

TITLE I ADMINISTRATIVE

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CHAPTER 1-1: ADOPTION OF OFFICIAL CODE

SECTIONS:

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1-1-1: TITLE:

This compilation and codification of the general ordinances of the City is hereby declared to be and shall hereafter constitute the Official City Code of the City. Any reference to the number of any section contained herein shall be understood to refer to the position of the same under its appropriate title heading, its chapter heading, and its section heading, and to the general penalty clause relating thereto, as well as to the section itself, when any reference is made to this Code by title in any legal document. (1964 Code)

1-1-2: ACCEPTANCE:

This City Code as hereby presented in printed form, shall hereafter be received without further proof in all courts and in all administrative tribunals of this State as the ordinances of a general and permanent effect of the City. (1964 Code)

1-1-3: AMENDMENTS:

Any ordinance amending this Code shall set forth the title, chapter, and section number of the section or sections to be amended, and this shall constitute sufficient compliance with any statutory requirement pertaining to the amendment or revision by ordinance of any part of this Code. All such amendments or revisions by ordinance shall be immediately forwarded to the codifiers and the said ordinance material shall be prepared for insertion in its proper place in each copy of the City Code. Each such replacement page shall be properly identified and shall be inserted in each copy of the City Code within thirty (30) days from the date of its final passage. (1964 Code)

1-1-4: CONSTRUCTION OF WORDS:

Whenever any word in any section of this Code importing the plural number is used in describing or referring to any matters, parties, or persons, any single matter, party, or person shall be deemed to be included although distributive words may not have been used. When any subject matter, party, or person is referred to in this Code by words importing the singular number only, or the masculine gender, several matters, parties, or persons, and females, as well as males, and bodies corporate shall be deemed to be included. The word "person" shall be deemed to include any person, firm, association, or corporation, or any organization of any kind. The words "written" and "in writing" may include printing, provided, that these rules of construction shall not be applied to any section of this Code which contains any express provision excluding such construction or where the subject matter or content may be repugnant thereto. (1964 Code)

1-1-5: DEFINITIONS:

Wherever used in this Code the following words shall have the meanings herein given them. Words prohibiting anything being done, except in accordance with a license or permit or authority from a board or officer, shall be construed as giving such board or officer power to license or permit or authorize such thing to be done.

INTENTIONALLY, WITH INTENT TO, OR WILFULLY: Mean, with respect to a result or to conduct described by an ordinance describing an offense or violation that a person's objective is to cause that result or to engage in that conduct.

KNOWINGLY: Means, with respect to conduct or to a circumstance described by an ordinance defining an offense or violation, that a person is aware or believes that his or her conduct is of that nature or that the circumstance exists. It does not require any knowledge of the unlawfulness of the act or omission.

NEGLECT, NEGLIGENTLY OR NEGLIGENT: Imports a want of such attention to the nature or probable consequences of the act or omission as a prudent man ordinarily bestows in acting in his own concern.

OFFICER: Shall include officers and boards in charge of departments and the members of such boards. Such reference as use of the word "City" shall mean this Municipality. "Clerk" or "Treasurer" and reference to other City officers shall mean the City Clerk, the City Treasurer, or other officer as the case may be applicable.

OWNER: Applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or lessee of the whole or of a part of such building or land.

PERSONAL PROPERTY: Includes every description of money, goods, chattels, effects, evidence of rights in action, and all written instruments by which any pecuniary obligation, right or title to property is created, acknowledged, transferred, increased, defeated, discharged or diminished, and every right or interest therein.

RECKLESSLY: Means, with respect to a result or to a circumstance described by an ordinance defining an offense, that a person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists. The risk must be of such a nature and degree that disregard of such risk constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation.

STREETS: Includes all alleys, lanes, courts, boulevards, public ways, public squares, public places and sidewalks.

TENANT OR OCCUPANT: Applied to a building or land, shall include any person who occupies the whole or any part of such building or land whether alone or with others. (1964 Code; amd. Ord. 1834, 9-23-1986)

1-1-6: INTERPRETATIONS:

In the determination of the provisions of each section of the City Code the following rules shall be observed:

- (A) **Intent To Defraud:** Whenever an intent to defraud is required in order to constitute an offense, it shall be sufficient if an intent appears to defraud any person.
- (B) **Liability Of Employers And Agents:** When the provisions of any section of this Code prohibit the commission of an act, not only the person actually doing the prohibited act or omitting the directed act, but also the employer and all other persons concerned with or in aiding or abetting the said person shall be guilty of the offense described and liable to the penalty set forth. (1964 Code)

1-1-7: PENALTIES:

An act or omission which is made punishable in different ways by different sections of this Code, may be punishable under both but in no event may sentences be other than concurrent, provided that the revocation of a license or

permit shall not be considered as a penalty so as to bar any other punishment being enforced. (Ord. 1834, 9-23-1986)

Whenever the doing of any act or the omission to do any act constitutes a breach of any section or provision of this Code, and there shall be no fine or penalty specifically declared for such breach, the provisions of the general penalty clause shall apply and a separate offense shall be deemed committed upon each day during or on which a breach or violation occurs or continues. (1964 Code)

1-1-8: LIABILITY OF OFFICERS:

No provision of the Official City Code designating the duties of any officer or employee shall be so construed as to make such officer or employee liable for any fine or penalty provided for a failure to perform such duty unless the intention of the Council to impose such fine or penalty on such officer or employee is specifically and clearly expressed in the section creating the duty. (1964 Code)

1-1-9: CORRECTION OF TYPOGRAPHICAL AND GRAMMATICAL ERRORS:

The City Clerk, with the concurrence of the City Attorney, is hereby authorized to correct typographical or grammatical errors in ordinances and resolutions; provided, however, that said corrections may not effect a substantive change in the ordinance or resolution. (Ord. 3730, 2-24-1998)

CHAPTER 1-2: SAVINGS CLAUSE

SECTIONS:

1-2-1: REPEAL OF GENERAL ORDINANCES:

1-2-2: PUBLIC UTILITY ORDINANCES:

1-2-3: PENDING SUITS:

1-2-1: REPEAL OF GENERAL ORDINANCES:

All general ordinances of the City passed prior to the adoption of this Code are hereby repealed, except such as are referred to herein as being still in force or are by necessary implication herein reserved from repeal (subject to the saving clauses contained in the following Section), from which are excluded the following ordinances which are not hereby repealed; tax levy ordinances, appropriation ordinances, ordinances relating to boundaries and annexations, franchise ordinances and other ordinances granting special rights to persons or corporations, contract ordinances and ordinances authorizing the execution of a contract or the issuance of warrants, salary ordinances, ordinances establishing, naming, or vacating streets, alleys, or other public places, improvement ordinances, bond ordinances, ordinances relating to elections, ordinances relating to the transfer or acceptance of real estate by or from the City, and all special ordinances.

1-2-2: PUBLIC UTILITY ORDINANCES:

No ordinance relating to railroads or railroad crossings with streets and other public ways, or relating to the conduct, duties, service or rates of public utilities shall be repealed by virtue of the adoption of this Code or by virtue of the preceding Section, excepting as this Code may contain provision for such matters in which case this Code shall be considered as amending such ordinances in respect to such provisions only.

1-2-3: PENDING SUITS:

No new ordinance shall be construed or held to repeal a former ordinance, whether such former ordinance is expressly repealed or not, as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture, or punishment so incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising before the new ordinance takes effect, save only that the proceedings thereafter shall conform to the ordinance in force at the time of such proceeding, so far as practicable. If any penalty, forfeiture or punishment be mitigated by any provision of a new ordinance, such provision may be, by the

consent of the party affected, applied to any judgment announced after the new ordinance takes effect.

This Section shall extend to all repeals, either by express words or implication, whether the repeal is in the ordinance making any new provisions upon the same subject or in any other ordinance.

Nothing contained in this or the preceding Section shall be construed as abating any action now pending under or by virtue of any general ordinance of the City herein repealed; or as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the City under any ordinance or provision thereof in force at the time of adoption of this Code. (1964 Code)

CHAPTER 1-3: PENALTY

SECTIONS:

- 1-3-1: GENERAL PENALTY; MISDEMEANORS, CIVIL VIOLATIONS, CONTINUING VIOLATIONS:
- 1-3-2: CIVIL VIOLATIONS; CIVIL SANCTIONS:
- 1-3-3: LABOR:
- 1-3-4: DEFAULT OF PAYMENT:
- 1-3-5: REPETITIVE OR DANGEROUS CIVIL VIOLATIONS:
- 1-3-6: SEVERABILITY:
- 1-3-7: REVOCATION OR SUSPENSION OF PERMITS:

1-3-1: GENERAL PENALTY; MISDEMEANORS, CIVIL VIOLATIONS, CONTINUING VIOLATIONS:

- (A) Except for those acts declared to be civil violations, whenever in this code, the charter, or in any ordinance of the city any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this code or any ordinance shall be punishable by a fine not exceeding two thousand five hundred dollars (\$2,500.00) or by imprisonment for not more than six (6) months, or by both such fine and imprisonment, in the discretion of the city judge.
- (B) Except for provisions relating to civil traffic violations, whenever in this code or in any ordinance of the city, any act is made or declared a civil violation, where no specific penalty is provided for, the sanction for violation of any such provision or ordinance shall be as set forth in section 1-3-2 of this chapter.
- (C) Each day any violation of this code or any ordinance continues, whether criminal or civil in nature, shall constitute a separate offense or civil violation. (Ord. 687, 11-9-1964)
- (D) In addition to a fine and/or imprisonment as set forth in subsection (A) of this section, the court, in its discretion, may sentence a defendant convicted of a misdemeanor violation of this code to a period of probation, for a term not to exceed one year, and may place conditions on the defendant during said period of probation. Said conditions within the terms of probation are those intended to further the defendant's compliance with the code provision violated.

- (E) In addition to a fine and/or imprisonment as set forth in subsection (A) of this section, the court, in its discretion, may sentence a defendant to perform community service, and/or set such other conditions as a part of the court's sentence. (Ord. 4330, 9-9-2003)

1-3-2: CIVIL VIOLATIONS; CIVIL SANCTIONS:

Whenever in this code or any ordinance of the city, where the doing of any act or failure to do any act is declared to be a civil violation, where no specific penalty is therein provided, each such violation shall be subject to a civil sanction not less than fifty dollars (\$50.00) and not to exceed two thousand five hundred dollars (\$2,500.00). The imposition of a civil sanction shall not be suspended. (Ord. 2102, 8-8-1989)

1-3-3: LABOR:

Any person imprisoned under the provisions of this chapter may be put to work for the benefit of the city for the term of his imprisonment. (1964 Code)

1-3-4: DEFAULT OF PAYMENT:

In all cases of a criminal nature where a fine has been imposed as a penalty for the violation of any section of this code, except title IX of this code, imprisonment may be ordered in lieu of nonpayment of such fine, not to exceed one day for each fifty dollars (\$50.00) for each day of actual confinement. Any person who shall be committed to custody for nonpayment of such fine imposed may be released at any time prior to the termination of the period for which committed by paying the amount of the fine imposed less fifty dollars (\$50.00) for each day of confinement actually served. (Ord. 687, 11-9-1964)

1-3-5: REPETITIVE OR DANGEROUS CIVIL VIOLATIONS:

- (A) A repetitive civil violation or civil violations of an immediate threat to the public health, safety or welfare may, in the alternative, be alleged as a misdemeanor offense proceeding under this section, where:
1. The civil violator has been previously found liable for three (3) previous violations of the same section, or
 2. Where a civil violation threatens the immediate public health, safety or welfare of the city.
- (B) A proceeding brought under subsection (A)1 or (A)2 of this section shall be subject to the rules of criminal procedure. (Ord. 687, 11-9-1964)

1-3-6: SEVERABILITY:

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof, it being the intent of the council that the remaining portions remain in effect. (Ord. 687, 11-9-1964)

1-3-7: REVOCATION OR SUSPENSION OF PERMITS:

- (A) In addition to the other remedies provided, upon default judgment or judgment, failure to comply with any term of such judgment shall result in the revocation of any permit under which the violation arose. This section is intended to supplement existing authority of city officials to issue cease and desist orders, revoke or suspend permits issued by them and is not intended, nor shall it be so construed, as abridging those rights of city officials. (Ord. 2102, 8-8-1989; amd. Ord. 3690, eff. 12-12-1997)

- (B) In addition to any other remedies provided, the department head under whose department a permit has been issued may suspend or revoke any such permit upon that department head making an administrative determination that a violation of this code, rule or regulation, state statutes, condition of permit approval, work in excess of the permit (for which a permit would otherwise have been required), has occurred, or the work is being performed in such a manner as to constitute a danger to the public. Written notice of such suspension or revocation shall be delivered to the permit holder either personally or via certified mail. If the permit holder wishes to appeal such decision, such appeal must be in writing, delivered to the city manager within five (5) business days of delivery or mailing of such decision. The city manager shall render a decision within five (5) business days of receipt of the appeal, or within five (5) business days of receiving any additional information from the appellant if such additional information is requested by the manager. (Ord. 687, 11-9-1964)

CHAPTER 1-4: ELECTIONS

SECTIONS:

1-4-1: PRECINCT BOUNDARIES:

1-4-2: OFFICIAL REGISTER:

1-4-3: QUALIFICATION AND REGISTRATION OF ELECTORS:

1-4-1: PRECINCT BOUNDARIES:

In the interest of the convenience and general welfare of the citizens of the city, the Mayor and Council do hereby declare and provide that there shall only be one (1) election precinct for all City elections, said precinct to encompass all of that territory within the City limits of the City of Prescott .(Ord. 1887, 4-28-87; Ord. 1936, 9-8-87; amd. Ord. 2053, 1-10-89; amd. Ord. 2109, 8-8-89; amd. Ord. 4507, 11-8-2005)

1-4-2: OFFICIAL REGISTER:

The Mayor and Council do hereby authorize the use of, and adopt, the official register and list of qualified electors in the County, as compiled and maintained by the County Recorder of the County, in accordance with the requirements of the election laws of the State as the register list for determining qualified electors in the City.

1-4-3: QUALIFICATION AND REGISTRATION OF ELECTORS:

Any individual who is a qualified elector pursuant to Title 16, Chapter 1, Arizona Revised Statutes, and is registered pursuant to the foregoing Chapter at a location within the corporate limits of the City of Prescott, shall be deemed a qualified elector for all City elections. (amd. Ord. 3259, eff. 10-13-94)

CHAPTER 1-5: CORPORATE SEAL

SECTIONS:

1-5-1: CORPORATE SEAL:

1-5-1: CORPORATE SEAL:

A facsimile of the Corporate Seal of the City of Prescott is hereby illustrated:



CHAPTER 1-6: PLANNING AND ZONING COMMISSION

SECTIONS:

- 1-6-1: CREATION:
- 1-6-2: COMMISSION MEMBERS:
- 1-6-3: DUTIES:
- 1-6-4: ORGANIZATION:
- 1-6-5: MEETINGS:
- 1-6-6: PUBLIC HEARINGS:
- 1-6-7: AUTHORITY TO REMOVE MEMBERS:

1-6-1: CREATION:

There is hereby created, pursuant to Arizona Revised Statutes section 9-461, a planning and zoning commission to consist of seven (7) members, who shall be residents of the City of Prescott. (Ord. 1415, 2-11-1980; Ord. 4736-1033, eff. 04-13-2010)

1-6-2: COMMISSION MEMBERS:

The members shall be appointed by city council, and shall serve four (4) year staggered terms, with terms to expire in March of the respective year, and may continue to serve until their successors are duly appointed. Vacancies on the commission shall be filled by the city council only for the unexpired term of the commission member creating the vacancy. Commission members shall serve without compensation. (Ord. 1415, 2-11-1980; amd. Ord. 2365, 4-14-1992; Ord. 4736-1033, eff. 04-13-2010)

ABSENCES: If any member shall be absent for more than two (2) consecutive meetings, without notifying the chairman or the planning and zoning director, or shall be absent for more than thirty percent (30%) of all meetings during any one 12-month period for any reason, he or she shall thereupon automatically cease to hold membership on the planning and zoning commission, without any further action being taken by either the commission or the city council. It shall be the responsibility of the chairman of the commission to so notify the city council immediately upon the creation of a vacancy pursuant to this section. Meetings as used in this section shall include all regular and special meetings, study sessions and field inspections. (Ord. 2278, 6-25-1991)

1-6-3: DUTIES:

The duties of the planning and zoning commission shall be to:

