employees in each job group, most instances of under utilization would be corrected by increasing employment of the appropriate protected class by one person over the current level of employment. Minorities and females would need to be increased by one or more employees to achieve acceptable utilization levels.

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SECTION 2: HARASSMENT

A. Purpose

The purpose of this policy is to clearly establish the City's commitment to provide a work environment free of unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct or communications constituting harassment as defined and otherwise prohibited by federal and state law.

This policy applies to all terms and conditions of employment, including, but not limited to, hiring, placement, promotion, disciplinary action, layoff, reinstatement, transfer, leave of absence, compensation and training.

B. Definition of Harassment

Harassment may be based on a person's race, color, national origin, citizenship, religion, gender, marital status, sexual orientation, age, disability, or any other characteristic protected by law.

Harassment is defined as conduct that interferes with an employee's work performance or that creates an intimidating, hostile or otherwise offensive work environment.

Sexual harassment is defined as unwanted physical, verbal or visual sexual advances, requests for sexual favors, or other sexually oriented conduct that is offensive or objectionable to the recipient.

For purposes of clarification, harassment includes, but is not limited to, the following behaviors:

1. Verbal and/or Written Harassment

Epithets, derogatory comments, explicit or implied threats, sexual propositions, slurs or otherwise offensive words or comments on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, pregnancy, sexual orientation, gender or age, whether made in general, directed to an individual, or to a group of people regardless of whether the behavior was intended to harass. This includes inappropriate sexually oriented comments on appearance, including dress or physical features, or race or sex-oriented stories.

2. Physical Harassment

Assault, impeding or blocking movement, or physical interference with normal work or movement when directed at an individual on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, pregnancy, sexual orientation, gender or age. This includes pinching, patting, grabbing, leering, and promises in return for submission to physical acts.

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3. Visual Forms of Harassment

Derogatory, prejudicial, stereotypical or otherwise offensive posters, photographs, cartoons, notes, bulletins, drawings or pictures on the basis of race, religious creed, color, national origin, ancestry, disability medical conditions, marital status, pregnancy, sexual orientation, gender or age. This applies to both posted material or material maintained in or on City equipment or personal property in the workplace.

4. Reprisal and/or Retaliation

Making reprisals, threats of reprisal, or implied threats of reprisal following a rebuff or harassing behavior within the work place, includes implying or actually withholding support for an appointment, promotion or change of assignment; submitting or threatening to submit an undeserved performance report; or failing or threatening to fail the probationary period.

Retaliation for having reported or threatened to report harassment; continued expressions of sexual interest after being informed that the interest is unwelcome; engaging in explicit or implicit coercive sexual behavior within the work place which is used to control, influence or affect an individual's performance; a pattern of conduct that would cause discomfort and/or humiliation to a reasonable person at whom the conduct was directed; the pattern of conduct could include one or more of the following: unnecessary touching, patting, hugging or brushing against a person's body; remarks of sexual nature about a person's clothing or body; or remarks about sexual activity or speculations about sexual experiences.

Harassment and the associated behaviors as stated, but not limited to the stated examples, are unacceptable within the workplace and during off duty hours sponsored events/activities.

C. Complaint Procedure

Persons who have complaints alleging harassment may make a complaint orally or in writing with any of the following:

Immediate Supervisor
Division Manager
Department Director
Human Resources Manager
City Manager
EEO Specialist
Employee Council Representative

1. Complainant Rights:

Complainants who exercise their right to use this procedure agree to accept the conditions as outlined herein and under Rule 14, "Appeal to Hearing Officer."

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2. Timing of Complaint:

Any complaint must be filed with designated officers within 90 working days of alleged harassment. It is encouraged that any offensive form of harassment should be reported immediately. All other time periods may be reasonably extended by the City Manager.

3. Withdrawal of Complaint:

The complainant may withdraw the complaint at any point during the investigation or prior to the adjournment of a formal hearing.

4. Confidentiality of Proceedings and Records:

Except as otherwise prescribed by law, investigators and those designated as prescribed in this policy are individually charged to preserve confidentiality with respect to any matter investigated or heard. A breach of the duty to preserve confidentiality is considered a serious offense and will subject the offender to appropriate disciplinary action.

All records, involving discrimination or harassment, upon disposition of a complaint, shall be transmitted to and maintained by the Human Resources Manager as confidential records except to the extent disclosure is required by law.

