

## ORDINANCE 2003-A247

### **AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CAMP VERDE, YAVAPAI COUNTY, ARIZONA, AMENDING SECTIONS OF THE TOWN CODE AND OF THE TOWN PERSONNEL HANDBOOK REGARDING EMPLOYEE APPOINTMENT AND REMOVAL PROVISIONS**

*WHEREAS*, it is in the best interest of the Town to modify the Town Code Section 3-1-3 and the Personnel Handbook regarding employee removal provisions to provide Council appointees as "at-will" and other employees "for cause", and

*WHEREAS*, sections of the existing Town Code and Personnel Handbook are inconsistent and should be revised so that they are supportable in Arizona law and achieve the above goals of the Town,

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CAMP VERDE AS FOLLOWS:**

Section 1. Section 3-1-2 – Employment Contract, Town Code is amended to read:

#### **Section 3-1-2 Employment Contract**

All existing employment contracts between the Town of Camp Verde and non-classified employees, with the exception of the Town Magistrate and ~~Town Engineer~~, have been rescinded in favor of the following provisions.

Dual Positions: The provisions below distinguish between ~~three (3)~~ positions that are appointed and reviewed by the Council (Town Manager, Town Attorney, and TOWN MARSHAL, Treasurer/Finance Director), and other department heads that are under review and control of the Town Manager, who may terminate them for cause, but who do not have the severance offer of Section 3-1-3.B. In the event that a person has a dual position, such as Town Manager/Community Development Director, he or she will have the review and termination rights associated with the higher-level position, but in the event that the job title is simply severed, without termination of the individual, such personnel action will not have rights under 3-1-3.B.

Section 2. Section 3-1-3 – Removal Provisions, Town Code is amended to read:

#### **Section 3-1-3 Removal Provisions**

A. ~~Removal for Cause.~~ The Town Manager, Town Attorney, TOWN MARSHAL and Treasurer/Finance Director will be reviewed by the Town Council using procedures that may be adopted by motion of the Council; ~~and may be removed from their positions for cause.~~ THESE OFFICERS SHALL HOLD OFFICE FOR AND AT THE PLEASURE OF COUNCIL.

All other department heads, or non-classified employees, report to the Town Manager, and may be removed for cause. "Removal for cause" includes failure to have satisfactory performance reviews, violation of adopted work rules in the Personnel Handbook, violation of drug policies, conviction of a criminal offense involving moral turpitude, loss of any professional license or other qualification necessary for the position, and failure to fulfill tasks assigned by the job description.

**B. ~~Termination Other than For Cause.~~** The Town Manager, Town Attorney, TOWN MARSHAL and Treasurer/Finance Director, may be removed by A MAJORITY VOTE OF the Council ~~other than for cause, by offering~~ WITH severance pay of six (6) months' salary, conditioned on the employee and Town signing a mutual release for any employment claims, and including other terms mutually agreeable, as may be authorized by ARIZONA STATUTUE ARS ~~§9-239.C (2000)~~. (ANY TOWN MANAGER, TOWN ATTORNEY, TOWN MARSHAL OR TREASURER/FINANCE DIRECTOR HIRED AFTER APRIL 4, 2003 WILL RECEIVE THREE (3) MONTH SEVERANCE PAY; SEE ORDINANCE 2003-A247).

C. A manager or department head shall provide the Council with thirty days written notice of intention to resign his position.

Section 3. Section 3-2-1.G.3 – Powers and Duties of Manager, Power of Appointment and Removal, Town Code is amended to read:

3. Power of Appointment and Removal. To appoint, remove, promote, and demote any and all officers and employees of the Town, except the ~~Town Treasurer/Finance Director, the Town Attorney and the Town Magistrate, all of whom~~ THOSE WHO shall be appointed by the Council. As to these officers, he shall recommend appointment and removal to the Council. All such actions of the Manager shall be subject to all applicable personnel ordinances, rules and regulations and state statutes.

Section 4. Section 3-2-2.A – Town Clerk, Town Code is amended to read:

**Section 3-2-2 Town Clerk**

Office Established. The Office of the Town Clerk is hereby established. The Town Clerk shall be appointed by the Town Manager on the basis of ability and shall hold office pursuant to Section 3-1-3.A of this code (~~as amended 2000~~).

Section 5. Section 3-2-2.A – Treasurer/Finance Director, Town Code is amended to read:

**A. Office Established.** The office of the Treasurer/Finance Director is hereby established. The Town Treasurer/Finance Director shall be appointed by the majority vote of the Council on the basis of ability, and shall hold office pursuant to Section 3-1-3.A and 3-1-3.B (~~as amended 2000~~).

Section 6. Section 3-2-3.A & C – Town Marshal, Town Code is amended to read:

A. Office Established. The office of the Town Marshal is hereby established. The Town Marshal shall be appointed by A MAJORITY VOTE OF THE COUNCIL ~~by the Town Manager~~ on the basis of ability, and shall hold office pursuant to Section 3-1-3.A AND 3-1-3.B of this code ~~(as amended 2000)~~.