- (A) Develop, submit a written recommendation to the city council for adoption, and maintain a general plan which is a municipal statement of land development policies, which may include maps, charts, graphs and text which sets forth objectives, principles and standards for local growth and redevelopment.
- (B) Develop and submit a written recommendation to the city council for the adoption of such specific plans as may be necessary to implement the general plan. (Ord. 1415, 2-11-1980)
- (C) Study, consider and submit a written recommendation to the mayor and council for the establishment of zoning districts and appropriate regulations to be enforced therein, which said zoning districts may regulate and restrict the height, number of stories, type of construction and size of buildings and other structures, the percentage of lot that may be occupied, the setback lines, the size of yards, courts and other open spaces, the density of population, the location and use of buildings, structures and land for residential, agricultural, trade, industrial, religious or other purposes; and for such purposes the planning and zoning commission may recommend the regulation and restriction of the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land and the density of population within the zoning districts as defined in the Prescott land development code. The establishment of zoning districts and the promulgation of rules and regulations applying thereto, and the fixing, changing, altering or amending any such boundaries, districts, rules or regulations shall only become effective upon the enactment of an ordinance setting forth said matters and no such ordinance shall be enacted or any changes or amendments be made thereto until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard.
- (D) To consider, approve, defer or disapprove the preliminary plat for proposed subdivisions and determine its compliance with the Prescott land development code. (Ord. 4449, 1-11-2005)
- (E) To review, consider and recommend to the city council approval or denial of proposed annexations into the city. (Ord. 2195, 7-10-1990)
- (F) Interpret the appropriate zoning district for uses not specifically listed in the Prescott land development code. (Ord. 4449, 1-11-2005)
- (G) Periodically review the capital improvement program of the city.
- (H) Perform other planning and zoning functions as the city council may provide. (Ord. 1415, 2-11-1980)

- (l) Meet periodically with the Yavapai County planning and zoning commission to discuss common matters and problems. (Ord. 1449, 6-23-1980)

1-6-4: ORGANIZATION:

The city council shall appoint a chairman and vice chairman in March of each year and shall prescribe their duties, as in its discretion seem required. (Ord. 1415, 2-11-1980; amd. Ord. 1506, 3-23-1981; Ord. 4736-1033, eff. 04-13-2010)

1-6-5: MEETINGS:

Meetings of the planning and zoning commission shall be held as provided for by the rules or bylaws of said commission. (amd. Ord. 3236, eff. 8-25-1994)

1-6-6: PUBLIC HEARINGS:

Notice of such public hearing and the procedure therein shall be as set forth in state statutes, as may be supplemented by city ordinance. (Ord. 2279, 6-25-1991)

1-6-7: AUTHORITY TO REMOVE MEMBERS:

The council by a majority vote shall have the authority to remove any member of the planning and zoning commission from office whenever, in its discretion, the best interest of the city shall be served thereby. (Ord. 1415, 2-11-1980)

CHAPTER 1-7: BOARD OF ADJUSTMENT

SECTIONS:

- 1-7-1: **CREATED:**
- 1-7-2: **DUTIES AND POWERS:**
- 1-7-3: **MEETINGS:**
- 1-7-4: **SPECIAL EXCEPTIONS:**
- 1-7-5: **APPEAL:**
- 1-7-6: **ABSENCE:**

1-7-1: CREATED:

There is hereby created a Board of Adjustment consisting of seven (7) members to serve without compensation, who shall be residents of the City of Prescott, each to be appointed by the city council, for a term of three (3) years; vacancies shall be filled in the same manner. Terms shall expire in March of the respective year. (Ord. 364, 12-45; amd. Ord. 737, 8-23-65; amd. Ord. 4737-1034, eff. 04-13-2010)

1-7-2: DUTIES AND POWERS:

The city council shall appoint a chairman and vice chairman in March of each year and such other officers as it deems necessary and shall prescribe the duties of said officers; the Chairman of the Board of Adjustment shall have the power to administer oaths and to take evidence. (Ord. 364, 12-10-45; amd. Ord. 4737-1034, eff. 04-13-2010)

1-7-3: MEETINGS:

Meetings of the Board of Adjustment shall be held as provided for by the rules or bylaws of said Board. (amd. Ord. 3236, eff. 8-25-94)

1-7-4: SPECIAL EXCEPTIONS:

The Board of Adjustment, acting through a majority of the members thereof, shall have power, in appropriate cases, to make special exceptions to the terms of this Chapter or any zoning regulation, insofar as it relates to the general rules and regulations of zoning.

1-7-5: APPEAL:

Any person aggrieved by, or any officer, department or board of the City affected by any decision of any administrative official within the Community Development Department may, within ten (10) days of that decision, appeal to the Board of

Adjustment, by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds therefor. Thereupon the officer from whom the appeal is taken shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken. The appeal shall be governed by the provisions of State Statutes and amendments thereto. (Ord. 2279, 6-25-91; amd. Ord. 4737-1034, eff. 04-13-2010)

1-7-6: ABSENCE:

If any member shall be absent for more than two (2) consecutive meetings without notifying the Chairman or the Planning and Zoning Director, or shall be absent for more than thirty percent (30%) of all meetings during any one twelve-month period for any reason, he or she shall thereupon automatically cease to hold membership on the Board of Adjustment without any further action being taken by either the Board or the City Council. It shall be the responsibility of the Chairman of the Board to so notify the City Council immediately upon the creation of a vacancy pursuant to this Section. Meetings as used in this Section shall include all regular and special meetings, study sessions and field inspections. (Ord. 2278, 6-25-91)

CHAPTER 1-8: CHIEF OF POLICE

SECTIONS:

1-8-1: CHIEF OF POLICE; DUTIES:

1-8-2: MAY HAVE AID:

1-8-1: CHIEF OF POLICE; DUTIES:

In addition to the duties and powers of the Chief of Police as prescribed in the Charter, the Chief of Police shall have the following duties, powers and responsibilities:

- (A) To preserve the peace; to arrest and take before the Judge of the City Court of the City of Prescott, or nearest Justice of the Peace or Magistrate, for examination, all persons who attempt to commit or have committed a public offense; and to prevent and suppress all affrays, breaches of the peace, riots and insurrections which may come to his knowledge.
- (B) To attend regularly the City Court of the City of Prescott, and to obey all its lawful orders and directions.
- (C) To take charge of all City prisoners. (Ord. 2279, 6-25-91)
- (D) To serve all legal process and notices of the City Court of the City of Prescott in the manner prescribed by Law and to certify under his hand upon such legal process or notice the manner and time of service, or if he fails to make service, the reasons for his failure, and return the same without delay.
- (E) To have control and charge over and to supervise the activities of the Police Department; to employ, train, discipline and discharge the members of said Department; and to maintain and be responsible for all property and equipment belonging to or used by the Police Department.
- (F) To appoint, with the approval of the Mayor and Council, an assistant Chief of Police.
- (G) To employ prisoners where possible who have been sentenced to imprisonment at such labor or occupation in or about the City buildings, City streets or other City property as he may deem necessary. (Ord. 2279, 6-25-91)

- (H) To deliver to his successor in office all legal process, commitments or other papers or documents in his custody and relating to the office of the Chief of Police, and all the property and equipment of the Police Department. (Ord. 2279, 6-25-91)

1-8-2: MAY HAVE AID:

The Chief of Police may, in the execution of the duties prescribed in Subsection (A) and (B) of Section 1 of this Chapter, command the aid of as many male inhabitants of the City as he deems necessary.

There is hereby created the office of the Assistant Chief of Police, who shall execute the office of Chief of Police at any time that a vacancy occurs therein or when so authorized by the Mayor and Council. (Ord. 429, 4-13-53)

CHAPTER 1-9: CHIEF DEPUTY TREASURER

(Rep. by Ord. 3410, 9-1995)

CHAPTER 1-10: CLAIMS AGAINST THE CITY

SECTIONS:

- 1-10-1: FORM AND TIME LIMIT FOR ALL CLAIMS AGAINST THE CITY:
- 1-10-2: PETTY CASH ACCOUNT:
- 1-10-3: AUTHORIZATION OF WARRANTS:
- 1-10-4: MANNER OF APPROVAL, DISAPPROVAL AND PAYMENT OF DAMAGE CLAIMS:
- 1-10-5: DEFENSE OF DISAPPROVED CLAIMS:
- 1-10-6: DEFENSE FUND ESTABLISHED:
- 1-10-7: DEFENSE AND INDEMNIFICATION:
- 1-10-8: AUTHORITY TO OBTAIN LIABILITY INSURANCE:
- 1-10-9: SEVERABILITY:

1-10-1: FORM AND TIME LIMIT FOR ALL CLAIMS AGAINST THE CITY:

All claims and demands against the City shall be made in accordance with Title 12, Chapter 7, Article 2, Arizona Revised Statutes. (Ord. 3410, eff. 10-26-95; amd. Ord. 3654, eff. 8-21-97)

1-10-2: PETTY CASH ACCOUNT:

The Treasurer shall be authorized to establish a Petty Cash Account for the use of departments requiring change funds and for the payment of minor or emergency claims and also a payroll account for the payment of payroll demands. (amd. Ord. 3410, eff. 10-26-95)

1-10-3: AUTHORIZATION OF WARRANTS:

When funds are not available for the payment of claims or demands against the City, the Mayor and Council shall authorize the registration of warrants at a designated bank. Warrants shall be drawn on the Treasurer and signed by the Mayor and Manager and shall be redeemed by City checks in customary form. (amd. Ord. 3410, eff. 10-26-95)

1-10-4: MANNER OF APPROVAL, DISAPPROVAL AND PAYMENT OF DAMAGE CLAIMS:

(amd. Ord. 3186, eff. 5-12-94; amd. Ord. 3410, eff. 10-26-95)

- (A) Claims not exceeding Twenty-Five Thousand Dollars: Following review of the damage claim investigation, the City Manager or his designee may

authorize just and reasonable settlements not to exceed twenty-five thousand dollars (\$25,000.00), or may disapprove any such claim.

- (B) Settlement of Litigation: The City Attorney may authorize just and reasonable settlements of litigation in a sum not to exceed twenty-five thousand dollars (\$25,000.00).
- (C) Any settlement of a claim or litigation in excess of twenty-five thousand dollars (\$25,000.00) shall be subject to approval by the City Council.
- (D) The City Treasurer is hereby authorized to pay settlements of claims as set forth in this section from the defense fund established under Section 1-10-6, or such other monies as may be available for payment thereof.

1-10-5: DEFENSE OF DISAPPROVED CLAIMS:

When a claim for damages against the City has been disapproved, the City Attorney shall defend the City in the event of subsequent litigation and may expend necessary and reasonable costs for such defense and/or retain outside legal counsel to assist in the defense of the City. The City Treasurer shall pay such costs from the fund established under Section 1-10-6.

1-10-6: DEFENSE FUND ESTABLISHED:

The City shall establish a fund for the purpose of defending and/or settling and paying claims against the City. The fund shall be known as the City of Prescott Insurance Claims Deductible Fund and shall be in addition to any other self-insurance funds authorized by the Council. (amd. Ord. 3115, eff. 8-10-93)

The Fund hereby created may be utilized for the investigation, defense, settlement and satisfaction of claims for damages or judgments against the city, for risk abatement and risk mitigation projects, and for the payment of premiums for any and all insurance purchased by the City of Prescott. (Ord. 1811, 8-26-86) (amd. Ord. 3115, 8-10-93)

1-10-7: DEFENSE AND INDEMNIFICATION:

- (A) Defense and Indemnification:
 - 1. Except as hereinafter provided, the City shall, upon the request of any present or former officer or employee of the City, provide for the defense of and indemnify the officer or employee in a civil action if the officer or employee:
 - (a) acted or failed to act in a manner in which the City has or had an interest; or

- (b) acted or failed to act in the discharge of a duty imposed or authorized by law.
 - 2. The City shall refuse to provide for the defense of and indemnification of any civil action referred to in (A)1 herein, or any other civil action, if the City Attorney finds that:
 - (a) the act or omission did not occur within the scope of the duty authorized or imposed by law;
 - (b) the act or failure to act was the result of actual fraud, willful misconduct or actual malice of the officer or employee requesting defense and indemnification; or
 - (c) the defense of the action or proceeding by the City would create a conflict of interest between the City and the officer or employee involved.
 - 3. In any proceedings other than those described in subsections (A)1 and (A)2 of this Section, including criminal proceedings, the City may provide for the defense of a present or former officer or employee, if the City Attorney concludes that such representation is in the best interests of the City.
 - 4. For the purposes of this Section, the City's authority to defend and indemnify present or former City officers or employees shall extend to a cross claim or counterclaim against such officer, agent or employee.
 - 5. For the purposes of this Section, the City's obligations to officers and employees and the duties of officers or employees shall extend to and include City volunteers whose volunteer service to the City has been approved by an authorized City official. (Ord. 3477, eff. 3-14-1996; amd. Ord. 3855, 3-9-1999)
- (B) Officer, Employee Duties:
- 1. In the event of an occurrence which the officer or employee calculates may result in personal liability of such officer or employee, the officer or employee shall promptly notify the Risk Manager and his/her direct supervisor of the occurrence, in writing, describing the occurrence in detail, including:
 - (a) Time, place and circumstances of the occurrence; and

- (b) Names, telephone numbers and addresses of the injured person or persons, and of available witnesses.
 - 2. If a claim or suit is brought against the officer or employee, the officer or employee shall promptly forward to the City Attorney every demand, complaint, summons or other process received by him or her, or by his or her representative. (Ord. 3477, eff. 3-14-1996)
 - 3. The officer or employee shall cooperate with the City and, upon the City's request, assist in making settlements, in the conduct of suits and in enforcing any right of contribution or indemnity against any person or entity who may be liable to the City. The officer or employee shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses. The officer or employee shall not, except at his own cost, voluntarily make any payment, assume any obligation or incur any expense other than first aid to others at the time of occurrence.
 - 4. In the event the conditions contained in this Section are not complied with by the officer or employee, the City may elect to decline representation and/or indemnification of the officer or employee. (Ord. 2279, 6-25-1991)
- (C) Control Of Litigation: Whenever the City provides for the defense of an action set forth in this Section, as a condition of such defense, the City may assume exclusive control over the representation of such person defended and such person shall cooperate fully with the City; provided, however, that any person may at any time and at such person's option take control over representation by waiving all rights to payment for costs of defense.
- (D) Attorney Of Record: The City may provide for the defense pursuant to this Chapter.
- (E) Subrogation: In the event of any payment under this Section, the City shall be subrogated to all of the officer's or employee's rights of recovery against any person or entity and the officer or employee shall execute and deliver documents and do whatever else is necessary such that the City's right to subrogation is secure. The officer or employee shall do nothing to prejudice the City's rights to subrogation. (Ord. 1811, 8-26-1986)

1-10-8: AUTHORITY TO OBTAIN LIABILITY INSURANCE:

- (A) Nothing contained in this Chapter shall prohibit the City Council from obtaining liability or other insurance coverage from private insurance carriers or insurance pools.
- (B) In the event that the City Council obtains liability insurance which requires claims processing in a manner different from that prescribed in this Chapter, those contractual requirements shall supersede any procedures set forth in this Chapter to the extent that said requirements conflict with this Chapter, and to the extent that any such claim is a covered claim under the City's applicable policy of insurance. (Ord. 2392, eff. 6-9-1992)

1-10-9: SEVERABILITY:

The provisions of this Chapter are declared to be severable and if any section, sentence, clause or phrase of this Chapter shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this Chapter, but they shall remain in effect, it being the legislative intent that this Chapter shall stand notwithstanding the invalidity of any part. (Ord. 1811, 8-26-1986)

CHAPTER 1-11: MAYOR'S AD HOC COMMITTEES

SECTIONS:

- 1-11-1: AUTHORIZED:
- 1-11-2: DUTIES AND POWERS:
- 1-11-3: MEETINGS:
- 1-11-4: TERM OF COMMITTEES:
- 1-11-5: ABSENCES:

1-11-1: AUTHORIZED:

The Mayor, during his or her term, is hereby authorized to create ad hoc committees for specific limited purposes and for specific limited terms, to act in an advisory role to the Mayor and Council in areas not otherwise within the province of established boards or commissions due to the nature of the limited scope of the topic in terms of time or specialty area. Members shall be appointed by the Mayor, and the Council shall receive notice of the creation, term, membership and duties of each said ad hoc committee. The Council may make any changes to the committee, term, membership, duties or any other matter pertaining to same as they shall by majority vote determine. (Ord. 2138, 12-12-1989)

1-11-2: DUTIES AND POWERS:

Ad hoc committees formed pursuant to Section 1-11-1 of this Chapter shall have only those powers as authorized therein and as set forth in the notice submitted to the Council. (Ord. 2138, 12-12-1989)

1-11-3: MEETINGS:

Parliamentary procedure shall generally be observed in the conduct of such meetings. (Ord. 3942, 12-21-1999)

1-11-4: TERM OF COMMITTEES:

The term of each committee, and the members thereof, shall be as authorized under Section 1-11-1 of this Chapter, but in no event shall the term of the committee or members thereof exceed that of the Mayor's term. (Ord. 2138, 12-12-1989)

1-11-5: ABSENCES:

If any member shall be absent for more than two (2) consecutive meetings without notifying the chairman, or shall be absent for more than thirty percent (30%) of all meetings during any one twelve (12) month period for any reason, he or she shall thereupon automatically cease to hold membership on the committee without any further action being taken by the City Council. It shall be the responsibility of the chairman of that committee to so notify the City Council immediately upon the creation of a vacancy pursuant to this Section. Meetings as used in this Section shall include all regular and special meetings, study sessions and field inspections. (Ord. 2278, 6-25-1991)

CHAPTER 1-12: RETIREMENT SYSTEM

SECTIONS:

1-12-1: SUPPLEMENTAL RETIREMENT SYSTEM:

1-12-2: PROVISIONS OF SYSTEM:

1-12-3: EMPLOYEE CONTRIBUTION:

1-12-4: CITY CONTRIBUTION:

1-12-5: DISPOSAL OF FUNDS:

1-12-6: ADMINISTRATION OF SYSTEM:

1-12-7: CONTRIBUTION INCREASE:

1-12-1: SUPPLEMENTAL RETIREMENT SYSTEM:

There is hereby created and established a Supplemental Retirement System for eligible officers and employees of the City in conformity with the provisions of this Chapter and Statutes pertaining thereto, and regulations issued pursuant thereto by the Arizona State Retirement System Board.