5. Complaint Process:

When an employee alleges that his/her rights have been violated due to race, color, religion, sex (to include lesbian, gay, bi-sexual, or transgendered (LGBT)), national origin, age, marital status or physical handicap, the following procedures will apply:

- a. Any person listed under Section 2, Subsection C who received a harassment complaint must notify the Human Resources Manager immediately.
- b. If the complaint is received by the immediate supervisor, after conferring with the Human Resources Manager, the supervisor shall attempt to resolve the complaint informally. If the supervisor is unable to resolve the issue, the complaint will be referred to the Human Resources Manager.
- c. Upon notification of a harassment complaint, the Human Resources Manager shall conduct an initial investigation to determine if there is any merit for a formal complaint to be filed.
- d. The EEO Specialist will assist the Human Resources Manager with all investigations.
- e. If no merit is found, the supervisor and Human Resources Manager may meet with the parties involved to conciliate the complaint. If no conciliation of the preliminary complaint can be achieved, the Human Resources Manager

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will render a written notification to the complainant that the allegation was unfounded.

- f. If after receiving the formal answer from the Human Resources Manager, the employee still does not feel the complaint is satisfactorily resolved, the employee may within seven (7) calendar days of the date of the formal answer, appeal in writing to the Hearing Officer (See Rule 14, "Appeal to Hearing Officer")

6. Satisfactory Resolution:

If a resolution satisfactory to the City, the complainant, and the respondent is reached through the efforts of the Human Resources Manager, the Human Resources Manager shall prepare a written statement indicating the resolution. The Human Resources Manager as a representative for the City, the complainant, and the respondent will attest to the resolution by signature. At that time the investigation and the record thereof shall be closed.

7. Disciplinary Action

Any employee, regardless of position, who engages in harassing behavior as described herein will be subject to disciplinary action up to and including termination.

If harassment is determined to have occurred, the Human Resources Manager shall recommend to the City Manager effective remedial action against the harasser. The action will be commensurate with the severity of the offense.

D. Retaliation

Retaliation in any manner against a person for filing a harassment charge is expressly prohibited and subject to disciplinary action. The City will take reasonable steps to protect the victim and other potential victims from further harassments or retaliations as a result of communicating the complaint.

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RULE 2 STATEMENT OF PRINCIPLES, SECTION 3: SUBSTANCE ABUSE POLICY

A. Substance Abuse Policy

The City of Sierra Vista believes that it is important to promote a drug-free community, to maintain safe, healthy, and efficient operations, and to protect the safety and security of the employees, facilities, and property of the City. Drugs or alcohol may pose serious risks to the user and all those who work with the user. In addition, the use, possession, sale, transfer, manufacture, distribution, and dispensation of alcohol or illegal drugs in the workplace pose unacceptable risks to the maintenance of a safe and healthy workplace and to the security of City employees, facilities, and property. Substance abuse, while at work or otherwise, seriously endangers the safety of employees, as well as the general public, and creates a variety of workplace problems, including increased injuries on the job, increased absenteeism, increased health care and benefit costs, increased theft, decreased morale, decreased productivity, and a decline in the quality of products and services provided by the City. For all of those reasons, the City has established and shall maintain this Substance Abuse Policy and shall notify its employees annually.

B. Scope of Policy

This policy applies to all City employees and to all applicants who have received conditional offers of employment with the City.

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

Employees of the City's Transit System are subject to the Substance Abuse Policy adopted by Administrative Directive including amendments thereto mandated by changes in Federal regulations.

C. Dissemination of Policy

1. All employees will receive a copy of this policy, and will be required to sign an appropriate acknowledgment and receipt.

D. Definitions

1. Illegal Drugs

"Illegal drugs" means:

- a. Any controlled substance listed in schedules I through V of the federal Controlled Substances Act (21 U.S.C. § 812). This includes marijuana, amphetamines, opiates, phencyclidine (PCP), cocaine, and their metabolites. Illegal drug shall not include medical marijuana, see D(3).

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- b. Medication, or other chemical substance that is not legally obtainable. This may include any drug not approved for medicinal use by the US Drug Enforcement Administration or the US Food and Drug Administration.
- c. Medication, or other chemical substance that is legally obtainable, but is not legally obtained, is not being used legally, or is not being used for the purpose(s) for which it was prescribed or intended by the manufacturer. "Illegal drugs" may include over-the-counter medications not used for the purpose(s) for which they were intended by the manufacturer.