C. Powers and Duties. The Town Marshal is the administrative head of the police department of the Town under the direction and control of the Town COUNCIL Manager. He shall perform such duties as may be required of him by law and as the Town COUNCIL Manager may deem necessary.

Section 7. Section 3-2-4.A – Community Development Director, Town Code is amended to read:

A. Office Established. The Office of Director of Community Development is hereby established. The Director of Community Development shall be appointed by the Town Manager on the basis of ability, and shall hold office pursuant to Section 3-1-3.A of this code ~~(as amended 2000)~~.

Section 8. Section 3-2-6.A – Town Attorney, Town Code is amended to read:

A. Office Established. The office of Town Attorney is hereby established. The Town Attorney shall be appointed by a majority vote of the Council on the basis of ability and shall hold office pursuant to Sections 3-1-3.A and 3-1-3.B of this code ~~(as amended 2000)~~.

Section 9. Section 3, paragraphs a, a(i) and a(iii) – Classified and Unclassified Service, Town Personnel Handbook is amended to read:

### **Section 3 – Classified and Unclassified Service**

- (a) **Unclassified Service.** Employees in the unclassified service include the following:
- (i) Town officers appointed by the Town Council, such as the Town Manager AND Town Attorney, AND OTHER DEPARTMENT HEADS ~~Treasurer/Finance Director, all of whom~~ WHO serve at the pleasure of the Town Council ACCORDING TO THE TOWN CODE AND per sections 3-1-3.a and 3-1-3.b of the Town Code~~(as amended 2000)~~.
  - (iii) Department heads, ~~all of whom~~ THAT serve at the pleasure of the Town Manager per section 3-1-3.a of the Town Code ~~(as amended 2000)~~.

The employment of an unclassified employee can be terminated by the employee or by the Town at any time ~~with or without notice or cause~~ PURSUANT TO SECTION 3-1-3 OF THE TOWN CODE. No individual associated with the Town, other than the Town Council by means of a majority vote, has the authority to make any agreement to the contrary or any agreement for employment for any specific period of time. No other statement, written or verbal, and no course of conduct by the Town or its representatives shall be construed as changing or modifying the employment status of these individuals from that of ~~terminable-at-will~~ POLICY AS WRITTEN IN THE TOWN CODE OR THE PERSONNEL MANUAL. WHERE ANY POLICIES CONFLICT, THE TOWN CODE WILL GOVERN OVER THE PERSONNEL MANUAL.

Section 10. Section 5, paragraphs a – Disciplinary Action, Town Personnel Handbook is amended to read:

#### **SECTION 5 - DISCIPLINARY ACTION**

- (a) **Applicability.** This section pertains only to employees in the classified service who have completed their probationary period,— AND TO UNCLASSIFIED DEPARTMENT HEADS DISCIPLINED PURSUANT TO SECTION 3-1-3.A OF THE TOWN CODE.

Section 11. Section 6, paragraph a – Arbitration of Discharge Decisions, Town Personnel Handbook is amended to read:

#### **SECTION 6 - ARBITRATION OF DISCHARGE DECISIONS**

- (a) **Purpose.** The Town has established a formal, mandatory, final and binding procedure to resolve all disputes concerning the discharge of Non-probationary classified employees AND TO UNCLASSIFIED DEPARTMENT HEADS DISMISSED PURSUANT TO SECTION 3-1-3.A OF THE TOWN CODE. This procedure is in lieu of lawsuits in court, with or without a trial by jury.

The provisions of the grievance and arbitration policy constitute the sole and exclusive remedy for the resolution of any claim regarding an employee's discharge and any claim of discrimination, contract breach, statutory violation or tort related to said discharge. The parties waive a jury trial in the civil courts. All discharge decisions shall be resolved by this policy and there shall be no recourse to court, with or without a jury trial.

Section 12. All ordinances or parts of ordinances adopted by the Town of Camp Verde in conflict with the provisions of this ordinance, including Ordinance 2000-A160, or any part of the code adopted herein by reference, are hereby repealed, effective as of the day this ordinance is effective.

Section 13. This ordinance is effective upon completion of publication and any posting as required by law.

**PASSED AND APPROVED by a majority vote of the Town Council of Camp Verde, Arizona, this 5 day of March 2003.**

Approved as to Form:

\_\_\_\_\_  
Julie Kriegh, Town Attorney

Date \_\_\_\_\_

\_\_\_\_\_  
Brenda Hauser, Mayor

Attest:

\_\_\_\_\_  
Deborah Barber, Town Clerk

# TOWN OF CAMP VERDE

## Memorandum

3/10/03  
Staff and Council  
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**To:** Staff & Council  
**From:** Mayor Brenda Hauser  
**Date:** March 10, 2003  
**Re:** **Ordinance 2003-A247**

*Brenda Hauser*

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According to Town Code, section 2-2-6, the Mayor has the power to refuse signing any ordinance, resolution, contract, warrant, demand or other document or instrument. I would like to exercise my right and not sign Ordinance 2003-A247