1-12-2: PROVISIONS OF SYSTEM:

The Supplemental Retirement System herewith adopted shall contain the following provisions for officers and employees of the City:

- (A) Membership;
- (B) Termination before retirement;
- (C) Creditable service;
- (D) Prior service credit;
- (E) Retirement for service; and
- (F) Retirement for disability;

in the same manner as set forth for State employees in Chapter 128, Laws of 1953.

1-12-3: EMPLOYEE CONTRIBUTION:

All members of the City's Supplemental Retirement System shall have deducted from each wage payment three and one-half percent (3 1/2%) of total wages, which amount shall be paid to the Arizona State Retirement System Board for

deposit in the retirement fund credited to the retirement account of the member making the contribution. Payment of wages, less such contributions to the Retirement System, shall be in full discharge of all claims and demands whatsoever for the services rendered by the officer or employee during the period covered by such payment, except for the benefits afforded by this Supplemental Retirement System. In accordance with State Board Regulations, any member may elect to make additional or lump sum contributions in excess of the required contribution for the purpose of providing greater annuity benefits. Such excess contributions shall not require contributions in addition to those specified for the City.

1-12-4: CITY CONTRIBUTION:

There is hereby appropriated quarterly from any City Fund available for that purpose, a sum equal to three and one-half percent (3 1/2%) of wages paid eligible officers and employees during the period of appropriation.

1-12-5: DISPOSAL OF FUNDS:

The sums deducted from employees' wages, together with the sums appropriated for the employer's matching contributions, shall be transmitted to the Arizona State Retirement System Board for deposit and credit to the membership retirement accounts of the members of the City's Supplemental Retirement System. Such payments shall be made in accordance with State Board regulations.

1-12-6: ADMINISTRATION OF SYSTEM:

The Mayor is hereby authorized and directed to enter into an agreement in behalf of the City with the Arizona State Retirement System Board for the administration of the City's Supplemental Retirement System, as herein provided. Said agreement shall provide for the payment to the State Retirement System Board of retirement funds herein appropriated, and to further provide for the adherence of the City to the applicable provisions of Chapter 128, Laws of 1953, and to the rules and regulations adopted by the Arizona State Retirement System Board pursuant thereto. (Ord. 489; 6-11-56)

1-12-7: CONTRIBUTION INCREASE:

From and after the effective date of this Section and pursuant to Arizona Revised Statutes Section §38-748 A, the City hereby increases employer and employee contributions to the State Employees Retirement System from three and one-half percent (3 1/2%) to five percent (5%). (Resolution No. 614; 6-24-68)

CHAPTER 1-13: STANDING COMMITTEES

SECTIONS:

- 1-13-1: AUTHORIZATION:
- 1-13-2: DUTIES AND POWERS:
- 1-13-3: MEETINGS:
- 1-13-4: TERMS OF COMMITTEES:
- 1-13-5: ABSENCES:
- 1-13-6: ORGANIZATION:

1-13-1: AUTHORIZATION:

The Mayor and Council are hereby authorized to form and create Standing Committees of the City, to act in an advisory role to the Mayor and Council in areas not otherwise within the province of established boards or commissions. Formation of a Standing Committee shall be by Resolution of the Council. The Council may make any changes to a Standing Committee, term, duties or any other matter pertaining to same by Resolution except for the appointment of members which shall be by minute motion.

1-13-2: DUTIES AND POWERS:

Standing Committees shall be formed pursuant to Section 1-13-1, and shall have only those powers as authorized by Resolution of the Council.

1-13-3: MEETINGS:

Meetings of all Standing Committees shall be in accord with the Open Meeting Law to the extent same is applicable. Parliamentary procedure shall generally be observed in the conduct of such meetings.

1-13-4: TERMS OF COMMITTEES:

The term of each Standing Committee shall be continuous and ongoing, until said Committee is terminated by a Resolution of the Council, unless a specific termination date is provided for in the Resolution of Formation.

1-13-5: ABSENCES:

If any member shall be absent for more than two (2) consecutive meetings without notifying the Chairman or shall be absent for more than thirty percent (30%) of all meetings during any one twelve-month period for any reason, he or she shall thereupon automatically cease to hold membership on the committee

without any further action being taken by the City Council. It shall be the responsibility of the Chairman of that Committee to so notify the City Council immediately upon the creation of a vacancy pursuant to this Section. Meetings as used in this Section shall include all regular and special meetings, study sessions and field inspections.

1-13-6: ORGANIZATION:

Membership on Standing Committees will be for two-year, nonstaggered terms, appointed by the City Council in March of even-numbered years, following the previous fall election. The chairman and vice chairman shall be selected by the City Council. (amd. Ord. 2365, 4-14-92; amd. Ord. 4735-1032, eff. 04-13-2010)

CHAPTER 14: (Rep. by Ord. 1014, 4-9-1973)

CHAPTER 15: (Rep. by Ord. 1014, 4-9-1973)

CHAPTER 16: (Rep. by Ord. 1014, 4-9-1973)

CHAPTER 17: (Rep. by Ord. 1014, 4-9-1973)

CHAPTER 18: (Rep. by Ord. 1438, 6-9-1980)

CHAPTER 1-19: INVESTMENT OF CITY MONIES

SECTIONS:

1-19-1: INVESTMENT OF CITY MONIES:

1-19-1: INVESTMENT OF CITY MONIES:

The City Finance Director and City Treasurer are hereby designated to be the investment officers for the City of Prescott, and shall invest City monies in accordance with adopted City Council Policy. (Ord. 3053,eff. 2-25-93; Ord. 3410, eff. 10-26-95)

CHAPTER 1-20: CITY PERSONNEL

SECTIONS:

- 1-20-1: GENERAL PROVISIONS:
- 1-20-2: FAIR EMPLOYMENT PRACTICES:
- 1-20-3: RESPONSIBILITIES OF THE PERSONNEL OFFICER:
- 1-20-4: DUTIES OF THE CITY MANAGER:
- 1-20-5: CLASSIFIED AND UNCLASSIFIED SERVICE:
- 1-20-6: CHECKING OF PAYROLLS:
- 1-20-7: DEFINITIONS:
- 1-20-8: RECRUITMENT, SELECTION AND PROMOTION:
- 1-20-9: SELECTION:
- 1-20-10: ESTABLISHING PRIORITIES FOR HIRING:
- 1-20-11: PROMOTIONAL PROCEDURE:
- 1-20-12: PROBATION:
- 1-20-13: CLASSIFICATION PLAN:
- 1-20-14: PAY PLAN:
- 1-20-15: LEAVE POLICY
- 1-20-16: RESTRICTIONS ON POLITICAL ACTIVITY AND SOLICITATIONS:
- 1-20-17: DISCIPLINE:
- 1-20-18: POWERS OF DEPARTMENT HEAD OR SUPERVISOR:
- 1-20-19: GRIEVANCE PROCEDURES:
- 1-20-20: GRIEVANCE BOARD:
- 1-20-21: PRESENT BENEFITS:
- 1-20-22: SEVERANCE CLAUSE:
- 1-20-23: AFFIRMATIVE ACTION PROGRAM:
- 1-20-24: CONFLICT WITH CHARTER:

1-20-1: GENERAL PROVISIONS:

The general purpose of this Ordinance is to establish for the City of Prescott a system of personnel administration that will assure optimum utilization of the human resources employed by the City of Prescott to effect the social, economic and other program needs of the people of the city as these needs now or in the future may be established. This system shall provide means to recruit, select, develop and maintain an effective and responsible work force; and shall include policies and procedures for employee hiring and advancement, terminations, training and career development, job classification, salary administration, discipline, discharge and related activities.

1-20-2: FAIR EMPLOYMENT PRACTICES:

All appointments, promotions, demotions, separations and other employment transactions in the City service shall be made on the basis of merit and fitness without regard to race, color, sex, place of national origin, political or religious affiliation; using open competitive selection procedures, examinations or other evidence of fitness.

1-20-3: RESPONSIBILITIES OF THE PERSONNEL OFFICER:

The City Manager may appoint a Personnel Officer of the City, who will be charged with carrying into effect these rules and regulations. The City Manager, however, maintains ultimate responsibility for all personnel functions.

The Personnel Officer shall be responsible for recruiting, evaluating, selecting and referring of personnel, classification administration, administration of performance rating system and personnel rules, maintenance of employment records, and payroll reviewing.

Under the direction and control of the City Manager and in cooperation with the department heads, the Personnel Officer shall be responsible for training and safety, wage and salary administration, benefit and service award programs, personnel relations, personnel research studies and for employee counseling.

The Personnel Officer shall, in person or through delegation:

- (A) Appoint all employees of the department of personnel and in the area of administrative services, and to direct and/or control their work and, under the customary financial procedures of the City;
- (B) Establish and maintain a roster of all employees showing the salient facts of the employment history of each employee;
- (C) Prepare rules, including a classification plan, drafts of legislation for recommendation to the City Manager in matters requiring such legislation, including a compensation plan, and changes as deemed desirable from time to time in such rules and legislation;
- (D) Allocate each position in the classified service to its appropriate class in the classification plan adopted under the provisions of this legislation, and reallocate positions as conditions warrant, from class to class;
- (E) Prepare and maintain appropriate definitions of classes and grades in the classification plan and amend them from time to time as warranted;

- (F) Hold examinations for employees, pass upon the qualifications of all applicants, and establish eligible lists as needed, and to certify names of eligibles to department heads for filling all vacancies;
- (G) Cooperate with department heads and others in providing programs of training for employees, for employee welfare, for promoting of employee morale, and for otherwise raising of standards of performance in the service in every practicable way;
- (H) Pass upon, for compliance with the provisions contained herein, and approve or disapprove as to compliance therewith, all appointments, demotions, transfers, promotions, service ratings, leaves of absence, changes in rates of pay, suspensions, separations and other employment transactions affecting the status of employees;
- (I) Make such investigations as are deemed desirable with respect to the enforcement and effect of the personnel law and rules, and such special investigations as the City Manager may request and make special reports relative thereto;
- (J) Devise and recommend to the City Manager a compensation plan consisting of scales of pay for the several grades or classes in due relation to each other and to rates prevailing for like employment in private industry or government agencies, rules for the interpretation and application of the plan, and changes in such plan and rules from time to time as deemed desirable;
- (K) Establish a policy for layoffs by reason of lack of funds or work, or abolition of a position, or material change in duties or organization, and for reemployment of employees laid off;
- (L) Make such administrative regulations as are deemed necessary, not inconsistent with the personnel law and rules, relative to matters involved in the administration of the personnel provisions of such law and rules;
- (M) Make, if deemed necessary, annual reports to the City Manager for his (her) approval on the work of the department and the administration and effect of this law, with such recommendations for action as he (she) may deem desirable, and such special reports as may be requested by the City Manager;
- (N) Aid the City Manager and department heads in determining the numbers and kinds of positions needed to carry on the City's business and in discovering and labeling unnecessary positions in order that they may be designated as supernumerary;

- (O) Aid the City Manager and department heads in all practicable ways in handling other personnel matters relating to positions under their jurisdictions;
- (P) Perform duties necessary or proper for making effective the provisions of this law and all rules and ordinances adopted in pursuance thereof, and not inconsistent therewith. The power of the Personnel Officer to make effective the provisions of this law and of ordinances shall not be deemed to be contingent on the adoption of rules but, in the absence of rules that are applicable, the Personnel Officer shall have power to take such action, not inconsistent with this law as may be reasonably necessary and proper to effectuate the purposes thereof; and
- (Q) To adopt, in cooperation with the City Manager, rules and regulations for City employees which are not otherwise inconsistent with the City Charter, City Code or State Statutes. (Ord. 2279, 6-25-91)

1-20-4: DUTIES OF THE CITY MANAGER:

The City Manager maintains the ultimate authority and responsibility for the handling of all personnel matters. This authority includes, in addition to those powers defined in the City Charter, the power to: hire, dismiss, promote, transfer, classify, reclassify and change the pay range of City employees for the purpose of utilizing officers and employees of the City. Subject to the provisions of the City Charter, the City Manager maintains authority and responsibility. (Ord. 1111, 5-12-75)

1-20-5: CLASSIFIED AND UNCLASSIFIED SERVICE:

The work force of the City is divided and classified into the classified and unclassified service. (amd. Ord. 3186, eff. 5-12-94)

- (A) The unclassified service shall be comprised of the following:
 - 1. All officers elected by the people.
 - 2. All members of appointive boards and commissions.
 - 3. Volunteer personnel, interns and personnel appointed to serve without pay.
 - 4. Consultants and counsel rendering temporary professional services.
 - 5. Temporary employees (amd. Ord. 3696, eff. 12-25-97)

6. City employees who are appointed by the Council, pursuant to applicable City Charter provisions.
 7. Department heads who are appointed by the City Manager.
- (B) The classified service shall include and embrace all other positions, offices and employment of the City now existing or hereafter to be created.
- (C) No one occupying a position in the unclassified service shall have access to the grievance procedure. Unclassified employees shall serve at the pleasure of either the City Manager or City Council, as determined by the City Charter.
- (D) Personnel serving under grants or other programs in which agencies or other governmental units, other than the City, provide the funding for the positions that are normally classified. The only exceptions to this shall apply when the grantor places conditions, such as funding limits, upon such positions. (Ord. 1577, 3-22-82)

1-20-6: CHECKING OF PAYROLLS:

(Deleted Ord. 3186, eff. 5-12-94)

1-20-7: DEFINITIONS:

- (A) "Applicant" means a person who has filed an application for a position.
- (B) "Appointing Power, Authority or Officer" means the City Manager or other legally designated official having the power of appointment and removal of employees.
- (C) "Appointment": (amd. Ord. 3696, eff. 12-25-97)

Full-time Regular means appointment to an authorized position requiring the services of an employee on a full-time, year round schedule.

Part-time Regular means appointment to an authorized position requiring the services of an employee on a less than full-time, year round schedule.

Temporary means appointment to a non-regular position, on either a full or part-time basis, for not more than twelve (12) consecutive months, unless employment is sporadic and on an as-needed basis, or for a special project of a specified duration in excess of twelve (12) months, as approved by the City Manager.

- (D) "Candidate" means a person participating in an examination.

- (E) "Class or Classification" means a position or group of positions, either permanent or part-time, sufficiently similar in respect to their duties and responsibilities that similar requirements as to education, experience, knowledge, ability and other qualifications are required of the occupants, and the same tests of fitness are used to choose qualified employees and the same schedule of compensation can be made to apply with equity under the same or substantially the same employment conditions.
- (F) "Class Title" means the designation given to a class, to each position allocated to the class and to the occupant of each position.
- (G) "Classification Schedule or Plan" means the plan, system or schedule for the classification of all positions in the classified service, based upon the duties, responsibilities and qualifications of each position, which is approved by the City Council.
- (H) "Classified Service" means all offices, positions and employments in the service of the City of Prescott except those expressly exempt or designated as unclassified.
- (I) "Demotion" means a unit of the administrative branch of the City government including a line of work and a group of employees under the immediate charge of a director who shall be known as the department head.
- (K) "Discharge, Dismissal or Removal" means the separation of an employee from City employment.
- (L) "Eligible" means a person whose name is recorded on a current original employment eligible, reinstatement, promotional or layoff list. (Ord. 1111, 5-12-75)
- (M) "Employee" means a person who is legally an occupant of an appointed, salaried position in the classified or unclassified service, or who is on an authorized leave of absence and whose position is held open for him (her) upon his (her) return. (Ord. 1577, 3-22-82)
- (N) "Employment Lists" means lists of persons who successfully qualified for employment as determined by the various methods of evaluating qualifications. Employment lists may include, but are not necessarily limited to, "Layoff Lists", "Reinstatement Lists", "Promotional Lists" and "Original Employment Eligible Lists". (amd. Ord. 3696, eff. 12-25-97)
- (O) "Examination" means the appraising of a candidate by the use of measurements which will determine if the candidate has the qualifications required of the class for which he (she) is being evaluated.