2. Legal Drugs

"Legal Drugs" means prescribed or over-the-counter drugs that are legally obtained by the employee and used for the purpose(s) for which intended by the manufacturer or prescribed by a doctor.

3. Medical Marijuana

Medical marijuana is any marijuana used or possessed in strict compliance with A.R.S. 36-2801 et.seq (The Arizona Medical Marijuana Act) and all associated regulations.

4. Alcohol

"Alcohol" means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols, and includes any medication, food or other alcohol-containing products.

5. City Property

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

6. On Duty

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

Personal time while on City-authorized travel (not eligible for pay from the City and not eligible for workers compensation benefits) does not qualify as 'on duty.'

E. Work Rules

1. Substance Abuse by Employees

a. Alcohol

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

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Employees may not work or report to work with detectable levels of alcohol in their system that would result in a Blood Alcohol Content (BAC) level of 0.02 or greater. Employees who violate either of these rules will be subject to immediate dismissal.

The City Manager may make an exception to this rule for certain business or social functions sponsored or approved by the City.

b. Illegal Drugs

Employees may not possess, use or be under the influence of illegal drugs while on duty, while on City property, or while operating City equipment, machinery, or vehicles.

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

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

Employees who violate any of these rules will be subject to immediate dismissal.

c. Legal Drugs/Over-the-Counter Medication

Employees are prohibited from reporting to work after using over-the-counter or prescription medications that may pose a safety risk or impair job performance. Employees should discuss potential side effects of medications with their medical provider. Any employee who has reason to believe that their legal use of prescribed drugs or over-the-counter medications may pose a safety risk to any person or impair job performance, must immediately report such to his or her supervisor. The City shall then determine whether any work restriction or limitation is necessary. Failure to report the legal use of a drug or over-the-counter medication that may pose a safety risk or impair job performance could result in disciplinary action.

d. Medical Marijuana

Employees may not work while under the influence of medical marijuana.

Employees may not possess or use medical marijuana on the City's premises, in City vehicles, or at any other location during the employees' work hours.

The following employee groups may not work or report to work with a detectable level of medical marijuana or its metabolite in their system:

1. Employees required to maintain a Commercial Driver's License (CDL).

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2. Employees subject to federal grant restrictions or other federal requirements requiring that the employee not use any drug listed in schedules I-V of the Federal Controlled Substances Act.
3. Safety-sensitive positions designated by the City of Sierra Vista where being under the influence of alcohol and/or drugs may pose a threat to the City's overall ability to safely and effectively deliver services to the public and to the safety and well-being of employees, coworkers, or any other person. Examples, while not all inclusive, may include any position that requires the employee to carry a firearm, perform life saving procedures, work with controlled substances, or any position in which a momentary lapse in attention could result in injury or death to the employee or another person.

e. Police Department Personnel

An employee of the Police Department may in the capacity of his/her position be exempt from this section for a specific job assignment. For example, transport of alcohol or illegal drugs as evidence.

2. Criminal Drug Convictions

Any employee who is convicted of violating any criminal drug statute will be subject to discipline up to and including immediate discharge.

Employees who are convicted of any federal, state or local crime involving controlled substances shall notify their immediate supervisor within five (5) days of conviction. Failure to notify is in itself grounds for dismissal.

3. Inspection Of Property, Equipment, And Vehicles

All City property, equipment, and vehicles are subject to inspection by the City.

Employees who fail to cooperate with inspections under this policy will be subject to discipline, up to and including immediate discharge.

F. Drug and Alcohol Testing

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

1. Pre-Employment, Promotion, Transfer and Demotion Testing

All full-time and part-time applicants, including current City employees, who have received conditional offers of employment with the City involving safety-sensitive functions or working closely with children, will be required to undergo drug testing as a condition of employment. The drug test must be conducted within thirty-six (36) hours of notification (excluding weekends). An extension may be granted by the City Manager, or his designee, for extenuating circumstances.

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2. Reasonable Suspicion Testing

Employees will be subject to testing when the City has reasonable suspicion to believe the employee is under the influence of or impaired by alcohol or drugs. This determination will be based on observations by a trained supervisor of employee behavior, speech, body odors, or appearance. Reasonable suspicion testing also includes non-explainable deterioration in an employee's job performance.

Any employee subject to testing for reasonable suspicion will be transported, by the Human Resources Manager or other designated person, to the test facility.