- (P) "Layoff List" means a list of names of persons who were laid off from a class, or from service on account of lack of work or funds and whose names were placed on said list by the department heads affected.
- (Q) "Original Employment Eligible List or Register" means an officially promulgated list of eligibles for a class of position arranged in the order of their final ratings derived from evaluations of their qualifications for the class of position. Eligibility achievement shall be by open competition.
- (R) "Position" means a specific office or employment, whether occupied or vacant, calling for the performance of certain duties and the carrying of certain responsibilities by one individual, either on a full-time, part-time or seasonal basis. (Ord. 1111, 5-12-75)
- (S) "Promotion" means an advancement of an employee from one class to another class having a higher maximum rate of pay. Additional pay ranges allowed for special assignments within a class shall not constitute a promotion. (Ord. 1379, 10-22-79)
- (T) "Promotional List" means a list of names of employees, who successfully completed promotional competitive test of fitness for a class of position, ranked according to their relative percentages attained in the test.
- (U) "Public Notice" means giving notice either by posting or publication or both.
- (V) "Reinstatement List" means a list of names of persons who resigned from service and whose names were placed on such list by the Personnel Officer upon request of eligible applicant.
- (W) "Seasonal or Part-Time Position" means any position in the work force which requires the service of an incumbent during certain parts of each year, or for less hours than required by the class of position.
- (X) To "serve an employee by process" means:
1. Personal service of any order of removal, etc. by delivery to the person named or to any member of his (her) family over the age of sixteen (16) residing at his (her) usual place of residence.
 2. Deposit of the order in the United States mails, registered return receipt requested, postage prepaid, addressed to the last known address of the person to be served, and the return of the receipt showing that the person named received it.

- (Y) "Suspension" means the temporary separation of an employee from his (her) position for disciplinary reasons without pay.
- (Z) "Trainee" means an employee in a transitional classification designed to provide instruction and work experience.
- (AA) "Transfer" means the assignment of an employee from one position in the City service to another position for which the employee possesses the qualification requirements and the pay range of the new position does not exceed that of his (her) present position. (Ord. 1111, 5-12-75)
- (BB) "Unclassified service" means all positions designated in Section 1-20-5(A) of the Prescott City Code and Article IV, Sections 2, 3 and 4 and Article XI, Section 4 of the City Charter. (Ord. 1577, 3-22-82)

1-20-8: RECRUITMENT, SELECTION AND PROMOTION:

- (A) Notice of vacancies within the classified service shall be made by placing an advertisement in a newspaper of local circulation at least one time or by posting notice of such vacancy at City Hall, or by such other means as the City Manager may deem appropriate to publicize the opportunity of employment. If a vacancy in the classified service is to be filled through promotion, or through the use of an existing employment list, established pursuant to this Section, the notice of the vacancy may not be required. In all other cases, the position should not be filled until five (5) calendar days following publication of notice in a newspaper in local circulation or until notice of the vacancy has been posted at City Hall for a period of (5) consecutive days, except in cases of dire need or emergency as determined by the City Manager.
- (B) Application for City employment in the classified service shall be made on forms provided by the City . Resumes, letters of reference, and other material which may assist in determining the ability of the applicant may be submitted with an application for employment. All applications for employment, together with any accompanying materials, become the property of the City, and will not be returned to the applicant unless arrangements for such return are made at the time of application. Applications for City employment will be retained on file by the Personnel Director for a period of ninety (90) days or for so long as the name of the applicant remains on the active employment list, whichever shall be longer.
- (C) All examinations for employment in the classified service shall be impartial and shall deal with the duties and requirements of the position to be filled. When oral tests and interviews are used a competent record of questions and answer shall be made. Examinations, tests and interviews shall be in

the charge of the Personnel Officer. The Personnel Officer may call on other persons to assist in the conduct of examinations, tests and interviews.

- (D) In case of vacancy in a position requiring peculiar and exceptional qualifications of a scientific, professional or expert character, upon satisfactory evidence that competition is impractical and that the position can best be filled by the selection of some designated person of recognized attainments, the Personnel Officer may suspend competition. This provision also applies to all supernumerary personnel.
- (E) All persons in the City service holding positions in the classified service as established by this Ordinance at the time it takes effect shall retain their positions until discharged, reduced, promoted or transferred in accordance with the provisions of this Ordinance, and departmental rules and regulations.
- (F) The Personnel Officer shall maintain records of all persons in the City service showing in connection with each name the position held, the date and character of every appointment and of every subsequent change in status. Each head of a department shall promptly transmit to the Personnel Officer all information required for the establishment and maintenance of these records. (Ord. 1111, 5-12-75)
- (G) The Personnel Officer may require persons who apply for positions in the classified service of the City to have their fingerprints taken by the City Police Department prior to their hiring as employees of the City of Prescott. One copy of these fingerprints shall be taken by the Police Department and transmitted to the Department of Public Safety, Federal Bureau of Investigation, and Department of Justice for the purpose of securing a report from the records of these agencies. The Personnel Officer may withhold final appointment to any classified position in the City until he has received return of the fingerprint information and, upon return of the information, a copy of the fingerprint card and record will be placed in the employee's personnel file. (Ord. 1124, 10-13-75)

1-20-9: SELECTION:

When applicable notice requirements as provided in subsection 1-20-8 (A) above have been met, or when a sufficient number of applications for a vacant position have been received from individuals who on the face of their applications, meet the minimum requirements for the position, the Personnel Officer shall evaluate the applications and rank them in order of relative fitness for the position in question, forwarding the applications of the highest rated candidates to the department head. In making his (her) evaluation, the Personnel Officer may make use of any combination of written or oral performance, physical agility, and

medical examinations, as well as analysis of work history and previous employment, together with such other techniques of evaluation as he (she) may deem appropriate. Those individuals who, on the face of their applications, do not meet the minimum standards for the position, together with those individuals who, upon investigation, are found not to possess the minimum requirements for the position, will be dropped from further consideration.

1-20-10: ESTABLISHING PRIORITIES FOR HIRING:

Qualified applications of candidates for employment in the classified service will be given in order of rank or score from the highest to the lowest of such applications and shall constitute an employment list. Employment applications shall remain active for a period of six (6) months or until eligible candidate whose names appear on the applications have been employed or offered employment, whichever period of time shall be shorter.

1-20-11: PROMOTIONAL PROCEDURE:

When vacancies occur in positions above the entry level in the classified service, the Personnel Officer with concurrence of the City Manager may elect to fill the vacancy through internal promotion. In such cases, notice need not be placed in a newspaper of local circulation and posted notices of the vacancy shall bear the notation "Promotional Opportunity". Notice of promotional opportunities shall be made by posting a notice as described in paragraph 1-20-8 (A) at City Hall and such other places of work, and by such other means as the Personnel Officer may deem appropriate. Application, selection and employment list procedures shall be handled in the manner set forth in 1-20-8 (B), (C) and (D) except that the employment list shall be designated "Promotional Employment List".

1-20-12: PROBATION:

All original and promotional appointments shall be tentative and subject to a probationary period of not less than six (6) months, or one year for Public Safety personnel, of successful service. The Personnel Officer with the recommendation of the concerned department head may establish a longer probationary period for specified classes. The probationary period shall be regarded as a part of the testing process and shall be utilized for closely observing the employee's work and for securing the most effective adjustment of a new employee to his (her) position. During the probationary period, an employee may be dismissed at any time without a statement of cause and without the right of appeal. (Ord. 1056, 2-25-74)

However, a dismissed probationary employee shall be entitled to the right of appeal if said employee has successfully completed his/her probationary period in another class. If such an appeal is requested by a dismissed, promoted

probationary employee, it shall be for reinstatement to the lower class from which said employee was promoted.

Time served during a temporary appointment cannot be used to satisfy the probationary requirement in the event of appointment to a permanent [regular] status. (amd. Ord. 3696, eff. 12-25-97)

Time taken on paid vacation, sick leave or while off-duty as a result of a City job-related injury or illness, not in excess of thirty (30) working days, shall be allowed the probationer as creditable time toward his (her) probation. (Ord. 1379, 10-22-79)

1-20-13: CLASSIFICATION PLAN:

- (A) The Personnel Officer, or a person whom he (she) may designate, shall ascertain and record the duties and responsibilities of all positions in the classified service and shall recommend a Classification Plan for such positions. The Classification Plan shall consist of classes of positions in the classified \service defined by class specifications, including job titles. The Classification Plan shall be so developed and maintained that all positions substantially similar with respect to duties, responsibilities, authority and character of work are included within the same class, and that the same schedules of compensation may be made to apply with equity under like working conditions to all positions in the same class.
- (B) The Classification Plan shall be adopted and may be amended from time to time by the Personnel Officer with the approval of the City Manager. Amendments and revisions of the plan may be suggested to the Personnel Officer in writing by any interested party including employees of the City, and shall be submitted to the City Manager for his (her) consideration.
- (C) Following the adoption of the Classification Plan, the City Manager and the Personnel Officer shall allocate every position in the classified service to one of the classes established by the Plan.
- (D) When a new position is created, the Classification Plan shall be amended to provide therefor, and an appropriate employment ranking shall be established for such position.
- (E) Any position, the duties of which have changed materially so as to necessitate reclassification, shall be reallocated by the Personnel Officer, with the advice of the department heads concerned and concurrence of the City Manager to a more appropriate class, whether new or already created. Reclassifications shall not be used for the purpose of avoiding restrictions concerning demotions and promotions.

1-20-14: PAY PLAN:

(Ord. 3052, eff. 2-25-93)

- (A) The Personnel Director, under the direction of the City Manager, shall prepare a Pay Plan covering all position classifications in the City Service, which Pay Plan (and any amendments or revisions thereto) shall be approved by the Council by Resolution. In determining appropriate salary rates or ranges, consideration will be given to prevailing rates of pay in comparable public and private sector positions, current cost of living, recommendations of department heads, the city's financial condition and policies, and other relevant factors.
- (B) The Pay Plan shall address, but not necessarily be limited to, promotions, demotions, reclassifications, acting pay, overtime, compensatory time, standby compensation and call-back pay.

1-20-15: LEAVE POLICY

(A) SICK LEAVE

1. Sick Leave Accrual.

- (a) Every full-time regular employee assigned to a 40-hour work week shall accrue sick leave credits at the rate of 3.7 hours for each completed pay period. Fire Department employees who are assigned to a 56-hour work week shall accrue sick leave credits at the rate of 5.17 hours per pay period for each completed pay period. Police Department employees who are assigned to 4/12 shifts shall accrue sick leave credits at the rate of 3.89 hours per pay period for each completed pay period. Sick leave shall accrue with no maximum. (amd. Ord. 3589 eff. 3-27-97)
- (b) Regular employees who work less than full time, but at least 1,040 hours per year, shall accrue sick leave credits on a prorated basis for each completed pay period. The prorated basis shall be established by dividing the number of hours scheduled per week by 40 and multiplying the accrual rate for a full-time employee.
- (c) Employees who do not have a completed pay period shall not accrue any sick leave credits for that pay period.

- (d) Temporary employees are not eligible to accrue paid sick leave credits.

2. Use of Sick Leave.

- (a) Employees shall be allowed to use sick leave credits during the first pay period following one completed pay period of employment.
- (b) An employee without sick leave credits may use accrued vacation credits with approval of the department head.
- (c) Sick leave shall only be allowed when:
 - (i) The employee is medically unable to work safely. Minor ailments which do not affect the safety of persons or property or endanger the health of other persons while performing job duties do not qualify an employee for sick leave.
 - (ii) The employee needs medical or dental treatment and examination when prescribed or performed by a licensed medical or dental practitioner.
 - (iii) An employee has accepted Worker's Compensation and requires sick leave to supplement the compensation payments.
 - (iv) Employees shall be authorized to utilize up to forty (40) hours of sick leave per year for care of sick or injured dependents or to supplement special leave in the event of a death in the employee's immediate family. Fire Department employees assigned to a 56-hour work week schedule shall be authorized 56 hours of sick leave for this purpose. Immediate family shall consist of the employee's spouse, children, parents, grandparents, grandchildren, brothers, sisters or the spouse's children, parents, grandparents, grandchildren, brothers or sisters.

3. Leave Authorization.

- (a) In order to receive compensation while absent on sick leave, the employee must notify his/her immediate supervisor, division or department head prior to, or within one hour after, the time set for reporting to work.

- (b) Sick leave shall be shown on the employee's time card, stating the reason for the leave, and the leave must be approved by the employee's supervisor and department head.
- (c) The City reserves the right to refer any employee to a doctor designated by the City in determining whether the employee is sufficiently recovered from illness or injury to return to work or whether or not sick leave will be paid. The department head may require documentation of injury or illness of the employee or employee's dependents any time that sick leave is used.
- (d) In the case of personal injury or sickness where employees are capable of performing light duty and have a medical release from a physician, they shall so advise their department head who will make the arrangements provided such light duty is available.
- (e) Sick leave is not to be used at the employee's discretion but shall be allowed only in case of actual personal or dependent sickness or injury. Abuse of the City's sick leave regulations shall be cause for disciplinary action.

4. Charging Sick Leave.

- (a) Sick leave is charged against the employee's credits on an hour-for-hour basis according to the number of hours the employee would have been scheduled to work during the period of absence. When less than an exact number of hours is used, sick leave credits shall be charged to the nearest fifteen (15) minutes.

5. Conversion of Sick Leave to Vacation Time.

- (a) A portion of sick leave may be converted to vacation leave credits according the following formula:
 - (i) If no sick leave is used during a full calendar year, twenty-four (24) hours of sick leave may be converted to additional vacation leave credits on an hour-for-hour basis.
 - (ii) If an employee uses from one (1) to sixteen (16) hours of sick leave in a calendar year, conversion of

sick leave to additional vacation leave credits shall be at the rate of twenty-four (24) hours less one-half hour for each hour of sick leave used.

- (iii) If an employee uses from seventeen (17) to thirty-one (31) hours of sick leave in a calendar year, conversion of sick leave to additional vacation leave credits shall be at the rate of thirty-two (32) hours less one hour for each hour of sick leave used. If an employee uses 32 hours or more sick leave during the year, he/she will not be eligible to convert sick leave to vacation leave credits.
 - (iv) Employees of the Fire Department scheduled on the basis of a 56-hour week will have conversions figured on a proportionate basis where eight (8) hours in a 40-hour work week is equivalent to 11.2 hours in a 56-hour work week.
- (b) Conversion of sick leave to vacation leave credits shall be done on the basis of twenty-six (26) payroll periods within a calendar year. Transfers will be calculated at the end of the last (26th) pay period of the calendar year.
 - (c) Employees hired between January 1 and June 30 will be eligible for conversion at one-half of the regular rate. Employees hired between July 1 and December 31 will not be eligible for conversion until the end of the next year following their date of hire.
 - (d) Conversion of sick leave to vacation leave credits will be at the option of the employee. Statements will be sent from the Personnel Department each January showing the number of hours available for conversion.
6. Payment of Sick Leave Upon Separation from City Service.
- (a) Employees who retire from City service shall be paid for unused sick leave at the rate of fifty percent (50%), up to a maximum of 700 hours; provided, however, that the maximum shall be 975 hours for fire employees who are members of the Public Safety Personnel Retirement System. Payment due Police Department employees who are members of the Public Safety Personnel Retirement System

shall be computed by dividing their base annual salary at the time of retirement by 2080. (amd. Ord. 3589, eff. 3-27-97)

- (b) In addition to reimbursement for unused sick leave, an employee who retires shall also receive an appreciation bonus equivalent to three (3) months pay.
- (c) In order to qualify for the retirement benefits described in subsections (A)6(a) and (A)6(b) of this section, an employee must have at least ten (10) years of service with the city and qualify for a retirement benefit under the Arizona state retirement system or the public safety personnel retirement system. Employees who qualify for medical retirement benefits as a result of a job-related injury or illness shall also be eligible for the city's retirement benefits regardless of length of service. (Ord. 3696, eff. 12-25-1997)
- (d) The beneficiaries of an employee who dies prior to retirement shall receive compensation for one-third (1/3) of accumulated sick leave beyond that amount equivalent to the number of scheduled working hours in a month for the class to which the employee belongs.
- (e) Employees who resign from city service shall receive compensation for one-third (1/3) of accumulated sick leave beyond that amount equivalent to the number of scheduled working hours in a month for the class to which the employee belongs.

(B) Vacation Leave:

1. Vacation Leave Accrual:

- (a) shall accrue vacation leave credits according to the following schedule:
 - (1) 3.7 hours per pay period for the first three (3) years of service.
 - (2) 4.62 hours per pay period for employees with three (3) or more years of service but less than ten (10) years of service.
 - (3) 5.54 hours per pay period for employees with ten (10) or more years of service but less than fifteen (15) years of service.

- (4) 6.15 hours per pay period for employees with fifteen (15) or more years of service.
- (b) Employees of the fire department scheduled on the basis of a fifty six (56) hour workweek shall accrue vacation leave credits according to the following schedule:
 - (1) 5.17 hours per pay period for the first three (3) years of service.
 - (2) 6.46 hours per pay period for employees with three (3) or more years of service but less than ten (10) years of service.
 - (3) 7.75 hours per pay period for employees with ten (10) or more years of service but less than fifteen (15) years of service.
 - (4) 8.61 hours per pay period for employees with fifteen (15) or more years of service. (Ord. 2322, 11-26-1991, eff. 1-1-1992)
- (c) Employees of the police department who are assigned to 4/12 shifts shall accrue vacation leave credits according to the following schedule: (Ord. 3589, eff. 3-27-1997)
 - (1) 3.89 hours per pay period for the first three (3) years of service.
 - (2) 4.85 hours per pay period for employees with three (3) or more years of service, but less than ten (10) years of service.
 - (3) 5.82 hours per pay period for employees with ten (10) or more years of service, but less than fifteen (15) years of service.
 - (4) 6.46 hours per pay period for employees with fifteen (15) or more years of service.
- (d) Regular employees who work less than full-time, but at least one thousand forty (1,040) hours per year, shall accrue vacation leave credits on a prorated basis. The prorated basis shall be established by dividing the number of hours scheduled per week by forty (40) and multiplying by the

accrued rate for a full-time employee with the same length of service.

- (e) Employees who do not have a completed pay period shall not accrue any vacation leave credits for that pay period. (Ord. 2307, 10-22-1991, eff. 1-1-1992)
 - (f) Section deleted. (Regarding observance of employee birthday) (Ord. 2307, 10-22-1991, eff. 1-1-1992; amd. Ord. 4087, 2-27-2001)
 - (g) Regular employees with less than ten (10) years of service may accrue vacation leave credits up to a maximum of two hundred (200) hours as of January 1 of any calendar year. The maximum accrual for employees with ten (10) or more years of service shall be two hundred forty (240) hours. The maximum accrual for employees of the fire department assigned to a fifty six (56) hour workweek schedule shall be two hundred eighty (280) hours for less than ten (10) years of service and three hundred thirty six (336) hours for ten (10) or more years of service.
 - (h) A department head may allow an employee to carry over more than the established maximum vacation accrual. The department head shall notify the personnel director in writing if an employee is to be allowed to carry over excess vacation accrual. The department head shall ensure that the excess accrual is used prior to July 1 of the same calendar year.
 - (i) Temporary employees are not eligible to accrue paid leave credits.
2. Eligibility to Use Vacation Leave: All regular employees are eligible to use vacation leave after completion of six (6) months of service with the city.
3. Vacation Leave Authorization:
- (a) Employees are required to request vacation leave in advance through their supervisors according to established departmental procedures.

(b) Every attempt will be made to accommodate the employee's wishes in scheduling vacation leave; however, a vacation leave request may be denied by the department head when it is determined that the employee's absence would have an adverse effect on departmental operations. Vacation leave requests in excess of twenty (20) scheduled working days must be approved by the department head and personnel director.

(c) Failure to request vacation leave prior to taking it may be grounds for denial of the leave and/or disciplinary action. Department heads may approve vacation leave after the fact when, in their determination, there was an emergency or other justifiable reason for using it without prior approval. However, employees should make every attempt to notify their supervisors as soon as possible of their absence.

4. Charging Vacation Leave: Vacation is charged against the employee's credits on an hour-for-hour basis according to the number of hours the employee would have been scheduled to work during the period of absence. When less than an exact number of hours is used, vacation credits will be charged to the nearest fifteen (15) minutes.

5. Payment Of Vacation Leave Upon Separation: Every regular employee who has completed six (6) months of service with the city, and who has accumulated vacation credits, and leaves the city for any reason, shall have any remaining vacation credits paid on the last paycheck issued by the city; provided, however, that an employee shall not be paid more than the maximum accrued leave credits as set forth in subsection (B)1(g) of this section. Payment due police department employees who are members of the public safety personnel retirement system shall be computed by dividing their base annual salary at the time of separation by two thousand eighty (2,080). (Ord. 3589, eff. 3-27-1997)

(C) Special Leave Without Pay:

1. Leave Authorization:

(a) A department head, with approval of the personnel director, may grant a regular or probationary employee a leave of absence without pay for not more than two (2) calendar weeks.

- (b) The city manager may grant a regular employee a special extended leave of absence without pay upon recommendation of the appropriate department head and personnel director. A written request setting forth the reasons for unpaid leave must be submitted to the department head.
- (c) An employee may request a medical leave of absence without pay after accrued sick and/or vacation leave has been depleted. Certification of the need and duration of such leave from a licensed physician will be required.
- (d) Special leave without pay may be granted for a maximum of three (3) months and an extension will only be granted under extreme or unusual circumstances.
- (e) Denial of a request for leave without pay is not subject to appeal.
- (f) Military leave without pay will be granted in accordance with provisions of state and federal law.

2. Employment Status:

- (a) An employee on leave without pay will receive no compensation or fringe benefits and will not accrue vacation or sick leave credits.
- (b) Employees who elect to continue coverage under the city's health insurance program while on leave without pay must pay all premium costs for the duration of the leave.
- (c) An employee returning to work from leave without pay will be reinstated to the same or equivalent position.
- (d) Employees on leave without pay for less than thirty (30) calendar days are eligible to receive salary increases scheduled during the leave period. Otherwise, the employee's scheduled date for salary increase will be changed to reflect the number of calendar days off payroll.

(D) Special Paid Leave:

1. Workers' Compensation:

- (a) Employees are insured by the city, under the Arizona workers' compensation statutes, against injuries and illnesses occurring in the course of city employment. The law provides for payment under certain circumstances of medical expenses and compensation for loss of income. It is mandatory that every job-related injury or illness, regardless of severity, be reported immediately to the supervisor and a written report prepared in accordance with city safety policies.
- (b) Workers' compensation payments for lost income do not commence until the eighth calendar day following injury or illness. Employees may receive up to forty (40) hours (56 hours for fire suppression personnel) of city-paid industrial injury leave within a calendar year to be used during periods when workers' compensation payments are not available.
- (c) During those periods when city industrial leave or workers' compensation payments are not provided, payment of salary will be charged to the employee's accrued sick leave, or vacation leave, if all sick leave has been exhausted.
- (d) If an absence due to job-related disability extends beyond thirteen (13) calendar days, workers' compensation payments are computed and made retroactive to the date the injury or illness occurred. When retroactive payment is made and the employee has previously received city-paid industrial or sick leave payments, the employee must assign the workers' compensation payments to the city. Industrial or sick leave previously used by the employee will then be restored to the employee's account on a proportionate basis.
- (e) When pay is provided by workers' compensation, the amount received by the employee is usually less than the employee's normal paycheck. If the employee chooses, the difference between the normal paycheck and the amount received in workers' compensation will be calculated and charged to the employee's accrued leave.
- (f) The employee has the option to accept or reject adjustment payments from sick and vacation credits. If the employee elects to reject such payments, the entire amount of workers' compensation will be retained by the employee. If sick or vacation payments are accepted, the employee must assign the workers' compensation payments to the city to be used to provide the employee the normal pay as provided herein.

- (g) The employee may be required to submit to a medical examination on a periodic basis by a city-designated physician.
 - (h) It is the city's policy to attempt to place every employee who is temporarily disabled due to a job-related injury in a light duty position. The job duties are to be within any prescribed limitations as set by a licensed physician. The city can place any employee eligible for light duty within any city department.
2. Military Leave:
- (a) An employee who is a member of the national guard or a member of the reserve corp of the United States armed services shall be entitled to leave of absence from duties without loss of time, pay, vacation, or other rights as provided by state statutes.
 - (b) In order to qualify for paid military leave, an employee must submit military orders or other appropriate documentation immediately upon receipt to the personnel director.
3. Jury Or Witness Leave:
- (a) When an employee is summoned for jury duty or subpoenaed as a witness in a court of law, the city will continue to pay the employee's regular salary upon the surrender of the juror's fee to the city. Employees required to appear in court for personal reasons or are subpoenaed to testify in proceedings where they are either a plaintiff, defendant or other interested party will not be eligible for paid witness leave unless it is directly related to their employment with the city.
 - (b) Employees should notify their department head upon receipt of a summons or subpoena and in advance of their absence from city duty to appear in court.
 - (c) When jury or witness leave is completed, the employee must submit documented proof of attendance to the department head and record it on the timecard.
4. Family Leave:

- (a) Family leave with pay may be granted in the event of the death of a member of the employee's immediate family. The immediate family shall consist of the employee's spouse, children, parents, grandparents, grandchildren, brothers, sisters, or the spouse's children, parents, grandparents, grandchildren, brothers or sisters.
- (b) Use of family leave is limited to two (2) occurrences within a calendar year and a maximum of three (3) consecutive workdays for each occurrence. Two (2) additional days of family leave may be granted if the employee must travel out of state. (Ord. 2307, 10-22-1991, eff. 1-1-1992)

5. Holidays:

- (a) Regular full-time and part-time employees will be allowed the following paid holidays:

- (b)

New Year's Day	January 1
Martin Luther King Jr. Day	Third Monday in January
Washington's Birthday	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veterans Day	November 11
Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving	
Christmas Day	December 25

(Ord. 2307, 10-22-1991, eff. 1-1-1992; amd. Ord. 4087, 2-27-2001)

- (b) If the holiday falls on Sunday, the following Monday shall be observed; if the holiday falls on Saturday, the preceding Friday shall be observed. Shift workers scheduled to work on holidays will be compensated in accordance with policies established by the city manager.
- (c) Regular, part-time employees scheduled to work more than one thousand forty (1,040) hours per year shall be paid for holidays on a prorated basis according to the number of hours they would normally be scheduled to work on that day.

- (d) Employees must work or be on paid leave the last scheduled workday before the holiday and the first scheduled workday after the holiday to be paid for the holiday.
- (e) An employee who is separated from city service when the last day worked is the last working day before a holiday shall not be paid for the holiday.

6. Pregnancy Leave:

- (a) Pregnancy is treated the same as other medical disabilities. A physician's statement is required to document a pregnancy leave request and to authorize a date for return to work.
- (b) During periods of pregnancy-related disability, an employee may use accrued sick leave and if sick leave is exhausted, she may request vacation leave and/or personal leave without pay.

7. Unused Leave:

- (a) Special paid leave does not accrue from year to year and cannot be carried over into a subsequent year.
- (b) Employees separating from city service are not eligible to be compensated for any special paid leave days which were not used. (Ord. 2307, 10-22-1991, eff. 1-1-1992)

- (E) Family Leave: Notwithstanding anything to the contrary herein, all eligible employees of the city, as defined in the family and medical leave act of 1993, shall be entitled to all of the benefits set forth therein, as the same may be amended from time to time. (Ord. 3101, eff. 7-22-1993)

1-20-16: RESTRICTIONS ON POLITICAL ACTIVITY AND SOLICITATIONS:

- (A) A city employee shall not, during the duration of his/her employment, hold an elective public office or any appointive public office which could constitute a possible conflict of interest with his city employment.
- (B) No officer or employee of the city shall directly or indirectly solicit or receive, or be connected with, the soliciting or receiving of any assessment, subscription or contribution for any political purpose from any city employee or suggest or require any city employee to support any candidate for public office.

- (C) Employees are prohibited from engaging in any political activity relating to any city election, or taking part in any city political issues, beyond the private expression of personal opinions, registering to vote, signing nominating, initiative, referendum or recall petitions, and voting in any special, primary or general election.
- (D) Employees are prohibited from engaging in any partisan political activity beyond the private expression of personal opinion, registering as a member of a political party, signing of nominating, initiative, referendum or recall petitions, and voting in any special, primary or general election if such activity could constitute a possible conflict of interest with his city employment or if such activity affects the employee's performance of his city duties. (Ord. 1137, 4-12-1976)

1-20-17: DISCIPLINE:

The city manager is hereby empowered to adopt disciplinary guidelines and procedures for all city personnel. (Ord. 3248, eff. 9-22-1994)

1-20-18: POWERS OF DEPARTMENT HEAD OR SUPERVISOR:

(Rep. by Ord. 3248, eff. 9-22-1994)

1-20-19: GRIEVANCE PROCEDURES:

The City Manager is hereby empowered to adopt grievance procedures for all City personnel. (Ord. 3248, eff. 9-22-94)

1-20-20: GRIEVANCE BOARD:

DELETED by Ordinance No. 3248, eff. 9-22-94

1-20-21: PRESENT BENEFITS:

Those employees who have accrued vacation or other employment benefits that they have accrued under personnel policies that were different from those established by this Ordinance shall continue to retain these benefits that were established before the passage of this Ordinance. The accrual of benefits after the passage of this Ordinance shall be at the levels that are defined within this Ordinance.

1-20-22: SEVERANCE CLAUSE:

The provisions of this Chapter are declared to be severable and if any Section, sentence, clause or phrase of this Chapter shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the

remaining Sections, sentences, clauses and phrases of this Chapter, but they shall remain in effect, it being the legislative intent that this Chapter shall stand notwithstanding the invalidity of any part. (Ord. 1056, 2-25-74; Renumbered Ord. 1111, 5-12-75)

1-20-23: AFFIRMATIVE ACTION PROGRAM:

The Personnel Officer shall implement a policy for the City merit system department heads and other management and supervisory personnel as a guide for developing action programs to provide real equal employment opportunities for minority job applicants, women and employees.

The following subsections are the criteria to be used by the Personnel Officer in establishing that policy:

- (A) City employment opportunities are to be made known effectively to minority group citizens and women. Advertising, publications, and other forms of communication and contact shall be utilized in ensuring that minority group persons and women are informed of City employment opportunities.
- (B) City employment standards shall not be higher than needed to perform the duties of the job involved.
- (C) Employment examinations shall be designed carefully with the objective of determining which applicants are most fit to perform the jobs involved and of avoiding examination barriers irrelevant to the job.
- (D) When minority group or women eligibles are on civil service employment lists, a particular effort shall be made to find appropriate positions for such eligibles.
- (E) Minority group and women employees of the City shall be encouraged to take advantage of City training programs and the City tuition reimbursement plan.
- (F) Minority group or women employees shall be encouraged to seek advancement in City service and those who desire it shall be counselled on how to prepare themselves for promotional opportunities.
- (G) Comprehensive statistics shall be maintained regarding the employment of minority groups or women in City of Prescott Government.
- (H) City employees, particularly those in supervisory and management positions, shall be made aware of the cultural backgrounds and common attitudes of persons from various minority groups and women.