3. Post-Accident Testing

The City requires an employee to undergo drug and alcohol testing after a work-related vehicle accident. An accident is defined as an occurrence associated with the operation of a vehicle in which:

- a. An individual dies;
- b. An individual suffers a bodily injury and immediately receives medical treatment away from the scene of an accident;
- c. One or more vehicles incur disabling damage as a result of the occurrence and are transported from the scene by a tow truck or other vehicle. *Disabling damage*, means damage that precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated, but would have been further damaged if so operated.

The City requires the employee to undergo drug and alcohol testing within two (2) hours, but in no event later than eight (8) hours for the alcohol test and twenty-four (24) hours for the drug testing, after a work-related vehicle accident. The employee is prohibited from consuming alcohol until the post-accident test is completed.

If alcohol or drug testing is not completed within two (2) hours following an accident, the reason will be documented. An employee who fails to test within the timeframe allotted, without justifiable reason, will be considered to have refused the test and subject to immediate discharge. Justifiable reasons include:

1. To be treated for an injury;
2. When directed by law enforcement personnel;
3. To secure emergency response personnel assistance at the accident scene;
4. When directed by the Human Resources Manager or other designated staff.

4. Random Testing

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All employees performing safety-sensitive functions or working closely with children are subject to periodic unannounced drug and alcohol testing on a random selection basis. This includes, but is not limited to, employees required to maintain a Commercial Driver's License (CDL), police officers, and recreation/aquatics personnel.

5. Treatment Program Testing

Any employee who is participating in a chemical dependency treatment program under an employee benefit plan may be required to undergo drug and alcohol testing without prior notice during the evaluation or treatment period and for up to two (2) years following the employee's return to work.

G. Specimen Collection and Testing Procedures for Drugs

1. Specimen Collection Procedures

a. Test Subject Privacy

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

b. Inability to Produce a Specimen

If a potential applicant or employee is unable to produce a urine specimen, they will be given up to 40 ounces of water to drink during a three-hour period. If unable to produce a specimen during the three-hour period, the test will be ruled as a refusal to test unless the potential applicant or employee can provide within seven (7) calendar days medical documentation of a condition that would cause an inability to produce a urine specimen. The City reserves the right to require evaluation by a physician selected by the City. The final determination will be made by the Medical Review Officer (MRO).

c. Dilute Specimen

If a potential applicant or employee specimen is classified as dilute, they will be required to undergo a second test scheduled by Human Resources. If the second test is classified as dilute, the test will be ruled as a refusal to test unless the potential applicant or employee can provide within seven (7) calendar days medical documentation of a condition that would cause an inability to produce a valid urine specimen. The City reserves the right to require evaluation by a physician selected by the City. The final determination will be made by the MRO.

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d. Chain of Custody Procedures

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

2. Specimen Testing Procedures

A split specimen will be tested by laboratories approved to conduct drug and alcohol testing by the U.S. Department of Health and Human Services (SAMHSA, formerly NIDA), the College of American Pathologists, or the State of Arizona.

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

The City will rely only on positive initial screening test results that have been confirmed by gas chromatography/mass spectrometry or other methods of confirmatory analysis provided for by the National Institute on Drug Abuse, the Department of Health and Human Services, or the College of American Pathologists ("confirmatory test"). The results will be reviewed by a MRO.

3. Positive Test Results

The MRO will communicate positive test results to the test subject.

4. Right to Explain Test Results

Any test subject who tests positive on a confirmatory test on any drug test required by the City may:

- a. Request a copy of his or her test result report.
- b. Submit additional information to the MRO, in a confidential setting, to try to explain the confirmed positive test result. If the MRO does not conclude that there is a legitimate medical explanation for the result, including legally prescribed medication, the MRO will report a confirmed positive test to the City.
- c. Request in writing a confirmatory retest of the original sample, at his or her own expense, provided that the MRO must receive the request within seventy-two (72) hours after the test subject has been informed of the confirmed positive test result.

Confirmatory retests requested and paid for by the test subject may be conducted only by laboratories that are properly approved to conduct drug and alcohol testing by the National Institute on Drug Abuse, the Department of Health and Human Services, or the College of American Pathologists.

Upon the City's receipt of a confirmed positive initial test results, the employee will be placed on leave without pay for a period of ten (10) days to

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allow sufficient time to refute the test result by explanation or retesting of the original sample. If the employee successfully refutes the test result or requests a confirmatory retest and the result is negative, the employee will be reinstated immediately with full back pay.