1-20-24: CONFLICT WITH CHARTER:

In cases where this Chapter may be in conflict with the City Charter, the Charter shall prevail. (Ord. 1124, 10-13-75)

CHAPTER 1-21: ADVISORY AND APPEALS BOARD

SECTIONS:

- 1-21-1: CREATED:
- 1-21-2: QUALIFICATIONS OF BOARD MEMBERS:
- 1-21-3: CHAIRMAN AND VICE-CHAIRMAN:
- 1-21-4: JURISDICTION:
- 1-21-5: PROCEDURE:
- 1-21-6: MEETINGS:
- 1-21-7: APPLICATION:
- 1-21-8: NOTIFICATION OF DECISION:

1-21-1: CREATED:

There is hereby created an Advisory and Appeals Board consisting of nine (9) members, who shall be residents of the City of Prescott, to pass on matters pertaining to the Building, Electrical, Mechanical, and Plumbing Codes of the City, each to be appointed by the Council. The minimum number of appointees representing each trade is set forth in Section 1-21-2. The term of office for members shall be three (3) year staggered terms, with terms to expire in March of the respective year. Members may continue to serve until their successors are duly appointed. Vacancies shall be filled by the City Council only for the unexpired term of the Board members creating the vacancy. (Ord. 1650, 12-83; Ord. 2365, effective 4-14-92; amd. Ord. 4738-1035, eff. 04-13-2010)

1-21-2: QUALIFICATIONS OF BOARD MEMBERS:

- (A) Building - Two (2) members shall be from the building trade, general contractor, structural engineer or other qualified person knowledgeable in the field of building construction.
- (B) Electrical - Two (2) members shall be from the electrical trade, an electrical contractor, journeyman or electrical engineer knowledgeable in the electrical field and codes.
- (C) Mechanical - Two (2) members shall be from the heating and air conditioning trades, a contractor, journeyman or other person knowledgeable in the field of heating and air conditioning.
- (D) Plumbing - Two (2) members shall be from the plumbing trade, a contractor, journeyman or person qualified by experience in the field of plumbing and sanitary engineering. (Ord. 1049, 12-10-73)

1-21-3: CHAIRMAN AND VICE-CHAIRMAN:

- (A) Chairman - the city council shall appoint a chairman in March of each year from the Board's membership. (Ord. 2365, 4-14-92; amd. Ord. 4738-1035, eff. 04-13-2010)
- (B) Vice-Chairman - the city council shall appoint a vice-chairman in March of each year from among the Board's membership to represent the chairman in his or her absence. (Ord. 2365, 4-14-92; amd. Ord. 4738-1035, eff. 04-13-2010)
- (C) The Fire Department, utility companies and other expert personnel may be called upon by the Board but shall have no vote.
- (D) Absences: If any member shall be absent for more than two (2) consecutive meetings without notifying the Chairman or the Building Division Director, or shall be absent for more than thirty percent (30%) of all meetings during any one twelve-month period for any reason, he or she shall thereupon automatically cease to hold membership on the Advisory and Appeals Board without any further action being taken by either the Board or the City Council. It shall be the responsibility of the Chairman of the Board to so notify the City Council immediately upon the creation of a vacancy pursuant to this Section. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made. Meetings as used in this Section shall include all regular and special meetings, study sessions and field inspections. (Ord. 2278, 6-25-91; amd. Ord. 4738-1035, eff. 04-13-2010)

1-21-4: JURISDICTION:

The Board shall establish procedures for the following:

- (A) The Board shall receive appeals from any person, firm, corporation or political subdivision to determine the suitability of alternate materials or methods of construction and to provide reasonable interpretations of the Code. Also to review any decision rendered by the Building Official when there has been an appeal presented.
- (B) No appeal shall be acted on unless at least one member is present from the trade or profession making the appeal. (Ord. 1427, 3-10-80; amd. Ord. 2112, 9-12-89)

04-13-2010

1-21-5: PROCEDURE:

The Board shall establish rules and regulations for its procedures not inconsistent with the provisions of this Ordinance. The Building Official shall be an ex officio member and shall act as secretary of the Board and maintain detailed records of all proceedings on file in the Building Division and perform other secretarial duties as required by the Board. (Ord. 1049, 12-10-73)

- (A) Quorum - Five (5) members of the Board shall constitute a quorum in acting on any appeal or conducting any official business of the Board. No member of the Board shall pass on any question in which he is engaged as contractor or material dealer or is engaged in the preparation of the plans or specifications or in which he has any personal interest. (Ord. 2112, 9-12-89)

1-21-6: MEETINGS:

- (A) The Board shall meet upon notice of the Building Official within ten (10) working days of the filing of an appeal or at stated periodic meetings. A meeting shall be called at the request of the Building Official, Chairman or any member of the Board.
- (B) All hearings shall be public and the appellant, his representative and any other person whose interest may be affected by the matter on appeal shall be given an opportunity to be heard and notice of said hearing shall be given to the appellant at least five (5) days before said hearing is to take place.
- (C) Notwithstanding the foregoing provisions, the Board shall have the authority to meet in executive session pursuant to Title 38, Chapter 3, Article 3.1 of the Arizona Revised Statutes, for the purposes as set forth therein. (Ord. 2279, 6-25-91)

1-21-7: APPLICATION:

All applications to the Board shall be presented in writing with sufficient information, data and applicable documents for the Board to render a decision.

1-21-8: NOTIFICATION OF DECISION:

The Board shall render all decisions and findings in writing with a duplicate copy to the appellant, where applicable, and may recommend to the City Council such legislation as is consistent therewith. (Ord. 1049, 12-10-73)

CHAPTER 1-22: PRESCOTT PRESERVATION COMMISSION

SECTIONS:

- 1-22-1: CREATION:
- 1-22-2: COMMISSION MEMBERS:
- 1-22-3: DUTIES:
- 1-22-4: ORGANIZATION:
- 1-22-5: MEETINGS:
- 1-22-6: AUTHORITY TO REMOVE MEMBERS:

1-22-1: CREATION:

There is hereby created a Prescott Preservation Commission which shall consist of seven (7) members appointed by the council, who shall be residents of the City of Prescott. During the review process, one member from the district property owners' committee as outlined in section 8.3 of the Prescott land development code within an established Prescott preservation district shall serve on the commission as a voting member. Members may continue to serve until their successors are duly appointed. (Ord. 4449, 1-11-2005; amd. Ord. 4739-1036, eff. 04-13-2010)

1-22-2: COMMISSION MEMBERS:

- (A) Members: Seven (7) members shall be appointed by the mayor and city council. The members of the commission shall serve staggered terms of three (3) years, with terms to expire in March of the respective year.

All members of the commission shall have a demonstrated interest, experience or knowledge in at least one of the following: history, architectural history, architecture, historic interiors, historic architecture, planning, archaeology, historic archaeology, real estate, historic preservation, law, or another historic preservation related field. To the extent available in the community, at least two (2) members of the commission should be professionals from the disciplines of architecture, history, architectural history, planning, archaeology, or related historic preservation disciplines such as cultural geography or cultural anthropology.

- (B) Compensation: Commission members shall serve without compensation.
- (C) Absences: If any member shall be absent for more than two (2) consecutive meetings without notifying the chairman or the community services director, or shall be absent for more than thirty percent (30%) of

all meetings during any one 12-month period for any reason, he or she shall thereupon automatically cease to hold membership on the Prescott preservation commission, without any further action being taken by either the commission or the city council. It shall be the responsibility of the chairman of the commission to so notify the city council immediately upon the creation of a vacancy pursuant to this section. Meetings as used in this section shall include all regular and special meetings, study sessions and field inspections. (Ord. 4072, 1-23-2001, eff. 1-28-2001; amd. Ord. 4739-1036, eff. 04-13-2010)

1-22-3: DUTIES:

It shall be the duty of the Prescott preservation commission to:

- (A) Review applications to establish Prescott preservation districts and forward a recommendation to the city council. (Ord. 3329, eff. 3-28-1995)
- (B) Review and approve, approve with conditions or disapprove plans to remodel, demolish, move or change the exterior appearance of any existing building within an established district and review plans to construct any new building, structure or sign in an established district. The design criteria of the district shall be used as a guideline for decisions.
- (C) Engage professional architects, designers and/or planners as needed with approval of the city council.
- (D) Advise property owners in a proposed district or from an established district of preservation methods and techniques.
- (E) Perform other preservation functions as the city council may provide. (Ord. 1461, 8-11-1980)

1-22-4: ORGANIZATION:

The city council shall appoint a chairman and vice chairman in March of each year and shall prescribe their duties, as in its discretion deem required. (Ord. 1461, 8-11-1980; amd. Ord. 4739-1036, eff. 04-13-2010)

1-22-5: MEETINGS:

Meetings of the Prescott preservation commission shall be held at least once each month, provided, however, that special meetings may be called at any time by the chairman or by four (4) members of the said commission. (Ord. 1668, 2-27-1984)

1-22-6: AUTHORITY TO REMOVE MEMBERS:

The council by a majority vote shall have the authority to remove any member of the Prescott preservation commission from office whenever, in its discretion, the best interest of the city shall be served thereby. This authority to remove members shall not apply to the member from the district property owners' committee. (Ord. 1461, 8-11-1980)

CHAPTER1-23: (Rep. by Ord. 1738, 6-11-1985)

CHAPTER 1-24: (Rep. by Ord. 2365, 4-14-1992)

CHAPTER 1-25: FIRE BOARD OF APPEALS

SECTIONS:

- 1-25-1: CREATED:
- 1-25-2: QUALIFICATIONS OF BOARD MEMBERS:
- 1-25-3: CHAIRMAN AND VICE-CHAIRMAN:
- 1-25-4: DUTIES:
- 1-25-5: PROCEDURE:
- 1-25-6: MEETINGS:
- 1-25-7: APPLICATION:
- 1-25-8: NOTIFICATION OF DECISION:

1-25-1: CREATED:

There is hereby created a Fire Board of Appeals consisting of four (4) members and a chairman, who shall be residents of the City of Prescott, to pass on matters pertaining to the Fire Code of the City, each to be appointed by the city council. The term of office for members of the Board shall be two (2) years except that the term of two (2) of the members shall be for only one (1) year on the initial appointment in the forming of the membership of the Board. Thereafter, two (2) members shall be appointed each year for two (2) year terms. Terms will expire in March of each respective year. The chairman and vice chairman of the Board shall be appointed by the city council in March of each year. Vacancies shall be filled only for the unexpired term of the Board member or chairman creating the vacancy in the same manner as the appointment of the Board members and chairman and members may continue to serve until their successors are duly appointed. (amd. Ord. 4740-1037, eff. 04-13-2010)

1-25-2: QUALIFICATIONS OF BOARD MEMBERS:

Members shall have background experience in the area of fire suppression, fire prevention, building design, or fire protection engineering and shall be qualified to pass upon pertinent matters involving fire and life safety in general.

1-25-3: CHAIRMAN AND VICE-CHAIRMAN:

- (A) Chairman - One chairman, preferably from the fire service.
- (B) Vice-Chairman - The vice-chairman shall represent the chairman in his absence.
- (C) The Building Department, utility companies, and other expert personnel may be called upon by the Board but shall have no vote.

- (D) Removal - If any member shall be absent for more than two (2) consecutive meeting without notifying the Chairman or the Fire Chief, or shall be absent for more than thirty percent (30%) of all meetings during any one twelve-month period for any reason, he or she shall thereupon automatically cease to hold membership on the Fire Board of Appeals without any further action being taken by either the Board or the City Council. It shall be the responsibility of the Chairman of the Board to so notify the City Council immediately upon the creation of a vacancy pursuant to this Section. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made. Meetings as used in this Section shall include all regular and special meetings, study sessions and field inspections. (Ord. 2278, 6-25-91; amd. Ord. 4740-1037, eff. 04-13-2010)

1-25-4: DUTIES:

The Board shall receive appeals from any person or political subdivision to determine the suitability of alternate materials or methods of fire protection and to provide for reasonable interpretation of the provisions of the Fire Code; also to review any decision rendered by the Fire Marshal when there has been an appeal presented. (amd. Ord. 4740-1037, eff. 04-13-2010)

1-25-5: PROCEDURE:

The Board shall establish rules and regulations for its procedures not inconsistent with the provisions of this Chapter. The Fire Chief shall be an ex-officio member and shall act as secretary of the Board and maintain detailed records of all proceedings on file in the Fire Prevention Division and perform other secretarial duties as required by the Board.

- (A) Quorum - Three (3) members of the Board shall constitute a quorum in acting on any appeal or conducting any official business of the Board. No member of the Board shall pass on any question in which he is engaged in the preparation of the plans or specifications or in which he has any personal interest.

1-25-6: MEETINGS:

- (A) The Board shall meet upon notice of the Fire Marshal within ten (10) working days of the filing of an appeal or at stated periodic meetings. A meeting shall be called at the request of the Fire Marshal, chairman, or any member of the Board. (amd. Ord. 4740-1037, eff. 04-13-2010)
- (B) All hearings shall be public and the appellant, his representative, and any other person whose interest may be affected by the matter on appeal shall

be given an opportunity to be heard and notice of said hearing shall be given to the appellant at least five (5) days before said hearing is to take place.

- (C) The Board shall have the authority to meet in executive session pursuant to Title 38, Chapter 3, Article 3.1 of the Arizona Revised Statutes, for the purposes as set forth therein. (Ord. 2279, 6-25-91)

1-25-7: APPLICATION:

All applications to the Board shall be presented in writing with sufficient information, date, and applicable documents for the Board to render a decision.

1-25-8: NOTIFICATION OF DECISION:

The Board shall render all decisions and findings in writing with a duplicate copy to the appellant, where applicable, and may recommend to the City Council such legislation as is consistent therewith. (Ord. 1650, 12-12-83)

CHAPTER 1-26: PRESCOTT PUBLIC HOUSING AUTHORITY

SECTIONS:

- 1-26-1: CREATION:
- 1-26-2: MEMBERSHIP:
- 1-26-3: DUTIES:
- 1-26-4: ORGANIZATION:
- 1-26-5: MEETINGS:
- 1-26-6: OBLIGATIONS OF THE CITY:

1-26-1: CREATION:

The Prescott Public Housing Authority is hereby created.

1-26-2: MEMBERSHIP:

The members of the Prescott City Council shall serve as the members of the Prescott Public Housing Authority, without any additional compensation other than that received in their official capacity as a Council member.

1-26-3: DUTIES:

The duties of the Prescott Public Housing Authority shall be to:

- (A) Determine which housing programs the Prescott Public Housing Authority wishes to pursue within the corporate limits of the City of Prescott.
- (B) To enter into contracts with nonprofit corporations or organizations for the implementation of federal programs for low-income families, the elderly, and other eligible groups within the City Limits.
- (C) Approve any and all grant applications prior to the submission of all such grant applications.
- (D) Approve any and all contracts entered into by the Authority's designee

1-26-4: ORGANIZATION:

The chairman of the Authority shall be the Mayor. The vice-chairman of the Authority shall be the Vice Mayor or Mayor Pro Tem.

1-26-5: MEETINGS:

The Authority shall meet at such time as deemed necessary by the chairman thereof or any two (2) members of the Authority.

1-26-6: OBLIGATIONS OF THE CITY:

The City of Prescott shall not be obligated to fund or contribute monetarily to the operation of the Public Housing Authority or to any designee of same. Notwithstanding the foregoing, this Section shall not preclude City of Prescott staff from expending a nominal amount of time at the direction of the City Manager to assist the Authority and/or its designee in the implementation of housing programs within the City limits, not to exceed one hundred (100) man-hours per year, nor shall it prohibit the expenditure of nominal sums in the course thereof, such as copy costs, long-distance telephone calls, etc., as long as such costs can be recovered by the City from available grants. (Ord. 2281, 7-23-91)

CHAPTER 1-27: CITY OF PRESCOTT PROCUREMENT CODE

SECTIONS:

- 1-27-1: ADOPTION AND AMENDMENTS OF PROCUREMENT CODE:
- 1-27-2: PENALTIES FOR VIOLATIONS BY CITY EMPLOYEES:
- 1-27-3: PENALTIES FOR VIOLATIONS BY NONEMPLOYEES:
- 1-27-4: PENALTIES NOT EXCLUSIVE:

1-27-1: ADOPTION AND AMENDMENTS OF PROCUREMENT CODE:

(A) Adoption: That certain code entitled "City of Prescott Procurement Code" dated April 12, 1994, and as declared to be a public record pursuant to resolution 2684, is hereby adopted and made a part of this chapter the same as though said code were specifically set forth in full herein. (Ord. 3180, eff. 4-12-1994)

(B) Amendments:

Ordinance 3260, eff. 10-13-1994

Re: Sections 15(C) and 15(H)

RFP's - when public and negotiations

Re: Section 24(G) authority to destroy weapons

Ordinance 3537, eff. 10-24-1996

Re: Adding section 9(G) - Used vehicles/equipment over \$3,000.00

Re: Adding section 24(H) - Transfer of surplus personal property

Ordinance 3546, eff. 11-7-1996

Re: Section 2 Applicability - Financial stipends, grant allowances

Ordinance 4071, 1-9-2001

Re: Section 20 is hereby amended as follows:

Any contract or agreement for the procurement of services in excess of \$3,000.00, or that assigns rights, remedies, duties or obligations to the

City, shall be expressed in writing, approved by the City Attorney, and properly authorized before the City shall be contractually bound.

Ordinance 4145, 9-11-2001

Re: Adding section 18(K) - Awards

- (K) In reviewing bids and/or proposals and/or estimates, and determining whether or not a proposed contractor or vendor is the most responsible and/or most qualified bidder, the City shall consider, among other factors:
- (1) costs incurred by the City or other governmental entities in contested change orders by the contractor;
 - (2) litigation in which the contractor was involved with the City or other governmental entities relative to contract performance;
 - (3) failure of the contractor to have met bid specifications or time limits in previous contracts;
 - (4) abandonment of a contract or refusal to perform without legal cause after submission of a bid;
 - (5) a record of bidding errors or omissions in two or more bid submissions in a thirty-six month period;
 - (6) a record of failure to perform or unsatisfactory performance of two or more contracts within a thirty-six month period;
 - (7) inadequate equipment, lack of expertise or insufficient personnel to complete the proposed contract;
 - (8) a record of safety violations in two or more contracts within a thirty-six month period;
 - (9) conviction of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract within a ten year period;
 - (10) conviction of a criminal offense within a ten year period of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business

honesty which might affect responsibility as a municipal contractor;

- (11) conviction of state or federal antitrust statutes within a ten year period arising out of the submission of bids or proposals;
- (12) any other cause that the City determines to be so serious and compelling as to affect responsibility as a municipal contractor, including debarment or similar proceedings by another governmental entity.

Ordinance 4206, 3-12-2002

Re: Amending section 24(C)2

(C)

- 2. The City's Purchasing Agent may employ whatever methods are most advantageous to the City to dispose of personal property valued at Three thousand dollars (\$3,000.00) or less.

Ordinance 4253, 8-20-2002

Re: Adding section 9(H)

- (H) Notwithstanding any other provision or requirement in this Code, a contract may be awarded for a supply, service or construction item without competition or solicitation when the purchasing agent, with the concurrence of the City Manager, determines in writing that there is only one source for the required supply, service or construction item.

Re: Amending section 18(J)

- (J) If all bids received exceed available monies as certified by the City Manager or his designee, and the lowest and most qualified bid exceeds such monies, the Purchasing Agent may negotiate an adjustment of the bid price, including changes in the bid requirements and specifications, with the lowest responsive and responsible bidder, to bring the bid within the amount of available monies.

Ordinance 4413, 8-24-2004

Re: Amending section 13(A)

- (A) Any procurement resulting in an expenditure of more than Ten Thousand Dollars (\$10,000) shall have been made only after formal competitive sealed bidding, solicited by public notification, and awarded by the City Manager; provided, however, that any procurement resulting in an expenditure of more than Twenty Thousand Dollars (\$20,000.00) shall only be awarded by the City Council.

Ordinance 4802-1202, 8-25-2011

Re: Changes to Contract Limits

The City of Prescott Procurement Code, adopted on April 12, 1994, and amended from time to time as indicated above, has been adopted by reference due to its length. (The document is shown on the following pages as a courtesy to users.)

**TITLE 1, CHAPTER 27, SECTION 1
PRESCOTT PROCUREMENT CODE**

(SUB) SECTION:

- [1-27-1.1: General Provisions](#)
- [1-27-1.2: Applicability](#)
- [1-27-1.3: Procurement Organization](#)
- [1-27-1.4: Requirements of Good Faith](#)
- [1-27-1.5: Fraud and Collusion](#)
- [1-27-1.6: Conflict of Interest](#)
- [1-27-1.7: Gifts and Gratuities](#)
- [1-27-1.8: Specifications](#)
- [1-27-1.9: Procurement Methods](#)
- [1-27-1.10: Emergency Procurements](#)
- [1-27-1.11: Expenditures](#)
- [1-27-1.12: Reserved](#)
- [1-27-1.13: Reserved](#)
- [1-27-1.14: Multi-Step Sealed Bids](#)
- [1-27-1.15: Request for Proposal](#)
- [1-27-1.16: Selection of Professional Services](#)
- [1-27-1.17: Purchases of Merchandise for Resale](#)
- [1-27-1.18: Awards](#)
- [1-27-1.19: Change Orders](#)
- [1-27-1.20: General Contract Authority](#)
- [1-27-1.21: Types of Contracts](#)
- [1-27-1.22: Contract Clauses](#)
- [1-27-1.23: Insurance and Bond Provisions](#)
- [1-27-1.24: Sale, Transfer or Disposition of City Personal Property](#)

SECTION 1-27-1.1: GENERAL PROVISIONS:

The City hereby adopts the following policies governing the procurement of all supplies, materials, equipment and services for the offices, departments and agencies of the City.

SECTION 1-27-1.2: APPLICABILITY:

- (A) This Code applies only to contracts or purchases solicited or entered into after the adoption of this Code. Renewal of existing contracts shall also be subject to this Code unless the specific contract terms provide otherwise.
- (B) This Code shall apply to every expenditure of public funds regardless of source, including State and Federal assistance monies, by this City, except that nothing in this Code shall prevent the City from complying with the terms and conditions of any grant, gift or bequest or cooperative agreement. This Code shall also apply to the disposal of City property.
- (C) It shall be unauthorized for any City employee, appointed or elected official to order the procurement of materials, supplies or services, or make contracts within the purview of this Code, other than in accordance with this Code and any regulations or directives promulgated pursuant to this Code. Contracts or Purchase Orders made contrary to the provisions hereof may not be approved and the City may not be bound thereby. Unauthorized contracts or purchases may result in disciplinary action or personal liability to the person entering into said unauthorized contract or purchase.
- (D) The authority granted to purchasing agents by the City Manager pursuant to this Code shall be limited by available funds having been budgeted by the City of Prescott.
- (E) Notwithstanding anything to the contrary contained herein, this Code shall not apply to financial stipends, grants or allowances by the City to assist in the continued operations of existing entities providing a public service to residents of Prescott, provided that said payment is first approved by the City Council. (Ord. No. 3546, eff. 11/7/96)

SECTION 1-27-1.3: PROCUREMENT ORGANIZATION:

- (A) The City Manager is vested with the authority for procurement. The City Manager may employ a Purchasing Agent (hereinafter referred to as the "City's Purchasing Agent"), who may be vested with the authority for procurement by a fiduciary relationship between the purchasing agent and the City Manager, except as otherwise provided herein.
- (B) Department Heads may be appointed by the City Manager to serve as the Purchasing Agent for their respective departments (hereinafter specifically referred to as the "Purchasing Agent"), with the authority to procure or supervise the procurement of supplies, materials, equipment and services for their departments as provided herein.
- (C) The City's Purchasing Agent shall establish guidelines for the management of all inventories of materials belonging to the City.
- (D) The sale, trade or other disposal of City-owned personal property and surplus supplies shall be supervised by the City's Purchasing Agent.
- (E) The City Manager is hereby empowered to adopt rules and regulations relating to purchases and the entering into of contracts, which rules and regulations are not otherwise inconsistent with the provisions of this Code or the City Charter.

08-25-2011

SECTION 1-27-1.4: REQUIREMENTS OF GOOD FAITH:

- (A) This Code requires all parties involved in the negotiation, performance or administration of City contracts or purchases to act in good faith. Any effort to influence any public employee to breach the standards of ethical conduct is also a breach of ethical standards.
- (B) City employees and elected or appointed officials must discharge their duties impartially so as to ensure fair competitive access to City procurement by responsible suppliers of goods and services. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the City procurement organization.
- (C) Any City employee who knowingly violates any of the provisions of this Code shall be subject to disciplinary action and/or termination depending upon the severity of the violation, in accordance with City Code Personnel provisions.
- (D) An individual who is not an employee of the City who violates any provision of this Code may be subject to debarment from having the opportunity to bid or be awarded any City contracts for a period of up to twenty-four (24) months, depending upon the severity of the violation, in the sole discretion of the City Manager. Any individual, organization or entity so debarred shall be advised in writing by the City of the debarment, the period thereof, and the reason therefor. Any appeal of the City Manager's determination of debarment must be presented to the City Council, in writing, within ten (10) days of the notice of debarment.
- (E) Criminal, civil and administrative remedies otherwise available against employees or non-employees for a violation of this Code are cumulative, and shall not be impaired by this Code.

SECTION 1-27-1.5: FRAUD AND COLLUSION:

- (A) Where competitive solicitations are required pursuant to Sections 13, 14 or 15 of this Code, no City employee, elected or appointed official shall assist a supplier of goods or services in securing a contract or purchase order by prejudicing the selection of that supplier or the price paid for goods or services sold to the City.
- (B) Willful misleading or withholding of information by a prospective supplier or City representative regarding the character of the goods or services procured or sold by the supplier or the City representative shall be considered a breach of ethical standards, resulting in administrative and civil remedies pursuant to Section 4(C) and (D).
- (C) It shall be a breach of ethical standards for any employee or former employee knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.
- (D) Prices offered by suppliers of goods and services procured by the City shall be independently developed without consultation or collusion with other suppliers or potential suppliers when responding to bids, quotes or requests for proposals.

SECTION 1-27-1.6: CONFLICT OF INTEREST:

- (A) This Code specifically incorporates the provisions of ARS Title 38, Chapter 3, Article 8 regarding conflict of interest and exceptions thereto.
- (B) The value of anything transferred or received in breach of the purchasing ethics of this Code by an employee or non-employee shall be recoverable by the City.

SECTION 1-27-1.7: GIFTS AND GRATUITIES:

- (A) It is a breach of procurement ethics for any person to solicit, offer, give or accept money, credits, gifts, entertainment, discounts, favors or services in connection with recommendations or decisions pertaining to any procurement.
- (B) It shall be conclusively presumed that the value of the gifts or gratuities was included in the price of the contract, subcontract or order and ultimately borne by the City and will be recoverable by the City from the recipient, from the vendor, or both.
- (C) Exceptions to this Section are unsolicited advertising or promotional materials such as pens, pencils, calendars and other items of nominal, intrinsic value offered on infrequent occasions in the ordinary course of business.

SECTION 1-27-1.8: SPECIFICATIONS:

- (A) All specifications, including those prepared by architects, engineers, consultants and others for procurement by the City shall not be unduly restrictive and shall encourage maximum, practical competition among suppliers.
- (B) Specifications for goods and services that exclude suppliers offering similar performance or functional characteristics shall not be used unless such specifications are technically justified or it is not practicable nor advantageous to use a less restrictive specification.

SECTION 1-27-1.9: PROCUREMENT METHODS:

- (A) The cost of an item, not the method of payment, determines the method of procurement. Artificial division, splitting or fragmentation of a transaction to circumvent source selection or to avoid requirements for bidding or authorization of procurements are prohibited.
- (B) Procurements made for the City shall be documented by a written contract or purchase order that has been authorized and issued prior to receipt of the goods or services or prior to payment for goods and services, except as otherwise provided for in this Code.
- (C) The City's Purchasing Agent shall maintain a current list of prospective suppliers who have expressed an interest in providing goods and services to the City and they shall be contacted for quotations or bids until they have failed to respond.
- (D) The City may participate with the State of Arizona, or any other public entity, for goods and services that have been obtained in accordance with the State Procurement Code or in substantial compliance with the provisions of this Code.
- (E) Procurements may be solicited from suppliers without competition if the Purchasing Agent determines, by clear and convincing evidence, that only one source exists.
- (F) Notwithstanding the provisions of Subsection "B" above, purchases by Purchasing Agents pursuant to open accounts established by the City shall be allowed, conditioned upon said purchases being within budgetary restrictions, and in accordance with the policy for purchases on open accounts as established by the City Manager or his designee; provided, however, that no purchase on an open account may exceed that amount set forth in Section 12 of this Code.
- (G) Procurements in an amount of more than \$3,000.00 may be solicited from suppliers without bidding or competition, with the prior approval of the City Council, for used vehicles, used equipment and other used personal property, upon clear and convincing evidence that the item or items to be purchased are only sporadically or occasionally available for purchase,

and due to the sporadic nature of availability, the purchase via bidding or other competition would not be productive. (Ord. No. 3537, eff. 10/24/96)

- (H) Notwithstanding any other provision or requirement in this Code, a contract may be awarded for a supply, service or construction item without competition or solicitation when the purchasing agent, with the concurrence of the City Manager, determines in writing that there is only one source for the required supply, service or construction item. (Ord. No. 4253, eff. 9/20/02)

SECTION 1-27-1.10: EMERGENCY PROCUREMENTS:

- (A) A purchasing agent may make or authorize others to make emergency procurements if there exists a threat to the public health, welfare or safety or if a situation is determined to be necessary for the public interest.
- (B) An emergency procurement shall be limited to the goods or services necessary to satisfy the emergency need with as much competition as practicable under the circumstances.
- (C) Emergency expenditures and obligations to suppliers of goods and services in actual emergencies that exceed Ten Thousand Dollars (\$10,000.00) shall be submitted to the Council for authorization or ratification at the next scheduled Council meeting.

SECTION 1-27-1.11: EXPENDITURES (amd. Ord. No. 4802-1202, eff. 8-25-2011)

- (A) EXPENDITURES OF THREE THOUSAND DOLLARS (\$3,000.00) OR LESS:
 - 1. Any procurement that results in an expenditure of Three Thousand Dollars (\$3,000.00) or less shall have been made with as much economy as practicable in the open market place at the prevailing price, without the requirement of public notice or Council authorization, by a purchasing agent.
 - 2. Petty cash expenditures may be authorized by the Treasurer and disbursed by a designee from a cash fund set aside and maintained for small procurements. The maximum expenditure from petty cash shall be as determined by the City Manager.
- (B) EXPENDITURES OF THREE THOUSAND AND 01/100 DOLLARS (\$3,000.01) TO TEN THOUSAND DOLLARS (\$10,000.00):
 - 1. Any procurement resulting in an expenditure from Three Thousand and 01/100 Dollars (\$3,000.01) to Ten Thousand Dollars (\$10,000.00) may be made by a purchasing agent without the requirements of public notification by advertisement.
 - 2. A purchasing agent shall obtain three (3) informal competitive quotations, in writing, from available suppliers.
 - 3. The solicitation requirements provided for herein are to be considered minimum requirements.
- (C) EXPENDITURES OF TEN THOUSAND AND 01/100 DOLLARS (\$10,001.01) TO TWENTY THOUSAND DOLLARS (\$20,000.00):
 - 1. Any procurement resulting in an expenditure from Ten Thousand and 01/100 Dollars (\$10,000.01) to Twenty Thousand Dollars (\$20,000.00) may be made by THE CITY COUNCIL without the requirements of public notification by advertisement.

2. Purchasing Agent shall obtain three (3) informal competitive quotations, in writing, from available suppliers and submit said quotations to the city council for consideration of approval.
3. The solicitation requirements provided for herein are to be considered minimum requirements.

(D) EXPENDITURES EXCEEDING TWENTY THOUSAND DOLLARS (\$20,000.00):

1. Any procurement resulting in an expenditure of more than Twenty Thousand Dollars (\$20,000.00) shall have been made only after formal competitive sealed bidding, solicited by public notification, and awarded by the City Council.
2. A formal invitation to bid shall be issued by the City Clerk, or designee, and shall include the dates of public notice, the time and place for bid receipt and opening and a description of the goods or services.
3. Public notification shall be considered adequate when a formal invitation to bid is advertised and published at least once in a newspaper of general circulation within the City not less than ten (10) days before the bid opening.
4. Amendments to invitations to bid that are necessary to make a change shall be issued in writing by the a purchasing agent, with a copy to the City Clerk, within a reasonable time before the bid opening to all suppliers to whom the purchasing agent has distributed invitations to bid and to all suppliers who have requested bid documents or specifications and shall require acknowledgement of receipt by the bidder before the bid opening or within the bid.
5. Sealed bids shall be considered properly received only when delivered in a sealed envelope marked in accordance with the request for bid or as set forth in the bid specifications, to the City Clerk or designee by or before the specified time and designated place as advertised in the public notice and shall be time-stamped and stored unopened in a secure place until the public bid opening.
 - a. Late bids shall be rejected if received after the designated time in the location for receipt thereof; except that bids that are received by City personnel before the bid opening and would have been timely received but for the action or inaction of City personnel directly serving the procurement function may be received and considered.
 - b. Minor informalities may be waived by the City Manager in consultation with the purchasing agent and City Attorney if the waiver is deemed to be in the best interest of the City.
6. A modification or withdrawal of bid must be received before the time and date set for bid opening in the location designated for receipt of bids and shall be time-stamped and recorded.
7. Bids shall be opened publicly by the City Clerk or designee in the presence of one or more witnesses at the time, date and location designated in the invitation to bid.
 - a. The name of each bidder, the price bid and other information deemed appropriate shall be read aloud and recorded.
8. Mistakes in the bid discovered after the bid opening based on an error in judgment may not be corrected or withdrawn except as set forth herein.

- a. After bid opening, the City Manager, in consultation with a purchasing agent and the City Attorney, may waive minor informalities in a bid.
 - b. After bid opening, the bid may not be withdrawn and shall be corrected to the intended bid only if a bid mistake and the intended bid are evident on the face of the bid.
 - c. After bid opening, the City Manager, in consultation with a purchasing agent and City Attorney, may permit a bidder to withdraw a bid when:
 - i. A nonjudgmental mistake is evident on the face of the bid and the intended bid is not clear; or
 - ii. The bidder establishes by clear and convincing evidence in the sole opinion of the City that a nonjudgmental mistake was made; or
 - iii. The bid is so low as to create a likelihood that the contract cannot be completed and to enforce compliance with the bid would be unconscionable.
9. An invitation for bids, a request for proposals or other solicitation may be canceled or any or all bids or proposals may be rejected in whole or in part by the Purchasing Manager or the City Council if it is in the best interest of the City.
10. The solicitation requirements provided for herein are to be considered minimum requirements. Purchasing agents are expected to also inform the public and potential bidders of the availability of a bid opportunity by any other practical means.

SECTION 1-27-1.12: RESERVED

SECTION 1-27-1.13: RESERVED

SECTION 1-27-1.14: MULTI-STEP SEALED BIDS:

When it is considered impractical to initially prepare a procurement description to support an award based on the price of the goods or services, an invitation to bid may be issued requesting the submission of unpriced offers. The initial invitation to bid will be followed by a subsequent invitation to bid limited to those bidders whose offers have been determined technically acceptable under the criteria set forth in the first solicitation.