5. Cost of Testing

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

H. Specimen Collection and Testing Procedures for Alcohol

Alcohol testing will be performed using breath testing equipment by a certified Breath Alcohol Technician (BAT). For any initial test > 0.02%, a confirmatory second test will be performed following a minimum fifteen (15) minute wait period, not to exceed thirty 30 minutes.

I. Confidentiality of Test Results

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

J. Consequences of Test Refusal

Employees and applicants may refuse to undergo drug and alcohol testing. However, employees who refuse to undergo testing or who fail to cooperate with the testing procedures will be immediately dismissed. Applicants who refuse to undergo testing or who fail to cooperate with the testing procedures will not be hired and will not be reconsidered for future employment.

K. Consequences of Confirmed Positive Test Results

1. Applicants

Any applicant who tests positive on a drug test required by the City and who does not successfully refute the test results by explanation or retesting of the original sample will not be hired and will not be considered for future employment.

2. Employees

Any employee who tests positive on a confirmatory alcohol test or any drug test required by the City and who does not successfully refute the test results by explanation or retesting of the original sample will be subject to immediate dismissal with no rights to an administrative hearing or post-dismissal appeal to the Hearing Officer.

L. Substance Abuse Treatment

The City regards its employees as its most valuable asset. Accordingly, the City provides help to benefited employees covered by the City's health insurance plan who suffer from substance

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abuse.

No employee will be subject to discipline for voluntarily seeking substance abuse treatment. An employee may not, however, avoid discipline for violating the Substance Abuse Policy by seeking this assistance after the employee is referred for testing pursuant to this policy. In addition, an employee's participation in a substance abuse treatment program will not excuse the employee from being required to meet all of the same standards and qualifications for the job that apply to other employees, including performance, attendance, and other measures.

The City will conduct drug-free awareness programs periodically. These programs will inform employees about the following:

1. The dangers of drug and alcohol abuse in the workplace;
2. The City's policy of maintaining a drug and alcohol-free workplace;
3. Available drug and alcohol counseling, rehabilitation, and employee assistance programs; and
4. The sanctions that may be imposed for drug and alcohol abuse violations.
5. Employees are encouraged to approach their supervisor at any time with any questions they have about the City's Substance Abuse Policy.

SECTION 4: POLITICAL ACTIVITY

A city employee shall not either use any political endorsement in connection with an appointment to a position in the City service or use or promise to use any official authority or influence for the purpose of influencing the vote or political action of any person or for any consideration. Moreover, such employee shall not be a member of any national, state or local committee of a political party, an officer or chairman of a committee of a partisan political club, or a candidate for nomination or election to any paid political office, shall not hold any paid elective public office or shall not take any part in the management or affairs of any political party or in the management of any partisan or non-partisan campaign or recall effort.

Notwithstanding the foregoing, a city employee may:

1. Express his/her opinion.
2. Attend meetings for the purpose of becoming informed concerning the candidates for public office and the political issues.
3. Cast his/her vote and sign nomination and recall petitions.
4. Make contributions to candidates, political parties or campaign committees contributing to candidates or advocating the election or defeat of candidates.
5. Circulate candidate nomination petitions or recall petitions.
6. Engage in activities to advocate election or defeat of a candidate.
7. Solicit or encourage contributions to be made directly to candidates or campaign committees contributing to candidates or advocating the election or defeat of candidates.

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Except for expressing his/her opinion, a city employee shall not engage in any activity permitted by the section while on duty, while in uniform or at public expense.

Nothing contained in this section shall be construed as denying any employee of his/her civil or political liberties as guaranteed by the United States and Arizona Constitutions.

SECTION 5: OUTSIDE EMPLOYMENT/VOLUNTEER SERVICES

Outside employment of full-time personnel shall not be permitted if likely to physically or mentally hamper the employee in his ability to do the job required of him by the City, if it is likely to reflect discredit on the City service or the employee, or if it is in conflict with the Fair Labor Standards Act. Written permission must be obtained from their Department Director prior to beginning outside employment, and forwarded to Human Resources for placement in their personnel file.

Non-exempt City employees may not perform hours of volunteer service for the City of Sierra Vista when the volunteer hours involve the "same type of services" (as defined by the Fair Labor Standards Act) for which the individual is currently employed to perform.