SECTION 1-27-1.15: REQUEST FOR PROPOSAL:

- (A) A request for proposal may be utilized whenever the Purchasing Agent determines that the City wishes to utilize competitive negotiation, or if the City is unable to provide bid specifications for an entire project and shall request the prospective bidders to specify a method or manner at the bidder's choosing of performing a contract.
- (B) If the estimated dollar amount of the ultimate contract to be awarded exceeds that amount set forth in Section 13 of this Code, the procedure for seeking requests for proposals shall be in accordance with Section 13 of this Code.
- (C) All proposals shall be opened publicly at the time and place designated in the Request for Proposals. The name of the offeror and such other relevant information as may be designated by the Purchasing Agent shall be publicly read. All other information contained in the proposals shall be confidential as to avoid disclosure of contents prejudicial to

competing offerors during the process of negotiation. All proposals may be open for public inspection after a recommendation is made to the City Council for, but in no event, no later than the contract award by the City Council. To the extent as designated by the offeror and the Purchasing Agent concurs, trade secrets or other proprietary data contained in the bid documents shall remain confidential. (amd. Ord. No. 3260, eff. 10-13-94)

- (D) Competitive negotiation may be used at the discretion of the purchasing agent. Discussions shall not disclose any information derived from proposals submitted by other offerors.
- (E) Negotiation following the opening of sealed proposals is not required if one or more of the initial offers is fully satisfactory. Award may be made on the basis of the proposal as first submitted, without any discussion with the offeror or changes to the content of the proposal.
- (F) Criteria for evaluation of proposals may include, but shall not be limited to, managerial or technical capabilities, comparative feasibilities of the approach or other elements where price may not be the sole determining factor for selection of a supplier.
- (G) Authorized awards shall be made in writing to the responsible offeror whose proposal is determined to be the most advantageous to the City, taking into consideration (but not limited to) price, those evaluation factors set forth in the solicitation, and in Section 18 of this Code.
- (H) Once a formal recommendation is made to the City Council regarding which proposal (as subsequently amended by negotiations) should be accepted, no further negotiations or modifications to proposals may be made; provided, however, that this does not prohibit the City Council from either rejecting all proposals, or directing City staff to pursue further negotiations with one or more of the proposers. (Ord. No. 3260, eff. 10-13-94)

SECTION 1-27-1.16: SELECTION OF PROFESSIONAL SERVICES:

- (A) Personal services provided by members of professions that require specialized knowledge and expertise acquired by advanced training and/or experience may be procured or retained on an as-needed basis or for a particular project by the purchasing agent without the formal bidding requirements set forth in Section 13 of this Code. These services may be procured annually, or on an as-needed basis.
- (B) The purchasing agent may award a contract to a provider of professional services in the event that the contract for said services is not estimated to exceed the amount set forth in Section 13. Any contract for professional services which is expected to exceed that amount set forth in Section 13 must be approved by the City Council.
- (C) Notwithstanding the foregoing provisions, purchasing agents are expected to also publicize and inform qualified professionals in the Prescott area of the availability of a contract award pursuant to this Section by any other practical means.
- (D) In the event that there is justification to do so due to the particular expertise or knowledge of a particular professional consultant, contracts for professional services for expert witnesses in litigation matters may be exempted from the provisions of Sections 8, 9, 11, 12, 13, 14, 15, 18 and 19 of this Code, at the discretion of the purchasing agent. However, any contract for professional services which is expected to exceed that amount set forth in Section 13 must be approved by the City Council.

SECTION 1-27-1.17: PURCHASES OF MERCHANDISE FOR RESALE:

Due to the fact that the City of Prescott is involved in certain enterprises which consist, wholly or partially, of retail sales to the general public (e.g., the Golf Course Pro Shop), it is understood that the

practicalities of operating a retail sales establishment should be dictated not necessarily by the lowest competitive price, but rather by various market factors (e.g., brand name, etc.). Therefore, a purchasing agent who is responsible for purchasing merchandise for resale to the general public shall be exempt from the provisions of Sections 8, 9, 11, 12, 13, 14, 15, 18, and 19 of this Code for said purchases, provided, however, that any purchases which exceed the dollar amount as set forth in Section 13 of this Code shall still require City Council approval.

SECTION 1-27-1.18: AWARDS:

- (A) Authorized awards shall be made to the lowest and most qualified supplier whose bid, quotation or offer conforms to the procurement requirements and criteria set forth in the City's solicitation and is deemed to be in the best interest of the City.
- (B) The evaluation methods to determine the conformity of the procurement requirements and criteria shall be uniform and equal for each responding supplier.
- (C) Goods or services shall be evaluated as much as possible by tangible, measurable criteria that includes but is not limited to, transaction privilege or use tax to be paid to the City of Prescott, transportation costs, energy costs, standard practices or procedures, life cycle and effective ownership costs, whether the goods are made from recycled material, or other factors that satisfy the particular function at the lowest overall cost to the City. Additionally, the City may include in its evaluation managerial or technical capabilities, comparative feasibilities of the approach to be used (if applicable), prompt service, accessibility, delivery, travel, or any other factors which may reduce or offset the cost of goods or services solicited by the City.
- (D) A bidder or offeror may be required to submit to the Purchasing Agent a certification of current cost or pricing data used to price the bid or offer prior to an award to determine if the price is fair, reasonable, and in the best interests of the City.
- (E) The City Manager retains the authority to debar or suspend any potential supplier of goods or services from consideration of award if the potential supplier is in default of any obligation, taxes or fees due and owing the City, until such time as the breach or default is cured.
- (F) Low bids, quotations or offers which are identical in all respects from two (2) or more responsible and responsive suppliers may be awarded by the drawing of lots in public in the presence of two (2) or more witnesses including the City Clerk or designee.
- (G) Multiple awards may be made in whole or in part to two (2) or more suppliers of similar goods or services to facilitate delivery, service, product compatibility or obtain the best value in the best interest of the City.
- (H) If only one responsive bid, quotation or offer is received from a competitive solicitation,
 - 1. An authorized award may be made to the single bidder if the price is determined to be fair and reasonable; or
 - 2. The bid may be rejected; or
 - 3. New competitive solicitation may be made; or
 - 4. The need for the procurement continues and the acceptance of one bid is not advantageous to the City, the procurement may be made under provision for sole source or emergency as defined in Sections 9(E) or 10 of this Code.

- (I) If no response is received from competitive solicitation, the Purchasing Agent may resolicit, terminate further solicitation, or procure under the provisions for emergency or sole source, whichever is applicable.
- (J) If all bids received exceed available monies as certified by the City Manager or his designee, and the lowest and most qualified bid exceeds such monies, the Purchasing Agent may negotiate an adjustment of the bid price, including changes in the bid requirements and specifications, with the lowest responsive and responsible bidder, to bring the bid within the amount of available monies. (Ord. 2453, eff. 9/20/02)
- (K) In reviewing bids and/or proposals and/or estimates, and determining whether or not a proposed contractor or vendor is the most responsible and/or most qualified bidder, the City shall consider, among other factors:
 - 1. Costs incurred by the City or other governmental entities in contested change orders by the contractor;
 - 2. Litigation in which the contractor was involved with the City or other governmental entities relative to contract performance;
 - 3. Failure of the contractor to have met bid specifications or time limits in previous contracts;
 - 4. Abandonment of a contract or refusal to perform without legal cause after submission of a bid;
 - 5. A record of bidding errors or omissions in two or more bid submissions in a thirty-six month period;
 - 6. A record of failure to perform or unsatisfactory performance of two or more contracts within a thirty-six month period;
 - 7. Inadequate equipment, lack of expertise or insufficient personnel to complete the proposed contract;
 - 8. A record of safety violations in two or more contracts within a thirty-six month period;
 - 9. Conviction of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract within a ten year period;
 - 10. Conviction of a criminal offense within a ten year period of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which might affect responsibility as a municipal contractor;
 - 11. Conviction of state or federal antitrust statutes within a ten year period arising out of the submission of bids or proposals;
 - 12. Any other cause that the City determines to be so serious and compelling as to affect responsibility as a municipal contractor, including debarment or similar proceedings by another governmental entity. (Ord. No. 4145, eff. 10/11/01)

SECTION 1-27-1.19: CHANGE ORDERS:

- (A) The provisions regarding approval of change orders as set forth in this section supersede any other provision to the contrary as contained elsewhere in this Code.
- (B) A change order shall be defined as any change order, contract modification or any adjustment to the amount of the original authorized award for work or a project in progress, when extra work or materials are required due to bona fide unforeseen conditions.
- (C) Any change order in an amount of Ten Thousand Dollars (\$10,000.00) or less must be approved by the purchasing agent in writing.
- (D) Any change order in an amount of more than Ten Thousand Dollars must be submitted to the City Council for approval. In the event that prior approval of the Council will unduly delay a project in progress, the City Manager shall have the authority to approve said change orders subject to subsequent ratification by the City Council.
- (E) Cost or pricing data may be required to be submitted for change orders, contract modifications or adjustments to the original award when such adjustments increase the amount of the original award or decrease value of work.

SECTION 1-27-1.20: GENERAL CONTRACT AUTHORITY:

Any contract or agreement for the procurement of services in excess of \$3,000.00, or that assigns rights, remedies, duties or obligations to the City, shall be expressed in writing, approved by the City Attorney, and properly authorized before the City shall be contractually bound. (Ord. No. 4071, eff. 2/9/01)

SECTION 1-27-1.21: TYPES OF CONTRACTS:

- (A) Any type of contract which will promote the best interest of the City may be used.
- (B) Fixed-price contracts shall be used only when the extent or type of goods or services can be specified and the cost can be reasonably estimated at the outset of the contract.
 - 1. Fixed-price contracts with a price adjustment allowance shall be used only if the solicitation and the contract specify the basis for the price adjustment and provide for adequate notice of such adjustments.
- (C) Time and material contracts may be used only when the Purchasing Agent determines that such a contract is less costly than any other type or that it is impractical to obtain the goods or services except under such a contract. The purchasing agent may set performance criteria in monitoring said work.
 - 1. Time-and-materials or labor-hour contracts shall provide for a maximum contractual amount.
- (D) Lease agreements and lease-purchase contracts may be used if all conditions for renewal, including the cost determination for renewal are set forth in the agreement and the lease is not used to circumvent the required procurement procedures of this Code.
 - 1. A purchase option may be exercised if the lease-purchase was awarded by competitive solicitation as set forth in Sections 13 or 15 of this Code and if exercise of such option is in the best interest of the City.

- (E) Multi-term contracts may be used for any period of time deemed to be in the best interests of the City. Payment and performance obligations for succeeding fiscal years shall be subject to the availability and appropriations of funds therefor.
1. Before exercising any option for renewal or extension of a contract, the Purchasing Agent shall evaluate the performance during the original contract period and determine that a competitive procurement is not more advantageous to the City than exercise of the particular option.
 2. A contract entered into by the City should not provide for automatic extensions or renewals thereof without first requiring some affirmative act on the part of the City to continue or extend said contract.
 3. In the event that funds are not appropriated or made available to support the continuation of a contract in a subsequent fiscal year, the contract shall be canceled and the City shall have no further obligation under said contract.

SECTION 1-27-1.22: CONTRACT CLAUSES:

The City Attorney may establish standard contract clauses for inclusion in City contracts. Such standard clauses may be modified upon review by the City Attorney on a case-by-case basis.

SECTION 1-27-1.23: INSURANCE AND BOND PROVISIONS:

- (A) The submission of bid security by the bidder or offeror may be required to guarantee a faithful bid and execution of all contracts if awarded the bid. Any requirements for a bid bond shall be set forth in the bid solicitation or bid specifications.
- (B) When the solicitation requires bid security, non-compliance with such security requires that the bid or offer be rejected unless it is determined that the bid fails to comply only in a non-substantial manner with the security requirements. In that event and upon request of the City, the bidder must post the required bid security within twenty-four (24) hours of the bid opening.
- (C) No action shall be had against the bidder or offeror's bid security if the bidder or offeror is permitted to withdraw its bid or offer prior to award as provided in Section 13.
- (D) The submission of performance or payment bonds by the successful bidder or offeror may be required by the City in an amount of not less than one hundred percent (100%) of the total bid. Any requirement shall be set forth in the bid solicitation or bid specifications.
- (E) All performance and payment bonds shall be submitted to the City prior to execution of the contract and prior to release of any bid bond.
- (F) All bid, payment or performance bonds shall be a cash bond, C.D., or bond provided by an insurance company authorized to do business in the State of Arizona, to be evidenced by a Certificate of Authority as defined in A.R.S. §20-217, a copy of which is to be attached to the applicable bond.
- (G) All insurance required by a successful bidder or offeror shall be written by an insurance company authorized to do business in the State of Arizona, to be evidenced by a Certificate of Authority as defined in ARS § 20-217, a copy of which is to be attached to the applicable insurance policy, binder or certificate of insurance.
- (H) A bid, payment or performance bond shall not be required solely to exclude potential bidders.

- (I) The nature of performance and the need for future protection of the City shall be considered when determining the amount and type of bond required for each solicitation.
- (J) In addition to the requirements of subsections "F" and "G" above, depending upon the nature of the contract and amount thereof, the City may also require insurance companies and/or bonding companies to have an "A" rating or better with Moody's or A.M. Best Company, and/or to be included on the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (as amended) by the audit staff, Bureau of Accounts, U.S. Treasury Department.

SECTION 1-27-1.24: SALE, TRANSFER OR DISPOSITION OF PERSONAL PROPERTY:

- (A) The method, form and manner of the sale or transfer or disposition of personal property of the City shall be uniform and consistent within the provisions of this Code and in accordance with the requirements set forth in the City Charter.
- (B) The City's Purchasing Agent shall be the custodian of all personal property that has been identified and declared by a City governmental unit to be not needed nor likely to be needed within a reasonable future time.
 - 1. No individual, City employee, elected or appointed official, City office or agency shall sell, transfer, trade in, condemn or otherwise dispose of any City personal property without written notification of such intent to the City's Purchasing Agent and authorization in accordance with the requirements set forth in the Charter.
 - 2. The City's Purchasing Agent may identify City personal property, idle equipment, excess inventory, obsolete materials or expendable supplies that may be subject for disposition and recommend their disposition to the City Manager.
- (C) It is assumed that all City personal property has a value which shall be determined by the fair and competitive market at the time of sale or transfer or disposition through consistent methods, form and manner as to be determined by the City's Purchasing Agent and subject to such conditions as the Council may from time to time prescribe.
 - 1. The method, form and manner selected by the City's Purchasing Agent for the sale, disposition or transfer to other than City governmental units shall consider the value, terms of sale, timing of the activity and other economic factors relative to obtaining the maximum value in the best interests of the City.
 - 2. The City's Purchasing Agent may employ whatever methods are most advantageous to the City to dispose of personal property valued at Three Thousand Dollars (\$3,000.00) or less.
- (D) Prior to sale or disposition of City personal property, the City's Purchasing Agent shall endeavor to identify and recommend to the City Manager any City personal property that has potential for recycle, reutilization or transfer to other City governmental units.
 - 1. Personal property transferred to or from City governmental units shall be documented on such forms and at such times as the City's Purchasing Agent may prescribe with authorization by the Department Heads of the sending and receiving departments.

- (E) The value received from the sale, transfer or disposition of City personal property shall be allocated in accordance to the proper accounting practices determined by the City Treasurer.
- (F) The City's Purchasing Agent shall act on behalf of the City with the State, Federal or other surplus property agencies regarding the procurement or disposition of surplus property.
- (G) That notwithstanding anything to the contrary herein, the Police Chief is hereby authorized to trade or destroy weapons, in accordance with any policy as promulgated by the City Manager. (Ord. No. 3260, eff. 10-13-94)
- (H) That notwithstanding anything to the contrary herein, the City Manager or his designee is hereby authorized to transfer and convey surplus personal property of value not to exceed \$3,000.00 to other Governmental entities. (Ord. No. 3537, eff. 10/24/96)

End

1-27-2: PENALTIES FOR VIOLATIONS BY CITY EMPLOYEES:

Any city employee who knowingly violates any of the provisions of this code shall be subject to disciplinary action and/or termination, depending upon the severity of the violation according to the city code personnel provisions. (Ord. 2350, 2-25-1992)

1-27-3: PENALTIES FOR VIOLATIONS BY NONEMPLOYEES:

An individual who is not an employee of the city who violates any provision of this code can be subject to debarment from having the opportunity to bid or be awarded any city contracts for a period of up to twenty four (24) months, depending upon the severity of the violation, in the sole discretion of the city council. (Ord. 2350, 2-25-1992)

1-27-4: PENALTIES NOT EXCLUSIVE:

Criminal, civil and administrative remedies otherwise available against employees or nonemployees for a violation of this code are cumulative, and shall not be impaired by this code. (Ord. 2350, 2-25-1992)